

PUBLIC VERSION

Commerce Act 1986: Restrictive Trade Practice

Section 58: Notice Seeking Authorisation

The New Zealand Rugby Football Union Incorporated

Date: 9 November 2005

**The Registrar
Business Acquisitions and Authorisations
Commerce Commission
PO Box 2351
WELLINGTON**

Application lodged by:

Kensington Swan
89 The Terrace
PO Box 10 246
Wellington

Phone: (04) 472 7877
Fax: (04) 472 2291
Contact: John Land/Fleur Knowsley

Pursuant to section 58 of the Commerce Act 1986 notice is hereby given seeking **authorisation** of certain restrictive trade practices.

Index

A	Application Details	4
1	Applicant	4
2	Restrictive Trade Practice	4
3	Affected Parties	9
4	Commission Jurisdiction	10
B	Executive Summary	11
5	Application	11
6	Management Mechanisms	11
7	Markets	12
8	Counterfactual	13
9	Public Benefits	13
10	Competitive Detriments	14
11	Conclusion	15
C	Proposed Arrangements	16
12	Background	16
13	Salary Cap	19
14	Australian Experience	24
15	Player Transfer Regulations	26
16	Non-payment of Modified Division One Players	27
17	Implementation of the Proposed Arrangements	29
D	Market and Competition Considerations	31
18	Counterfactual	31
19	Market Definition	32
20	Barriers to Entry/Expansion	36
E	Jurisdiction of the Commission	37
21	Introduction	37
22	“Services” in terms of the Act	37
23	Application of section 44(1)(f)	39
24	Conclusion	40
F	Competition Analysis	41
25	Introduction	41
26	Salary Cap	41
27	Player Transfer Regulations	48
28	Non-payment of Modified Division One Players	49
G	Public Benefits – Salary Cap	57
29	Introduction	57
30	Direct Benefits	57
31	Additional Indirect Benefits	60
H	Balancing of Benefits and Detriments	62
32	Section 61(6) analysis	62
I	Confidentiality	63
33	Paragraphs containing Confidential Information	63
34	Schedules containing Confidential Information	63
35	Reasons for seeking Confidentiality	63
36	Time Period for Confidentiality	64
	Confidential Schedule A: Draft Salary Cap Regulations	

Confidential Schedule B: Draft Player Movement Regulations
Confidential Schedule C: Draft Division One Amateur Player Regulations
Schedule D: Provincial Unions
Confidential Schedule E: Collective Employment Agreement.....
Schedule F: Format of new NPC Competitions
Schedule G: PricewaterhouseCoopers Report
Schedule H: Dr Rodney Fort Report.....
Schedule I: Ian Schubert Statement
Schedule J: Brown Copeland Report
Confidential Schedule K: NZRU Analysis of Impact of Cap

Supplementary Documents Provided

The NZRU has also provided a bundle of documents providing supplementary information. The documents provided are:

	Title:	Author:
1.	Media Release – 22 September 2005 re: Special Payments to Provincial Unions	New Zealand Rugby Union
2.	The Impact of Salary Caps in Professional Team Sports	Stefan Kesenne
3.	Cross-subsidization, Incentives, and Outcomes in Professional Team Sports Leagues	Rodney Fort
4.	Pay Dirt – The Business of Professional Team Sports	James Quirk and Rodney Fort
5.	The Use of Salary Caps in Professional Team Sports and the Restraint of Trade Doctrine	Chris Davies
6.	The Basis for a Successful Sporting Competition	Alan Jackson

In addition, the Commission has been provided with a copy of:

- a) Competitions Review – Final Report, NZRU; and
- b) New Competitions Information Summary – Premier Division, Division One, NZRU.

A Application Details

1 Applicant

1.1 An application for authorisation for a restrictive trade practice is hereby made in terms of section 58 of the Commerce Act 1986 (the “Act”) by The New Zealand Rugby Football Union Incorporated (the “NZRU”).

1.2 Address:

1 Hinemoa Street (Centreport)
PO Box 2172
Wellington

Telephone: (04) 499 4995
Facsimile: (04) 499 4224

Attention: Steve Tew
Deputy Chief Executive Officer

1.3 All correspondence and notices in respect of this application should be directed, in the first instance, to:

Kensington Swan
89 The Terrace
PO Box 10246
Wellington

Telephone: (04) 472 7877
Facsimile: (04) 472 2291

Attention: John Land/Fleur Knowsley

2 Restrictive Trade Practice

2.1 This application relates to proposed practices of a kind detailed in section 58 of the Act. Full particulars are:

2.2 Salary Cap

2.3 A proposal to enter into and give effect to a Salary Cap with the features set out in the table below (defined terms in the table are those used in the draft Salary Cap Regulations) and given effect to in the Collective Employment Agreement between NZRU and Rugby Players Collective Incorporated dated 1 November 2005, a complete copy of which is attached as Confidential Schedule E (along with the NZRU press release and summary document), and in the Salary Cap Regulations, a current draft of which is attached as Confidential Schedule A.

Level of Cap
<ul style="list-style-type: none">▪ \$2.0m in 2006.▪ \$2.0m plus CPI in 2007.▪ Subsequently, the previous years Cap plus annual CPI adjustment.

Remuneration Included in Salary Cap

- All Salary Cap Remuneration Payments Paid by a Provincial Union (including those paid by third parties) to a Player (or to a third party on behalf of a player) are included.
- Non-financial benefits are included. Policies re valuation will be developed and applied via the Salary Cap Regulations.

Provincial Union Salary Cap

- If a Player is Paid Salary Cap Remuneration Payments of less than or equal to \$7,500 no amounts are included.
- If a Player is Paid Salary Cap Remuneration Payments of more than \$7,500 the total amount of that remuneration (and not just the amount above \$7,500) is included.

Minimum Provincial Union Squad Spend

No minimum specified.

Excluded Remuneration

The following forms of Remuneration are excluded:

- Remuneration Paid pursuant to a Genuine Employment or Player Agreement;
- Finals Bonuses;
- Player Apparel;
- Relocation expenses for Loan Players;
- Financial Loans and interest (provided interest is paid at or above the “Interest Rate”);
- Remuneration Paid in settlement of an Employment Relationship Problem;
- Meals and match tickets;
- Travel assistance; and
- Educational Fees waived.

Notional Values

Notional Values (i.e. the value to be included in a Provincial Union’s Salary Cap Payments in respect of NZRU salaried players):

- 10+ capped (tests) All Black and has played a test in the last three years = \$50,000.
- 3+ years Super Rugby = \$35,000.
- Less than 3 years Super Rugby = \$20,000.
- Party to NZRU Contract but not selected in Super Rugby = \$10,000.
- Party to a Wider Training Group Contract = \$10,000.

Discounts

- 60% discount on Salary Cap Remuneration Payments for Current All Blacks.
- 40% discount on Salary Cap Remuneration Payments for Former All Blacks.
- 40% discount on Salary Cap Remuneration Payments for Veteran Players.
- Current All Black discount applies regardless of availability and is not pro-rated per game.

Injured Player Payments

Where a Player is injured for three or more games a pro-rata amount of that Player's Salary Cap Remuneration Payments is excluded.

Provincial Union Performance/Win Bonuses

Discretionary payments contingent on teams making the playoffs are excluded to a maximum (payable to all Players in total) of:

- \$15,000 for playing an away Match in the quarter finals of the Premier Competition in a Contract Year.
- \$20,000 for playing a home Match in the quarter finals of the Premier Competition in a Contract Year.
- \$25,000 for playing an away Match in the semi-finals of the Premier Competition in a Contract Year.
- \$50,000 for playing a home Match in the semi-finals of the Premier Competition in a Contract Year.
- \$50,000 for playing an away Match in the final of the Premier Competition in a Contract Year.
- \$75,000 for playing a home Match in the final of the Premier Competition in a Contract Year.
- \$25,000 for winning the final of the Premier Competition in a Contract Year (irrespective of whether the Match is a home or away Match).

Relocation Allowances for Premier Division Loan Players excluded

- Up to \$1,500 for reasonable relocation and travel (including 3 return trips home); and
- Up to \$250 per week for costs for rental accommodation and associated utilities (excluding telephone and food),

are excluded.

Liability for Borrowed Player Payments

- Borrowing Provincial Union attributed with full value of Salary Cap Remuneration Payments and Notional Value if Loan is for entire Season.
- Apportionment of value of Salary Cap Remuneration Payments and Notional Value between Borrowing and Lending Unions if Loan for Part-Season.

Penalties

- Penalties for breach to be provided for in Regulations.

2.4 The key elements of the NZRU Salary Cap have been agreed in clauses 50 and 53-59 of the Collective Employment Agreement between NZRU and Rugby Players Collective Incorporated (attached as Confidential Schedule E). The Collective Employment Agreement was signed by the NZRU and Rugby Players Collective Incorporated on 1 November 2005.

- 2.5 The Draft Salary Cap Regulations as described in Confidential Schedule A have been developed by the NZRU with preliminary consultation undertaken with the Rugby Players Collective. Further consultation will take place subsequent to the filing of this Application and the NZRU will provide the Commission with updated drafts of the Salary Cap Regulations as soon as they are available. Once adopted by the NZRU Board, the Salary Cap Regulations will be binding on those provincial rugby unions affiliated to the NZRU participating in the Premier Division and rugby players in New Zealand subject to the Salary Cap Regulations. The Salary Cap Regulations will come into effect once passed by the Board of the NZRU under Rule 19.1.4 of the NZRU Constitution. The formation and implementation of Regulations under the NZRU Constitution is the standard form of governance for the NZRU.

Player Movement Regulations

- 2.6 A proposal to enter into and give effect to Player Movement Regulations in the form attached as Confidential Schedule B. These regulations would replace the existing Player Transfer Regulations that were the subject of a previous authorisation by the Commission (Decision No. 281) but provide that:
- a. The transfer window be extended from 1 October to the Friday after the Rebel Sport Super14 final;
 - b. Transfer fees only apply for players moving up from Modified Division One to Premier Division; and
 - c. There is no limitation on the number of transfers that may occur in a season.
- 2.7 Key aspects of the proposed changes to the current Transfer Regulations are:
- a. the removal of the current transfer window of 15-31 November and its replacement with a transfer period commencing on 1 October each year and ending on the Friday following the final game in the Super Rugby Competition in the following year;
 - b. the deletion of the current quota on players who can transfer during the transfer window; and
 - c. the removal of the requirement for any transfer fees for All Blacks (current and former) Super 12/14 players and current NPC Division 1/Premier Division players.

Modified Division One Regulations

- 2.8 A proposal to enter into and give effect to Regulations which prohibit the payment of any remuneration to players in Modified Division One of the NZRU's NPC Competition, with the exception of reimbursement of expenses. A draft of the Division One Amateur Player Regulations is attached as Confidential Schedule C.
- 2.9 The key aspects of the proposed Division One Amateur Player Regulations are that:
- a. there will be a prohibition on payment of any remuneration to a player competing in a Modified Division One team (i.e. no payments over and above reimbursing actual expenses as approved by IRD from time to time); and

- b. no loan players will be eligible to play for Modified Division One Provincial Unions other than front row loan players in the event of an injury during the competition to a “local” front row player giving rise to safety issues.
- 2.10 Authorisation is sought under sections 58(1) and 58(5) to enter into the Salary Cap with the elements listed at paragraph 2.2 above, and Player Movement Regulations referred to at paragraph 2.5 and Division One Amateur Player Regulations as referred to at paragraph 2.7.
- 2.11 Authorisation is sought under sections 58(2) and 58(6) to give effect to the Salary Cap, Player Movement Regulations and Modified Division One Regulations together referred to as the “the Proposed Arrangements”.

3 Affected Parties

3.1 Directly Affected Parties

- 3.1.1 The individuals/companies/organisations directly affected by the trade practice are:
- a. The NZRU.
 - b. The Provincial Unions.
 - c. Rugby players playing in the Premier or Modified Division One competitions.
 - d. The Rugby Players Collective Incorporated (the “RPC”).

3.2 Indirectly Affected Parties

- 3.2.1 The individuals/companies/organisations indirectly affected by the Proposed Arrangements are:
- a. Those persons who are or can become eligible to play rugby in New Zealand, including rugby league players.
 - b. Rugby administrators and rugby clubs.
 - c. Agents for rugby players and rugby league players.
 - d. Rugby league clubs and rugby league administrators.
 - e. NZRU key sponsors (e.g. Air New Zealand Limited, adidas, Ford and Lion Nathan Limited).
 - f. Broadcasters (namely News Corporation Limited, Sky Network Television Limited and Television New Zealand).
 - g. Provincial Union sponsors.
 - h. Super 14 Franchises.
 - i. Super 14 Franchise sponsors.
 - j. New Zealand Rugby Football League.

4 **Commission Jurisdiction**

4.1 Does the authorisation now sought relate to a contract or other arrangement which has already been entered into?

No. The Proposed Arrangements will either:

- Be passed in the course of seeking the application in which case they will be made subject to obtaining the authorisation from the Commerce Commission, (the “Commission”) or the Commission declining to grant authorisation on the ground that it does not have jurisdiction to do so on the basis that the relevant regulations do not require authorisation; or
- Be passed after authorisation is granted (if this occurs).

4.2 Does section 59 of the Act prevent the Commission from granting this application?

No. If the Proposed Arrangements are entered into before the Commission gives its decision then they will be subject to a condition that the provisions will not come in to force unless and until an authorisation is granted by the Commission.

There are, however, other jurisdictional issues relating to this application discussed at paragraphs 19 and 22-23 below. These relate to whether there is in fact a “market” in terms of the Commerce Act that is affected by this application and/or whether the Proposed Arrangements fall within the exception to the Act in section 44(1)(f).

B Executive Summary

5 Application

5.1 Background

5.1.1 As the Commission will be aware, the NZRU has a current authorisation (granted in 1996) for its Player Transfer Regulations. Since the Commission considered that application, the environment and markets for rugby players and rugby as a form of leisure/work/entertainment in New Zealand and internationally have changed dramatically, in particular the increasing professionalism of all aspects of the game worldwide.

5.1.2 The NZRU has responded to the challenges posed by this environment. The Proposed Arrangements are aimed primarily at:

- a. ensuring New Zealand rugby lives within its means and is financially sustainable; and
- b. creating more competitive domestic competitions thereby, among other things, contributing to more attractive games, greater revenues, increased performance of New Zealand Super Rugby and All Black teams and better cost management within New Zealand rugby.

5.1.3 The Proposed Arrangements will include a Salary Cap, amendments to the current Player Transfer Regulations and non-payment of Modified Division One players. This package of reforms is part of the NZRU's response to the recommendations made in the Competitions Review Final Report¹ which comprises a wide ranging package of initiatives touched on later in this application. The Proposed Arrangements involve practices which are of the kind prohibited by sections 27, 29 or 30 of the Commerce Act 1986 ("The Act").

6 Management Mechanisms

6.1 Salary Cap

6.1.1 The Proposed Salary Cap is a hard salary cap² which will set a maximum amount that Provincial Unions participating in the Premier Division are able to spend on their players. The Salary Cap is to apply only to Remuneration paid by Provincial Unions to their players (as defined in the Regulations). Payments to coaches, other support staff and Development Players are to be excluded.

6.1.2 A key objective of the Salary Cap and the other mechanisms is to encourage a more even distribution of playing talent thereby contributing to a more even competition.

6.1.3 The NZRU has undertaken consultation in relation to both the structure and level of the Salary Cap and has established a model which will achieve this objective over time while minimising restrictions on players and their movement between teams.

¹ New Zealand Rugby Union Incorporated, Competitions Review final report, July 2004.

² The alternative is a 'soft' cap which allows teams to spend a proportion of their individual revenues (but no more) on players' salaries.

6.2 Transfer Regulations

6.2.1 Two of the key features of the Player Transfer Regulations for which authorisation was granted in 1996, namely the quota and the transfer window will be respectively repealed, and very substantially modified. Transfer Fees will only be payable where a player moves from the Modified Division One to the Premier Division. This will be set out in the new Player Movement Regulations.

6.3 Amateur Modified Division One

6.3.1 The Competitions Review established that there should be no payments to players for playing in the Modified Division One competition. All Modified Division One players will be amateur players. There will be reimbursement of actual and reasonable expenses to a level set by the NZRU in consultation with and approved by the IRD. These rules will also be set out in new Division One Amateur Player Regulations which are yet to be finalised as the amounts have yet to be settled with the IRD.

6.3.2 Monitoring and compliance of the Salary Cap and the non-payment of remuneration to Modified Division One players will be handled internally within the NZRU (supplemented by external expertise as required) and penalties will be dealt with by an independent decision maker appointed by the Board of the NZRU.

7 Markets

7.1 The NZRU believes that the market definitions outlined in the Commerce Commission's 1996 Decision 281 in relation to the NZRU Player Transfer Regulations (refer pp 19-20 of the decision) have changed.

7.2 The NZRU contends that the relevant (New Zealand wide) markets for the purposes of this application are:

- a. The market for the provision and acquisition of premier rugby union player services, i.e. involving the relationship between players and provincial unions ("**market for player services**"); and
- b. The market for the provision and acquisition of sports entertainment services ("**market for sports entertainment services**").

7.3 Given the market definitions, the NZRU submits that:

- a. the market for player services is not a market for the purposes of the Act because the relevant services are provided under employment agreements. In the alternative if there is such a market it only relates to services under independent contract arrangements and is very small (presently only one player);
- b. the market for the rights to player services discussed in Commission decision 281 is not a market for the purposes of the Act and, in the alternative, that market is not sufficiently affected by the Salary Cap and Transfer Regulations to be relevant to the analysis; and, therefore,
- c. there are no markets for the purposes of the Act and authorisation is not required; or, in the alternative,

- d. section 44(1)(f) applies to both the market for player services and the market for the rights to player services because the Salary Cap relates to the “*remuneration of employees*” and therefore authorisation is not required under section 58 of the Act.

8 Counterfactual

- 8.1 The counterfactual is the implementation of the new format of the domestic inter-provincial competitions to be known as the Air New Zealand Cup (herein referred to as the Premier Division) (i.e. 14 teams) with no salary cap or restriction on payments to Players in the “Modified Division One competition”, but a continuation of the existing Player Transfer Regulations.
- 8.2 Under the counterfactual, there is a risk of a more uneven domestic inter-provincial competition, which in turn is likely to contribute to lower spectator interest, decreasing revenues and ultimately, less competitive Super Rugby and All Black performances. This is particularly so given the increase in the number of teams in the Premier Division from 10 to 14.

9 Public Benefits

- 9.1 The public benefits created by the Proposed Arrangements include:
 - a. Creating a more even competition for the Premier Division and Modified Division One.
 - b. A more sustainable economic base for the game.
 - c. Enhanced domestic sponsorship, merchandising and broadcasting interest and funding.
 - d. Stronger Super Rugby teams and All Black teams.
 - e. Greater audience enjoyment of matches (domestic competitions, Super Rugby and All Blacks).
 - f. Increased net foreign earnings for the NZRU from TV rights and sponsorship.
 - g. Increased foreign sponsorship for Provincial Unions in the Premier Division.
 - h. Saving on overseas marketing expenses for businesses.
 - i. Enhanced exports of New Zealand goods.
 - j. Greater in-flows of foreign tourists.
 - k. More and better opportunities for player development.
- 9.2 These benefits have been quantified where possible in the Brown Copeland Report attached as Schedule J.

- 9.3 In summary, the quantified public benefits of the proposed Salary Cap (as set out at paragraph 79 of the Brown Copeland Report) are:
- a. Net national economic benefits from better broadcasting and sponsorship revenues for NZRU: **[Confidential:]** per annum;
 - b. Net national economic benefits from greater incomes for Provincial Unions: **[Confidential:]** per annum;
 - c. Increased spectator enjoyment of between **[Confidential:]** (corresponding to a 10 percent increase in crowd size) and **[Confidential:]** (corresponding to a 20 percent increase in crowd size);
 - d. Increased TV audience enjoyment conservatively valued at between **[Confidential:]** and **[Confidential:]** per annum and possibly as high as **[Confidential:]** per annum.
- 9.4 The total quantified public benefits are conservatively estimated to range between \$7 million and \$14 million per annum and could be as high as \$74 million per annum. In addition to the quantified public benefits, there are numerous other public benefits which have not been quantified.

10 Competitive Detriments

- 10.1 The competitive detriments due to the Proposed Arrangements are quantified in the Brown Copeland Report attached as Schedule J. This report calculates detriments on the basis that all players fall within a player services market that is covered by the Act. However, even if there is a player services market covered by the Act (which NZRU denies) then it is only comprised of transactions with independent contractors not employees. Accordingly the correct calculation of detriments is in fact substantially less than as assessed by the Brown Copeland report.
- 10.2 In summary, the Brown Copeland report concludes that:
- a. Allocative efficiency losses may occur due to restrictions on the amount Provincial Unions can spend on players, there may be “misallocations” of players due to the inability to pay the market price for a player. Upper limit allocative efficiency losses may range from **[Confidential:]** per annum.
 - b. Productive efficiency losses relate to additional administration, monitoring and enforcement costs associated with the Salary Cap. The estimate for total productive efficiency losses (including those to the NZRU and to Provincial Unions) are expected to be between **[Confidential:]** and **[Confidential:]**.
 - c. There is not expected to be any erosion of player skill levels as a consequence of the Salary Cap.
 - d. There will be no innovative efficiency losses from the Salary Cap.
 - e. The expected efficiency losses from retaining existing transfer fees for player movement from Modified Division One to Premier Division are expected to be negligible.

- f. The expected efficiency losses from prohibiting payment to Modified Division One players are difficult to quantify but are expected to be negligible given information available on the amount players who are likely to participate in that competition are currently being paid.

10.3 The Brown Copeland Report concludes at paragraph 43:

“The competitive detriments of the proposed salary cap are expected to be in the form of losses in allocative efficiency when viewed from the perspective of some individual unions and productive efficiency. A number of reasons have been given as to why the allocative efficiency losses will be small. For indicative purposes only, estimates of between [Confidential:] and [Confidential:] per annum have been made for the range of possible allocative efficiency losses. Lost productive efficiency is estimated at between [Confidential:] and [Confidential:] per annum. In order of magnitude terms an upper limit for the competitive detriments is about \$1 million per annum.”

11 Conclusion

- 11.1 On a qualitative basis the Brown Copeland report concludes that any potential competitive detriments of the salary cap will be small and will be outweighed by public benefits. It notes that the decision by the NZRU to introduce the proposed salary cap to enhance the sustainability of the NPC Competition is indicative of the NZRU’s assessment that the benefits generally will outweigh any costs. The Brown Copeland report also sets out a conservative estimation of quantifiable competitive detriments and public benefits. An upper limit of competitive detriments is estimated to be about \$1 million per annum and the public benefits at a minimum of between \$7 million and \$14 million per annum. On this analysis, the public benefits are of a magnitude greater than any competitive detriments. It should be noted that even though it is expected that these benefits/detriment will take some seasons to materialise and therefore could be discounted, the benefits and detriments are (with the exception of the productive efficiency losses) expected to materialise at similar times and hence no discounting has been applied to these figures.
- 11.2 Therefore, if the Commission does not accept the market analysis set out above (i.e. that there are no markets for the purposes of the Act), the public benefits of the proposed Salary Cap arrangements outweigh the competitive detriments and, therefore, the NZRU submits that the Commission should grant an authorisation under section 58 of the Act.

C Proposed Arrangements

12 Background

12.1 The NZRU has recently undertaken a review of its competitions, including the structure and management of them. The changes in recent years in the game and its organisation and focus at both international and domestic levels are profound. Rugby in New Zealand has successfully adapted to, and leveraged off, the challenges and changes – it continues to occupy a pre-eminent position within New Zealand sport, society and also internationally.

12.2 The review however did identify issues within rugby in New Zealand that needed to be addressed, including:

- a. the NPC Division 1, as it stood in 2005 and previously, was not competitive - there was a high degree of certainty about which teams are going to be in the play-offs (semi finals/final); and
- b. one of the key factors contributing to the lack of competitive balance is the significantly different financial resources available to Provincial Unions; and
- c. in recent times there has been a considerable escalation in costs resulting from unconstrained bidding for players.

12.3 The environment within which rugby operates means that rugby in New Zealand:

- a. Is increasingly influenced by global trends in work and leisure.
- b. Is increasingly international in its outlook given that the NZRU is an exporter and a substantial component of its revenue is exposed to movements in foreign exchange rates and it is subject to international competition for the attention of sports fans from other sports and entertainment activities.
- c. Requires significant ongoing financial resources to operate and prosper.
- d. Increasingly relies on proceeds of broadcasting rights and sponsorship to remain competitive and attractive to players, coaches, referees, administrators and the fans.
- e. Has to recognise that a number of New Zealand's traditional international rugby competitors have a larger base of players and more financial resources and infrastructure at their disposal.

12.4 Given the extent of change within that environment over the last 10 or so years the NZRU considered that change was required for a number of reasons including:

- a. New Zealand rugby could not maintain its pre-eminent position in international competitions without change to drive competitive innovation.
- b. The current financial position of New Zealand rugby was not sustainable in the absence of new revenue sources or cost reductions.
- c. The NPC, particularly the 1st Division, was not sufficiently competitive. Many of the outcomes across the competition were too predictable for its long term benefit.

- d. In the absence of change, the outlook for New Zealand rugby was not positive and there was a risk that the sport would decline with it being increasingly hard to maintain fan support and therefore sponsor and broadcaster interest.
 - e. Professional competitions have been a commercial success but there were elements of their integration with and impacts on the semi professional and amateur components of the game that were causing problems.
- 12.5 It was decided that change had to occur taking into account the uniqueness of the situation that the NZRU found itself in given its level of responsibility for player development, convening national teams for participation in international tournaments and development of the sport in general. There was no off-the-shelf solution available and so a “fit for purpose” approach to competitions and in particular the NPC has been taken in order to deliver both on the requirements of the terms of reference for the Competitions Review and to best meet the needs of New Zealand rugby going forward.
- 12.6 As a result, a number of initiatives (the main steps are discussed below at paragraph 12.10) have been taken with a view to ensuring in particular that the Premier Division is a more even competition than the previous Division 1 of the NPC, some of which (if the NZRU’s arguments concerning market definition and/or exemption under the Act at sections D & E below are not accepted) would raise issues under sections 27, 29 or 30 of the Commerce Act 1986 (“the Act”). Although there is no current crisis facing rugby in New Zealand, the NZRU’s assessment is that these reforms are necessary to minimise the risk of such a crisis occurring.
- 12.7 Under the new competition structure, two new competitions will replace the existing NPC competition: Premier Division and Modified Division One (see also Schedule F for the NZRU press release in relation to the new competitions). These competitions will commence in the 2006 season. The new competitions will be managed by the NZRU by implementing various mechanisms which are set out below. The new Premier Division will have 14 teams rather than the 10 teams previously making up the 1st Division NPC competition. The addition to the Premier Division of 4 teams from the existing second Division raises the prospect of a more uneven NPC competition in the absence of measures to incentivise and facilitate a more even distribution of player talent. Hence it has been proposed to adopt the Proposed Arrangements to address the cost management and competitive balance objectives set out in the Competitions Review Final Report.
- 12.8 The NZRU carefully considered a variety of mechanisms for intervening in the management of the competition to achieve a more even competition including player drafts, revenue sharing, transfer restrictions and salary caps. Ultimately the NZRU decided in principle that a Salary Cap was the best of the options considered by it as it left more decisions in the hands of Provincial Unions participating in the Premier Division and would have a direct impact on sustainability and competitive balance issues.
- 12.9 The design of the proposed Salary Cap posed a number of issues for the NZRU because New Zealand rugby has specific characteristics that differentiate it from other sports who have a salary cap including:
- a. a small pool of players and limited financial resources;
 - b. an international market for players (compared with the AFL in Australia and the National Football League (NFL) in the USA). This international market has been considered by the NZRU in assessing the salary cap having regard to the potential migration of New Zealand rugby players overseas particularly to the United Kingdom, France and Japan. The NZRU considers, and Professor Fort agrees, that

there is little likelihood that the salary cap will increase migration of players. (See report of Dr Rodney Fort attached at Schedule H, paragraph 85). Given the existing tendency for players towards the end of their career to go to the United Kingdom, France or Japan in any event, the Salary Cap has an allowance in relation to long serving players (the Veteran Player discount) (see paragraph 4.29 of the PWC report attached as Schedule G).

- c. multiple international representative and domestic competitions;
- d. responsibility of the NZRU for the game and player development.

12.10 In addition to the proposed Salary Cap, a number of initiatives have been taken with a view to ensuring the Premier Division is a more even competition than Division 1 of the previous NPC, including:

- a. entry to the Premier Division is to be by application measured against strict criteria in terms of:
 - i. Minimum numbers of personnel to comprise Team Management.
 - ii. Minimum governance and administration requirements including management structure requirements, business plans (short and medium term).
 - iii. Minimum financial performance criteria including equity, liquidity, debt servicing and at-risk revenue.
 - iv. Compulsory player training and development structures.
- b. A thorough review of applications was undertaken prior to acceptance with rigorous adherence to the entry criteria.
- c. A one-off allocation of funds was recently made to Provincial Unions of approximately \$8 million intended to principally assist not just the four unions stepping up to the Premier Division but those who do not currently enjoy the benefit of having a significant number of NZRU contracted players. In short, the payment was to further the aims of the Competitions Review and the decisions taken as a result thereof. A special feature was a payment of \$20,000 for each non NZRU contracted player up to a total of 26 for each of the Premier Provincial Unions. As the four newly promoted teams to the Premier Division, and the less successful teams in the previous Division 1, have relatively few (or no) NZRU contracted players this distribution will particularly benefit the teams that currently do not have a strong player roster and enable them to spend greater funds on attracting better players to the region. A copy of the media release dated 22 September 2005 concerning this distribution is provided with this application.
- d. A Competition format has been designed that will effectively minimise the potential “mis-matches” to the first round i.e. the first five weeks of the competition, with teams in the bottom half still having a chance in round two to play for a finals berth. The finals format will replicate the knock features of the World Cup finals structure and the best will play the best more often than they currently do.

- e. A new Collective Employment Agreement has been agreed that encourages loan players, disincentivises stockpiling of players and, increases minimum remuneration payments to \$15,000 to attract better players and so on.
- 12.11 Regard was had to overseas professional sport competitions to provide some guidance on the form of alternative competitions and the mechanisms adopted to manage those competitions. However, although there was much to learn from the overseas bodies, there are important factors that make the NZRU different to other professional bodies, especially with respect to the level of responsibility the NZRU has for:
- a. Player development
 - b. Centrally contracting a large number of players;
 - c. Convening national teams for participation in international tournaments and competitions including a Rugby World Cup.
 - d. Development of the sport more generally.
- 12.12 Hence the Salary Cap model which it is proposed to adopt is in many respects unique to the New Zealand rugby environment.
- 12.13 We refer to section 1 of the PWC Report attached as Schedule G which fully documents the NZRU's case for change.
- 12.14 The Salary Cap has been agreed to by the players as part of a package including agreement by the NZRU that players receive a set proportion of revenues and guaranteed retainers.

13 **Salary Cap**

13.1 **NZRU Background to Decisions**

- 13.1.1 As set out in section 2 of the PWC Report, an extensive process of discussion and consultation was undertaken by the NZRU with stakeholders covering a number of areas, including:
- a. Problem definition; and
 - b. Possible options for resolving the identified problems.
- 13.1.2 Provincial Unions generally considered that the NPC 1st Division was a successful competition, however, increasing costs of player payments and the competitive balance of the competition were of concern. In summary, there were two polarised views as to what should be done by the NZRU in relation to those concerns. They were (and still are):
- a. Free market: let individual Provincial Unions compete unregulated; or
 - b. Regulate the contest through such mechanisms as drafts and/or salary caps.
- 13.1.3 In addition to the consultation, the NZRU undertook an analysis of the annual returns provided to the NZRU by each Provincial Union for 2002 and prior years, which:
- a. Provided the evidence required to draw conclusions on the financial state of the Provincial Unions.

- b. Provided input to the analysis of the correlation between competition success and team costs.
- c. Was the basis for analysis of Provincial Union expenditure, including expenditure on players.
- d. Supported the analysis of trends in revenue and costs.
- e. Provided information regarding total New Zealand rugby revenue and expenditure (Provincial Unions plus the NZRU).

13.1.4 The NZRU visited numerous sports administration bodies where the approach to managing competitions was discussed. The bodies visited are listed in the PWC Report at paragraph 2.12. The discussions highlighted that there are significant differences between the administrative responsibilities of those other sports and the NZRU which would impact on the management mechanisms which were appropriate and likely to work. In particular, the NZRU has responsibility for:

- a. National representative teams.
- b. International competitions.
- c. Development of players (many of the US sports have access to players “ready made” via the amateur college competition).
- d. Development of the sport.

13.1.5 In addition, the NZRU undertook desk based analysis of information from a range of sources in relation to the financial analysis referred to above, demographic and social trends, literature on the economic and behavioural aspects of competitions³ and the operation of competition regulations in other sports.

13.1.6 There were various forms of intervention in overseas sports leagues that meant that there were few open and unrestricted markets for players. The analysis concluded that there was a high risk that some spending decisions by Provincial Unions would not necessarily be in the best interests of NZ Rugby because:

- a. Provincial Unions are partially dependent on NZRU for funding.
- b. Some of the “resources” used by Provincial Unions (Super Rugby players) are paid for by the NZRU.
- c. Accountability by Provincial Unions for their financial performance is less than clear. Provincial Unions do not have “owners” imposing financial disciplines on their operations and requiring a return on invested capital.

13.1.7 Options for dealing with the costs were broadly classified as:

- a. Structural changes; or
- b. “Regulatory” intervention.

³ A list of literature reviewed is contained in Appendix A of the PWC Report.

13.1.8 A full analysis of the options and the analysis of the NZRU in relation to those options is set out at paragraphs 3.4 to 3.12 of the PWC Report. The tables below provide a summary of that analysis.

Table 1 - Options

	Direct Impact On:	
	Spending Decisions	Competitive Balance
Transfer restrictions	Not necessarily	Yes
Salary caps	Yes	Yes
Player drafts	Not necessarily	Yes
Revenue sharing	Yes	Yes

13.1.9 The options were assessed against the criteria developed. This produced the following outcome (Key: ✘ = less likely to met the criteria; ✓ = more likely to met the criteria).

Table 2 – Assessment against Criteria

Criteria	Salary Caps	Player Drafts	Revenue Sharing	Transfers
Minimal compliance costs	✘	✓	✓/✘	✓
Maximum incentives for innovation	✓	✘	✓/✘	✘
Minimal restrictions on freedom of choice and freedom of action	✓	✘	✓	✘
Equitable	✓	✘	✓	✘

13.1.10 It is acknowledged that achieving both cost management and competitive balance incentives from one mechanism was always going to be difficult. Of the two options for intervention that allowed Provincial Unions the most freedom to act, i.e. salary caps and revenue sharing, it was considered that the main potential downside of sharing revenue was the potential loss of incentive for innovation by Provincial Unions in terms of how they developed talent, attracted sponsors, retain star players and so on. The Salary Cap was deemed to be the most appropriate mechanism in the circumstances because it would have an impact on both costs and competitive balance and because it was considered to be less intrusive than the other options, recognising that any regulation will require some sacrifices of freedom of action.

13.2 International Experience

13.2.1 It is widely recognised that competitive balance is fundamental to both fan enjoyment of their favourite sports and the economic health of sports leagues (refer Fort at Schedule H). The “uncertainty of outcome hypothesis” is that balanced play, during the regular season and in the playoffs, is more attractive to fans than unbalanced play. Spectators enjoy close games and close races for the playoffs rather than lop-sided games.

13.2.2 Fort, at paragraph 9 states:

*“If competitive **imbalance** dominates, fans of the perennial losing teams lose interest in their own team and, quite possibly (and of importance to all teams including the perennial powers), they lose interest in the sport altogether (Rottenberg, 1956; Neale, 1964). This lowers the overall value of the league and the value of the surviving teams. Those fans that lose interest will also not be*

there at the end of the season to spend their attention and money on the perennial powers. This clearly implies that leagues have a vested interest in taking action to maintain a healthy level of competitive balance (Neale, 1964; Canes, 1974; Sloane, 1976).

13.2.3 There are two reasons why competitive imbalance occurs:

- a. Variation in revenue potential across geographic locations (refer Fort, paragraphs 10 – 11); and
- b. The behaviour of individual teams relative to the collective good of a more balanced competition (refer Fort, paragraph 12).

13.2.4 A cap on total player payments (referred to as the Salary Cap) is one of the key mechanisms used by overseas sports leagues to encourage competitive balance, increase fan welfare, and increase profits. There are generally two types of Salary Caps, the “revenue sharing payroll cap” (such as used in the NBA and NFL) and the “pure payroll cap” (i.e. a dollar limit which is not tied to league revenues at all). The Salary Cap proposed by the NZRU is a “pure payroll cap”.

13.2.5 There was a general consensus among the NZRU and Provincial Union representatives on the Salary Cap working group that the percentage of revenue model would reduce flexibility for Provincial Unions and players, and that model was accordingly rejected (refer PWC report, Schedule G, paragraphs 4.10 and 4.11).

13.2.6 A pure payroll cap will enhance competitive balance (refer Fort Report, paragraphs 25 – 26).

13.2.7 For an assessment of the impact of the NBA and NFL caps, see Fort Report (paragraphs –44 – 53).

13.2.8 There is a substantial body of literature on the use of salary caps in sporting competitions as a means of encouraging more even competition. Some of the leading literature is as follows:

- a. Stefan Késenne “*The Impact of Salary Caps in Professional Team Sports*” Scottish Journal of Political Economy (2000). Professor Késenne is a Professor of Economics at the University of Antwerp in Belgium with a speciality in the economics of sport. He has an extensive CV of publications in the sporting arena including a number of articles in relation to revenue sharing, salary caps and competitive balance. In this particular article Professor Késenne looks at the impact of a pure payroll cap i.e. a salary cap with a maximum payroll per team “*without a pay roll minimum or any revenue sharing arrangement*”. Accordingly it is directly relevant to the kind of salary cap proposed by the NZRU. Professor Késenne in the article:

- (i) confirms that evenness of competition is important to revenue of clubs:

“Empirical investigations have shown that the uncertainty of outcome of a game or the league championship is a significant factor explaining a club’s revenue like gate receipts” (page 3).

- (ii) concludes that a salary cap improves competitive balance:

“A salary cap improves the competitive balance in a league, it improves the player salary distribution, holding down the excessive top players’ salaries, it guarantees the club owners of both small and

big clubs a reasonable profit rate so that new investments in the industry will not be discouraged” (page 11).

- b. Rodney Fort and James Quirk “*Cross subsidization, Incentives, and Outcomes in Professional Team Sports Leagues*” Journal of Economic Literature (1995). Professor Fort is a Professor of Economics at Washington State University and is a specialist in sports economics. He has also produced the report that is at Schedule H to the application, which report has Professor Fort’s CV attached to it. James Quirk is a retired professor from the California Institute of Technology. This paper was referred to by Professor John McMillan in his independent submission to the Commerce Commission in relation to the NZRU player transfer regulations where Professor McMillan referred to Fort and Quirk as “*arguably the leading experts on the economics of sport*”. In the paper Fort and Quirk:
- (i) review a number of cross-subsidisation devices that have been adopted by sports leagues but comment that “*with the exception of salary caps, the methods in use provide no profit incentives for improving competitive balance and, in certain cases, actually harm it.*” (p 1266)
 - (ii) note that the NBA has been a booming success under its “*sharing cap*” (under which the league agreed to share a fixed percentage of league revenues with players in exchange for a salary cap) and the NFL had followed suit. (p 1277)
 - (iii) note that Grandfather clauses under the NBA salary cap had allowed higher salary teams to match outside salary offers for players already under contract and so reliable testing of the ability of the NBA salary cap to improve competitive balance would have to wait until the grandfathering effects that distort the data into the 1990s have dissipated (p 1281)
 - (iv) conclude that an enforceable salary cap is the “*only one of the cross-subsidization schemes currently in use*” that can be expected to maintain financial viability for teams located in weak-drawing markets “*while improving competitive balance in a league*” (p 1286)
- c. James Quirk and Rodney Fort “*Pay Dirt – The Business of Professional Team Sports*”, (1992). This leading sports text was cited by the Commission in Decision 281 (see for example footnotes 51, 56 and 58 of that decision). Chapter 7 is entitled “*Competitive Balance in Sports Leagues*”. In this chapter Quirk and Fort
- (i) give a number of examples of falling attendances in unevenly matched competitions and conclude that interest dries up where a league becomes too unbalanced;
 - (ii) review a number of mechanisms used in sports leagues and in relation to salary caps conclude “*an enforceable salary cap applied equally to all teams leads to competitive balance in a league.*”

13.2.9 Copies of these 3 articles are provided with this application for the Commission’s information. Also provided is a copy of a forthcoming article to be published in the Journal of Contract Law by Chris Davies “*The Use of Salary Caps in Professional Team Sports and the Restraint of Trade Doctrine*”. In this article Chris Davies concludes that there is an overall benefit in having a salary cap in operation which includes a more even competition which then provides for a more stable financial situation for the league and the players, and a more interesting competition for the spectators.

14 Australian Experience

14.1 Australian Experience - NRL

14.1.1 Attached to this application (as Schedule I) is a statement by the Director of Registration and Salary Cap Auditor for the National Rugby League (“NRL”), Ian Schubert.

The key points from the NRL experience are:

- a. The present Salary Cap was introduced into the NRL in 1998 after the Super League era (where player payments exploded) with the objects of:
 - Improving talent equalisation;
 - Stopping Clubs from overspending and eventually going into receivership; and
 - Increasing competitive balance within the competition (refer Schubert, page 4)
- b. **[Confidential:**
].
- c. The current Salary Cap is set at A\$3.6 million.
- d. 14 out of the 15 teams in the NRL have made the top 8 play-offs at least once within the last 3 years (refer Schubert, page 6).
- e. 2005 has been the closest competition in NRL memory and the impact of the Salary Cap on talent equalisation and Club financial strength from increased crowds and sponsorship has been significant (refer Schubert, page 5).
- f. In terms of key statistics (refer Schubert, page 8):
 - There has been a 27% increase in crowds over the past three years (equating to an additional A\$8 million in revenue);
 - The NRL Clubs have shown a 12% increase in sponsorship from 2004 to 2005;
 - The NRL itself has had a 39% increase in sponsorship revenue from 2004 to 2005;
 - The NRL received approximately a 35 – 40% increase in broadcast rights for a new deal (2007 – 2012) negotiated this year.
- g. The costs of enforcement of the Salary Cap is approximately A\$250,000 in total.

14.1.2 In summary, Schubert states, at page 11:

“Although it has taken some time, the Salary Cap in the NRL has made a clear and pronounced difference to the success of the league and its participating clubs and players. In particular, the Cap has achieved the key goals of talent equalisation, ensuring the financial viability of the NRL Clubs, and, ultimately, producing a more even competition.”

14.2 Australian Experience – AFL

14.2.1 The Australian Football League (“AFL”) introduced a salary cap and related strategies in the mid 1980s well before the NRL cap referred to above. Accordingly the AFL mechanisms were the subject of discussion before the Commission in the NZRU’s application for authorisation of the player transfer regulations in 1996. In particular Dr Alan Jackson of the Boston Consulting Group and who had been involved with the AFL initiatives produced a report which commented as follows on the AFL experience to that time (a copy of Dr Jackson’s report from 1996 has been provided to the Commission in the supplementary bundle of information):

- a. He noted that *“The AFL Competition was in deep trouble by the mid 1980’s with declining attendances, a one-sided competition with the same teams dominating the competition each year and around half of the clubs technically bankrupt.”*
- b. He noted that following a strategic review in 1985, the AFL pursued strategies which included draft schemes for player entry to the competition and salary caps per club with severe penalties for cheating.
- c. He then commented:

“The outcomes have been a stunning success. Since 1987 (and to 1996):

- *Annual attendances have risen from 2.9 million to 5.3 million*
- *Club memberships have risen from 71,000 to 287,000*
- *AFL (central) revenue has increased from \$20m to \$65m, mostly due to increased TV and sponsorships*
- *Most teams recorded profits in the latest year. Overall, average team profitability is at record levels. (This is despite the fact that the annual cost of running the average AFL club has increased from \$2.7m to around \$9.0m over the 10 year period)*
- *The salary cap per club has increased from \$1.2m in 1987 to around \$2.4m in 1996*
- *The above improvements in the economics have been achieved while restricting price increases (for attendance) to inflation*
- *The AFL has made great advances in NSW and Queensland. Attendances at AFL games often exceeded those of rugby league and TV ratings for the AFL Grand Final surpassed Rugby and Rugby League ratings in those states.*

In a decade of great change and, at times, economic downturn, the AFL has gone from strength to strength. Much of this is attributed to the effectiveness of the strategies of ‘equalisation’ that have been put in place.”

14.3 Likely Effectiveness of NZRU Salary Cap

14.3.1 Professor Fort's conclusions on the likely effects of the proposed Salary Cap in this case are set out in paragraphs 89 and 90 of his report and in summary are:

- a. the Salary Cap as currently proposed is well designed to enhance competitive balance in the Premier Division;
- b. the Salary Cap should enhance the solvency of smaller revenue Premier Division Unions;
- c. the Salary Cap is well designed to avoid loopholes experienced with other caps;
- d. the audit process is well defined and if pursued with vigour should be effective;
- e. the Salary Cap provides all players with an incentive to train harder; and
- f. talent migration out of the NZRU to other international alternatives should not increase and if it does, not by much.

14.3.2 He concludes at paragraph 91:

“Relative to the counterfactual, the pure payroll cap and removal of transfer restrictions will enhance balance on net with very few mitigating circumstances. The long-term impact is to raise fan interest and spending at the Premier Division level. Since quality of play will become more valuable to more provinces, and provinces will undertake greater investment in talent over time at all levels of play, I suspect NZRU play will be strengthened top to bottom relative to no cap and retaining current transfer restrictions. This should also raise interest in the lower divisions as fans see better rugby at that level and anticipate watching their homegrown favourites move up the ladder toward All Black fame. It would seem likely that this will generate a stronger base for both Super 14 and the All Blacks.”

14.4 Conclusion

14.4.1 There are numerous international examples which show that a properly administered Salary Cap will, over time, create the benefits of an even and sustainable competition.

14.4.2 The NZRU has undertaken considerable research and consultation on the structure and form of the proposed Salary Cap (refer PWC Report, attached as Schedule G) and believes that the Salary Cap will have substantial benefits to its premier domestic competition as has been the case with the NRL and AFL in Australia.

15 Player Transfer Regulations

15.1 Background

15.1.1 As the Commission is aware, the NZRU received an authorisation for the Player Transfer Regulations in 1996. Over the last 9 years, those Regulations have been implemented by the NZRU in relation to the NPC competitions and there have been no significant amendments to the Regulations during that time which impact on the elements for which authorisation was given. The only change that affected the aspects of the Regulations that were authorised was to shorten the transfer window from 1 Nov – 30 Nov to 15 Nov – 30 Nov. This was done because when the transfer window was initially approved, the intention was that it would

operate for a month after the NPC had finished and Super 12 selections would then take place in early December each year. However, that meant players then had to make arrangements to move over Christmas and representations were made by the RPC on a player welfare basis to bring forward the Super 12 selection date and allow proposed transfers to be notified to the NZRU prior to the window opening but in time for such selection decisions which meant a shorter window for formal registrations of such Transfers.

15.2 As discussed above, since the Commission considered that application, the environment and markets for Rugby in New Zealand and internationally have changed dramatically, in particular the increasing professionalism of all aspects of the game. These changes mean that the current Player Transfer Regulations are not sufficient as a means of managing or intervening in the competition to address the key issues facing New Zealand rugby today and going forward (namely the economic sustainability of rugby in New Zealand and a more even spread of talent throughout New Zealand). The Player Transfer Regulations were initially intended amongst other things to protect a Union’s playing strength by restricting the number of players that could move to a Provincial Union. Over time, however, the best players have become concentrated in relatively few Provincial Unions (being the wealthier Provincial Unions) and an alternative mechanism is needed to encourage a more even distribution of players.

15.3 The quota and window provisions of the existing Player Transfer Regulations will be respectively repealed and substantially altered. There will be a maximum Transfer Fee for players moving from the Modified Division One to the Premier Division (to compensate Modified Division One Provincial Unions for their development of players, and encourage that player development). Other current aspects of the Transfer fees will be repealed. The draft Player Movement Regulations are attached as Confidential Schedule B.

The maximum Transfer fees that will apply are:

Transfer Bands	Maximum Development Compensation Payment
Division One	15,000
NZ U-21	20,000
NZ U-19	15,000
NZ Secondary Schools	10,000

16 Non-payment of Modified Division One Players

16.1 Background

16.1.1 New Zealand rugby players and competitions currently span the continuum from fully professional to fully amateur. The Competitions Review found that:

- a. There are advantages in separating out top level fully professional sport from semi professional/amateur sport from a commercial point of view. Professional sport is a valuable product at the top level.
- b. It is not practicable at this stage to fully separate out a year round top level professional competition to allow a full separation of fully professional and semi-professional/amateur.

- c. There are some advantages for Super 14 players playing with semi-professional players in the Premier Division such as player development – transfer of skills to and lifting the performance of semi professional players.
- d. There are downsides to professional players playing with amateurs from a player welfare perspective e.g. the risk of injury to both Super Rugby players (e.g. from poor technique) and amateurs (e.g. from bigger stronger players).

16.1.2 Hence keeping the mix of professionals/semi-professionals playing in the NPC Premier Division was seen as in the best interests of New Zealand rugby. Also, having Modified Division One as an amateur competition with (virtually) no loan players but with transfer fees for transfers to Premier Division was seen as having a number of important advantages including:

- a. Cost management – there should be a saving (albeit relatively modest) to some Provincial Unions in Modified Division One (who are smaller and therefore less financially secure) on player remuneration which will help with the financial sustainability of the game for all New Zealanders.
- b. To the extent that money is available to Provincial Unions to be diverted to other purposes it can be spent on developing local talent (on whom the Provincial Union will be dependent for competitiveness). Players will be more focussed on the importance and honour of “pulling on the jersey” than what, if anything, they can get financially out of the game.
- c. The Transfer Regulations will also incentivise Provincial Unions investing money on player development as talent is expected to continue to migrate towards the major/bigger Provincial Unions.
- d. Provincial Unions should have more time and resource to devote to developing the game in their region rather than focussing on player contracting, player movement and administration involved with such activities.

16.1.3 It is expected that the impact of this on players will be:

- a. there will not be fewer players playing rugby in this competition compared with the counterfactual, squad sizes will remain constant regardless of whether the Modified Division One Regulations are passed;
- b. some players may well seek to transfer to Premier Division Unions to retain their semi-professional status, that otherwise might not have, particularly from the former 2nd Division Provincial Unions; and
- c. some players, particularly from the former 2nd Division Provincial Unions might be financially disadvantaged to a limited extent although the level will vary given the variability of “payments” made by Provincial Unions in Divisions Two and Three. For the vast majority of players it is expected that the impact on their payment levels will be negligible as they are either currently amateur or are paid little more than what is expected to be allowed in the Modified Division One as legitimate reimbursing expenses. NZRU is currently in the process of getting IRD signoff to allow Provincial Unions to reimburse players **up to** approximately [**Confidential:**] per week for expenses incurred in the following categories: Clothing, Training Gear, Meals, Medical and General. As travel is so variable even within a province it is to be submitted to IRD that this be dealt with on a player by player basis. Given the likely maximum reimbursing levels compared

with (reported) actual payments it is not expected that players in general will be financially worse off to any significant degree as a result of the introduction of these regulations for Modified Division One.

16.2 Regulations

- 16.2.1 It has therefore been provisionally decided by the Board of the NZRU that there would be no payments to players for playing in the Modified Division One competition subject to this process. It is proposed that there will be reimbursement of actual and reasonable costs to a level set by the NZRU (in conjunction with the IRD).
- 16.2.2 The draft Division One Amateur Player Regulations are attached as Confidential Schedule C.

17 Implementation of the Proposed Arrangements

- 17.1 The Proposed Arrangements discussed above will be implemented through the Collective Employment Agreement (“CEA”) between the NZRU and the Rugby Players Collective Incorporated (the “RPC”) and NZRU Regulations. The agreement with the RPC effectively binds all players to the fundamental principles of the Salary Cap Regulations which are set out in the agreement subject to them being either authorised or outside the jurisdiction of the Commission. In addition, in Appendix 1 of the CEA, all Provincial Unions have agreed to be bound by and to comply with the terms of the CEA. The Provincial Unions have agreed in Appendix 1 not to contract out of, undermine or act contrary to the terms of the CEA and not to enter into any arrangement pursuant to which a Player may surrender any of the rights given to him under the CEA. These terms are reinforced in clause 1.4 of the CEA as well. Hence the CEA does on its face create mutual obligations between the Provincial Unions, the NZRU and the RPC and Players albeit that only the NZRU and RPC are parties to the CEA. That agreement is, however, for a term of three years subject to any statutory or agreed extension and it is not anticipated that the Salary Cap Regulations will be repealed when that agreement comes to an end.
- 17.2 Rule 5 of the rules of the NZRU in relation to membership provides that:

5. Membership

- 5.1 **Membership:** The members of the Union are Affiliated Unions, Associate Members, Life Members and New Zealand Maori Rugby Board Incorporated.
- 5.2 **Binding:** Each Member
- 5.2.1 **Is Itself Bound:** is bound by the Rules and Regulations
- 5.2.2 **Its Members Are Bound:** must ensure that its members agree to be bound by the Rules and Regulations
- 5.2.3 **Its Members’ members are Bound:** must require in its own rules that its members ensure that their respective members agree to be bound by the Rules and Regulations, to the intent that all sub-unions and clubs and all other bodies or persons connected with the playing or administration of Rugby within New Zealand who are directly or indirectly affiliated to any member shall agree to be bound by these Rules and Regulations.

- 17.3 This rule has the effect of requiring all affiliated Provincial Unions to abide by NZRU Regulations. The Regulations, therefore, create mutual obligations and expectations between all such Provincial Unions and the NZRU.
- 17.4 The draft NZRU Salary Cap Regulations are attached as Confidential Schedule A to this application.

D Market and Competition Considerations

18 Counterfactual

18.1 In Decision 281 in relation to the Player Transfer Regulations, the Commission determined that the most likely situation if those Regulations were not implemented would be:

“a situation in which the framework established by the Regulations remains, but the elements which might arguably be restrictive of competition are removed; that is to say, there is no quota system, no transfer period restriction, and no cap on the transfer fee.”

18.2 With the proposed Salary Cap outlined in the present application it is not possible to implement the proposal with the elements which are restrictive of competition removed. To have a Salary Cap with no cap on the salary is not a viable option and neither is not to pay players in Modified Division One, but have no restriction on the amount which they can be paid.

18.3 The NZRU acknowledges that there is no current crisis in the market that means change has to happen today, however, the NZRU has announced the new competition structure for the NPC competition commencing in August 2006. Applications have been accepted for participation in the Premier Division and Modified Division One and in some cases substantial sums are being spent in order to comply with the entry criteria. For this reason, the NZRU believes the counterfactual is the continuation of the existing Player Transfer Regulations in their current form with no Salary Cap or restrictions on payments in the Modified Division One competition but in the context of the “new look” NPC competition (the “Counterfactual”). That is in fact the scenario that has been agreed with the RPC if the Commission decision on jurisdiction or authorisation is not favourable or available prior to 1 May 2006 or such later date as may be agreed by the parties. If the player transfer regulations continue there may be very minor changes to reflect the “new look” NPC competition. However it is the NZRU’s preliminary view that no modification of the Commission authorisation in Decision 281 would be needed as the changes to the regulations would not be material.

18.4 In summary, the new NPC competition is made up as follows:

- a. 14 teams in the Premier Division; and
- b. 12 teams in the Modified Division One.

18.5 Details of the new NPC competition are set out in the NZRU press release attached as Schedule F.

18.6 Under the counterfactual, the NZRU believes that there will be a continuation (and acceleration) of the trend towards uneven competitions, lower spectator interest, decreasing revenues and potentially less competitive Super Rugby and All Black performances. This is particularly because the new structure of the NPC allows five teams previously in the Second Division to be in the Premier Division (2 of which Nelson Bays and Marlborough are seeking amalgamation so as to compete as a merged team under the name Tasman). Those teams (Counties Manukau, Hawkes Bay, Manawatu, Tasman) are likely to have less resources and not as much built up talent as the current 1st Division unions. This is likely, in the absence of the Salary Cap to lead to less competitive balance in the short term.

18.7 This application proceeds on the basis of the Counterfactual as set out above, with the new NPC structure and the trends outlined above continuing.

19 Market Definition

19.1 Approach to Market Definition

19.1.1 The relevant markets **have** changed since the 1996 Commission Decision 281 in relation to the Player Transfer Regulations.

19.1.2 The relevant markets are analysed below.

19.2 Market for Player Services

19.2.1 From 2006, this will be the New Zealand wide market for the provision and acquisition of rugby union player services (i.e. involving the relationship between players and provincial unions). It is in this market that players compete with each other to supply their skills or services to provincial unions and in which provincial unions compete with each other to acquire them.

19.2.2 The market for player services is still a relevant market, however, it has changed because all players (with the exception of one very senior player under a series of historical arrangements) are now employees.⁴ In 1996 the Commission found that there was variety across the Provincial Unions in the provisions contained in the player agreements in terms of whether players were employees or independent contractors. At that time most if not all of the NZRU's players were contracted as Independent Contractors and that has now almost completely changed. Even though clause 4 of the new CEA theoretically allows for the engagement of contractors and they would, if so engaged, be caught by the Salary Cap, it is the NZRU's clear preference not to engage players in that way except in the most exceptional of circumstances.

19.2.3 Although the market for player services is a market in fact and commercial reality, it should not be regarded as a market for the purposes of the Commerce Act 1986 for the reasons set out in Section E below.

19.3 Market for the Rights to Player Services

19.3.1 In 1996 the Commission found that there was a separate market for the rights to player services, which was a New Zealand wide market for the provision and acquisition of rights to rugby union player services (i.e. the relationship between the Provincial Unions themselves). This market was for the buying and selling between Provincial Unions of the rights to utilise the services of rugby union players. It was held to be a national market as, by design, the Provincial Unions have territorial boundaries collectively covering the whole of New Zealand.

19.3.2 The NZRU believes that this is not a separate market, distinct from the market for player services. The Player Transfer Regulations may have created the appearance of such a market, but even with those regulations in place, the market did not exist, and certainly in the absence of those regulations there is no distinct market of this kind for the reasons set out below.

a. No separate market in the absence of transfer fees or consent requirements

19.3.3 A market is defined in the Act as a market for goods or services. Where a player transfers from one Provincial Union (A) to another (B), there is no supply of goods or services by Provincial Union A to Provincial Union B. Under the proposed changes to the Transfer Regulations a Provincial Union to which a player is transferring does not require the consent

⁴ All Premier Division players are subject to the NZRU Collective Employment Agreement.

of the Provincial Union for which the player previously played. No right, benefit, privilege or facility is provided by the former employer to the new employer. No contract of any kind between them is required for the transfer to take place.

- 19.3.4 One Provincial Union cannot sell a player to another Provincial Union – this is not like a market for commodity futures, where contractual rights are bought and sold. A Provincial Union cannot assign an employment contract – contracts of service are personal and are not assignable, as a matter of law.
- 19.3.5 Where a player transfers between Provincial Unions, transactions occur in the market for player services: the player ceases to supply services to A, and begins to supply them to B. This analysis fully captures the market activity, and competitive interaction, that occurs in the context of such a transfer (and this market activity occurs in a market to which, as a matter of legislative policy, the Commerce Act is not intended to apply – see the discussion at paragraphs 22 and 23 below in relation to how employment arrangements are exempted from the Act.)
- 19.3.6 If a player has existing contractual obligations to Provincial Union A, it may be necessary for those to be bought out in order for the player to transfer to Provincial Union B. The negotiations over the price of buying these out may take place between the player and his employer, A. Or they may take place between A and B, but even in the latter situation, A is not providing services to B in exchange for any payment that may be made: rather, A provides a release to the player in exchange for payment on behalf of the player, and a new contract is then entered into between the player and B. The identity of the negotiating parties should not obscure the nature of the services being provided, and who is providing them.
- 19.3.7 Another way of looking at this is to consider the competitive interactions that occur in the context of a transfer. If a player is considering a transfer, the competitive interactions will take place between the Provincial Unions that want to purchase that player's services. The current employer and prospective employers will make offers to the player, in competition with each other, to attract the player's services. The prospective employers are not competing with each other to buy the right to employ the player from the current employers, because the current employer cannot sell any such right – it can neither confer the right to employ that player (since employment contracts are not transferable), nor can it prevent the transfer, subject of course to the departing player having either performed all his outstanding contractual obligations, or paying an amount to the current employer to buy those out.
- 19.3.8 Therefore, in circumstances where there is no transfer fee payable, or requirement for consent from the current employer, it is clear that there is no separate market for the right to employ players, distinct from the market for player services. As a matter of law, no services are supplied by the current employer to the new employer. As a matter of fact and commercial common-sense, there is just the one market in issue, and just the one set of competitive interactions in that market.

b. No separate market with transfer fees

- 19.3.9 The proposed regulations do not provide for a transfer fee to be paid when a Premier Division player moves from one Provincial Union to another. They do provide for a Development Compensation Fee to be paid where a player moves from a Modified Division One team to the Premier Division, with another provincial union. The fees are to be capped at the level set out in paragraph 15.3 of this application.
- 19.3.10 This transfer fee provision does not, however, result in the creation of a separate market for the employment of Modified Division One players. Such a market would be highly artificial – from a demand side perspective, it is clear that the market should not be this narrowly drawn,

as a Provincial Union looking for a new player can look either to existing Premier Division players with other teams, or to Modified Division One players (or elsewhere – e.g. club players, players from overseas, rugby league players).

19.3.11 More generally, to the extent that employers in a particular field agree among themselves on a transfer fee requirement with a cap, this should be seen as affecting the free operation of the relevant employment market, and not as giving rise to a distinct market for the rights to employ the relevant employees.

- the services that the prospective employer seeks to acquire are the services of the player. There is no “added value” from the current employer, who supplies no services directly in exchange for the fee. In particular, the current employer cannot refuse consent, provided the (maximum) fee is paid – if they cannot withhold the right to contract with the player, it follows that they do not supply that right when they agree on a fee;
- the “right to contract” cannot be sold separately from the player. Either there is a transaction between the new employer and both the player and the current employer, or there is no transaction at all. If the transactions cannot take place separately, it makes no sense to think of them as occurring in separate markets;
- if the player is valued by one prospective employer at \$x, and by another at \$y, then the player will go to the higher value employer regardless of whether a transfer fee is payable. The transfer fee affects the distribution of the value placed on the player as between the player and the current employer (the player will get \$x less the transfer fee), but not the outcome of the transaction or the distribution of players between teams.

19.3.12 Identifying a separate market for players to whom the transfer fee applies would be inconsistent with the legislative policy of excluding markets for services provided under employment contracts from the application of the Act. Agreements that restrict competition in such markets are intended to fall outside the Act and to be governed by other legal regimes: it is not appropriate to bring them back under the Act by an artificial analysis that treats some such restrictions as giving rise to an inter-employer market for the right to employ.

19.3.13 To take an extreme example, suppose a group of employers in an industry agreed among themselves that they would not employ any person who was a trainee with another such employer for a period of 5 years after leaving the first employer. This agreement would not be subject to the Commerce Act (though plainly it lessens competition). It makes no sense to suggest that a lesser restriction, under which the new employer had to pay a transfer fee to the former employer to offset training costs incurred, would be subject to the Act, (nor does it make any sense to say that whether the agreement would be subject to the Act depends on whether the transfer fee is fixed, or variable, or capped, or uncapped).

19.3.14 In all of these cases, the fundamental point is that the *real world* market (identified as a matter of fact and commercial common-sense) in which competition is affected is a market for performance of work under contracts of service: a market to which the Act is not intended to apply.

19.3.15 From an economic perspective, the efficiency issues that arise out of transfer fee rules all concern the distribution of players among Provincial Unions – the analysis of the allocative, productive and dynamic efficiency consequences of such a rule inevitably focuses on the impact on employment of players, and on contracting between Provincial Unions and players. There is no separate “product” in relation to which the existence of a market failure, and its consequences, could be analysed.

19.3.16 The conclusion that there was no separate club to club market was reached by the Federal Court of Australia in *Adamson v West Perth Football Club* (1979) 39 FLR 199, which also held that the right or privilege to enter into a contract of service is not itself the acquisition of services under the Act: see paragraphs 66, 71-72.

19.3.17 In the subsequent *Adamson* litigation in the early 1990s, it was common ground that the only relevant market was the club to player market. The Federal Court held at first instance and on appeal that the restrictions on player movement did not fall under the Act, as they only affected markets for services provided under employment contracts: *Adamson v NSW Rugby League Ltd* (1991) 27 FCR 535 paragraphs 36 – 42; 31 FCR 242 (Full Ct), especially paragraphs 27-43.

19.3.18 In *Rugby Union Players' Association v Commerce Commission* (1997) 7 TCLR 671 the existence of a separate market for the right to player services was not challenged by any party, so the issue was not considered by the Court. (The point would not have significantly changed the analysis in that case anyway as the different arrangements for player contracting in 1996 meant that in any event there was a market for player services in 1996 that was subject to the Commerce Act 1986, as a substantial proportion of players were independent contractors.)

19.3.19 In summary, even where the Regulations provide for transfer fees:

- that does not create a separate market for the right to player services, as a matter of fact and commercial common-sense;
- as a matter of law, no services are provided by the current employer to the new employer;
- as a matter of economic analysis, such rules do not give rise to a separate set of competitive interactions, or a separate set of transactions, or distinct economic efficiency consequences;
- it would be inconsistent with the policy of the Act to identify a separate market of this kind and thus apply the Act to restrictions which are intended to affect, and do in fact affect, an employment market to which the Act does not apply.

c. **Reduced effect on market**

19.3.20 In the alternative, if the Commission proceeds on the basis that there is still a separate market for the rights to player services, the Salary Cap Regulations will have a much smaller impact on this market than the Player Transfer Regulations in 1996, and would do so only indirectly through their effect on the market for player services. Any market effects should not be double-counted in the authorisation context.

19.4 **Market for Sports Entertainment**

19.4.1 This is the New Zealand wide market for the provision and acquisition of sports entertainment services.

19.4.2 The NZRU does not believe there is a narrow rugby union and/or rugby league entertainment market. The NZRU believes rugby union competes with other sports also.

19.4.3 In 1996 the Commission found that there were no section 30 or section 29 issues and the Player Transfer Regulations had neither the purpose, nor had nor were likely to have the effect of lessening competition in the market for sports entertainment services. The same is true of

the arrangements the subject of the present application for authorisation. For the same reasons expressed in Decision 281, this market is not considered in any further detail in this application.

19.5 **Changes in Market Definitions**

19.5.1 In the NZRU's view, there have been key changes which have altered the relevant markets since Decision 281 in December 1996. The NZRU is of the view that there is one relevant market in fact and commercial reality, that being the market for player services.

19.5.2 In the alternative, this application does also comment on the possible market for rights to player services although NZRU submits strongly that there is no such market.

20 **Barriers to Entry/Expansion**

20.1 In principle, there are two forms of competitive entry possible:

- Entry by a new Provincial Union; or
- Entry by a new rugby union organisation competing directly with the NZRU.

20.2 In Decision 281, the Commission concluded that new entry, of either description, was not likely. The reasons for this conclusion were:

- In relation to Provincial Unions, that even if a new Provincial Union were to be established, that Provincial Union would, on affiliation to the NZRU, be subject to the same rules and regulations; and
- In relation to a new rugby organisation that, while the NZRU retained the loyalty of the provincial unions and has contractual arrangements with New Zealand's premier rugby players, entry of a competing organisation was not likely.

20.3 These reasons are still valid and therefore, new entry is not likely.

E Jurisdiction of the Commission

21 Introduction

- 21.1 Regardless of the market definitions that the Commission settles on, there are two jurisdictional issues the Commission must consider prior to assessing the competitive impact of the Salary Cap Regulations on any relevant markets.
- 21.2 If the Commission finds there are no relevant markets for the purposes of the Act, the NZRU requests that the Commission continue on to consider the substantive arguments on the competitive impacts of the Salary Cap Regulations so that, in the event of any appeal, the NZRU and High Court has the benefit of the Commission's views on all relevant matters. This is particularly important given that the NZRU has an internal deadline (set out in the Collective Employment Agreement) of 1 May 2006 to make a decision as to whether the Salary Cap will be implemented for the 2006 season. This is critical so all Provincial Unions can be appropriately informed prior to the commencement of the 2006 NPC season.

22 “Services” in terms of the Act

- 22.1 The Act provides that a market is a market for goods or services⁵, and defines “services”⁶ to include:

“... the rights, benefits, privileges, or facilities that are or are to be provided, granted, or conferred under any of the following classes of contract:

A contract for, or in relation to...the performance of work (including work of a professional nature)...

but does **not** include rights or benefits in the form of the supply of goods or the performance of work under a contract of service”

(emphasis added).

- 22.2 As the Commission previously acknowledged, the effect of this section is to provide that services exchanged in employment agreements are not “services” in terms of the Act, and therefore that the buying and selling of services under an employment agreement does not occur in a “market” as defined by the Act. A market does exist in the commercial sense, just not for the purposes of the Act. This has the effect of removing contracts of service (i.e. employment agreements) from the jurisdiction of the Act.
- 22.3 In Decision 281, the Commission considered this question but did **not** make a categorical determination of the issue.
- 22.4 The High Court on appeal chose to leave the issue open for another occasion, however, it stated at the time:

...there is clearly room for the Commission's view that there could be a market for player services, at least to the extent that some players in the market may be found to be independent contractors.

⁵ Section 3(1A).

⁶ Section 2(1).

- 22.5 With effect from 1 January 2006, there will be one collective agreement between the NZRU and the Players' Collective ("RPC"). The Collective Employment Agreement sets out the terms and conditions of employment for players who are selected to play for the All Blacks, a Rugby Super Team, the New Zealand Sevens, and NPC Premier Division. In addition to the Collective Agreement, there is a Secondment Agreement which is between NZRU and each Provincial Union which contains the terms upon which players will be seconded to a Provincial Union to play for Provincial Union representative teams, for example in the NPC Competition.
- 22.6 The Collective Agreement and the Secondment Agreement state that NZRU will be the only employer of players employed to play rugby for any New Zealand team.
- 22.7 Since 1996, the market for player services has developed and the NZRU has changed its contracting practices. The NZRU currently engages all players as employees.⁷ The services are services under an employment agreement and therefore the market for player services does **not** fall within the definition of "market" in the Act. There is no real prospect that rugby union players are engaged other than under an employment agreement and even though the new Collective Employment Agreement provides for the possible engagement of players as contractors, it would only be in truly exceptional circumstances that this occurs, if at all. It is only an option open to star players who could possibly make a case to say that playing rugby was only one of their business interests and that they were genuinely engaged on their own account. All of the "stars", bar one (whose arrangements are pursuant to historical arrangements unlikely to be repeated) are currently employees as are the 'up-and-comers' so it is not expected that there would be any "new" independent contractors in the next 2-3 years at least.
- 22.8 In summary then the market for player services operates in an employment market and not a market for "services" under the Commerce Act. Accordingly, the salary cap does not fall within Part II of the Act, and does not require authorisation. In the alternative, if there is a market for player services under the Act that market consists only of the contract with the one player still retained on an independent contractor basis (pursuant to long term historical arrangements) together with the relatively remote possibility of other such arrangements in truly exceptional circumstances (if at all). There is no real basis for expecting other players to fall within the market given the very strong preference of the NZRU to now contract all players on an employment basis. Therefore the market in terms of the Commerce Act is a very small one if it exists at all. This fact has a consequential impact on assessment of the effect of salary cap and other proposed arrangements and:
- i. whether they come under Part II of the Act at all; and
 - ii. the assessment of the detriments, if any, flowing from them.
- 22.9 It is not likely that the salary cap will impact on the one player who is currently an independent contractor in terms of either causing him to cease playing his rugby in New Zealand or for the Provincial Union that contracts him.
- 22.10 As discussed at paragraphs 26.1.6 and 26.3.5/26.4.6 below:
- i. in such a small market with an impact on only 1 player (and the remote possibility of others in truly exceptional circumstances (if at all), there is no price fixing or lessening of competition in the market (and certainly no substantial lessening).

⁷ With the exception of one current very senior All Black who remains an independent contractor pursuant to historical arrangements.

- ii. the detriments in terms of impact on this very small market are either nil or extremely small.

22.11 Players in the Modified Division One and below, are amateur players and, under the Modified Division One Regulations will not be able to be paid any sum except for reimbursement for direct expenses. Therefore, players in the Modified Division One competition will not be employees or independent contractors. They will effectively be volunteers.

23 Application of section 44(1)(f)

23.1 If the Commission finds that there is a market for the rights to player services contrary to paragraph 19 above, or that the market for player services is a market for the purposes of the Act contrary to paragraph 22, then section 44(1)(f) of the Act must be considered.

23.2 That section provides:

“nothing in this part of this Act applies... (f) to the entering into of a contract, or arrangement, or arriving at an understanding insofar as it contains a provision that relates to the remuneration, conditions of employment, hours of work or working conditions of employees”.

23.3 The relevant question is whether the provisions relating to the salary cap, and non payment of Modified Division One players can each be said to be a provision *“that relates to the remuneration...of employees”*.

23.4 Nothing in the restrictive trade practice provisions of the Commerce Act 1986 applies to the entering into of a contract or arrangement, or the arriving at of an understanding, in so far as it contains a provision that relates to the remuneration, conditions of employment, hours of work, or working conditions of employees.⁸ The exception also applies to any act done to give effect to a contract, arrangement, or understanding of this type.

23.5 Labour market practices are covered in New Zealand by industrial legislation, currently the Employment Relations Act 2000 and before that the Employment Contracts Act 1991. Such legislation is based on quite different policies and aims from those in the Commerce Act 1986. The review committee (1992) noted that:

“to extend the application of the Commerce Act to explicitly regulate competition in labour markets is undesirable in view of the potential conflict between the manner in which the Employment Contracts Act 1991 regulates labour practices and the manner in which the Commerce Act would regulate labour practices.” (Review of the Commerce Act 1986, p 33).

23.6 The review committee recommended that concerns about competition in labour markets be dealt with under the labour relations regime. The Government has agreed with these recommendations. The Australian equivalent of Section 44(1)(f) is in s 51(2)(a) Trade Practices Act 1974 (Aust).

23.7 Section 44(1)(f) on its terms goes further than the traditional collective bargaining situation and extends to the mechanisms outlined in the Salary Cap. The NZRU believes that the mechanisms outlined in the Salary Cap Regulations “relate to” the remuneration of employees as it directly affects the remuneration that provincial unions can pay to their player employees. This is particularly so because the Collective Employment Agreement between

⁸ Commerce Act 1986, s 44(1)(f).

the NZRU and the RPC provides for agreement to the key aspects of the Salary Cap. The Collective Employment Agreement and the Salary Cap Regulations are effectively both part of one arrangement which is subject to agreement between all the affected parties. Accordingly, section 44(1)(f) applies and authorisation is not required under section 58 of the Act.

24 Conclusion

24.1 Given the market definitions set out above, the NZRU submits that:

- a. the market for player services is not a market for the purposes of the Act because the relevant services are provided under employment agreements; and,
- b. the market for the rights to player services is not a market for the purposes of the Act and, in the alternative, that market is not sufficiently affected by the Salary Cap Regulations to be relevant to the analysis; and, therefore
- c. there are no relevant markets for the purposes of the Act and authorisation is not required;

or, in the alternative,

- d. section 44(1)(f) applies to both the market for player services and the market for the rights to player services because the Salary Cap Regulations relate to the “*remuneration of employees*” and therefore authorisation is not required under section 58 of the Act.

24.2 If the Commission does not agree with the analysis set out above, the NZRU believes that the public benefits of the Salary Cap Regulations outweigh the competitive detriments and, therefore, the Commission should grant an authorisation under section 58 of the Act.

24.3 The analysis below sets out the remainder of the required analysis for the purposes of the authorisation application.

F Competition Analysis

25 Introduction

- 25.1 This section considers how the Salary Cap would influence effective competition in the specified markets.
- 25.2 The NZRU acknowledges that the proposed Salary Cap will take some years before it becomes fully effective in achieving the stated objectives. At the level that the Salary Cap has been set the number of provincial unions constrained by the cap will increase as years go by. Accordingly it is likely to be some years before competitive detriments or public benefits will be fully felt in the markets. In the absence of any reliable estimates, no discount factors have been applied in the Brown Copeland report in relation to both detriments and benefits (refer Brown Copeland, paragraph 16 – 18). The Brown Copeland report notes that since the time profiles of both public benefits and detriments are likely to be similar, the relativity of benefits and detriments can be gained by considering the undiscounted estimates for each.
- 25.3 In 1996, the Commission concluded that the market for player services and the market for the rights to player services were “different sides of the same coin” for the purposes of assessing public benefits and competitive detriments. Therefore, in assessing them in this application, the NZRU has focused on the market for player services.

26 Salary Cap

26.1 Competitive Impact

- 26.1.1 The NZRU contends that there is no market for player services under the Act as all players (except one) are contracted as employees. In this paragraph the NZRU discusses the extent of competitive impact on the market on the assumption that the Commission holds that the market for player services does fall within the Act. In the alternative at paragraph 26.1.7 below the NZRU discusses the assessment of competitive impact should the market for player services be considered to represent just the transactions with those very few players (currently just one) who are contracted as independent contractors.
- 26.1.2 It is likely that, in the absence of the Salary Cap, some Provincial Unions would exceed the level of the salary cap, if not immediately then in future years. The NZRU has undertaken an analysis in relation to the impact of the Salary Cap for the 2006 season. We attach the relevant spreadsheet as Confidential Schedule K which shows calculations based on 2004 actual Provincial Union spends along with 2005 Notional Values and discounting applied (this is why the amount of Player Payments counted in the Salary Cap is referred to as “Net”). Due to the complexities associated with the calculation of the Salary Cap (i.e. Notional Values, discounting etc), it is difficult to project any further than 2006.
- 26.1.3 As can be seen from Confidential Schedule K, at the time of this application, based on 2004 actual Provincial Union spend, only one Provincial Union would currently have payments which are over the \$2 million Salary Cap. Professor Fort estimates that in 2006 **[Confidential:]** Provincial Unions will be impacted by the cap, in 2007 - **[Confidential:]** teams and in 2008 - **[Confidential:]** teams (paragraph 71).
- 26.1.4 The Salary Cap, by fixing a monetary limit (of \$2 million in 2006) for each Provincial Union to spend on player salaries will affect the amount that some provincial unions are able to spend on player salaries. The Salary Cap will constrain a limited number of Provincial Unions in any one year and there will be some provincial unions for which the Salary Cap is

not restrictive. That is, the Salary Cap is not likely to restrict all Provincial Unions all the time, rather it is likely to restrict some Provincial Unions some of the time.

26.1.5 A table summarising the current Provincial Union remuneration paid to players for the 10 current Division One Provincial Unions is set out below (including those players who are contracted but whose remuneration is under the \$7,500 threshold):

[CONFIDENTIAL:]

[end of confidential section]

- 26.1.6 Under the Salary Cap the better players are still likely to receive the same levels of remuneration. It is just that the Salary Cap will encourage some of the better players to transfer to other Provincial Unions to achieve their full market value so that talent is spread around the competition rather than being concentrated in the few richer Provincial Unions. The salary cap will not reduce the quantity of transactions in the market. The same number of players are expected to be contracted by the 14 teams. This is in part because:
- a. the minimum squad size of 26 is a binding obligation in the Collective Agreement;
 - b. there is sufficient capacity within the Salary Cap to accommodate all players currently contracted within the relevant Provincial unions;
 - c. the players who are likely to be transferring to avoid breaching the Salary Cap are likely to be those who are most affordable by other Provincial Unions without breaching their cap;
 - d. the provision for loan players whereby the Salary Cap responsibility transfers to the borrowing Provincial Union means that player numbers do not necessarily have to be 'cut' in order to create capacity under the cap level; and
 - e. it is highly unlikely that the Salary Cap will lead to more players looking to play overseas because individual income levels in New Zealand and the disparity between New Zealand and overseas remuneration is unlikely to be affected by the Salary Cap.

Accordingly, the only real difference that is expected is that different provincial unions may end up contracting with certain players than would have done so in the absence of the Salary Cap.

- 26.1.7 At paragraph 22.8 above the NZRU contends that if there is a market for player services under the Act it consists only of those contracts that are contracts for services i.e. independent contract arrangements. There is only one such contract at present, and there is only a remote possibility that there will be future such contracts in exceptional circumstances. These very few transactions will not be affected in any material way by the salary cap. Accordingly there will not be any lessening of competition in the market and if there is, it will not be a substantial lessening. Accordingly there could be no breach of Part II of the Act due to implementation of the salary cap.

26.2 **Competitive Detriments**

26.3 **Allocative Efficiency Losses**

- 26.3.1 This is not a normal restrictive trade practices case where there is a reduction of quantity due to increased price producing a loss of welfare (or allocative efficiency) due to mutually beneficial transactions not taking place. There will be no reduction in quantity here. The total market demand for Premier Division players is expected to remain at approximately 420 (14 teams x 30) for the reasons set out in paragraph 26.1.6. So there is no change in quantity. Nor is there likely to be a change in identity of the players supplying their services.
- 26.3.2 The only change is that some players' services will be acquired by different Provincial Unions. This may result in the loss of allocative efficiency in certain circumstances where the Provincial Union who values a players' services highest is not in a position to contract with that player because of the salary cap, and the player then contracts with a provincial union who values the player less. In that situation there is a loss of welfare amounting to the

difference in value that is lost due to the provincial union that values the player higher not being able to contract with the player.

26.3.3 The Brown Copeland report (Schedule J) sets out an analysis of the allocative efficiency losses at paragraphs 20 to 35. This report calculates estimated detriments on the basis that all players fall within a player services market that is covered by the Act (which is not accepted by the NZRU). In summary:

- a. The proposed Salary Cap has the potential to create allocative efficiency losses because by restricting the amounts provincial unions can spend on their players, there exists potential for some player “misallocations” from a purely financial perspective. These “misallocations” may involve:
 - a player **not transferring** to another union because the Salary Cap prevents the receiving provincial union being able to pay his free market price; or
 - a player **having to transfer** because the releasing union wants to but is unable to keep the player at his free market price because of the Salary Cap.
- b. The NZRU’s analysis (set out in Confidential Schedule K) shows [Confidential:] projected to exceed the Salary Cap [Confidential:], [Confidential:] of the salary cap, [Confidential:] of the Salary Cap and [Confidential:] of the Salary Cap. Therefore in the next few years at least, it seems unlikely that the Salary Cap will restrict the purchase or retention of players for other than at most [Confidential:] Provincial Unions.
- c. For a Provincial Union, which has net player payments close to the Salary Cap, only some of the players in that provincial union’s squad would be allocated differently with and without the Salary Cap. It is likely that no more than three player “misallocations” per team (42 in total) will occur per year (refer Brown Copeland paragraph 32).
- d. Each Provincial Union has a degree of flexibility as to how it allocates its resources under the salary cap, and provincial unions can be expected to retain or attract those players most able to contribute benefits in excess of payments. This will limit the loss of allocative efficiency (refer Brown Copeland paragraph 29).
- e. The loss in consumer surplus as a consequence of the salary cap for a player “misallocated” is only the loss in consumer surplus for that union **net** of the gain in consumer surplus for the union who instead has that player’s services available to it (refer Brown Copeland paragraph 30).

26.3.4 In conclusion, in the next two to three years, assuming an average of three misallocations per team the maximum allocative efficiency loss is likely to be in the range of [Confidential -].

26.3.5 The quantification of allocative efficiency losses is even lower (and close to zero) if the market for player services is restricted to players under independent contract arrangements as submitted at paragraph 22.8 above. There is no basis to expect that [Confidential:] and any future player contracted on a similar basis (although the future contracting of a player on an independent

contractor basis is considered a very remote likelihood) will end up contracting with a different provincial union due to the Salary Cap regime. There is likely to be fierce competition for players of this status. The reallocation of players to another union for a lesser value than they could have attained at a union restricted by the Salary Cap is more likely to occur with players of a lesser status or who are in the twilight of their careers.

26.3.6 Further, even if **[Confidential:]** was affected, the quantification of the allocative efficiency loss would be very small. The loss would be the difference in value of Player X to his existing union (Provincial Union A) if unconstrained and his value to Provincial Union B, and will further only arise if Provincial Union A is unable to keep player X. With the player in question he is currently contracted with the NZRU and his province through to what is expected to be the end of his playing career regardless of any Salary Cap and even if he does continue playing beyond his existing contract (which is believed to be unlikely) it will almost certainly be for the same Provincial Union. That would suggest an allocative efficiency loss calculation of either nil (on the basis that there is no real chance of an allocative efficiency loss) or something very minimal. For all other players there is no loss as the very strong preference of NZRU to contract players as employees means that those players are not part of the market.

26.4 Productive Efficiency Losses

26.4.1 The productive efficiency losses relate to the additional administration and policing costs associated with implementing the new regulations (refer Brown Copeland paragraphs 36 and 37).

26.4.2 This will be partially offset by the removal of costs relating to the present Player Transfer Regulations.

26.4.3 The annual costs to the NZRU associated with monitoring and enforcing the new regulations are expected to be in the order of **[Confidential:]** per annum. The costs are estimated to be comprised of:

- a. one full time employee to commence implementation following authorisation (if granted) estimated at **[Confidential:]**;
- b. external assistance as required for accounting/legal input estimated at **[Confidential:]**; and
- c. overheads – travel, accommodation, auditing estimated at **[Confidential:]**.

26.4.4 In addition it is expected that in the next 1-3 years, one-off software development costs to put Salary Cap information online will be incurred estimated at between **[Confidential:]**.

26.4.5 The costs to Provincial Unions as a consequence of the proposed salary cap are estimated as ranging from **[Confidential:]** (because the additional work will be handled using existing resources) through to an average cost of about **[Confidential:]** per Provincial Union assuming two major investigations a year costing Provincial Unions say, **[Confidential:]** each for legal, accounting and IT expertise plus management costs. This estimate is based on little or no additional annual costs for Provincial Unions compliant with the Salary Cap but more significant additional costs for a Provincial Union when there is an alleged breach of the salary cap. This gives an estimate for annual productive efficiency

losses of between [**Confidential:**] per annum inclusive of the one-off set up costs capitalised at 10 percent over 20 years (Copeland paragraph 36).

26.4.6 The quantification of productive efficiency losses is nil if the market for player services is restricted to players under independent contract arrangements as submitted at paragraph 22.8 above. Any administrative costs are incurred for the purpose of the impact of the Salary Cap on employed players who are not part of the market. There is no incremental cost in relation to the [**Confidential:**] covered by the player services market because [**Confidential:**] independent contractor.

26.5 Loss of Player Skill Levels

26.5.1 The Salary Cap is not intended to have the effect of preventing player transfers, although it will in some circumstances have this effect where it prevents or limits new acquisitions (refer to Brown Copeland report at paragraphs 38 to 41). The Salary Cap is intended to discourage 'stockpiling' of players so that the player talent is more evenly spread among the Provincial Unions and the highest ranked players in each position are starting players for their respective Provincial Unions, thereby getting more Premier Division game time. This will lead to greater development of player skills.

26.5.2 The NZRU expect player's skills, experience and performance to be enhanced by the creation of a more even and competitive competition. Also the Salary Cap will encourage provincial unions to develop their own talent rather than "buying in" talent from other unions.

26.5.3 Therefore, no erosion in player skill levels as a consequence of the Salary Cap is anticipated. See also paragraphs 38 to 41 of the Brown Copeland report and Fort paragraph 84, 89 and 90.

26.6 Innovative Efficiency Losses

26.6.1 The Salary Cap will not lead to any significant loss in innovative efficiency compared to the counterfactual (refer Brown Copeland report paragraph 42). Compared to other forms of intervention such as revenue sharing or a player draft, the Salary Cap retains incentives for Provincial Unions to be innovative in terms of non-monetary methods of retaining and attracting players, revenue earning generally and cost containment. For example:

- a. more emphasis on identifying talented players in younger age groups;
- b. improving rugby and non-rugby development within academies; and
- c. improving the marketing and promotion of the match day experience to enhance gate revenue and sponsorship.

26.7 Summary of Competitive Detriments

26.7.1 The competitive detriments of the proposed Salary Cap are expected to be in the form of losses in allocative and productive efficiency.

- a. Upper limit estimates for the allocative efficiency losses are [**Confidential:**] per annum; and
- b. Lost productive efficiency is estimated at between [**Confidential:**] per annum (including a one-off sum of [**Confidential:**] expected to cover IT and other development costs).

26.7.2 The competitive detriments are expected to have an upper limit of about \$1 million per annum (Brown Copeland paragraph 43).

27 **Player Transfer Regulations**

27.1 **Competitive Impact**

27.1.1 The remaining new Player Movement Regulations provide for a maximum transfer fee to be paid where a player transfers from a Modified Division One Provincial Union to a Premier Division Provincial Union as set out earlier.

27.2 **Competitive Detriments - Market for player services**

27.2.1 The original Transfer Regulations were held in the previous determination to be intended to reduce the ability of Provincial Unions to acquire the rights to player services i.e. to purchase a dream team. That is no longer the purpose and, in the NZRU's view, can no longer be the effect as the players who conceivably could comprise the "dream team" now have no quota imposed on them by the new Player Movement Regulations (or any other). Of the original objectives of the transfer system only the first two are still relevant namely:

- a. rewarding individual Provincial Unions for developing young local players and incentivising investment in grass roots rugby; and
- b. no player can be compelled to transfer or prevented from transferring by his Provincial Union.

27.2.2 In terms of the allocative efficiency losses associated with the original Transfer Regulations, they were found in Decision 281 to essentially fall into two categories:

- a. The number of players who were restrained from begin able to be transferred ; and
- b. The lowering of the market price for a transfer.

27.2.3 These losses were found to be small (in the order of \$62, 000 in year one and \$13,000 thereafter). Given that the new Player Movement Regulations are significantly less restrictive than the counter factual (retaining the existing Transfer Regulations) it is expected that there would be a significant reduction in the allocative efficiency losses for the amended regulations compared with the finding in Decision 281.

27.2.4 There will be lower productive efficiency losses (already minimal) from amending the Transfer Regulations as proposed compared to the counterfactual.

27.2.5 As far as maintaining player skill levels and innovative efficiency losses, it is considered that the proposed changes will increase skill as Modified Division One Provincial Unions are encouraged to develop players and they will be incentivised to find alternative and innovative ways to encourage players to stay in the province.

27.2.6 Hence the competitive detriments of this aspect of the Proposed Arrangements are expected to be negligible.

27.3 Public Benefits

27.4 The benefits that are expected to flow from proposed changes to the Transfer Regulations relative to the counterfactual are:

- a. more player movement which could assist the “less competitive” teams;
- b. more opportunities for player development;
- c. more opportunities for teams with fewer NZRU contracted payers to acquire talent;
- d. increased fan base in “lesser” provinces and better sponsorship opportunities for those provinces; and
- e. Provincial Unions will invest more in training and development of talent leading to better team stability and better quality players.

27.5 It is difficult to quantify the public benefits that flow from this specific part of the Proposed Arrangements. Suffice to say that they are integrally linked to the public benefits that will flow from the Salary Cap and to the extent that the two elements combined lead to more even competitions the same benefits as referred to above are relied on as deriving from this aspect of the Proposed Arrangements.

28 Non-payment of Modified Division One Players

28.1 Competitive Impact

28.1.1 Under the counterfactual, the make up of Modified Division One would be both semi-professional and Amateur players.

28.1.2 The table below shows the current status of players in New Zealand:

Competition	Competition Status	Player Status
International Tests	Professional	Professional
Super 12	Professional	Professional
NPC 1 st Division	Semi-professional	Professional and Semi-professional
NPC 2 nd Division	Semi-professional/Amateur	Semi-professional but mostly Amateur
NPC 3 rd Division	Amateur	Amateur

28.1.3 Under the new competition structure, Modified Division One (previously the NPC 2nd and 3rd Divisions) will be a purely Amateur competition, as shown in the table below:

Competition	Competition Status	Player Status
International Tests	Professional	Professional
Super 14	Professional	Professional
NPC Premier Division	Semi-professional	Professional and Semi-professional
NPC Modified Division One	Amateur	Amateur

28.1.4 The players who will be affected by this aspect of the Proposed Arrangements are the players who will play in the competition who, under the counterfactual, would in some cases be Semi-professional players.

28.1.5 The current practice for payment of remuneration/expenses to players in the 12 Provincial Unions in question for the years 2001 to 2004 can be summarised as follows:

[CONFIDENTIAL:]

end of confidential section]

28.1.6 As can be seen from this table, there is considerable variation in the way different Provincial Unions appear to treat the categorisation of player base payments, bonuses and expenses and even within Provincial Unions this varies substantially from year to year. The NZRU therefore believes it is 'safest' to regard all of these payments as essentially being expenses of one form or another, paid to players. However even if this approach is not favoured, it appears from the above information that the maximum amount of money that might be taken out of the 'market' is about [Confidential:] but it is more likely that nearly all of this should be regarded as reimbursing expenses.

28.1.7 By way of illustration, assuming a squad size of 26 and a maximum of 10 games, the total payments paid to players in the Modified Division One teams in 2004 equated to about [Confidential: \$139] per player per match on average. It is expected that IRD will approve up to a maximum of [Confidential:] per player per match as reimbursement expenses plus travel expenses. Hence, even leaving aside that some Provincial Unions will not be able to afford payment up to this level, NZRU believes that the decision not to pay players any remuneration in the Modified Division One competition will have an insignificant competitive impact.

28.2 Competitive Detriments

28.2.1 The allocative efficiency losses from this aspect of the Proposed Arrangements are likely to be similar to the sort of misallocations referred to in relation to the Salary Cap, namely:

- a. A player prevented from transferring to a Provincial Union which would otherwise have been able and willing to pay him his market value; and
- b. A player forced to transfer to a Premier Division Provincial Union to maintain his semi professional status.

It is difficult to estimate the numbers of such misallocations and thereby quantify such losses. Over the last three full years, i.e. 2002 – 2004, the total number of players transferring have been:

	2002	2003	2004
Div 1	33	17	38
Div 2/3	12	11	12

28.2.2 Of these, almost all of the Division 2/3 transfers have been to Division 1 Unions. This will have been occurring for a variety of reasons unrelated to the amateur/semi professional status of the Division 2/3 Unions. Overall, NZRU expects the allocative efficiency losses associated with this aspect of the Proposed Arrangements to be small because:

- a. there are already very few transfers between Division 2 and 3 and vice versa; and
- b. the market currently operates to favour transfers to Division 1 to attain semi professional and fully professional status and these proposed amateur regulations will have little impact on these decisions as the current payment levels in Divisions 2 and 3 are so low relative to Premier Division payments.

28.2.3 There are not expected to be additional productive efficiency losses to those identified in respect of the Salary Cap. In other words, the resources expected to be needed to monitor and enforce the Salary Cap will cover the monitoring and enforcement for the amateur Division One and there is not expected to be any additional costs for Provincial Unions unless breaches

are identified. But even in those circumstances, the costs associated with such exercises are likely to be low, say, [Confidential:] per annum spread across all 12 Provincial Unions.

28.2.4 NZRU does not expect this particular aspect of the Proposed Arrangements to have any negative impact on player skill levels overall compared to the counter factual. It is accepted that the absence of loan players and some semi-professional players will result to a certain extent in a diminution of the pool of talent in Modified Division One but that is expected to be more than offset by the increased motivational aspects associated with only “home grown” talent appearing for the province.

28.2.5 There is not expected to be any loss of innovative efficiency associated with this aspect of the proposed arrangement for the reasons referred to in the preceding paragraph.

28.3 Public Benefits

28.3.1 It is expected that in summary the following public benefits will flow to Provincial Unions participating in the proposed amateur Modified Division One;

- a. better cost management amongst these Provincial Unions leading to a more economically sustainable financial position;
- b. more resources freed up from contracting players to concentrate on innovative ways of developing local talent;
- c. a greater sense of ‘community’ generated, leading to enhanced fan enjoyment, more sponsorship/merchandising opportunities; and
- d. enhanced revenue opportunities from a more even competition.

28.3.2 These benefits are difficult to quantify but given that the expected competitive detriments are expected to be minimal there is a low ‘bar’ for the benefits to have to get over and NZRU considers, these benefits are likely to considerably outweigh any detriment.

The consequent public benefits are estimated at 10% of that retention or enhancement, and are in the range of [**Confidential:**] per annum.

30.1.5 The Brown Copeland report, at paragraph 62, sets out the gain in public benefits through increased spectator enjoyment for the same range of impacts of the proposed salary cap on game attendances. For items such as:

- a. Merchandise;
- b. Match income;
- c. Signage income; and
- d. Sponsorship income,

a more even and interesting competition is likely to lead to an increase in revenues or (stabilising of existing revenues) without cost increases since the Provincial Union costs are largely fixed across moderate changes in merchandise sales, match income, signage and sponsorships.

30.1.6 On the basis of a 10 to 20 percent increase (or retention), the net public benefits range between [**Confidential:**] per annum, without any upward adjustment for the additional 4 teams joining the Premier Division and the additional number of games in a season (i.e. from 48 to 70). Taking into account the extra games, increases this range to [**Confidential:**] per annum.

30.2 Increased Spectator Enjoyment

30.2.1 The Brown Copeland Report (at paragraphs 60 to 65) sets out new figures for quantification of increased spectator enjoyment from a more even competition based on the Commission's model from 1996. The key elements are:

- An average attendance per game of 10,000 spectators;
- An average price per ticket of \$15;
- 70 games per year in the new Premier Division;
- A price elasticity of demand of 1;
- The impact of the proposed salary cap on crowd size ranging between 0 and 20 percent.

30.2.2 Assuming the Salary Cap may either increase or retain between 10 and 20 percent of crowds the net public benefits in terms of additional enjoyment for spectators at the grounds is estimated to be between [**Confidential:** to] per annum.¹¹

30.2.3 The benefits of additional enjoyment while viewing the Premier Division on television is estimated by Brown Copeland (refer paragraph 65) at least in the 60 cents to \$1.20 per person viewing. In 2004 the total TV3 and Sky Sport NPC rugby viewings was [**Confidential:**]. Assuming the same number of viewings for the Premier Division in 2006 (i.e. applying no adjustment for the increase from 48 to 70 games per season), the additional

¹¹ The benefit calculated by Brown Copeland relates to the additional enjoyment for all spectators at grounds. It does not relate to the benefits for the additional spectators spending their money by attending games as compared to the second choice use of that money.

public benefits are at a minimum of between [**Confidential:**] per annum.¹²

30.3 Improved National Team Performances in International Competitions/Indirect Benefits

30.3.1 By introducing the Salary Cap and having a more even Premier Division there will be improvements in the skill of New Zealand's premier rugby players and consequently improved performances and results for the All Blacks, New Zealand Super 14 teams, and other national representative sides. In addition, bringing back overseas talent or retaining talent in New Zealand will help to lift the standards of New Zealand rugby.

30.3.2 There are a number of "indirect" but significant public benefits, which will arise from better performing national teams and New Zealand Super 14 teams. These include:

- Greater enjoyment for New Zealand spectators and TV audiences of New Zealand international matches;
- Greater leverage for NZRU in its negotiations over TV rights, sponsorship and revenue sharing arrangements;
- Improved international trading opportunities for New Zealand firms via the "association with success" factor;¹³
- Increased tourism to New Zealand; and
- A "feel good" factor for many New Zealanders.

Refer Brown, Copeland paragraph 71.

30.3.3 These public benefits have not been quantified.

30.4 Provincial Union Financial Sustainability

30.4.1 A major focus of the NZRU following the Competitions Review was to achieve a more sustainable economic base for the game. The proposed Salary Cap is intended to address this by:

- a. Addressing potential problems which may have arisen with respect to the financial resources available for maintaining and improving the game at the national level and for each of the Provincial Unions.
- b. Making the competition more even. The Salary Cap will assist in revenue earning opportunities for all of the 14 Premier Division Provincial Unions and not just the handful of major Provincial Unions fortunate enough to have the financial and current playing resources to dominate semi-finals and final places; and
- c. Reducing the tendency for only a small number of Provincial Unions to successfully bid for players against other Provincial Unions.

30.4.2 This benefit has been apparent in both the NRL and AFL where the financial stability and long term viability of numerous clubs were coming into question.

¹² Alternative calculations of between [**Confidential:**] per annum are set out in the Brown Copeland report, paragraph 65 and footnote 26.

¹³ See for example the submission made by TRADENZ in support of the NZRU's 1996 application for authorisation of the transfer regulations. The submission described the spin-off benefits for New Zealand exporters from success by the All Blacks.

30.4.3 Fort at paragraph 89, second bullet point states that:

“The cap should enhance the solvency of smaller- revenue Premier Division teams relative to the former structure. While expansion would endanger solvency in and of itself, and relaxing restrictions reduces the ability of smaller-revenue clubs to hold on to top talent, the cap is a mitigating device. Keeping transfer fees on players moving up from Division One to the Premier Division should enhance the solvency of the lower division clubs.”

31 Additional Indirect Benefits

31.1 Saving on overseas marketing expenses for businesses

31.1.1 Marketing expenditures by New Zealand companies, which would otherwise be conducted overseas, are diverted to domestic sponsorship (using the All Black brand in particular and more recently the Super Rugby brands), thereby saving on overseas funds.

31.1.2 Sponsorship of that nature is targeted to a large extent at overseas markets, yet much of the expenditure is incurred in New Zealand. If the winning tradition of the All Blacks and New Zealand Super Rugby teams are not maintained, that sponsorship would cease to be effective and companies would have to spend more on less efficient means of marketing their products. Much of this marketing money would be spent on overseas marketing companies at the expense of the NZRU.

31.2 Enhanced exports of New Zealand goods

31.2.1 The success of New Zealand sporting teams, particularly the All Blacks and Super Rugby teams raise New Zealand’s profile in overseas markets, thereby aiding New Zealand exporters in those markets.

31.2.2 If the success of New Zealand rugby was to decline, important exporting opportunities and business contacts will be lost. In 1996 in relation to the player transfer regulations TradeNZ provided a submission to the Commission confirming that it agreed *“that success by New Zealand individuals and teams in international sports competition is advantageous to New Zealand exporters in general. Not only does such success result in greater awareness of New Zealand generally, it also creates images of substance and quality for New Zealand firms and products and assists in the favourable positioning of New Zealand generally.”* So far as rugby was concerned TradeNZ considered that success by the New Zealand All Blacks was particularly important with respect to Japan (and to a lesser extent elsewhere in Asia), Australia and the United Kingdom (and to a lesser extent elsewhere in Europe). TradeNZ concluded that *“given the importance of these markets to New Zealand, I believe we can reasonably conclude that All Black success is of significant benefit to New Zealand exporters and to the economy generally.”*

31.3 Greater in-flows of foreign tourists

31.3.1 If the proposed mechanisms are implemented, the New Zealand tourism industry is likely to benefit from an increase in overseas visitors, both on rugby union and other tours. In addition, there will be a greater overseas awareness and profile of the country generated by its sporting success.

31.3.2 For instance, in relation to the 2005 tour of New Zealand by the British and Irish Lions, a total of 20,400 international visitors came to New Zealand to be part of the series. This figure was comprised of tourists from England 11,260, Ireland 2,870, Scotland 750, Wales 2,100,

Australia 2,090 and other 1,330. The tour generated additional foreign exchange earnings of NZ\$131.0 million and generated a total GDP impact of NZ\$135.2 million.¹⁴

31.4 **Player development**

31.4.1 The reforms are likely to have the effect of creating a more competitive domestic competition and therefore players will be involved in more challenging competitive games. The finals format will expose more players to World Cup knock-out finals associated pressures and the best teams will play each other more often than they currently do. This will no doubt help the development of player skills and therefore enhance the New Zealand public's enjoyment of rugby.

31.4.2 Further, by redistribution of player talent the better players are likely to achieve more game time and further enhance their skills (rather than staying on the bench for a rich provincial union).

31.4.3 Player development becomes an important and widely felt benefit when viewed in the context not only of the Salary Cap, but also in relation to the proposed retention of transfer (i.e. development compensation) fees for Modified Division One Unions. This will continue to be an important source of revenue for these Provincial Unions. In 2002 – 2004, these fees provided some [**Confidential:**] on average each year across these Provincial Unions. It will therefore continue to be important to invest in the development of young players who will inevitably continue to drift towards the main centres for a variety of reasons so as to be able to realise some financial return for what will largely be outside their control.

31.5 **Conclusion**

31.5.1 On the basis of the Brown Copeland analysis, the quantified public benefits of the proposed Salary Cap are:

- a. Net national economic benefits from better broadcasting and sponsorship revenues for NZRU: [**Confidential:**] per annum;
- b. Net national economic benefits from greater incomes for provincial unions: [**Confidential:**] per annum;
- c. Increased spectator enjoyment of between [**Confidential:**] (corresponding to a 10 percent increase in crowd size) and [**Confidential:**] (corresponding to a 20 percent increase in crowd size); and
- d. Increased TV audience enjoyment of between [**Confidential:**] and [**Confidential:**] per annum.

31.5.2 The public benefits that have been quantified total between \$7 million and \$14 million per annum and could be as high as \$74 million (see Brown Copeland paragraph 79).

¹⁴ Source: Covec Ltd report dated October 2005

H Balancing of Benefits and Detriments

32 Section 61(6) analysis

- 32.1 In terms of section 61(6) it is submitted that entering into and giving effect to the Proposed Arrangements will in all the circumstances result, or be likely to result, in a benefit to the public which would outweigh the lessening of competition that would result, or be likely to result or is deemed to result therefrom.
- 32.2 The Brown Copeland report sets out a qualitative analysis to the effect that any competitive detriments are likely to be small and outweighed by public benefits (see paragraphs 83-85). The report also sets out a conservative estimation of quantifiable competitive detriments and public benefits on the basis that all player transactions fall within a market that is subject to the Act. Competitive detriments are estimated to be \$1 million per annum and the public benefits of a minimum of between \$7 million and \$14 million.
- 32.3 The public benefits of the Proposed Arrangements are, therefore, of a magnitude greater than competitive detriments by between \$6 million to \$13 million.
- 32.4 If the Commission decides that the market for player services should be considered to represent just the transactions with the very few players (currently just one) who are contracted as independent contractors (as argued at paragraph 22.8 above) then the competitive detriments are either nil or very small (as discussed at paragraphs 22.3.5 and 26.4.6 above) and are even more clearly outweighed by the public benefits of the Proposed Arrangements.

I Confidentiality

33 Paragraphs containing Confidential Information

- 33.1 Confidentiality is claimed in respect of the information provided in, or in conjunction with this notice including the Schedules that is set out in bold type and contained within square brackets marked as [**Confidential:**_____].

34 Schedules containing Confidential Information

- 34.1 Confidentiality is claimed for the whole of:
- a. Confidential Schedule A, Draft Salary Cap Regulations;
 - b. Confidential Schedule B, Draft Player Movement Regulations;
 - c. Confidential Schedule C, Draft Division One Amateur Player Regulations;
 - d. Confidential Schedule E, Collective Employment Agreement (however, not the press release or summary document which are both in the public arena); and
 - e. Confidential Schedule K, NZRU Analysis of Impact of Cap.
- 34.2 Confidentiality is claimed in respect of the information provided in, or in conjunction with the Schedules to this notice that is set out in bold type and contained within square brackets marked as [**Confidential:**_____].
- 34.3 There is some confidential information contained in:
- a. Schedule G, PWC Report;
 - b. Schedule H, Rodney Fort Report;
 - c. Schedule I, Ian Schubert Statement; and
 - d. Schedule J, Brown Copeland Report.

35 Reasons for seeking Confidentiality

- 35.1 The reasons why this information should be withheld from any person or class of persons are:
- a. It is commercially sensitive information; or
 - b. The information is subject to existing contractual obligations of confidentiality; or
 - c. That the information is in draft form, subject to further change, and the interests of the NZRU may be prejudiced should a draft version be publicly available; or
 - d. The information does, or may, identify individuals which would be in breach of the NZRU's privacy obligations; or

- e. In the case of information identified as confidential in Schedule I, such information was provided by the NRL on the basis of an agreement with the NZRU that such information would be kept confidential as it was sensitive information which might prejudice the interests of the NRL if publicly released.

36 **Time Period for Confidentiality**

36.1 The time period for which confidentiality is claimed is:

- The maximum period permitted.

THIS APPLICATION is made by **THE NEW ZEALAND RUGBY FOOTBALL UNION INCORPORATED**

The NZRU hereby confirms that:

- All information specified by the Commission has been supplied;
- All information known to the applicant which is relevant to the consideration of this application has been supplied;
- All information supplied is correct as at the date of this application.

The NZRU undertakes to advise the Commission immediately of any material change in circumstances relating to the application.

DATED this 9th day of November 2005.

Signed by **NEW ZEALAND RUGBY FOOTBALL UNION INCORPORATED**

A handwritten signature in blue ink, appearing to be 'John H. Lee', is written over a light blue rectangular background.

Deputy Chief Executive Officer

I am an officer of the NZRU and am duly authorised to make this application.

Confidential Schedule A: Draft Salary Cap Regulations

Confidential Schedule B: Draft Player Movement Regulations

Confidential Schedule C: Draft Division One Amateur Player Regulations

Schedule D: Provincial Unions

<p>Auckland R.F.U. (Inc.) PO Box 56 152 Dominion Road Auckland 3</p> <p>Tel: 09 815 4850</p> <p>Chief Executive – David White</p>	<p>Bay of Plenty R.U. (Inc.) PO Box 4058 Mt Maunganui South</p> <p>Tel: 07 574 2037</p> <p>Chief Executive Officer: Paul Abbot</p>
<p>Buller R.F.U. (Inc.) PO Box 361 Westport</p> <p>Tel: 03 789 8330</p> <p>Chief Executive Officer: Paul Bonisch</p>	<p>Canterbury R.F.U. (Inc.) PO Box 755 Christchurch</p> <p>Tel: 03 379 8300</p> <p>Chief Executive Officer: Hamish Riach</p>
<p>Counties Manukau R.F.U. (Inc.) PO Box 175 Pukekohe</p> <p>Tel: 09 237 0033</p> <p>Chief Executive Officer: Nick Sheppard</p>	<p>Hawke's Bay R.F.U. (Inc.) PO Box 201 Napier</p> <p>Tel: 06 835 7617</p> <p>Chief Executive Officer: TBA</p>
<p>Horowhenua Kapiti R.F.U. (Inc.) PO Box 503 Levin</p> <p>Tel: 06 367 8059</p> <p>Chief Executive Officer: Grant Tucker</p>	<p>King Country R.F.U. (Inc.) PO Box 394 Te Kuiti</p> <p>Tel: 07 878 7545</p> <p>Chief Executive Officer: Bevan Brown</p>
<p>Manawatu R.F.U. (Inc.) PO Box 1729 Palmerston North</p> <p>Tel: 06 357 2633</p> <p>Chief Executive Officer: Haydn Smith</p>	<p>Marlborough R.F.U. (Inc.) PO Box 459 Blenheim</p> <p>Tel: 03 578 4070</p> <p>Chief Executive Officer: Paul Nisbet</p>
<p>Mid Canterbury R.U. (Inc.) PO Box 98 Ashburton</p> <p>Tel: 03 308 8718</p> <p>Chief Executive Officer: Peter MacGregor</p>	<p>Nelson Bays R.U. (Inc.) PO Box 7157 Nelson</p> <p>Tel: 03 548 7030</p> <p>Chief Executive Officer: Peter Barr</p>
<p>North Otago R.F.U. (Inc.) PO Box 102 Oamaru</p> <p>Tel: 03 434 2053</p> <p>Chief Executive Officer: Colin Jackson</p>	<p>Northland R.U. (Inc.) PO Box 584 Whangarei</p> <p>Tel: 09 438 4743</p> <p>Chief Executive Officer: Tim Hamilton</p>

<p>Otago R.F.U. (Inc.) PO Box 691 Dunedin</p> <p>Tel: 03 455 1191</p> <p>Chief Executive Officer: Russell Gray</p>	<p>Poverty Bay R.F.U. (Inc.) PO Box 520 Gisborne</p> <p>Tel: 06 868 9968</p> <p>Chief Executive Officer: Neil Alton</p>
<p>Rugby Southland (Inc.) PO Box 291 Invercargill</p> <p>Tel: 03 216 8694</p> <p>Chief Executive Officer: Roger Clark</p>	<p>Taranaki R.F.U. (Inc.) PO Box 5004 New Plymouth</p> <p>Tel: 06 759 0167</p> <p>Chief Executive Officer: Paul Easton</p>
<p>Waikato R.U. (Inc.) PO Box 9507 Hamilton</p> <p>Tel: 07 839 5675</p> <p>Chief Executive Officer: Gary Dawson</p>	<p>Wairarapa-Bush R.F.U. (Inc.) PO Box 372 Masterton</p> <p>Tel: 06 378 8369</p> <p>Chief Executive Officer: Phil Taylor</p>
<p>Wanganui R.F.U. (Inc.) PO box 4213 Wanganui</p> <p>Tel: 06 348 0733</p> <p>Chief Executive Officer: Haig Elgar</p>	<p>Wellington R.F.U. (Inc.) PO Box 7201 Newtown Wellington South</p> <p>Tel: 04 389 0020</p> <p>Chief Executive Officer: Malcolm Holmes</p>
<p>West Coast R.F.U. (Inc.) PO Box 31 Greymouth</p> <p>Tel: 03 768 7822</p> <p>Chief Executive Officer: Mike Connors</p>	<p>East Coast R.F.U (Inc.) PO Box 106 Ruatoria</p> <p>Tel: 06 864 8812</p> <p>Chief Executive: Geoff Milner</p>
<p>North Harbour R.F.U (Inc.) PO Box 302 145 North Harbour</p> <p>Tel: 09 477 2300</p> <p>Chief Executive: Noel Coom</p>	<p>South Canterbury R.F.U. (Inc.) PO Box 787 Timaru</p> <p>Tel: 03 688 8653</p> <p>Chief Executive: Paul Treves</p>
<p>Thames Valley R.F.U (Inc.) PO Box 245 Paeroa</p> <p>Tel: 07 862 6352</p> <p>Chief Executive: Murray Earl</p>	

Confidential Schedule E: Collective Employment Agreement

This Schedule includes:

- a) The Collective Employment Agreement;
- b) A summary document explaining the key elements of the Collective Employment Agreement;
and
- c) An NZRU press release dated 1 November 2005



**New Zealand Rugby Union
and
Rugby Players Collective**

**COLLECTIVE AGREEMENT
OVERVIEW**

• **1 November 2005** •



Contents

Executive Summary	2
Revenue Sharing	2
Property and Promotions	2
NZRU Contracting Environment.....	2
Provincial Union Contracting Environment	3
Other.....	4
Part 1 • Basic Terms.....	6
Part 2 • NZRU Player Generated Revenue and the Player Payment Pool	6
Part 3 • Property	7
Personal Promotions.....	7
Part 4 • Commercial Merchandising Programme.....	7
Part 5 • Promotional Services	8
Part 6 • NZRU Employment Environment	8
Remuneration.....	9
NZRU Employment Obligations	10
Termination	10
Rebel Sport Super 14 Rugby Selection and Draft Process	10
De-Listed Players	11
Other Provisions of Note	11
Part 7 • Provincial Union Employment Environment	12
Participation in Rebel Sport Super 14 Selection Process	12
Determination of Home Rebel Sport Super 14 Franchise.....	13
Provincial Union Obligations	13
Termination.....	13
Provisions relating to the Air New Zealand Cup	13
Transfer	13
Loan.....	14
Provincial Union Salary Cap.....	14
Part 8 • Monitoring.....	17
Part 9 • Misconduct.....	17
On-field Misconduct.....	17
Off-field Misconduct	17
Part 10 • Rugby World Cup	18
Part 11 • Other Matters	18
Transition	19



Executive Summary

The Collective Agreement is an agreement which changes the landscape of professional rugby in New Zealand, particularly as it relates to the relationship between the New Zealand Rugby Players Association (representing the players) and the New Zealand Rugby Union (representing the Super 14 franchises and provincial unions).

The agreement recognises the need to align the interests of the players and the NZRU, combine their respective strengths and create a strong sense of partnership and shared purpose.

The agreement reflects a desire to reward players for excellent performance (both on and off the field), encourage player retention and reward loyalty.

Key aspects of the agreement include:

Revenue Sharing

- There will be a revenue sharing arrangement between the NZRU and the players at a national level. In each of four contract years (2005–2008) 32.41% of NZRU player generated revenue will be set aside in a player payment pool and applied for the benefit of players (contracted to play for Super 14 franchises and/or the NZRU). The revenue sharing arrangement does not extend to provincial unions or the Air New Zealand Cup.

Property and Promotions

- Subject to certain exemptions including broadcasting rights and a linked marketing campaign, use of the players' property must involve groups of three or more players in association with the names, logos or uniforms of New Zealand teams (and in a manner which identifies the player as a member of a New Zealand team).
- Players are able to perform personal promotions as long as they notify the NZRU. The NZRU may object to the personal promotion on certain grounds including if the personal promotion conflicts with a sponsor, and the NZRU can demonstrate a significant negative financial impact on the current or future revenue of the NZRU, the player's Super 14 franchise or his provincial union. The NZRU may also object if the promotion is in TV, radio or print media and involves three or more players.
- Players may write publications (ie write an article, book or other publication or provide commentary or critique) as long as they notify the NZRU in the manner prescribed above.
- The agreement provides for the establishment of a commercial merchandise programme (for example signed memorabilia, computer games, videos, trading cards, novelties etc involving players). In respect of team-based products (more than three players), the players involved will receive 50% and the NZRU 50% of net revenue; in respect of player-based (products three or less), the players involved will receive 80% and the NZRU 20% of the net revenue. Individual player consent is required for player-based products.

NZRU Contracting Environment

- At all levels the players will receive retainers which are payable for the term of a player's contract regardless of selection, non-selection, injury, illness or suspension (subject to certain limitations), ie guaranteed retainers.
- Players contracted to the NZRU for the purposes of Rebel Sport Super 14 rugby will receive a minimum guaranteed retainer of \$65,000 per annum in addition to their provincial union payments. Previously this \$65,000 was dependant on selection. Players contracted at this level will be on NZRU Contracts.
- As a transition mechanism to guaranteed retainers, players who are currently eligible (subject to selection) for Rebel Sport Super 12 base fees and All Black fees, and who are selected as a member of a 2006 Rebel Sport Super 14 squad will switch to receiving a guaranteed retainer as of 1 January 2006. Such a player's new NZRU retainer will be calculated as follows:
 - If a player's current All Blacks fees are less than \$100,000 then his NZRU retainer will be equal to his Rebel Sport Super 12 base fees.
 - If a player's current All Blacks fees are equal to or greater than \$100,000, then his NZRU retainer will be his Rebel Sport Super 12 base fees plus All Blacks fees minus \$100,000.



- In addition to his NZRU retainer, a player will be eligible to receive NZRU team assembly fees. NZRU team assembly fees are equal across all players selected to teams as follows: All Blacks (\$7500 per week); Junior All Blacks (\$3500 per week); All Blacks Trial teams (\$2000 per week) and New Zealand Maori (\$2000 per week).
- NZRU Sevens Contract guaranteed retainer bands start at \$25,000 per annum (plus tournament fees) with at least three players to receive at least \$45,000 per annum (plus tournament fees). Tournament fees remain at \$2,000 per tournament. These payments are in addition to a player's provincial union payments. Fifteen players will be contracted as fulltime Sevens players each year.

Tier 1: Players who have played fewer than four IRB Sevens Tournaments at the commencement of that Contract Year	\$25,000
Tier 2: Players who have played four or more IRB Sevens Tournaments at the commencement of that Contract Year	\$35,000
Tier 3: Elite Sevens players (as determined by the NZRU) of which there must be at least three	\$45,000+

- The agreement sees the formalisation of the Rebel Sport Super 14 wider training groups which will result in NZRU Wider Training Group Contracts for at least a further 35 players from outside the Rebel Sport Super 14 squads, with retainer bands ranging from \$15,000 per annum through to at least \$30,000 per annum. These payments are in addition to a player's provincial union payments.

Tier 1: Developing Air New Zealand Cup player (1-2 years) / Under 19 player / Under 21 player	\$15,000-\$20,000
Tier 2: Established Air New Zealand Cup player (3+ years)	\$20,000-\$25,000
Tier 3: Developing Previous Rebel Sport Super 14 player (1-2 years)	\$25,000+
Tier 4: Established Rebel Sport Super 14 player (3+ years) / 'Next Best' player	\$30,000+

- Players selected for the 2007 Rugby World Cup will be eligible for a \$100,000 bonus (\$35,000 on winning the semifinal and \$65,000 on winning the final).
- Players who do not fall within the above contracts who the NZRU is looking to retain will be on an NZRU Interim Contract.

Provincial Union Contracting Environment

- Players will be contracted by their provincial union on either a Provincial Union Contract or a Provincial Union Development Contract.
- Each provincial union in the Air New Zealand Cup must contract at least 26 players on a minimum guaranteed retainer of \$15,000 per annum. Any player on a Provincial Union Contract must be on a minimum \$15,000 guaranteed retainer.
- Any replacement players called into an Air New Zealand Cup team must receive a minimum payment of \$1000 per week during the time they are selected.
- A player contracted at provincial union level who has never previously been selected to a Rebel Sport Super 14 team will automatically be available for selection (unless the player chooses otherwise) and, unless otherwise negotiated, default to a one-year, \$65,000 NZRU Contract (paid over 14 months from 1 November) upon selection to a Rebel Sport Super 14 team.
- The agreement sees the introduction of a salary cap at Air New Zealand Cup level (subject to Commerce Commission authorisation) set at \$2,000,000 in 2006 and increasing with the CPI over each of the three years.
- The existing NZRU Transfer Regulations will (subject to Commerce Commission authorisation) be abolished. The agreement will see the introduction of a new provincial union transfer period that will run from 1 October until one week after the Rebel Sport Super 14 final in the following year. No transfer fees for players transferring between Air New Zealand Cup provincial unions or limits on player numbers will apply. However transfer fees will continue to apply for players moving from Division 1 to Air New Zealand Cup unions.



- The agreement contains loan criteria which will result in each provincial union being able to loan/borrow an unlimited number of players for the purposes of the Air New Zealand Cup, as long as no more than six loan players appear in a playing squad of 22. No loan may take place without the player's individual agreement.

Other

- Under the Agreement the NZRU may enter into a playing contract with a representative entity on behalf of a player subject to specific conditions.
- Upon termination or non-renewal of a NZRU contract, a player may, at his option, terminate his Provincial Union Contract (provided he has not waived that option).
- A player not selected as part of a final Rebel Sport Super 14 team (referred to as a de-listed player) may still terminate his playing contract (although he may choose to waive his right to terminate his Provincial Union Contract subject to certain conditions including for valuable consideration).
- The NZRU will reimburse players for actual and reasonable costs of legal representation (including travel and accommodation) up to a maximum of \$2,000 in relation to on-field misconduct.
- Players suspended for on-field misconduct will incur a loss of retainer of 50% (up to a maximum of \$2,000 per week) from the sixth week of suspension onwards. Team selection fees will be deducted up to 50% (max \$3,500 per week) immediately upon suspension.
- A player charged with a doping offence and found not guilty will (subject to prior approval) have his legal costs covered by the NZRU.
- If a player becomes injured or ill, he will continue to receive his retainer (and in certain circumstances All Blacks team assembly fees) for the period of his playing contract (unless the injury results from an illegal act, in which case he is subject to the misconduct provisions and resulting fines).
- There will continue to be a player long-term Loyalty and Superannuation Plan with \$400,000 per year contributed from the player payment pool as employer contributions to the plan. The plan will continue to be managed by the NZRU and RPC.
- The Professional Development Programme will continue to be run jointly by the RPC and NZRU. A total of \$550,000 in funding for the programme will be provided from the player payment pool. A player will have at least one half day (consistent) per week designated as uninterrupted professional development time. Such time shall not fall on a player's day off.
- The NZRPA will establish an NZRPA Benevolent and Welfare Fund which will have \$600,000 per annum paid to it from the player payment pool. Among others things, this fund will provide cover for career-ending injury or illness with the details of such cover yet to be determined by the RPC.
- Players will be required to pay levies to the RPC as part of this agreement (which will be deducted at source). These levies will be set by the RPC and notified to the NZRU. In addition, \$300,000 per annum will be paid to the RPC from the player payment pool.
- Players required to relocate for the purposes of playing rugby will receive reimbursement of actual and reasonable relocation costs and an accommodation allowance up to specified limits.
- Players will be able to play in other games provided the game is not deemed by the All Blacks coach or player's coach as not being in the best interests of the player or New Zealand rugby.
- The NZRU will suspend seeking any compensation for player development when a player moves to another country until the conclusion by the IRB of a review of its relevant regulations. Once this review is completed, the parties will meet to consider the outcome of the review.
- NZRU contracted players will receive between eight and ten weeks' leave per year, but will be required to continue with their individual training program while on leave (but not assemble). This includes two weeks following the Rebel Sport Super 14, four weeks during November and two weeks over Christmas, or up to eight weeks for those on an end-of-year tour (at the conclusion of that tour). New Zealand Sevens players will get eight weeks' leave allocated during the year.
- A player will receive one full day off per week.
- A rested player (due to rotation, recuperation, conditioning or rehabilitation) is entitled to receive payment of any NZRU team selection fees which he would have received if he had been selected to the relevant New Zealand team.



- A player may not engage in any activity outside the course of everyday behaviour (other than rugby) which involves the risk of significant injury without the prior consent of the NZRU.
- The NZRU and RPC will work together to develop a process for the regulation of agents in New Zealand.
- There will be a Professional Rugby Advisory Group that will meet quarterly to consider and provide recommendations for all professional rugby-related issues. The group will consist of at least three representatives of the NZRU, including at least two provincial union CEOs (one of which must also be a Rebel Sport Super 14 franchise CEO), and at least three representatives of the RPC, including at least two players.
- Under this agreement the RPC has the right to take reasonable steps to monitor the agreement. This includes the right to audit NZRU player generated revenue and the application of the player payment pool, and the right to inspect any relevant player contracts.



Collective Agreement Overview

Part 1 • Basic Terms

The parties to the Collective Agreement are the New Zealand Rugby Union (NZRU) and Rugby Players Collective (RPC).

The NZRU represents the interests of the Rebel Sport Super 14 rugby franchises and the provincial unions (in the Air New Zealand Cup) and each of those entities agree to be bound by and comply with the terms of this agreement.

The RPC represents the interests of its members being New Zealand professional rugby players. The RPC also represents the interests the New Zealand Rugby Players Association (NZRPA).

The agreement will come into force on 1 January 2006 and will continue until 31 December 2008.

Any variation to the agreement must be made in writing and agreed between the parties.

The NZRU is the sole employer of players employed to play rugby for a New Zealand team. Players are seconded to provincial unions for the purposes of the Air New Zealand Cup. Therefore the agreement contains the terms and conditions of employment for all players who are employed or retained to train, play and perform promotional services (including media interviews) for the NZRU.

New Zealand teams include NZRU teams (All Blacks, Rebel Sport Super 14 teams, New Zealand Sevens team, New Zealand Maori team, All Blacks Trial teams and the Junior All Blacks) and any provincial union team (Air New Zealand Cup Team or other team selected by a provincial union). They do not include the Black Ferns or any age-grade representative teams.

A player will reach agreement with the NZRU to play for an NZRU team and with a provincial union to play for a provincial union team.

The NZRU may enter into a playing contract under this Agreement with a representative entity on behalf of a player provided that:

- the player provides his employment services through that entity;
- the entity is not used for the provision of any other player's employment services, nor may the player assign any of his rights or obligations; and
- the terms of this Collective Agreement otherwise apply as agreed by the NZRU, the RPC and the player.

If a player chooses not to be a member of the RPC, he may be employed under this agreement (subject to certain exceptions).

Part 2 • NZRU Player Generated Revenue and the Player Payment Pool

NZRU player generated revenue is the annual consolidated revenue of the NZRU and its subsidiaries and any related entity, generated from player related activity.

The player payment pool is established in each of the contract years as 32.41% of NZRU player generated revenue.

The player payment pool is an amount set aside to be applied for the benefit of players (ie contracted by the NZRU to play for NZRU teams) and their interests and has been calculated to reflect the contribution made by players and the RPC to the partnership of the business of rugby (which generates NZRU player generated revenue).

Payments from the player payment pool must be made in accordance with this agreement.

The forecasted amount of the NZRU player generated revenue and the resulting Player Payment Pool is regarded as commercially sensitive and as a result is not disclosed in this Overview.

The NZRU shall provide the RPC with an interim report every three months highlighting how NZRU player generated revenue and the player payment pool are tracking against forecast. In addition



the RPC has the right to conduct an annual audit of NZRU player generated revenue and the player payment pool.

A variation ledger shall be established to take into account variations between forecast and actual NZRU player generated revenue and between the actual player payment pool and the actual payments made from the player payment pool.

In respect of each contract year:

- (a) if the actual total payments made from the player payment pool were less than the actual player payment pool the amount of such difference will be added to the variation ledger;
- (b) if the actual total payments made from the player payment pool exceeded the actual player payment pool, the amount of such difference will be subtracted from the variation ledger; or
- (c) if the actual total payment made from the player payment pool matched the actual player payment pool, no adjustment will be made to the variation ledger.

At the end of each contract year if the variation ledger has a balance in excess of the forecast variation ledger balance, the amount of that excess shall be distributed for the benefit of players (with the players' reasonable wishes, as presented by the RPC, accorded paramount importance). If the variation ledger has a balance below the forecasted variation Ledger the amount of that balance shall be carried forward to the following contract year. If the balance is equal then no action need be taken.

Part 3 • Property

Each player grants the NZRU a licence to use that player's player property by associating it with the name, logo or uniform of a New Zealand team in such a way as to identify that player as a member of that New Zealand team. This results in player licence property.

A player is identified as a member of a New Zealand Team if there is an association of three or more players. There are certain exceptions to the rule relating to a limited number of linked marketing campaigns and broadcaster rights within the body of the agreement.

The NZRU may assign player licence property to a sponsor or broadcaster.

The NZRU, a Rebel Sport Super 14 franchise or a provincial union may enter into a separate agreement with an individual player for use of that player's player property (including exclusive use, by way of restraint, for valuable consideration).

Players may write publications (ie write an article, book or other publication or provide commentary or critique) as long as they notify the NZRU and subject to certain restrictions contained within the agreement.

Personal Promotions

A player may perform a personal promotion as long as they notify the NZRU in accordance with the terms of the agreement. The NZRU may object to the personal promotion on certain grounds including if the personal promotion conflicts with a sponsor and the NZRU can demonstrate a significant negative financial impact on the current or future revenue of the NZRU, the player's Rebel Sport Super 14 franchise or his provincial union. The NZRU may also object if the promotion is in TV, radio or print media and involves three or more players.

The fact that a product or service which is the subject of the personal promotion is that of a competing sponsor or broadcaster does not, of itself, constitute grounds for objection.

Part 4 • Commercial Merchandising Programme

Commercial merchandising products are licensed products such as clothing, headwear and other apparel, rugby equipment, memorabilia, games, computer or electronic games, novelties, printed products, videos and trading cards that involve the use of player property and NZRU (including franchise and provincial union) property.

Commercial merchandising products are either team-based (four or more players involved) or player-based (three or less players involved).



The NZRU has the exclusive right to produce commercial merchandising products, although they must obtain the consent of the individual player(s) for player-based products.

In respect of team-based products, the players involved will receive 50% and the NZRU 50% of the net revenue; in respect of player-based products, the players involved will receive 80% and the NZRU 20% of the net revenue.

The NZRU will report to the RPC once every six months to provide a report on the commercial merchandising programme.

Part 5 • Promotional Services

Players agree to perform rugby promotional services (which have as their primary purpose the promotion of rugby) and commercial promotional services (which have as their primary purpose the promotion of a sponsor or broadcaster).

The NZRU must provide a player with seven days' notice of a requirement to perform promotional services together with information relating to the activity to be undertaken.

A player is required to sign a maximum of 250 items in respect of each New Zealand team (300 for the All Blacks) for which he is selected in any contract year.

A player may not be required to perform promotional services:

- during any period of that player's leave (unless expressly provided otherwise in the Agreement);
- where there is a bereavement in the player's family;
- where the requirement would interfere with exams for a course of study, previously notified to the NZRU, being undertaken by the player;
- where the requirement would interfere with the player's ability to provide his playing services to any party under the Agreement;
- on the player's rostered day off;
- during a player's dedicated professional development time; or
- where the NZRU has failed to provide the player with the required period of notice.

A player may be required to perform promotional services during a bye week provided that the player receives at least three consecutive days during that week when the player is not required to perform promotional services.

Part 6 • NZRU Employment Environment

The NZRU will employ players on an NZRU Contract, an NZRU Interim Contract, an NZRU Wider Training Group Contract or an NZRU Sevens Contract.

An NZRU Contract is used for those players who are employed to play in a Rebel Sport Super 14 team and to other NZRU teams such as the All Blacks, Junior All Blacks, All Blacks Trial teams or New Zealand Maori.

An NZRU Interim Contract is to be used for replacement Rebel Sport Super 14 players or players in All Blacks, New Zealand Maori, Junior All Blacks or All Blacks Trial teams who are not on an NZRU or NZRU Wider Training Group contract. It is also to be used to retain players returning from overseas or to retain developing players. After 10 weeks in a season as a replacement Rebel Sport Super 14 player, a player automatically goes on to an NZRU Contract based on the minimum terms and conditions.

There will be at least seven players per Rebel Sport Super 14 franchise (total of at least 35 players) selected as part of that franchise's wider training group. Players on NZRU Wider Training Group contracts are available as replacement players for Rebel Sport Super 14 squads.

An NZRU Sevens Contract is to be used for players who are part of the New Zealand Sevens squad. The NZRU must, in each contract year, name a New Zealand Sevens squad made up of at least 15 players. Players named in the Sevens squad may be on NZRU Wider Training Group Contracts also.



Remuneration

Any retainers paid are guaranteed for the term of the playing contract regardless of injury, illness, selection or non-selection.

A player on an NZRU Contract must receive a minimum guaranteed retainer of \$65,000 per annum (which for a first year player will be paid over 14 months from 1 November).

Players who are currently receiving Rebel Sport Super 12 base fees and who are selected as a member of a 2006 Rebel Sport Super 14 squad (and are therefore on an NZRU Contract) will switch to receiving a guaranteed NZRU retainer as of 1 January 2006. A player's new NZRU retainer will be calculated as follows:

- If a player's current All Black fees are less than \$100,000 then his NZRU guaranteed retainer will be equal to his Rebel Sport Super 12 base fees.
- If a player's current All Black fees are equal to or greater than \$100,000 then his NZRU retainer will be his Rebel Sport Super 12 base fees plus All Blacks fees minus \$100,000.

A player on an NZRU Interim Contract must receive at least \$500 per week if he is part of the New Zealand Sevens squad or \$1,500 per week if he is part of any other NZRU team.

A player on an NZRU Wider Training Group contract will receive a minimum guaranteed retainer as follows:

Tier 1: Developing Air New Zealand Cup player (1-2 years) / Under 19 player / Under 21 player	\$15,000-\$20,000
Tier 2: Established Air New Zealand Cup player (3+ years)	\$20,000-\$25,000
Tier 3: Developing Previous Rebel Sport Super 14 player (1-2 years)	\$25,000+
Tier 4: Established Rebel Sport Super 14 player (3+ years) / 'Next Best' player	\$30,000+

A player on an NZRU Sevens Contract will receive a minimum guaranteed retainer as follows:

Tier 1: Players who have played fewer than four IRB Sevens Tournaments at the commencement of that Contract Year	\$25,000
Tier 2: Players who have played four or more IRB Sevens Tournaments at the commencement of that Contract Year	\$35,000
Tier 3: Elite Sevens players (as determined by the NZRU) of which there must be at least three	\$45,000+

All players on the above playing contracts will be eligible for the following team selection fees per week that the team is selected:

<i>NZRU Team</i>	
All Blacks	\$7,500
Junior All Blacks	\$3,500
New Zealand Maori Team	\$2,000
An All Blacks Trial Team	\$2,000

1. NZRU team selection fees are specified as weekly amounts, and are payable to a player in respect of any week (or part week, on a pro-rata daily basis, with a minimum payment of one week for each assembly) during which he is assembled with a particular NZRU team (except in the case of a replacement player who is required for three days or less in any week, where that player will be paid on a pro-rata basis for those days).
2. In the case of the Junior All Blacks, the New Zealand Maori team and an All Blacks Trial team, the NZRU is obliged to make payment to the player of his NZRU team selection fees where he becomes unable to play rugby due to illness or injury for the balance of the relevant period of



assembly (or until the Player is no longer prevented from training for and playing rugby, whichever occurs first).

3. Where the player was a member of the most recently selected All Blacks team (including a rested player (see Part 11)) and becomes unable to play rugby due to illness or injury, the NZRU is obliged to make payment to that player of NZRU team selection fees in respect of each period of assembly for the All Blacks team until the occurrence of the earliest of the following events:
 - (a) the expiry of twelve months following such illness or injury;
 - (b) the expiry of the player's NZRU term; or
 - (c) the player is no longer prevented from training for and playing rugby.

All players who are selected for the New Zealand Sevens team for a tournament will receive tournament fees of \$2000 per tournament.

If a player is a member of the New Zealand Sevens squad and a wider training group, he will get the higher retainer of the retainers he would otherwise be entitled to, plus an additional \$5,000 per annum.

The player and NZRU may agree to individual performance incentives in addition to the player's NZRU retainer, however such payments in a particular contract year may not represent more than 10% of his NZRU retainer for that contract year.

A player may also agree to receive non-financial benefits as part of his remuneration (ie accommodation, motor vehicle).

A Rebel Sport Super 14 franchise may, in its discretion, pay bonuses to players upon the attainment by that team of a particular goal, particularly including a home semifinal or final game in the Rebel Sport Super 14 competition. Any such payments are not included in the player payment pool.

Each player is entitled to share in any prize money won by a team of which he is a member, in accordance with any protocol determined by the players in that team.

NZRU Employment Obligations

The NZRU and Player's obligations under each of the above playing contracts are outlined in clause 30 of the agreement.

Specifically, if a player is required to relocate from his usual home to provide his services in the Rebel Sport Super 14 competition the NZRU will meet the player's actual and reasonable costs (approved in writing by the NZRU in advance of being incurred) as follows:

- up to \$2,500 for relocation and travel (including up to three return trips to the player's home), where the player is required to relocate for the purpose of the Rebel Sport Super 14 competition; and
- up to \$350 per week for reasonable costs of rental accommodation and associated utilities (excluding telephone and food).

Termination

A playing contract is regarded as terminated upon the expiry of its term.

A player may, at his option, terminate his playing contract if he becomes a de-listed player ie is not selected in a Rebel Sport Super 14 team (see below).

The NZRU may terminate a playing contract in the case of serious misconduct, in accordance with the agreement.

A player and the NZRU may, at any time during the term of a playing contract, agree to terminate their employment relationship on such terms as they may negotiate between themselves.

Upon termination of an NZRU contract, only a player may, at his option, also automatically terminate any other contract under this Collective Agreement to which he may also be a party (except, where a player may elect to waive this right if he is a de-listed player, a Provincial Union Contract).

Rebel Sport Super 14 Rugby Selection and Draft Process

The Rebel Sport Super 14 selection and draft process shall result in a total of 28 players being selected to each Super 14 team. The process is, in essence, the same as the past with a few exceptions most notably that a player's retainer is not contingent on his selection to a Rebel Sport Super 14 team. The Agreement outlines the Rebel Sport Super 14 selection and draft process together with the wider training group protocols for 2006 in greater detail.



De-Listed Players

Special rights accrue to a player who is a party to an NZRU Contract but is not selected in a Rebel Sport Super 14 squad (referred to as a de-listed player). A de-listed player must give notice to the NZRU following the selection of Rebel Sport Super 14 squads either:

1. that he elects to terminate his employment with the NZRU. The following provisions apply to this option:
 - (a) the player must exercise the right by providing two months' written notice of termination no later than 1 December;
 - (b) until the expiry of such period of notice, the player is entitled to continue to receive payment of his NZRU retainer (and, up until 31 December, his provincial union retainer or provincial union development retainer, if applicable); and
 - (c) for the avoidance of doubt, this termination also terminates any other employment relationship with the NZRU, including a Provincial Union Contract, or Provincial Union Development Contract, to which the player is a party (unless such right has been waived); or
2. that he elects to remain available to perform employment services for the balance of his NZRU term (including remaining fit to play rugby) or until the next selection of initial Rebel Sport Super 14 rugby squads (whichever is the earlier). A de-listed player who elects this option is available for selection to his home Rebel Sport Super 14 franchise's wider training group (or, with his agreement, the wider training group of another Rebel Sport Super 14 franchise). In this case, the player is entitled to continue to receive payment of his NZRU retainer (and his provincial union retainer, if applicable).

Other Provisions of Note

At the time of entering into any playing contract, a player must indicate whether or not he wishes to be considered for selection to the New Zealand Sevens team for tournaments forming part of the IRB Sevens competition during his NZRU term. If the player indicates that he wishes to be considered for selection to the New Zealand Sevens team, he may not decline selection to that team. If the player chooses not to be available, he may change his mind if approached at a later date.

All players are required to be available for selection to the Olympic Games, Commonwealth Games and World Cup Sevens teams.

A player who has not previously been selected for the All Blacks, the Junior All Blacks or the New Zealand Sevens team may, upon giving the NZRU four weeks' notice, decline availability to the Junior All Blacks (and for the purpose of this provision, the NZRU must provide at least four weeks' notice of potential selection to the player). The NZRU may, in this case, reduce the player's NZRU retainer by up to 10%.

Where a player who is a party to an NZRU contract commits an illegal act, that is, not committed in the course of employment, and is injured so that he is unable to play or train for rugby, the NZRU may, for the period of such incapacity, reduce the amount of NZRU retainer that it is required to pay that player by 50%. Prior to making any decision to reduce payment in accordance with this provision the NZRU must consult with the player.

A minimum of 26 players must be selected for the All Blacks each time that team is selected (except for one-off fixtures). A player may, however, be added to this group of 26 players (and will therefore be entitled to payment of NZRU team selection fees for any period for which he is so selected) particularly to take account of illness, injury or suspension, or to allow for team preparation.

The All Blacks will assemble for defined periods as follows:

- (a) inbound tours, in approximately May or June;
- (b) Philips Tri Nations tournament, in approximately July to August;
- (c) end-of-year tour, in approximately November to December,

in each Contract Year during the term (and with the exception that the All Blacks will assemble for the Rugby World Cup in 2007, meaning that there is no end-of-year tour in that contract year).

The NZRU must allow each player with whom it wishes to become a party to an NZRU Contract a minimum of 14 days, or to an NZRU Wider Training Group Contract, NZRU Interim Contract or NZRU Sevens Contract a reasonable period of time from the date of the initial offer, to consider the terms of such proposed arrangement. If a player and the NZRU cannot agree to the terms of an NZRU Contract, they may rely upon the mediation process in the problem resolution procedures in the agreement.



All contractual negotiations and documents between a player and the NZRU are confidential between those parties except as provided for in the agreement. The NZRU must, upon request, make a copy available for inspection by the RPC of any player contracts.

Part 7 • Provincial Union Employment Environment

A provincial union may, acting on behalf of the NZRU, employ players on a Provincial Union Contract or a Provincial Union Development Contract.

Each provincial union must, in each contract year, become parties to at least 26 Provincial Union Contracts. There is no limit on the number of Provincial Union Development Contracts.

Any retainers paid are guaranteed for the term of the playing contract regardless of injury, illness, selection or non-selection.

A player on a Provincial Union Contract must receive a minimum guaranteed retainer of \$15,000 per contract year.

There is no minimum guaranteed retainer for a player on a Provincial Union Development Contract but if the player is selected as part of his provincial union's Air New Zealand Cup team he must be paid provincial union replacement player fees of at least \$1,000 per week, inclusive of the player's provincial union development retainer.

The term of a Provincial Union Contract or Provincial Union Development Contract must expire between 31 October and 31 December in a specified contract year.

A player on either a Provincial Union Contract or Provincial Union Development Contract may also agree to non-financial benefits and individual performance incentives.

A provincial union may, at their discretion, make payments to players of provincial union team performance incentives up to the following amounts (such payment are excluded from the provincial union salary cap):

<i>Goal</i>	<i>Payment to Team</i>
Home semifinal	\$50,000
Away semifinal	\$25,000
Home final	\$75,000
Away final	\$50,000
Winning final	\$25,000

All contractual negotiations and documents between a player and a provincial union are confidential between those parties except as provided for in the agreement. The provincial union must, upon request, make a copy available for inspection by the RPC of player contracts.

Participation in Rebel Sport Super 14 Selection Process

Any player who is a party to a Provincial Union Contract or a Provincial Union Development Contract and who has never been selected as a member of a Rebel Sport Super 14 squad automatically agrees to participate in the Rebel Sport Super 14 rugby selection process each contract year during that player's term, but may retract that agreement and agree not to be available by giving notice in writing to the NZRU by the Rebel Sport Super 14 eligibility date (approximately 15 October each year).

A player who:

- (a) participates in the Rebel Sport Super 14 selection process;
- (b) is not, and has never been, a party to an NZRU contract or selected as a member of a Rebel Sport Super 14 squad; and
- (c) as a consequence of the Rebel Sport Super 14 selection process is selected to a Rebel Sport Super 14 squad,
becomes a party to an NZRU Contract on the following basis:



- (d) the player's NZRU term will be for a period of 14 months, commencing on 1 November in that contract year;
- (e) the player's NZRU retainer for this NZRU term will be \$65,000 (being the minimum prescribed amount);
- (f) the player and the NZRU may agree other terms which are consistent with the agreement.

A player who has previously been a party to an NZRU contract has a right to negotiate his NZRU term and NZRU retainer (and the matters recorded above are, in that case, minimum prescribed levels only).

Determination of Home Rebel Sport Super 14 Franchise

A player's home Rebel Sport Super 14 franchise is determined by the provincial union the player is contracted to for the following year as at the Rebel Sport Super 14 eligibility date.

A player who has been selected in the final Rebel Sport Super 14 squad of his home Super 14 franchise in at least four consecutive contract years may seek the NZRU's agreement to allow that franchise to remain his home franchise even though he may transfer outside that franchise's area (and without any guarantee of selection to that franchise's squad). The NZRU is not required to agree and will need to satisfy itself that the Chief Executive Officers of the home franchise and the player's new provincial union are also in agreement.

A player who has been drafted to a Rebel Sport Super 14 franchise twice previously may choose (and change any choice) to be available first to that franchise or to remain available first for his home franchise by notice in writing to the NZRU.

Provincial Union Obligations

The provincial union's and player's obligations under each of the above playing contracts are outlined in detail in the agreement.

Termination

A Provincial Union Contract or Provincial Union Development Contract is regarded as terminated upon the expiry of its term.

A player may, at his option, terminate his Provincial Union Contract or Provincial Union Development Contract by giving written notice to the NZRU (including by giving it to his provincial union, on the NZRU's behalf) if, at any time during his provincial union term (or provincial union development term), an NZRU contract to which he is a party is terminated (or if that NZRU contract expires and the player does not enter into a subsequent NZRU contract), and provided that he may not enter into a Provincial Union Contract or Provincial Union Development Contract with a different agreed provincial union during the period that would otherwise be his unexpired provincial union term or provincial union development term.

However, a player may waive the right to terminate his Provincial Union Contract or Provincial Union Development Contract upon becoming a de-listed player, provided that certain conditions are met.

The NZRU may terminate a Provincial Union Contract or Provincial Union Development Contract in the case of serious misconduct, in accordance with the agreement.

A player and a provincial union (acting on behalf of the NZRU) may, at any time during the term of a Provincial Union Contract or Provincial Union Development Contract, agree to terminate the player's employment relationship on such terms as they may negotiate between themselves.

Provisions relating to the Air New Zealand Cup

At least 10 days prior to the commencement of the Air New Zealand Cup in each contract year each provincial union must select at least 26 players to provide employment services for its Air New Zealand Cup team by providing a written list of those players to the NZRU. The group of players selected in this way is that provincial union's Air New Zealand Cup squad.

Transfer

Existing NZRU Transfer Regulations will be abolished subject to Commerce Commission approval and the terms outlined later in this part.

A player may enter into an agreement to transfer between 1 October in a particular contract year and the Friday following the final game in the Rebel Sport Super 14 competition in the contract year immediately following. For the avoidance of doubt, a player may transfer once only during each such period. If a transfer is agreed in writing and notified to the NZRU prior to the Rebel Sport Super 14



eligibility date (even if it is to take effect at a later date in that transfer period), the player's new agreed provincial union will be taken into account for the purpose of determining his home franchise for the following Rebel Sport Super 14 competition.

There is no restriction on the number of players that may transfer and no fee shall be payable, except for players transferring from a Division 1 provincial union to an Air New Zealand Cup provincial union.

A player who is not a party to a Provincial Union Contract or Provincial Union Development Contract may enter into a Provincial Union Contract or a Provincial Union Development Contract at any time.

Loan

A player who is a party to a Provincial Union Contract or a Provincial Union Development Contract may agree with his agreed provincial union (in this clause, the lending provincial union) to be seconded to another provincial union (in this clause, the borrowing provincial union) for the purpose of providing his employment services to the borrowing provincial union's team in the Air New Zealand Cup. Such secondment is referred to as a loan arrangement, and such player is referred to as a loan player.

No loan arrangement may be entered into after round six of the round-robin matches in the Air New Zealand Cup. There is no limit upon the number of players which a provincial union may lend or borrow, but the starting 22 of any team in the Air New Zealand Cup may not include more than six loan players. The NZRU may amend these provisions by agreement with the RPC (such agreement not to be unreasonably withheld).

A loan player named in a provincial union's Air New Zealand Cup squad must receive payments of at least \$15,000 in that contract year.

In the event that a loan player is required to relocate from his usual home as a consequence of a loan arrangement, the borrowing provincial union will meet the player's actual and reasonable costs (approved in writing by the borrowing provincial union in advance of being incurred) of up to \$1,500 for relocation and travel (including up to three return trips to the player's home) and of up to \$250 per week for reasonable costs of rental accommodation and associated utilities (excluding telephone and food).

Provincial Union Salary Cap

Salary cap payments means the aggregate of the following in a particular contract year during the Term:

- salary cap remuneration payments made by the provincial union;
 - salary cap non-financial benefits provided by the provincial union; and
 - salary cap notional values attributed to the provincial union;
- and provided that for the purpose of calculating this aggregate:
- any payments made, or benefits provided, directly or indirectly, to a player (or a third party on behalf of the player), by a provincial union (or third party) for the provision of his employment services, where the total of all payments and value of benefits in the relevant contract year are less than \$7,500, shall not be taken into account;
 - in the case of any player who was selected to the All Blacks in a game forming part of either the inbound tours or Philips Tri Nations tournament during the contract year of the salary cap pre-audit date or the end-of-year tour in the preceding contract year, any salary cap remuneration payments made and the value of any salary cap non financial benefits provided to that player will be discounted by 60%;
 - in the case of any player who was not selected to the All Blacks in a game forming part of either the inbound tours or Philips Tri Nations tournament during the contract year of the salary cap pre-audit date or the end-of-year tour in the preceding contract year but who was selected in one of the inbound tours or Philips Tri Nations tournament in the preceding contract year or the previous end-of-year tour, any salary cap remuneration payments made and the value of any salary cap non-financial benefits provided to that player will be discounted by 40%; and
 - in the case of any player who has played at least one game (except where unavailable for an entire competition due to injury or at the direction of the NZRU) in the Air New Zealand Cup for the same Air New Zealand Cup team (and/or its predecessor competition, the Air New Zealand National Provincial Championship), in eight or more contract years, any salary cap remuneration payments made and the value of any salary cap non-financial benefits provided to that player will be discounted by 40%;



- the term apportionment (as applied in this clause) means a pro rata allocation of total salary cap payments made to a player in a contract year, based on the total number of games played by an Air New Zealand Cup's team in rounds one and two of the Air New Zealand Cup.

Salary cap remuneration payments means, in relation to a particular provincial union, the aggregate of the following payments made by that provincial union (or a third party) to players (or to a third party on behalf of a player) in a particular contract year during the term:

- provincial union retainers;
- provincial union development retainers;
- provincial union individual performance incentives;
- provincial union replacement player fees;
- where the provincial union is a borrowing provincial union, an apportionment of the loan player's salary cap remuneration payments (irrespective of whether the borrowing provincial union is obliged to make such payments); and
- any other payments made, directly or indirectly, in consideration of the provision of a player's employment services.

For the avoidance of doubt, salary cap remuneration payments do not include:

- provincial union team performance incentives (provided that any payments in excess of the maximum amounts in the agreement are included);
- any payments which a provincial union is required to make under this agreement in respect of a player's costs of relocation, travel and accommodation;
- any payment made in settlement of an employment relationship problem (provided that its terms are recorded in an agreement signed by a mediator of the Department of Labour) or made otherwise as required by law;
- an apportionment of a player's salary cap remuneration payments payable to a player, where that player has been prevented, because of injury or illness, from playing for a provincial union for a period in which its Air New Zealand Cup team has played three or more consecutive matches in the Air New Zealand Cup (such apportionment to be based on the period of the injury);
- where the provincial union is a lending provincial union, an apportionment of the loan player's salary cap remuneration payments (irrespective of whether the lending provincial union is obliged to make such payments); and/or
- fair value remuneration received by a player pursuant to a genuine employment agreement (other than a Provincial Union Contract or Provincial Union Development Contract) or other genuine agreement (ie individual player property agreement).

Salary cap non-financial benefits means, in relation to a particular provincial union, the aggregate of any non-financial benefits (including provincial union non-financial benefits) provided, directly or indirectly, to players (or to a third party on behalf of a player) by that provincial union (or a third party) in a particular contract year during the term, in consideration of the provision of a player's employment services, assessed on the NZRU valuation policy (which must be reasonable, and notified to the RPC).

Salary cap notional values are amounts which are deemed to have been paid by a provincial union in a particular contract year during the term for the purpose of this part (even though they are notional values, and not amounts actually paid to players), which are assessed as at the salary cap pre-audit date, as follows:

- in the case of a player who is a party to an NZRU Contract and who was not selected to a final Rebel Sport Super 14 squad for the Rebel Sport Super 14 competition immediately preceding the salary cap pre-audit date (and, for the avoidance of doubt, excluding an NZRU Sevens Contract) – the sum of \$10,000;
- in the case of a player who is a party to an NZRU Wider Training Group Contract – the sum of \$10,000;
- in the case of a player who was selected to a final Rebel Sport Super 14 squad for the Rebel Sport Super 14 competition immediately preceding the salary cap pre-audit date – the sum of \$20,000;
- in the case of a player who was selected to a final Rebel Sport Super 14 squad for the Rebel Sport Super 14 competition immediately preceding the salary cap pre-audit date and who has been selected in a final Rebel Sport Super 14 squad for two or more Rebel Sport Super 14 competitions prior to that – the sum of \$35,000; and



(e) in the case of a player who was selected to a final Rebel Sport Super 14 squad for the Rebel Sport Super 14 competition immediately preceding the salary cap pre-audit date and who has played 10 or more Test matches for the All Blacks, including at least one Test match in the three years prior to the salary cap pre-audit date – the sum of \$50,000.

The above amounts are on the basis that where a player may qualify in more than one category the highest amount attributed to that Player will be taken as that player's salary cap notional value.

In contract year 2006, the level of the salary cap shall be \$2,000,000 and it shall increase for 2007 and 2008 in accordance with CPI (as published on 30 June in the preceding contract year).

As soon as practical following the salary cap pre-audit date (before the start of the Air New Zealand Cup) in each contract year during the term, the NZRU will provide the RPC with a statement which in respect of each provincial union:

- confirms the amount, make-up and calculation of all salary cap payments that the provincial union is obliged to make or extend in the then current contract year; and
- confirms that provincial union's calculation of its salary cap payments forecast for the then current contract year.

As soon as practical following the salary cap final audit date (31 December) in each contract year during the term, the NZRU will provide the RPC with a statements which, in respect of each provincial union, confirms the amount, make-up and calculation of all salary cap payments that the provincial union made or extended in that contract year.

Information received by the RPC subject to this clause is confidential.

In order to satisfy itself of the accuracy of the information provided to it by a provincial union, the NZRU may conduct an audit of any provincial union at any time. In order to satisfy itself that a provincial union has not breached, or is unlikely to breach, its obligations under this sub-part in a particular contract year, the NZRU may conduct an audit of any provincial union at any time.

Any audit conducted may not breach the privacy and confidentiality provisions under this Collective Agreement (or otherwise owed under law).

For the purpose of any audit under this clause, the NZRU's auditors may have access to (amongst other things):

- any Provincial Union Contract and Provincial Union Development Contract (together with any agreement varying any such playing contract);
- any agreement between a player and the NZRU, a Rebel Sport Super 14 franchise or a provincial union; and
- any arrangement between a player and a related entity or subsidiary of a provincial union (or any other third party) which, on reasonable grounds, might give rise to a breach of the provincial union's compliance obligation.

The NZRU must make available for inspection by the RPC all audit information received pursuant to this clause. Information received by the RPC subject to this clause is confidential.

A provincial union which breaches any obligation owed under this sub-part is liable to pay a financial penalty, to be calculated on a basis to be determined by the NZRU.

For the avoidance of doubt, penalties will not provide for the deduction of Air New Zealand Cup points.

The parties have acknowledged that provisions in this part relating to transfer and salary cap are subject to an application to the Commerce Commission.

If final authorisation occurs on or after 1 May 2006 (or such later date as the parties may agree), or if authorisation is not granted, existing transfer regulations will remain in place, and no salary cap will apply.

If final authorisation occurs prior to 1 May 2006 (or such later date as the parties may agree), as a transitional arrangement for contract year 2006, a player may enter into an agreement to transfer between the date on which final authorisation occurs and one week following the final game in the Rebel Sport Super 14 competition in 2006.



Part 8 • Monitoring

Under this agreement the RPC has the rights to take reasonable steps to monitor the agreement. This includes the right to audit NZRU player generated revenue and the application of the player payment pool, and the right to inspect any relevant player contracts.

Part 9 • Misconduct

On-field Misconduct

If a player is suspended for more than five weeks, then in each week in excess of the first five weeks of suspension, the NZRU will be entitled to make a deduction from the player's NZRU retainer of 50% up to a maximum of \$2,000 per week.

Except where the player would otherwise be entitled to receive payment of NZRU team selection fees during the period of suspension, the NZRU will be entitled to make a deduction from the player's NZRU team selection fees of 50% up to a maximum discount of \$3,500 per week.

The NZRU will reimburse the actual and reasonable costs for the player's legal representation (including legal, travel and accommodation costs) up to a maximum of \$2,000.

Off-field Misconduct

For the purposes of this Collective Agreement:

The following conduct constitutes an act of serious misconduct:

- (a) accepting a bribe or otherwise agreeing not to play any game of rugby to the best of the player's ability;
- (b) betting or gambling (or causing another person to bet or gamble on the player's behalf) on the outcome of any game of rugby in which the player plays;
- (c) committing any doping offence in breach of any applicable doping rules or regulations or any competition rules; or
- (d) providing a false representation concerning the player's ability to perform the player's obligations under this collective agreement or the player's eligibility for selection for a national representative team for New Zealand.

Depending upon its seriousness, certain other conduct may amount to serious misconduct including:

- (a) refusing to participate fully in any training session or team assembly which the player is required to attend as a result of selection for any New Zealand team;
- (b) unreasonably refusing to perform any promotional services;
- (c) breaching the player's confidentiality obligations under the Collective Agreement;
- (d) participating in a competing sport during the player's NZRU term without the prior written consent of the NZRU;
- (e) entering into substantive negotiations to undertake a competing sport at any time prior to six months before the expiry of the player's NZRU term without the prior consent of the NZRU;
- (f) being suspended from playing rugby for a New Zealand team for a period in excess of two months;
- (g) acting contrary to the best interests of the NZRU, provincial unions or rugby;
- (h) breaching a requirement to seek consent or to provide notification; or
- (i) committing an offence, in the course of employment, which is punishable by a period of imprisonment of two years or more.

An act of ordinary misconduct is conduct of a less serious nature to serious misconduct which may include:

- (a) failure to attend training or to participate fully in any training session;



- (b) failure to assemble for a team as directed;
- (c) failure to attend promotional activities;
- (d) failure to maintain a prescribed level of fitness; and
- (e) failure to comply with a rehabilitation programme issued by a medical practitioner appointed by the NZRU.

The Collective specifies a process for the investigation and action for off-field misconduct allegations which is consistent with employment law requirements.

If, following this inquiry, the NZRU determines that the player has committed ordinary misconduct, it may:

- (a) counsel the player and/or provide the player with a written warning indicating that a repeat of the same or similar conduct may constitute serious misconduct; or
- (b) suspend the player from playing rugby for a period of up to two weeks. The NZRU may reduce by 12.5% (up to a maximum of \$500 per week) the payments that it would otherwise be liable to make to that player during the period of that suspension; or
- (c) direct the player to pay it a fine of up to \$500.

If, following this inquiry, the NZRU determines that the layer has committed serious misconduct, it may, depending on the seriousness of the serious misconduct:

- (a) counsel the player and/or provide the player with a written warning indicating that a repeat of the same or similar conduct may or will result in dismissal from employment; or
- (b) suspend the player from playing rugby for a period of up to one month and reduce by up to 25% (up to a maximum of \$1,000 per week) the payment that it would otherwise be liable to make to that Player during the period of that suspension; or
- (c) direct the player to pay it a fine of up to \$4,000 (or, in the case of committing an offence in the course of em-ployment which is punishable by a period of imprisonment of two years or more, a fine of up to \$10,000); or
- (d) terminate the player's employment summarily (without notice).

Under the Privacy Act the referral of an allegation, and its investigation and outcome, is confidential between the Player, the NZRU and the RPC (and unless otherwise required by law).

Any player required to appear to answer a doping offence will be encouraged to seek independent legal counsel, and the NZRU will reimburse the actual and reasonable cost incurred by the Player in seeking advice and representation (including legal fees, travel and accommodation costs) provided that:

- prior to incurring any cost, the player obtains the written approval of the NZRU; and
- if the player is found guilty of that offence he must bear his own costs.

Part 10 • Rugby World Cup

Provided that the Terms of Participation are identical to or no less favourable than the terms for the last Rugby World Cup (and the NZRU agrees to provide the same comfort and indemnities as last time) the players agree to sign the Terms of Participation for the Rugby World Cup tournament.

Players selected for the 2007 Rugby World Cup will be eligible for a \$100,000 bonus (\$35,000 on winning the semifinal and \$65,000 on winning the final).

Part 11 • Other Matters

There will continue to be a player long-term Loyalty and Superannuation Plan with \$400,000 per annum contributed from the player payment pool as employer contributions to the plan. The plan will continue to be managed by the NZRU and RPC.



The Professional Development Programme will continue to be jointly run by the RPC and NZRU. A total of \$550,000 of funding for the programme will be provided from the player payment pool. A player will have at least one half day (consistent) per week designated as uninterrupted professional development time. Such time shall not fall on a player's day off.

The NZRPA will establishment of an NZRPA Benevolent and Welfare Fund which will have \$600,000 per annum paid to it from the player payment pool in each of the contract years. Among others things this fund will provide cover for career-ending injury or illness with the details of such cover yet to be determined by the RPC.

Players will be required to pay levies to the RPC as part of the agreement (which will be deducted at source). These levies will be set by the RPC and notified to the NZRU in December of each year. The RPC will also receive a payment of \$300,000 per annum from the player payment pool.

Players will be able to play in other games provided the game is not deemed by the All Blacks coach or player's coach as not being in the best interests of the player or New Zealand rugby.

The NZRU will suspend seeking any compensation for player development when a player moves to another country until the conclusion by the IRB of a review of its relevant regulations. Once this review is completed, the parties will meet to consider the outcome of the review.

NZRU-contracted players will receive between eight and ten weeks' leave per year but will be required to continue with their individual training programme while on leave (but not assemble). This includes two weeks following the Rebel Sport Super 14 competition and four weeks during November, or up to eight weeks for those on an end-of-year tour (at the conclusion of that tour).

A player will receive one full day off per week.

A player who would otherwise be selected for a New Zealand team but who is, in the opinion of the party responsible for selecting that team, likely to benefit from rotation, recuperation, conditioning or rehabilitation during a period when he would otherwise be providing his employment services, is a rested player. A rested player is entitled to receive payment of any NZRU team selection fees which he would have received if he had been selected to the relevant New Zealand team.

All players recognise that they have skill and ability as rugby players and that participation in certain activities other than rugby may impair or destroy that ability and skill. A player may not engage in any activity outside the course of everyday behaviour (other than rugby) which involves the risk of significant injury without the prior consent of the NZRU (and provided that in the case of a player who is a party to a Provincial Union Contract only, this obligation only applies during the Air New Zealand Cup).

The NZRU and RPC will work together to develop a process for the regulation of agents in New Zealand.

There will be a professional rugby advisory group set up that will meet quarterly to consider and provide recommendations for all professional rugby related issues. The group will consist of at least three representatives of the NZRU including at least two provincial union CEOs (one of which must also be a Rebel Sport Super 14 franchise CEO) and at least three representatives of the RPC, including at least two players.

Transition

All new playing contracts will be negotiated in accordance with this agreement from one month following its ratification.



Schedule F: Format of new NPC Competitions

NZRU announces make-up of new provincial competitions

03/06/2005

allblacks.com



The New Zealand Rugby Union today announced the formation of a new 14-team Premier Division competition and a 12-team Division One competition to replace the current Air New Zealand NPC from 2006.

The NZRU received a total of 14 applications for entry into the new Premier Division and 14 applications for entry into the Division One competition.

NZRU Chairman Jock Hobbs said the Board had given careful and detailed consideration to the applications and all relevant issues.

As a result of those considerations, invitations had been extended to the following Provincial Unions to participate in the new Premier Division from 2006 to 2008:

Auckland; Bay of Plenty; Canterbury; Counties Manukau; Hawke's Bay; Manawatu; Nelson Bays/Marlborough; North Harbour; Northland; Otago; Southland; Taranaki; Waikato; and Wellington.

These Unions will compete in a new 14-team, two-pool, two-round competition to be followed by a finals round including quarterfinal, semifinal and final matches. In the second round, based on rankings from round one, teams will play in a top six pool and a bottom eight repechage, with two teams joining the top six in the quarterfinals.

The following Unions have been invited to participate in the new Division One competition:

Buller; East Coast; Horowhenua Kapiti; King Country; Mid Canterbury; North Otago; Poverty Bay; South Canterbury; Thames Valley; Wairarapa Bush; Wanganui; and West Coast.

These teams will play in a national 12-team, two-pool competition, with the top and bottom six vying to play in separate semifinal and final matches.

Benefits of new competition structure

Hobbs said the Board believed the two new competitions would be exciting and challenging for players, coaches, managers, referees, fans, broadcasters, sponsors and the media.

In addition, he said there are a number of other clear benefits including:

- All teams will be given the opportunity to perform;
- Performance throughout the competition will be rewarded, with potentially every match counting for seeding purposes;
- The business end of the Premier Division will replicate the format of the Rugby World Cup, something the All Blacks Coaches believe is critically important if we are to win the William Webb Ellis trophy;
- The best will play the best more often than is currently the case;
- There will be a geographical spread of teams, players and supporters, which is vital to any national

competition;

- The national player pool and aspirational pathways for players will be increased;
- The timing and structure of the competition enables a limited involvement of the All Blacks in the Premier Division;
- There will be a minimum of two Premier Teams for each Rebel Sport Super 14 Franchise;
- The NZRU's Community Rugby Plan Greater Auckland strategy will be enhanced;
- The structure of the competitions will be new and innovative; and
- The historical links for all Provincial Unions will be preserved.

Case for expansion

Hobbs said the decision to expand the Premier Division to include 14 teams was not taken lightly, or without significant analysis.

“The Board revisited the Competitions Review principles in detail. As the Review itself outlined, decisions are able to be revisited by the Board if the implementation process identifies a key or material factor that affects the framework.”

Hobbs said the report also points out that ‘there is no magic as to the number of teams. Teams are derivative as opposed to a driver and reflect the objectives of the competition’.

In the end, Hobbs said, the Board concluded that all applicants had earned, through a comprehensive and robust process, both the opportunity and the right to participate in their chosen competition.

There had also been some key changes in the rugby landscape since the Competitions Review was initiated and the Report released.

These included the expansion of Rebel Sport Super 12 and Philips Tri Nations, the arrangement of other additional All Blacks fixtures, the confirmation of a new SANZAR broadcasting agreement and the completion and implementation of the NZRU's Community Rugby and High Performance Plans, which all had a bearing on the final outcome.

“There will be those who assert that the Board has caved into political pressure and was not tough enough to make the hard calls. On behalf of the Board I emphatically reject such assertions,” said Mr Hobbs.

“The Board was unanimous in its view that the best interests of New Zealand rugby would be served and the principles of the Review Report honoured by the decisions that have been made.”

However, he said the Board has reserved the right, in its sole opinion and absolute discretion, providing it is acting reasonably, to revoke a Provincial Union's participation in the Premier Division or Division One competitions if that Union does not deliver on the commitments made in its application.

“A key part of this will be delivering on the expressions of community support and involvement, which underpinned a number of applications, particularly in terms of the financial commitments that are necessary to compete in national competitions.”

Of equal importance will be the ability of Provincial Unions to establish themselves competitively on the field and administratively off the field.

“While we believe the new competition format will allow the principles of the Competitions Review to be fulfilled, it required a shift in our collective thinking. This shift was precipitated by the depth and level of commitment from the Provincial Unions and the support from the various communities around New Zealand, as evidenced by the huge local and national interest generated by this process. This has been great for rugby.”

Similarly, the decision to allow all provinces to be admitted into the new Division One competition required careful consideration. As is the case with the Premier Division, Hobbs said the Board was relying on the commitments and desires expressed by the Provincial Unions and their communities to make good on their promises and deliver.

Both competitions will be managed competitions with a salary cap for the Premier Division and a confirmation that no loan players can be used in Division One.

Issues of affordability and financial sustainability have also been addressed. Based on current projections and modelling by the NZRU and the increased commitments made by Provincial Unions in their applications, the Board expects that the financial sustainability of the new competitions can be secured.

Conclusion to two-year process

The announcement concludes the Competitions Review process which was initiated in 2003.

The objectives and principles of the Competitions Review report were to “conduct a comprehensive review of all NZRU competitions...to ensure they provide the best possible platform for sustaining a winning All Blacks team and maintaining rugby as a game accessible and attractive to all New Zealanders.”

Hobbs said the announcement was “the culmination of a significant amount of research, planning and work by Provincial Unions, the NZRU management and the Board over the past two years, with the sole objective of determining the best possible competition options for the future health and viability of New Zealand rugby, both on and off the field.”

Despite the fact that the process was, at times, uncomfortable for Provincial Unions, Hobbs said the Board had been delighted by the significant level of positive activity that the Review has generated.

“The Review has been an outstanding success, given that Provincial Unions have focused on not only the on-field issues but also the critical off-field challenges such as governance, management and financial sustainability.

“I believe Rugby in this nation will forever be the stronger for it,” he said.

Schedule G: PricewaterhouseCoopers Report

New Zealand Rugby Union

Competitions Review and the Salary Cap

November 2005

Steve Tew
New Zealand Rugby Union
PO Box 2172
WELLINGTON

8 November 2005

Dear Steve

Competitions Review and the Salary Cap

Please find attached our paper summarising the process undertaken during the Competitions Review that lead to the conclusions on managing competitions and the subsequent development of the salary cap architecture.

The paper has been produced solely in support of the New Zealand Rugby Union's application to the Commerce Commission regarding the implementation of the salary cap. It has been based on the Competitions Review report and the subsequent salary cap architecture.

The paper is presented under four headings:

- The case for change
- The analysis
- The options
- Implementation

Please do not hesitate to contact us if you have any questions or require any further information.

Yours sincerely



Bruce Wattie
Partner

Glossary of Terms

The NZRU	The New Zealand Rugby Union
Provincial Unions	Provincial Unions
Super Rugby	The Super 12 Competition or the Super 14 Competition as it will be from 2006
The 1 st Division	The NPC 1 st Division Competition
The Review	The Competitions Review

Table of Contents

1	The Case for Change	5
	The Competitions Review	5
	Competitive Balance	6
	Financial Considerations	8
	The Conclusion	9
2	The Analysis	10
	Consultation with Provincial Unions and Other Key Stakeholders	10
	Analysis of the Financial Performance and Position of Provincial Unions and the NZRU	11
	Discussions with Other Sports Administrators and Teams	12
	Desk Based Research and Analysis	12
3	The Options	14
4	Implementation	18
	Introduction	18
	Salary Cap Components	19
	Appendix A : Literature Review	25
	Appendix B : Important Notice	26

1 The Case for Change

The Competitions Review

1.1 The Review, guided by a comprehensive terms of reference, addressed a number of issues concerning the form and operation of the NZRU's competitions. In relation to managing competitions, the Terms of Reference asked:

Should competitions be "managed"? "Managed" could include such mechanics as salary caps, player drafts etc. And, if so, to what degree?

1.2 The Terms of Reference directed the Review to

"Consider, report and make recommendations on the best competition structures FOR THE GAME IN NEW ZEALAND framed around...a provincial competition(s) that is/are even and contestable, exciting, affordable and aspirational..."

1.3 PricewaterhouseCoopers was engaged by the NZRU to assist with the Review. We worked closely with NZRU officials in analysing NZRU and Provincial Union historical and forecast data, undertaking consultation with Provincial Unions and other key stakeholders, attending meetings with overseas sporting bodies, researching international experience and preparing the draft Review report. The final Review report was adopted and signed by the NZRU Board. It was the NZRU's report.

1.4 Subsequent to completion of the review, we assisted the Salary Cap Working Group formed by the NZRU. Our role was to provide the Working Group with analytical and conceptual support as it developed the architecture for the salary cap. This included financial modelling to quantify the impact of the decisions made on the architecture.

1.5 Discussions with the NZRU board and consultation with stakeholders lead to the conclusion that two interrelated issues needed to be considered to answer the question posed by the terms of reference in relation to managing competitions:

- The evenness or competitive balance of the competitions.
- The financial state of the Provincial Unions and the NZRU.

1.6 The discussions and consultation also lead to the conclusion that the NPC 1st Division competition was where the financial and competitive balance issues were in most need of review. There were a number of reasons for this, including:

- Professional and semi-professional players played against and with each other in the 1st Division.
- Some, but not all, players in this competition were being paid by the NZRU and by the Provincial Unions.
- The 1st Division was a key element in the aspirational and development pathway for players. It was seen as a competitive strength underpinning the success of New Zealand Super Rugby teams and the All Blacks.

Competitive Balance

1.7 Competitive balance in the 1st Division was highlighted as an issue of some concern at the outset of the Review. International research confirmed that competitive balance was an important criterion for a successful competition. In this context, competitive balance was defined as:

“lack of predictability: round by round, finals participants and ultimate winner”

1.8 The consultation undertaken as part of the Review identified competitive balance as an issue of some concern for a number of Provincial Unions. These Provincial Unions suggested that the 1st Division lacked competitive balance. To prove or disprove the anecdotal evidence, analysis was undertaken of the results of the 1st Division.

1.9 Proving that the competition lacked competitive balance was not difficult. A review of the results for the last 12 years showed that semi finals and finals were dominated by a few teams – while teams outside the largest five have made it to the semi finals, not many progressed beyond the semis and a small number of teams had won the competition during that time. In reality the competition had been dominated by a small number of teams. There were a number of reasons for this:

- The concentration of population and economic resources in the main centres was creating a disparity in the ability of Provincial Unions to attract, retain and remunerate top quality people and in the level of sponsorship and other revenue they were able to secure.
- Analysis of the correlation between Provincial Unions' spending on players and winning was found to be reasonably strong. Although the correlation did not provide information on the nature of the relationship – money might allow teams to acquire the players needed to win, but also winning provides financial benefits and the aura of success that makes it easier to attract players and sponsors – it did suggest that those teams with access to limited financial resources had a low probability of winning.
- Home unions of Super Rugby franchises¹ find it easier to attract quality players. Although Super Rugby contracts should not be used as an enticement to attract players to any particular Provincial Union², there is a perception that the chances of a player securing a Super Rugby contract are better if the player is playing for one of the Super Rugby home unions.

1.10 Having concluded that the competition has lacked competitive balance in terms of the definition, the Review considered whether this was an issue that needed to be addressed. While the competition has lacked competitive balance, does it necessarily need to be changed?

¹ Auckland, Waikato, Wellington, Canterbury and Otago.

² This is a requirement in the Franchise Agreements between the NZRU and the five Super Rugby Finances.

1.11 The answer to this question was influenced by consideration of “softer” issues and the financial sustainability of the competition³. Reference was also made to the stewardship responsibilities of the NZRU for the game. Particular factors considered important were:

- The need to maintain a wide base at the community rugby level.
- The strength of provincialism and its role in enhancing rivalry and competitiveness.
- The overriding requirement for the competitions to contribute to the competitiveness and strength of the All Blacks. There was a widely held view that New Zealand’s competition structure is a major contributor to development of players and, ultimately the success of the All Blacks. The competitions must be competitive to ensure that quality players continue to progress through the rugby structures.

1.12 One further consideration was the impact of demographic trends. The Review report contained a comprehensive analysis of these trends. The conclusion drawn from the analysis was that the continuation of the trends would exacerbate the competitive imbalance in the absence of mitigating factors. The main urban-based Provincial Unions would most likely continue to benefit disproportionately from economic and population growth.

1.13 Financial considerations were an important part of the analysis. The issue of the attractiveness of the competition to broadcasters, fans and to sponsors was considered. There was comment during the consultation that the lack of success of the weaker teams was inhibiting their ability to raise sponsorship.

1.14 Also there was some concern about the future: how sustainable was the competition if it continued to be uneven? There was an emerging trend but not an immediate issue to be dealt with. Consideration was given to a proposition that no change is needed. The counterfactual to this proposition was that a competition’s success depends on games having an uncertain outcome – an uncertain outcome creates much of a contest’s appeal. If this condition is not present in the competition then the possible consequences might include some of the following:

- Fans’ interest diminishes.
- The competition has less appeal to sponsors and broadcasters.
- The concentration of players and financial benefits in successful Provincial Unions will continue – the big will get bigger.
- The wealthier Provincial Unions will bid up the price of players, making it harder for poorer Provincial Unions to attract players without taking financial risks.

³ The “soft” issues, such as player development, community support etc. and the financial considerations are interrelated – community rugby relies on funding generated from the professional game and the professional game relies on strong community support for its competitiveness and to keep the pool of rugby talent replenished.

- Participation will decline.

1.15 The result of these factors will be a self perpetuating competitive imbalance.

Financial Considerations

1.16 The financial issues relevant to the consideration of managing competitions were the trend in costs being incurred and the outlook for revenue being generated by Provincial Unions and the NZRU. The key issue was that while revenue was rising, so were costs. The trends showed costs and revenue increasing in tandem. However, there were doubts about whether the future growth in revenue would match the recent historical trend. Consequently, there were concerns about the sustainability of the continued rise in costs. The particular issues underpinning these concerns were:

- The NZRU's principal broadcasting contract, and its single most important source of revenue had two features that were significantly affecting the revenue trend. Firstly, revenue under the contract was profiled so that it was low at the start of the contract and increased substantially over the term of the contract. Secondly, the contract revenue was denominated in United States dollars. The NZRU had hedged its US dollar revenue under this contract at the time when the New Zealand dollar was near to its low point in 2002. This has proved to be a very valuable decision that has generated considerably higher cash for the NZRU than might have otherwise been the case.

The initial broadcasting contract expires at the end of 2005. At the time of the Review, preparations were under way to commence negotiation of a new contract.
[Confidential:

]

- A review of Provincial Union finances indicated that some were under capitalised. There was concern expressed by a number of Provincial Unions that financial

difficulties would emerge if spending was not managed appropriately. There were a number of reasons for this situation but spending on players to a level that would be difficult to sustain was a contributing factor. Some Provincial Unions were facing challenges in being able to balance the need for on field competitiveness with the affordability of quality players.

1.17 From the NZRU's perspective the concern over costs was driven not only by its role as a conduit for funding for the sport but also by its stewardship responsibilities for the "health of the game" more generally. There are a wide range of performance indicators for measuring the success of the game, including a strong community rugby base and competitions that are attractive to players, fans and sponsors. Any possibility of Provincial Unions failing in the face of financial pressure, or other reasons, would be counter productive in the long term. Hence, the NZRU was concerned about the financial state of Provincial Unions and the mechanisms that could be used to encourage financial discipline, particularly in relation to the process of competing for players.

The Conclusion

1.18 The conclusion drawn from the analysis was that continued escalation of costs was unlikely to be sustainable and that the 1st Division competition did not exhibit competitive balance. The weight of evidence was that the imbalance would not rectify itself and would probably intensify over time.

1.19 The cost and competitive balance issues were interrelated. Both were a reflection of the demographic changes that have provided the main urban Provincial Unions with greater player and financial resources.

1.20 Notwithstanding these issues, there was no immediate crisis. The NPC was a successful competition and, when considered in isolation, there was no reason it could not continue without any competition management. However, the competition management issues had to be viewed in the context of the wider conclusions of the Review, including:

- NZ Rugby cannot maintain its pre-eminent position in international competitions and in NZ society without change to drive competitive innovation
- There was uncertainty about the sustainability of the financial position of NZ Rugby in the absence of new revenue sources and/or cost management.

1.21 These wider issues were important. It was also considered important to be able to make changes while there was the luxury of time. Hence the case for change was, ultimately, considered compelling.

2 The Analysis

2.1 The previous section has outlined the various elements of the analysis undertaken for the Review. There were four primary sources of information and analysis that informed and influenced the conclusions on the need for intervention to manage costs and competitive balance and the nature of the mechanism.

Consultation with Provincial Unions and Other Key Stakeholders

2.2 An extensive process of discussion and consultation was undertaken with stakeholders. Provincial Unions were important in this regard but were not the only stakeholder group consulted. The consultation covered a number of areas, including:

- Problem definition: what are the issues with the current competitions? This provided input into defining the problem(s) that needed to be addressed.
- What possible options might exist for resolving the problems? The nature and extent of the solutions offered varied widely and depended on how deeply each Provincial Union had considered or encountered the issues.

2.3 There was general acknowledgement among Provincial Unions that while the 1st Division was a successful competition, escalating (and in the view of some unsustainable) costs of the existing player contracts and player payments were of concern and the competition lacked competitive balance. A majority considered that a contest with a degree of competitive balance is best for the game. However, there was no consensus on how to bring about better competitive balance. The views on this were polarised and were influenced to a large extent by where each Provincial Union ranked in terms of financial success and on-field success.

2.4 The views on managing contests were summarised as:

- Free market: let individual unions compete unregulated. This was seen as important to encourage innovation and ensure the best players rise to the top. Managing the competition was seen as potentially stifling innovation and leading to mediocrity.
- Regulate the contest through such mechanisms as drafts and/or salary caps. This was seen as encouraging greater participation and interest in the game at community level. It would strengthen the game and assist in ensuring the best players are available for the All Blacks. Competitive balance is an important determinant of the attractiveness of the game to spectators (ground and TV) and therefore sponsors and also players. In the absence of star players, one sided contests do not attract spectators. Equally, managing competition to an extent that results in an even but mediocre contest will be detrimental.

2.5 The views on free market and regulation were conditioned to some extent by what was best for each Provincial Union, rather than what was best for the game as a whole and what was required to maintain the winning tradition of the All Blacks.

2.6 The role of the Super Rugby franchises was considered an important issue. Many 2nd and 3rd division Provincial Unions (and some 1st Division Provincial Unions) considered that the financial strength of the franchises and the close links between the franchises and their “home unions” (and in some instances, links with other 1st Division Provincial Unions) was a major deterrent to competitive balance.

2.7 There was a widely held view that it is highly beneficial for a player’s prospects of playing Super Rugby to play for a franchise home union. Non-home unions noted that franchise home unions using the “carrot” of a Super Rugby contract as a means to attract good players not only for their NPC teams, but also for development teams was a major deterrent to retaining good players in their own unions. This adversely impacts on their ability to compete, to field teams that the public will pay to come and see and to attract sponsors.

2.8 The concentration of players within Super Rugby franchise home unions was also considered to be a problem for players that are not good enough to get game time for the franchise home union NPC side but would be good enough to play for another Provincial Union’s NPC side. This deprives the player of valuable game time. There was a general view that the best players should be playing not “warming benches”.

2.9 The relationship between franchises and Provincial Unions was important to the Review to the extent that it impinged on competitive balance and the financing of competitions. However, while the Super Rugby franchise/home union relationship was considered to cause competition issues, the Provincial Unions understood the importance of Super Rugby to the financial well-being of the game generally

Analysis of the Financial Performance and Position of Provincial Unions and the NZRU

2.10 Detailed analysis was undertaken of financial information for Provincial Unions and the NZRU for 2002 and prior years. This served a number of purposes:

- It provided the evidence required to conclude on the financial state of the Provincial Unions.
- It provided input to the analysis of the correlation between competition success and team costs.
- It was the basis for analysis of Provincial Union expenditure, including expenditure on players.
- It supported the analysis of trends in revenue and costs.
- It enabled the preparation of total New Zealand rugby revenue and expenditure (Provincial Unions plus the NZRU).

2.11 The financial data was based on the annual returns provided to the NZRU by each Provincial Union. These returns presented financial data for each Provincial Union on a consistent and comparable basis. This enabled comparison between Provincial Unions and amalgamation of data across Provincial Unions.

Discussions with Other Sports Administrators and Teams

2.12 A number of sports administration bodies were visited to discuss, among other things, the approach to managing competitions. They were:

Table 1

Body Visited
National Collegiate Athletic Association
The New York Knicks NBA team
The National Basket Ball Association (USA)
New York City Sports Commission
NY Rangers (National Hockey League)
Major League Soccer (the US version of the Premier League)
American Football Conference (National Football League – NFL)
Major League Baseball
New York Giants NFL team
National Hockey League
National Football League
The National Rugby League (Australia)
The Australian Football League (Australia)

2.13 The discussions with these sporting codes provided information on the key mechanisms adopted by both amateur and professional sports to manage competitions. They also highlighted that while some of the elements of the mechanisms might have relevance to New Zealand rugby, there were some significance differences between the administrative responsibilities of each of the sports and the NZRU. Unlike most of the sports, the NZRU has responsibility for:

- National representative teams.
- International competitions.
- Development of players (many of the US sports have access to players “ready made” via the amateur college competition).
- Development of the sport.

2.14 The more extensive responsibilities of the NZRU compared to the overseas sporting bodies and the differences in the structure of the game and its institutions meant that it was not feasible to simply apply any of the models observed overseas.

Desk Based Research and Analysis

2.15 Desk based analysis of information from a range of sources was critical to the Review and its conclusions. With regard to the salary cap, the key areas of analysis included:

- The financial analysis referred to earlier.

- Demographic and social trends. This provided the context for how the game and its key stakeholders had evolved and provided support for conclusions on the reasons for cost issues and competitive imbalance.
- Literature on the economic and behavioural aspects of competitions⁴. There is a significant amount of academic research in these areas. The literature provided support for the assessment of competitive balance and how this should be viewed in the best interest of the competition. It provided insights into the form of regulation in other professional sports and the types of behavioural responses that regulation might engender. It also provided support to the measurement of competitive balance in the NPC 1st Division.
- The operation of competition regulations in other sports. This was primarily focussed on the US and Australia but reference was also made to European sports, for example the Premier League in England. This supplemented the information gained during the meetings with the various sports bodies and teams referred to earlier. This analysis provided an understanding of the mechanics of the intervention in other (professional) sports.

⁴ A list of literature reviewed is contained in Appendix A.

3 The Options

3.1 Cost management and competitive balance were critical factors that underpinned the case for change. With regard to costs, the primary focus of the Review was the rate of change in the cost of players. The trend in player costs was being driven by competitive bidding between Provincial Unions for players. This is not uncommon in professional sports. It is a natural function of supply and demand and a process by which revenues accruing to the sport are allocated between the key stakeholders (particularly players and Provincial Unions in the case of the NPC 1st Division).

3.2 In a number of the overseas sports leagues reviewed there were various forms of intervention that meant that there were few open and unrestricted markets for players. In a number of instances (particularly the US) the interventions were ostensibly justified as means of encouraging greater competitive balance but they also appeared to be akin to mechanisms to balance the economic powers of the team owners and the players.

3.3 The question of whether there is a problem with competitive bidding for players in NZ Rugby was addressed and it was concluded that there was a high risk that some spending decisions by Provincial Unions would not necessarily be in the best interests of NZ Rugby because:

- Provincial Unions are partially dependent on NZRU for funding
- Some of the “resources” used by Provincial Unions (Super Rugby players) are paid for by the NZRU⁵.
- Accountability by Provincial Unions for their financial performance is less than clear. Provincial Unions do not have “owners” imposing financial disciplines on their operations and requiring a return on invested capital.

3.4 Options for dealing with the costs were broadly classified as:

- Structural changes
- “Regulatory” intervention.

⁵ In simple terms, All Blacks and Super Rugby players are contracted to the NZRU directly and receive a salary from the NZRU. This salary includes payments to be available to be selected for national representative teams and to be available for Super Rugby and the NPC. These players may also receive a salary from the Provincial Union for playing in the NPC. These players receive two payments for playing in the NPC – one from the NZRU and one from their Provincial Union. For this reason, it can be said that some of the players used by Provincial Unions (i.e. the Super Rugby players and All Blacks) are “partly paid for” by the NZRU. In addition, there are some players who are not contracted by the NZRU but the NZRU provides a minimum amount (set at \$15,000 in 2006) to the Provincial Union which is passed on to the player. To the extent that those players are not paid any additional sum directly by the Provincial Union, they can be said to be “paid for” by the NZRU.

3.5 Structural changes primarily encompassed options around the NZRU taking direct control of player payments. This was considered inappropriate for a range of reasons but not least because it was considered that Provincial Unions were best placed to determine the value of a player for their team.

3.6 One structural solution that was not considered in any depth was to redraw Provincial Union boundaries to, in effect, break up the regional monopolies of the existing Provincial Unions to create more competition. This was a contentious issue and was deliberately excluded from the Terms of Reference for the Review.

3.7 Regulatory intervention was considered the most appropriate response in the circumstances. However, the regulatory intervention had to be designed to meet the dual purpose of player cost management and encourage competitive balance. The complexity of this was recognised and it was conceded that it would be difficult to optimise both factors through one mechanism but it might be possible to achieve acceptable outcomes given the direct relationship between money and on-field success.

3.8 The following were deemed to be the ideal attributes of any regulatory intervention:

- Must give the “right” incentives.
- Minimise the scope for “rorts”.
- Equitable.
- Practical.
- Self policing but capable of external enforcement.
- Cost effective.

3.9 These attributes were developed into the following criteria:

- Minimal compliance costs.
- Maximum incentives for innovation.
- Minimal restrictions on freedom of choice and freedom of action.
- Equitable.

3.10 The analysis of overseas competitions identified four forms of regulatory intervention.

- Transfer restrictions: regulation of how, when and on what terms players transfer between teams.
- Salary caps: restrictions on how much each team in a competition is allowed to spend on player remuneration.

- Player drafts: processes for allocating players between teams on some predetermined basis.
- Revenue sharing: allocation of competition revenue among teams. This can provide teams with a relatively even allocation of revenue, from which they can compete for players.

3.11 These options would not all have the same direct implications for spending decisions and competitive balance. The analysis suggested that all four options could have an impact on competitive balance but not all would have an impact on costs or spending decisions:

Table 2

	Direct Impact On:	
	Spending Decisions	Competitive Balance
Transfer restrictions	Not necessarily	Yes
Salary caps	Yes	Yes
Player drafts	Not necessarily	Yes
Revenue sharing	Yes	Yes

3.12 The options were assessed against the criteria (refer to paragraph 3.9). This produced the following outcome (Key: x = less likely to met the criteria; ✓ = more likely to met the criteria).

Table 3

Criteria	Salary Caps	Player Drafts	Revenue Sharing	Transfers
Minimal compliance costs	x	✓	✓/x	✓
Maximum incentives for innovation	✓	x	✓/x	x
Minimal restrictions on freedom of choice and freedom of action	✓	x	✓	x
Equitable	✓	x	✓	x

3.13 The difference in assessment between salary caps/revenue sharing on the one hand and drafts/transfer restrictions on the other reflected:

- Drafts/transfer restrictions would be direct interventions in Provincial Unions decision making; they are somewhat heavy handed

- Salary caps and revenue sharing would be directed more at establishing the limits within which the Provincial Unions can operate. They would leave more decisions in the hands of the Provincial Unions.

3.14 Achieving both cost management and competitive balance incentives from one mechanism was always going to be difficult. The salary cap was deemed to be the most appropriate mechanism in the circumstances because it would have an impact on both costs and competitive balance. In addition, it was considered to be less intrusive than the other options, recognising that any regulation will require some sacrifices of freedom of action.

3.15 The other important factor was consideration of the precedents from other sports. Almost all of the sports reviewed that had managed competitions had a salary cap of some form. In a number, particularly in the USA, more than one form of regulation was used. It was noted that capping teams spending on player remuneration was a widely adopted mechanism, although it was not easy to measure the success of the various forms of the salary cap.

3.16 One of the trade-offs in adopting a salary cap was going to be in compliance costs. Again, the experience from the overseas sports leagues indicated that the form of the salary cap mechanism can be complex and policing compliance can be a significant exercise. Nevertheless, it was considered that the disadvantages of compliance would be more than outweighed by the benefits in terms of managing costs and competitive balance.

3.17 The detailed mechanics or architecture of the salary cap was not developed as part of the Review. During the Review the concept of managing competitions, the possible options and a recommended approach were addressed. The design of the salary cap architecture was developed by a Working Group comprising NZRU and Provincial Union representatives, considered by the NZRU Board and then modified as part of the process of agreeing a new collective agreement with players.

3.18 Nevertheless, the Review did consider the effectiveness of the cap. The financial modelling undertaken at the time highlighted the significant disparity in total team remuneration between 1st Division Provincial Unions. The cap would most likely only directly impact on a small number of Provincial Unions, but this reflected the reality of the issue facing the Provincial Unions.

3.19 It is worth noting that the view at the time of the Review was that the cap should be set below the highest salary cap remuneration to provide incentives for wider dispersion of players among teams and for managing costs. It was considered that setting the cap at a level that did not “bite” immediately would do little in the short term to increase competitiveness, although it would likely assist in cost management.

4 Implementation

Introduction

4.1 The Review did not specify the detailed design and mechanics of the salary cap but it did provide some guiding principles. The detail design was undertaken by the NZRU in conjunction with the Working Group of Provincial Union representatives. The final form of the salary cap was determined after negotiation with the Players' Union in collective bargaining.

4.2 At the outset the NZRU and the Working Group recognised that the design and implementation of the salary cap must reflect the unique heritage and dynamics of New Zealand rugby, notwithstanding the difficulties this would involve. While there were a range of salary cap models operating within world sport, none operated in an environment similar to the New Zealand rugby environment. In particular, no other sports had the scope of accountability vested in the NZRU, which is responsible for the:

- Development of the game.
- Operation of domestic competitions.
- Participation in international competitions.
- Convening of national teams.

4.3 In addition, it was recognised that the application of a salary cap would be complicated by the particular features of the structure of New Zealand rugby. These features, as outlined below, were generally not present in the sports in other countries where salary caps have been applied:

- Approximately 140 players⁶ received income from two sources:
 - Contracts with the NZRU, which the Provincial Unions have no influence over
 - Contracts directly with the Provincial Unions. The NZRU has no direct influence over the remuneration in those contracts but it now has some influence over the form of the contracts which are to conform to the form set out in the new collective agreement.
- The 1st Division had a mix of professional/semi professional players with vastly different salaries.
- All Blacks returning to the competition part way through the season would complicate the application of the cap.

⁶ The number of players contracted to NZRU now under the new collective will be more than 140.

- The market for rugby players is global.

4.4 These factors collectively created a unique situation that required a “fit for purpose” model to be developed. The model had to best meet the needs of New Zealand rugby and provide a framework to achieve a balance between affordability, sustainability and incentives for development and innovation.

4.5 In designing the various components of the Salary Cap, the dual purpose of the cap was a constant reference point and the following matters were also recognised:

- The impact on, and trade-off between, the need to achieve economic sustainability and:
 - Participating in a global labour market;
 - Providing incentives and rewards to individual Provincial Unions to innovate and develop;
 - The expectation of players with respect to income and salary.
- Need to achieve change without putting at “unmanageable” risk the current operations and values embodied in New Zealand rugby.
- Ability to administer and enforce the Salary Cap.
- Requirement to maintain and enhance the winning tradition of the All Blacks.
- Requirement to maintain rugby as a game for all New Zealanders.
- Need to reflect player movements into and out of the All Blacks and the availability of All Blacks for the domestic competitions.

Salary Cap Components

4.6 Set out below is a brief discussion on the key components of the salary cap.

Hard Cap

4.7 The cap is in the nature of a “hard cap”⁷ – there should be no exceptions that allow the cap to be breached. Evidence from other sports leagues suggested that the concept of a “soft cap”, where there are exceptions of various sorts and where breach of the cap is tolerated in some instances, was not an option that the NZRU should pursue given the dual purpose of the cap. Allowing breaches of the cap for “exceptions” could have the effect of reducing its effectiveness in managing costs and encouraging greater competitive

⁷ Although the final design of the cap includes discounts to player remuneration for certain classes of players, there are no exceptions for breaching the cap itself.

balance. Also, there was an overriding concern that the mechanism should be as simple as possible.

Fixed Dollar Cap

4.8 The cap is a fixed dollar amount. The alternative was a cap based on a percentage of revenue.

4.9 The percentage of revenue approach was considered to have some advantages, such as rewarding high performing Provincial Unions and enabling them to spend more on players, being better able to reward high performing players and being a transparent mechanism for controlling costs.

4.10 However, that option had some particular disadvantages:

- It is generally more about managing relationships and negotiations with players than cost management.
- It would require detailed current and forecast information to be available which may be difficult and add to compliance costs.
- It may enable those Provincial Unions that are also Super Rugby Franchise bases and which host test matches to gain an unfair advantage.
- It may not give any real benefit to smaller Provincial Unions because of the current disparity between Provincial Union revenue.

4.11 On balance it was considered that the disadvantages outweighed the advantages and that the fixed dollar approach would be less complex than a percentage model. There was general consensus among the NZRU and Provincial Union representatives on the working group that the percentage of revenue model would reduce flexibility for Provincial Unions and players and was not the preferred model.

Player Provincial Union Remuneration

4.12 Player remuneration is defined as widely as possible and includes all payments in cash and in kind to players by any party. A definition of remuneration that captures all possible forms of remuneration from whatever source was deemed necessary to ensure that the salary cap concept has integrity and cannot be compromised. There was no sound argument for excluding any major sources of income received from Provincial Unions.

4.13 However, a small number of exceptions were identified. The most significant being fair value remuneration received by a Player pursuant to a genuine employment agreement (other than a Provincial Union Contract or Provincial Union Development Contract) or other genuine agreement such as Player Property agreement. The need to exclude genuine employment remuneration is required given that there are a large number of semi-professional players in the competition. The term “genuine” is included to disallow any sham employment arrangements or Player Property arrangements that may be used to disguise additional payments to players to be available for a competition team.

NZRU Retainers/“Notional Values”

4.14 Remuneration to be included in the cap includes an allowance for NZRU retainers.

4.15 All Blacks and Super Rugby players contracted to the NZRU are paid a retainer to be available for all NZRU competitions and for selection for New Zealand representative teams. These players will play alongside and with semi-professionals in the Premier competition.

4.16 Not taking account of NZRU retainers would be inequitable as it would provide teams with a high proportion of Super Rugby players with an advantage. This is both a competitive balance and cost management issue.

4.17 There should be a correlation between a player’s total remuneration (Provincial Union remuneration plus NZRU retainers) and his quality and ability to add to a team’s competitiveness. To not include an allowance for the NZRU retainers component of a player’s remuneration in the salary cap will not fully value his quality and competitiveness.

4.18 The NZRU retainer will provide contracted players with remuneration for playing in the Premier Competition. But Provincial Unions also pay these players to play in the Premier Competition. Therefore, to provide appropriate signals about cost management it is important that a portion of NZRU retainers are accounted for in the salary cap.

4.19 While it is appropriate to account for the retainers in the salary cap, it is inappropriate to include the entire retainer as a component of it relates to availability for Super Rugby and national representative teams. The retainers to be included in the salary cap remuneration are fixed dollar amounts (called “notional values” in the salary cap regulations) for each of the following five categories of players:

- All Black
- Experienced Super Rugby
- Super Rugby
- NZRU contracted players not selected for Super Rugby
- Wider Training Group

4.20 The fixed dollar amounts (notional values) in effect reflect two adjustments to the actual retainers:

- An adjustment to reflect that a substantial component of a player’s retainer relates to competitions not covered by the salary cap (Super Rugby, national teams)
- An adjustment to reflect a player’s “experience”.

4.21 The consequence of the inclusion of the retainer in the calculation of players remuneration is that for approximately 140 contracted players, their remuneration for inclusion in the salary cap will be the sum of the payments received from their Provincial

Union plus the retainers (as adjusted). For the remainder of the players, their remuneration will comprise only payments received from their Provincial Unions.

Players Covered

4.22 The cap will apply to all remuneration received by all players paid by and/or on behalf of a Provincial Union. The cap does not apply to non-player officials (coaches etc.)

4.23 Consistent with the principle of leaving as much decision making in the hands of the Provincial Unions as possible, no limit has been placed on the number of players that can be employed by a Provincial Union. The Provincial Unions are free to decide how they arrange their player compliment and spread their salary costs, so long as the total player remuneration does not breach the cap.

Exceptions for Unavailability

4.24 It was recognised that it would be unfair to include player's salary in the cap where the player is unavailable to play for the Provincial Union for reasons outside of the Provincial Union's control. It was also recognised that loaning of players may be within a Provincial Union's control and will be an important mechanism for managing salary cap remuneration. In considering this matter, there was also the concern that the salary cap mechanism should provide incentives to Provincial Unions to not stockpile players.

4.25 There are only two unavailability exceptions:

- Players unavailable because of injury.
- Players that are loaned or transferred during the season. If a player is loaned to another Provincial Union, then that player is not available to the "loaning" Provincial Union for the full competition. The remuneration in the salary cap is correspondingly reduced.

Discounts for Current and Former All Blacks

4.26 It was recognised during the Review and emphasised by the working group that the availability or unavailability of All Blacks for the Premier Competition is a complicating factor for Provincial Unions. Decisions about whether All Blacks will or will not be available aren't controlled by Provincial Unions. Moreover the timing of those decisions may not necessarily align with Provincial Unions timing in planning team composition to comply with the cap in any year.

4.27 In recognition of this complexity, Provincial Union remuneration included in the salary cap is discounted for current and former All Blacks. This reduces their remuneration for salary cap purposes and so reduces the impact on the Provincial Union of their availability or unavailability. This is a compromise solution to recognise that, on the one hand All Blacks are valuable to Provincial Unions on the field and off the field⁸ but

⁸ All Blacks can be valuable to Provincial Unions in a promotional capacity and because they can attract other players to the Provincial Union.

on the other hand their availability must be controlled by the All Black coach and selectors in the interests of maintaining the winning tradition of the All Blacks.

Discount for Veterans

4.28 The value to rugby in New Zealand of retaining senior players is significant. Concern was expressed by most stakeholders during the Review of the loss to New Zealand rugby of senior players departing for overseas contracts later in their careers.

4.29 To recognise this concern and ensure that the salary cap does not contribute to the exodus of players for overseas contracts, an allowance has been included to discount the salary cap remuneration of players that have been selected in the same Provincial's Union's Premier Team for eight or more seasons (unless they are unavailable for an entire season because of an injury or an NZRU direction).

Financial Modelling and the Salary Cap Level

4.30 The development of the level of the salary cap was undertaken in two phases. The first phase development was undertaken by the Salary Cap Working Group during the 2nd half of the 2004 calendar year.

4.31 The Working Group produced a salary cap architecture that was submitted to the NZRU Board for consideration in late 2004.

4.32 Financial modelling of the salary cap architecture was undertaken to assist the Working Group and the Board consider the treatment of the various components of the salary cap. The modelling was also integral to analysing and setting levels of the cap considered by the Board in late 2004.

4.33 The modelling was based on information on Provincial Union player payments provided by each of the ten 1st Division Provincial Unions and on NZRU payments to contracted players. Player names were not provided to maintain confidentiality. The information from the Provincial Unions identified which payments were to All Blacks, ex All Blacks and Super 12 players.

4.34 The information was used to model the salary cap remuneration for each of the ten first division Provincial Unions, reflecting the proposed notional values for Super 12 players and the treatment of All Blacks and former All Black remuneration. The modelling enabled the Working Group and the Board to review the impact of various permutations in the salary cap components.

4.35 Following confirmation of the architecture, the financial modelling was used to review the impact on the ten 1st Division Provincial Unions of various levels of the cap. One of the key issues in reviewing the level of the cap was the significant disparity between the salary cap remuneration of the five largest Provincial Unions and the rest of the 1st Division Provincial Unions. The disparity, which was expected, meant that setting the cap would focus primarily on its impact on the largest Provincial Unions.

4.36 Various permutations of the level of the cap were reviewed by the Board.

[Confidential:]

Appendix A: Literature Review

Commerce Commission (December 1996). Determination pursuant to the Commerce Act 1986 in the matter of an application for authorisation of a restrictive trade practice. Application by New Zealand Rugby Football Union Incorporated for authorisation of the entering into and giving effect to the Player Transfer System of the New Zealand Rugby Football Union Incorporated.
Deloitte & Touche Sport (July 2003). Annual Review of Football Finance.
Fort, R. European and North American Sports Differences(?) (2000). Scottish Journal of Political Economy, Vol 47, No. 4.
Morgan, M (2002). Optimizing the structure of elite competitions in professional sport – lessons from Rugby Union, School of Service Industries, Bournemouth University, Poole, Dorset BH12 5BB.
Owen PD and Weatherston CR (2002). Uncertainty of Outcome and Super 12 Rugby Union Attendance: Application of a General-to-Specific Modelling Strategy, University of Otago. Economics Discussion Papers, No. 0211.
Owen PD and Weatherston CR (December 2002) Professionalisation of New Zealand Rugby Union: Historical Background, Structural Changes and Competitive Balance, University of Otago. Economics Discussion Papers, No. 0214.
Quirk, J and Fort R. (1992). Pay Dirt: The Business of Professional Team Sports. Princeton, NJ: Princeton University Press.
Quirk, J and Fort R. (1999). Hard Ball: The Abuse of Power in Pro Team Sports. Princeton, NJ: Princeton University Press.
Sloane, PJ (2001). Restrictions of Competition in Professional Team Sports.
Szymanski S (2001). Income Inequality, Competitive Balance and the Attractiveness of Team Sports: Some Evidence and a Natural Experiment From English Soccer, The Economic Journal, 111, FF69 – FF84.
The Boston Consulting Group, (November 1996). The Basis for a Successful Sporting Competition. Submission to the Commerce Commission on behalf of the New Zealand Rugby Football Union Incorporated.
Vrooman, J (September 2000). The Economics of American Sports Leagues. Scottish Journal of Political Economy, Vol 47, No 4.

Appendix B: Important Notice

The paper has been produced solely in support of the New Zealand Rugby Union's application to the Commerce Commission regarding the implementation of the salary cap. It has been based on the Competitions Review report and the subsequent salary cap architecture.

We will not accept responsibility to any party unless specifically stated to the contrary by us in writing. We will accept no responsibility for any reliance that may be placed on our paper should it be used for any purpose other than that for which it is prepared.

Our paper has been prepared with care and diligence and the statements and opinions in the paper are given in good faith and in the belief on reasonable grounds that such statements and opinions are not false or misleading. No responsibility arising in any way for errors or omissions (including responsibility to any person for negligence) is assumed by us or any of our partners or employees for the preparation of the paper to the extent that such errors or omissions result from our reasonable reliance on information provided by others or assumptions disclosed in the paper or assumptions reasonably taken as implicit.

We reserve the right, but are under no obligation, to revise or amend our paper if any additional information (particularly as regards the assumptions we have relied upon) which exists on the date of our paper, but was not drawn to our attention during its preparation, subsequently comes to light.

Schedule H: Dr Rodney Fort Report

Report: The NZRU Premier Division Salary Cap
Rodney Fort
Professor of Economics
Washington State University
October 31, 2005

Overview

1. The focus of this report is the proposed cap on total team remuneration to players in the newly formed Premier Division set up by the New Zealand Rugby Union (NZRU). The report covers the importance of competitive balance to team sports and the ability of such a cap to enhance competitive balance. These impacts are considered in light of other changes that can be expected to affect competitive balance.
2. I am informed that expansion to a 14-team Premier Division should be taken as given. This expansion includes teams that typically occupied the previous Second Division. If all that occurred was this expansion, competitive balance should be reduced as a matter of increased variance in the quality of teams. But the actual marginal influences analyzed here concern the additional factors of altered transfer restrictions and a salary cap. So, the comparison pursued in this paper is between two states of the world. The counterfactual is no cap with the current player transfer restrictions remaining in place. The alternative is an absolute cap and removal of the key transfer restrictions in the Premier Division.
3. My report supports the NZRU's proposed application to the Commerce Commission for authorization to implement the proposed cap—relative to the counterfactual, imposing the cap and relaxing transfer restrictions is expected to enhance competitive balance, increase fan satisfaction, enhance the financial viability of smaller unions, and increase the strength of Super 14 teams and the national team, the All Blacks.

Brief Biography

4. I am Professor of Economics in the School of Economic Sciences at Washington State University, USA. I began my study of the economics of sports under the tutelage of Roger Noll at Caltech as a graduate student. Later, I began researching and writing about sports with my thesis advisor, James Quirk. Both are world-renowned sports scholars. I have been studying sports exclusively now since about 1992.
5. I am a recognized authority on sports economics and business, both in the United States and internationally. My numerous publications cover sports topics as diverse as cross-subsidies in U.S. sports leagues, predatory behavior by Major League Baseball toward African-American baseball leagues during integration, analysis of competitive balance, and comparative analysis of North American and European sports leagues. As shown in the attached curriculum vitae, my contributions appear in the *American Economic Review*, *Journal of Political Economy*, *Journal of Economic Literature*, *Economic Inquiry*, *Scottish Journal of Political Economy*, and the *Journal of Sports Economics* to name a few. I also serve on the editorial boards of the *Journal of Sports Economics*, the newly founded *International Journal of Sport Finance*, and the *Eastern Economic Journal*. I have been a vice-president of the International Association of Sports Economists since 2002.

6. In addition, my books with James Quirk, *Pay Dirt* and *Hardball*, are standard references. My textbook, *Sports Economics*, has been adopted at over seventy universities, world wide. Recently, I've co-edited volumes on U.S. college sports and international sports economics comparisons.
7. I am a regular speaker on sports issues. I've been heard on National Public Radio in the U.S. and seen on *Hockey Night in Canada* on the CBC. I have been a panelist on sports economics issues at Western Michigan University, Tufts University, Washington University, Vanderbilt University, The Independent Institute, The Marquette Sports Law Institute, The Brookings Institution, and The International Center for Sports Studies in Neuchatel, Switzerland. I have been a keynote speaker at sports conferences from Philadelphia, to Cologne, Germany, to Rio de Janeiro, Brazil. I often render expert opinion in legal cases concerning sports. My other testimony has been before the U.S. Senate Subcommittee on Antitrust concerning competitive balance issues in baseball.

The Importance of Competitive Balance

8. Competitive balance is fundamental to both fan enjoyment of their favorite sports and the economic health of sports leagues. All such leagues have at one time or another voiced concern over competitive balance, and it ends up that fan preferences underlie these concerns. The idea of what has come to be known as the "uncertainty of outcome hypothesis" is that balanced play, during the regular season and in the playoffs, is more attractive to fans than unbalanced play (Rottenberg, 1956). While the empirical impacts are the subject of ongoing research (Fort, 2006), essentially, the uncertainty of outcome hypothesis asserts that fans enjoy close games and close races for the playoffs rather than lop-sided affairs.
9. Following this hypothesis, if competitive imbalance dominates outcomes, the consequences can be dire. Fans of the perennial losing teams lose interest in their own team and, quite possibly (and of importance to all teams including the perennial powers), they lose interest in the sport altogether (Rottenberg, 1956; Neale, 1964). This lowers the overall value of the league and the value of the surviving teams. Those fans that lose interest will also not be there at the end of the season to spend their attention and money on the perennial powers. This clearly implies that leagues have a vested interest in taking action to maintain a healthy level of competitive balance (Neale, 1964; Canes, 1974; Sloane, 1976).

Why Competitive Imbalance Occurs

10. There are two reasons that competitive imbalance occurs. First, there is variation in revenue potential across geographic locations (Rottenberg, 1956; El-Hodiri and Quirk, 1971; Demmert, 1973; Canes, 1974; Quirk and El-Hodiri, 1974; Quirk and Fort, 1992, Chapter 7). Revenue potential is determined by population, income, the variety and price of other entertainment options open to fans, the pricing decisions of the team, travel costs, and league choices concerning team locations. Intensity of preferences also may vary by location; fans in some locations similar in all other ways just stated are simply wilder about their team than fans in other locations.
11. Typically, in order to actually collect on their relatively higher revenue potential, teams in these larger-revenue markets must field the most successful teams in the league (a

summary of this line of thought, begun by Rottenberg, 1956, is in Fort, 2005, Chapter 4). So, teams give fans what they want and collect the reward. In larger-revenue markets, more is spent on payroll than in smaller-revenue markets in order to produce the success that fans will pay the most to see. So, as a general observation on imbalance, variation in revenue potential leads to higher payrolls, higher payrolls lead to higher quality, and larger-revenue market teams will win more than smaller-revenue market teams (again, straight forward demonstrations and references are in Fort, 2005, Chapter 4). To be sure, since sports markets operate in a setting of uncertainty, any season will see some smaller-revenue club enjoying success. But the face of that team typically changes from season to season and, on average, the preceding statement about the dominance of larger-revenue market teams holds.

12. The second reason for competitive imbalance follows from the behavior of individual teams relative to the collective good of more balanced competition. All teams may recognize that they are better off with more balance. But individual teams then make choices that may be best for them but inconsistent with the collective good. Their individual payoff leads them to choose levels of talent inconsistent with, say, maximum economic welfare for the league (Neale, 1964; Canes, 1974; Demmert, 1976; Vrooman, 1995; Szymanski, 2004).
13. As a side note, the level of competitive imbalance is worse in a league where the pursuit of profits is not the driving force (the history of this line of literature is in Dobson and Goddard, 2001, Chapter 3; recently see Kesenne, 1996, 2000b; Fort and Quirk, 2004; and Kesenne 2004, 2005). As observers of the European context have long noted, revenues that would otherwise go to proprietors as profit instead go to players. So wages will be higher than in a league of profit maximizing teams. When some acceptable level of net return is the constraint, for example, a “break even” constraint, the propensity of larger-revenue market teams to spend more on talent is exacerbated and competitive imbalance is worse than when profits are pursued. This is quite probably true about NPC play. I understand that Provincial Unions are incorporated societies. As such, unions are not allowed to be set up for the purpose of making profit in the conventional accounting sense and are prohibited from distributing any profit made to members. Members do not have direct financial interests in the assets and property of the teams. So it probably is true that competitive imbalance was worse in NPC play than if unions had been organized as profit maximizing organizations from the outset.

Fixing Competitive Imbalance

14. There are two approaches to fixing competitive imbalance (the characterization here follows Fort, 2001). It is useful to think in terms of “illness” and “symptoms.” The direct approach addresses the “illness” itself. In the main, competitive imbalance arises due to geographic variation in revenue potential, in turn driven by income, population, and the availability of close substitute entertainment (in the context at hand, it should also be noted that these characteristics are also most important for Provincial Unions that also are home to Super 14 teams). And this variation can be reduced by putting more teams in the geographic areas with the highest revenue potential (this idea began with Noll, 1976, and Horowitz, 1976; see also Ross, 1989, 1991; Fort and Quirk, 1997; Quirk and Fort, 1999). Forces of economic competition would distribute the geographic advantage across more teams in the same location, reducing it for each team in that location. As a result, the value of talent falls and the demand for talent by previously economically powerful teams falls. This has two impacts. The amount of talent hired by those teams falls and so

does the price of talent. All remaining teams now can afford more talent and the league becomes more balanced.

15. Indirect approaches can be thought as remedies for the “symptoms” of the competitive imbalance caused by geographic revenue dispersion. These symptoms are unequal *actual collected revenues* and unequal payrolls (again, Rottenberg, 1956, foresaw all of these possibilities). So, sharing all types of local revenues—gate revenue, attendance-related revenue, and local TV revenue must all be included—can enhance balance (Fort and Quirk, 1995; Vrooman, 1995). But note that sharing of national TV revenues won’t have any impact on competitive balance unless national TV revenues are shared according to team performance. Equal sharing will aid in the survival of weaker teams, but not in the battle for competitive balance.
16. Intervention in labor markets in ways that effect team payrolls can also alter balance (Rottenberg, 1956; Canes, 1974; Dabscheck, 1975; Sloane, 1976; Quirk and Fort, 1992; Vrooman, 1996; Kesenne, 2000a). But, again, these interventions address symptoms, not causes. Restrictions on the actual movement of players (team composition restrictions and rules that interfere with player transfers), caps on individual salaries and team payrolls, and taxes on talent spending can enhance competitive balance. But player drafts and reserve systems coincident with player sales and trades cannot enhance balance.
17. As a side note, the predicted impacts of some of these mechanisms can depend on the economic motivation of teams, profits as in North American leagues or other objectives as was the case and may still be in all but the top levels of NZRU play (see Sloane, 1971; Kesenne, 1996, 2000b; Fort and Quirk, 2003; Kesenne, 2004, 2005). In addition, predicted impacts are different if the labor market is “open,” as in most world football organizations (see the detailed treatment and references in Dobson and Goddard, 2001, and the recent work of Ross and Szymanski, 2002, and Szymanski, 2003, 2004), or “closed” (as in North American professional leagues). Another determinant is whether or not fans care only about relative competition or if they also care about the absolute level of competition (Marburger, 1997). For example, gate revenue sharing cannot alter balance in a closed league, where fans care only about relative competition, and teams maximize profits. But when these assumptions are relaxed, gate sharing may well enhance balance.
18. But these remain a side note. By and large, none of these factors change with the imposition of a salary cap and the removal of transfer restrictions. Provincial Unions, organized as incorporated societies, will not be driven by profit after these changes any more than they are now; the degree to which the NPC is “open” or “closed” remains unaltered; the changes don’t alter whether fans care about absolute or relative competition, or both.

Caps on Total Payrolls: General Observations

19. A cap on total payroll, sometimes incorrectly referred to as a “salary cap,” is one of the main considerations in what follows. For the discussion to follow, I restrict myself to a comparison of two types of payroll caps (to my understanding, there is no cap on any individual player salaries in the agreement between NZRU and the New Zealand Rugby Players Association (NZRPA)). There is the version utilized by both the National Basketball Association (NBA) and National Football League (NFL) in North America

called the “revenue sharing payroll cap.” And there is another form that aptly describes the outcome for the case at hand that we can refer to as the “pure payroll cap.”

20. The determination of the revenue sharing payroll cap in North American pro leagues goes as follows (see Fort, 2005, Chapter 6). Through labor-management negotiations, the league and player association determine two things—the revenues that are generated by the sport, as opposed to other separate revenues, and the share of these “defined revenues” that goes to players. The “cap” is then simply the players’ share of defined revenues, divided by the number of teams in the league. No team can spend more than this (including all forms of compensation— base salary, bonuses, and incentives), in total, on their roster of players. Each league with a cap also sets a minimum, about 75% of the cap, which each team must spend.
21. The pure payroll cap is a much simpler version in all respects (Kesenne, 2000a). A dollar limit is specified that is not tied to league revenues at all. No team may spend more than this absolute cap, but there is no minimum spending specified. In this regard, the cap only limits the spending of those teams that otherwise would have spent more than the capped amount. While a revenue sharing payroll cap aims to equalize spending by all teams simultaneously, a pure payroll cap does not. By definition, the only way to make spending equal immediately with a pure cap is to set it at the current spending level of the team with the lowest payroll! Instead, the pure cap could be set at a level that reduces spending by a few of the largest spenders. As more talent is hired by smaller-revenue teams over time, revenues grow for the entire league. Eventually (over a few years for the NPC as detailed below), previously smaller-revenue teams “catch up” and the cap equalizes spending for more and more teams. Thus, under the pure cap, one envisions a gradual enhancement of competitive balance over the period of a few years.

Cap Impacts

22. Both caps have impacts on the distribution of revenues between players and owners. Either type of cap reduces pay to players, so owners gain back what they otherwise would have paid without the cap. But there are also impacts on competitive balance, fan welfare, and club profits. And not all of these are the same for each cap type.
23. Revenue sharing payroll caps, with their minimum spending requirements, theoretically should lead to nearly complete competitive balance (Quirk and Fort, 1992; Fort and Quirk, 1995; Vrooman, 1995, 1996). Since each team spends nearly the same amount on talent, each team purchases approximately the same quality team. Thus, teams should be nearly evenly matched competitively.
24. Profits of the larger-revenue market clubs may be higher or lower under the revenue sharing payroll cap, depending on the level of spending resulting from the cap negotiations (Fort and Quirk, 1995). But profits of the smaller-revenue club must rise; the price of talent falls under the cap, the smaller-revenue club is in the elastic portion of talent demand, so revenues rise while talent costs fall. This means that a revenue sharing payroll cap should enhance solvency of smaller-revenue teams in the same league as noted earlier. In addition, since fans prefer balance, revenue functions across the league should increase over time with improved balance. I have seen evidence concerning the impacts of the cap in Australian NRL supporting this idea. The English Rugby League has a cap since it restructured following an injection of large media revenues by

NewsCorp (BSkyB). I believe this occurred in 1998. This is another case that might provide important information on this point.

25. Pure payroll caps also enhance balance, although not to the same degree as revenue sharing payroll caps. This is because only the larger-revenue market clubs have their spending on talent dictated by the cap and there is no spending minimum for smaller-revenue clubs. So, larger-revenue clubs reduce their purchase of talent under the cap, the price of talent falls, and smaller-revenue clubs increase their purchases. But the smaller-revenue clubs do not increase their purchase of talent to equal the talent choice of larger-revenue clubs. There is no rule forcing them to do so (like a minimum spending requirement) and their calculation of the value of talent is still lower than for the larger-revenue club. Thus, it should be expected that movement toward equal outcomes on the field can only come over time as enhanced balance increases fan spending and lower-revenue teams move toward the level of the pure cap.
26. So fans will enjoy more balance under the pure payroll cap, but not as much balance right away as under the other variety. In addition, unambiguously, profits rise for both the larger-revenue and smaller-revenue clubs under a pure cap (Kessenne, 2000a). While larger-revenue clubs lose profit by being forced away from their original profit maximizing choice of talent, the price of talent always falls by more than enough to offset. And the logic for the smaller-market club's profits is the same as in the case of the revenue sharing payroll cap. However, smaller-revenue clubs do not see their profits rise as much right away as in the revenue sharing payroll cap case, since team qualities can only approach equality with the passage of time.

Primary Cap Issues

27. While the theoretical predictions are clear, there are practical issues that have interfered in the case of North American leagues and allowed team owners to avoid the intended effect of the cap (Fort and Quirk, 1995; Vrooman, 1996; Staudohar, 1998). First, there typically are numerous special situations defined in the cap language. If these are defined in such a way that larger revenue teams are allowed to spend more, then the equalizing effect of caps is mitigated. This is true for either type of cap.
28. Indeed, in the language of payroll caps, those with the most exemptions and special circumstances are called "soft" caps while those with fewer loopholes are referred to as "hard" caps. At their inception, North American caps had two major loopholes. Bonuses were only weakly included in the definition of player compensation and deferred payment structures allowed player contracts to be back loaded to lower current salary that counted against the cap. This contributed to the observation that, while technically payrolls were within the cap restriction, total payment to players exceeded the cap routinely for the majority of teams. These weaknesses were subsequently remedied, but other "soft" issues concerning many special exemptions remain to this day. And, of course, team owners exploit them to their fullest.
29. Second, payroll caps produce a compliance issue. For revenue sharing payroll caps, suppose the cap is chosen so that talent at the margin earns a price that is less than the value it contributes to the larger-revenue teams but greater than the marginal value it contributes to smaller-revenue teams. All teams now want to cheat on the cap; larger-revenue teams want more than the talent level under the cap and smaller-revenue teams want to sell it to them.

30. This incentive to cheat can be minimized by careful design, but not eliminated. The cap can be chosen so that at least the smaller-revenue teams are willing to pay the resulting price. But talent will still be more valuable to the larger-revenue teams and the temptation is always there for them to approach smaller-revenue teams in hopes of purchasing more talent. The smaller-revenue teams are willing to pay the price of talent, but they can still earn more selling at the margin to the larger-revenue teams. This problem plagues both players with contracts that might be transferred to other teams and players ending previous contracts and moving on to sign new ones. In each case, new compensation can be negotiated counter to the intent of the cap. “Side payments” and “off contract” payments not specified in contracts can prove counter to the intent of the cap.
31. The compliance issue for pure payroll caps is similar to this second case. The reduction in spending on talent by the larger-revenue clubs reduces the price of talent and at that lower price smaller-revenue market clubs buy more talent until the marginal value equals the new lower price. So they are willing to pay the going rate and buy more talent. But the price was generated by the cap on the larger-revenue team, so larger-revenue teams also are buying talent just at the margin. But there is the following logic: If all of the other larger-revenue clubs obey, but I buy just a little more talent, then the price of talent remains near the level under the cap but I gain an edge. And so there still remains an incentive to cheat.
32. It is interesting to note that the presence of minimum spending requirements makes cheating more likely in the case of the revenue sharing payroll cap; unless the cap is chosen with precision, all teams want to cheat. But there is a mitigating factor from the perspective of monitoring compliance. If there is a minimum requirement, then there are more chances to detect cheating as well. If smaller-revenue market teams are below the minimum then talent must be going to the larger-revenue teams, counter to the intent of the cap. Even if the teams cheating on the cap by over-spending aren't caught, cheating can be detected when teams spending dramatically less than the cap can be identified.
33. Things are different for the pure payroll cap. Since it is fairly easy to identify those teams that are close to the cap at the outset, and those teams whose payroll spending will grow closer to the cap over time, there is little to be gained by focusing on the teams that might be selling talent to the larger-revenue clubs. Enforcement efforts can be concentrated on fewer teams.
34. So, the price of a cap is eternal vigilance since there is a monitoring and enforcement problem. While the longer term effects of the cap are good for all teams, in the shorter term, some teams face incentives to evade the cap. In the case of revenue sharing payroll caps, smaller-revenue teams will want to spend less, and larger-revenue teams will want to spend more. The incentive to cheat only hits the larger-revenue clubs in the case of the pure payroll cap. This is why enforcement is spelled out in actual cap language and includes clear statement of penalties.
35. Penalty maximums are specified in the labor agreement between the league and the players. The breadth of penalties was revealed in a recent famous cap-cheating episode in the NBA. Owners of the Minnesota Timberwolves made a contract with their free agent Joe Smith judged by Commissioner Stern to violate the cap. Stern imposed the following: the Timberwolves would lose first-round draft picks for five years (2001-

2005; but the 2005 pick was later restored), pay a \$3.5 million fine (the specified maximum under the labor agreement was \$5 million) and face losing Smith, whose deal with the team was voided. The team owner, general manager, and Smith's agent faced additional penalties (limited to suspensions in the labor agreement).

Secondary Cap Issues

36. Roster Instability. Under North American league caps, there is something of a revolving door for players, especially old favorites. This occurs when deferred payments finally come due, but would put the team over the cap. In this situation, higher-paid fan favorites often are traded or released outright so that the team stays under the cap. There is some evidence that roster stability also matters to fans (Kahane and Shmanske, 1997). So the revolving door must count as an offset to the other gains for fans from enhanced balance. Interestingly, the NFL and NBA succumbed to fan and team demands to keep stars and intentionally softened their caps by writing some loopholes that allow for retaining free agents.
37. Increasingly Unequal Pay Distribution. The distribution of pay among teammates on a given team gets worse under payroll caps (this is demonstrated for both the NBA and NFL, below). There is no lid on the most expensive players, but the cap on total spending leads to spending reallocation from lower-paid players to higher-paid players. This can lead to hard feelings among teammates and pressures to raise the minimum salary. One way to alleviate this problem in the case of the pure payroll cap is to impose a cap on individual player salaries as well (Kesenne, 2000a). But no such restriction on individual salaries (as opposed to team payrolls) is being considered in the case at hand.
38. Training Impacts. Players contribute to revenue creation for their teams and that, along with the level of competition over players, determines pay to players and the decision on the part of teams to help train them. But expected *total compensation*, including compensation in addition to pay by the team (endorsements and, for rugby, pay for Super 14 and All Black play), drives the decision on the part of players to train.
39. Revenue sharing payroll caps reduce *pay* to all players but do not change either the *value created* by players for the team or the level of compensation going to players from endorsements and other non-league play! Indeed, over time, the value created for the team should increase as fans turn more financial attention to a more balanced outcome. So, from the team's perspective, training remains just as valuable as before the cap and the value of training should actually increase later. But the player sees the returns to training fall in terms of pay. This suggests that players will not be willing to invest as much in their training since they receive a lower return. And since this is true for all players under the revenue sharing cap, if all players reduce training there will be impact on their performance relative to other players. So their non-league play and endorsement incomes should be unaffected. But clubs still see the same value immediately and an increasing value over time. So now clubs have the incentive to do more to train players and develop talent for later. While revenue sharing payroll caps will actually lead players to invest less, clubs will more than make up the difference in anticipation of the rising value of talent over time.
40. But things are different under pure payroll caps. Now, the pay of only a few of the players on the larger-revenue teams is reduced. But teams below the cap are free to increase spending on talent as the price of talent falls so other players will see their pay

actually increase! And there still will be an increase over time in their value to teams since fans will become more interested in more balanced play. So, unlike the revenue sharing payroll cap, the pure payroll cap actually provides all players with an incentive to train harder. Players on teams below the cap see their expected earnings increase and train harder. And if the few players on teams at the cap actually did reduce training, their endorsement value and chances at non-league play are harmed since relatively they now look less the star. So they must train at least as hard as they did before the cap. There also still remains the incentive for teams to do more to train players and develop talent into the future.

41. Migration. In an international setting, talent flows to its highest valued use across national boundaries, subject to any limitations set by individual organizations (for example, roster limits on non-locals are popular in some leagues). And a salary cap in one league in one nation, where talent is free to move, may cause migration to other nations where earnings are not capped.
42. This type of migration is of tremendous concern in world football (soccer), either in the form of youth exploitation (Andreff, 2005) or just simply in the form of migration of the best talent to European leagues (I heard this repeatedly from soccer authorities during my 2003 visit to Brazil, for example). In my opinion, this concern is greatest in countries where the economic prospects for homegrown players are bleak; we don't see talent migration from Europe to Brazil, but the other way around. The same type of earnings differential has led the migration of world talent to North American teams, primarily in basketball and hockey, but also in baseball. As I detail below, in rugby New Zealand seems more like Europe than Brazil.
43. Furthermore, talent supply by players is not only a matter of dollar earnings. Mitigating factors for players include quality of life issues (there's no place like home—food, language, family and friends), impacts on national team participation, and the strength of the player's sense of national identification. And this last seems especially important to athletes outside of North America since moving to the level of international competition is so much more important for the rest of the world in sports outside of the Olympic Games (Fort, 2000). It also is the case that selection to international teams might be denied to players that choose to migrate if such is allowed by authorities governing international play.

Assessing the NBA and NFL Caps

44. The NBA cap was in place for the 1984-85 season and the NFL cap was in place for the 1993 season (for the labor relations history of North American caps, see Staudohar, 1998). Both can only be characterized at their inception as “soft” caps plagued by design loopholes. In addition, cheating violations have occurred in both leagues. This has at least dampened the theoretical effectiveness of both caps. While the NFL cap was fine-tuned to eliminate some types of avoidance, and language to harden the NBA cap was added after the lockout of 1998, it remains true that the average payroll exceeds the cap restriction in both leagues even to the present (Staudohar, 1998; Fort, 2005, Chapter 6). And the following is true concerning competitive balance.
45. During regular season play, evidence is mixed on the impact of the revenue sharing payroll cap in the NBA. Looking at the standard deviation of winning percents, NBA balance worsened by about 6% in the five years after the cap was put in place (Fort and

- Quirk, 1995; Fort, 2005, Chapter 6). But there was a 6% improvement after what is generally agreed was a hardening of the NBA cap in 1998. By the same measure, there was improvement in the NFL of about 12% in the five years after the cap was imposed (Fort, 2005, Chapter 6). As one would expect, since the NFL cap was the harder of the two, the greater impact was felt there. And the same occurred when the NBA cap was hardened. Turning to the post-season, there is very little evidence to suggest that either the NBA or NFL cap led to more balance in the playoffs.
46. As an overall conclusion, with the exception of improved regular season balance in the NFL, salary caps have not led to dramatic changes in competitive balance in North American pro sports leagues. This is due to a combination of early “softness” in the caps and documented cases of cheating on the cap. (In detailed presentation below, I point out that neither of these problems appears to plague the NZRU cap.)
 47. Turning to salaries, the data on the NBA and the NFL make two things clear. First, caps do indeed slow the rate of increase in player pay (Fort, 2005, Chapter 6). Second, the distribution of salaries on individual teams, and across the leagues on the whole, became increasingly unbalanced after caps were imposed.
 48. In the NBA, salary data for the two years prior to the cap (unfortunately, that is all the data there are) compared to the three years after the cap reveal the following. The standard deviation of individual player salaries on a given team increased for 15 of 23 teams. The average percentage increase for these 15 teams was 43% while the average for the remaining 8 teams was a 21% decline. The standard deviation calculated on all league salaries increased 15%. So, both for individual teams and across the entire league as a whole, increasingly unequal pay distribution was the norm after the NBA cap was in place.
 49. The salary data are sparser for the NFL (only complete salaries for 1991, two years prior to the cap in 1993, and for 1995, the third year after the cap, are available). Further complicating the comparison, two expansion teams began play in 1995 and two teams changed cities in the intervening period (both Los Angeles teams left for greener pastures in Oakland and St. Louis). Nevertheless, the comparison borders on startling. All NFL teams (excluding the four for lack of a before and after comparison) showed an increase in the standard deviation of individual player salaries and the average percentage increase was 132%. Calculated across all salaries in the league, the standard deviation increased 97%. Again, for both individual teams and across the entire league as a whole, an increasingly unequal pay distribution characterized the NFL after the cap.
 50. Since the primary impact on salaries appears to be in the middle and bottom of the distribution, it should come as no surprise that training impacts are not detectable due to the NBA or NFL caps. Indeed, if anything, training has increased. However, it is difficult to use this as a comparative factor since both the NBA and NFL are fed players from North American college sports markets. And those markets are fabulously lucrative as well, with their own impacts on the training of basketball and football players.
 51. Finally, concerning migration, the NFL imports only a few players and exports none (the World League of American Football in Europe actually is a developmental league, not an export). The NBA is a hefty importer of talent from Europe and South America. And the

most dramatic imports began in the NBA well after the cap, so it is difficult to attribute any sort of migration to that device.

52. It is tempting to try to attribute increased attendance, television ratings, sponsor revenue, and financial viability of a larger number of clubs to the imposition of revenue sharing payroll caps in the NBA and NFL. Indeed, all of these nice results seem to occur around the imposition of their respective caps. But this cannot be done with the data available to the outside observer. First, there is only mixed evidence of enhanced balance in the NBA in the first place. It would be difficult to make the case that any of the changes in economic fortune had to do with the cap. And the NFL has always enjoyed hefty increases in all of these measures, long before the cap as well. One can show that the growth rate of payrolls in capped leagues is less than in MLB and the NHL (only just this year capped). And since revenues have increased, perhaps relative to leagues without caps, profits have been better for leagues with caps. But we have no data on profitability. We do have observations about the growth in sale values of teams but, again, it's tough to make the case that it's due to caps since competitive balance hasn't improved universally; other determinants of willingness to pay could be responsible for the growth in revenues.
53. I turn now from the experience of salary caps and other mechanisms outside New Zealand to the more specific question of what effect the proposed NZRU payroll cap is likely to have in the New Zealand. It is quite apparent that the differences in the NZRU cap, relative to the NBA and NFL caps, lead to dramatically different conclusions about design, expected effectiveness, and expected impacts on competitive balance, fan satisfaction, the viability of smaller unions, and the strength of international teams. First, let's cover those things that are taken as given in the analysis.

Taken as Given: The Expanded Premier Division, Revenue Distributions, and Transfer Restrictions in the New Division One

54. In order to properly assess the role of the NZRU payroll cap on competitive balance, fan welfare, and the economic future of Provincial Union teams, care must be exercised in defining the comparison. Expansion of the number of teams/players exposed to the top level of play is taken as given as are revenue distributions by Super 14 teams and the NZRU. (While currently under review, I am informed that it is most likely that these distributions are unlikely to change substantially into the near future.) The counterfactual is no cap and keeping the player transfer restrictions currently in place. The alternative is a pure payroll cap and the removal of transfer restrictions. Brief comments on the factors taken as given are offered here.

Expansion

55. Prior to 2006, ten teams comprised "Division 1" of the NPC, the top level of play. There also were the subsequent levels, Division 2 and Division 3. The NPC is to be restructured for the 2006 season. This is the result of the Competition Review, whose goal was to "conduct a comprehensive review of all NZRU competitions...to ensure they provide the best possible platform for sustaining a winning All Blacks team and maintaining rugby as a game accessible and attractive to all New Zealanders." (NZRU Competitions Review, Final Report).
56. As a result, competition will now closely mirror other international leagues with a 14-team Premier Division and a 12-team Division One structure replacing the previous

- Division 1, Division 2, and Division 3 structure. It is crucially important to note that the new Premier Division has four more teams than its Division 1 predecessor. Similar restructuring of Scottish Football (Cairns, 1987) and English Rugby League (Burkitt and Cameron, 1992) led to more balance and enhanced fan interest at the new Premier levels in those leagues. But no expansion accompanied the restructuring in those leagues.
57. Without any other changes, expansion in the number of teams at the top level of play should lead to less balance than under the old Division 1. Expansion in any league is well-known to bring lower quality teams into a league, increasing the variation in talent and reducing competitive balance (Fort, 2005, Chapter 5; Lee and Fort, 2005). It appears that expansion of the top-level of play adds Provincial Unions that used to be in the old Division 2 (Counties Manukau, Hawke's Bay, Manawatu, Nelson Bays/Marlborough). There is clearly a broader geographic spread, but there also is a broader quality spectrum with addition of teams that previously were denizens of Division 2. Weaker teams are being added to the expanded Premier Division. It also appears that the new competition structure will have higher revenue teams play each other more often than under the previous structure. This could mitigate the spread in *winning percents*. But it will also reduce the *revenue spreading* that might occur if better teams appeared at smaller venues more often.
58. Expansion also extends to post-season play. The post-season will also be extended by one round to include a quarter-final. As Fort and Quirk (1995) show, expanding playoffs with new rounds reduces the probability that the same larger-revenue teams dominate the playoffs; they still have a higher probability than smaller-revenue teams, but the probability is reduced. In addition, adding rounds also holds the attention of the fans of those teams that now make it to the post-season. However, the downside to adding rounds is that it can detract from interest in the regular season if too extensive, but that does not appear to be the case here, with just one more level added at the quarter-finals.
59. Lower divisions are not currently "professional" as payments will only largely simply reimburse expenses. It ends up this was probably true of all but a few players for a small number of previous lower division (Divisions 2 and 3) teams as well; revenues were insufficient for consistent "professional" play.
60. In comparing the counterfactual and the alternative, expansion is taken as given. While its impacts are as stated here, the marginal impact of the cap and removal of transfer restrictions is the point of the analysis.

Revenue Distributions

61. As I understand it, the Super 14 teams do not keep any of their revenues and distribute all of it to Provincial Unions in their franchise area (each team draws players from a specified set of Provincial Unions). The distribution is governed by rules set out in franchise agreements with the Provincial Unions. They may be able to use the money from Super 14 to advantage their own Premier Division teams. For example, the Super 14 Blues have the Auckland Premier team in their franchise area. The same revenue advantage enjoyed by the Premier team is enjoyed by the Blues. And those Super 14 revenues then get distributed in part back to the Auckland Premier team. That Auckland Premier team then will continue to enjoy an advantage drawing the best young players since selection to Super 14 and All Blacks is disproportionately from their union in the

first place. But nothing much appears to change here, since the Super 14 teams drawing from Premier Division teams in their franchise area have always done so.

62. Against this type of outcome, NZRU also distributes revenues. As I understand it, the NZRU revenue distributions are intended to help fund the development of the game in each of the Provincial Unions. I don't know the particulars of this distribution in the past but an NZRU press release (September 23, 2005) does lend insight into a recent one-time ("one-off") distribution. \$20,000 was distributed to Premier Division Unions in relation to each player that was not contracted by NZRU. Since smaller-revenue unions have more of these, distributions were larger in total to those unions. Further, since unions are incorporated societies, it should be expected that the spending went to players and player development. These unions do not maximize profit and this distribution creates a sort of rebate for success for PU members of the NZRU. The other part of the distribution is driven by amateur player numbers in each area. This is meant to be directed at amateur and junior player development rather than spent on purchasing players for the A team.
63. I understand that this distribution activity is currently under review. In what follows, I assume distribution policy remains unchanged. Again, the point of the analysis is to see the impacts of the cap and removing transfer restrictions.

Division One

64. There will only be transfer fees paid for players moving from the new Division One to the new Premier Division. Further, there will still be a maximum transfer fee at the same level as currently exists for development and U-19 players, a cap of \$15,000. But this should only be binding on a few of the many players expected to be transferred. It appears nothing is changing for the new Division One and so that is excluded from the comparison of the counterfactual to the alternative.

The Counterfactual and the Alternative: Transfer Restrictions and the Cap

65. Counterfactual: No Cap and Retain Transfer Restrictions.
66. No cap simply means that larger-revenue unions would continue to exercise their greater power in the player market in order to collect the greater revenue potential in their fan market, subject to player transfer restrictions. The transfer restrictions concern both limits on the number and types of players that could move, as well as restrictions on transfer fees.
- No more than 5 new players may be acquired in a single season.
 Only one can be a current All Black.
 No more than two can be former All Black or Super 12 players.
 Maximum transfer fees are specified for different levels of player quality (experience).
67. Alternative: I am informed that the player transfer restrictions currently in effect are due to be substantially modified. In essence, all are removed in the Premier Division but they are retained for players moving from Division One to the Premier Division. This creates free agency for players in the Premier Division (Division One was handled in an earlier section). For the Premier Division, this sounds quite like the outcome of negotiations in the NFL in 1992. The players earned free agency and the league obtained a salary cap.

68. Removal of all transfer restrictions in the Premier Division essentially creates free agency for players. Previously, restriction on player numbers and transfer fees would stop some transfers to higher-valued teams. Since better players were subject to the earlier restrictions, they are now free to move. Some will move to higher-revenue teams, and the impact of those moves is to reduce balance. But there are offsets. First, some players voluntarily may not have chosen to go where they were transferred. Those players will trade off pay for other aspects of their location. Second, and much more important, since smaller-revenue market teams now will be able to spend more on talent under the cap, the removal of transfer restrictions also removes barriers for players moving to smaller-revenue teams. To the extent that any smaller-revenue union would have found transfer restrictions onerous, they no longer will and better players than they used to have now are free to move.
69. In order to assess additional implications of the cap, let's examine the cap agreement in light of the primary and secondary issues just detailed. Under the "Summary of Salary Cap Architecture," characteristics of the cap are as follows:
- The cap will be \$2 million in 2006. \$2 million + CPI in 2007 and the 2007 cap + CPI in 2008. There is no minimum spending requirement. And the cap is not tied to Premier Division revenues.
 - Specific language is included to cover "loan players."
 - Minimum salary: \$15,000 for at least 26 Provincial Union players.
 - Performance and win bonuses, paid for post-season outcomes, do not count against the cap provided they are within agreed maximums. However, all other bonuses and base salary do count against the cap.
 - If a player is paid \$7,500 or less, none of it is included in the cap. However, if a player is paid more than \$7,500 then all of the payment (including the first \$7,500) is included.
 - Notional values are specified as dollar amounts rather than percentages of NZRU contract values.
 - Veteran player discounts and All Black discounts are specified as percentages.
 - Non-financial benefits count against the cap.
 - Injured player payments do not count against the cap.
 - Audits by the NZRU are specified; financial penalties only (no penalties against match outcome points) starting at \$3 for each \$1 over the cap for a first offense and no other breaches within 5 years, \$5 where 1 other breach, \$10 where there is more than 1 other breach. There are additional fines for flagrant breaches.
70. Note that there are no discounts for Super Rugby players unless they are also All Blacks or veteran players. The Super 14 competition does not overlap with the Premier Division season so the logic goes that there is no reason why Super 14 players would not be available for the Premier Division (unless they were on All Black duty).
71. Since only the Premier Division is professional, the cap only applies to Provincial Unions with teams in the Premier Division. This cap is a pure payroll cap. It is not tied to league revenues, sets team limits on total spending, and specifies no minimum spending. The cap is essentially a flat *real* amount at \$2 million. Assuming that inflation stays at 3%, and after calculating the nominal growth rate in (base salaries) + (player bonuses) +

(player expenses) from 2001-2004 shown in the GARAP Financial Analysis, and using the net amounts after applying notional values and all discounts as shown in “Salary Cap Calculation Data” (October 15, 2005), the following teams should spend more than the cap:

- i. 2006: [Confidential:]
- ii. 2007: [Confidential:]
- iii. 2008: [Confidential:]

72. While [Confidential:] appear to be the surest bets to hit the cap from the outset, there also is a strong chance that [Confidential:] will join the group in either 2007 or 2008.

73. None of the other teams named to the Premier Division should spend more than the cap in any of the three initial cap years (and clearly none of the new Division One teams, either). So, the cap is effective in the sense that perennially successful, larger-revenue teams will have to adjust to the cap. While a few of the largest-revenue teams will be constrained by the cap, there is room for the vast majority of the Provincial Unions to increase their spending on players without coming close to the cap.

74. From the earlier presentation of pure payroll caps, the NZRU cap should have the following effects. Fan welfare will increase since the pure payroll cap enhances balance relative to the counterfactual. In addition, unambiguously, profits rise for both the larger-revenue and smaller-revenue clubs (Kesenne, 2000a). Thus, in theory, the NZRU cap will act to offset the impacts of expansion and the removal of transfer restrictions.

75. But we need to assess the particulars of the cap in light of the issues facing all caps to at least make a statement about the level of this potential offset. Let’s turn to the primary issues, the hardness of the cap and compliance. The remaining discussion views the impacts of the cap in light of expansion in the number of top-level teams and the removal of transfer restrictions for the Premier Division.

76. There are nearly no loopholes. All contract base pay, bonuses, and even non-financial benefits count against the cap. Thus, in addition to effectively hitting the highest-revenue teams, the cap appears to be essentially a hard cap that avoids the design flaws that plagued North American caps at their inception.

77. The only special circumstances concern notional values for players under NZRU contract, who also may be under Provincial Union contract, and the discounts on veterans and All Blacks. It is difficult to know how cross-payments from NZRU to particular Provincial Unions impact talent choice among unions without resorting to anecdote. Clearly, however, setting notional values as absolute amounts rather than percentages lowers the amount that counts against the cap more for larger-revenue teams relative to smaller-revenue teams. And this is valuable to larger-revenue teams in holding on to expensive players once the cap is binding. However, [Confidential:

], and

the cap will be binding on precisely those [Confidential:] teams, albeit over time for a few. So there is little reason to suspect that the impact of notional values will be much different on these few teams than they have been in the past and the cap should move more NZRU-paid players to other teams than these top five.

78. Turning to compliance, it appears that the audit process and penalties are well-specified (“Summary of Salary Cap Architecture”). Insights from Mr. Schubert’s report on the cost of salary cap administration in NRL suggest that the NZRU can devote the needed resources to enforcement. The progressive nature of the penalties is in keeping with tried and true principles of aversion; \$3 for each \$1 in violation for first offence up to \$10 for each \$1 in violation for intentional offences levies heavy penalties. A player worth \$50,000 to a Provincial Union, with a first-time cap violation of even \$10,000, falls in net value to \$20,000; the value is wiped out completely for a similar violation that recurs.
79. But it is interesting that there are only financial penalties. The decision to “cheat” on the cap will surely be made on the basis of the expected value of cheating net of the expected costs. The incentive to cheat can be reduced either by reducing the return or raising the cost. Omitting penalties against earned points in the standings reduces the expected cost and would be expected to increase cheating, all else constant. This means that the enforcement activity becomes that much more important to perform effectively. Alternatives that could be adopted later also include those used in North American leagues—future high-level transfers and suspensions for union executives privy to the violation.
80. Further, the teams just listed by year should be watched the closest for potential cap violation. After all, they are the ones actually impacted by the cap. NZRU will have a pretty good idea of which teams will find cheating to be valuable.
81. Let’s move on to the secondary cap issues (roster instability, inequality of pay distribution of teams, training impacts, and migration). Roster instability should be expected. Removing transfer restrictions should enhance mobility; it appears that free agency is proposed to be the rule in the Premier Division. In addition, I see nothing restricting deferred payments, so ultimately they will come home to roost and old favorite players, somewhat higher priced, will be released so their province can stay under the cap. If the revolving door does become common in the Premier Division, I suspect there will be pressure on the NZRU to soften the cap so teams can retain fan favorites.
82. I expect the distribution of salaries within teams to become more unequal over time. It is a fact of life in North American leagues and the same should be true in the Premier Division for the same reasons since nothing appears to be in place to stop it (like caps on individual salaries). This is especially true since nothing has changed to change the fortunes of the newest players just moving up from Division One. With transfer fees and limits still in place, clubs in the lower division will still get the bulk of the value of player moves. There will be little salary growth at the lower end of the distribution in the Premier Division. The cap alone would lead to greater pay inequality across teammates, and transfer restrictions simply anchor the bottom end in place.
83. I have not analysed any data regarding current salary disparity on the few teams where these impacts will hit over the next few years. If that disparity already is quite large (which I am told it is), then the increase I expect may well be nearly undetectable. And there surely will be plenty of room for growth in all salaries for teams that are nowhere near the cap. Nonetheless, there could be increasing pressure to raise the minimum salary due to this inequality and there may be some disharmony created among teammates.

84. I expect investment in training to follow the path detailed earlier. The NZRU pure payroll cap actually provides all players with an incentive to train harder. Players on teams below the cap see their expected earnings increase and train harder. And if the few players on teams at the cap actually did reduce training, their endorsement value and chances at Super 14 and All Black play are harmed since relatively they now look less the star. So they must train at least as hard as they did before the cap. There also still remains the incentive for teams to do more to train players and develop talent into the future.
85. I cannot conceive that talent migration out of New Zealand will increase due to any of the factors under consideration. As I understand it, currently, some talent (mostly older players like retired All Blacks) flows from New Zealand to the rugby powers in Europe and in Japan but nearly none moves from New Zealand to either Australia or South Africa. Further, even though it's in New Zealand, apparently former New Zealand rugby players do not populate the Auckland based rugby league (the New Zealand Warriors) team that plays in the Australian NRL. I should think this is because currently the expected economic welfare of players is higher staying in the NZRU. I am also told that this is due in part to the fact that rugby union and rugby league involve different types of skills that are not always transferable. In addition, talent supply is not just a profit-seeking decision, other issues arise for players such as quality of life issues (there's no place like home—food, language, family and friends) and impacts on national team participation. Further, since the cap is only on Premier Division play, where the best players earn considerable amounts in addition for Super Rugby and All Black duty, there really isn't much threat that the cap will increase migration.

Summary and Conclusions

86. NPC play was dramatically unbalanced prior to the proposed restructuring. The standard deviation of winning percents adjusted for the number of games played by each team is a typical measure of imbalance. The closer the statistic is to 1, the more balanced is the league. For round-robin play in the NPC from 2000 to 2005, this statistic ranged from 1.37 to 1.73 with an average of 1.58, so the NPC did indeed stray from “perfectly balanced” play. The NPC post-season over that period was more unbalanced than any North American league (through 2005): Auckland has won the NPC 15/30 times and between them, Auckland, Canterbury, and Wellington 24/30 times. Since this NPC has moved to a finals format in 1992, Auckland has also won the finals 8/14 times and Auckland and Canterbury combined have won 11/14.
87. Expanding the number of new teams in the new Premier Division, along with the removal of transfer restrictions, should make balance even worse. Fans of the additional four Premier teams should be happier since their teams now play at a higher absolute level of competition. But it will be a mixed blessing since the variance in regular season outcomes by restructuring with expansion will be larger, and their teams will most likely be at the bottom of that distribution. Expanding the playoffs to a quarter-final round will make playoffs more balanced, but only in a minor way.
88. The rest of my charge is to determine whether the payroll cap proposed by the NZRU and NZRPA acts as an offset that will 1) enhance balance and fan welfare, 2) enhance union survival, and 3) probably strengthen international competitive power of the NZRU Super 14 teams and the All Blacks. I do not undertake any quantification of benefits and costs since that is tasked to Mr. Copeland in a separate report. I have reviewed that report

thoroughly and find it a worthy effort based on tried and true evaluative principles. Since it is a forecast, anybody can quibble with particular assumptions. But I agree in general with the results, and the order of magnitude of the benefits and detriments that he calculates.

89. In summary, on balance considering the theoretical predictions and the actual form of the cap, taking expansion in the number of top-level teams, the expanded playoff format, and revenue distributions as given, the removal of transfer restrictions and the imposition of the NZRU pure payroll cap can be expected to produce the following results:

- The pure payroll cap, as currently agreed between the NZRU and the NZRPA, is well-designed to enhance competitive balance in the Premier Division. It can safely be predicted which teams would have spent more than the cap amount over the 2006 through 2008 period. As one would expect, these are the few largest-revenue teams, so the cap will be “effective.”
- The cap should enhance the solvency of smaller-revenue Premier Division teams relative to the former structure. While expansion would endanger solvency in and of itself, and relaxing restrictions reduces the ability of smaller-revenue clubs to hold onto top talent, the cap is a mitigating device. Keeping transfer fees on players moving up from Division One to the Premier Division should enhance the solvency of the lower division clubs.
- The cap is well-designed to avoid the loophole mistakes of the earliest versions of North American league caps. My only reservation in calling the NZRU version a “hard” cap concerns how defining notional values as dollar amounts (rather than percentages of contracts) and discounts for veterans and All Blacks favor larger-revenue Provincial Unions. But episodes involving these special cases should be few in number.
- The audit process is well-specified and, if pursued with vigor, should be effective in direct relation to the amount of energy and resources devoted to it. Penalties are increasingly severe with the recurrence of violations and of sufficient size to curb abuses. There may be a learning process in terms of appropriate penalties and it may end up that monetary fines alone may need to be increased or other types of penalties added (final points, loss of choice over incoming players, suspensions of offending executives).
- The NZRU should have an excellent idea from the outset just which teams find the cap binding in the first place.
- Roster instability should be expected to become the fact of life that it is in the NBA and NFL. This led to a “softening” of caps in both of those leagues in order to retain fan favorites and I suspect there will be growing pressure on the NZRU to do the same.
- Individual team pay structure may become more unequally distributed. The cap alone can be expected to have this effect, and the transfer restrictions on players moving up from Division One may exacerbate it. This could create hard feelings among teammates and pressure to continually increase the minimum salary. But most of this will occur on the few teams where the cap is binding.
- The NZRU pure payroll cap provides all players with an incentive to train harder. Players on teams below the cap see their expected earnings increase and train harder. The same holds for players on the larger-revenue teams. They must train at least as hard as they did before the cap in order to set themselves apart from increasingly able

other players. There also still remains the incentive for teams to do more to train players and develop talent into the future.

- Talent migration out of NZRU to other international alternatives should not increase and, if they do, not by much.

90. Relative to the counterfactual, the pure payroll cap and removal of transfer restrictions will enhance balance on net with very few mitigating circumstances. The long-term impact is to raise fan interest and spending at the Premier Division level. Since quality of play will become more valuable to more provinces, and provinces will undertake greater investment in talent over time at all levels of play, I suspect NZRU play will be strengthened top to bottom *relative to no cap and retaining current transfer restrictions*. This should also raise interest in the lower divisions as fans see better rugby at that level and anticipate watching their homegrown favorites move up the ladder toward All Black fame. It would seem likely that this will generate a stronger base for both Super 14 and the All Blacks.

References

- Andreff, W. 2005. "The Taxation of Player Moves from Developing Countries." Chapter 6 in R. Fort and J. Fizel (eds.) *International Sports Economics Comparisons* (Westport, Connecticut: Praeger Publishers).
- Booth, R. 2005. "The Economic Development of the Australian Football League." Discussion Paper #03/05, Department of Economics, Monash University, Clayton, Victoria, Australia.
- Burkitt, B., and Cameron, S. 1992. "Impact of League Restructuring on Team Sport Attendances: The Case of Rugby League." *Applied Economics* 24:265-271.
- Cairns, J.A. 1987. "Evaluating Changes in League Structure: The Reorganization of the Scottish Football League." *Applied Economics* 19:259-275.
- Canes, M.E. 1974. "The Social Benefits of Restrictions on Team Quality." Chapter 3 in R.G. Noll (ed.) *Government and the Sports Business* (Washington, D.C.: Brookings Institution).
- Dabscheck, B. 1975. "Sporting Equality: Labour Market vs. Product Market Control." *Journal of Industrial Relations* 17:174-190.
- Demmert, H.G. 1973. *The Economics of Professional Team Sports* (Lexington, Massachusetts: Lexington Books).
- Dobson, S., and Goddard, J. 2001. *The Economics of Football* (Cambridge: Cambridge University Press).
- El-Hodiri, M., and Quirk, J. 1971. "An Economic Model of a Professional Sports League." *Journal of Political Economy* 70:1302-1319.
- Fort, R. 2000. "European and North American Sports Differences (?)." *Scottish Journal of Political Economy* 47:1-25.
- Fort, R. 2001. Testimony. "Revenue Disparity and Competitive Balance in Major League Baseball." In *Baseball's Revenue Gap: Pennant for Sale? : Hearing before the Subcommittee on Antitrust, Business Rights, and Competition of the Committee on the Judiciary*, U.S. Senate, 106th Congress, 2nd Session, November 21.
- Fort, R. 2005 (forthcoming). *Sports Economics*, 2d Edition (Upper Saddle River, New Jersey: Prentice Hall).
- Fort, R. 2006 (forthcoming). "Competitive Balance in North American Professional Sports." In J. Fizel (ed.) *The Handbook of Sports Economics Research* (Armonk, New York: M.E. Sharpe, Inc.).
- Fort, R., and Quirk, J. 1995. "Cross-Subsidization, Incentives, and Outcomes in Professional Team Sports Leagues." *Journal of Economic Literature* 23:1265-1299.

- Fort, R., and Quirk, J. 1997. "Introducing a Competitive Economic Environment into Professional Sports." In W. Hendricks (ed.) *Advances in the Economics of Sports, Volume 2* (Greenwich, Connecticut: JAI Press).
- Fort, R., and Quirk, J. 2004. "Owner Objectives and Competitive Balance." *Journal of Sports Economics* 5:20-32.
- Fort, R., and Quirk, J. 2005 "Optimal Competitive Balance in North American Pro Sports Leagues." Working Paper, School of Economic Sciences, Washington State University, Pullman, Washington, USA.
- Horowitz, I. 1976. Testimony. U.S. House Select Committee on Professional Sports. *Inquiry into Professional Sports*, 94th Congress, 2d Session, part 2.
- Kahane, L., and Shmanske, S. 1997. "Team Roster Turnover and Attendance in Major League Baseball." *Applied Economics* 29:425-431.
- Kesenne, S. 1996. "League Management in Professional Team Sports with Win Maximizing Clubs." *European Journal for Sport Management* 2:14-22.
- Kesenne, S. 2000a. "The Impact of Salary Caps in Professional Team Sports." *Scottish Journal of Political Economy* 47:422-430.
- Kesenne, S. 2000b. "Revenue Sharing and Competitive Balance in Professional Team Sports." *Journal of Sports Economics* 1:56-65.
- Kesenne, S. 2004. "Competitive Balance and Revenue Sharing: When Rich Clubs Have Poor Teams." *Journal of Sports Economics* 5:206-212.
- Kesenne, S. 2005. "Revenue Sharing and Competitive Balance: Does the Invariance Proposition Hold?" *Journal of Sports Economics* 5:98-106.
- Lee, Y.H., and Fort, R. 2005. "Structural Change in Baseball's Competitive Balance: The Great Depression, Team Location, and Racial Integration." *Economic Inquiry* 43:158-169.
- Marburger, D.R. 1997. "Gate Revenue Sharing and Luxury Taxes in Professional Sports." *Contemporary Economic Policy* XV:114-123.
- Neale, W.C. 1964. "The Peculiar Economics of Professional Sports." *Quarterly Journal of Economics* 78:1-14.
- Noll, R.G. 1976. Testimony. U.S. House Select Committee on Professional Sports. *Inquiry into Professional Sports*, 94th Congress, 2d Session, part 2.
- Quirk, J., and El-Hodiri, M. 1974. "The Economic Theory of a Professional Sports League." Chapter 2 in R.G. Noll (ed.) *Government and the Sports Business* (Washington, D.C.: Brookings Institution).
- Quirk, J., and Fort, R.D. 1992. *Pay Dirt: The Business of Professional Team Sports* (Princeton, New Jersey: Princeton University Press).

Quirk, J., and Fort, R.D. 1999. *Hard Ball: The Abuse of Power in Pro Team Sports* (Princeton, New Jersey: Princeton University Press).

Ross, S.F. 1989. "Monopoly Sports Leagues." *Minnesota Law Review* 73:643-761.

Ross, S.F. 1991. "Break Up the Sports League Monopolies." Chapter 8 in P.D. Staudohar and J.A. Mangan (eds.) *The Business of Professional Sports* (Urbana, Illinois: University of Illinois Press).

Ross, S.F., and Szymanski, S. 2002. "Open Competition in League Sports." *Wisconsin Law Review*:625-656.

Rottenberg, S. 1956. "The Baseball Players' Labor Market." *Journal of Political Economy* 64:242-258.

Sloane, P.J. 1971. "The Economics of Professional Football: The Football Club As A Utility Maximiser." *Scottish Journal of Political Economy* 17:121-145.

Sloane, P.J. 1976. "Restrictions on Competition in Professional Team Sports." *Bulletin of Economic Research* 28:3-22.

Staudohar, P.D. 1998. "Salary Caps in Professional Team Sports." *Compensation and Working Conditions* Spring:3-11.

Szymanski, S. 2003. "The Economic Design of Sporting Contests." *Journal of Economic Literature* XLI:1137-1187.

Szymanski, S. 2004. "Professional Team Sports Are Only a Game: The Walrasian Fixed-Supply Conjecture Model, Contest-Nash Equilibrium, and the Invariance Principle." *Journal of Sports Economics* 5:111-126.

Vrooman, J. 1995. "A General Theory of Professional Sports Leagues." *Southern Economic Journal* 61:971-990.

Vrooman, J. 1996. "The Baseball Players' Labor Market Reconsidered." *Southern Economic Journal* 63:339-360.

CURRICULUM VITAE

Rodney Fort
 Professor of Economics
 School of Economic Sciences
 Washington State University
 Pullman, WA 99164-6210
 (509) 335-1538, Direct.

Education

B.S., Utah State University, Logan, Utah, 1978; environmental studies.

M.S., Montana State University, Bozeman, Montana, 1980; applied economics.

Thesis: "Determinants of Community Support for Rural Hospitals: Evidence from Voting on Hospital Referenda." June, 1980.

Ph.D., California Institute of Technology, Pasadena, California, 1985; social science.

Dissertation: "Theory and Practice in the Analysis of Commodity Futures Price Distributions." June, 1985.

Experience

Professor of Economics, Washington State University, Fall 1997-Present.

Associate Professor of Economics, Washington State University, Fall 1990-Spring 1997.

Research Fellow, Washington State Institute for Public Policy, The Evergreen State College, Summer 1991.

Assistant Professor of Economics, Washington State University, Fall 1984-Spring 1989.

RESEARCH**Publications Forthcoming (R=Refereed Journal) (4 entries)**

Fort, Rodney. Forthcoming. "Competitive Balance in North American Professional Sports." In John Fizek (ed.) *The Handbook of Sports Economics Research* (Armonk, N.Y.: M.E. Sharpe, Inc.). 28 manuscript pages.

Fort, Rodney. Forthcoming. "Inelastic Pricing At the Gate? A Survey." In Wladimir Andreff, Jeffrey Borland, and Stefan Szymanski (eds.) *The Handbook on the Economics of Sport* (Northampton, MA: Edward Elgar Publishing, Inc.). 14 manuscript pages.

Fort, Rodney. 2005 forthcoming. "The Golden Anniversary of 'The Baseball Players' Labor Market.'" *Journal of Sports Economics*. 6(November):1-12. (R)

Fort, Rodney. 2005 forthcoming. *Sports Economics, Second Edition* (Upper Saddle River, NJ: Prentice-Hall, Inc.). Est. 510 pages.

Fort, Rodney. Forthcoming. "Sports Leagues and the Antitrust Laws." In Victor J. Tremblay and Carol Horton Tremblay (eds.) *Industry and Firm Studies* (Armonk, N.Y.: M.E. Sharpe, Inc.) 48 manuscript pages.

Fort, Rodney. 2006 forthcoming. "The Value of Major League Baseball Ownership." *International Journal of Sport Finance* 1(February). 27 manuscript pages.

Fort, Rodney, and Lee, Young Hoon. Forthcoming. "Stationarity and Major League Baseball Attendance Analysis." *Journal of Sports Economics*. 18 manuscript pages.

Past Publications, Last Five Years and Earlier (R=Refereed Journal)

2005 (1 entry)

Lee, Young Hoon, and Fort, Rodney. 2005. "Structural Change in Baseball's Competitive Balance: The Great Depression, Team Location, and Racial Integration." *Economic Inquiry* 43(January):158-169. (R)

2004 (11 entries)

Fizel, John, and Fort, Rodney (eds.). 2004. *Economics of College Sports* (Westport, CT: Praeger Publishers). 262 pages.

Fort, Rodney. 2004. "Dueling Answers? No, Different Questions." *Street & Smith's Sports Business Journal*, December 20, 2004, p. 26. (Online version; last access 12/22/04: <http://www.sportsbusinessjournal.com/index.cfm?fuseaction=article.main&articleId=42745&requestTimeout=900>)

Fort, Rodney. 2004. "Economics of College Sports: An Overview." In John Fizel and Rodney Fort (eds.) *Economics of College Sports* (Westport, CT: Praeger Publishers), pp. 3-8.

Fort, Rodney. 2004. "Inelastic Sports Pricing." *Managerial and Decision Economics* 25(March):87-94. (R)

Fort, Rodney. 2004. "Subsidies As Incentive Mechanisms in Sports." *Managerial and Decision Economics* 25(March):95-102. (R)

Fort, Rodney. 2004. "Toto Salarial no Futebol." (Salary Caps and Soccer). *Esportebizz*, April, 2004. (Online version; last access on 6/17/04: http://www.esportebizz.com.br/esporte_bizz/index.asp) (Portugese)

Fort, Rodney, and Fizel, John (eds.). 2004. *International Sports Economics Comparisons* (Westport, CT: Praeger Publishers). 383 pages.

Reprint: Fort, Rodney, and Quirk, James. 1999. "The College Football Industry." In John Fizel, Elizabeth Gustafson and Lawrence Hadley (eds.) *Sports Economics: Current Research* (Westport,

CT: Praeger Publishers), pp. 11-23. In Scott R. Rosner and Kenneth L. Shropshire (eds.) *The Business of Sports* (Boston, MA: Jones and Bartlett Publishers).

Fort, Rodney, and Quirk, James. 2004. "Owner Objectives and Competitive Balance." *Journal of Sports Economics* 5(No. 1 February):30-42. (R)

Reprint (and excerpt): Quirk, James, and Fort, Rodney. 2004. *Hardball: The Abuse of Power in Pro Team Sports* (Princeton, NJ: Princeton University Press), pp. 96-115. In Scott R. Rosner and Kenneth L. Shropshire (eds.) *The Business of Sports* (Boston, MA: Jones and Bartlett Publishers). (. 7 pages.

Reprint: Quirk, James, and Fort, Rodney D. 2004. *Pay Dirt: The Business of Professional Team Sports* (Princeton, NJ: Princeton University Press), pp. 213-225, 238-239. In Scott R. Rosner and Kenneth L. Shropshire (eds.) *The Business of Sports* (Boston, MA: Jones and Bartlett Publishers).

Winfrey, Jason A.; McCluskey, Jill J.; Mittelhammer, Ron C.; Fort, Rodney. 2004. "Location and Attendance in Major League Baseball." *Applied Economics* 36(September): 2117-2124.

2003 (5 entries)

Fort, Rodney. 2003. "The Economics of Football by Stephen Dobson and John Goddard." *Review of Industrial Organization* 22:175-177.

Fort, Rodney. 2003. *Sports Economics* (Upper Saddle River, NJ: Prentice-Hall, Inc.). 484 pages.

Fort, Rodney. 2003. "Sports Stadium Subsidies Strike Out." *The Free Lance-Star*, March 2, 2003, pp. D1, D3, Fredericksburg, VA.

Fort, Rodney. 2003. "Thinking (Some More) about Competitive Balance." *Journal of Sports Economics* 4(No.4 November):280-283. (R)

Fort, Rodney, and Maxcy, Joel. 2003. "Comment: 'Competitive Balance in Sports Leagues: An Introduction.'" *Journal of Sports Economics* 4(No. 2 May 2003):154-160. (R)

2002 (4 entries)

Fort, Rodney. 2002. "The American Sports Experience." In Jörg Heydel and Heinz-Dieter Horch (eds.) *Finanzierung des Sports: Beiträge des 2. Kölner Sportökonomie-Kongresses*, Edition Sportökonomie & Sportmanagement Band-Nr. 2 (Aachen, Germany: Meyer & Meyer Verlag), pp. 10-19.

Fort, Rodney. 2002. "Fair Ball- A Fan's Case for Baseball by Bob Costas: A Book Review." *Journal of Sports Economics* 3(February):97-99.

Krautmann, Anthony C.; Maxcy, Joel G.; and Fort, Rodney D. 2002. "The Effectiveness of Incentive Mechanisms in Major League Baseball." *Journal of Sports Economics* 3(No. 3 August):246-255. (R)

Utt, Joshua, and Fort, Rodney. 2002. "Pitfalls to Measuring Competitive Balance with Gini Coefficients." *Journal of Sports Economics* 3(No. 4 November):367-373. (R)

2001 (3 entries)

Reprint: Fort, Rodney, and Quirk, James. 1995. "Cross-Subsidization, Incentives, and Outcomes in Professional Team Sports Leagues," with James Quirk, *Journal of Economic Literature* XXXIII(September):1265-1299. In: Andrew Zimbalist (ed.). *The International Library of Critical Writings in Economics: The Economics of Sport* (Northampton, MA: Edward Elgar Publishing, Inc.).

Fort, Rodney, and Maxcy, Joel. 2001. "The Demise of African American Baseball Leagues: A Rival League Explanation." *Journal of Sports Economics* 2(No.1 February):35-49. (R)

Fort, Rodney. 2001. "Revenue Disparity and Competitive Balance in Major League Baseball." In *Baseball's revenue gap : pennant for sale? : Hearing before the Subcommittee on Antitrust, Business Rights, and Competition of the Committee on the Judiciary, United States Senate, 106th Congress, 2nd Session, November 21, 2000*. 2001, pp. 42-52.

Earlier (Chronological, then Alphabetical) (51 entries)

Fort, Rodney. 2000. "Antitrust in Pro Sports." In Paul D. Staudohar (ed.) *Diamond Mines: Baseball and Labor* (Syracuse, NY: Syracuse University Press). 13 pages.

Fort, Rodney. 2000. "European and North American Sports Differences (?)" *Scottish Journal of Political Economy* 47(September):1-25. (R)

Fort, Rodney. 2000. "Market Power in Pro Sports." In William Kern (ed.) *The Economics of Sports* (Kalamazoo, MI: W.E. Upjohn Institute for Employment Research). 13 pages.

Fort, Rodney. 2000. "Stadiums and Public and Private Interests in Seattle." *Marquette Sports Law Journal* 10(Spring):311-334. (R)

Fort, Rodney, and Gill, Andrew. 2000. "Race and Ethnicity Assessment in Baseball Card Markets." *Journal of Sports Economics* 1(No.1 February):21-38. (R)

Fort, Rodney. 1999. "Stadium Votes, Market Power, and Politics." *University of Toledo Law Review* 30(No. 3: Spring):419-441. (R)

Fort, Rodney. 1999. "The U.S. Pro Sports Scene." In Stephan Kesenne and Claude Jeanrenaud (eds.) *Competition Policy in Professional Sport: Europe after the Bosman Case* (Antwerp: Standaard Uitgeverij). 15 pages.

Fort, Rodney, and Quirk, James. 1999. "The College Football Industry." In John Fizel, Elizabeth Gustafson and Lawrence Hadley (eds.) *Sports Economics: Current Research* (Westport, CT: Praeger Publishers) 16 pages.

- Fort, Rodney, and Rosenman, Robert. 1999. "Streak Management." In John Fizel, Elizabeth Gustafson and Lawrence Hadley (eds.) *Sports Economics: Current Research* (Westport, CT: Praeger Publishers). 17 pages.
- Quirk, James, and Fort, Rodney D. 1999. *Hard Ball: The Uses and Abuses of Market Power in Professional Sports* (Princeton, NJ: Princeton University Press). 233 pages.
- Fort, Rodney, and Bunn, Douglas. 1998. "Whether One Votes and How One Votes." *Public Choice*, 95:51-62. (R)
- Fort, Rodney, and Rosenman, Robert. 1998. "Winning and Managing for Streaks in Baseball." *American Statistical Association, 1998 Proceedings of the Section on Statistics in Sports* (Alexandria, VA: American Statistical Association). 5 pages.
- Fort, Rodney. 1997. "Direct Democracy and the Stadium Mess." In Roger G. Noll and Andrew Zimbalist (eds.) *Sports, Jobs, and Taxes: The Economic Impact of Sports Teams and Stadiums* (Washington, D.C.: The Brookings Institution). 33 pages.
- Fort, Rodney. 1997. "The Market Structure of Sports by Gerald Scully: A Book Review." *Annals of the American Academy of Political and Social Science* 550(March):198.
- Fort, Rodney. 1997. "The Stadium Mess." In Daniel Marburger (ed.) *Stee-rike Four: What's Wrong With The Business of Baseball* (Westport, CT: Greenwood Publishing Group, Inc.). 9 pages.
- Fort, Rodney, and Quirk, James. 1997. "Introducing a Competitive Economic Environment into Professional Sports." In Wallace Hendricks (ed.) *Advances in the Economics of Sports, Volume 2* (Greenwich, CT: JAI Press). 25 pages.
- Soft Cover Edition: Quirk, James, and Fort, Rodney D. 1997. *Pay Dirt: The Business of Professional Team Sports* (Princeton, NJ: Princeton University Press). 538 pages.
- Cardell, Scott; Fort, Rodney; Joerding, Wayne; Inaba, Fred; Lamoreaux, David; Rosenman, Robert; Stromsdorfer, Ernst W.; Bartlett, Robin. 1996. "Laboratory-Based Experimental and Demonstration Initiatives in Teaching Undergraduate Economics." *American Economic Review Papers and Proceedings* 86(May):454-459. (R)
- Fort, Rodney, and Quirk, James. 1996. "Over-stated Exploitation: Monopsony versus Revenue Sharing in Sports Leagues." In John Fizel, Elizabeth Gustafson and Lawrence Hadley (eds.) *Baseball Economics: Current Issues* (Westport, CT: Praeger Publishers). 17 pages.
- Fort, Rodney. 1995. "A Recursive Treatment of the Hurdles to Voting." *Public Choice* 85: 45-69. (R)
- Fort, Rodney, and Quirk, James. 1995. "Cross-Subsidization, Incentives, and Outcomes in Professional Team Sports Leagues." *Journal of Economic Literature* XXXIII(September):1265-1299. (R) [Reprinted: Andrew Zimbalist (ed.). 2001. *The International Library of Critical Writings in Economics: The Economics of Sport* (Northampton, MA: Edward Elgar Publishing, Inc.).]

- Fort, Rodney, and Rosenman, Robert. 1995. "Rethinking the Value of Lost Health." *Journal of Legal Economics* 5(Spring/Summer):63-73. (R)
- Stegner, Tesa, and Fort, Rodney. 1995. "Congressional Dominance (?) in the Policy Process: The Case of the U.S. Forest Service." *Social Science Quarterly* 76(December):839-852. (R)
- Fort, Rodney. 1994. "The Decline of Nuclear Power in the United States: Inherent v. Economic Anti-Nuclear Sentiment." In Thomas Lowinger and George Hinman (eds.), *Nuclear Power at the Crossroads: Challenges and Prospects for the Twenty-First Century* (Boulder, CO: International Research Center for Energy and Economic Development). 15 pages.
- Fort, Rodney, and Hallagan, William. 1994. "Nuclear Power in the United States and Japan: Economic versus Political Explanations." In Thomas Lowinger and George Hinman (eds.), *Nuclear Power at the Crossroads: Challenges and Prospects for the Twenty-First Century* (Boulder, CO: International Research Center for Energy and Economic Development). 27 pages.
- Fort, Rodney; Rosenman, Robert; and Budd, William. 1994. "The Facilitation of Nuclear Siting: Compensation Lessons from Japan." In Thomas Lowinger and George Hinman (eds.), *Nuclear Power at the Crossroads: Challenges and Prospects for the Twenty-First Century* (Boulder, CO: International Research Center for Energy and Economic Development). 31 pages.
- Fort, Rodney. 1993. "Do Greedy Owners, Greedy Players Threaten The Future of Baseball?" *HillTopics*, April-June, p. 7, Washington State University, Pullman, WA.
- Fort, Rodney. 1993. "Host Community Benefits." In William Eblen and Ruth Eblen (eds.) *The Encyclopedia of the Environment* (Boston, MA: Houghton Mifflin Co.). 4 pages.
- Fort, Rodney; Hallagan, William; Morong, Cyril; and Stegner, Tesa. 1993. "The Ideological Component of Senate Voting: Different Principles or Different Principals?" *Public Choice* 76:39-57. (R)
- Fort, Rodney, and Rosenman, Robert. 1993. "Another Look at the Study of Regulatory Forms and Outcomes." *Journal of Economic Education* 24(Winter):39-52. (R)
- Fort, Rodney; Rosenman, Robert; and Budd, William. 1993. "Prospect Costs and NIMBY." *Journal of Environmental Management* 38:185-200. (R)
- Fort, Rodney, and Scarlett, Lynn. 1993. "Too Little Too Late? Host-Community Benefits and Siting Solid Waste Facilities." Policy Study No. 157, The Reason Foundation, Santa Monica, California, April. 34 pages.
- Fort, Rodney. 1992. "Commodity Futures." In Peter Newman, Murray Milgate, and John Eatwell (eds.) *The New Palgrave Dictionary of Money and Finance* (London: The Macmillan Press Ltd.). 4 pages.
- Fort, Rodney. 1992. "A Pay and Performance Omnibus: Is the Field of Dreams Barren?" In Paul Sommers (ed.), *Diamonds are Forever: The Business of Baseball* (Washington, D.C.: The Brookings Institution). 27 pages.

Quirk, James, and Fort, Rodney D. 1992. *Pay Dirt: The Business of Professional Team Sports* (Princeton, NJ: Princeton University Press). 538 pages. [Soft cover Edition, 1997. 538 pages.]

Rosenman, Robert, and Fort, Rodney. 1992. "The Correct Value of Social Security Contributions in Personal Injury and Wrongful Death Settlements." *Journal of Forensic Economics* 5(Spring/Summer):149-158. (R)

Budd, William; Fort, Rodney; Rosenman, Robert. 1990. "Risk Externalities, Compensation, and Nuclear Siting in Japan." *The Environmental Professional* 12(October):208-213. (R)

Fort, Rodney; Hinman, George; Rosenman, Robert; Wandschneider, Philip. 1990. "Radon: Residential Attitudes toward the Risk." *Proceedings of the 1990 Summer Study on Energy Efficiency in Buildings* (August 26-September 1), American Council for an Energy Efficient Economy. 9 pages. (R)

Rosenman, Robert, and Fort, Rodney. 1990. "Hospital Planners Aren't Asking Right Questions." *Daily News*, March 24, pp. 1C, 3C, Pullman, WA.

Fort, Rodney; Hallagan, William; and Rosenman, Robert. 1989. "Market Power, Cost-Shifting, and the Provision of Medical Services in Spokane, Washington." *Proceedings of the 23rd Annual Pacific Northwest Regional Economic Conference*. 9 pages.

Fort, Rodney; Rosenman, Robert; and Budd, William. 1989. "Real Cost of Hazardous Waste is Viewed." *The Outlook*, September 6, pp. 2, 4. Othello, WA.

Fort, Rodney. 1988. "The Median Voter, Setters, and Nonrepeated Construction Bond Issues." *Public Choice* 56: 213-231. (R)

Fort, Rodney, and Quirk, James. 1988. "Normal Backwardation and the Inventory Effect." *Journal of Political Economy* 96(February): 81-99. (R)

Rosenman, Robert; Fort, Rodney; and Budd, William. 1988. "Evaluating Some 'Hidden' Costs of a High Level Nuclear Waste Repository." *AERE Newsletter* 8(June): 5-7.

Rosenman, Robert, Fort, Rodney; and Budd, William. 1988. "Perceptions, Fear and Economic Loss: An Application of Prospect Theory to Environmental Decision Making." *Policy Sciences* 21:327-350. (R)

Fort, Rodney, and Hallagan, William. 1987. "Who Bids the Most for Market Power?" *Economic Inquiry* 25(October): 671-680. (R)

Fort, Rodney, and Baden, John. 1981. "The Federal Treasury as a Common Pool Resource and the Development of a Predatory Bureaucracy." In John Baden and Richard Stroup (eds.), *Bureaucracy vs. Environment, The Environmental Costs of Bureaucratic Governance* (Ann Arbor: The University of Michigan Press). 14 pages.

Fort, Rodney, and Christianson, John B. 1981. "Determinants of Public Service Provision in Rural Communities: Evidence from Voting on Hospital Referenda." *American Journal of Agricultural Economics* 6(May): 228-236. (R)

Baden, John, and Fort, Rodney. 1980. "The Federal Budget as a Common Pool Resource: The Development of a Predatory Bureaucracy." In John Baden (ed.), *Earth Day Reconsidered* (Washington, D.C.: The Heritage Foundation). 11 pages.

Baden, John, and Fort, Rodney. 1980. "Natural Resources and Bureaucratic Predators." *Policy Review* (Winter): 69-81. (R)

Baden, John; Simmons, Randy; and Fort, Rodney. 1980. "Environmentalists and Self-Interest: How Pure Are Those Who Desire the Pristine?" In John Baden (ed.), *Earth Day Reconsidered* (Washington, D.C.: The Heritage Foundation). 17 pages.

Work in Progress

Rodney Fort, "Self-Regulation in Pro Sports Leagues: Failure and Policy Ambiguity." Working Paper, School of Economic Sciences, Washington State University.

Rodney Fort and Young Hoon Lee, "Time Series Behavior of MLB Attendance: Structural Change and The Uncertainty of Outcome Hypothesis." Working Paper, School of Economic Sciences, Washington State University.

Rodney Fort, Young Hoon Lee, and David Berri, "Race, Technical Efficiency and Firing: The Case of NBA Coaches." Working Paper, School of Economic Sciences, Washington State University.

Rodney Fort and James Quirk, "Optimal Competitive Balance In North American Pro Sports Leagues." Working Paper, School of Economic Sciences, Washington State University.

Jason Winfree and Rodney Fort, "Cross Elasticity, Cross-Over Fans, and the Decision to Lock Out Players." Working Paper, School of Economics Sciences, Washington State University.

Jason Winfree, Jill McCluskey, and Rodney Fort, "Transactions Cost Variation and Vertical Integration: Major League Baseball's Minor League Affiliates." Working Paper, School of Economic Sciences, Washington State University.

Invited Panelist/Conference Participant

"Face Off: 2004 Hockey Negotiations." Canadian Broadcasting Corporation, Hockey Night in Canada, Hosted by Ron MacLean. 90 minute Canada/U.S. broadcast from the NHL All-Star Game in St. Paul, MN, February 7, 2004.

"Competitive Balance." Directed by Allen Sanderson and John Siegfried, Baseball Economics Conference. Vanderbilt University College of Arts and Science, Vanderbilt University Law School and the Owen Graduate School of Management, February 21, 2003.

"Protecting Our Pastimes: The New Reality of Sport." Directed by Michael Leeds, Third Annual Economics of Sports Conference, The Fox School of Business and Management, Temple University, February 27, 2002.

"Revenue Sharing in Baseball." Directed by Steven Smith, The Economics of Baseball Forum, The Weidenbaum Center, Washington University, St. Louis, Missouri, May 29, 2001.

"Cash and Competition: The Economics of Sport," Directed by Sherman Teichman, Education for Public Inquiry and International Citizenship (EPIIC), Tufts University, Medford, Massachusetts, February 9-13, 2000.

"Revenue Disparity and Competitive Balance in Major League Baseball." *At Baseball's revenue gap : pennant for sale? : Hearing before the Subcommittee on Antitrust, Business Rights, and Competition of the Committee on the Judiciary*, United States Senate, 106th Congress, 2nd Session, November 21, 2000.

"Market Power in Pro Sports and What To Do About It," Directed by Carl Close, The Independent Institute, Oakland, California, March 7, 2000.

"Winning and Managing for Streaks," Directed by James Albert (Bowling Green University), National Meetings of the American Statistical Society, Dallas, Texas, 1998.

"Player Market Regulation in Professional Team Sports," Directed by Claude Jeanrenaud, Stefan Kesenne, and Marc A. Stritt, International Center for Sports Studies, Neuchatel, Switzerland, October 17-18, 1997.

"The Economics of Public Stadiums," Directed by Roger Noll (Stanford University), The Brookings Institution, Washington, D.C., October 7-8, 1996.

"Player-Management Relations in Professional Team Sports," Directed by Al Finegan (Vanderbilt University), National Meetings of the Southern Economic Association, New Orleans, Louisiana, 1995.

"Diamonds Are Forever: The Business of Baseball," Directed by Paul Sommers (Middlebury College), Thirteenth Annual Middlebury College Conference on Economic Issues, Middlebury, Vermont, 1991.

Invited Presentations

"The NHL Lockout: Why the Owners Are Winning Big." Program in Sport Management, San Diego State University, San Diego, California, August 1, 2005.

"The Value of MLB Ownership." Olympia Economists Club, Olympia, Washington, December 9, 2004.

"The Value of MLB Ownership." Seattle Economists Club, Seattle, Washington, December 9, 2004.

"Talent Choice in U.S. Pro Sports Leagues: A Rottenberg-Coase Perspective." Sport Management Group, University of Michigan, November, 2004.

"Talent Choice in U.S. Pro Sports Leagues: A Rottenberg-Coase Perspective." Department of Economics, Texas Christian University, March, 2004.

"Lessons from the U.S. Sports Experience." Brazilian Sports and Marketing Conference, Rio De Janeiro, November, 2003.

"Contraction and Competitive Balance in Major League Baseball." Keynote at the Third Annual Economics of Sports Conference (Protecting Our Pastimes: The New Reality of Sport), at The Fox School of Business and Management, Temple University, February 27, 2002.

"The North American Pro Sports Experience: A Preview for Europe?" Keynote at the Second Sports Economics Congress (Financing Sport), at the Institute for Sports Economics and Business and Sports Management, The German Sports Academy, Cologne, Germany, November 30, 2000.

"The Competitive Position of WSU Athletics," Tri-Cities Rotary Club, Pasco, Washington, November 8, 2000.

"Sports Teams and Sports Policy: The Winning Percent Maximizing League," presented at the Economics Department, University of Antwerp, Belgium, December 1, 2000.

"The Pro Sports Culprit- Market Power and What Can Be Done About It?" Directed by Collin Tong, WSU West, Emerald City Rotary Club at the Washington Athletic Club, Seattle, Washington, March 28, 2000.

"The Pro Sports Culprit- Market Power and What Can Be Done About It?" Directed by Collin Tong, WSU West, Faculty Fireside at the Bellevue Athletics Club, Bellevue, Washington, March 28, 2000.

"The Inverse Relationship between Subsidies and Pricing Choices by Sports Teams," presented at the Department of Economics, Clemson University, Clemson, South Carolina, 1999.

"Pro Sports Problems: Causes and Solutions," presented at Western Michigan University, 35th Annual Economics Lecture, Kalamazoo, Michigan, 1998.

"The History of the Kingdome and the Stadium Mess," presented at the Washington State Historical Society, First Hill Lecture, Tacoma, Washington, 1997.

"Benefit-Cost Analysis and Adult Sex Offender Sentencing Alternatives," presented at the Washington State Institute for Public Policy forum, Research Findings from the Community Protection Research Project: The First Year, Seattle, Washington, 1991.

"Referendum Voting and the Determinants of Support for Nuclear Power in the United States," presented at the Department of Economics, University of California, Irvine, 1989.

"Referendum Voting and the Determinants of Support for Nuclear Power in the United States," presented at Department of Political Science, University of California, San Diego, 1989.

"A Simple Model of Representative Bureaucracy's Public Provision Choices," presented at the Department of Agricultural Economics and Economics, Montana State University, 1988.

"Lessons from a More Complete Morphology of Regulation," presented at the national meetings of the American Political Science Association, Chicago, Illinois, 1987.

"Theories of Regulation and the U.S. Forest Service," presented at the Regulation and Public Policy Workshop, School of Business, Stanford University, 1985.

Other Presentations

"Structural Change, Competitive Balance, and the Rest of the Major Leagues," presented at the national meetings of the Western Economic Association, San Francisco, CA, 2005.

"The Value of Major League Baseball Ownership," presented at the national meetings of the Western Economic Association, San Francisco, CA, 2005.

"The Optimal Level of Competitive Balance in U.S. Pro Sports Leagues," presented at the national meetings of the Western Economic Association, Vancouver, BC, 2004.

"Time Series Behavior of MLB Attendance: Structural Change and The Uncertainty of Outcome Hypothesis," presented at the national meetings of the Western Economic Association, Vancouver, BC, 2004.

"A Rottenberg/Coase Examination of Sports Policy Prescriptions," presented at the national meetings of the Western Economic Association, Denver, CO, 2003.

"Time Series Analysis of Structural Change: Competitive Balance in Major League Baseball," presented at the national meetings of the Western Economic Association, Seattle, WA, 2002.

"Vertical Integration in Major League Baseball," presented at the national meetings of the Western Economic Association, Seattle, WA, 2002.

"Attendance and Uncertainty of Outcome in Major League Baseball," presented at the national meetings of the Western Economic Association, San Francisco, CA, 2001.

"Punitive Sports Subsidies," presented at the national meetings of the Western Economic Association, San Francisco, CA, 2001.

"Revenues, Payrolls and Competitive Balance in Major League Baseball," presented at the national meetings of the Western Economic Association, San Francisco, CA, 2001.

"The Demise of African-American Baseball Leagues," presented at the national meetings of the Western Economic Association, Vancouver, BC, 2000.

"Punitive Subsidies," presented at the national meetings of the Western Economic Association, Vancouver, BC, 2000.

"Profit Maximization with Marginal Revenue Less Than Zero," presented at the national meetings of the Western Economic Association, San Diego, California, 1999.

"Last Period Problems in Sports," presented at the national meetings of the Western Economic Association, Lake Tahoe, Nevada, 1998.

"Race Assessment in Memorabilia Markets," presented at the national meetings of the Western Economic Association, Lake Tahoe, Nevada, 1998.

"The College Football Industry," presented at the national meetings of the Western Economics Association, Seattle, Washington, 1997.

"Introducing a Competitive Environment into Professional Sports," presented at the national meetings of the Western Economics Association, San Francisco, California, 1996.

"Profit Maximization with Marginal Revenue Less Than Zero," presented at the national meetings of the Western Economics Association, San Francisco, California, 1996.

"Monopsony versus Revenue Sharing in Sports Leagues," presented at the national meetings of the Western Economics Association, San Diego, California, 1995.

"Race in Economics: Perceptions and Measurement," presented at the national meetings of the Western Economics Association, San Diego, California, 1995.

"Voting Against Nuclear Power," presented at the national meetings of the Western Economics Association, San Diego, California, 1995.

"A Voting Analysis of Anti-Nuclear Sentiment," presented at the national meetings of the Public Choice Society, New Orleans, Louisiana, 1992.

"You've Always Got Choices, But. . . : Public Provision Efficiency and Firm Self-Selection," presented at the national meetings of the Western Economic Association, Seattle, Washington, 1991.

"Participation Hurdles and the Analysis of Nuclear Power Referenda," presented at the national meetings of the Western Economic Association, Seattle, Washington, 1991.

"As Easy as Rolling Off A Log: A Recursive Treatment of the Hurdles to Voting," presented at the national meetings of the Public Choice Society, New Orleans, Louisiana, 1991.

"Prospect Costs and NIMBY," presented at the national meetings of the Western Economics Association, San Diego, California, 1990.

"Alarms, Oversight, and the Structure of Bureaucracy," presented at the national meetings of the Public Choice Society, Tucson, Arizona, 1990.

"Are Senators Principled Agents?" presented at the national meetings of the Public Choice Society, Tucson, Arizona, 1990.

"Theories of Regulation and the U.S. Forest Service," presented at the national meetings of the Public Choice Society, Orlando, Florida, 1989.

"Referendum Voting and the Determinants of Support for Nuclear Power in the United States," presented at the national meetings of the Public Choice Society, Orlando, Florida, 1989.

"The Ideological Component of Senate Voting: Different Principles or Different Principals?" presented at the national meetings of the Public Choice Society, Orlando, Florida, 1989.

"Referendum Voting and the Determinants of Support for Nuclear Power in the United States," presented at the and the national meetings of the Association for Public Policy Analysis and Management, Seattle, Washington, 1988.

"Theories of Regulation and the U.S. Forest Service," presented at the national meetings of the Public Choice Society, San Francisco, California, 1988.

"A Simple Model of Representative Bureaucracy's Public Provision Choices," presented at the national meetings of the Public Choice Society, Tucson, Arizona, 1987.

"Pay and Performance in Professional Baseball: Modeling Expansion," presented at the Southwest Social Science Association Meetings, Houston, Texas, 1983.

"Hospital Provision by Referenda," presented at the national meetings of the Public Choice Society, San Francisco, California, 1980.

Editorial Boards/Refereeing

Boards

Eastern Economic Journal.

International Journal of Sport Finance.

Journal of Sports Economics.

Refereeing

American Economic Review.

Contemporary Economic Policy.

Eastern Economic Journal.

Economic Inquiry.

Economic Journal.

Environmental Professional.

European Economic Review.

European Sport Management Quarterly.

Industrial & Labor Relations Review.

International Journal of Industrial Organization.

Journal of Economic Education.

Journal of Economics and Business.

Journal of Law & Economics.

Journal of Law, Economics, and Organization.

Journal of Policy Analysis and Management.

Journal of Sports Economics.

Managerial and Decision Economics.

National Science Foundation.

New Zealand Economic Papers.

Policy Sciences.

Public Choice.

Public Finance Quarterly.

RAND Journal of Economics.

Review of Economics and Statistics.

Review of Industrial Organization.

Scottish Journal of Political Economy.

Social Science Quarterly.
 Social Sciences and Humanities Research Council of Canada.
Southern Economic Journal.
Sport Management Review.

Other Research Activities

Vice President, International Association of Sports Economists, Limoges, France. Summer 2002-present.

Board of Associates, International Institute for the Study of Sports Management (IISSM), University of Alberta, Edmonton, Alberta, Canada. Fall 2002-present.

Research Fellow, Washington Institute for Public Policy Studies, Evergreen State College, Olympia, Washington, Summer 1991.

Research Associate, Center for the Study of Futures Markets, Columbia University (New York), 1984-1986.

TEACHING

Areas/Courses

General Area (Undergraduate): Microeconomics.

Microeconomics Principles (Economics 101).
 Microeconomics Principles- Virtual (Economics101V).
 Honors Economics (Economics 198).
 Theory of The Firm and Market Policy (Economics 301).

Specialty Areas (Undergraduate): Sports; Regulation.

Sports in America (Economics 330).
 Labor Economics (Economics 350).
 Business and Government (Economics 360).
 Industrial Organization and Market Power (Economics 460).
 Economics Capstone for Majors (Economics 490).

Specialty Area (Graduate): Regulation.

Seminar in Labor Economics (Economics 552).
 Managerial Economics for Decision Making (Economics 592).
 Seminar in Industrial Organization and Regulation (Economics 560).

SPECIAL RECOGNITION

Honors

Society for American Baseball Research, nomination for the Seymour Medal, *Hardball: The Abuse of Power in Pro Team Sports*, 2000.

35th Annual Economics Seminar Series Lecture, Department of Economics, Western Michigan University, 1998.

First Annual Curtiss Hill Lecture, Washington State Historical Society, 1997.

Princeton University Press, nomination to the Pulitzer Prize Committee, *Pay Dirt: The Business of Professional Team Sports*, 1992.

Eleventh Annual Invited Honors Lecture, Washington State University Honors Program, 1990.

Awards

Pacific Northwest Bell Distinguished Faculty Award, Pacific Northwest Bell, 1988.

Shell Undergraduate Teaching Excellence Award, Shell Companies Foundation, Inc., 1985.

Schedule I: Ian Schubert Statement

This Schedule includes:

- a) Ian Schubert's Statement;
- b) The NRL Regulations (as attached to Ian Schubert's Statement); and
- c) An NRL press release dated 31 August 2005 in relation to the 2005 NRL season.



National Rugby League Limited
The Entertainment Quarter
Lang Road, Moore Park NSW 1363
Postal Address:
GPO Box 3498 Sydney NSW 2001
ABN 23 082 088 962
Internet: www.nrl.com
Telephone: (02) 9339 8574
Facsimile: (02) 9339 8510

11th October 2005

Geoff Thorn
Commerce Commission
PO Box 2351
Wellington
New Zealand

Dear Geoff

1 Introduction

I have prepared this letter at the request of the New Zealand Rugby Union (the "NZRU") in relation to the NZRU's application for authorisation to the Commerce Commission for the Competition Management Regulations, including the Salary Cap.

Please do not hesitate to contact me if you have any further questions about the National Rugby League ("NRL") experience or the impact the Salary Cap has had on the NRL.

2 Background and Experience

I have been involved with the Salary Cap since the inception of the NRL in 1998 and was involved in drafting the NRL Rules. The Salary Cap was published by the NRL in 1998 and was fully enforced by the NRL since 1999. Since 1999 I have been the Director of Registration and Salary Cap Auditor with the NRL.

I also bring the following experience to the position:

- Qualified School Teacher.
- Qualified Accountant.
- 15 year player in the Australian Rugby League Competitions (1975 – 1989).
- Australian representative in 1975, 1978 and 1982.
- 16 years administration experience at, 3 different ARL Clubs ; Wests, Canterbury and the Roosters, and now the NRL for the past 8 years.

3 The NRL Salary Cap

[Confidential:

].

The present Salary Cap was introduced into the NRL in 1998, however, there were substantial allowances to take account of the previously high Super League salaries (for example, any salary over \$300,000 was valued at \$300,000 even though some were as high as \$600,000). As these players renewed their contracts, they were calculated in the Club's Cap at actual figures.

Any new regulations introduced by the governing body normally take time to impact in the desired manner. The full impact of a strictly enforced Salary Cap was not expected to impact immediately or to any preconceived level although, a gradual impact was experienced with a further noticeable impact in 2004 and 2005. The attached table shows the gross figures paid to the Top 25 players at the 5 highest spending Clubs in 1999 and again in 2001 when the notional salaries had rationalised to become actual payments – In 1999, 4 of the top 5 spending Clubs finished 1-4 on the competition table. In 2001 only 1 of the top 5 spenders finished in the top 4 on the competition table.

1999 Club	Gross \$'s Top 25	2001 Club (not the same as 1999)	Gross \$'s Top 25
A	\$6,404,562	A	\$4,890,875
B	\$5,654,458	B	\$4,633,109
C	\$5,376,022	C	\$4,485,155
D	\$5,299,000	D	\$4,394,039
E	\$5,286,367	E	\$4,220,596

Moving in to 1999, the Clubs had to comply with the Cap which was at that time set at \$3.25 million per Club. The Cap covers the 25 highest paid players at each Club. The NRL Cap covers the playing fee, all benefits (accommodation, travel, motor vehicles etc) and win bonuses and appearance fees are also included on the basis of particular calculation formulas. The exclusions include tertiary education, approved traineeships, medical insurance costs, relocation and temporary accommodation costs. In addition, there is the Sponsor Servicing Allowance and the Long Serving Player or Veteran's Allowance. There is a substantial set of Rules supporting the operation and enforcement of the Cap which are attached to this letter.

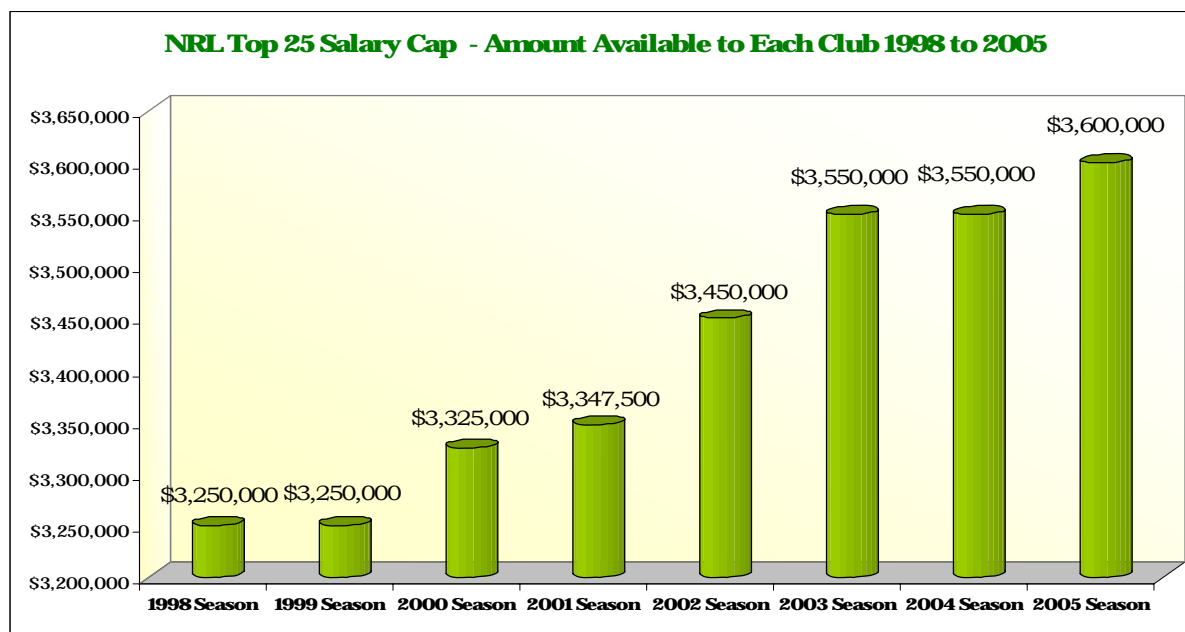
In 2000 the NRL provided guidelines for breaches of the Salary Cap including fines and the loss of competition points for breaches from 2001 and beyond. In 2002 the Sponsor Servicing Allowance was introduced which related to an

allowance introduced to allow players to receive remuneration for providing their services to sponsors for leveraging their sponsorship of the Club. As a control measure, Clubs would not simply pass on sponsor money, but they could seek approval to spend up to 20% of new sponsor money over a pre-determined base level (based on their 2001 levels) where those sponsorships were over \$50k. This lifted the effective Salary Cap from \$3.25m of 1999 with gradual increases in allowances in 2000 and 2001 to reach a total available spend of \$3.45 million in 2002. This provided Clubs with a legitimate reason to drive sponsorship revenues and increase profitability enabling further payments to players from profit rather than just increasing payments from the same levels of income.

In 2002 the Bulldogs were penalized 37 competition points and received a \$500,000 fine as a result of instigating the game's largest and most complex Salary Cap breach. Fines for Salary Cap breaches are now commonly between 20% and 150% of the value of the actual breach. This flexibility allows the NRL to assess the merits of each breach as either administrative error or attempted circumvention.

In 2003 the Long Serving Player Allowance was introduced to encourage Clubs to retain players who have served a continuous period of 10 years in first grade at their Club. This \$100,000 allowance lifted the effective Cap to \$3.55 million.

The table below shows the changing level of the Salary Cap since 1998.



4 Implications of the Salary Cap in the NRL

[Confidential:]

.]

The positive impact of the Cap can only be appreciated by all parties if it is enforced strictly and consistently which is why the Rules surrounding each component of the Cap are so important to the effective policing – allowing the discretion of the Salary Cap Auditor (“SCA”) always brings accusations of the SCA treating some Clubs differently because of some previous relationship, actual or perceived.

After the Super League era where player payments exploded and had to be reigned in after the NRL managed a peace deal, the concept of a Salary Cap was necessary to:

- a) improve talent equalization;
- b) stop Clubs from overspending and eventually going into receivership;
and,
- c) increase competitive balance within the competition.

The major expense of all NRL Clubs is player payments as the NRL covers competition travel, accommodation etc. Without nominating the woes of any specific Clubs, it is generally accepted that overspending on player payments has been the downfall of Clubs in the past and without a strong financial backing of a Leagues Club, or wealthy benefactor, there is nowhere else to turn.

The difficulty for the NRL was to provide an acceptable and enforceable model without crossing the ‘unreasonable restraint’ barrier of Trade Practices Laws. It may be argued the Cap is a restraint but the NRL does not believe it is unreasonable given the positive results it brings to the game and all individuals concerned. A major feature of the Cap and desired outcome is its ability to assist Clubs in their quest for continued financial viability and therefore employment opportunities for players. For a Club to fall into receivership, up to 100 players would have their contracts voided with at least 25 full-time players losing their capacity to earn a living in their chosen career.

Whilst the Salary Cap is credited with considerable merit for equalizing the talent and therefore the competition, the impact on the fiscal performance of the Clubs cannot solely be tracked to the Salary Cap impact. It has a healthy influence, but the NRL Clubs have, as a consequence of Salary Cap compliance, become more accomplished at ensuring their business is run more efficiently along with their roster management. The required effective combination of these two components of Club management has ensured Clubs are employing suitably qualified personnel rather than the historical attitude of “job for the old boys”. The actual fiscal performances can be equated to the Clubs ability to be more competitive than previously and this has resulted in sponsorship and crowd increases.

After some 6 months of planning before the Cap was introduced, history tells us it was time well spent. A key component of the Cap has been a fully detailed set of Rules where all Clubs receive the same treatment by the Salary Cap Auditor – same rules for all and same allowances for all. The movement of players from Club-to-Club is a by-product of the Cap and whilst in the past some Clubs have been talent-strong by comparison to their counterparts, this is no longer the case. The teams have balanced out considerably with respect to their playing rosters. Clubs who have traditionally been less successful than others, have been able to attract higher quality players and strengthen their claims as legitimate competitors.

Since the NRL began, (after the ‘war’ between Super League and the ARL) the last 7 years have seen some remarkable results as shown in the table set out in Appendix One to this letter. With 2005 being the closest competition in memory, the impact of the Salary Cap on talent equalisation and Club financial strength from increased crowds and sponsorship income cannot be understated. I have regular contact with all the Clubs and in my discussions with them, almost unilateral support has emerged in support of the Cap and its positive impact on their business.

5 Impact on Competitive Balance

The impact of the Salary Cap began from 1999 and has become more prominent over the last two years, especially since the 2002 Bulldogs Salary Cap scandal where the NRL stripped them of all their points for wholesale and orchestrated Salary Cap breaches. This was probably the single most defining point at where it could be said ‘the Salary Cap is working’.

The Salary Cap has had the impact over time of ensuring unpredictability of results. This has been particularly so in recent years where there are no guarantees as to which games Clubs will win, or lose, at the start of the season.

Further an existing higher position in the league table has not been a guarantee of the result of the game against a lower ranked team. Upsets in the competition have occurred with frequency with lower ranked teams beating higher ranked teams. For example, in the 2005 competition, the Warriors beat the Brisbane Broncos on 2 occasions despite the Broncos being at the top of the table and the Warriors towards the bottom. The Rabbitohs, despite being towards the bottom of the table have won six out of their last eight despite playing teams in contention for the playoffs. Newcastle, despite being in last place has won seven out of eight of their last games (and, incidentally played in front of sell-out home crowds on two recent occasions).

The closeness of the competition can be seen from the league table from week to week with the close spread of points meaning that almost all teams were in serious contention for a place in the top 8 playoffs until very late in the season.

Attached as Appendix Two are the 2005 competition tables after rounds 19, 22, 24 and 26 of the 26 round season (in the points tables, 2 points are awarded for a win or a bye and 1 point for a draw). For example at the end of round 19 the teams placed 4th to 9th were all on the same number of points (22 points) with the 10th placed team being on 21 points and 11th placed team being on 20 points. There was only 6 points difference between the 3rd placed team (the Sharks, on 24 points) and the 12th placed team (the Warriors, on 18 points).

The increased competitive balance of the competition is also reflected by the final league tables attached as Appendix One. In the 2005 league table the spread of points between the top and bottom teams is only 16 points between the Parramatta Eels on 36 points and Newcastle Knights on 20 points). By contrast the spread of points between the top and bottom teams in 2003 was 30, and in 2004 was 26.

This year 7 teams were within 8 points of the final team making the playoffs. With only 8 points separating 1st and 8th placed teams and only a further 8 separating the next 7, the table has never been so tightly packed, a follow-on from 2004, but even tighter.

This unpredictability continued into the playoffs of the competition with the Grand Final being contested by the Wests Tigers and North Queensland Cowboys which teams were only ranked 4th and 5th at the end of the regular season. The Grand Final was won by the Wests Tigers who had not previously made the top 8 playoffs since the inception of the NRL in 1998.

Previous success in the competition has been no assurance of success in the 2005 competition. The evenness in the NRL competition has produced different winners for each year since the Salary Cap has been in place as follows:

1999	Melbourne Storm
2000	Brisbane Broncos
2001	Newcastle Knights
2002	Sydney Roosters
2003	Penrith Panthers
2004	Canterbury Bulldogs
2005	West Tigers

Further, the last 4 winners of the competition, the Bulldogs, Panthers, Roosters and Knights all failed to make the top 8 playoffs in 2005.

14 of the 15 teams in the competition have made the top 8 playoffs at least once within the last 3 years demonstrating that all clubs have a realistic chance of making the playoffs.

6 Impact on Player Movement and Player Flight

There has been increased internal movement of players due to the Cap, however, there are other reasons (for example player potential, career development, personal reasons, family etc) to explain why players move, therefore no statistics are collected. The actual internal player movement can be misleading without an understanding of the special circumstances of each Club and player involved but, suffice to say, it has had some positive impact as can be seen by the 2005 Clubs who have recruited well from other Clubs to climb off the bottom of the NRL ladder from previous years, in particular, Cowboys and Tigers.

The interesting point is that the movement of players has not just been within the 'top 6' and 'bottom 6' but actually between the top and bottom teams. Players now perceive that any club within the league has a realistic chance of being successful and making the playoffs. This has assisted in circulation of top players throughout the league. Examples include the shift of Carl Webb from the Broncos to the Cowboys, Ben Kennedy from the Knights to the Eagles, Bryan Fletcher from Roosters to Rabbitohs, Scott Sattler from Panthers to Tigers, Steve Price from Bulldogs to Warriors etc.

The media occasionally lay blame with the Salary Cap for their perception of players leaving the NRL for massive English contracts or Rugby Union.

[Confidential:

.] However, whilst any loss at that level is regrettable, it is not seen as a problem in the big picture as an array of players have come through to replace those former stars both on the field and as profile players in their own right e.g. Luke Rooney from Panthers and Matt King from the Storm have replaced Sailor and Tuqiri from the Broncos who moved to Union and the profile of Mark Gasnier at the Dragons has more than covered that of Rogers who moved from the Sharks to Union. The impact of the Salary Cap on perceived player drain is greatly over-stated. What has happened is that more players who would normally have 'hung around' for a year or two past their prime, have sought out the **[Confidential:**] package overseas and, as for the Rugby Union option, there has certainly been more high profile players take that option, but not in alarming numbers. The NRL Clubs have realized that giving a younger player an opportunity rather than keep an older player on higher money, is a better option for the Club's future success.

7 Impact on Crowds, Revenue, Sponsorship and Broadcasting

There has been a positive impact on the key measures of the success of the NRL. This has been in a large part due to the evenness of the competition in recent years and the fact that it is very difficult to pick which team will win any particular game - crowds traditionally enjoy the contest, not a walk-over.

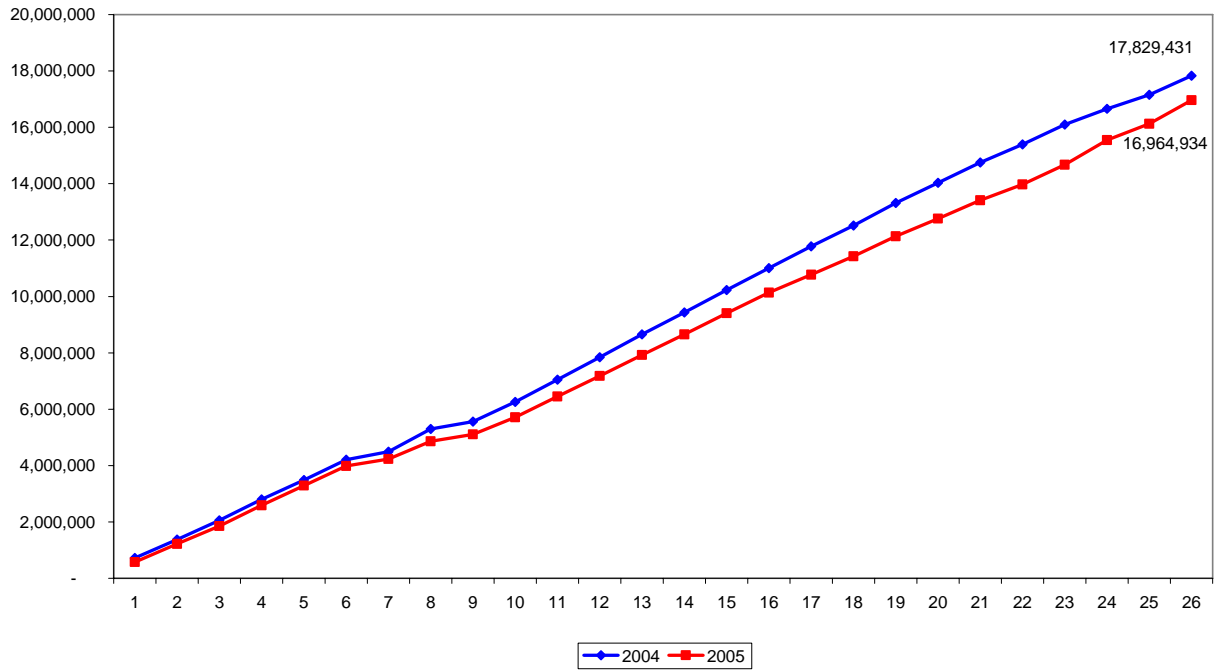
Crowd Attendance: As illustrated in the graph set out in Appendix Three, there has been a healthy increase in the crowd attendances from the 2004 to the 2005 season when the NRL competition was more even than it had ever been. There has been a 27% increase in crowds over the past three years. This equates to an additional 530,000 more people (an additional 25,000 per weekend of football). This can be put down to the unpredictability of the games and the fact that so many Clubs were in contention to make the play-offs in the 2005 season. The impact on revenue from increased crowd attendance can be estimated by assuming a \$15 ticket price. This equates to approximately \$8 million more in revenue (or approximately \$365,000 more per weekend of football). This does not include incremental increases in merchandise sales or Club membership.

Sponsorship: The NRL Clubs have shown a 12% increase in sponsorship revenue from 2004 to 2005. The NRL itself has had a 39% increase in sponsorship revenue from 2004 to 2005.

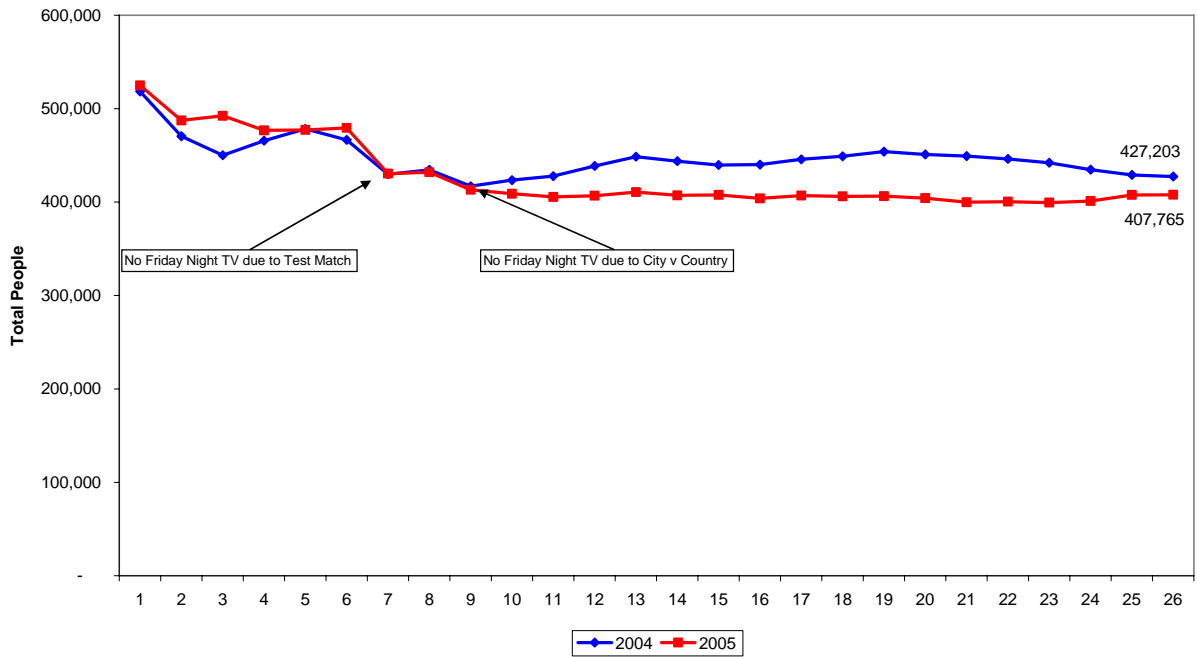
Broadcasting: The NRL has received approximately a 35 – 40% increase in broadcast rights for a new deal from 2007 – 2012 which was renegotiated this year. This renegotiation was 2 years in advance of the 2007 expiry of the existing 10 year contract and occurred while the game was prospering due to the very even competition and significantly increased Television, Corporate and public interest in the game. This enabled the NRL to secure a much more favourable broadcasting rights deal.

Interestingly, the 2005 Free-to-Air ratings were slightly down on 2004. The FTA partners acknowledge that a new ratings system has been utilized in 2005 and the Pay TV partners acknowledge the upturn in their ratings has been significant in 2005.

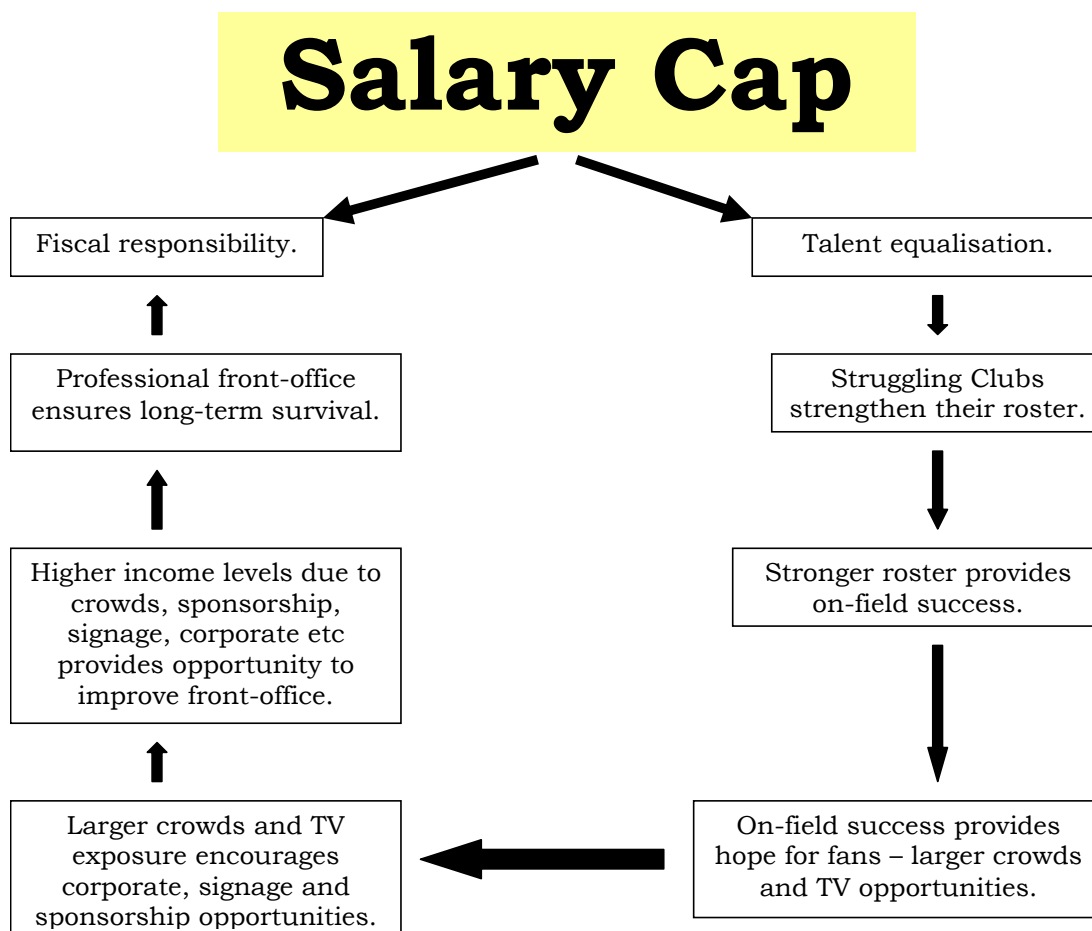
Sydney FTA Ratings Moving Total, 2005 v 2004



Brisbane FTA Ratings, Moving Average per Round, 2005 v 2004



In summary, it is a popular view that the Salary Cap has been the catalyst more than anything for the other factors which ensure success on and off the field (see below).



8 Costs of Monitoring and Enforcement

The implementation, monitoring and enforcement of the Cap are the responsibility of the Salary Cap Auditor (“SCA”). Apart from the annual audits of Clubs where 2-3 assistants are seconded from the NRL finance department or an external auditing company, the SCA has constant contact with the Clubs via their CEO, Financial Controller, Football Manager and Recruitment Managers.

Occasional calls for clarity from Player Agents are rare.

The costs associated with a spot visit, mid-year visit and the annual audits along with associated costs of assistants etc, along with legal advice for Rule amendments when necessary, would cost the NRL approximately \$250,000 per year in total. This is not a great deal compared to the positive impact of an effective Salary Cap on competitive balance. An increase to this annual cost of some 25-50% is likely in the short term due to an intensified effort in keeping control of the utilization of Intellectual Property by players and third parties, many of which may be Salary Cap related.

With regard to the cost of compliance by the Clubs, the usual and best model is for the Football Manager and the Financial Controller to work closely to ensure available spend is approved before entering into negotiations and the provision of reports to the Salary Cap Auditor are timely and accurate. The cost to an average club of this is no more than .25 of a full-time employee responsible for record keeping, contract preparation, signing, registration etc. This is not an excessive use of resources and the required Salary Cap Report template has become quite a useful predicting tool for Clubs as they often work two-to-three years in advance with their rosters and budgets.

9 Further Steps

The NRL have recently been examining the possibility of implementing an external territorial draft to further support the development and recruitment ideals of the game and the Clubs and as a further talent equalisation strategy. As all NRL Clubs do not have equal numbers of juniors in their local precinct due to many factors such as demographics and geographical situations it was proposed that non-local areas be allocated to Clubs as 'their own territory' from which to nurture and recruit rather than to poach other developing Clubs juniors. However, the success of the Salary Cap on talent equalisation has been so pronounced, that the Clubs and various stakeholders believe that no further measures are needed at this time.

10 Conclusion

Although it has taken some time, the Salary Cap in the NRL has made a clear and pronounced difference to the success of the league and its participating clubs and players. In particular, the Cap has achieved the key goals of talent equalisation, ensuring the financial viability of the NRL Clubs, and, ultimately, producing a more even competition.

It is the belief of the NRL that the introduction and enforcement of the Salary Cap has been pivotal to the success of the NRL since its inception in 1998 highlighted in recent years with exceptional approval ratings from all support groups associated with the game.

Yours sincerely



Ian Schubert
Director
Registration and Salary Cap Auditor
National Rugby League

cc. Steve Tew
New Zealand Rugby Union

Appendix One: Points tables

Club 2005 - Premiers yet undecided (this colour)	NRL Ranking after Finals of 2005	Points at Completion of the normal competition Rounds	Club 2004 - Premiers (this colour)	NRL Ranking after Finals of 2004	Points at Completion of the normal competition Rounds	Club 2003 - Premiers (this colour)	NRL Ranking after Finals of 2003	Points at Completion of the normal competition Rounds	Club 2002 - Premiers (this colour)	NRL Ranking after Finals of 2002	Points at Completion of the normal competition Rounds	Club 2001 - Premiers (this colour)	NRL Ranking after Finals of 2001	Points at Completion of the normal competition Rounds	Club 2000 - Premiers (this colour)	NRL Ranking after Finals of 2000	Points at Completion of the normal competition Rounds	Club 1999 - Premiers (this colour)	NRL Ranking after Finals of 1999	Points at Completion of the normal competition Rounds
Tigers	1	32	Bulldogs	1	42	Panthers	1	40	Roosters	1	35	Knights	1	33	Broncos	1	38	Storm	1	36
Cowboys	2	32	Roosters	2	42	Roosters	2	38	Warriors	2	38	Eels	2	42	Roosters	2	32	Dragons	2	34
Eels	3	36	Panthers	3	34	Bulldogs	3	36	Broncos	3	37	Sharks	3	32	Knights	3	31	Sharks	3	40
Dragons	4	36	Cowboys	4	29	Warriors	4	34	Knights	4	38	Broncos	4	29	Raiders	4	30	Eels	4	38
Broncos	5	34	Broncos	5	37	Raiders	5	36	Sharks	5	34	Bulldogs	5	37	Panthers	5	30	Bulldogs	5	35
Storm	6	30	Storm	6	30	Storm	6	34	Eels	6	26	Dragons	6	26	Storm	6	29	Roosters	6	36
Sharks	7	28	Dragons	7	32	Knights	7	32	Dragons	7	25	Roosters	7	27	Eels	7	29	Knights	7	33
Eagles	8	28	Raiders	8	26	Broncos	8	28	Raiders	8	25	Warriors	8	26	Sharks	8	26	Broncos	8	32
Roosters	9	26	Tigers	9	24	Eels	9	26	Eagles	9	24	Storm	9	23	Dragons	9	24	Raiders	9	31
Panthers	10	26	Knights	10	24	Dragons	10	26	Storm	10	23	Eagles	10	23	Tigers	10	24	Panthers	10	27
Warriors	11	24	Sharks	11	24	Cowboys	11	24	Cowboys	11	20	Raiders	11	19	Bulldogs	11	21	Warriors	11	24
Bulldogs	12	23	Eels	12	22	Sharks	12	20	Panthers	12	18	Tigers	12	19	Eagles	12	18	Rabbitohs	12	24
Rabbitohs	13	23	Eagles	13	22	Tigers	13	18	Tigers	13	18	Cowboys	13	14	Warriors	13	18	Eagles	13	23
Raiders	14	22	Warriors	14	16	Eagles	14	18	Rabbitohs	14	14	Panthers	14	14	Cowboys	14	12	Bears	14	20
Knights	15	20	Rabbitohs	15	16	Rabbitohs	15	10	Bulldogs	15	8							Tigers	15	20
																		Cowboys	16	13
																		Magpies	17	10

Key Statistics:

- **27% increase in crowds over past 3 years**
- **Equates to 530,000 more people**
- **Assuming \$15 average ticket price = Approximately \$8m in revenue**
- **Approximately 25,000 increase per weekend of football**
- **Approximately \$365k increase per weekend of football**
- **The above does not include incremental increases in merchandise, f & b, Club Memberships**
- **Clubs have shown a 12% increase in sponsorships in 2005 over 2004**
- **The NRL has shown a 39% increase in sponsorships in 2005 over 2004**
- **Approx 35-40% increase in Broadcast rights after new deal out to 2012 was negotiated in 2005 while the game was prospering**
- **Only 8 points separate 8th and 15th place in 2005 and only 8 points separate 1st and 8th**

Appendix Two: Points tables after rounds 19, 22, 24 and 26.

POINTS TABLE (AFTER ROUND NINETEEN)

	Team	W	L	D	B	For	Against	Difference	Points
1st	Broncos	14	3	0	2	483	325	158	32
2nd	Eels	12	6	0	1	502	367	135	26
3rd	Sharks	10	7	0	2	380	390	-10	24
4th	Storm	10	8	0	1	502	313	189	22
5th	Cowboys	9	8	0	2	452	389	63	22
6th	Dragons	10	8	0	1	470	424	46	22
7th	Tigers	9	8	0	2	440	445	-5	22
8th	Sea Eagles	10	8	0	1	433	456	-23	22
9th	Raiders	9	8	0	2	345	392	-47	22
10th	Bulldogs	8	8	1	2	382	413	-31	21
11th	Roosters	8	9	0	2	365	342	23	20
12th	Warriors	8	10	0	1	401	374	27	18
13th	Panthers	6	12	0	1	378	408	-30	14
14th	Rabbitohs	5	12	1	1	337	550	-213	13
15th	Knights	2	15	0	2	274	556	-282	8

POINTS TABLE (AFTER ROUND TWENTY-TWO)

	Team	W	L	D	B	For	Against	Difference	Points
1st	Broncos	15	5	0	2	549	393	156	34
2nd	Eels	13	7	0	2	550	403	147	30
3rd	Dragons	13	8	0	1	570	456	114	28
4th	Tigers	12	8	0	2	550	485	65	28
5th	Cowboys	11	9	0	2	532	467	65	26
6th	Sea Eagles	11	9	0	2	478	502	-24	26
7th	Sharks	11	9	0	2	436	472	-36	26
8th	Storm	11	10	0	1	560	400	160	24
9th	Bulldogs	9	10	1	2	448	500	-52	23
10th	Raiders	9	11	0	2	393	462	-69	22
11th	Warriors	9	12	0	1	479	470	9	20
12th	Roosters	8	12	0	2	409	440	-31	20
13th	Panthers	8	13	1	2	394	616	-222	17
14th	Rabbitohs	6	13	1	2	394	616	-222	17
15th	Knights	5	15	0	2	355	597	-242	14

POINTS TABLE (AFTER ROUND TWENTY-FOUR)

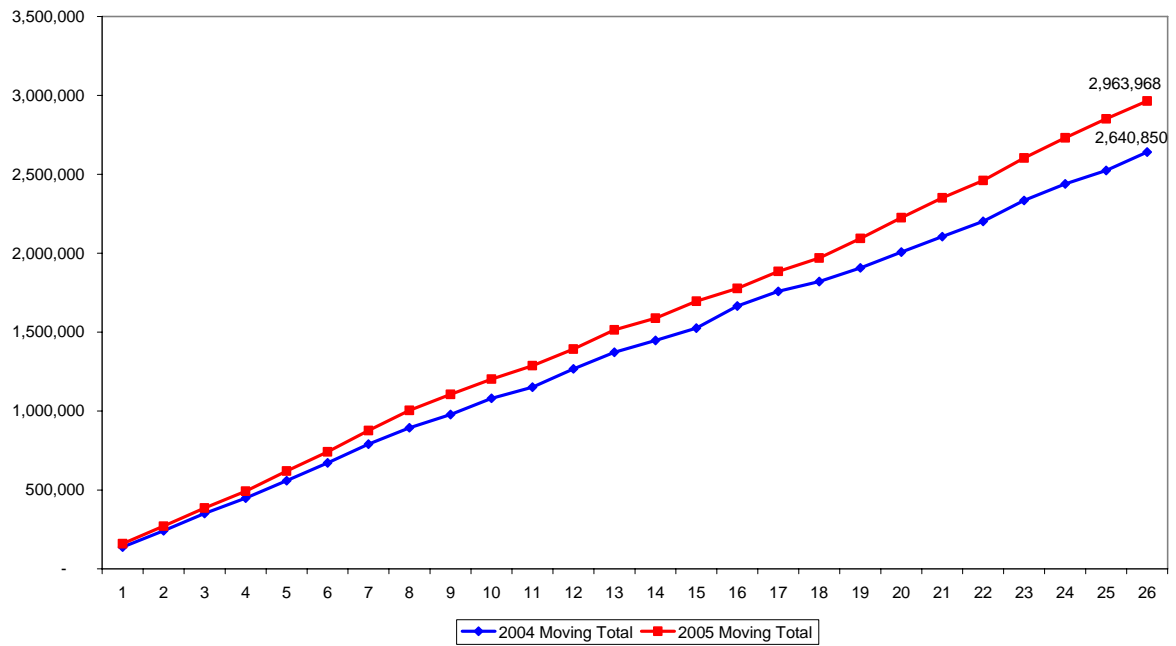
	Team	W	L	D	B	For	Against	Difference	Points
1st	Broncos	15	7	0	2	573	439	134	34
2nd	Eels	14	8	0	2	628	432	196	32
3rd	Dragons	15	8	0	1	619	482	137	32
4th	Tigers	14	8	0	2	632	503	129	32
5th	Storm	12	10	0	2	582	410	172	28
6th	Cowboys	12	10	0	2	579	523	56	28
7th	Sharks	12	10	0	2	512	492	20	28
8th	Sea Eagles	11	11	0	2	498	592	-94	26
9th	Bulldogs	9	12	1	2	454	610	-156	23
10th	Roosters	9	13	0	2	439	465	-26	22
11th	Panthers	9	13	0	2	490	528	-38	22
12th	Raiders	9	13	0	2	437	522	-85	22
13th	Rabbitohs	8	13	1	2	440	648	-208	21
14th	Warriors	9	14	0	1	493	508	-15	20
15th	Knights	7	15	0	2	393	615	-222	18

2005 Telstra Premiership Table (After Round 26)

	Team	W	L	D	B	For	Against	Difference	Points
1st	Eels	16	8	0	2	704	456	248	36
2nd	Dragons	16	8	0	2	655	510	145	36
3rd	Broncos	15	9	0	2	597	484	113	34
4th	Tigers	14	10	0	2	676	575	101	32
5th	Cowboys	14	10	0	2	639	563	76	32
6th	Storm	13	11	0	2	640	462	178	30
7th	Sharks	12	12	0	2	548	562	-14	28
8th	Sea Eagles	12	12	0	2	554	632	-78	28
9th	Roosters	11	13	0	2	488	487	1	26
10th	Panthers	11	13	0	2	556	556	0	26
11th	Warriors	10	14	0	2	515	528	-13	24
12th	Bulldogs	9	14	1	2	472	670	-198	23
13th	Rabbitohs	9	14	1	2	482	700	-218	23
14th	Raiders	9	15	0	2	465	606	-141	22
15th	Knights	8	16	0	2	465	665	-200	20

Appendix Three: Crowd Attendances

NRL Attendances, Moving Season Total, 2005 v 2004





NATIONAL RUGBY LEAGUE

PLAYING CONTRACT AND REMUNERATION RULES

Chapter 1 - Preliminary

Part 1.1 - Introduction

Commencement

1. Save where otherwise expressly provided, the provisions of these Rules shall commence in operation at midnight on 1 January 2003 and shall remain in force from that time.

Objects

2. The objects of these Rules are to:
 - (1) Respond to the need to provide, so far as practicable, a fair and even Rugby League competition;
 - (2) Protect the interests of Players who participate, or may participate, in the NRL Competition and the Related Competitions;
 - (3) Regulate the conduct of Clubs and Players in certain respects in order to ensure that:
 - (a) The Clubs each compete on equal terms for the services of Players, save in so far as the broader interests and dictates of the NRL Competition, the Related Competitions and the game of Rugby League otherwise demand;



NRL Playing Contract and Remuneration Rules

- (b) The grants made by the NRL to the Clubs are appropriated or expended by the Clubs prudently;
 - (c) The financial viability of each Club, so far as practicable, is protected;
 - (d) The financial obligations of the Clubs pursuant to NRL Playing Contracts are, so far as practicable, performed;
 - (e) A Rugby League competition that is relatively even is achieved;
 - (f) The membership of Teams is stabilised, so far as practicable, in an attempt to foster Player and supporter loyalty;
 - (g) The stronger Clubs are prevented from obtaining the services of an unfair proportion of the better Players and thereby dominating the NRL Competition;
 - (h) A balance is struck between the financial viability of Clubs and fair payment for Players so as to enable the Players to earn a living from Rugby League as their primary source of income; and
 - (i) Clubs remain sufficiently viable in order to devote time, money and effort to the development of Rugby League at junior, school and senior levels;
- (4) Collect in one place the provisions governing the negotiation, formation and regulation of NRL Playing Contracts;
 - (5) Prevent interference with NRL Playing Contracts entered into by Clubs with their Players;
 - (6) Collect in one place the provisions governing the registration of Players;
 - (7) Provide a Salary Cap to limit in a reasonable way the Remuneration that may be paid by, or on behalf of, any one Club to its Players;
 - (8) Collect in one place the provisions governing the calculation of the Remuneration paid by a Club to its Players;
 - (9) Provide fair and just powers and procedures to monitor and investigate the Remuneration paid by Clubs to their Players;



NRL Playing Contract and Remuneration Rules

- (10) Provide fair and just powers and procedures to ensure that individual Clubs do not, in the payment of their Players, exceed the Salary Cap;
- (11) Ensure, by monitoring and enforcing the observance of the Salary Cap by individual Clubs, that:
 - (a) The Clubs may each compete on equal terms for the services of Players, save in so far as the broader interests and dictates of the NRL Competition, the Related Competitions and the game of Rugby League otherwise demand;
 - (b) The grants made by the NRL to the Clubs are appropriated or expended by the Clubs prudently;
 - (c) The financial viability of each Club, so far as practicable, is protected;
 - (d) The financial obligations of the Clubs pursuant to NRL Playing Contracts are, so far as practicable, performed;
 - (e) A Rugby League competition that is relatively even is achieved;
 - (f) The membership of Teams is stabilised, so far as practicable, in an attempt to foster Player and supporter loyalty;
 - (g) The stronger Clubs are prevented from obtaining the services of an unfair proportion of the better Players and thereby dominating the NRL Competition;
 - (h) A balance is struck between the financial viability of Clubs and fair payment for Players so as to enable the Players to earn a living from Rugby League as their primary source of income; and
 - (i) Clubs remain sufficiently viable in order to devote time, money and effort to the development of Rugby League at junior, school and senior levels;
- (12) Set out the duties of Clubs and Players with respect to the disclosure of financial and other information to the Salary Cap Auditor;
- (13) Set out the requirements for Clubs and Players to maintain proper records of the Remuneration paid by Clubs to their Players;

NRL Playing Contract and Remuneration Rules

- (14) Provide fair and just powers and procedures for:
 - (a) Dealing with Clubs or Players who contravene the provisions of these Rules;
 - (b) If appropriate, imposing sanctions for contraventions of these Rules;
- (15) Provide the means by which certain specified decisions may be reviewed by the NRL Appeals Committee;
- (16) Ensure that Rugby League is able to fairly compete with other sports.

Amendments

- 3. (1) The provisions of these Rules may be amended by the Board from time to time in such manner as the Board thinks fit provided that any such amendments shall be notified to each Club in accordance with sub-Rule (2).
- (2) For the purposes of sub-Rule (1), a notice amending the provisions of these Rules shall:
 - (a) Be in writing;
 - (b) Refer to this Rule;
 - (c) Specify the date upon which the Board resolved to make the amendment;
 - (d) Set out the precise terms of the amendment; and
 - (e) Be signed by the Chief Executive Officer.

Policy Statements

- 4. (1) The Board may, from time to time, issue Policy Statements with respect to the subject matter and operation of the provisions of these Rules, the Rulings of the Salary Cap Auditor and any other matter that, in the opinion of the Board, is necessary or desirable to promote the objects specified in Rule 2.



NRL Playing Contract and Remuneration Rules

- (2) Notwithstanding anything herein or elsewhere contained or implied, the Board shall at all times proceed with due respect for the necessity to preserve the independence of the Salary Cap Auditor.

Rulings of the Salary Cap Auditor

5. (1) In any case where, in the opinion of the Salary Cap Auditor, it would assist a broader understanding of the provisions of these Rules to do so, the Salary Cap Auditor may publish Rulings of an advisory nature regarding determinations that he has made or proposes to make pursuant to these Rules, provided that such Rulings do not disclose any confidential information provided to the Salary Cap Auditor by a particular Club or by a particular Player.
- (2) Where a Ruling is published by the Salary Cap Auditor pursuant to sub-Rule (1), neither the Board nor the Chief Executive Officer nor the Salary Cap Auditor shall be bound thereafter to apply that Ruling in any particular case.

Explanatory Memorandum

6. The Board may publish, in conjunction with these Rules, an Explanatory Memorandum to assist a broader understanding of the provisions of these Rules, which Explanatory Memorandum may from time to time be amended in such manner as the Board thinks fit.

Part 1.2 – Definitions and Interpretation

Definitions

7. (1) In these Rules, unless the context otherwise indicates or requires, the following terms and expressions shall have the meanings respectively assigned to them, that is to say:

“Accreditation Committee” - has the meaning given to that expression by the *NRL Accredited Player Agents Rules*;

“Acting Salary Cap Auditor” - has the meaning given to that expression by sub-Rule 12(2);



NRL Playing Contract and Remuneration Rules

“Agent” – means any person or entity who acts, or purports to act, on behalf of a Player in connection with the provision by that Player of his services to a Club, and includes a Player’s manager, representative or adviser but does not include an NRL Accredited Player Agent;

“Anti-Tampering Period” – has the meaning given to that expression by Rule 35;

“Appearance Fees”- has the meaning given to that expression by sub-Rule 79(1);

“ARL” – has the meaning given to that term by the ***NRL Rules***;

“ARL Competitions” – means Rugby League competitions conducted by, or with the authority or approval of the ARL or its affiliated State leagues, other than the NRL Competition or the Related Competitions;

“Associated Entity” – means any associated or affiliated person or entity and includes any Related Body Corporate or any associated or affiliate leagues clubs, feeder clubs, other clubs or other entities, whether linked by common management, ownership, control, directorships, company officers, shareholding, undertaking or otherwise;

“Board” – means the Board of Directors of the NRL;

“Brisbane Broncos” – has the same meaning as that expression is given in the ***NRL Rules***;

“Broadcast Email” – means an email forwarded to more than one recipient;

“Business Day” - any day other than a Saturday, Sunday or public holiday in the State of New South Wales, and where a time limit is set in these Rules and performance is due on a day that is not a Business Day, the time for performance is the next Business Day;

“by a Club”- has the meaning, in the context of the payment of Remuneration, as that expression is given in Rule 67;

“Canberra Raiders” – has the same meaning as that expression is given in the ***NRL Rules***;

NRL Playing Contract and Remuneration Rules

“Canterbury Bulldogs” – has the same meaning as that expression is given in the ***NRL Rules***;

“Chief Executive Officer” - means the person appointed by the NRL, from time to time, to hold office as its Chief Executive Officer;

“Club” - has the same meaning as that term is given in the ***NRL Rules***;

“Club Agreement” – has the same meaning as that expression is given in the ***NRL Rules***;

“Club Medical Officer” – means the medical practitioner appointed or nominated by a Club as its medical officer;

“Club Official” – has the same meaning as that expression is given in the ***NRL Rules***;

“Club Sponsor” - means a sponsor of a Club;

“Competition Points” – has the same meaning as that expression is given in the ***NRL Rules***;

“Cronulla Sharks” – has the same meaning as that expression is given the ***NRL Rules***;

“current” – means:

- (a) With reference to an NRL Playing Contract, Playing Agreement or Non-Playing Agreement, an NRL Playing Contract, Playing Agreement or Non-Playing Agreement, as the case may be, the Employment Term of which has not expired or been otherwise determined;
- (b) With reference to the registration of a Player, registration that has not expired, been cancelled or been suspended;
- (c) With reference to a Third Party Agreement, a Third Party Agreement the term of which has not expired or otherwise been terminated;

“Employment Term” – means the term of an NRL Playing Contract, a Playing Agreement or a Non-Playing Agreement;

“Entity” – includes a corporation, unincorporated association, trust or partnership;



NRL Playing Contract and Remuneration Rules

‘Excluded Remuneration’ – has the meaning given to that expression by Rule 76;

“Explanatory Memorandum” – means the document published by the Board pursuant to Rule 6;

“Finals Series” – has the meaning given to that expression in the *NRL Rules*;

“Final Series Matches” – means Matches played in the Finals Series;

“Financial Year” – means the period from 1 July of one Year to 30 June of the next Year;

“Fixed Remuneration”- has the meaning given to that expression by sub-Rule 65(3)(b);

“football” – means any code of football and includes Rugby League and the code of football known as rugby union;

“Fringe Benefits Tax” – means the tax payable on certain benefits within the meaning of Section 20 of the *Fringe Benefits Tax Assessment Act (1986) (Cth)* and Rule 81;

“Game Team” – means a team of Players selected to play for a Club in a Match in the NRL Competition and/or the Related Competitions;

“Grade Football” – means open grade Rugby League;

“Grand Final” – has the same meaning as that expression as given in the *NRL Operations Manual*;

“Guidelines” – means any Guidelines issued by the NRL pursuant to the *NRL Rules*;

“Heat Stress Player” – means, in any Season where fifth and sixth replacements are permitted to alleviate heat stress during a Match in Rounds 1, 2, 3 or 4 of the NRL Competition, a Player who filled the fifth or sixth replacement position in a Team;

“Included Remuneration” – has the meaning given to that expression by Rule 75;

“Joint Venture Club” – means:

NRL Playing Contract and Remuneration Rules

- (i) St George Illawarra Dragons;
- (ii) Wests Tigers; and
- (iii) The Rugby League clubs that combined to form, in each case, the St George Illawarra Dragons and the Wests Tigers;

“Lending Interest Rate”- means the rate of interest adopted by the Reserve Bank of Australia for unsecured loans or such other rate of interest for unsecured loans as the Salary Cap Auditor, in his absolute discretion, deems appropriate;

“Manly Sea Eagles” – has the same meaning as that expression is given in the *NRL Rules*;

“Match” – means a match between two Clubs in the NRL Competition;

“Match Fees” – has the meaning given to that expression in Clause 4.1 of the NRL Playing Contract;

“Memorabilia” – means a photograph, print, football, item of apparel or other goods which incorporates the likeness or image of a Player or Players or which has been autographed by a Player or Players;

“Melbourne Storm” – has the same meaning as that expression is given in the *NRL Rules*;

“Newcastle Knights” – has the same meaning as that expression is given in the *NRL Rules*;

“New Zealand Warriors” – has the same meaning as that expression is given in the *NRL Rules*;

“Non-Participating Club” – means a Rugby League club that once was, but no longer is, a participant in the NRL Competition;

“Non-Playing Agreement” – means any sponsorship, promotional or other contract, agreement or arrangement by which a Player agrees for reward to permit the use of his Player Property or to provide Memorabilia or to perform other services not requiring the playing of Rugby League;

“North Queensland Cowboys” – has the same meaning as that expression is given in the *NRL Rules*;

“NRL” - means National Rugby League Limited ACN 082 088 962;

“NRL Accredited Player Agent” - means a person who is accredited by the NRL as an NRL Accredited Player Agent pursuant to the *NRL Accredited Player Agents Rules*;

“NRL Accredited Player Agents Rules” - means Schedule Seven to the *NRL Rules*;

“NRL Anti-Doping Rules” - means Schedule Two to the *NRL Rules*;

“NRL Anti-Vilification Code” - means Schedule Three to the *NRL Rules*;

“NRL Appeals Committee” - means the body constituted by the *NRL Appeals Committee Procedural Rules*;

“NRL Appeals Committee Procedural Rules” - means Schedule Five to the *NRL Rules*;

“NRL Code of Conduct” - means Schedule One to the *NRL Rules*;

“NRL Competition” - has the same meaning as that expression is given in the *NRL Rules*;

“NRL Drugs Tribunal” - means the body constituted by the *NRL Anti-Doping Rules*;

“NRL Judiciary” - means the body constituted by the *NRL Judiciary Code of Procedure*;

“NRL Judiciary Code of Procedure” - means Schedule Four to the *NRL Rules*;

“NRL Operations Manual” - means Schedule Eight to the *NRL Rules*;

“NRL Player and Agent Contract” - means a contract in the form approved by the NRL pursuant to the *NRL Accredited Player Agents Rules*;

NRL Playing Contract and Remuneration Rules

“NRL Playing Contract” – means a contract between a Club on the one hand and a Player on the other hand by which the Player agrees to play Rugby League for the Club in the NRL Competition and the Related Competitions in the terms of Form 1 or in such other terms as the Chief Executive Officer may approve pursuant to Rule 28;

“NRL Playing Contract and Remuneration Rules” – means these Rules, being Schedule Six to the *NRL Rules*;

“NRL Rules” – means the rules adopted from time to time by the NRL governing the NRL Competition and the Related Competitions;

“NRL Website” – means the website maintained by the NRL on the World Wide Web at Internet address www.nrl.com.au;

“Other Bonuses” – has the meaning given to that expression by sub-Rule 89(1);

“Other Competitions” – means the English Super League competition, elite level rugby union competitions and such other competitions as may be declared by the Chief Executive Officer, in his absolute discretion, to be an Other Competition for the purposes of these Rules;

“Outcome”- with reference to a Match, means the result of the Match, being a win, a loss or a draw;

“paid” – includes expended, conferred, settled, disbursed, outlaid, proffered, compensated, recompensed, reimbursed, remunerated, rewarded, released or discharged;

“paid to a Player”- has the meaning, in the context of Remuneration, given to that expression by Rule 66;

“Parramatta Eels” – has the same meaning as that expression is given in the *NRL Rules*;

“Performance Bonuses” – has the meaning given to that expression by sub-Rule 90(1);

“party” – means a party to an NRL Playing Contract, Playing Agreement or Non-Playing Agreement;

“Penrith Panthers” – has the same meaning as that expression is given in the *NRL Rules*;

“play” – means participate as a Player in a Match;

“Player” – means a person who is, whether pursuant to an NRL Playing Contract or a Playing Agreement, bound to play football for a Club and may, depending upon the context, include a Rugby Union Convert;

“Player Property” – means the name, photograph, likeness, reputation and identity of a Player and includes Memorabilia;

“Player Registration Application” – means a document in the terms of Form 3;

“Playing Agreement” – means any contract, agreement or arrangement (other than an NRL Playing Contract) pursuant to which a player agrees to play Rugby League in a competition other than the NRL Competition or the Related Competitions, whether in Australia, New Zealand or in any other country;

“Playing Fees” – has the meaning given to that expression in Clause 4.2 of the NRL Playing Contract;

“Policy Statement” – means a document issued pursuant to Rule 4;

“Post-Season Declaration of Remuneration” – has the meaning given to that expression by Rule 108;

“Pre-Season Declaration of Remuneration” – has the meaning given to that expression by Rule 107;

“President” – means the person appointed as the President of the *NRL Appeals Committee*;

“Redundancy Payment” – has the meaning given to that expression by Rule 93;

“Register” – means the Register of NRL Playing Contracts maintained by the Salary Cap Auditor pursuant to Rule 31;

“Related Body Corporate” - has the same meaning as that expression is given in the *Corporations Law*;

“Related Competitions” – has the same meaning as that expression is given in the *NRL Rules*;

“Representative Match” – has the same meaning as that expression is given in the **NRL Rules**;

“Representative Team” – means any team selected to participate in a Representative Match;

“Remuneration” – has the meaning given to that term by Rule 65;

“Round” – has the same meaning as that term is given in the **NRL Rules**;

“Rugby League” – has the same meaning as that expression is given in the **NRL Rules**;

“Rugby League International Federation” – has the same meaning as that expression is given in the **NRL Rules**;

“Rugby Union Convert” - has the meaning given to that expression by sub-Rule 96(1);

“Ruling” – means a document published pursuant to Rule 5;

“Salary Cap” – has the meaning given to that expression by Rule 60;

“Salary Cap Floor” – has the meaning given to that expression by Rule 60A”;

“Salary Cap Auditor” - means the person appointed pursuant to sub-Rule 12(1);

“Salary Cap Calculation” – has the meaning given to that expression by Rules 104 and 105;

“Season” – means the period of each annual NRL Competition commencing on 1 November of one year and ending on 31 October of the next year, or such other period as may, from time to time, be determined by the Board;

“secures” – means, in the context of NRL Playing Contracts, Playing Agreements, Non-Playing Agreements and Third Party Agreements, obtains a fully executed and binding NRL Playing Contract, Playing Agreement, Non-Playing Agreement or Third Party Agreement, as the case may be, to which a Player is a party;

NRL Playing Contract and Remuneration Rules

“South Sydney Rabbitohs” – has the same meaning as that expression is given in the ***NRL Rules***;

“Sponsorship Revenue” – means money paid to a Club by, or on behalf of, a Club Sponsor but does not include non-cash benefits;

“St George Illawarra Dragons” – has the same meaning as that expression is given in the ***NRL Rules***;

“Sydney City Roosters” – has the same meaning as that expression is given in the ***NRL Rules***;

“Tamper” - means to interfere in any way with the contractual relationship that exists between a Club and a Player pursuant to an NRL Playing Contract including any attempt by an NRL Accredited Player Agent, an Agent or any other person acting on behalf of, or in the interests of, a Player or another Club to induce that Player to enter into, or agree to enter into, an NRL Playing Contract or Playing Agreement with another Club whether at the expiration of the Player’s existing NRL Playing Contract or otherwise;

“Team” – means a team of Players competing on behalf of a Club in the NRL Competition;

“Testimonial” – means a function or event held for a Player as a reward for his services to Rugby League or to a Club;

“Third Party” – means any person or entity other than a Club or a Player and includes an Associated Entity to a Club;

“Third Party Agreement” - means any contract, agreement or arrangement, whether entered into by a Club, a Player or some other person or entity on behalf of a Club or a Player, whereby Remuneration is paid to, or for the benefit of, a Player by a Third Party;

“Top 25 List” – has the meaning given to that expression by Rule 63;

“Top 25 Player” – means a Player who is one of the 25 highest remunerated Players of a Club;

“Variable Remuneration”- has the meaning given to that expression by sub-Rule 65(3)(a);

NRL Playing Contract and Remuneration Rules

“Variation” – means an agreement between a Club on the one hand and a Player on the other hand varying that Player’s NRL Playing Contract within the meaning of Rule 29 and in accordance with the terms of Form 2;

“Veteran Player” – has the meaning given to that expression by Rule 102;

“Wests Tigers” – has the same meaning as that expression is given in the ***NRL Rules***;

“Year”- means a calendar year.

- (2) Unless otherwise specified, with respect to the words and expressions defined in sub-Rule (1):
 - (a) Where words are defined, words denoting the singular include the plural and vice versa;
 - (b) Where an expression is defined, another part of speech or grammatical form of that expression has the corresponding meaning;
 - (c) A reference to any gender includes all genders.

Interpretation

8. (1) In these Rules:
 - (a) Headings are for ease of reference only and do not affect the meaning of the Rules;
 - (b) The singular includes the plural and vice versa and words importing a gender include other genders;
 - (c) Other grammatical forms of defined words or expressions have corresponding meanings;
 - (d) A reference to a Rule, sub-Rule, Table or Form is a reference to a Rule or sub-Rule of, or a Table or Form to, these Rules as amended from time to time;
 - (e) A reference to a document or agreement, including these Rules, includes a reference to that document or agreement as novated, altered, amended or replaced from time to time;



NRL Playing Contract and Remuneration Rules

- (f) A reference to 'dollar' or '\$' is a reference to Australian currency;
 - (g) A reference to a specific time is a reference to that time in Sydney, Australia;
 - (h) Words and expressions importing natural persons include any individual, body corporate, unincorporated body, government, government department, agency and any municipal, local, statutory or other authority and any combination or association of individuals, bodies corporate, unincorporated bodies, governments, government departments, agencies and municipal, local, statutory or other authorities (in each case whether or not having a separate legal identity).
- (2) In the event of any inconsistency between a provision of these Rules and a provision of the **NRL Rules** (but not including any other Schedules and Guidelines to the **NRL Rules**), the **NRL Rules** shall prevail.

Construction

9. (1) In the interpretation of a provision of these Rules, the interpretation that will best achieve the objects set forth in Rule 2 is to be preferred to any other interpretation.
- (2) Without limiting sub-Rule (1), regard may be had to the contents of the Explanatory Memorandum, any Policy Statements and any Rulings when construing the provisions of these Rules.

Part 1.3 – Application

Jurisdiction

10. These Rules apply to all Clubs, Club Officials, Players and NRL Accredited Player Agents.

Application

11. These Rules:
- (1) Are administered variously by the Board, the Chief Executive Officer and the Salary Cap Auditor in the ways specified herein;
 - (2) Are intended to regulate the conduct of Clubs and Players in order to achieve the objects specified in Rule 2;



- (3) May be enforced by the imposition of a penalty pursuant to Part 2 of the **NRL Rules** if a contravention of any of these Rules is found to have occurred;
- (4) Are not intended to displace any duty, liability or obligation that a Club or a Player may have under the common law or statute law of the Commonwealth of Australia or a State or a Territory of Australia in relation to any matter covered by them.

Chapter 2 – Constitution

Part 2.1 – Salary Cap Auditor

Office of the Salary Cap Auditor

12. (1) As soon as practicable after the commencement of these Rules, the Chief Executive Officer shall appoint a person, qualified in accordance with Rule 13, to act as Salary Cap Auditor.
 - (2) If, for any reason, the person appointed to act as Salary Cap Auditor is temporarily unable to so act, the Chief Executive Officer shall appoint a person, qualified in accordance with Rule 13, to act in his stead.

Qualifications for Appointment as Salary Cap Auditor

13. The Salary Cap Auditor shall be a person who is in the opinion of the Chief Executive Officer:
 - (1) Experienced in business affairs; and
 - (2) Possessed of a broad base of knowledge regarding the administration of Rugby League.

Duties of the Salary Cap Auditor

14. (1) The Salary Cap Auditor has the following duties:
 - (a) To discharge the functions and responsibilities with which he is charged under these Rules; and

NRL Playing Contract and Remuneration Rules

- (b) To exercise, if necessary, the powers and authorities which are conferred on him by these Rules.
- (2) Without limiting sub-Rule (1), the duties of the Salary Cap Auditor pursuant to these Rules include:
 - (a) The maintenance of the Register pursuant to Rule 31;
 - (b) The provision of his opinion to the Chief Executive Officer pursuant to Rule 47;
 - (c) The administration of the Salary Cap pursuant to Chapters 8 and 9;
 - (d) The conduct of Salary Cap investigations pursuant to Chapter 10.

No Review

- 15. Subject only to the provisions of these Rules, the discharge by the Salary Cap Auditor of any of the functions and responsibilities with which he is charged or the exercise by him of any of the powers and authorities which are conferred on him shall not be capable of review and, in any event, shall not be justiciable.

Delegation

- 16. (1) The Salary Cap Auditor may, in his absolute discretion, delegate the discharge by him of any of the functions and responsibilities with which he is charged or the exercise by him of any of the powers and authorities which are conferred on him to any person or persons, provided that the Salary Cap Auditor is satisfied that any such person has the expertise and experience necessary for the proper discharge of the said functions and responsibilities and the proper exercise of the said powers and authorities.
- (2) In any case where the Salary Cap Auditor exercises his discretion to delegate pursuant to sub-Rule (1), a document containing brief particulars of the relevant delegation and signed by the Salary Cap Auditor shall be sufficient evidence for all purposes under these Rules of that delegation, in which event all Clubs and all Players shall recognise the person who is the subject of the delegation as having been duly authorised to act in the respects so specified.

Independence



17. In the discharge of any of the functions and responsibilities with which the Salary Cap Auditor is charged and in the exercise of any of the powers and authorities which are conferred, the Salary Cap Auditor and any person who is the subject of a delegation from the Salary Cap Auditor pursuant to sub-Rule 16(1) shall at all times:

- (1) Act independently, impartially and fairly, without fear or favour, affection or ill will;
- (2) Be aware of, and proceed with due respect for, the necessity to promote and preserve the objects set forth in Rule 2.

Part 2.2 – Chief Executive Officer

Duties of the Chief Executive Officer

18. (1) The Chief Executive Officer has the following duties:
- (a) To discharge the functions and responsibilities with which he is charged under these Rules;
 - (b) To exercise, if necessary, the powers and authorities which are conferred on him by these Rules.
- (2) Without limiting sub-Rule (1), the duties of the Chief Executive Officer pursuant to these Rules include:
- (a) The superintendence of NRL Playing Contracts pursuant to Part 4.1 of Chapter 4;
 - (b) The registration of Players, including the cancellation or suspension of registration Players, pursuant to Chapter 6.

No Review

19. Subject only to the provisions of these Rules, the discharge by the Chief Executive Officer of any of the functions and responsibilities with which he is charged or the exercise by him of any of the powers and authorities which are conferred on him shall not be capable of review and, in any event, shall not be justiciable.

Delegation

20. (1) The Chief Executive Officer may, in his absolute discretion, delegate the discharge by him of any of the functions and responsibilities with which he is charged or the exercise by him of any of the powers and authorities which are conferred on him to any person or persons, provided that the Chief Executive Officer is satisfied that any such person has the expertise and experience necessary for the proper discharge of the said functions and responsibilities and the proper exercise of the said powers and authorities.
- (2) In any case where the Chief Executive Officer exercises his discretion to delegate pursuant to sub-Rule (1), a document containing brief particulars of the relevant delegation and signed by the Chief Executive Officer shall be sufficient evidence for all purposes under these Rules of that delegation, in which event all Clubs and all Players shall recognise the person who is the subject of the delegation as having been duly authorised to act in the respects so specified.

Independence

21. In the discharge of any of the functions and responsibilities with which the Chief Executive Officer is charged and in the exercise of any of the powers and authorities which are conferred, the Chief Executive Officer and any person who is the subject of a delegation from the Chief Executive Officer pursuant to sub-Rule 20(1) shall at all times:
- (1) Act independently, impartially and fairly, without fear or favour, affection or ill will;
- (2) Be aware of, and proceed with due respect for, the necessity to promote and preserve the objects set forth in Rule 2.

Chapter 3 – Pre-Requisites to Participation

Part 3.1 – Individual Obligations

Club Participation

22. Any Club who participates, or wishes to participate, in the NRL Competition and/or the Related Competitions must:
- (1) Be a party to a current Club Agreement within the meaning of the ***NRL Rules***;

NRL Playing Contract and Remuneration Rules

- (2) Ensure that it has complied with, and continues to comply with, the provisions of the **NRL Rules** and all Schedules and Guidelines thereto including these Rules, so far as those provisions are applicable to Clubs;
- (3) Ensure that its Players have complied with, and continue to comply with, the provisions of the **NRL Rules** and all Schedules and Guidelines thereto including these Rules, so far as those provisions are applicable to Players.

Player Participation

23. Any person who participates, or wishes to participate, as a Player in the NRL Competition and/or the Related Competitions must:

- (1) Have attained sixteen years of age;
- (2) Have completed, agreed to the terms of and executed a Player Registration Application;
- (3) Be a party to a current NRL Playing Contract;
- (4) Be currently registered as a Player within the meaning of Rule 38;
- (5) Ensure that he has complied with, and continues to comply with, the provisions of the **NRL Rules** and all Schedules and Guidelines thereto including these Rules, so far as those provisions are applicable to Players.

Part 3.2 – Joint Obligations

Duty to Co-Operate

24. Save where the express provisions of these Rules otherwise provide:

- (1) Each Club shall co-operate with each Player with whom it has entered into an NRL Playing Contract; and
- (2) Each Player shall co-operate with the Club with whom he has entered into an NRL Playing Contract;

in order to assist the other party, where applicable or necessary, to fulfil the obligations of that other party under these Rules.

Duty to Provide Consent



NRL Playing Contract and Remuneration Rules

25. (1) In any case where:

- (a) The Salary Cap Auditor;
- (b) The Chairman of the Accreditation Committee;
- (c) The Chief Executive Officer; or
- (d) The President;

requires a Player to provide his consent to the provision of documents or information concerning him by his Club, his NRL Accredited Player Agent, his Agent, his accountant, his employer or any other person or entity in possession or control of documents or information relating to the Player then, upon written notice of the Player so to do, he shall forthwith provide his unqualified consent in writing to the person requiring the same.

(2) In any case where:

- (a) The Salary Cap Auditor;
- (b) The Chief Executive Officer; or
- (c) The President;

requires a Club to provide its consent to the provision of documents or information concerning it by any person or entity in possession or control of documents or information relating to the Club then, upon written notice of the Club so to do, it shall forthwith provide its unqualified consent in writing to the person requiring the same.

Salary Cap Compliance Paramount

26. (1) Without in any way derogating from the objects specified in Rule 2, the Rules relating to, or touching upon, the administration, enforcement and observance of the Salary Cap are of paramount importance to the attainment of those objects and no:

- (a) Club; or
- (b) Player;



NRL Playing Contract and Remuneration Rules

shall willingly, negligently or recklessly engage in any conduct or assist, aid, abet or encourage any other person or entity to engage in any conduct calculated to avoid, or which otherwise might have the effect of avoiding, the respective obligations of the Clubs and the Players to comply with and observe those Rules.

- (2) For the purposes of sub-Rule (1), where:
- (a) A director, officer, servant or agent of a Club acts in any of the ways proscribed by that provision, the Club;
 - (b) An NRL Accredited Player Agent or Agent or other person or entity acting on behalf of a Player acts in any of the ways proscribed by that provision, the Player;

shall be deemed to have contravened sub-Rule (1).

Chapter 4 - Playing Contracts

Part 4.1 – Formal Requirements

Time for Entering into a Playing Contract

27. Subject to the other provisions of this Chapter, a Club may enter into an NRL Playing Contract with a person who wishes to participate as a player in the NRL Competition and/or the Related Competitions at any time.

Form of Playing Contracts

28. (1) All NRL Playing Contracts entered into between a Club and a Player shall be in the terms of Form 1 or in such other terms as the Chief Executive Officer may, in his absolute discretion, approve.
- (2) If a Club and a Player are party to a current NRL Playing Contract in the terms of Form 1, but Form 1 is amended:
- (a) Then neither the Player nor the Club shall be in breach of sub-Rule (1) solely because the NRL Playing Contract no longer complies with the amended Form; but



NRL Playing Contract and Remuneration Rules

- (b) The Club and the Player must, within 20 Business Days of receiving notice of any such amendment, vary the NRL Playing Contract in accordance with Rule 29 to ensure that it complies with Form 1 as amended.
- (3) To remove any doubt, every NRL Playing Contract must contain all of the terms as to the payment of Remuneration to, or for the benefit of, the Player.

Variation, Substitution or Termination of NRL Playing Contracts

29. (1) Where:

- (a) An NRL Playing Contract is varied by the parties to it;
- (b) An NRL Playing Contract is terminated by mutual agreement of the parties to it in favour of a substitute NRL Playing Contract on different terms; or
- (c) An NRL Playing Contract is terminated by either party;

then the parties shall forthwith notify the Chief Executive Officer in writing of that fact, and:

- (d) In a case where an NRL Playing Contract has been varied, and those variations constitute substantial changes to the NRL Playing Contract, within five Business Days of the date upon which the variation was agreed, lodge the NRL Playing Contract as varied with the Chief Executive Officer in accordance with the requirements of Rule 41;
- (e) In a case where an NRL Playing Contract has been varied, and those variations do not constitute substantial changes to the NRL Playing Contract:
 - (i) Complete and execute a Variation in accordance with the terms of Form 2; and
 - (ii) Lodge that Variation with the Chief Executive Officer within five Business Days of the date upon which the variation to the NRL Playing Contract was agreed;



NRL Playing Contract and Remuneration Rules

- (f) In a case where an NRL Playing Contract has been terminated by mutual agreement of the parties to it in favour of a substitute NRL Playing Contract, within five Business Days of the date of that termination or substitution, whichever is the earlier, lodge the substitute NRL Playing Contract with the Chief Executive Officer in accordance with the requirements of Rule 41.
- (2) Nothing in sub-Rule (1) shall be taken to allow or permit the variation of an NRL Playing Contract by the parties to it in terms other than in accordance with the terms of Form 1 unless the approval of the Chief Executive Officer, in his absolute discretion, of a variation in different terms is first had and obtained.

Exclusive Contract

- 30. (1) Subject to sub-Rule (2), no person who wishes to participate as a Player in the NRL Competition and/or the Related Competitions shall, at the time entering into an NRL Playing Contract, be a party to a current Playing Agreement.
- (2) Where a person wishes to enter into an NRL Playing Contract with a Club and that person is a party to a current Playing Agreement, whether with that Club or not, that person must ensure, prior to entering into the NRL Playing Contract, that:
 - (a) He has been forever released from his obligations under the Playing Agreement and that it is in all respects at an end; or
 - (b) He is permitted by the terms of the Playing Agreement to enter into an NRL Playing Contract.

Part 4.2 – Register of NRL Playing Contracts

Register of NRL Playing Contracts

- 31. (1) The Salary Cap Auditor shall maintain a register of NRL Playing Contracts for every Player who is registered to play in the NRL Competition and/or the Related Competitions.
- (2) For the purposes of sub-Rule (1), the Register shall record the following particulars for each NRL Playing Contract:
 - (a) The parties to it;
 - (b) The date upon which it was entered into;



NRL Playing Contract and Remuneration Rules

- (c) The Match Fees and Playing Fees payable to the Player pursuant to it;
- (d) The Employment Term under it;
- (e) The Seasons covered by the Employment Term;
- (f) The date upon which the Player's current registration was effected pursuant to Rule 45;
- (g) If the Player was at the time of entry into of the NRL Playing Contract represented by an NRL Accredited Player Agent, the name of that NRL Accredited Player Agent.

Information on the Register may be Published or Inspected

32. (1) From the date of commencement of these Rules, the Salary Cap Auditor may cause the Register and the particulars entered on the Register, save for the information referred to in sub-Rule 31(2)(c), to be published on the NRL Website or by Broadcast Email and, if published, shall ensure that the particulars so published are updated at least once every month.
- (2) Upon request in writing made by the chief executive officer of any Club to the Salary Cap Auditor, the Salary Cap Auditor may, in his absolute discretion, make the Register (including the information referred to in sub-Rule 31(2)(c) available for inspection, at such time or times as the Salary Cap Auditor considers convenient, providing always that any person so inspecting the Register first undertakes in writing to the Salary Cap Auditor to keep the information referred to in sub-Rule 31(2)(c) confidential.

Chapter 5 – Contract Negotiations

Part 5.1 – General

Duty to Negotiate Fairly

33. (1) Each Club and each Player shall, during any negotiations concerning the entry into of an NRL Playing Contract:
- (a) Negotiate fairly;



NRL Playing Contract and Remuneration Rules

- (b) Not mislead the other party in any material respect;
 - (c) Make full disclosure of any fact, matter or circumstance that might affect the other party's decision whether to enter into the proposed NRL Playing Contract;
 - (d) Comply in all respects with these Rules in so far as they relate to contract negotiations;
 - (e) Otherwise, in all respects act towards the other party in the utmost good faith.
- (2) For the purposes of sub-Rule (1), where a Player retains an NRL Accredited Player Agent or Agent to act on his behalf in negotiations with a Club, and that NRL Accredited Player Agent or Agent fails to conduct those negotiations consistently with the Player's obligations pursuant to sub-Rule (1), then the Player shall be deemed to have authorised that NRL Accredited Player Agent or Agent to so act and shall, as a consequence, be deemed to have contravened sub-Rule (1).

Negotiations to be Reduced to Writing

34. In addition to the requirements of Chapter 7, wherever practicable, each party to a negotiation leading to the entry into or possible entry into of an NRL Playing Contract shall make, or cause to be made, a written note of every material oral communication between the parties and any representatives of the parties to that negotiation and maintain that written note pursuant to the provisions of Chapter 7.

Part 5.2 - Anti-Tampering Regime

Anti-Tampering Period

35. In this Part and elsewhere in these Rules, a reference to the Anti-Tampering Period means the period from the date upon which a Player and a Club entered into a current NRL Playing Contract and midnight on 30 June of the last Season covered by the Employment Term of that NRL Playing Contract.

Prohibition Against Negotiations

36. (1) During the Anti-Tampering Period:



NRL Playing Contract and Remuneration Rules

- (a) A Club shall not enter into any negotiations with a Player who has a current NRL Playing Contract with another Club; and
- (b) A Player who has a current NRL Playing Contract shall not enter into any negotiations with another Club;

without the written consent, first had and obtained, of both the Salary Cap Auditor and the Club to which the Player is bound by his current NRL Playing Contract.

(2) For the purposes of sub-Rule (1)(a), where:

- (a) A director, officer, servant or agent of a Club or an Associated Entity of a Club; or
- (b) Other person or entity acting on behalf of, or in the interests of, a Club or an Associated Entity of a Club;

acts in the way proscribed by that provision, the Club shall be deemed to have contravened sub-Rule (1).

(3) For the purposes of sub-Rule (1)(b), where:

- (a) An NRL Accredited Player Agent or Agent; or
- (b) Any other person or entity acting on behalf of, or in the interests of, a Player;

acts in the way proscribed by that provision, the Player shall be deemed to have contravened sub-Rule (1).

Prohibition Against Tampering

37. (1) During the Anti-Tampering Period, a Club shall not Tamper with any Player who has a current NRL Playing Contract with another Club.

(2) For the purposes of sub-Rule (1), where:

- (a) A director, officer, servant or agent of a Club or an Associated Entity of a Club or
- (b) Other person or entity acting on behalf of, or in the interests of, a Club or an Associated Entity of a Club;



willingly, negligently or recklessly engages in any conduct or assists, aids, abets or encourages any other person or entity to engage in any conduct calculated to Tamper, or which otherwise might have the effect of Tampering, the Club shall be deemed to have contravened sub-Rule (1).

Chapter 6 – Registration of Players

Part 6.1 – General

Registration is Essential

38. (1) Unless a person is currently registered as a Player pursuant to this Chapter, he is prohibited from participating as a Player in the NRL Competition and/or the Related Competitions.

(2) To remove any doubt, for the purposes of sub-Rule (1) a person who was registered as a Player pursuant to this Chapter, but whose registration has:

- (a) Expired;
- (b) Been suspended; or
- (c) Been cancelled;

shall be taken to be a person who is not currently registered.

Prohibition Against Playing Unregistered Persons

39. (1) Under no circumstances shall a Club:

- (a) Select a person to play in its Game Team;
- (b) Attempt to play a person in its Game Team;
- (c) Field a person to play in its Game Team;

where that person is not currently registered within the meaning of Rule 38.

NRL Playing Contract and Remuneration Rules

- (2) In any case where in the opinion of the Chief Executive Officer, in his absolute discretion, sub-Rule (1) has been contravened by a Club, in addition to any other penalty that may be imposed for that contravention pursuant to the **NRL Rules**, two Competition Points may be deducted from that Club's tally for the Season in which the contravention occurred or, if that Season has been completed at the time when the penalty is imposed, or completed save for the playing of the Finals Series, two Competition Points may be deducted from that Club's tally for the following Season.
- (3) An opinion of the Chief Executive Officer formed pursuant to sub-Rule (2) shall not be capable of review and, in any event, shall not be justiciable.

Part 6.2 - Application for Registration

Application for Registration

40. Any person who wishes to participate as a player in the NRL Competition and/or the Related Competitions must:
 - (1) Be otherwise eligible to participate as a Player in accordance with Rule 23;
 - (2) Be a party to a current NRL Playing Contract with a Club;
 - (3) Agree with the NRL:
 - (a) To comply with, and be bound by, the **NRL Rules** including:
 - (i) Schedule One – *NRL Code of Conduct*;
 - (ii) Schedule Two – *NRL Anti-Doping Rules*;
 - (iii) Schedule Three – *NRL Anti-Vilification Code*;
 - (iv) Schedule Four – *NRL Judiciary Code of Procedure*;
 - (v) Schedule Five – *NRL Appeals Committee Procedural Rules*;
 - (vi) Schedule Six – *NRL Playing Contract and Remuneration Rules*;
 - (vii) Schedule Seven – *NRL Accredited Player Agents Rules*;



NRL Playing Contract and Remuneration Rules

- (viii) Schedule Eight – *NRL Operations Manual*; and
- (ix) Any Guidelines to the **NRL Rules**,
as they exist from time to time;
- (b) To undergo drug tests as required by the **NRL Rules** and the *NRL Anti-Doping Rules*;
- (c) To submit to the jurisdiction of, and comply with any decisions or determinations made by, the Board, the Chief Executive Officer, the Salary Cap Auditor or any body established by or in accordance with the **NRL Rules** including the *NRL Judiciary*, the *NRL Drugs Tribunal* and the *NRL Appeals Committee*;
- (d) Subject to the provisions of the **NRL Rules**, including any Schedules or Guidelines to the **NRL Rules**, to the public disclosure of:
 - (i) Any breach of the **NRL Rules**, including any Schedules or Guidelines to the **NRL Rules**, with which he is charged, including the evidence relied upon in support of the charge;
 - (ii) Any decisions or determinations of the Board, the Chief Executive Officer, the Salary Cap Auditor or of any body established by or in accordance with the **NRL Rules** including the *NRL Judiciary*, the *NRL Drugs Tribunal*, and the *NRL Appeals Committee*;
- (e) To his Club communicating to the NRL details of any illness, accident or injury which might affect his fitness, safety, health or well being in training or playing rugby league;
- (f) To grant to the NRL the right to use his name and image in connection with the promotion or marketing of the NRL Competition and Representative Matches where he is a member of a Representative Team;
- (g) To make himself available for Representative Teams;

NRL Playing Contract and Remuneration Rules

- (h) That if he is selected for, but withdraws from, a Representative Team or otherwise makes himself unavailable for such selection he will not be available to play for his Club in any game in which he would not have been able to play had he been a member of such Representative Team;
- (i) That if he is selected for a Representative Team, to obey all reasonable directions of the team management, and otherwise not engage in any conduct that may be detrimental to, or bring into disrepute, the interests, welfare or image of the NRL or the Representative Team;
- (j) That if he is selected to participate in teams competing in a competition or representative match conducted by the ARL or any of its State affiliates or by any other rugby league body other than the NRL, to comply with the governing rules of the body arranging or administering that competition or match, and to submit to the jurisdiction of and comply with any decision of any disciplinary body with usual authority to make such decisions in relation to that competition or match;
- (k) To the publication and inspection of such particulars relating to him as are recorded in the Register maintained in accordance with Rule 31 of the *NRL Playing Contract and Remuneration Rules*, being Schedule Six to the **NRL Rules**;
- (l) To the NRL obtaining any financial information relating to him from his Club or from any person or entity that has provided, or will provide, Remuneration to him, including the provision of his banking records and Income Tax Returns;
- (m) To any Club for which he has played, or any person or entity that has provided, or will provide, Remuneration to him, providing to the NRL any financial information relating to him which the NRL requests and, if requested by the NRL, to provide it with a signed document directing any such Club, person or entity to provide the financial information that the NRL is seeking; and
- (n) To the NRL disclosing to the ARL, or any of its State affiliates or any other rugby league organisation which is affiliated with Rugby League International Federation, any information relating to him which that organisation requires for the performance of its duties as a governing body.

NRL Playing Contract and Remuneration Rules

- (4) Complete and execute a Player Registration Application in accordance with the terms of Form 3 to these Rules in order to evidence his agreement to the various matters specified in sub-Rule (3);
- (5) Lodge his NRL Playing Contract, his Player Registration Application and such other documents as are specified by Rule 41 with the Chief Executive Officer within the time specified by that Rule.

Lodgement of Application and Supporting Material

41. (1) Any person who wishes to participate as a player in the NRL Competition and/or the Related Competitions must, within ten Business Days of the date upon which he executed his NRL Playing Contract, lodge with the Chief Executive Officer, the following:
 - (a) A duplicate original of his NRL Playing Contract;
 - (b) His Player Registration Application;
 - (c) Where that person is a party to a current Playing Agreement, a copy of that Playing Agreement together with written evidence that is, in the opinion of the Chief Executive Officer, satisfactory proof that the person:
 - (i) Has been forever released from his obligations under that Playing Agreement and that it is in all respects at an end; or
 - (ii) Is permitted by the terms of that Playing Agreement to enter into his NRL Playing Contract.
- (2) For the purposes of sub-Rule (1)(c), the Chief Executive Officer shall regard a written clearance executed by the other party to the Playing Agreement and confirming that the person:
 - (a) Has been forever released from his obligations under that Playing Agreement and that it is in all respects at an end; or
 - (b) Is permitted by the terms of that Playing Agreement to enter into his NRL Playing Contract;as satisfactory proof of those facts.



NRL Playing Contract and Remuneration Rules

- (3) Where a person wishes to enter into an NRL Playing Contract with a Club and that person is a party to a current Playing Agreement with another Club, then that other Club shall co-operate with the person to promptly provide a written clearance within the meaning of sub-Rule (2) unless there is good reason not to do so.
- (4) To remove doubt, any person who wishes to participate as a player in the NRL Competition and/or the Related Competitions is obliged to lodge the documents specified in sub-Rule (1) within the period there specified notwithstanding that his Club has not executed his NRL Playing Contract, in which event he shall lodge a copy of his NRL Playing Contract executed by him together with the documents specified in sub-Rules 1(b) and 1(c).

Part 6.3 – Registration

Chief Executive Officer to Consider Applications for Registration

42. (1) Subject to Rule 43, in any case where a person seeks registration as a player in the NRL Competition and/or the Related Competitions, following lodgement of the documents specified in Rule 41 the Chief Executive Officer shall consider whether to register that person as a Player pursuant to this Part.
- (2) The Chief Executive Officer shall do so as soon as possible but, in any case, within ten Business Days of the date of lodgement of the documents specified in Rule 41.

Time for Applications

43. (1) Save for cases that in the opinion of the Chief Executive Officer, in his absolute discretion, are exceptional, the Chief Executive Officer shall not consider any application for registration lodged after 30 June in any year which would have the effect, if successful, of allowing the person applying to play for more than one Club in one Season.
- (2) Save for cases that in the opinion of the Chief Executive Officer, in his absolute discretion, are exceptional, unless an application for registration is lodged at least two Business Days prior to any Match, the Chief Executive Officer shall not be obliged to consider that application in time to allow that person to play in that Match.

Registration



NRL Playing Contract and Remuneration Rules

44. (1) When considering whether a person ought be registered as a Player pursuant to this Part, the Chief Executive Officer shall have regard to the following:
- (a) The prerequisites to participation as a Player specified in Rule 40;
 - (b) The prohibitions against registration specified in Rule 46.
 - (c) The opinion of the Salary Cap Auditor pursuant to Rule 47 as to whether, if the person is registered as a Player, his Club will be likely to exceed the Salary Cap;
 - (d) Whether the person is a fit and proper person to be registered as a Player;
 - (e) Any other matter that, in the opinion of the Chief Executive Officer, in his absolute discretion, should be taken into account when considering whether the person ought be registered as a Player pursuant to this Part.
- (2) For the purposes of sub-Rule (1), when considering whether a person is a fit and proper person to be registered as a Player pursuant to this Part, the Chief Executive Officer shall have regard to the following:
- (a) The person's past history, if any, as a Player in the NRL Competition and/or the Related Competitions;
 - (b) The person's past history as a player of football;
 - (c) Whether the person has previously been found in breach of the *NRL Code of Conduct* or otherwise engaged in conduct that, if that conduct occurred in the future, would be detrimental to, or bring into disrepute, the interests, welfare or image of the NRL, his Club, the NRL Competition, the Related Competitions or the game of Rugby League.
- (3) If after a consideration of the matters referred to in sub-Rule (1) the Chief Executive Officer, in his absolute discretion, is satisfied that a person ought be registered as a Player pursuant to this Part, then the Chief Executive Officer may decide to register that person as a Player.

NRL Playing Contract and Remuneration Rules

- (4) If the Chief Executive Office decides to register a person as a Player pursuant to this Part, he shall forthwith direct that the registration of that person as a Player in the NRL Competition and the Related Competitions be effected.
- (5) A decision of the Chief Executive Officer whether to register a person as a Player pursuant to this Part shall not be capable of review and, in any event, shall not be justiciable.

Effecting Registration

45. (1) Where the Chief Executive Officer directs that the registration of a person as a Player be effected pursuant to sub-Rule 44(4), the Salary Cap Auditor shall forthwith enter on the Register the particulars required by Rule 31 relating to that Player.
- (2) As soon as practicable after entering a Player's particulars on the Register, the Salary Cap Auditor shall notify the Player's Club that the Player has been registered.

Prohibitions Against Registration

46. A person must not be registered as a Player under this Part if that person:
 - (1) Has not fulfilled each of the pre-requisites specified in Rule 40, unless the Chief Executive Officer, in his absolute discretion, is satisfied that the person ought nevertheless be registered as a Player notwithstanding his failure to fulfil each of the prerequisites specified by that Rule;
 - (2) Has not complied in every respect with the requirements of Rule 41, unless the Chief Executive Officer, in his absolute discretion, is satisfied that the person ought nevertheless be registered as a Player notwithstanding his failure to fulfil each of the prerequisites specified by that Rule;
 - (3) Has been refused registration as a Player in the twelve-month period immediately before the application for registration is made;
 - (4) Was previously registered as a Player and that registration was cancelled pursuant to this Part in the five year period immediately before the application for registration is made, unless the Chief Executive Officer, in his absolute discretion, determines that the Player should, notwithstanding the previous cancellation, now be registered as a Player; or



NRL Playing Contract and Remuneration Rules

- (5) Has been previously registered as a Player but the Chief Executive Officer is of the opinion, in his absolute discretion, that the person when registered as a Player did not comply and would not in the future be likely to comply in all respects with the **NRL Rules** and all Schedules and Guidelines to those Rules, so far as they are applicable to Players, including:
- (a) Schedule One – *NRL Code of Conduct*;
 - (b) Schedule Two – *NRL Anti-Doping Rules*;
 - (c) Schedule Three – *NRL Anti-Vilification Code*;
 - (d) Schedule Four – *NRL Judiciary Code of Procedure*;
 - (e) Schedule Five – *NRL Appeals Committee Procedural Rules*;
 - (f) Schedule Six – *NRL Playing Contract and Remuneration Rules*;
 - (g) Schedule Seven – *NRL Accredited Player Agents Rules*; and
 - (h) Schedule Eight – *NRL Operations Manual*.

Opinion of the Salary Cap Auditor

47. (1) Before deciding to register a person as a Player pursuant to this Part, the Chief Executive Officer shall request the Salary Cap Auditor to provide his opinion as to whether, if that person is registered as a Player, his Club will be likely by reason thereof to exceed the Salary Cap, in which event:
- (a) The Salary Cap Auditor shall forthwith provide his opinion as to whether the registration of the person as a Player will be likely by reason thereof to cause his Club to exceed the Salary Cap for any Season covered by the Employment Term of his NRL Playing Contract if the person is registered is a Player; and

NRL Playing Contract and Remuneration Rules

- (b) If, in the opinion of the Salary Cap Auditor, the registration of the person as a Player will be likely by reason thereof to cause his Club to exceed the Salary Cap in any Season covered by the Employment Term of his NRL Playing Contract, the Chief Executive Officer must not register that person as a Player unless the Chief Executive Officer, in his absolute discretion, is satisfied that the person ought nevertheless be registered as a Player pursuant to this Part.
- (2) To remove any doubt, an opinion of the Salary Cap Auditor provided pursuant to this Rule shall not be capable of review and, in any event, shall not be justiciable.

Notice of Refusal of Application

- 48. (1) If the Chief Executive Officer is not satisfied that a person ought be registered as a Player pursuant to this Part, then the application for registration shall be refused, in which event the Chief Executive Officer shall, as soon as possible, give written notice of that fact to:
 - (a) The person who sought registration; and
 - (b) That person's Club.
- (2) To remove any doubt, nothing in this Rule requires the Chief Executive Officer to provide reasons for his refusal to register any person.

Duration of Registration

- 49. (1) Once a Player is registered under this Part, the Player shall be deemed to have been so registered from:
 - (a) The date upon which the Employment Term under any preceding NRL Playing Contract by which the Player was registered to participate as a Player for any Club in the NRL Competition and/or the Related Competitions expired or was otherwise determined; or
 - (b) The date upon which the Player first commenced training with the Club with which the Player has entered into his current NRL Playing Contract;

whichever date is the earlier, and the Player shall continue to be so registered until the expiration or other determination of the Employment Term under his current NRL Playing Contract.



NRL Playing Contract and Remuneration Rules

- (2) To remove any doubt, where a Player is registered under this Part but he was not previously a party to an NRL Playing Contract by which the Player was registered to play in the NRL Competition and/or the Related Competitions, that Player shall be deemed to have been registered from the date upon which the Player first commenced training with the Club with which the Player has entered into his current NRL Playing Contract.

Automatic De-Registration

50. (1) The Chief Executive Officer shall de-register a Player by directing the Salary Cap Auditor to remove the Player's particulars from the Register if:
- (a) The Player requests the Chief Executive Officer, in writing, to do so;
 - (b) The Player dies.
- (2) In any case where a Player's NRL Playing Contract is terminated by either party to it, the Chief Executive Officer shall forthwith de-register the Player by directing the Salary Cap Auditor to remove the Player's particulars from the Register.

Part 6.4 – Expiration, Cancellation or Suspension of Registration

Expiration of Registration

51. (1) The registration of a Player under this Part will cease on the date upon which the Employment Term of the NRL Playing Contract by which the Player was registered expires or is otherwise determined.
- (2) Nothing in sub-Rule (1) shall be taken to affect the operation of Rule 49.

Cancellation or Suspension of Registration

52. (1) Should the Chief Executive Officer form the opinion, in his absolute discretion, that a Player:
- (a) Has not complied in all respects with the ***NRL Rules*** and all Schedules and Guidelines to those Rules, so far as they are applicable to Players, including:



NRL Playing Contract and Remuneration Rules

- (i) Schedule One – *NRL Code of Conduct*;
- (ii) Schedule Two – *NRL Anti-Doping Rules*;
- (iii) Schedule Three – *NRL Anti-Vilification Code*;
- (iv) Schedule Four – *NRL Judiciary Code of Procedure*;
- (v) Schedule Five – *NRL Appeals Committee Procedural Rules*;
- (vi) Schedule Six – *NRL Playing Contract and Remuneration Rules*;
- (vii) Schedule Seven – *NRL Accredited Player Agents Rules*;
and
- (viii) Schedule Eight – *NRL Operations Manual*; or

(b) Is no longer a fit a proper person to be registered as a Player;

and, further, considers in his absolute discretion that he ought as a consequence act to either suspend the registration of the Player or cancel the registration of the Player, then the Chief Executive Officer may proceed pursuant to sub-Rule (3).

- (2) For the purposes of sub-Rule (1), when considering whether a person is no longer a fit and proper person to be registered as a Player, the Chief Executive Officer shall have regard to the following:
- (a) Whether the Player contravened the *NRL Code of Conduct* or otherwise engaged in conduct that, in the opinion of the Chief Executive Officer, was detrimental to or brought into disrepute, the interests, welfare or image of the NRL, the Player's Club, the NRL Competition, the Related Competitions or the game of Rugby League;
 - (b) Any other matter that, in the opinion of the Chief Executive Officer, in his absolute discretion, should be taken into account in considering whether the Player is no longer a fit and proper person to be registered as a Player.

NRL Playing Contract and Remuneration Rules

- (3) If the Chief Executive Officer forms any one of the opinions specified in sub-Rule (1) and further, considers, in his absolute discretion, that he ought as a consequence act to either suspend the registration of a Player or cancel the registration of a Player, then the Chief Executive Officer shall:
 - (a) Notify the Player and the Player's Club in writing of that intention and a brief outline of the reasons or reasons for that intention;
 - (b) Request the Player to show cause in writing within five Business Days why the Player's registration should not be suspended or cancelled, as the case may be.
- (4) After the expiration of the period specified in sub-Rule (3)(b), the Chief Executive Officer shall consider any written response from the Player and thereafter determine, in his absolute discretion, whether to:
 - (a) Take no further action;
 - (b) Caution the Player;
 - (c) Suspend the registration of the Player for such period as, in his absolute discretion, he thinks fit providing that any such period of suspension does not exceed the balance of the Employment Term of the NRL Playing Contract by which the Player was registered; or
 - (d) Cancel the registration of the Player.
- (5) If the Chief Executive Officer determines to either suspend the registration of the Player or cancel the registration of the Player, that suspension or cancellation will take effect immediately and, thereafter, the Chief Executive Officer shall, as soon as practicable:
 - (a) Notify the Player and the Player's Club of that fact;
 - (b) Direct the Salary Cap Auditor to forthwith record the fact of that suspension or cancellation on the Register;
 - (c) If applicable, direct the Salary Cap Auditor to remove the Player's name from the Free Agents List:
 - (i) In the case of a suspension of registration, for the period of that suspension;

- (ii) In the case of a cancellation, permanently.
- (6) For the purposes of this Rule, it is irrelevant whether the Player has been otherwise dealt with:
- (a) By the NRL for a contravention of the **NRL Rules** or any of the Schedules and Guidelines to those Rules; or
 - (b) By his Club;
- for the conduct upon which the Chief Executive Officer formed any one of the opinions specified in sub-Rule (1).

Review by the NRL Appeals Committee

53. (1) In any case where the Chief Executive Officer has:
- (a) Suspended the registration of a Player; or
 - (b) Cancelled the registration of a Player;
- then the Player may, subject to sub-Rule (2), request the NRL Appeals Committee to review that suspension or cancellation, as the case may be.
- (2) A Player who wishes to request the NRL Appeals Committee to review his suspension or cancellation must proceed in accordance with the provisions of the *NRL Appeals Committee Procedural Rules*.
- (3) On the hearing of a review of a suspension or cancellation of the registration of a Player, the NRL Appeals Committee may:
- (a) Affirm the determination of the Chief Executive Officer;
 - (b) In the case of a cancellation, remove the cancellation and:
 - (i) Suspend the registration of a Player for a period not exceeding the balance of the Employment Term of the NRL Playing Contract by which the Player was registered;
 - (ii) Reinstate the registration of the Player by removing the cancellation;
 - (c) In the case of a suspension:

NRL Playing Contract and Remuneration Rules

- (i) Cancel the registration of the Player;
 - (ii) Reinstate the registration of the Player by removing the suspension.
- (4) Any review by the NRL Appeals Committee of a determination of the Chief Executive Officer to either suspend the registration of a Player or cancel the registration of a Player shall not be justiciable and shall be final and conclusive and given effect to by the Player and the NRL.
- (5) To remove any doubt, nothing in this Rule shall be taken to mean that a person whose application for registration as a Player has been refused by the Chief Executive Officer shall be entitled to request the NRL Appeals Committee to review that refusal.

Review Does Not Operate as a Stay

54. (1) Where the registration of a Player has been either suspended or cancelled by the Chief Executive Officer pursuant to Rule 52, and the Player requests the NRL Appeals Committee to review that suspension or cancellation pursuant to Rule 53, neither that request nor that review shall operate to stay the suspension or the cancellation as the case may be.
- (2) To remove any doubt, unless and until the NRL Appeals Committee at the conclusion of a review decides to reinstate the registration of a Player within the meaning of sub-Rule 53(3)(b)(ii) or sub-Rule 53(3)(c)(ii), the person seeking the review is not registered as a Player.

Chapter 7 – Record Keeping and Management

Obligations of the Club

55. Each Club must maintain, and make available for inspection on request by the Salary Cap Auditor, proper records including files containing:
- (1) A copy of every current and any previous NRL Playing Contract or Playing Agreement for each of its Players;
 - (2) A copy of the Player Registration Application for every one of its current Players;



NRL Playing Contract and Remuneration Rules

- (3) A copy of all notes of negotiations kept pursuant to Rule 34;
- (4) A copy of every written communication between:
 - (a) The Club and any of its Players;
 - (b) The Club and any NRL Accredited Player Agent or Agent for any of its Players;
 - (c) The Club and any of its Associated Entities regarding the Remuneration paid by that Club to its Players or any one of them;
 - (d) The Club and any sponsor regarding the Remuneration paid to its Players or any one of them;
- (5) File notes of every substantive oral communication between:
 - (a) The Club and any of its Players or any person whom the Club wished to engage as a Player;
 - (b) The Club and any NRL Accredited Player Agent or Agent for any of its Players or any person whom the Club wished to engage as a Player;
 - (c) The Club and any of its Associated Entities regarding the Remuneration paid, and/or to be paid by that Club to its Players or any one of them or any person whom the Club wished to engage as a Player;
 - (d) The Club and any Club Sponsor regarding the Remuneration paid, or to be paid, to its Players or any one of them or to any person whom the Club wished to engage as a Player;
- (6) A record of all Remuneration paid, or to be paid, to, or for the benefit of, its respective Players including amounts paid to:
 - (a) NRL Accredited Player Agents;
 - (b) Agents;
 - (c) Entities or persons associated with Players including spouses, parents and the like;
 - (d) Discharge debts owed by a Player to other persons or entities.

NRL Playing Contract and Remuneration Rules

- (7) All income tax records relating to the Remuneration paid to its Players, including but not limited to:
 - (a) The income tax returns and all supporting schedules lodged by the Club with the Australian Taxation Office for the preceding three Financial Years;
 - (b) The Group Certificates provided to the Australian Taxation Office with respect to its Players;
- (8) All cheques issued by or on behalf of or for the benefit of the Club together with a copy of all bank statements, bank deposit books, cash payments journals, security documents and any other documents kept by or for the Club relating to the Remuneration paid, or to be paid, by the Club to, or for the benefit of, its Players.

Obligations of the Player

56. A Player must maintain proper records that can be made available for inspection on request by the Salary Cap Auditor, including files containing:
 - (1) A copy of his current and any previous NRL Playing Contracts or Playing Agreements;
 - (2) A copy of his Player Registration Application;
 - (3) A copy of every written communication between:
 - (a) The Player and his Club;
 - (b) The Player and any of his Associated Entities regarding the Remuneration paid, or to be paid, to the Player by his Club;
 - (c) The Player and any Club Sponsor regarding the Remuneration paid, or to be paid, to the Player;
 - (4) All banking and income tax records relating to the Remuneration paid to him, including but not limited to:
 - (a) The bank statements recording or relating to the deposit, withdrawal or transfer of Remuneration;
 - (b) The income tax returns and all supporting schedules lodged by him with the Australian Taxation Office for the preceding three Financial Years;



NRL Playing Contract and Remuneration Rules

- (c) The Group Certificates provided to the Australian Taxation Office with respect to him; and
- (5) A copy of all notes of negotiations kept pursuant to Rule 34.

Security

57. All Clubs and all Players must keep the documents referred to in Rules 55 and 56 securely and in a way that will ensure ease of retrieval when called upon by the Salary Cap Auditor to do so until the later of:
- (1) In the case of a Club's records relating to a particular Player, three years after the date upon which the Player ceased to have a current NRL Playing Contract with the Club; or
 - (2) In any other case, five years after the date upon which the record was generated.

Other Obligations

58. Each Club shall ensure that their Players and any NRL Accredited Player Agents or Agents for their Players are familiar with the provisions of these Rules by establishing procedures to so ensure including the supply of a copy of these Rules to those Players and to those NRL Accredited Player Agents and Agents.

Chapter 8 - The Salary Cap

Part 8.1 - Establishment of the Salary Cap

Value of the Salary Cap

59. (1) The Salary Cap for each Club for each Season shall be \$3,550,000.00, which sum is made up as follows:
- (a) \$3,250,000.00, being the maximum aggregate Remuneration that may be paid by a Club to all of the Players who were entered on the Top 25 List for that Club at any one time in that Season; and



NRL Playing Contract and Remuneration Rules

- (b) \$300,000.00, being the maximum aggregate Remuneration that may be paid by a Club to all other Players who were registered to play and did play in the NRL Competition for that Club in that Season.
- (2) For the purposes of sub-Rule (1):
 - (a) Sub-Rule (1)(a) applies to the Remuneration paid to every Player entered on the Top 25 List for a Club at any one time in a Season, irrespective of whether any Player so entered was registered to play or did play in the NRL Competition for that Club in the Season;
 - (b) Sub-Rule (1)(b) does not apply to the Remuneration paid by a Club to any Player to whom sub-Rule (1)(a) applies, but it applies to all other Players who were registered to play and did play in the NRL Competition for that Club in the Season;
 - (c) Remuneration shall be taken to have been paid by a Club to a Player if it is of a type defined by Rule 65 and if it is paid within the meaning of Rule 66.
 - (3) To remove any doubt, the reference to “aggregate” in sub-Rules (1)(a) and (1)(b) is intended to mean the combined total of all of the Remuneration paid to all of the Players to whom those sub-Rules refer.

Remuneration Not to Exceed Salary Cap

- 60. (1) Subject only to the other provisions of this Chapter, each Club must ensure that the total aggregate Remuneration paid to its Players during any one Season does not exceed the Salary Cap;
- (2) To remove any doubt, a Club shall be taken to have failed to ensure that the total aggregate Remuneration paid to its Players during any one Season does not exceed the Salary Cap if:
 - (a) An agreement or arrangement (including an NRL Playing Contract, Playing Agreement, Non-Playing Agreement or Third Party Agreement) is entered into by a Club; or
 - (b) A commitment is otherwise made by, or on behalf of, a Club;



NRL Playing Contract and Remuneration Rules

the effect of which will be that the total aggregate Remuneration to be paid by the Club to its Players during any one Season will exceed the Salary Cap, irrespective of whether that Remuneration is later paid to its Players within the meaning of Rule 66 or not.

Remuneration Must Exceed the Salary Cap Floor

60A. (1) This Rule will apply to all Clubs from 31 December 2004.

(2) The Salary Cap Floor for the Top 25 Players from each Club shall be \$3,000,000.00.

(3) Each Club must ensure that the total aggregate Remuneration paid to its Top 25 Players during any one Season is at least the amount of the Salary Cap Floor.”

Opinions, Decisions and Determinations of the Salary Cap Auditor

61. Save where otherwise expressly provided in this Chapter, the formation of any opinion or the making of any decision or determination by the Salary Cap Auditor pursuant to the provisions of this Chapter shall not be capable of review and, in any event, shall not be justiciable.

Part 8.2 – The Top 25 Players

Top 25 Players

62. (1) On or before 1 February of each year, each Club shall submit a schedule of its Top 25 Players to the Salary Cap Auditor.

(2) For the purposes of sub-Rule (1), the schedule shall be in writing and contain particulars of:

(a) The name of each Player;

(b) The date of the current NRL Playing Contract or Playing Agreement for each Player;

(c) The Season or Seasons covered by the Employment Term of the NRL Playing Contract or Playing Agreement for each Player;

(d) The Match Fees and Playing Fees to be paid by the Club to each Player for that Season;



NRL Playing Contract and Remuneration Rules

- (e) Any other Remuneration, whether Included Remuneration or Excluded Remuneration, to be paid by the Club to each Player for that Season;
 - (f) In the case of any Player who is bound to the Club by an NRL Playing Contract, the date upon which that Player's current registration was effected pursuant to Chapter 5.
- (3) Should any Club fail to comply with sub-Rule (1), that Club shall not be permitted to participate in the NRL Competition and/or the Related Competitions until it does so.

The Top 25 List

63. (1) Upon receipt of a schedule from a Club pursuant to Rule 62, the Salary Cap Auditor shall:
- (a) Compare the information provided in the schedule with the information otherwise provided by the Club and/or the Players nominated on the Schedule when lodging NRL Playing Contracts or applying for registration as a Player, as the case may be, to ensure the accuracy of that information;
 - (b) Thereafter, compile a Top 25 List for that Club, which list shall contain particulars of:
 - (i) The name of each Player;
 - (ii) The date of the current NRL Playing Contract or Playing Agreement for each Player;
 - (iii) The Season or Seasons covered by the Employment Term of the NRL Playing Contract or Playing Agreement for each Player;
 - (iv) The Match Fees and Playing Fees to be paid by the Club to each Player for that Season;
 - (v) Any other Remuneration, whether Included Remuneration or Excluded Remuneration, to be paid by the Club to each Player for that Season;
 - (vi) In the case of every Player who is bound to the Club pursuant to an NRL Playing Contract, the date upon which that Player's current registration was effected pursuant to Chapter 5.



NRL Playing Contract and Remuneration Rules

- (2) As soon as practicable after compiling a Top 25 List for a Club, the Salary Cap Auditor shall cause the particulars referred to in sub-Rule (1)(b)(i), (ii), (iii) and (vi) to be published on the NRL Website or by Broadcast Email and updated as reasonably necessary throughout the Season.
- (3) To remove any doubt, the Salary Cap Auditor shall not publish the particulars referred to in sub-Rule 1(b)(iv) or 1(b)(v) on the NRL Website or by Broadcast Email.

Revising the Top 25 List

64. (1) Throughout each Season, the Salary Cap Auditor shall keep the Top 25 List for each Club under review so as to ensure that, if a Player whose particulars do not appear on the Top 25 List becomes one of the Top 25 Players for that Club, the particulars required by sub-Rule 63(1) for that Player shall be entered on the Top 25 List and the particulars for the Player who is thereby no longer a Top 25 Player shall be removed from the Top 25 List.
- (2) For the purposes of sub-Rule (1), a Player will become a Top 25 Player if the Remuneration that is either paid to him or is to be paid to him by a Club for the Season will have the effect of making him one of the 25 highest remunerated Players in that Club.

Part 8.3 – Remuneration – General Provisions

Meaning of Remuneration

65. (1) Subject only to the other provisions of this Chapter, Remuneration means any:
 - (a) Advance;
 - (b) Allowance;
 - (c) Bonus;
 - (d) Consideration;
 - (e) Disbursement;
 - (f) Expenditure;
 - (g) Expense;



NRL Playing Contract and Remuneration Rules

- (h) Financial benefit given or promised;
- (i) Fringe benefit;
- (j) Incentive;
- (k) Insurance premiums;
- (l) Loan;
- (m) Match bonus or incentive payment;
- (n) Money;
- (o) Payment;
- (p) Payment of insurance or other premium;
- (q) Rebate;
- (r) Refund;
- (s) Reimbursement;
- (t) Remittance;
- (u) Reparation;
- (v) Restitution;
- (w) Reward;
- (x) Salary or wages;
- (y) Superannuation benefit; or
- (z) Other benefit in any form, whether deemed by the Salary Cap Auditor to be Remuneration pursuant to Rule 69 or otherwise;

paid to a Player by a Club within the meaning of these Rules.

- (2) For the purposes of sub-Rule (1), it is irrelevant whether the Remuneration is paid to the Player within the meaning of these Rules pursuant to:



NRL Playing Contract and Remuneration Rules

- (a) An NRL Playing Contract;
 - (b) A Playing Agreement;
 - (c) A Non-Playing Agreement;
 - (d) A Third Party Agreement; or
 - (e) Otherwise.
- (3) Remuneration may be characterised as variable or fixed as follows:
- (a) Some Remuneration will be variable if it provides for the payment by a Club to a Player of Appearance Fees (Rule 79), Other Bonuses (Rule 89) or Performance Bonuses (Rule 90), and such Remuneration is collectively referred to in these Rules as Variable Remuneration;
 - (b) All other Remuneration paid by a Club to a Player will be fixed, and such Remuneration is referred to in these Rules as Fixed Remuneration.
- (4) Unless otherwise expressly provided, a reference in these Rules to Remuneration includes both Variable Remuneration and Fixed Remuneration.

Meaning of “Paid to a Player”

66. (1) In these Rules, wherever the expression “paid to a Player” is used in the context of the payment of Remuneration, it includes Remuneration that is paid:
- (a) To a Player,
 - (b) For the benefit of a Player;
 - (c) To, or for the benefit of, the spouse, de facto partner, relative, trustee of a Player;
 - (d) To, or for the benefit of, any person or Entity associated, whether directly or indirectly, with a Player;
 - (e) To, or for the benefit of, a creditor of a Player;
 - (f) To, or for the benefit of, an NRL Accredited Player Agent or Agent for a Player;



- (g) At, or pursuant to, the direction of a Player; or
 - (h) In any other circumstance declared by the Salary Cap Auditor, in his absolute discretion, to be Remuneration that has been paid to a Player.
- (2) For the purposes of sub-Rule (1), it is irrelevant whether the Remuneration is:
- (a) Directly or indirectly so paid;
 - (b) In any form; or
 - (c) From whatever source.

Meaning of "By a Club"

67. In these Rules, wherever the expression "by a Club" is used in the context of the payment of Remuneration to a Player, it includes Remuneration that has been paid:

- (1) By a Club;
- (2) On behalf of a Club;
- (3) By, or on behalf of, an Associated Entity;
- (4) By, or on behalf of, a Club Sponsor;
- (5) By, or on behalf of, any other person or Entity associated or affiliated, whether directly or indirectly, with a Club, an Associated Entity or a Club Sponsor;
- (6) In any other circumstance declared by the Salary Cap Auditor, in his absolute discretion, to be Remuneration that has been paid by a Club to a Player.

The Time When Remuneration is Paid

68. (1) Subject to Rule 72, for the purposes of this Chapter, Remuneration shall be regarded as paid by a Club to a Player during a Season if it is paid at any time during the Season.
- (2) For the purposes of sub-Rule (1), Remuneration is paid when:

NRL Playing Contract and Remuneration Rules

- (a) It is actually paid;
 - (b) It is due and payable, though it has not actually been paid;
 - (c) There is a present entitlement to its payment, though it has not actually been paid;
 - (d) Declared by the Salary Cap Auditor, in his absolute discretion, to be paid.
- (3) To remove any doubt, it is irrelevant for the purposes of sub-Rule (1) whether:
- (a) The Remuneration has been, or is to be, paid before, during or after the Employment Term under the relevant NRL Playing Contract by which the Player is registered to play in the NRL Competition and/or the Related Competitions;
 - (b) At the time when the Remuneration is paid to a Player, the Employment Term of his NRL Playing Contract or Playing Agreement has:
 - (i) Commenced;
 - (ii) Expired; or
 - (iii) Been terminated.
- (4) Nothing in this Rule shall be taken to affect the assessment by the Salary Cap Auditor of Variable Remuneration in accordance with the express provisions of this Chapter dealing with those assessments.

Deemed Remuneration

69. (1) The Salary Cap Auditor may, in his absolute discretion, deem any Remuneration paid to a Player by a Club, within the meaning of these Rules, to be Remuneration paid to that Player for the purposes of the Salary Cap Calculation.

NRL Playing Contract and Remuneration Rules

- (2) The Salary Cap Auditor may, in his absolute discretion, deem that a Player should be regarded, for the purposes of the Salary Cap Calculation, as having been paid a greater amount of Remuneration by a Club than that which was in fact paid by the Club to the Player if the Player was in the opinion of the Salary Cap Auditor, in his absolute discretion, paid a substantially greater amount of Remuneration under a previous NRL Playing Contract or Playing Agreement, whether by his current Club or by his previous Club, in which event the Salary Cap Auditor may deem the amount of the Remuneration paid to that Player to be the amount which would likely have been payable to the Player had he entered into an NRL Playing Contract or Playing Agreement on the same terms as to payment as that previous NRL Playing Contract.
- (3) Notwithstanding anything here or elsewhere either expressly or impliedly provided, the Salary Cap Auditor may, in his absolute discretion, include or exclude all or any part of any Remuneration paid to a Player in the Salary Cap Calculation.

Information May be Requested Regarding Remuneration

70. (1) In any case the Salary Cap Auditor may, by request in writing under his hand providing ten Business Days within which to respond, require a Club to explain in writing the nature of any Remuneration paid by it to a Player.
- (2) In the event that:
 - (a) A Club fails to provide a written explanation within the period specified in sub-Rule (1); or
 - (b) The Club provides a written explanation but the Salary Cap Auditor, in his absolute discretion, is not satisfied by the explanation provided;

then the whole or part of the particular Remuneration about which the Salary Cap Auditor sought a written explanation may be included by the Salary Cap Auditor, in his absolute discretion, in the Salary Cap Calculation.

Determinations May Be Requested

71. (1) A Club may at any time request the Salary Cap Auditor to determine whether particular Remuneration will be included in the Salary Cap Calculation.



NRL Playing Contract and Remuneration Rules

- (2) For the purposes of sub-Rule (1), any such request should be made in writing to the Salary Cap Auditor specifying the nature and purpose of the particular Remuneration and supplying a copy of any supporting documents relating to the particular Remuneration and such other documents as the Salary Cap Auditor may, in his absolute discretion, advise the Club that he requires.
- (3) Where the Salary Cap Auditor receives a request pursuant to sub-Rule (1), he shall:
 - (a) Duly and promptly consider that request;
 - (b) Determine, in his absolute discretion, whether the particular Remuneration the subject of that request ought be included in the Salary Cap Calculation; and
 - (c) Thereafter, forthwith advise the Club of his determination;in which event, that determination shall be binding upon that Club.

Apportioning Remuneration

72. (1) In any case where the Employment Term under an NRL Playing Contract or Playing Agreement covers more than one Season and that NRL Playing Contract or Playing Agreement provides for the payment to the Player of Remuneration in a lump sum or lump sums that are not apportioned between the Seasons covered by the Employment Term, then the Salary Cap Auditor may for the purposes of the Salary Cap Calculation apportion the lump sum or lump sums over the Seasons covered by the Employment Term.
- (2) For the purposes of sub-Rule (1), the Salary Cap Auditor shall so apportion any lump sum by:
 - (a) Dividing that sum by the number of Seasons covered by the Employment Term of the NRL Playing Contract or Playing Agreement; or
 - (b) Using such other method to fairly apportion the lump sum as the Salary Cap Auditor, in his absolute discretion, considers equitable;in which event, the portions thereby obtained shall, save for Remuneration excluded under these Rules, be included in the Salary Cap Calculation for each such Season.



Underspensing Shall Not be Carried Forward

73. (1) Subject only to Rule 74, the difference between the aggregate Remuneration paid by a Club to its Players within the meaning of Rule 59 in any one Season and the amount of the Salary Cap for that Season shall not be capable of being carried forward by a Club way of credit for the next Season.
- (2) To remove any doubt, in the case of any Club that has paid to its Players less than the maximum aggregate Remuneration specified in sub-Rule 59(1)(a) and/or sub-Rule 59(1)(b) in any one Season, the difference between the Remuneration paid by the Club and the amount of the maximum aggregate Remuneration so specified may be paid by the Club to Players as Remuneration for their participation in the following Season without having that sum included in the Salary Cap Calculation for that following Season providing:
- (a) Sub-Rules 59(1)(a) and (1)(b) are not contravened;
 - (b) Any such expenditure takes place on or before the commencement of the following Season; and
 - (c) The payment is processed, properly documented (including, if necessary, the execution of a Variation) and actually received by the Player on or before 31 October of that following Season.
- (3) Nothing in this Rule should be taken to mean that any Club is required to spend to the limit of the Salary Cap in any Season.

Over-Estimation of Variable Remuneration

74. (1) This Rule only applies to the Variable Remuneration paid by a Club to its Players.
- (2) Subject to sub-Rule (3), where the Variable Remuneration assessed by the Salary Cap Auditor for the purposes of the Salary Cap Calculation pursuant to Rule 79 (Appearance Fees), Rule 89 (Other Bonuses) and Rule 90 (Performance Bonuses) exceeds the Variable Remuneration actually paid by a Club to its Players in a Season (including all such Variable Remuneration paid with reference to Finals Series Matches), that excess may be paid by the Club to one or more of its Top 25 Players as Remuneration providing:
- (a) Sub-Rules 59(1)(a) and (1)(b) are not contravened;

NRL Playing Contract and Remuneration Rules

- (b) Any such expenditure takes place on or before 31 October of the Year preceding the Season to which the expenditure relates; and
 - (c) The payment is processed, properly documented (including, if necessary, the execution of a Variation) and actually received by the Player on or before 31 October of the Year preceding the Season to which the expenditure relates.
- (3) Sub-Rule (2) has no application to Variable Remuneration of the kind referred to in sub-Rule 89(2)(b).

Part 8.4 – Remuneration – Inclusions and Exclusions

Included Remuneration

75. Subject only to the other provisions of this Chapter, all Remuneration paid to a Player by a Club during a Season shall be included in the Salary Cap Calculation for that Club for that Season.

Excluded Remuneration

76. The only Remuneration paid to a Player by a Club during a Season that shall be excluded from the Salary Cap Calculation for the Club for that Season is Remuneration that the provisions of this Chapter specifically provide to be so excluded.

Part 8.5 – Remuneration – Particular Categories

Accommodation

77. (1) Where Remuneration is paid by a Club to a Player in the form of:
- (a) An accommodation allowance;
 - (b) Rent;
 - (c) A mortgage payment;
 - (d) A living away from home allowance; or
 - (e) Any other form of payment intended to provide for, or assist in, the accommodation of a Player;

NRL Playing Contract and Remuneration Rules

such Remuneration shall be included in the Salary Cap Calculation.

- (2) Where a Club provides accommodation to, or for the benefit of, a Player, the full commercial value of that accommodation, to be assessed by the Salary Cap Auditor in his absolute discretion, shall be included in the Salary Cap Calculation;
- (3) To remove any doubt, sub-Rule (1) and sub-Rule (2) do not apply to relocation costs reimbursed to a Player by a Club within the meaning of Rule 94.

Advances

78. In any case where Remuneration is paid by a Club to a Player in the form of an advance of a sum of money, whether on account of a future entitlement under his NRL Playing Contract or Playing Agreement or otherwise, the full amount of that advance shall be included as Remuneration in the Salary Cap Calculation.

Appearance Fees

79. (1) Remuneration in the form of a fee paid by a Club to a Player for appearing as a Player in a Match is referred to in these Rules as an Appearance Fee.
- (2) Subject to sub-Rules (3) and(4), in any case where Remuneration is paid to a Player by a Club in the form of Appearance Fees, that Remuneration shall be assessed by the Salary Cap Auditor with reference to the number of Matches in which that Player participated in the previous Season in the NRL Competition, whether for that Club or for another Club, to the effect that the amount of Remuneration that shall be included in the Salary Cap Calculation will be equal to the amount that would have been paid to the Player had that Player participated in the same number of Matches in the Season being assessed as he participated in the previous Season.
- (3) For the purposes of making an assessment pursuant to sub-Rule (2):
 - (a) Where a Player participated in a Match in the previous Season, but:



NRL Playing Contract and Remuneration Rules

- (i) The Player only played in the Match because another Player, who otherwise would have participated in the Match, played in a Representative Match;
- (ii) The Player was not a Top 25 Player and only played in the Match because another Player, who otherwise would have participated in the Match, had been injured for a continuous period encompassing more than 13 Rounds;
- (iii) The Player was a Heat Stress Player; or
- (iv) The Match was a Final Series Match;

then that Player shall not, for the purposes of the Salary Cap Auditor's assessment, be regarded as having participated in that Match;

- (b) Where a Player did not participate in the previous Season in the NRL Competition but participated as a player in the previous Season in one of the Other Competitions, that Player shall, for the purposes of the Salary Cap Auditor's assessment, be deemed to have participated in the same number of Matches in which that Player participated in the previous Season in the Other Competition.
- (4) For the purposes of sub-Rule (2), in any case where a Player was entitled to payment of an Appearance Fee, which payment increased in value from a base sum depending upon the number of Matches in which he so appeared, the base sum to which he was entitled shall be assessed by the Salary Cap Auditor as the Appearance Fee and the balance payable to the Player during the Season shall be regarded as a Performance Bonus within the meaning of Rule 90 and assessed accordingly.

Education

80. (1) Subject to sub-Rule (2), in any case where Remuneration is paid by a Club to a Player in the form of any sum paid to assist in the secondary, tertiary or further education of that Player, whether by scholarship, traineeship or otherwise, that Remuneration shall be included as Remuneration in the Salary Cap Calculation.



NRL Playing Contract and Remuneration Rules

- (2) For the purposes of sub-Rule (1), the whole or part of any tuition fees or other education expenses paid to a Player by a Club as reimbursement for that Player's tertiary or further education (including a traineeship) may be excluded from the Salary Cap Calculation if the Salary Cap Auditor, in his absolute discretion, is satisfied by production of appropriately certified supporting written material that:
- (a) The Player was enrolled in a recognised course of tertiary or further education (including a traineeship);
 - (b) The Player participated to an acceptable degree in that course;
 - (c) The Player's attendance at that course was regarded by the institution at which the Player was enrolled as satisfactory;
 - (d) The fees or expenses were reasonably incurred; and
 - (e) The fees or expenses were actually paid by the Club.

Fringe Benefits Tax

81. (1) In any case where part of the Remuneration paid by a Club to a Player is liable to attract Fringe Benefits Tax, the amount of that Fringe Benefits Tax shall be included as Remuneration in the Salary Cap Calculation, calculated in accordance with the following formula:

$$\frac{[\text{Value of the benefit}] \times 0.485}{0.515}$$

- (2) To remove any doubt, sub-Rule (1) has no application to the provision of a motor vehicle to a Player:
- (a) By a Club, which provision shall be treated by the Salary Cap Auditor as provided by Rule 88; or
 - (b) For servicing Club Sponsors or for the development of Rugby League, which provision shall be treated by the Salary Cap Auditor as provided by Rule 97.

Guarantees



NRL Playing Contract and Remuneration Rules

82. In any case where a Player is provided by his Club with a guarantee or assurance that his Remuneration, in whatever form, shall not be less than a particular amount, the amount so guaranteed or assured shall, subject only to any Remuneration expressly excluded from the Salary Cap Calculation by this Chapter, be included as Remuneration in the Salary Cap Calculation irrespective of whether it has actually been paid in full to the Player.

Health Insurance

83. (1) Where a Club has, in addition to the Remuneration paid to a Player pursuant to his NRL Playing Contract or Playing Agreement, paid Remuneration to the Player in form of a premium payable with respect to private health insurance for that Player or for a spouse, de facto partner or child of that Player, the amount of that premium shall be excluded from the Salary Cap Calculation.
- (2) Save for any case to which sub-Rule (1) applies, where Remuneration is paid by a Club to a Player in the form of a premium payable with respect to a policy of insurance (such as a family health cover policy or an income protection policy) for the benefit of a Player, the amount of that premium shall be included as Remuneration in the Salary Cap Calculation.

Loans

84. (1) Subject to sub-Rule (2), in any case where a Club has paid Remuneration to a Player in the form of a loan of money and that loan was not repaid by 31 October of the Year in which it was advanced, the full amount of the sum so loaned shall be included as Remuneration in the Salary Cap Calculation.
- (2) In any case where a Club has paid Remuneration to a Player in the form of a loan of money and that loan was repaid on or before 31 October of the Year in which it was advanced, the difference between the Lending Interest Rate for 31 October of that Year and the interest paid by the Player pursuant to the loan (if any) shall be included as Remuneration in the Salary Cap Calculation.

NRL Playing Contract and Remuneration Rules

- (3) For the purposes of sub-Rule (2), when assessing whether a loan is repaid on or before 31 October, a loan that is repaid on or before 31 October but which is re-loaned to the Player in the next Year will be regarded as a loan that has not been repaid.

Management Fees

85. (1) In any case where a Club has paid a sum of money to, or for the benefit of, an NRL Accredited Player Agent or Agent, whether by way of retainer or recruitment fee or otherwise, the sum so paid shall be included in the Salary Cap Calculation as Remuneration paid to its Players.
- (2) For the purposes of compiling the Top 25 List, the Salary Cap Auditor shall, with respect to any sum paid by a Club to an NRL Accredited Player Agent or Agent within the meaning of sub-Rule (1), equally apportion that sum between:
- (a) The Top 25 Players for that Club whom the NRL Accredited Player Agent or Agent, as the case may be, represents; or
- (b) In any case where the NRL Accredited Player Agent or Agent, as the case may be, does not represent a Top 25 Player for that Club, between all of the Top 25 Players for that Club.

Medical Terminations

86. (1) Subject to sub-Rule (2), where during the Employment Term of an NRL Playing Contract or Playing Agreement, the Club terminates the employment of a Player pursuant to the provisions of:
- (a) Section 5 of his NRL Playing Contract; or
- (b) Section 6 of his NRL Playing Contract;
- and Remuneration is paid by the Club to the Player in the form of a payment made in connection with that termination, then that payment shall be included as Remuneration in the Salary Cap Calculation.
- (2) In the case of any payment to which sub-Rule (1) applies, the Salary Cap Auditor may determine, in his absolute discretion, to exclude a portion of that payment from the Salary Cap Calculation.



NRL Playing Contract and Remuneration Rules

- (3) Before the Salary Cap Auditor may exercise his discretion pursuant to sub-Rule (2), the Club must make application in writing to the Salary Cap Auditor to do so, which application must be supported by all available medical evidence concerning the Player and, if the Salary Cap Auditor thinks it appropriate, such other medical evidence as the Salary Cap Auditor may require the Club, at its cost, to obtain.
- (4) Following receipt of an application and supporting material from a Club pursuant to sub-Rule (3), the Salary Cap Auditor shall consider it in order to determine:
 - (a) Whether the Player, at the time of termination:
 - (i) Would, by reason of some then existing physical or medical condition, be exposed by playing football to a greater than usual risk to his health or to a greater than usual risk of injury; or
 - (ii) Was then unfit to play football and was then likely to remain unfit to play football for a period of not less than six consecutive Rounds in the NRL Competition; and
 - (b) If so, whether to exclude a portion of the Remuneration paid to the Player by his Club upon termination from the Salary Cap Calculation.
- (5) If the Salary Cap Auditor determines to exclude a portion of the Remuneration paid to a Player by his Club upon termination from the Salary Cap Calculation, he shall forthwith notify the Club of that fact, in which event that portion shall be so excluded from the Salary Cap Calculation.
- (6) In any case where:
 - (a) The Salary Cap Auditor has determined to exclude a portion of the Remuneration paid to a Player by his Club upon termination from the Salary Cap Calculation pursuant to this Rule;
 - (b) The Salary Cap Auditor has acted to so exclude a portion of the Remuneration paid to that Player by his Club upon termination from the Salary Cap Calculation pursuant to this Rule; and

NRL Playing Contract and Remuneration Rules

- (c) Reliable evidence subsequently comes to light which is, in the opinion of the Salary Cap Auditor in his absolute discretion, of such a character that, had the Salary Cap Auditor known of that evidence at the time when he made his determination, he would not have acted to exclude the portion of the Remuneration paid to that Player by his Club upon termination from the Salary Cap Calculation;

then the Salary Cap Auditor may, at any time, reverse that determination by including the Remuneration previously so excluded, or a part thereof, in the Salary Cap Calculation for the Club.

- (7) When the Salary Cap Auditor acts to reverse a determination previously made by him pursuant to sub-Rule (6), the previously excluded Remuneration shall be included in the Salary Cap Calculation for the Club in the Season in which the Salary Cap Auditor acted to reverse the determination or, if that Season has concluded, in the following Season.

Memorabilia

- 87. (1) Subject to sub-Rules (2), (3) and (4), in any case where Remuneration is paid by a Club to a Player in the form of a payment for Memorabilia of the Player, that payment shall be included in the Salary Cap Calculation as Remuneration.
- (2) If a Club intends to pay Remuneration to a Player which, if paid, would be Remuneration to which Sub-Rule (1) would apply, that Club may make application to the Salary Cap Auditor for the exclusion of that Remuneration when paid from the Salary Cap Calculation (up to a maximum of \$10,000.00 for all such payments to all Players in any one Club), provided that:
 - (a) The Club makes application to the Salary Cap Auditor before it becomes obliged to make any such payment; and
 - (b) That application is in writing and supported by such documentary or other evidence as the Salary Cap Auditor may, in his absolute discretion, require.



NRL Playing Contract and Remuneration Rules

- (3) In any case where the Salary Cap Auditor receives an application from a Club pursuant to sub-Rule (2), the Salary Cap Auditor may determine, in his absolute discretion, to exclude the whole or any part of the Remuneration about which the application is concerned, provided that in no case shall the Salary Cap Auditor exclude more than \$10,000.00 from the Salary Cap Calculation for all such payments to all Players in any one Club.
- (4) If the Salary Cap Auditor makes a determination pursuant to sub-Rule (3) to exclude the whole or any part of Remuneration, he shall forthwith notify the Club of that fact, in which event that whole or part shall be so excluded from the Salary Cap Calculation.
- (5) To remove any doubt, if a Club makes application to the Salary Cap Auditor pursuant to sub-Rule (2) after it has paid or has become obliged to pay Remuneration to a Player in the form of a payment for Memorabilia of the Player, that application shall not be entertained by the Salary Cap Auditor and that payment shall be included in the Salary Cap Calculation as Remuneration.

Motor Vehicles

88. (1) Where Remuneration is paid by a Club to a Player in the form of the use of a motor vehicle and that motor vehicle has an all inclusive retail value on provision to the Player of:
- (a) Less than \$50,000.00, the sum of \$15,000.00 shall be included as Remuneration in the Salary Cap Calculation;
 - (b) Greater than \$50,000.00, the sum of \$20,000.00 shall be included in the Salary Cap Calculation.
- (2) In any case where Remuneration is paid by a Club to a Player in the form of the transfer of the ownership of a motor vehicle, the full retail value of that motor vehicle, assessed as at the date of transfer, shall be included in the Salary Cap Calculation.
- (3) For the purposes of sub-Rules (1) and (2), the retail value of a motor vehicle shall be assessed by the Salary Cap Auditor, in his absolute discretion, with reference to the retail market for motor vehicles of the year, make and model provided to the Player.



- (4) To remove any doubt, this Rule has no application to the provision by a Club to a Player of the use of a motor vehicle for servicing Club Sponsors or for the development of Rugby League, which provision shall be treated by the Salary Cap Auditor as provided by Rule 97.

Other Bonuses

89. (1) Remuneration paid by a Club to a Player in the form of bonuses or some other form of incentive payments based on the fulfilment by the Player of specified criteria, and not being:

- (a) Appearance Fees (Rule 79); or
- (b) Performance Bonuses (Rule 90);

are referred to in these Rules as Other Bonuses.

- (2) Subject to sub-Rule (3), in any case where Remuneration is paid to a Player by a Club in the form of Other Bonuses, that Remuneration shall be assessed by the Salary Cap Auditor as follows:

- (a) Where the Other Bonus is a payment by a Club to a Player based on the fulfilment by the Player of criteria that are, in the opinion of the Salary Cap Auditor in his absolute discretion:
 - (i) Objective;
 - (ii) Certain in their terms; and
 - (iii) Readily ascertainable;

that payment shall be assessed by the Salary Cap Auditor by reference to whether the Player fulfilled those criteria in the previous Season in the NRL Competition (whether with that Club or with another Club) or in one of the Other Competitions to the effect that the amount of Remuneration that shall be included in the Salary Cap Calculation will be equal to the amount that would have been paid to the Player had that Player performed with respect to those criteria in the Season being assessed in the same way as he performed with respect to the same criteria in the previous Season;

NRL Playing Contract and Remuneration Rules

(b) Where the Other Bonus being assessed is a payment by a Club to a Player based on the attainment by the Player of criteria that are, in the opinion of the Salary Cap Auditor in his absolute discretion:

- (i) Subjective;
- (ii) Uncertain in their terms; or
- (iii) Not readily ascertainable;

that payment shall be assessed by the Salary Cap Auditor by assuming that the Player did fulfil those criteria, to the effect that the full amount of the payment shall be included as Remuneration in the Salary Cap Calculation.

(3) In the case of payments of the kind referred to in sub-Rule (2)(a), where a Player performed better in the Season being assessed than in the previous Season in the NRL Competition or in one of the Other Competitions such that he became entitled to, and was paid by his Club, Other Bonuses in excess of those assessed by the Salary Cap Auditor pursuant to sub-Rule (2)(a), that excess shall be included as Remuneration paid by his Club in the Salary Cap Calculation for the following Season.

(4) To remove any doubt, it is irrelevant for the purposes of sub-Rule (3) whether the Player to whom the excess relates remains as a Player for the Club referred to in that sub-Rule in the following Season.

Performance Bonuses

90. (1) Remuneration paid by a Club to a Player in the form of bonuses or some other form of incentive payments based on the Outcome of each Match in which he participated are referred to in these Rules as Performance Bonuses.



NRL Playing Contract and Remuneration Rules

- (2) Subject to sub-Rules (3) and(4), in any case where Remuneration is paid to a Player by a Club in the form of Performance Bonuses, that Remuneration shall be assessed by the Salary Cap Auditor with reference to the number of Matches in which that Player participated in the previous Season in the NRL Competition, whether for that Club or for another Club, to the effect that the amount of Remuneration that shall be included in the Salary Cap Calculation will be equal to the amount that would have been paid to the Player had that Player participated in the same number of Matches in the Season being assessed as he participated in the previous Season.
- (3) For the purposes of making an assessment pursuant to sub-Rule (2):
- (a) Where the Performance Bonus being assessed is a winning bonus in the sense that it is a payment by a Club to a Player for participating in a Match that was won by the Club, the number of such bonuses that may be included in the Salary Cap Calculation as Remuneration shall not exceed thirteen; and
 - (b) Where a Player participated in a Match in the previous Season, but:
 - (i) The Player only played in the Match because another Player, who otherwise would have participated in the Match, played in a Representative Match;
 - (ii) The Player was not a Top 25 Player and only played in the Match because another Player, who otherwise would have participated in the Match, had been injured for a continuous period encompassing more than 13 Rounds;
 - (iii) The Player was a Heat Stress Player; or
 - (iv) The Match was a Final Series Match;

then that Player shall not, for the purposes of the Salary Cap Auditor's assessment, be regarded as having participated in that match;

NRL Playing Contract and Remuneration Rules

- (c) Where a Player did not participate in the previous Season in the NRL Competition but participated as a player in the previous Season in one of the Other Competitions, that Player shall, for the purposes of the Salary Cap Auditor's assessment, be deemed to have participated in the same number of Matches in which that Player participated in the previous Season in the Other Competition.
- (4) For the purposes of sub-Rule (2), in any case where a Player was entitled to the payment of a Performance Bonus where:
 - (a) That entitlement increased in value from a base sum depending upon the number of times the Player participated in a Match that was won by his Club, the base sum to which he was entitled shall be assessed by the Salary Cap Auditor as the Performance Bonus and the balance paid to the Player during the Season shall be regarded as an Other Bonus within the meaning of Rule 89 and assessed accordingly;
 - (b) The Player was entitled to receive payment of a sum greater than \$500.00 for participating in a Match that is lost by his Club, that payment shall be regarded as an Appearance Fee within the meaning of Rule 79 and assessed accordingly.

Player Property

- 91. (1) Subject to sub-Rules (2), (3) and (4), in any case where a Club has paid Remuneration to a Player in the form of a payment for the use of his Player Property (other than a payment that was made with respect to Memorabilia that has been specifically excluded by the Salary Cap Auditor from the Salary Cap Calculation pursuant to Rule 87), that payment shall be included in the Salary Cap Calculation as Remuneration.
- (2) If a Club intends to pay Remuneration to a Player which, if paid, would be Remuneration to which Sub-Rule (1) would apply, that Club may make application to the Salary Cap Auditor for the exclusion of that Remuneration when paid from the Salary Cap Calculation, provided that:
 - (a) The Club makes application to the Salary Cap Auditor before it becomes obliged to make any such payment; and
 - (b) That application is in writing and supported by such documentary or other evidence as the Salary Cap Auditor may, in his absolute discretion, require.



- (3) In any case where the Salary Cap Auditor receives an application from a Club pursuant to sub-Rule (2), the Salary Cap Auditor may determine, in his absolute discretion, to exclude the whole or any part of the Remuneration about which the application is concerned from the Salary Cap Calculation.
- (4) If the Salary Cap Auditor makes a determination pursuant to sub-Rule (3) to exclude the whole or any part of Remuneration, he shall forthwith notify the Club of that fact, in which event that whole or part shall be so excluded from the Salary Cap Calculation.
- (5) To remove any doubt, if a Club makes application to the Salary Cap Auditor pursuant to sub-Rule (2) after it has paid or has become obliged to pay Remuneration to a Player in the form of a payment for the use of his Player Property, that application shall not be entertained by the Salary Cap Auditor and that payment shall be included in the Salary Cap Calculation as Remuneration.

Prize Money

92. (1) Any payment of Remuneration by a Club to its Players in the form of prize money arising from their participation as Players in the NRL Competition and/or the Related Competitions shall be excluded from the Salary Cap Calculation, providing:
 - (a) The prize money is paid by the Club in addition to the Remuneration that is otherwise payable to its Players;
 - (b) The prize money is evenly distributed amongst those Players who played in the Match or Matches in relation to which the prize was won;
 - (c) The prize money is so distributed within one month of the Club receiving the prize money; and
 - (d) Not more than one-half of the prize money is so distributed to the Players.
- (2) To remove any doubt, where:
 - (a) Prize money is paid by a Club to its Players arising from their participation as Players in the NRL Competition and/or the Related Competition; and

NRL Playing Contract and Remuneration Rules

- (b) The Club distributed more than one-half of the prize money to its Players;

the sum in excess of one-half of the prize money that was so distributed shall be included as Remuneration in the Salary Cap Calculation.

- (3) For the purposes of compiling the Top 25 List, the Salary Cap Auditor shall, with respect to any sum included in the Salary Cap Calculation as Remuneration pursuant to sub-Rule (2), equally apportion that sum between the Players for that Club who participated as Players in the NRL Competition or the Related Competitions, as the case may be, in which the prize money was won.

Redundancy Payments

93. (1) Where:

- (a) Remuneration is paid by a Club to a Player in the form of a payment made in connection with the termination of his NRL Playing Contract or Playing Agreement on the ground that that Club can no longer retain the services of that Player;
- (b) That Player is otherwise ready, willing and able to play Rugby League for the Club; and
- (c) That payment is made in order to release the Club and the Player from their respective obligations under the NRL Playing Contract or Playing Agreement, as the case may be, and thereby bring to an end that NRL Playing Contract or Playing Agreement;

such a payment is referred to in these Rules as a Redundancy Payment.

- (2) In any case where:

- (a) Remuneration in the form of a Redundancy Payment is paid by a Club to a Player; and
- (b) The remaining part of the Employment Term of the NRL Playing Contract or Playing Agreement for that Player was, until termination, intended to extend beyond more than one Season;



NRL Playing Contract and Remuneration Rules

then the Redundancy Payment shall be apportioned equally between the Seasons of the remaining part of the Employment Term, to the effect that the portions so derived shall be included as Remuneration in the Salary Cap Calculation only for the Seasons to which they relate.

- (3) In any case where:
- (a) Remuneration in the form of a Redundancy Payment is paid by a Club to a Player; and
 - (b) The remaining part of the Employment Term of the NRL Playing Contract or Playing Agreement for that Player was, until termination, not intended to extend beyond one Season;

then the whole of the Redundancy Payment shall be included as Remuneration in the Salary Cap Calculation for that Season.

Relocation Costs

94. (1) Subject to sub-Rules (2) and (5), where a Player enters into an NRL Playing Contract or Playing Agreement under which the Player is required to move his residence to another City, State or Country in order to fulfil his obligations under that NRL Playing Contract or Playing Agreement, any Remuneration paid to the Player by his Club in the form of a reimbursement of the costs incurred by that Player or his spouse, de facto partner or child in so relocating shall be included as Remuneration in the Salary Cap Calculation.
- (2) In the case of any payment to which sub-Rule (1) applies, the Club may make application to the Salary Cap Auditor for the exclusion of that payment from the Salary Cap Calculation, provided that the application is:
- (a) In writing; and
 - (b) Supported by such documentary or other evidence as the Salary Cap Auditor may, in his absolute discretion, require in order to establish that the costs were:
 - (i) Reasonably incurred by the Player;
 - (ii) Wholly reimbursed by the Club to the Player.



NRL Playing Contract and Remuneration Rules

- (3) In any case where the Salary Cap Auditor receives an application from a Club pursuant to sub-Rule (2), the Salary Cap Auditor may determine, in his absolute discretion, to exclude the whole or any part of the payment about which the application is concerned from the Salary Cap Calculation.
- (4) If the Salary Cap Auditor makes a determination pursuant to sub-Rule (3) to exclude the whole or any part of the payment, he shall forthwith notify the Club of that fact, in which event that whole or part shall be so excluded from the Salary Cap Calculation.
- (5) For the purposes of sub-Rule (1), where the Player has, in the process of relocating, sought, obtained and paid for temporary accommodation, and the cost of that temporary accommodation is reimbursed to the Player by the Club, the amount of that reimbursement, up to a maximum amount equivalent to the cost of temporary accommodation for a period of four weeks, shall be excluded from the Salary Cap Calculation.
- (6) To remove any doubt, in no case may any allowance be made by the Salary Cap Auditor under this Rule, or otherwise, to account for variations in the cost of living between Cities, States or Countries.

Representative Payments

95. To remove any doubt, any payment made to a Player in connection with his participation in a Representative Match by the ARL, the New Zealand Rugby League, the New South Wales Rugby League, the Queensland Rugby League or any other body that was responsible for administering that Representative Match, not being a payment to the Player by a Club, shall be excluded from the Salary Cap Calculation.

Rugby Union Converts

96. (1) Where a person who:
 - (a) Has not attained the age of 21 years;
 - (b) Has not, during the previous two years:
 - (i) Played Rugby League in:
 - (A) Grade Football;



NRL Playing Contract and Remuneration Rules

- (B) The NRL Competition; or
- (C) The Related Competitions;
- (c) Has, during the previous two years, played the code of football known as rugby union in a team participating in:
 - (i) A first grade or first grade colts competition conducted by the New South Wales Rugby Union or the Queensland Rugby Union;
 - (ii) A city, state, national or international age or open representative competition;
 - (iii) The Super 12 competition; or
 - (iv) Such other competition as the Salary Cap Auditor, in his absolute discretion, determines;

enters into an NRL Playing Contract or Playing Agreement with a Club, that person is referred to in these Rules as a Rugby Union Convert.

- (2) When determining, for the purposes of sub-Rule (1)(a), whether a person has attained the age of 21 years, he shall not be regarded as having attained that age if he is less than 21 years of age on 1 January of the Year in which he entered into an NRL Playing Contract or Playing Agreement with a Club.
- (3) In any case where:
 - (a) A Club has entered into an NRL Playing Contract or Playing Agreement with a Rugby Union Convert;
 - (b) The Rugby Union Convert has been registered as a Player pursuant to these Rules;
 - (c) The Club has paid Remuneration to the Rugby Union Convert; and
 - (d) The Rugby Union Convert is not a Top 25 Player;

the Remuneration so paid by the Club with respect to the first Season of that NRL Playing Contract or Playing Agreement, as the case may be, shall be excluded from the Salary Cap Calculation.



NRL Playing Contract and Remuneration Rules

- (4) To remove any doubt, any Remuneration paid by a Club to a Rugby Union Convert after the first Season of his NRL Playing Contract or Playing Agreement, as the case may be, shall be included as Remuneration in the Salary Cap Calculation unless otherwise expressly excluded by the other provisions of this Chapter.

Sponsor Servicing

97. (1) Subject to the other provisions of this Rule, in any case where Remuneration is paid by a Club to a Player for services provided by the Player to:

- (a) Associated Entities;
- (b) Club Sponsors: or
- (c) The development of Rugby League;

then the Remuneration so paid shall be included in the Salary Cap Calculation.

- (2) Subject to sub-Rule (4), in the case of any Remuneration to which sub-Rules (1)(b) or (1)(c) apply, the whole or any part of the total of all such Remuneration paid by the Club in a Season may be excluded from the Salary Cap Calculation by the Salary Cap Auditor, in his absolute discretion, in accordance with the following:

- (a) In the case of such a payment being made to only one Player in that Season, the maximum amount that may be so excluded is \$25,000.00;
- (b) In the case of such a payment being made to two Players in that Season, the maximum amount which may be so excluded is \$50,000.00;
- (c) In the case of such a payment being made to three or more Players in that Season, the maximum amount which may be so excluded is \$75,000.00.

- (3) Subject to sub-Rule (4), in any case where:

- (a) The Sponsorship Revenue for a Club has increased from that received in the 2001 Season;



NRL Playing Contract and Remuneration Rules

(b) That increase is attributable to Sponsorship Revenue paid to the Club by persons or Entities, other than an Associated Entity, who each paid at least \$50,000.00 to the Club in that Season; and

(c) The Club pays Remuneration to which sub-Rule (1) applies;

the whole or any part of the total of all such Remuneration may be excluded from the Salary Cap Calculation by the Salary Cap Auditor, in his absolute discretion, provided that the maximum amount that may be so excluded is a sum which is no greater than 20% of the increased Sponsorship Revenue or \$200,000.00, whichever is the lesser.

(4) In any case to which both sub-Rule (3) and sub-Rule (4) apply so as to permit the exclusion from the Salary Cap Calculation of Remuneration, the maximum combined amount that may be so excluded by the Salary Cap Auditor shall not exceed \$200,000.00.

(5) It is the duty of the Salary Cap Auditor to determine, in his absolute discretion, whether:

(a) For the purposes of sub-Rules (1), (2) and (3), the payment made to the Player or Players was for services genuinely provided for:

(i) Club Sponsors; and/or

(ii) The development of Rugby League;

(b) In any case to which sub-Rule (3) applies:

(i) The Sponsorship Revenue of the Club has increased and, if so, by how much;

(ii) Whether that increase is attributable to Sponsorship Revenue provided by persons or Entities other than an Associated Entity;

(iii) Whether that increased Sponsorship Revenue was provided by persons or Entities, other than an Associated Entity, who have paid at least \$50,000.00 to the Club during the Season under consideration.



NRL Playing Contract and Remuneration Rules

- (6) In order to assist the Salary Cap Auditor to make the determinations referred to in sub-Rule (5), each Club must provide the Salary Cap Auditor with such documents and information as he may require, including but not limited to:
- (a) Evidence in a form satisfactory to the Salary Cap Auditor that the Player or Players, as the case may be, was actually engaged in the provision of services to Club Sponsors or to the development of Rugby League;
 - (b) Evidence in a form satisfactory to the Salary Cap Auditor of the identity of the Club Sponsors for the Club and the Sponsorship Revenue received by that Club in the previous Financial Year;
 - (c) Evidence in a form satisfactory to the Salary Cap Auditor of the identity of the Club Sponsors for the Club and the Sponsorship Revenue received by that Club in the current Financial Year;
 - (d) A copy of any contracts, agreements or arrangements between the Club and its Club Sponsors evidencing the provision of Sponsorship Revenue in both the previous and current Financial Years;
 - (e) Evidence in a form satisfactory to the Salary Cap Auditor that the payment
- was made to the Player or Players, as the case may be.
- (7) In any case where Remuneration is paid by a Club to a Player for the performance of services to which sub-Rule (1) applies in the form of the provision of the use of a motor vehicle, that Remuneration, calculated with reference to the commercial value of that use, shall be included in the Salary Cap Calculation unless the Salary Cap Auditor, in his absolute discretion, determines otherwise after application is made by the Club to him in writing to exclude the whole or any part of that Remuneration from the Salary Cap Calculation.

Superannuation

98. All Remuneration paid by a Club to a Player in the form of the payment of contributions to a superannuation fund or scheme shall be included as Remuneration in the Salary Cap Calculation.



Testimonials

99. (1) Where a Testimonial is held for a Player and the Club assisted the holding of that Testimonial by the provision of money, goods, services, facilities or otherwise, the amount of that money and/or the commercial cost of those goods, services, facilities or other assistance shall be included as Remuneration in the Salary Cap Calculation save for the sum of \$1,000.00 or such greater amount as, in the opinion of the Salary Cap Auditor in his absolute discretion, ought be excluded from the Salary Cap Calculation.
- (2) To remove any doubt, sub-Rule (1) applies irrespective of whether more than one Testimonial is held for a Player and, in any case where more than one Testimonial is held for a Player, the total amount of money and/or the commercial cost of the goods, services, facilities and other assistance which may be excluded from the Salary Cap Calculation is as provided by sub-Rule (1).
- (3) Nothing in sub-Rule (1) is intended to have the effect of including as Remuneration in the Salary Cap Calculation any sum of money paid to the Player as a consequence of the holding a Testimonial

Third Party Agreements

100. (1) Subject to sub-Rule (2), any Remuneration paid to a Player pursuant to a Third Party Agreement shall be included in the Salary Cap Calculation.
- (2) Remuneration paid to a Player pursuant to a Third Party Agreement may be excluded from the Salary Cap Calculation if:
- (a) The Third Party Agreement has, prior to its commencement, been approved by the Salary Cap Auditor in his absolute discretion as one in relation to which the Remuneration payable under it, or part of the Remuneration payable under it, should be excluded from the Salary Cap Calculation; and
- (b) The Third Party Agreement was entered into between the Player and the Third Party at arms length from the Player's Club.

NRL Playing Contract and Remuneration Rules

- (3) For the purposes of sub-Rule (2)(a), in order to obtain the approval of the Salary Cap Auditor, a Club must, prior to the commencement of the Third Party Agreement, provide the Salary Cap Auditor with:
- (a) A copy of the Third Party Agreement;
 - (b) A copy of any other documents associated with the Third Party Agreement;
 - (c) Any other documentary or other evidence as the Salary Cap Auditor, in his absolute discretion, may require; and
 - (d) Written consent from the Player and the Third Party authorising the Salary Cap Auditor to make such inquiries and investigations as he considers necessary in order to determine whether the Third Party Agreement was entered into at arms length from the Player's Club and, if necessary, authorising the Salary Cap Auditor to question both the Player and the Third Party regarding the true nature of the Player's obligations pursuant to the Third Party Agreement.
- (4) For the purposes of sub-Rule (2)(b), when determining whether a Third Party Agreement was entered into at arms length from a Player's Club, the Salary Cap Auditor shall have regard to the following:
- (a) The obligations of the Player pursuant to it;
 - (b) The obligations of the Third Party pursuant to it;
 - (c) Whether the Player is obliged to perform his obligations pursuant to it at the direction of his Club or an Associated Entity of his Club or at the direction of the Third Party;
 - (d) Whether the Player is required to perform his obligations pursuant to it in his Club strip or other Club attire;
 - (e) Whether the Remuneration payable to the Player pursuant to it is payable in a lump sum or, alternatively, as services are performed by the Player for the Third Party;
 - (f) Whether it includes all of the terms usually found in commercial contracts;

NRL Playing Contract and Remuneration Rules

- (g) Whether the term of it is different to the Employment Term under the Player's NRL Playing Contract or Playing Agreement;
 - (h) Whether a servant or agent of a Club or an Associated Entity to a Club was involved, whether directly or indirectly, in securing it for the Player;
 - (i) Whether the Third Party has entered into similar agreements with any other Players from the Player's Club;
 - (j) Whether the Player is to be promoted by the Third Party as a sportsman independent of his Club who is associated with the Third Party as opposed to a Player from his Club;
 - (k) Whether the Third Party is a Club Sponsor;
 - (l) Whether the Third Party is an Associated Entity to a Club;
 - (m) Whether the effect of it is in truth the generation of Sponsorship Revenue for the Club, a payment to the Club or a payment to the Player on behalf of the Club;
 - (n) Whether the amount payable to the Player pursuant to it is in excess of the market value of the services to be provided by the Player pursuant to it;
 - (o) Any other matter that, in the opinion of the Salary Cap Auditor in his absolute discretion, ought to be taken into account.
- (5) In any case where a Club seeks the approval of the Salary Cap Auditor pursuant to sub-Rule (2)(a), it shall provide the Salary Cap Auditor with the documents referred to in sub-Rule (3) following which, the Salary Cap Auditor shall determine, in his absolute discretion, whether he ought to exclude the Remuneration payable under the Third Party Agreement, or part of that Remuneration, from the Salary Cap Calculation, but in no case shall the Salary Cap Auditor give such approval if the Third Party Agreement was, in his opinion in his absolute discretion, not entered into at arms length from the Player's Club.
- (6) In any case where:

NRL Playing Contract and Remuneration Rules

- (a) The Salary Cap Auditor has determined to exclude the whole or any part of the Remuneration payable under a Third Party Agreement pursuant to this Rule;
- (b) The Salary Cap Auditor has acted to so exclude the whole or any part of the Remuneration payable under a Third Party Agreement pursuant to this Rule; and
- (c) Reliable evidence subsequently comes to light which is, in the opinion of the Salary Cap Auditor in his absolute discretion, of such a character that, had the Salary Cap Auditor known of that evidence at the time when he made his determination, he would not have acted to exclude the whole or any part of the Remuneration payable under the Third Party Agreement from the Salary Cap Calculation;

then the Salary Cap Auditor may, at any time, reverse that determination by including the Remuneration previously so excluded, or a part thereof, in the Salary Cap Calculation for the Club.

- (7) When the Salary Cap Auditor acts to reverse a determination previously made by him pursuant to sub-Rule (6), the previously excluded Remuneration shall be included in the Salary Cap Calculation for the Club in the Season in which the Salary Cap Auditor acted to reverse the determination or, if that Season has concluded, in the following Season.
- (8) To remove any doubt, unless a Club strictly complies with the requirements of sub-Rules (2)(a) and (3), the Salary Cap Auditor shall not consider whether the Remuneration payable under a Third Party Agreement, or part of it, may be excluded from the Salary Cap Calculation, in which event, that Remuneration shall be included in the Salary Cap Calculation.

Travelling Expenses

- 101. (1) All Remuneration paid by a Club to a Player in the form of travelling expenses including the cost of:
 - (a) Motor vehicle fuel;
 - (b) Motor vehicle maintenance and repairs;
 - (c) Motor vehicle registration and insurance;



NRL Playing Contract and Remuneration Rules

- (d) Motor vehicle lease or finance payments;
- (e) Air, rail or road transport; or
- (f) Any other travelling or related expenses;

shall, whether it is paid by way of advance or by way of reimbursement, be included as Remuneration in the Salary Cap Calculation.

- (2) To remove any doubt, sub-Rule (1) has no application with respect to the cost of the provision to a Player of the use of a motor vehicle, which provision shall be treated by the Salary Cap Auditor as provided by Rule 88 or Rule 97, as the case may be.

Veteran Player Allowance

102. (1) For the purposes of sub-Rule (2), a Player is a Veteran Player if:
- (a) He has played Rugby League for the same Club for at least ten consecutive Seasons since his first appearance in Grade Football and the Remuneration to be paid to the Player relates to his eleventh or subsequent Season with that Club;
 - (b) In the case of *North Queensland Cowboys* Players, the Player first played Rugby League for that Club in the 1995 Season and has played for that Club in every subsequent Season;
 - (c) In the case of *New Zealand Warriors* Players, the Player first played Rugby League for the *Auckland Warriors* Club in the 1995 Season and has played for that club or the *New Zealand Warriors* in every subsequent Season;
 - (d) In the case of *Melbourne Storm* Players, the Player first played Rugby League for that Club in the 1998 Season and has played for that Club in every subsequent Season;
 - (e) In the case of *South Sydney Rabbitohs* Players, the Player played Rugby League for that Club in the 1995 Season and has played for that Club in every subsequent Season save for any Season in which *South Sydney Rabbitohs* did not participate in the NRL Competition;



NRL Playing Contract and Remuneration Rules

- (f) In the case of *Manly Sea Eagles* Players, the Player played Rugby League for that Club in the 1995 Season and has played for that Club or the *Northern Eagles* Club in every subsequent Season;
 - (g) In the case of Joint Venture Club Players, the Player:
 - (i) Has played Rugby League for the Joint Venture Club since its inception;
 - (ii) Prior to playing for the Joint Venture Club, has played Rugby League for one (but not both) of the entities making up the Joint Venture continuously since at least 1993; or
 - (h) The Salary Cap Auditor, in his absolute discretion, deems a Player to be a Veteran Player for the purposes of this Rule.
- (2) Subject to sub-Rule (3), the Remuneration to be included for a Veteran Player in the Salary Cap Calculation shall be one half of the Remuneration paid by the Club to the Veteran Player.
- (3) Sub-Rule (2) shall not permit the exclusion from the Salary Cap Calculation for any one Club of a sum greater than \$100,000, whether or not that Club has more than one Veteran Player.

Part 8.6 – Remuneration –Currency Conversion

New Zealand Warriors

103. (1) Where an NRL Playing Contract is entered into between a Player and the *New Zealand Warriors*, and that NRL Playing Contract provides for the payment of Remuneration to the Player in New Zealand currency, that currency shall be converted to Australian currency for the purposes of the Salary Cap Calculation.
- (2) For the purposes of sub-Rule (1), New Zealand currency shall be converted by the Salary Cap Auditor to Australian currency by taking, and then applying, an average of the exchange rates for New Zealand to Australian currency published in the *Australian Financial Review* newspaper on 1 January, 1 February, 1 March, 1 April, 1 May and 1 June of the Year immediately preceding the Season in which the Remuneration is paid.

Part 8.7 - The Salary Cap Calculation



Duty to Calculate

104. It is the duty of the Salary Cap Auditor to ascertain whether each Club has adhered to the Salary Cap and the Salary Cap Floor by performing the Salary Cap Calculation.

The Salary Cap Calculation

105. (1) As soon as practicable after the end of each Season, the Salary Cap Auditor shall perform the Salary Cap Calculation.
- (2) For the purposes of sub-Rule (1), the Salary Cap Calculation shall be performed by:
- (a) Including all Remuneration paid to a Player by a Club for that Season within the meaning of these Rules; and
 - (b) Excluding any Remuneration paid to a Player by a Club for that Season where the exclusion of such Remuneration is expressly provided for in this Chapter.
- (3) To remove any doubt, in the performance of the Salary Cap Calculation, no allowance shall be made by the Salary Cap Auditor to account for variations in the cost of living between Cities, States or Countries.

Discretion of the Salary Cap Auditor

106. When performing the Salary Cap Calculation, the Salary Cap Auditor may, in his absolute discretion, deem the whole or any part of any Remuneration paid to a Player by a Club within the meaning of these Rules to be included or excluded, as the case may be, in the Salary Cap Calculation.

Chapter 9 - Disclosure

Part 9.1 - Disclosure by Clubs

Pre-Season Declaration of Remuneration

107. (1) By 1 February of each Season (or such other date as the Chief Executive Officer notifies to each Club), the chief executive officer and the chairman of the board of directors of each Club shall each:

NRL Playing Contract and Remuneration Rules

- (a) Make all due and proper enquiries in order to ascertain the nature and the amount of all of the Remuneration, whether Included Remuneration or Excluded Remuneration, which has been or is to be paid by, or on behalf of, the Club to, or on behalf of, each Player engaged by, or on behalf of, the Club for that Season;
 - (b) By statutory declaration in accordance with the terms of Form 4 to these Rules set out, to the best of his knowledge, information and belief:
 - (i) A list of the names of every Player engaged (whether by NRL Playing Contract, Playing Agreement or otherwise) by, or on behalf of, the Club for that Season;
 - (ii) Details of the nature and the amount of all Remuneration, whether Included Remuneration or Excluded Remuneration, which has been paid or is to be paid by, or on behalf of, the Club to, or on behalf of, each such Player for that Season; and
 - (iii) The total amount of the Remuneration, whether Included Remuneration or Excluded Remuneration, which has been paid or is to be paid by, or on behalf of, the Club, to or on behalf of, all of its Players for that Season; and
 - (c) Provide that statutory declaration to the Salary Cap Auditor.
- (2) Each of:
- (a) The Club;
 - (b) The chief executive officer of the Club; and
 - (c) The chairman of the board of directors of the Club;

shall ensure that the contents of any statutory declaration provided pursuant to sub-Rule (1) are true and correct to the best of the knowledge, information and belief of the person making it.

NRL Playing Contract and Remuneration Rules

- (3) In any breach proceedings brought against a Club, a chief executive officer of a Club or a chairman of a Club pursuant to Part 2 of the **NRL Rules** for a contravention of sub-Rule (2), it will be sufficient proof of that contravention if it is established that the statutory declaration in question was false in a material particular unless the Club, the chief executive officer of the Club or the chairman of the Club, as the case may be, proves that:
- (a) The maker of the statutory declaration made all due and proper enquiries in accordance with sub-Rule (1)(a); and
 - (b) The information included in the statutory declaration which was false was so included through no want of care or diligence on his part.

Post-Season Declaration of Remuneration

- 108.(1) By 31 October of each Season (or such other date as the Chief Executive Officer notifies to each Club), the chief executive officer and the chairman of the board of directors of each Club shall each:
- (a) Make all due and proper enquiries in order to ascertain the nature and the amount of all of the Remuneration, whether Included Remuneration or Excluded Remuneration, which has been paid or is to be paid by, or on behalf of, the Club to, or on behalf of, each Player engaged by, or on behalf of, the Club for the Season just completed;
 - (b) By statutory declaration in accordance with the terms of Form 5 to these Rules set out, to the best of his knowledge, information and belief:
 - (i) A list of the names of every Player engaged (whether by NRL Playing Contract, Playing Agreement or otherwise) by, or on behalf of, the Club during the Season just completed;
 - (ii) Details of the nature and the amount of all Remuneration, whether Included Remuneration or Excluded Remuneration, which has been paid or is to be paid by, or on behalf of, the Club to, or on behalf of, each Player for the Season just completed; and



NRL Playing Contract and Remuneration Rules

- (iii) The total amount of the Remuneration, whether Included Remuneration or Excluded Remuneration, which has been paid or is to be paid by, or on behalf of the Club to, or on behalf of, all of its Players for the Season just completed; and
- (c) Provide that statutory declaration to the Salary Cap Auditor.
- (2) Each of:
 - (a) The Club;
 - (b) The chief executive officer of the Club; and
 - (c) The chairman of the board of directors of the Club.

shall ensure that the contents of any statutory declaration provided pursuant to sub-Rule (1) are true and correct to the best of the knowledge, information and belief of the person making it.

- (3) In any breach proceedings brought pursuant to Part 2 of the **NRL Rules** for a contravention of sub-Rule (2) against a Club, a chief executive officer of a Club or a chairman of a Club it will be sufficient proof of that contravention if it is established that the statutory declaration in question was false in a material particular unless the Club, the chief executive officer of the Club or the chairman of the Club, as the case may be, proves that:
 - (a) The maker of the statutory declaration made all due and proper enquiries in accordance with sub-Rule (1)(a); and
 - (b) The information included in the statutory declaration which was false was so included through no want of care or diligence on his part.

Full and Free Access

109. Each Club shall ensure that the Salary Cap Auditor has full and free access to the premises of:

- (1) The Club; and
- (2) Any Associated Entities to the Club;



NRL Playing Contract and Remuneration Rules

to facilitate the full and free inspection by the Salary Cap Auditor of any documents in the possession, power or control of the Club or of any Associated Entity to the Club which relate to the Remuneration paid to a Player by the Club within the meaning of these Rules.

Inspection of Records

110. (1) At any time, the Salary Cap Auditor may require a Club to produce for inspection at the place of business of the NRL or such other place as may be specified, any or all of the records specified under Rules 55 or 109 or such other documents as the Salary Cap Auditor requires, in which case the Club shall produce the records and documents that are so required providing the Salary Cap Auditor has given the Club at least seven days' written notice of that requirement.

(2) Each Club shall ensure that the Salary Cap Auditor obtains access to any records or documents in the possession, power or control of:

(a) A Club Sponsor for the Club; and/or

(b) An Associated Entity to that Club;

which relate to, whether directly or indirectly, the Remuneration paid, or to be paid, to a Player by the Club within the meaning of these Rules.

Copies

111. Upon being so requested, each Club shall provide to the Salary Cap Auditor, at its cost, a true copy of any document or documents in the possession, power or control of the Club or of a Club Sponsor or an Associated Entity which relate, whether directly or indirectly, to the Remuneration paid to a Player by the Club within the meaning of these Rules.

Audit Certificate

112. When requested by the Salary Cap Auditor to do so, the Club shall obtain from its auditor, at its cost, and provide to the Salary Cap Auditor within one month of having been requested to do so, a certification that the auditor:

(1) Has read and understood the provisions of Chapter 8 of these Rules;



NRL Playing Contract and Remuneration Rules

- (2) Has read and understood the obligations imposed on the Club and its Players by these Rules relating to the Salary Cap;
- (3) Has thoroughly investigated all payments made to, or for the benefit of, the Club's Players by, or on behalf of, the Club;
- (4) Has undertaken such other procedure as the Salary Cap Auditor may have requested;
- (5) Is satisfied that all Remuneration paid to, or for the benefit of, a Player by, or on behalf of, the Club has been fully and completely disclosed by the Club to the Salary Cap Auditor and, if not so satisfied, specifying the respect or respects in which that Remuneration has not been fully and completely disclosed.

Attendance Before the Salary Cap Auditor

113. (1) Each Club shall, upon request in writing by the Salary Cap Auditor to do so, attend by chief executive officer and a director of that Club before the Salary Cap Auditor to:

- (a) Answer questions; and/or
- (b) Produce documents;

concerning the Remuneration paid by the Club to its Players within the meaning of these Rules.

(2) Each Club shall, upon request in writing by the Salary Cap Auditor to do so, procure and ensure the attendance before the Salary Cap Auditor of any one of its Players or Club Officials to:

- (a) Answer questions; and/or
- (b) Produce documents;

concerning the Remuneration paid by the Club to its Players within the meaning of these Rules.

Part 9.2 – Disclosure by Players

Declaration of Remuneration



NRL Playing Contract and Remuneration Rules

114. (1) In any case where the Salary Cap Auditor requests a Player to do so, he shall, by Statutory Declaration provided to the Salary Cap Auditor, set out, to the best of his knowledge, information and belief, details of the Remuneration paid to him by his Club within the meaning of these Rules.
- (2) For the purposes of sub-Rule (1), the contents of the Statutory Declaration shall be true and correct to the best of the knowledge, information and belief of the Player.

Inspection of Records

115. At any time, the Salary Cap Auditor may require a Player to produce for inspection at the place of business of the NRL or such other place as may be specified, any or all of the records specified in Rule 56 or such other documents as the Salary Cap Auditor requires, in which case the Player shall produce the records and documents that are so required providing the Salary Cap Auditor has given the Player at least seven days' written notice of that requirement.

Records and Information in the Possession of NRL Accredited Player Agents

- 115A. (1) At any time, the Salary Cap Auditor may require a Player to:
- (a) Nominate the Salary Cap Auditor for the purposes of Rules 35, 36 or 37 of the *NRL Accredited Player Agents Rules*;
 - (b) Provide his consent to the Salary Cap Auditor to:
 - (i) Inspect, access and copy documents pursuant to Rule 35 of the *NRL Accredited Player Agents Rules*;
 - (ii) Provide a report pursuant to Rule 36 of the *NRL Accredited Player Agents Rules*; or
 - (iii) Provide information, whether by written declaration, written answers or by appearing before the Salary Cap Auditor, pursuant to Rule 37 of the *NRL Accredited Player Agents Rules*;



NRL Playing Contract and Remuneration Rules

(c) Inform his NRL Accredited Player Agent of both his nomination and his consent.

(2) In any case to which sub-Rule (1) applies, the Player shall provide his nomination and his consent to the NRL Accredited Player Agent in writing.

Copies

116. Each Player shall, upon being so requested by the Salary Cap Auditor, provide to the Salary Cap Auditor, at no cost, a true copy of any document or documents in the possession, power or control of the Player or the NRL Accredited Player Agent for the Player or the Agent for the Player which relate to the Remuneration paid to the Player by a Club within the meaning of these Rules.

Attendance Before the Salary Cap Auditor

117. (1) Any Player shall, upon request in writing by the Salary Cap Auditor to do so, attend before the Salary Cap Auditor to:

- (a) Answer questions; and/or
- (b) Produce documents;

concerning the Remuneration paid to that Player by a Club within the meaning of these Rules.

(2) Any Player shall, upon request in writing by the Salary Cap Auditor to do so, procure and ensure the attendance before the Salary Cap Auditor of his NRL Accredited Player Agent or Agent to:

- (a) Answer questions; and/or
- (b) Produce documents;

concerning the Remuneration paid to that Player by a Club within the meaning of these Rules.

Chapter 10 - Salary Cap Investigation

Duty to Investigate



NRL Playing Contract and Remuneration Rules

118. It is the duty of the Salary Cap Auditor to investigate:

- (1) The Remuneration paid to Players by their Clubs within the meaning of these Rules;
- (2) The extent to which, if any, a Club has exceeded the Salary Cap for a Season;
- (2A) The extent to which, if any, a Club has not exceeded the Salary Cap Floor for a Season;
- (3) The compliance of Clubs and Players with these Rules;

by carrying out such investigations, examinations and audits as the Salary Cap Auditor considers, in his absolute discretion, are appropriate.

Investigative Powers

119. In the carrying out of an investigation pursuant to Rule 118, the Salary Cap Auditor shall possess and be entitled to use all powers conferred upon him by these Rules and such additional powers as the Board shall confer upon him from time to time.

Duty to Co-operate

120. To assist the Salary Cap Auditor in the performance of an investigation to which Rule 118 applies, every Club, Player and NRL Accredited Player Agent shall:

- (1) Co-operate with the Salary Cap Auditor to the best of its or his ability;
- (2) Answer truthfully any question asked of it or him by the Salary Cap Auditor in the course of an investigation;
- (3) Provide to the Salary Cap Auditor any document in his possession, power or control which is, in the opinion of the Salary Cap Auditor, in his absolute discretion, relevant to his investigation;
- (4) Ensure the co-operation of others for the benefit of the investigation, including:
 - (a) In the case of a Club, every Club Official, Associated Entity and Club Sponsor;

NRL Playing Contract and Remuneration Rules

- (b) In the case of a Player, his NRL Accredited Player Agent or Agent;
- (c) In the case of an NRL Accredited Player Agent, the Players whom that agent represents.

Moratorium

121. (1) For the purpose of encouraging Clubs and Players to voluntarily disclose past and current practices in breach of these Rules, the Board may declare, by written notice to each Club, a moratorium period during which the making of a voluntary disclosure which might reveal evidence of a breach of these Rules will not result in any penalty being imposed upon:

- (a) The Club, in any case where the Club makes the disclosure;
- (b) The Player, in any case where the Player makes the disclosure;
- (c) The NRL Accredited Player Agent, in any case where an NRL Accredited Player Agent makes the disclosure.

(2) Any disclosure by a Club, a Player or an NRL Accredited Player Agent pursuant to sub-Rule (1) shall be treated as confidential by the Board, the Chief Executive Officer and the Salary Cap Auditor.

Player May be Excused for Co-operation

122. The Chief Executive Officer may excuse any Player from any liability or penalty under these Rules and/or the **NRL Rules** in consideration of the Player's co-operation and assistance in establishing a breach of these Rules by any:

- (1) Club;
- (2) Club Official; or
- (3) NRL Accredited Player Agent.

Chapter 11 - Enforcement

Breach Proceedings

- 123.(1) Where the Salary Cap Auditor forms the opinion, in his absolute discretion, that a breach of these Rules has occurred, whether that opinion is formed during an investigation carried out by the Salary Cap Auditor pursuant to Chapter 10 or otherwise, the Salary Cap Auditor shall refer the matter to the Chief Executive Officer for his consideration.
- (2) Where a matter is referred to the Chief Executive Officer by the Salary Cap Auditor pursuant to sub-Rule (1), or where the Chief Executive Officer is otherwise satisfied that a breach of these Rules has occurred, the Chief Executive Officer may commence breach proceedings against a Club, a Player or an NRL Accredited Player Agent pursuant to Part 2 of the **NRL Rules**.

Additional Sanctions

- 124.(1) In any case where the Salary Cap Calculation produces a sum which is in excess of the Salary Cap for a Club in a Season then, in addition to any penalty which may be imposed pursuant to Part 2 of the **NRL Rules**, a fine equivalent to the amount of that excess and/or the deduction of Competition Points, either in the Season in which the breach occurred or in the following Season or Seasons, may be imposed on the Club in the breach proceedings referred to in sub-Rule 123(2).
- (2) In any case where Remuneration which has been paid to a Player by a Club, within the meaning of these Rules, is not disclosed by the Club to the Salary Cap Auditor in its:
- (a) Pre-Season Declaration of Remuneration; or
 - (b) Post-Season Declaration of Remuneration;

then, in addition to any penalties that may be imposed pursuant to Part 2 of the **NRL Rules** and/or pursuant to sub-Rule (1), a fine equivalent to the amount of that Remuneration and/or the deduction of Competition Points either in the Season in which the Remuneration not disclosed was paid or in the following Season or Seasons, may be imposed on the Club in the breach proceedings referred to in sub-Rule 123(2).

Chapter 12 - General

Part 12.1 - Facilitative Provisions

Directions

125. (1) When a person desires to take any step to which these Rules apply, and the manner or form of procedure is not prescribed by these Rules, then that person may, on notice to any affected person, apply to the Chief Executive Officer or the Salary Cap Auditor or the President, as the case may be, for directions, and any step taken in accordance with the directions given by the Chief Executive Officer or the Salary Cap Auditor or the President shall be deemed to be regular and sufficient.
- (2) Without limiting the foregoing, in giving such directions, the Chief Executive Officer or the Salary Cap Auditor or the President, as the case may be, may modify the provisions of these Rules in a way calculated to promote the just, speedy and inexpensive workings of these Rules.

Notices

126. Where in these Rules a document is required to be forwarded, it shall be taken to have been so forwarded if:
- (1) It is delivered to the recipient in person;
 - (2) It is transmitted to the recipient by facsimile machine and confirmation is given by the recipient that the facsimile has been received; or
 - (3) In the case of a Player, it is delivered as provided or transmitted as provided to the NRL Accredited Player Agent or Agent for that Player.

Part 12.2 - Miscellaneous Provisions

No Breach of Statute

127. (1) Each of the powers, requirements and obligations set out in these Rules shall be read and construed so as to not to infringe or breach any statute, whether Commonwealth or State, and shall be limited or severed to the extent that any such statute so requires.
- (2) Without limiting sub-Rule (1), nothing in these Rules shall:
- (a) Directly or indirectly require a person to quote that person's tax file number;
 - (b) Directly or indirectly require the production of a document or copy of a document on which a tax file number is recorded without allowing the person to whom the tax file number belongs the right to remove that number if he so wishes;
 - (c) Directly or indirectly require a person to quote another person's tax file number;
 - (d) Directly or indirectly require, authorise or permit a person to divulge or communicate another person's tax file number to a third party;
 - (e) Directly or indirectly require a person to make a record of any taxation information relating to another person or divulge or communicate to another person any taxation information relating to a third person or otherwise make use of any taxation information relating to another person where such information was disclosed or obtained in breach of a provision of the states in force from time to time relating to the income taxation of corporations and individuals;
 - (f) Directly or indirectly require any act, matter or thing which constitutes an offence under statute regulating the income taxation of corporations or individuals and/or any statute, whether Commonwealth or State, relating to the privacy of corporations or individuals.

Processes Not to be Invalidated for Technical Reasons or Want of Form

NRL Playing Contract and Remuneration Rules

128. No processes under these Rules shall be invalidated merely by reason of any defect whether of substance or of form in any notice or report or by reason of non-compliance with any provision of these Rules unless the Chief Executive Officer or the President, as the case may be, so directs.

Time

129. (1) Upon application by a person affected by these Rules, the Chief Executive Officer or the Salary Cap Auditor or the President, as the case may be, may enlarge the time for doing any act or taking any proceeding allowed or limited by these Rules upon such terms as the Chief Executive Officer or the Salary Cap Auditor or the President deems fit.
- (2) An application pursuant to sub-Rule (1) may be made and time may be enlarged although the application is not made until after the expiration of the time allowed or limited by these Rules.

Chapter 13 - Transitional

Notification of Appointments

130. (1) As soon as practicable after his appointment, the Chief Executive Officer shall notify each Club of the person appointed to occupy the position of Salary Cap Auditor.
- (2) As soon as practicable after the appointment of any delegate, whether pursuant to Rule 16 or Rule 20 or otherwise, the Chief Executive Officer shall notify each Club in writing of the name of the delegate and his or her delegated function.

Re-Registration

- 131 (1) As soon as practicable after the commencement of these Rules, the Chief Executive Officer shall call upon every Player who wishes to participate in the NRL Competition to complete and execute a Player Registration Application in accordance with the terms of Form 3 in order to evidence his agreement to the various matters specified there and in sub-Rule 40(3).
- (2) To remove any doubt, sub-Rule (1) is intended to ensure that every Player participating in the NRL Competition has first completed a Player Registration Application in accordance with the terms of Form 3.



Repeals

132 Upon commencement of these Rules, any and all Rules, Schedules or Guidelines that were in force immediately prior to the commencement of these Rules, and which dealt directly with the subject matter of these Rules, are hereby repealed.

Form 1



**NATIONAL RUGBY LEAGUE
PLAYING CONTRACT**

Club:

Player:

Seasons:

NRL Accredited Player Agent (or Agent):*

*** Strike out which is inapplicable.**



NATIONAL RUGBY LEAGUE PLAYING CONTRACT

AGREEMENT dated

BETWEEN

(‘Club’)

AND

(‘Player’)

RECITALS

- A. The NRL conducts the elite competition for the Game throughout Australasia (**‘the NRL Competition’**).
- B. The Club is the holder of a licence to field a team in the NRL Competition.
- C. The Player is a professional player of the Game.
- D. The Club and the Player wish to contract with each other on the terms and conditions set out in this agreement (**‘the Agreement’**).

IT IS AGREED as follows:

SECTION 1: RELATIONSHIP OF THE PARTIES

1.1 Employer/Employee Relationship

The relationship between the Player and the Club, as evidenced by this Agreement, is one of employee and employer, for the purposes of participating in the NRL Competition, any Representative Match, if so selected, and any Related Competitions.

SECTION 2: EMPLOYMENT TERM

2.1 Term

Subject to earlier termination under this Agreement, this Agreement will commence on _____ (**‘the Commencement Date’**) and will terminate on _____ (**‘the Expiry Date’**).



SECTION 3: OBLIGATIONS OF THE PLAYER

3.1 General Obligations

The Player agrees to:

- (a) whenever and wherever reasonably required, and to the best of his ability and skill, play the Game for the Club in the NRL Competition, in such team and grade as the Club shall from time to time specify, Representative Matches and matches in any Related Competitions;
- (b) report promptly for, and participate fully in, all pre-season and post-season matches and all training sessions conducted by or participated in by the Club, for the purpose of participating in the NRL Competition, and in Representative Matches and any Related Competitions;
- (c) play the Game in a sportsmanlike manner and in accordance with the Laws of the Game;
- (d) obey all reasonable directions of the Club relating to training for and playing the Game;
- (e) not commit any Doping Offence;
- (f) undergo drug testing if and when requested to do so by the Club, the NRL or the ARL;
- (g) join and remain a member of the Club throughout the Employment Term;
- (h) be bound by, and comply with, the provisions of:
 - (i) the constitution and rules of the Club; and
 - (ii) the **NRL Rules**, including all Schedules, and the Guidelines to the **NRL Rules** in so far as those provisions relate to the Player,

as they exist from time to time;
- (i) complete, agree to and comply with the terms of the Player Registration Application;

NRL Playing Contract and Remuneration Rules

- (j) wear only Team Apparel at training, NRL Competition matches, Representative Matches, matches in the Related Competitions and in all public appearances as a player;
- (k) participate in all activities reasonably required by the Club or the NRL for the promotion of the Club, the Team, the Game, the NRL Competition, Representative Matches and any Related Competitions and, in particular:
 - (i) punctually attend public functions organised or supported by the Club or the NRL;
 - (ii) punctually attend appointments arranged by the Club or the NRL to make appearances in public or on radio or television; and
 - (iii) wear such Apparel as the Club or the NRL requires during such attendances PROVIDED THAT any such participation under this Clause shall not interfere with the usual occupation of the Player;
- (l) at all times, act in the best interests of the Club and the NRL;
- (m) submit to the jurisdiction of, and comply with the decisions and determinations of, the NRL, the NRL Board, the Chief Executive Officer of the NRL, the Salary Cap Auditor of the NRL, the NRL Judiciary, the NRL Appeals Committee, the NRL Drugs Tribunal and any other body with authority to make decisions or determinations in relation to the Game, the **NRL Rules**, the NRL Competition, Representative Matches or any Related Competitions (including, without limitation, the payment of any fines as and when required and compliance with any suspension from playing or from registration as a Player or other limitation);
- (n) immediately report any illness, accident or injury of any nature to the Club Medical Officer and carry out any reasonable instruction given to him by the Club Medical Officer including the wearing or use of any protective equipment recommended by the Club Medical Officer;
- (o) the Club Medical Officer communicating to the coach, sports trainer or any other officials at the Club or to the NRL details of any illness, accident or injury which may affect the player's fitness, safety, health or well being in training or playing the Game;



NRL Playing Contract and Remuneration Rules

- (p) save in an emergency situation, not undertake any medical treatment for injuries sustained whilst training or playing the Game for the Club without the prior consent of the Club, such consent not to be unreasonably withheld;
- (q) undertake all dental treatment with regard to injuries sustained whilst playing the Game or training for the Club in accordance with the directions of the dentist of the Club's choice;
- (r) at all times maintain a current passport to enable him to travel overseas for the playing of the Game;
- (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 **sub-Clauses 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; and
 - (iv) the Player is not (directly or indirectly) paid;except with the prior written consent of the Club;
- (v) not to enter into any Non-Playing Agreement or Third Party Agreement without the prior written consent of the Club, which will not be unreasonably withheld;
- (w) the Club disclosing to the NRL any financial information relating to him which the NRL requests be provided to it.

3.2 Publicity and Sponsorship



- (a) Subject to **sub-Clauses 3.2(b)** and **3.2(c)**, the Player may make public appearances and contribute to press, television and radio provided that:
- (i) the prior consent of the Club has been obtained, which consent must not be unreasonably withheld; and
 - (ii) such appearances and contributions do not conflict with the interests of, or bring into disrepute, the NRL, the Club or the Game
- (b) The Player must use all reasonable endeavours to give to the Club reasonable notice of his intention to make appearances or contributions within the meaning of **sub-Clause 3.2(a)** to allow the Club to properly consider whether it ought grant consent under that Clause.
- (c) Despite **sub-Clause 3.2(a)**, the Player must not comment publicly to or in the presence of a person that is known or ought to be known as a member of the media, or when it is known or ought to be known that the comment may be reported in the media, on:
- (i) the Game;
 - (ii) the Club or another Club;
 - (iii) the NRL or the NRL Competition;
 - (iv) Representative Matches or any Related Competitions;
 - (v) the performance of a referee, touch judge or other match official;
 - (vi) any matter which is, or is likely to be, the subject of an inquiry by the NRL or any committee or tribunal established by the NRL;
 - (vii) any proceedings or decisions of the NRL Judiciary or any other tribunal established by the NRL or the ARL;

where to do so would be contrary to the best interests of the Game, the Club or another Club, the NRL or the NRL Competition.

3.3 Use by the Club of Player Property

- (a) The Player grants to the Club for the duration of the Employment Term a licence to use, and to license the use of, his Player Property and to sub-license those rights to the NRL on terms that authorise the NRL to use and further sub-license the use of the Player Property to the NRL Partnership.
- (b) If the Player requests the Club to do so, the Club will consult with the Player before exercising its licence under **sub-Clause 3.3(a)**.

3.4 Use by the Player of Player Property

- (a) Subject to **sub-Clauses 3.3(a), 3.4(b), 3.4(c), 3.4(d)** and **3.4(e)**, and without derogation to the licence and sub-licences granted by **sub-Clause 3.3(a)**, the Player is entitled to use his Player Property for commercial purposes including, but not limited to, endorsements, advertising, promotions, events and marketing.
- (b) Before entering into any contract or arrangement whereby the Player intends to use his Player Property within the meaning of **sub-Clause 3.4(a)**, the Player must:
 - (i) inform the Club of the details of the proposed contract or arrangement and, in particular, the nature and frequency of the proposed use; and
 - (ii) supply the Club with a copy of the proposed Contract or arrangement together with any supporting documentation concerning it.
- (c) Subject to **sub-Clause 3.4 (e)**, the Player must not, without the prior written approval of the Club and any sub-licensees pursuant to **sub-Clause 3.3(a)**, exercise his rights under **sub-Clause 3.4(a)** where such use of the Player Property would or may:
 - (i) conflict with the name, reputation, image, products or services of any of the Club's sponsors;
 - (ii) conflict with the name, reputation, image, products or services of any sponsor of a Representative Match, a match in the Related Competitions or of the NRL;
 - (iii) conflict with, or be prejudicial to, the interests of the Club or the NRL; or
 - (iv) bring the Game into disrepute.

- (d) To remove any doubt, the provisions of **sub-Clauses 3.4(b)** and **3.4(c)** do not apply to an agreement between the Player and another person which exists at the date of this Agreement and which relates to use of his Player Property, however any such agreement must not be varied, renewed or extended unless the Player has first obtained the written approval referred to in **sub-Clause 3.4(c)**.

- (e) In using Player Property for commercial purposes, the Player must not use any property of the Club or the NRL including, without limitation, any registered trademark, logo, design, or any item of Team Apparel or any component of such property without the prior written consent of the Club or the NRL respectively.

SECTION 4: PAYMENT

4.1 Match Fees

Subject to the provisions of this Agreement, the Club will pay to the Player, in respect of the matches played by the Player for the Club, the Match Fees calculated by reference to Schedule One to this Agreement (less deduction of all taxes and levies), and such fees shall be paid in arrears on or before the first Business Day of the month, throughout the Season.

4.2 Playing Fee

Subject to the provisions of this Agreement, the Club will pay to the Player the Playing Fee calculated by reference to Schedule One to this Agreement (less deduction of all taxes and levies), and such fee shall be paid at such time as may be agreed between the Club and the Player and, if not agreed, shall be payable proportionately in advance at the commencement of each Season encompassed by the Employment Term.

4.3 Superannuation

The Club will make superannuation contributions, calculated by reference to Schedule 1 to this Agreement, into a superannuation fund agreed between the parties or, if there is no agreement, into a superannuation fund nominated by the Club.

SECTION 5: TERMINATION DUE TO HEALTH RISK

5.1 Warranty

The Player warrants that he is, and will throughout the Employment Term make every effort to be, and remain, fit to play the Game and is, and will remain, able to perform his obligations under this Agreement without exposing himself to a greater than usual risk to health or to a greater than usual risk of injury.

5.2 Termination Due to Health Risk

Where in the reasonable opinion of the Club Medical Officer, the Player would, by reason of a physical or medical condition, be exposed by playing the Game to a greater than usual risk to his health or to a greater than usual risk of injury, the Club may, at any time during the Employment Term, terminate this Agreement with immediate effect. If the Club does so, and provided that the Player is not otherwise in breach of this Agreement, the Club shall be obliged to pay to the Player:

- (a) a proportionate part of the Playing Fee that he would otherwise have received for the current Season, such proportion being calculated from the date on which the Player commenced training with the Club to the date upon which the Club terminated this Agreement pursuant to this Clause; and
- (b) any outstanding Match Fees owed by the Club to the Player for matches in which the Player participated.

SECTION 6: TERMINATION DUE TO INCAPACITY

6.1 Termination Due to Incapacity

Where prior to the commencement of the NRL Competition in any Season during the Employment Term, the Club Medical Officer forms the reasonable opinion that the Player is unfit to play the Game and that he will be likely to remain unfit to play the Game for a period of not less than six consecutive Rounds in the NRL Competition, the Club may terminate this Agreement with immediate effect.

6.2 Payment on Termination

Subject to **sub-Clauses 6.3** and **6.4**, if the Club terminates the Contract under **sub-Clause 6.1**, the Club shall be obliged to pay to the Player a proportion of the Playing Fee in accordance with the following:

NRL Playing Contract and Remuneration Rules

- (a) if the Player has:
- (i) failed to recover from an injury sustained during the preceding Season; and
 - (ii) not commenced training with the Club; and
 - (iii) not participated in any match for the Club, or in relation to which the Club has provided its consent in accordance with **sub-Clauses 3.1(s) and 3.1(t)**, prior to the commencement of the NRL Competition,

he shall receive an amount equal to one quarter of the Playing Fee that he would otherwise have received for the current Season and, if the Employment Term under this Agreement includes at least one further Season, one quarter of the Playing Fee that he would have received for one further Season;

- (b) if the Player has:
- (i) commenced training with the Club; but
 - (ii) not participated in any match for the Club, or in relation to which the Club has provided its consent in accordance with **sub-Clauses 3.1(s) and 3.1(t)**, prior to the commencement of the NRL Competition,

he shall receive an amount equal to one quarter of the Playing Fee that he would otherwise have received for the current Season and, if the Employment Term under this Agreement includes at least one further Season, one quarter of the Playing Fee that he would have received for one further Season;

- (c) if the Player has:
- (i) commenced training with the Club; and
 - (ii) participated in any match for the Club, or in relation to which the Club has provided its consent in accordance with **sub-Clauses 3.1(s) and 3.1(t)**, prior to the commencement of the NRL Competition;

he shall receive the whole of his Playing Fee for the current Season and, if the Employment Term under this Agreement includes one or more subsequent Seasons, one quarter of the Playing Fee for a maximum of two subsequent Seasons;



- (d) if the Player has failed to recover from an illness or from an injury sustained other than in the course of playing or training for the Game, he shall receive one quarter of the Playing Fee that he would otherwise have received for the current Season and, if the Employment Term under this Agreement includes at least one further Season, one quarter of the Playing Fee that he would have received for one further Season.

6.3 Despite **sub-Clause 6.2**, the Club shall not be obliged to make any payment to the Player if the Player is otherwise in breach of this Agreement.

6.4 Despite **sub-Clause 6.2**, if the Player has failed to recover from an injury or is otherwise incapacitated as a result of any misconduct or unlawful or reckless conduct by the Player or by the Player taking part in activities which involve unnecessary danger:

- (i) where such injury or incapacity occurs before the Player has commenced training with the Club or participated in any match for the Club, or in relation to which the Club has provided its consent in accordance with **sub-Clauses 3.1(s)** and **3.1(t)**, prior to the commencement of the NRL Competition, the Club shall not be obliged to pay to the Player any part of the Playing Fee for the current Season or any subsequent Season included in the Employment Term;
- (ii) where such injury or incapacity occurs after the Player has taken part in training for the Club or participated in any match for the Club, or in relation to which the Club has provided its consent in accordance with **sub-Clauses 3.1(s)** and **3.1(t)**, prior to the commencement of the NRL Competition, the Club shall be obliged to pay to the Player a proportion of the Playing Fee that he would otherwise have received for the current Season, such proportion being calculated from the date on which the Player commenced training with the Club to the date on which the Club terminates this Agreement pursuant to this Section.

6.5 Payment by Other Club

If the Player subsequently becomes entitled to payment of a playing fee from another club during the Season in which the Agreement is terminated pursuant to **Clause 6.1**, then that playing fee shall be offset against any amount payable by the Club pursuant to **Clause 6.1** for that Season and the Player shall not be entitled to any of the payments referred to in that Clause in respect of any subsequent Seasons.

6.6 Death of the Player

In the event of the death of the Player, the Club shall pay to his estate a proportionate part of the moneys that would otherwise have been payable to him pursuant to this Agreement had he remained alive, which proportion shall be calculated with reference to the date upon which the Player commenced training with the Club to the date of his death provided that, if the Player participated in any match for the Club in a Season covered by this Agreement, the Club shall pay to his estate the whole of the Playing Fee for that Season.

SECTION 7: BEST EFFORT

7.1 Termination for Cause

Where, in the reasonable opinion of the Club, the Player is either not playing the Game or training for playing the Game conscientiously and to the best of his ability and skill, and after the Club has given to the Player:

- (a) not less than 21 days' notice in writing that it intends to take action under this Clause; and
- (b) an opportunity for the Player to be heard by the Board regarding that intention;

the Club may terminate this Agreement upon expiry of the 21 days' notice and the Player shall only be entitled to receive payment for:

- (c) any outstanding Match Fees owed by the Club to the Player for matches in which the Player participated.
- (d) a proportionate part of the Playing Fee that he would otherwise have received for the current Season, such proportion being calculated from the date on which the Player commenced training with the Club to the date on which the Club gave notice under this Clause; and

SECTION 8: TERMINATION FOR BREACH

8.1 Player's Obligations

The Player shall throughout the Employment Term:

- (a) faithfully observe and comply in all respects with the terms of this Agreement; and
- (b) otherwise, not engage in misconduct or otherwise act in a manner inconsistent with the integrity of the Game, or contrary or prejudicial to the best interests, image or welfare of the Club, the NRL or the Game during the Employment Term.

8.2 Without limiting the generality of **sub-Clauses 8.1(a)** and **8.1(b)**, the Player must not:

- (a) accept any bribe;
- (b) fail to report any attempt to bribe him;
- (c) agree not to play on his merits;
- (d) fail to report any attempt to induce him to agree not to play on his merits;
- (e) not play on his merits;
- (f) fail to obey a reasonable direction of the Club relating to training for and/or playing the Game;
- (g) fail to obey a request by a referee, touch judge or ground manager to enter or leave the field;
- (h) participate, or be directly or indirectly involved in any way, in gambling in relation to the NRL Competition, whether as to the performance of a Player or a Team, the outcome or course of a Match, the outcome or course of the NRL Competition or otherwise;
- (i) provide, or be involved directly or indirectly in the provision of, information that might assist another person to gamble in relation to the NRL Competition, whether such information concerns a Player, a Team, a Match, the course or outcome of a Match, the course or outcome of the NRL Competition or otherwise;

- (j) commit any Doping Offence;
- (k) refuse to undergo a test when required by the NRL, ARL or the Club to determine whether he has committed a Doping Offence;
- (l) engage in any other form of conduct that may be detrimental to, or bring into disrepute, the interests, welfare or image of the ARL, the NRL, the Club, the NRL Competition or the Game.

8.3 Notice by the Club

If the Club is of the opinion that the Player has acted in breach of **Clause 8.1** or **Clause 8.2** of this Agreement, it may, in respect of that conduct:

- (a) call upon the Player by notice in writing to appear at a hearing before the Board to show cause why the Club ought not take action against the Player pursuant to **Clause 8.5**; and
- (b) convene a hearing before the Board.

8.4 Conduct of the Hearing

When the Club proceeds pursuant to **Clause 8.3** to convene a hearing before the Board:

- (a) the Player shall be entitled to be represented by counsel, a solicitor or other representative; and
- (b) the Club may retain and use counsel or a solicitor to assist in the conduct of the hearing.

8.5 Action by the Club

Where at any hearing convened pursuant to **Clause 8.3**, the Board considers that the Player is in breach of **Clause 8.1** or **Clause 8.2** on the basis of the conduct the subject of the notice in writing pursuant to **sub-Clause 8.3(a)**, the Board may do any one of the following:

- (a) take no further action;
- (b) caution or reprimand the Player;

- (c) fine the Player an amount not exceeding a sum equivalent to the Match Fees and Playing Fee that would otherwise be payable to the Player for one quarter of the Season in which the conduct, the subject of the notice in writing pursuant to **sub-Clause 8.3(a)**, occurred;
- (d) suspend the Player from playing for a period not exceeding 18 Rounds; or
- (e) terminate this Agreement with immediate effect.

SECTION 9: RELEASE OF PLAYER

9.1 Notwithstanding any other provision of this Agreement, and whether the Club is otherwise entitled to terminate this Agreement pursuant to **Clauses 5.2, 6.1, 7.1 or 8.5** or otherwise, the Club may at any time release the Player from his obligations under this Agreement upon providing written notice to the Player to that effect, in which event:

- (a) the Club shall be liable to pay the Playing Fee (but not the Match Fees) that would otherwise be payable to the Player under this Agreement at the times when those moneys would have become due and payable throughout the Employment Term but for the termination of this Agreement; and
- (b) the Player is, upon the giving of the written notice, released from all of his obligations under this Agreement, which shall thereupon, save for the obligation of the Club pursuant to **Clause 9(a)**, come to an end.

SECTION 10: FINES AND ADVANCES

10.1 Liability to the Club

If the Club has made any advance to the Player during the Employment Term, or if the Player has become liable to pay any fine under this Agreement or has otherwise become indebted to the Club, then, subject to any agreement to the contrary, the money owed by the Player shall be payable without formal demand by the Club and may be deducted by the Club from any moneys that are otherwise payable to the Player under this Agreement.

10.2 Liability to the NRL

If the Player during the Employment Term becomes liable to pay any fine to the NRL, which liability has been notified by the NRL to the Club, the Player agrees that the Club may:

- (a) deduct the amount of that fine from any moneys payable by the Club to the Player; and
- (b) immediately remit that amount to the NRL in satisfaction of the fine.

SECTION 11: DISPUTES

11.1 General Reference to the NRL Appeals Committee

If any dispute arises between the Club and the Player, either during the currency of this Agreement or after its expiration or termination, concerning any matter relating to the Agreement, that dispute may by agreement be referred by the Club and the Player to the NRL Appeals Committee for determination on such terms as agreed by them, in which event the dispute shall be determined in accordance with the provisions of the NRL Appeals Committee Procedural Rules (being Schedule Five to the **NRL Rules**).

SECTION 12: INSURANCE

12.1 Player Insurance

The Player:

- (a) authorises the Club to pay on his behalf from the payments due to him under this Agreement the insurance premium to indemnify the Player under the New South Wales government sporting insurance scheme known as The Sporting Injuries Insurance Scheme and, if required, the premium for supplementary medical insurance to the extent determined by the Club;
- (b) acknowledges that he has been advised by the Club to seek independent expert advice on obtaining additional insurance, at his own cost, for his own benefit, in addition to:

- (i) that available pursuant to the NSW Sporting Injuries Insurance Act 1978; and
- (ii) any additional insurance recommended by and/or arranged by the Club, for the benefit of the Player.

SECTION 13: HEALTH FUND MEMBERSHIP

13.1 Player Acknowledgement

The Player acknowledges that, except as expressly set out in this Clause, his only right to compensation upon injury will arise under the NSW Sporting Injuries Insurance Act 1978 or any policy for insurance which he may have entered into on his own behalf, such insurance being incurred at his own cost, provided that nothing in this Clause shall limit or exclude any common law liability of the Player.

13.2 Player Warranty

The Player warrants that he is a member of a recognised health fund approved by the Club and shall at all times during the Employment Term ensure by prompt payment of contributions, and by compliance with all other rules and regulations of the fund, that he is and will remain at all times eligible to receive in case of sickness, injury or other contingencies covered by such fund the maximum benefits offered by such fund available on payment of the highest contributions. The Club shall at no time be liable for such contributions and nor shall it be liable for any hospital, medical or related payments on the failure of the Player to comply with this Clause, provided however that the Club shall, in relation to injuries sustained during training or in playing the Game, reimburse the Player the difference (if any) between the amount of such payments and the amount received by the Player from his health fund.

SECTION 14: SUSPENSION OF PLAYER

14.1 Deduction from Playing Fee

NRL Playing Contract and Remuneration Rules

In that the event that the Player is suspended by the Club, the NRL, the NRL Board, the NRL Judiciary, the NRL Drugs Tribunal, the NRL Appeals Committee or any other person or body in relation to the NRL Competition or the Related Competitions with the authority to do so, the Club shall be entitled to deduct from the Playing Fee a sum equivalent to a twenty-sixth portion of the Playing Fee for each match for which the Player is suspended irrespective of whether the suspension was imposed prior to the Commencement Date of this Agreement.



SECTION 15: INTENTIONAL ASSAULTS

15.1 Player Warranty

The Player warrants that he will not intentionally strike another player in the head or attack another player in such circumstances as the striking or attack constitutes an intentional assault on that player.

15.2 Player Indemnity

The Player agrees that he will indemnify the Club against all damages, costs and expenses that may be incurred by the Club as a result of any breach by the Player of the warranty given in **Clause 15.1**.

SECTION 16: NEGOTIATING WITH OTHER CLUBS

16.1 Negotiations

During the Employment Term, the Player must not enter into any discussions, negotiations, contract, agreement, arrangement, understanding or option to play the Game for any other club other than in accordance with the provisions of Chapter 5 of the *NRL Playing Contract and Remuneration Rules* being Schedule Six to the *NRL Rules*.

16.2 Deemed Negotiations

For the purposes of **Clause 16.1**, if the manager, agent or representative of the Player enters into any discussions, negotiations, contract, agreement, arrangement, understanding or option to play the Game for any other club on behalf of the Player, then the Player shall be deemed to have authorised his manager, agent or representative to do so on his behalf.

SECTION 17: PREVAILING AGREEMENT

17.1 This Agreement Prevails

If the Player at any time, whether before or after this Agreement, is engaged by the Club to play in any Related Competition, the terms of this Agreement will prevail over the terms of any agreement with the Club relating to the Related Competition.

SECTION 18: WARRANTIES, ACKNOWLEDGMENTS, INDEMNITY

18.1 Representations and Warranties

The Player represents and warrants that, at the date of this Agreement:

- (a) he is able to perform his obligations under this Agreement;
- (b) in entering into this Agreement and in performing his obligations under this Agreement he will not be in breach of any obligations owed to any person or infringe any right of any person; and
- (c) he has disclosed, and will continue to disclose during the Employment Term, to the Club all Non-Playing Agreements or Third Party Agreements to which he is a party.

18.2 Acknowledgments

The Player acknowledges that:

- (a) the Club has provided to him unfettered access to, and a proper opportunity to take a copy at no cost to him of, the constitution and rules of the Club and the **NRL Rules**, including all Schedules and Guidelines to the **NRL Rules**;
- (b) he has had a reasonable opportunity to read the documents referred to in **sub-Clause 18.2(a)** and this Agreement before making and signing this Agreement;
- (c) the Club has advised him to seek, and given him sufficient time to seek, independent legal and financial advice about the documents referred to in **sub-Clause 18.2(a)** and this Agreement before making and signing this Agreement;
- (d) if he is to maintain his registration with the NRL as a Player, this Agreement if varied must at all times be varied in accordance with the provisions of the NRL Playing Contract and Remuneration Rules being Schedule Six to the **NRL Rules**;
- (e) the Club's liabilities in respect of his death or injury in performing his obligations under this Agreement are limited to those:
 - (i) which arise by operation of law; and
 - (ii) out of which the parties cannot contract;

at the relevant time.

18.3 Indemnity

The Player shall indemnify the Club against any liability, loss, cost or expense that the Club may incur should any of the acknowledgments set forth in **Clause 18.2** be incorrect.

SECTION 19: CONFIDENTIALITY

19.1 Terms to be Kept Confidential

The terms of this Agreement are confidential and shall not be disclosed by either party to any person or entity other than the NRL, its servants or agents, without the prior written consent of the other of them, except for the purpose of:

- (a) obtaining legal or financial advice; or
- (b) the performance or the enforcement of the performance of the several obligations expressed herein.

SECTION 20. LEAVE ENTITLEMENTS

20.1 Player's Entitlements

Subject to **Clause 20.2**, the Player is entitled to:

- (a) eight day's leave for sickness per annum provided any such sickness is certified by a duly qualified medical practitioner;
- (b) a maximum of three day's leave on the death of a spouse, parent or step-parent, child or step-child, grandparent, sibling, de-facto partner, in-law or member of his immediate household;
- (c) a maximum of five day's parental leave;
- (d) five week's annual leave per annum;
- (e) one week's long service leave per annum,

but in no case shall any such entitlement accrue from year to year.

For the avoidance of doubt, the Player is not entitled to be paid separately for any leave taken in accordance with this clause as the Playing Fees are inclusive of any entitlements to paid leave.

20.2 Club's Approval Necessary

The Player is required in every case to first seek and obtain the approval of the Club to take any leave under **Clause 20.1** before becoming entitled to it.

SECTION 21: CHANGED CIRCUMSTANCES

21.1 Player's Obligations if Circumstances Change

This Agreement has been entered into by the Club on the basis that the payments specified in it are fully inclusive of all payments except payroll tax that the Club is required to pay to or on behalf of the Player under any legislation, award or other industrial instrument that is in force during the Employment Term. If the Club is required to make any additional payment to or on behalf of the Player as a result of any new or amended legislation, award or other industrial instrument coming into force after the date of this Agreement, the Club shall be entitled to terminate this Agreement if the Player does not, within 21 days of being requested in writing to do so, enter into a new agreement for the balance of the Employment Term upon financial terms that will ensure that the total payments by the Club for each season in respect of the Player does not exceed the amount of the payments stated in this Agreement.

SECTION 22: REPRESENTATIVE MATCHES AND MATCHES PLAYED IN RELATED COMPETITIONS NOT CONDUCTED BY THE NRL

22.1 Representative Matches

If the Player is selected to participate in a team competing in a Representative Match or in a match in a Related Competition, he must comply with the governing rules and regulations of such body during participation in a match in such competition, and the Player submits to the jurisdiction of and must comply with any decision of any disciplinary body with usual authority to make such decisions in relation to that competition.

22.2 Payment for Representative or Related Competition Matches

In every case, the Club shall not be liable to pay the Player for participating in any match to which **Clause 22.1** refers.

SECTION 23: REGISTRATION

23.1 Agreement subject to Registration

The Player and the Club acknowledge, and hereby agree, that this Agreement is subject to and conditional upon the Player becoming registered as a Player in the NRL Competition pursuant to the *NRL Playing Contract and Remuneration Rules*, being Schedule Six to the **NRL Rules**, and further, the Player and the Club acknowledge, and hereby agree, that in the event that registration of the Player is refused by the NRL this Agreement will be of no force or effect.

SECTION 24: NOTICES

24.1 Modes of Giving Notice

All notices required by or permitted under this Agreement shall:

- (a) be in writing addressed to the address of the other party shown in this Agreement or to such other address as the recipient may have notified (in writing) to the sender;
- (b) be signed by the sender or an authorised agent or officer of the sender;
- (c) be deemed to be given or made:
 - (i) in the case of post, if posted within Australia to an Australian address, three Business Days after posting and, in any other case, eight Business Days after posting by airmail; and
 - (ii) in the case of facsimile, if the sender's facsimile machine produces a transmission report indicating that the facsimile was sent to the addressee's facsimile machine, the report will be rebuttable evidence that the facsimile was received by the addressee at the time indicated on that report.

SECTION 25: WAIVERS

25.1 No Waiver

No failure to exercise and no delay in exercising any right, power or remedy under this Agreement will operate as a waiver, nor will any single or partial exercise of any right, power or remedy preclude any further exercise of that or any other right, power or remedy.

SECTION 26: SEVERABILITY

26.1 Agreement to be Upheld Where Possible

If it appears to any court that any restraint imposed or undertaken by this Agreement is invalid, or void, to any extent by, force of any statutory provision or by reason or partly by reason of being an unreasonable restraint of trade, the parties agree that such restraint shall be valid to such extent, if any, as the court thinks fit and shall otherwise be severable from the other terms of this Agreement with the intent that this Agreement shall be read and construed as operating to the fullest extent in all respects.

SECTION 27: ENTIRE AGREEMENT

27.1 Entire Agreement

This Agreement contains all of the terms of the agreement between the Player and the Club.

SECTION 28: GOVERNING LAW

28.1 Governing Law

This Agreement shall be governed by the laws of the State of New South Wales and the parties submit to the exclusive jurisdiction of its courts.

SECTION 29: DEFINITIONS AND INTERPRETATION

29.1 Definitions

In this Agreement the following words have the following meanings unless the context otherwise requires:

'Apparel' - includes clothes, footwear, head wear, glasses, gloves, mouthguards, shoulder and other body pads and guards, bandages and other strapping, carry, medical and other kit bags, drink, food and other containers, towels, wraps and other covers or other similar accessories;

NRL Playing Contract and Remuneration Rules

'ARL' - means Australian Rugby Football League Limited (ACN 003 107 293);

'Board' – means the board of directors of the Club;

'Business Day' – means any day other than a Saturday, Sunday or public holiday in the State of New South Wales, and where a time limit is set in this Agreement when performance is due on a day that is not a Business Day, the time for performance is the next Business Day;

'Club Medical Officer' – means the medical practitioner appointed or nominated by the Club as its medical officer or such other person as the Club may, from time to time, nominate;

'Doping Offence' - has the same meaning as that expression is given in the *NRL Anti-Doping Rules* being Schedule Two to the ***NRL Rules***;

'Employment Term' - means the term of this Agreement as provided in Section 2;

'Game' - means the game of rugby league football as organised, administered and approved by the NRL;

'Laws of the Game' - means the International laws of the game of rugby league;

'Leave Entitlements' – means the Player's entitlements provided for in **Clause 20.1**;

'Match Fees' – has the meaning given to that expression in **Clause 4.1** calculated by reference to Schedule 1 to this Agreement;

'moneys' – means the Match Fees referred to in **Clause 4.1** and the Playing Fee referred to in **Clause 4.2**;

'Non-Playing Agreement' – has the meaning given to that expression by the NRL Playing Contract and Remuneration Rules (Schedule Six to the NRL Rules);

'NRL' - means National Rugby League Limited (ACN 082 088 962);

'NRL Anti-Doping Rules' - means the *NRL Anti-Doping Rules* (Schedule Two to the ***NRL Rules***);



NRL Playing Contract and Remuneration Rules

'NRL Appeals Committee' – means the body constituted by the *NRL Appeals Committee Procedural Rules* (Schedule Five to the **NRL Rules**);

'NRL Board' – means the board of directors of the NRL;

'NRL Code of Conduct' - means the *NRL Code of Conduct* (Schedule 1 to the **NRL Rules**);

'NRL Competition' - means the national rugby league competition arranged and administered by the NRL;

'NRL Drugs Tribunal' – means the body constituted by the *NRL Anti-Doping Rules* (Schedule Two to the **NRL Rules**);

'NRL Judiciary' – means the body constituted by the *NRL Judiciary Code of Procedure* (Schedule Four to the **NRL Rules**);

'NRL Partnership' - means the partnership between National Rugby League Investments Pty Limited (ACN 081 778 538) and the ARL formed for the purpose of owning, operating and authorising the operation of the NRL Competition;

'NRL Rules' - means the rules adopted from time to time by the NRL governing the NRL Competition and any Related Competitions approved by the NRL;

'party' – means either the Club or the Player;

'player' - means a player of the Game;

'Player Property' - means the name, photograph, likeness, reputation and identity of the Player;

'Player Registration Application' – means a document in the terms of Form 3 to the *NRL Playing Contract and Remuneration Rules* (Schedule Six to the **NRL Rules**);

'Playing Fee' – has the meaning given to that expression in **Clause 4.2** calculated by reference to Schedule 1 to this Agreement;

'Related Competitions' - means matches conducted by, or with the authority of, the ARL or its affiliated state leagues and any rugby league competition, other than the NRL Competition, approved by the NRL;



'Remuneration' – has the meaning given to that term by the *NRL Playing Contract and Remuneration Rules* (Schedule Six to the **NRL Rules**);

'Representative Match' means any:

- (a) State of Origin match;
- (b) representative rugby league match involving a rugby league team representing Australia;
- (c) international rugby league match involving a rugby league teams representing Australia; and
- (d) other match determined by the NRL to be a Representative Match;

'Round' – means a weekly round of matches in the NRL Competition;

'Season' - means the period of each annual NRL Competition commencing on 1 November of one year and ending on 31 October of the next year, or such other period as may be from time to time determined by the NRL;

'Team' - means a team of players competing in the NRL Competition for the Club;

'Team Apparel' - means apparel approved by the NRL or, for a Representative Match, Apparel approved by the ARL;

'Third Party Agreement' – has the meaning given to that expression by the *NRL Playing Contract and Remuneration Rules* (Schedule Six to the **NRL Rules**).

29.2 Interpretation

In this Agreement, unless the contrary intention appears:

- (a) headings are for ease of reference only and do not affect the meaning of this Agreement;
- (b) the singular includes the plural and vice versa and words importing a gender include other genders;

NRL Playing Contract and Remuneration Rules

- (c) other grammatical forms of defined words or expressions have corresponding meanings;
- (d) a reference to a clause, paragraph or schedule is a reference to a clause or paragraph of or schedule to this Agreement and a reference to this Agreement includes any schedules;
- (e) a reference to a document or agreement, including this Agreement, includes a reference to that document or agreement as novated, altered or replaced from time to time;
- (f) a reference to 'A\$', '\$A', 'dollar' or '\$' is a reference to Australian currency;
- (g) a reference to a specific time for the performance of an obligation is a reference to that time in Sydney, Australia;
- (h) words and expressions importing natural persons include any individual, body corporate, unincorporated body, government, government department, agency and any municipal, local, statutory or other authority and any combination or association of individuals, bodies corporate, unincorporated bodies, governments, government departments, agencies and municipal, local, statutory or other authorities (in each case whether or not having a separate legal identity).



SECTION 30: SPECIAL CONDITIONS



SCHEDULE 1

1. TOTAL MATCH FEES (INCLUDING SUPERANNUATION)

(a) Where the Player was a member (whether as an interchange player or otherwise) of the Team in an NRL Competition match when play began and the team:

- (i) won the Game \$
- (ii) lost the Game \$
- (iii) drew the Game \$

(b) If the Club has a Second Team (“the Second Team”), where the Player was a member (whether as an interchange player or otherwise) of the Second Team in a competition match in any Related Competition when play began and the team:

- (i) won the Game \$
- (ii) lost the Game \$
- (iii) drew the Game \$

(c) Where the Player was a member (whether as an interchange player or otherwise) of a team other than the Team or the Second Team in a competition match in any Related Competition when play began, namely:

..... (insert name of team)
and the team:

- (i) won the Game \$
- (ii) lost the Game \$
- (iii) drew the Game \$



2. TOTAL PLAYING FEE (INCLUDING LEAVE ENTITLEMENTS, SUPERANNUATION AND FRINGE BENEFITS TAX)

SEASON	TOTAL PLAYING FEE (INCLUDING LEAVE ENTITLEMENTS, SUPERANNUATION AND FRINGE BENEFITS TAX)

3. CALCULATION OF AMOUNTS REFERRED TO IN THIS SCHEDULE

- (a) The amounts stated in paragraph 1 of this Schedule have been calculated by adding:
- (i) the Match Fees; and
 - (ii) an amount equal to the minimum level of superannuation contributions which the Club must make for the Player for the purposes of the Superannuation Guarantee (Administration) Act 1992 and the Superannuation Guarantee Charge Act 1992 in respect of the Match Fees.
- (b) The amounts stated in paragraph 2 of this Schedule have been calculated by adding:
- (i) the Playing Fee, which is inclusive of an amount in lieu of the Leave Entitlements;
 - (ii) an amount equal to the minimum level of superannuation contributions which the Club must make for the Player for the purposes of the Superannuation Guarantee (Administration) Act 1992 and the Superannuation Guarantee Charge Act 1992 in respect of the Playing Fee; and
 - (iii) any fringe benefits tax payable in respect of fringe benefits provided to the Player.



NRL Playing Contract and Remuneration Rules

- (c) The Total Playing Fee and the Total Match Fees comprise the total Remuneration payable by the Club to, on behalf of or in respect of the Player for the performance of his obligations pursuant to this Agreement and includes all superannuation, fringe benefits tax and Leave Entitlements.



Form 2



AGREEMENT dated

BETWEEN

(‘Club’)

AND

(‘Player’)

The Club and the Player are parties to an NRL Playing Contract dated _____, 200_. In consideration of the Club and the Player each agreeing with the other to perform the remaining term of the Contract in accordance with the variation/s specified below, they hereby **AGREE** to vary that NRL Playing Contract as follows:

- (1)
- (2)
- (3)
- (4)

Further, the Club and the Player **AGREE** that, save as expressly set out above, the other terms of the NRL Playing Contract shall remain in full force and effect.

EXECUTED as an Agreement

SIGNED for and on behalf of the Club:

.....

SIGNED by the Player:

.....

Signature of Player

.....

Date

(This Form must be signed by the Club and the Player and lodged with the Chief Executive Officer of the NRL within five Business Days of the date upon which the variation/s were agreed)



Form 3



PLAYER REGISTRATION APPLICATION

TO: National Rugby League Limited
ACN 082 088 962

Date:

I, _____ hereby apply to be registered by **National Rugby League Limited** (“**NRL**”) as a player with the _____ Club.

Surname: _____ First Name: _____

Address: _____

_____ Email Address: _____

Date of Birth: _____

Passport Number: _____

1. In signing this registration form, and in return for the **NRL** agreeing to consider my application for registration as a player in the NRL Competition, I agree:
 - (a) To comply with, and be bound by, the **NRL Rules** including:
 - (i) Schedule One – *NRL Code of Conduct*;
 - (ii) Schedule Two – *NRL Anti-Doping Rules*;



NRL Playing Contract and Remuneration Rules

- (iii) Schedule Three – *NRL Anti-Vilification Code*;
 - (iv) Schedule Four – *NRL Judiciary Code of Procedure*;
 - (v) Schedule Five – *NRL Appeals Committee Procedural Rules*;
 - (vi) Schedule Six – *NRL Playing Contract and Remuneration Rules*;
 - (vii) Schedule Seven – *NRL Accredited Player Agents Rules*;
 - (viii) Schedule Eight – *NRL Operations Manual*; and
 - (ix) Any Guidelines to the **NRL Rules**,
as they exist from time to time;
- (b) To undergo drug tests as required by the **NRL Rules** and the *NRL Anti-Doping Rules*;
 - (c) To submit to the jurisdiction of, and comply with any decisions or determinations made by, the Board, the Chief Executive Officer, the Salary Cap Auditor or any body established by or in accordance with the **NRL Rules** including the *NRL Judiciary*, the *NRL Drugs Tribunal* and the *NRL Appeals Committee*;
 - (d) Subject to the provisions of the **NRL Rules**, including any Schedules or Guidelines to the **NRL Rules**, to the public disclosure of:
 - (i) Any breach of the **NRL Rules**, including any Schedules or Guidelines to the **NRL Rules**, with which I am charged, including the evidence relied upon in support of the charge;
 - (ii) Any decisions or determinations of the Board, the Chief Executive Officer, the Salary Cap Auditor or of any body established by or in accordance with the **NRL Rules** including the *NRL Judiciary*, the *NRL Drugs Tribunal*, and the *NRL Appeals Committee*;
 - (e) To my Club communicating to the NRL details of any illness, accident or injury which might affect my fitness, safety, health or well being in training or playing rugby league;

NRL Playing Contract and Remuneration Rules

- (f) To grant to the NRL the right, and I hereby authorise the NRL, to use my name and image in connection with the promotion or marketing of the NRL Competition and Representative Matches where I am a member of a Representative Team;
- (g) To make myself available for Representative Teams;
- (h) That if I am selected for, but withdraw from, a Representative Team or otherwise make myself unavailable for such selection I will not be available to play for my Club in any game in which I would not have been able to play had I been a member of such Representative Team;
- (i) That if I am selected for a Representative Team, to obey all reasonable directions of the team management, and otherwise not engage in any conduct that may be detrimental to, or bring into disrepute, the interests, welfare or image of the NRL or the Representative Team;
- (j) That if I am selected to participate in teams competing in a competition or Representative Match conducted by Australian Rugby League Limited ACN 003 107 293 ("ARL") or any of its State affiliates or by any other rugby league body other than the NRL, I agree to comply with the governing rules of the body arranging or administering that competition or match, and to submit to the jurisdiction of and comply with any decision of any disciplinary body with usual authority to make such decisions in relation to that competition or match;
- (k) To the publication and inspection of such particulars relating to me as are recorded in the Register maintained in accordance with Rule 31 of the *NRL Playing Contract and Remuneration Rules*, being Schedule Six to the **NRL Rules**;
- (l) To the NRL obtaining any financial information relating to me from my Club or from any person or entity that has provided, or will provide, Remuneration to me, including the provision of my banking records and Income Tax Returns;
- (m) To any Club for which I have played, or any person or entity that has provided, or will provide, Remuneration to me, providing to the NRL any financial information relating to me which the NRL requests and, if requested by the NRL, to provide it with a signed document directing any such Club, person or entity to provide the financial information that the NRL is seeking; and



NRL Playing Contract and Remuneration Rules

- (n) To the NRL disclosing to the ARL, or any of its State affiliates or any other rugby league organisation which is affiliated with the Rugby League International Federation ACN 091 594 777, any information relating to me which that organisation requires for the performance of its duties as a governing body.
2. I acknowledge that I have been provided with a copy of the **NRL Rules** including any Schedules or Guidelines to the **NRL Rules**, in place at the time of the signing of this Application.
3. The last Club I played with was _____
Club in the _____ League.

Player's Signature

Witness

NRL Accredited Player Agent (or Agent)*
for the Player

Witness

Date _____

* Strike out which is inapplicable.



Form 4



STATUTORY DECLARATION

Pre-Season Declaration of Remuneration

I, (print full name)

of (full address)

DO SOLEMNLY AND SINCERELY DECLARE:

1. I am the Chairman/Chief Executive Officer* of ***[insert full corporate name and ACN of Club]*** (“the Club”) and I am authorised to make this Pre-Season Declaration of Remuneration on behalf of the Club for the purposes of Rule 107 of the *NRL Playing Contract and Remuneration Rules* (“the PCR Rules”), being Schedule Six to the ***NRL Rules***.
2. In this Declaration, the terms “Remuneration”, “Included Remuneration”, “Excluded Remuneration”, “NRL Playing Contract”, “Playing Agreement”, “Top 25 List” and “Top 25 Player” have the meanings respectively assigned to them by the PCR Rules.

* Strike out which is inapplicable.



NRL Playing Contract and Remuneration Rules

3. I have made all due and proper enquiries in order to ascertain the nature and the amount of all of the Remuneration, whether Included Remuneration or Excluded Remuneration, which has been paid or is to be paid by, or on behalf of, the Club to, or on behalf of, each Player engaged by, or on behalf of, the Club for the ***[insert year of Season]*** Season, that is, for the period from 1 November ***[insert year]*** to 31 October ***[insert next year]*** (“the Season”).

4. Attached to this Declaration and marked with the letter “A” is a report (“the Report”)† setting out, to the best of my knowledge, information and belief:
 - (a) A list of the names of every Player engaged (whether by NRL Playing Contract, Playing Agreement or otherwise) by, or on behalf of, the Club for the Season;
 - (b) Details of the nature and the amount of all Remuneration, whether Included Remuneration or Excluded Remuneration, which has been paid or is to be paid by, or on behalf of, the Club to, or on behalf of, each such Player for the Season;
 - (c) A breakdown of the amount of Remuneration, whether Included Remuneration or Excluded Remuneration, which has been paid or is to be paid by, or on behalf of, the Club, to or on behalf of, all of its Players who are entered on the Top 25 List for the Club for the Season as well as all other Players who are registered to play in the NRL Competition for the Club in the Season;
 - (d) The total amount of the Remuneration, whether Included Remuneration or Excluded Remuneration, which has been paid or is to be paid by, or on behalf of, the Club, to or on behalf of, all of its Players for the Season.

5. I declare that the contents of the Report are true and correct in every particular.

NRL Playing Contract and Remuneration Rules

6. The total Remuneration, whether Included Remuneration or Excluded Remuneration, to be paid by, or on behalf of, the Club to, or on behalf of, all of its Players who are entered on the Top 25 List for the Club for the Season as well as all other Players who are registered to play in the NRL Competition for the Club in the Season is as follows:

Included Remuneration	\$ _____
Excluded Remuneration	\$ _____
Total Remuneration	\$ _____

AND I MAKE this solemn declaration by virtue of the provisions of the *[insert name of Act pursuant to which the Declaration is made]*,[†] and subject to the penalties provided by that Act for the making of false statements in Statutory Declarations, conscientiously believing the statements contained in this declaration to be true in every particular.

DECLARED at)
this.....day of 200...)
.....

before me:)
Chairman/Chief Executive Officers^s

.....
(Please print full name of Justice of the Peace or Solicitor)

† The form of the Report may be obtained from the Salary Cap Auditor. Once obtained, it must be completed in full and initialled on the Top 25 Summary page and each of the Data Input Pages by both the person making this Declaration and the witness.
‡ The governing Legislation is as follows:
New South Wales, the *Oaths Act 1900 (NSW)*, Queensland, the *Oaths Act 1867 (QLD)*, Victoria, the *Evidence Act 1958 (VIC)* and New Zealand, the *Oaths and Declarations Act 1957 (NZ)*.
§ Strike out which is inapplicable.



Form 5



STATUTORY DECLARATION

Post-Season Declaration of Remuneration

I,

(print full name)

of

.....

(full address)

DO SOLEMNLY AND SINCERELY DECLARE:

1. I am the Chairman/Chief Executive Officer** of ***[insert full corporate name and ACN of Club]*** (“the Club”) and I am authorised to make this Post-Season Declaration of Remuneration on behalf of the Club for the purposes of Rule 108 of the *NRL Playing Contract and Remuneration Rules* (“the PCR Rules”), being Schedule Six to the ***NRL Rules***.
2. In this Declaration, the terms “Remuneration”, “Included Remuneration”, “Excluded Remuneration”, “NRL Playing Contract”, “Playing Agreement”, “Top 25 List” and “Top 25 Player” have the meanings respectively attributed to them by the PCR Rules.

** Strike out which is inapplicable.



NRL Playing Contract and Remuneration Rules

3. I have made all due and proper enquiries in order to ascertain the nature and the amount of all of the Remuneration, whether Included Remuneration or Excluded Remuneration, has been paid or is to be paid by, or on behalf of, the Club to, or on behalf of, each Player engaged by, or on behalf of, the Club for the ***[insert year of Season]*** Season just completed, that is, for the period from 1 November ***[insert last year]*** to 31 October ***[insert this year]***.

4. Attached to this Declaration and marked with the letter “A” is a Report (“the Report”)^{††} setting out, to the best of my knowledge, information and belief:
 - (a) A list of the names of every Player engaged (whether by NRL Playing Contract, Playing Agreement or otherwise) by, or on behalf of, the Club for the Season;

 - (b) Details of the nature and the amount of all Remuneration, whether Included Remuneration or Excluded Remuneration, which has been paid or is to be paid by, or on behalf of, the Club to, or on behalf of, each such Player for the Season;

 - (c) A breakdown of the amount of Remuneration, whether Included Remuneration or Excluded Remuneration, which has been paid or is to be paid by, or on behalf of, the Club, to or on behalf of, all of its Players who were entered on the Top 25 List for the Club at any one time during the Season as well as all other Players who were registered to play and did play in the NRL Competition for the Club in the Season;

 - (d) The total amount of the Remuneration, whether Included Remuneration or Excluded Remuneration, which has been paid or is to be paid by, or on behalf of, the Club, to or on behalf of, all of its Players for the Season.

5. I declare that the Report is true and correct in every particular.

^{††} The form of the Report may be obtained from the Salary Cap Auditor. Once obtained, it must be completed in full and initialled on the Top 25 Summary page and each of the Data Input Pages by both the person making this Declaration and the witness.

NRL Playing Contract and Remuneration Rules

6. The total Remuneration, whether Included Remuneration or Excluded Remuneration, to be paid by, or on behalf of, the Club to, or on behalf of, all of its Players who were entered on the Top 25 List for the Club at any one time during the Season as well as all other Players who were registered to play and did play in the NRL Competition for the Club in the Season is as follows:

Included Remuneration	\$ _____
Excluded Remuneration	\$ _____
Total Remuneration	\$ _____

AND I MAKE this solemn declaration by virtue of the provisions of the ***[insert name of Act pursuant to which the Declaration is made]***,[#] and subject to the penalties provided by that Act for the making of false statements in Statutory Declarations, conscientiously believing the statements contained in this declaration to be true in every particular.

DECLARED at)
this.....day of 200...)
.....

before me:) **Chairman/Chief
Executive Officer^{§§}**

.....
(Please print full name of Justice of the Peace or Solicitor)

^{‡‡} The governing Legislation is as follows:
New South Wales, the *Oaths Act 1900 (NSW)*, Queensland, the *Oaths Act 1867 (QLD)*, Victoria, the *Evidence Act 1958 (VIC)* and New Zealand, the *Oaths and Declarations Act 1957 (NZ)*.
^{§§} Strike out which is inapplicable.





Wednesday 31 August, 2005

MEDIA RELEASE

As the Telstra Premiership counts down to one of the most remarkable final rounds in memory, Chief Executive Mr David Gallop has congratulated the clubs, players and fans on what is already the most successful Premiership series in the game's 97 year history.

Round 26 of the Telstra Premiership sees three clubs vying for the minor premiership, three for eighth spot and three looking to escape the wooden spoon.

Only a handful of seasons have ever produced such a final round but, as clear evidence of the effect of the salary cap in spreading playing talent, none of those competitions saw the teams as tightly packed on the points table.

The Minor Premiers in 2005 will finish with more losses than ever by a team finishing first with the wooden spooners scoring more wins than any team before them.

League historian David Middleton has analysed every competition table since 1908 and declared that the next closest was back in 1933.

"Whether it's a chance to show your support for next year or to cheer your team into the finals, this is a weekend for every supporter to be at the footy to mark the end of a memorable Minor Premiership race," NRL Chief Executive Mr David Gallop said.

"Every aspect of this season has gone down to the wire and it's taking us towards a finals series that has more uncertainty than any we've seen.

"It is a season that the game deserves and the fans have recognized it as something special.

“One group that certainly deserves recognition in it all is the coaching and the training personnel involved in the game today.”

The NRL goes into round 25 already certain of achieving a third record year of crowds (average of 16,484) and one of the biggest single increase in crowds in any given year (12%).

Highlights from the 2005 season include:

Performance area	Percentage increase
Sponsorship	Increased by 39%
Crowds	Increased by 12%
Licensing	Increased by 41%
Participation	Increased by 12% (Forecast subject to finalization of school figures)

“The game’s key indicators are healthier than ever,” Mr Gallop said.

“We now have situations where the equivalent of 10% of the population in Townsville is turning up to every Cowboys home game and they’re wearing more club merchandise than ever before.

“We’ve guaranteed financial certainty into the future with a new television deal, we’ve established a direction for the next five years through the Strategic Plan and we’ve had the confidence to expand through the inclusion of the Gold Coast in 2007.

“Our sponsorship programme has never been stronger and we’ve worked with major international players like Manchester United Football Club and NASCAR to stay abreast of international trends.

“The one negative we still face is the ongoing impact on our clubs of the State Government’s poker machine tax.

“Off the field we’ve continued to place a focus on player welfare and currently have players studying or completing work placement in fields as diverse as civil engineering to screen printing.

“We’ve worked with the RLPA to ensure a joint approach in this area and we’ve also in 2005 finalised the game’s first collective bargaining agreement which included increases in the salary cap, increased player insurance, increased minimum wages and higher representative payments.

“There has also been a real willingness from the clubs to work together on projects for the good of the game which has allowed us to successfully introduce initiatives like the rookie camp and regional pre season promotions as well as continuing our major fundraising effort at the Captains’ Table which this year raised \$110,000 for Breast Cancer and the Legends relay which raised \$335,000 for the Make a Wish Foundation.

“Importantly at the same time increased NRL revenues have resulted in additional grass roots funding of over \$10million in the last three years.

“The season in many respects is a challenge to do even more in the future but for the moment fans and everyone involved in the game should celebrate what is a remarkable end to the Telstra Premiership.

“The competition for people’s leisure time remains intense and we need to keep a day at the footy relevant to people’s lives.

“We need to adapt to new technologies and changing lifestyles and we are already working on those issues.

“The game’s centenary planning is already underway in conjunction with the ARL for 2008 along with a World Cup also scheduled for that year.

“We face an enormous challenge in growing on the success of this year but it is an achievable goal for everyone in the game.”

A document outlining key features of the 2005 Telstra Premiership follows.

Further details contact: John Brady 9339 8524, 0408 881 222 or Polly McCardell 9339 8555, 0407 908 746



KEY FEATURES OF THE 2005 TELSTRA PREMIERSHIP

Sponsorship

- 12% average increase in club sponsorship revenue from 2004
- 39% increase in NRL sponsorship revenue from 2004
- Bundaberg Rum and Sony PlayStation have joined a sponsor family that includes: Telstra, Qantas, Kelloggs, Harvey Norman, Coca Cola, Wizard, AAMI & CUB

Attendances

- Season average 16,484 per round (at round 25) sets the third successive yearly record up on the 2004 average of 14,671
- Crowds have grown by 27% over the past three seasons (more than 530,000 extra people)
- Average at round 25 of 114,066 per round, 2004 avg: 101,571
- 2,851,654 million through the gate after round 25 (2004 total premiership attendance: 2,640,850)
- State of Origin had the earliest ever total series sellout for a total crowd of 187,374
- 6 NRL ground records during the 2005 season:
 - Tigers at Campbelltown Round 23 – 20,527
 - Tigers at Telstra Stadium Round 24 – 29,542
 - Tigers at Leichhardt Round 20 – 22,877
 - Dragons at WIN Stadium Round 21 – 19,512
 - Dragons at Oki Jubilee Round 20 – 17,113
 - Dragons at Oki Jubilee Round 24 – 17,523
- Other facts:
 - Round 23 match at Suncorp second highest ever for Broncos for a club game (48,995)
 - For the first time since 1995, and only the fourth time ever the Broncos have had an average attendance of more than 30,000 (30,331)
 - Sharks average home crowd of 16,205 is their highest ever
 - Energy Australia crowd of 26,115 (Round 23) was the largest since the re-development of the ground
 - Parramatta Stadium crowd of 20,289 in round 23 was their largest since the ground was dramatically altered

- Dairy Farmers Stadium, while not breaking the ground record of 30,302 from 1999, have twice this year been at their capacity with crowds of 22,477 in round 10 and 22,476 in round 8

Licensing

- 41% increase in royalties revenue from 2004 (to the end of quarter 2, not including Rugby League video game)
- Top 5 selling clubs:
 - Bulldogs
 - Roosters
 - Broncos
 - Dragons
 - Eels
- The Cowboys have moved up 7 spots and now rank as the 7th highest selling club
- NRL merchandise expanding into the United Kingdom where it will be sold in 70-80 outlets from November 2005

Salary Cap

- If Manly make the finals, fourteen clubs will have finished in the top 8 at some stage since 1998
- 13 of the 15 clubs will have made the top four since 1998 (if Tigers make 4)
- If the Roosters don't make the playoffs, the Broncos will be the only team to have made the 8 on every occasion since 1998
- Already the NRL has seen 7 different Grand Final winners in 8 years
- The 2005 salary cap rose to \$3.3 million and rises to \$3.366 in 2006. Most clubs spend \$3.9million on NRL players by using approved allowances for long serving players and sponsor servicing which have been introduced in recent years and allowances for players used in the NRL outside the top 25.

TV

- State of Origin has provided the top 3 rating shows of any kind in Sydney and Brisbane this year.
- NRL games account for 9 of the top 10 Subscription Television programs in 2005.
- The number one ranking program on Subscription Television was the live coverage of the Cowboys v Sharks round 13 match.
- More than 3.9 million different viewers have watched Rugby League match coverage of the Telstra Premiership on FOX SPORTS to date this year.

Radio

- Rugby League through 2GB is the number one rating programme of any type in Sydney again this year, with commercial coverage extending to Perth and Melbourne
- The ABC network takes match coverage to more than 500,000 listeners across NSW, Queensland, the ACT and Radio Australia
- NRL established Lozza and the Bull – a one hour radio show to promote league in 26 regional stations as well as the internet

nrl.com

- More than 800,000 unique users have logged onto NRL.com during August, a 53% increase on the biggest month from 2004
- There were more than 13million page impressions during July, with users staying on site for an average 8 minutes per visit
- Website advertising growth has grown 300% since 2004
- 70,000 registered in NRL.com tipping comp at start of year, 50,000 still competing

Participation

- Junior participation has risen for the fourth year in succession, with 18,000 new players since 2002.
- All districts in Sydney (except Manly who held their numbers) experienced increases, Penrith was up by 20 teams.
- Total participation in clubs and schools in 2004 was 288,000. 2005 junior club figures have been finalized, however final figures including school participation will be confirmed at the end of September, with a forecast total increase of 12% growth.
- Junior Club Players (aged 6 to 18years):
 - Queensland Rugby League up 8% to 33,765
 - NSWRL up 7.5% to 32,681
 - NSWCRRL up 7% to 38,602
 - Affiliated States of NT, WA SA and Vic up 11% combined to 3552
- NT and WA had increases well above the national average. The increases in Darwin can well be attributed to them receiving live NRL coverage on Friday nights. Two new clubs were established in Victoria.

Judiciary

- 110 charges have been laid (up to round 25), for a total of 156 weeks of suspension
- 90 players took the early plea (82%), 9 found guilty at panel, 3 downgrades and 8 not guilty

Welfare & Education

- Over 110 players have received education grants to assist with completing courses at TAFE or university
- The Career Transition Program has helped 25 players nearing the end of their careers
- Inaugural Rookie Camp held at Sydney University for 60 players from the 15 clubs; next year's Camp currently being finalised
- All 15 clubs completed the 'Playing By The Rules Workshop' dealing with 'sexual ethics' as well as staff completing training in dealing with allegations of sexual assault.
- Alcohol Education courses and Playing By the Rules courses delivered to U/20s squads across the majority of clubs.
- Welfare continues a strong relationship with RLPA, the clubs and independent education experts.

NRL Community

- The NRL has been involved in the following fundraising projects: Legends Relay (\$334,419 for the Make A Wish Foundation), Tsunami appeal \$100,000, Frilingos appeal (\$75,000 for Heart Foundation), Captains Table (\$110,000 for the National Breast Cancer Foundation)
- The NRL has helped 450 charities, clubs and schools with fundraising items during 2005 as well as supporting fire appeals, Gold Dinners, Sir Roden Cutler charity

The Future

- TV contracts in place until 2012
- Expansion of game confirmed with Gold Coast's inclusion in 2007
- Strategic plan to provide direction for next 5 years
- Marketing workshops planning for next year underway
- Regional trial games, including Alice Springs (2006) & Darwin (2007)
- Renegotiation of Collective Bargaining Agreement to commence in 2006
- Monitoring overseas trends through relationships with Manchester United, NASCAR

Schedule J: Brown Copeland Report

8 November 2005 - PUBLIC VERSION

**ECONOMIC ANALYSIS OF COMPETITIVE DETRIMENTS AND PUBLIC
BENEFITS OF PROPOSED ARRANGEMENTS BETWEEN THE NEW
ZEALAND RUGBY UNION AND PROVINCIAL UNIONS TO CREATE MORE
COMPETITIVE DOMESTIC COMPETITIONS**

**M C Copeland
Brown, Copeland & Co Ltd**

1. INTRODUCTION

Brief Biography

1. I am managing director of Brown, Copeland and Company Limited, a firm of consulting economists which has undertaken a wide range of studies for public and private sector clients in New Zealand and overseas. During the period July 1990 to July 1994, I was also a member of the Commerce Commission and currently I am a lay member of the High Court under the Commerce Act. Prior to establishing Brown, Copeland and Company Limited in 1982, I spent six years at the New Zealand Institute of Economic Research and three years at the Confederation of British Industry.
2. In 1996 I provided expert evidence on behalf of the New Zealand Rugby Union with respect to its application for authorisation of the existing player transfer regulations.
3. Since March 2003 I have been a member of the board of the Wellington Rugby Football Union and in 2004 I was made a life member of Wellington's Old Boys – University Rugby Club. For four years I was the manager of the New Zealand Universities rugby team and served for a number of years on the New Zealand Universities Rugby Council. For the past twenty-five years I have been actively involved in administering various aspects of the game.
4. A summary of my curriculum vitae is attached as **Appendix 1**.

Background

5. The New Zealand Rugby Union (“NZRU”) is seeking authorisation under section 58 of the Commerce Act for a proposed salary cap for team player payments to create a more competitive domestic Premier Division competition. The objective of this report is to describe the nature of the consequent competitive detriments and public benefits and where possible quantify¹ them.

¹ Unless stated otherwise, all monetary amounts in this report are expressed in constant 2005 price terms.

6. The application has sought authorisation for the salary cap proposed for the 14 provincial union teams in the Premier Division; the non-payment of players in the Modified Division One; and the transfer fees applicable in respect of movement of players from the Modified Division One to the Premier Division. Sections F and G of the Authorisation Application cover the competitive impacts, the competitive detriments and the public benefits of the remaining transfer regulations and the non-payment of Modified Division One players. I concur with the analysis contained within these sections and the conclusions reached. This report focuses on the implications of the proposed player payments team salary cap.
7. The NZRU has proposed the salary cap as part of a package of measures to achieve “a more sustainable economic base for the game while at the same time achieving more competitive domestic competitions”.² With the advent of professionalism in New Zealand and world rugby, the evidence has been that success on the field has been concentrated in just a handful of provincial unions and this has been a reflection of the relative financial strength of the respective provincial unions. This situation becomes self-perpetuating because of the links between financial success, acquisition and retention of leading players and on field performance. It is a situation, which is likely to be exacerbated by the addition of four former Division 2 teams to the Premier Division from 2006 onwards.
8. For example, over the 10-year period 1996 to 2005 inclusive the NPC Division 1 final has been contested five times by Auckland, four times by each of Canterbury and Wellington, three times by Otago and two times by Waikato. (Counties was in the NPC Division 1 final in 1996 and 1997 but has since been relegated to Division 2.) As a proxy for off-field relative financial strength, average annual match attendances over the five years 2000 to 2004 inclusive have been 126,465 for Wellington, 108,404 for Canterbury, 80,962 for Auckland, 65,136 for Waikato and 46,486 for Otago. No other union has average annual match attendances in excess of 39,000. These average match attendances include semi-finals and finals attendances but this is part of the self-perpetuating on-going linkage between relative on field playing success and off field financial strength.
9. Before undertaking an analysis of the competitive detriments it is necessary to specify the market (or markets) affected by the proposed interventions. Also analysis of both the competitive detriments and public benefits requires that the counterfactual be established – i.e. the most likely situation or set of circumstances to prevail if the proposed interventions are not introduced.

2. MARKET DEFINITION

² Competitions Review; Final Report; NZRU. Paragraph 1.106.

10. The Commerce Commission in its 1996 decision in relation to the Player Transfer Regulations (“Decision 281”) defined the following three relevant markets:
 - a. The market for the right to player services (i.e. the relationship between the provincial unions themselves);
 - b. The market for player services (i.e. the relationship between the players and provincial unions); and
 - c. The market for sports entertainment (i.e. the provision and acquisition of sports entertainment services).
11. In Decision 281, the Commerce Commission concluded that the first two of these markets merely represented “different sides of the same coin” for the purposes of assessing competitive detriments and public benefits. Therefore in assessing competitive detriments and public benefits the Commission took the view that it needed to focus only on the market for the rights to player services.³
12. The Authorisation Application to which this paper is appended argues that (i) the market for the rights to player services no longer exists; and (ii) the market for player services is not a market for the purposes of the Commerce Act 1986. If the Commerce Commission does not agree with these arguments, this paper focuses on the market for player services in assessing any competitive detriments and public benefits. The paper considers the market for player services as a whole and does not distinguish between employees and independent contractors.
13. With respect to the third market, the market for sports entertainment, the Commission concluded that the regulations proposed back in 1996 neither had the purpose, nor had nor were likely to have the effect, of lessening competition in this market. The measures now being proposed similarly do not have the purpose nor are they likely to have the effect of lessening competition in the market for sports entertainment.
14. Therefore in identifying and quantifying where possible the competitive detriments and public benefits arising from the proposed salary cap this paper focuses on the second of the three markets listed in paragraph 6 above – i.e. the market for player services.

3. THE COUNTERFACTUAL

15. The counterfactual (or “without authorisation” scenario) is defined in the Authorisation Application as the status quo except insofar as the changes relating to the new 14 team Premier Division competition and 12 team Modified Division One competition will be implemented. In other words the counterfactual involves the continuation of the existing player transfer regulations in their current form with no salary cap and no restraints on payments for Modified Division One players.

³ See paragraph 322 of Decision 281.

4. THE TIMING OF COMPETITIVE DETRIMENTS AND PUBLIC BENEFITS

16. The NZRU is aware that the proposed salary cap due to be introduced in 2006 may take a number of years before it becomes fully effective in achieving its stated objectives. This means it may be a number of years before the public benefits discussed in this report will fully materialise. Similarly, there will be delays before the full impacts of any allocative efficiency competitive detriments are felt since for some years it is likely that less than half the provincial unions in the Premier Division will be impacted by the salary cap.
17. The mathematical approach to account for such delays would be to apply discount factors to the expected benefits and detriments according to their expected build up profiles. For example there may be no benefits (detriments) in 2006, 20 percent of estimated benefits (detriments) in 2007, 40 percent in 2008, 60 percent in 2009, 80 percent in 2010 and 100 percent thereafter.
18. In the absence of any reliable estimates for the build up profiles for detriments and public benefits no discount factors have been applied in this report. However since the time profiles of both public benefits and detriments are likely to be reasonably similar, the relativity between public benefits and competitive detriments can be gauged by considering the undiscounted estimates for each presented in this report. I note that while similar time profiles apply for allocative efficiency losses and public benefits, productive efficiency losses will occur upon implementation of the salary cap. However as discussed below, I would expect these productive efficiency losses to be small compared with the likely public benefits.

5. COMPETITIVE DETRIMENTS

19. In Decision 281, the Commerce Commission considered potential competitive detriments from the player transfer regulations under the headings, price and quantity (allocative efficiency), productive efficiency, maintaining player skill levels and innovative efficiency. Each of these potential competitive detriments is considered below in terms of the proposed salary cap.

Allocative Efficiency Losses

20. The proposed salary cap has the potential to create allocative efficiency losses because by restricting the amounts provincial unions can spend on their players, there exists potential for some player “misallocations” from an individual union financial perspective, where these “misallocations” may involve either a player not transferring to another union because the salary cap prevents the receiving provincial union being able to pay his free market price; or a player having to transfer because the releasing union wants to but is unable to keep the player at his free market price because of the salary cap.

21. In the absence of a salary cap, it can be argued in a free market players would be allocated between the unions differently such that their services would be purchased by the provincial unions, who are willing and able to pay the most for them. This “free market” allocation of the players between the different unions would reflect not only the different perceptions among each union of a players ability, but also the different revenue generation capabilities of different players with different unions.
22. The NZRU has done an analysis⁴ using 2004 data of the effects of the proposed salary cap to estimate the net player payments, which would have been counted in the salary cap. This shows that for 2005, [Confidential:] would have exceeded the salary cap [Confidential:], [Confidential:] were within [Confidential] of the salary cap, [Confidential:] was within [Confidential:] of the salary cap and [Confidential:] was within [Confidential:] of the salary cap. The other [Confidential:] in Division 1 were more than [Confidential:] short of the salary cap and [Confidential:] was more than [Confidential:] below the salary cap. The four new unions to next year’s Premier Division can be expected to have player payments more akin to the five provincial unions with current player payments less than [Confidential:].⁵
23. Therefore in the next two or three years at least, it seems likely that the salary cap will not restrict the purchase or retention of players for other than, at most, [Confidential:] provincial unions.
24. Further out, the salary cap is intended to reduce the disparity between provincial unions in terms of player payments. If the salary cap (and any other measures⁶) are successful in lifting the resources of the other [Confidential:] teams in the competition such that the total player payments for each union move up towards the \$2 million cap (adjusted by the consumers price index) a greater number of player transfers will be either be frustrated or forced upon provincial unions. However, even for a union, which has net player payments close to the salary cap, only some of the players in that provincial union’s squad would be allocated differently with and without the salary cap.
25. Firstly, provincial union payments are only part of the player remuneration for those players in Super 14, All Black and other national representative teams.

⁴ See Confidential Schedule K to Authorisation Application.

⁵ The scope for these nine unions to increase player payments without breaching the salary cap is highlighted by NZRU calculations showing that the total sum of net player payments counted in the salary cap for the 14 Premier Division unions in 2004 was estimated at [Confidential:], as compared to a theoretical ceiling of \$28 million (14 x \$2 million).

⁶ E.g. The recent NZRU distributions to Premier Division provincial unions based upon the number of players in their squads without NZRU (including Super 14) contracts – see NZRU Press Release 23 September, 2005.

26. Secondly a player's willingness to transfer is not simply a function of price. In particular Super 14 selection will have an important bearing along with family and lifestyle considerations. Therefore even in the absence of a salary cap there are a number of factors other than price affecting the provincial union choices of players.
27. A corollary of this is that whilst the salary cap may lead to some players receiving less than they would have in a free market situation at their existing provincial union, they do not necessarily transfer to another union able and willing to pay more for that player's services. In other words they stay with the union, which values their revenue generation capabilities the most, even though they do not get paid as such but because of other factors. Similarly there may be other transfers, which do take place where the salary cap in fact leads to the player taking a salary cut but other reasons cause the transfer of the player to a provincial union, which would have paid the most but for the salary cap.
28. In such cases, although the salary cap may constrain certain provincial unions' player payments, there would be no associated allocative efficiency losses.
29. The salary cap is an aggregate cap on all player salaries within a provincial union squad. It is not a cap on individual player payments. Therefore each union has a degree of flexibility as to how it allocates its resources under the salary cap between players and unions can be expected to retain or attract those players most able to contribute benefits in excess of payments (i.e. what economists call consumers surplus) to that union.
30. Also the loss in consumer surplus as a consequence of the salary cap for a player "misallocated" is the loss in consumer surplus for that union net of the gain in consumer surplus for the union who instead has that player's services available to it.
31. In Decision 281, the Commission calculated a small allocative efficiency loss⁷ based upon assumptions about the level of the average transfer fee in the uncontrolled market, the extent to which the transfer regulations would restrict the number of player transfers compared to what would otherwise occur and the price elasticities of the relevant demand and supply curves for the rights to player services.
32. Unfortunately there is no reliable data available to attempt a similar calculation. However to give an order of magnitude estimate for the range of any allocative efficiency losses, the preceding qualitative discussion would suggest it is reasonable to make the following assumptions:

⁷ The Commission accepted that \$62,000 in the first year and \$13,000 in subsequent years were "likely to be at the upper ends of the likely ranges for total allocative efficiency losses" (see paragraph 332 of Decision 281).

- a. It is likely that no more than 3 player “misallocations” per team (or 42 in total) per annum will occur as a consequence of the salary cap – i.e. the salary cap will affect no more than approximately 10 percent of player allocations; and
 - b. The maximum net loss in consumer surplus per player “misallocation” is likely to be in the range of [Confidential:] to []. Large net consumer surplus losses are unlikely because of the flexibility and offset factors discussed in paragraphs 29 and 30 above.
33. On the basis of these assumptions the maximum allocative efficiency loss would be in the range of [Confidential:] to [Confidential:] per annum. Reducing the net consumer surplus loss per player “misallocation” by one-third (to [Confidential:]) reduces the allocative efficiency loss to [Confidential:] per annum. Reducing the net consumer surplus loss per player “misallocation” by two-thirds (to [Confidential:]) reduces the allocative efficiency loss to [Confidential:].
34. In the counterfactual it is assumed that the player transfer regulations will remain in place. Therefore the allocative efficiency losses associated with the player transfer regulations should be deducted from any allocative efficiency losses associated with the salary cap. In Decision 281 the Commerce Commission accepted that \$62,000 in the first year and \$13,000 per year⁸ thereafter were likely to be at the upper ends of the likely ranges for the total allocative efficiency losses of the transfer regulations.⁹
35. Finally in relation to allocative efficiency losses, the discussion here is in relation to the financial or commercial perspective of each individual provincial union in the Premier Division. A principal purpose of the salary cap is to ensure a better allocation of players in the Premier Division in terms of creating a more even and therefore attractive and financially rewarding competition to the benefit of players, provincial unions, the NZRU, spectators and supporters in aggregate. These aspects will be picked up under the heading of ‘Public Benefits’.

Productive Efficiency Losses

36. The productive efficiency losses that are likely to result from the salary cap relate to the additional administration and policing costs associated with implementing the new regulations. For the NZRU an estimate of [Confidential:] to [Confidential:] per annum has been made plus one-off set up costs of [Confidential:] to [Confidential:]¹⁰. For each of the individual unions additional costs per annum as a consequence of the proposed salary cap are estimated at between [Confidential:] and [Confidential:] per annum averaged out across all Premier Division provincial unions

⁸ In 1996 prices. In 2005 prices these figures are \$73,400 in the first year and \$15,400 per year thereafter.

⁹ See paragraph 332 of Decision 281.

¹⁰ For the Australian NRL the estimated ongoing cost per annum is A\$250,000 - See Ian Schubert’s statement.

assuming two major breach enquiries per annum. This estimate is based on little or no additional annual costs for unions compliant with the salary cap but more significant additional costs for a union when there is an alleged breach of the salary cap.¹¹ This gives an estimate for total productive efficiency losses of between [Confidential:] and [Confidential:] per annum inclusive of the one-off set up costs annualised using a 10 percent discount rate over 20 years.¹²

37. Any savings associated with the removal of the key player transfer regulations for the Premier Division are thought to be small.

Loss of Player Skill Levels

38. In Decision 281 the Commerce Commission identified a possible economic loss as a consequence of the erosion of player skill levels due to the player transfer regulations. The Commission felt that this would occur as a consequence of players becoming “disgruntled” through not being able to transfer to the provincial union of their choice or through their being retained by their current provincial union for “back-up” purposes. The Commission concluded that this detriment was likely to be small.
39. The salary cap is not intended to have the effect of preventing player transfers, although it will in some circumstances have this effect where it prevents or limits new acquisitions. More importantly the salary cap is intended to discourage ‘stockpiling’ of players so that the player talent is more evenly spread among the provincial unions and the highest ranked players in each position are frontline players for their respective provincial unions, thereby getting more Premier Division game time. This will lead to greater development of player skills.
40. As is discussed under the heading of public benefits, the NZRU expect player skills, experience and performance to be enhanced by the creation of a more even and competitive competition. Also the salary cap will encourage provincial unions to develop their own talent rather than “buying in” talent from other unions. Mr Rod Fort’s report emphasises the increase in investment in player development, brought about by the salary cap. Therefore no erosion in player skill levels as a consequence of the salary cap is anticipated – indeed quite the reverse.
41. Furthermore, it is proposed to drop the key player transfer regulations for the Premier Division whereas in the counterfactual the player transfer regulations will be maintained. Therefore aside from encouraging the allocation of player talent such that skills are enhanced the new proposals will remove a factor inhibiting the development of some players’ skills.

¹¹ Source: NZRU

¹² The one-off costs have been annualised for comparative purposes with other competitive detriments and public benefits. In the NZRU annual accounts computer equipment is likely to be expensed over a three-year period and labour and travel costs would be expensed as and when they were incurred.

Innovative Efficiency Losses

42. Decision 281 concluded that the player transfer regulations would not lead to any significant loss in innovative efficiency. This again appears to be the case with respect to the salary cap as compared to the status quo counterfactual. Also compared to other forms of intervention such as revenue sharing or a player draft, the salary cap retains incentives for provincial unions to be innovative in terms of non-monetary methods of retaining and attracting players, revenue earning generally and cost containment. Such innovations for example may include more emphasis on identifying talented players in younger age groups; improving rugby and non-rugby development within academies and improving the marketing and promotion of the match day experience to enhance gate revenue and sponsorship even though on-field success of the Premier Division side may now be less certain because of a more even competition.

Summary of Competitive Detriments

43. The competitive detriments of the proposed salary cap are expected to be in the form of losses in allocative efficiency when viewed from the perspective of some individual unions and productive efficiency. A number of reasons have been given as to why the allocative efficiency losses will be small. For indicative purposes only, estimates of between [Confidential:] and [Confidential:] per annum have been made for the range of possible allocative efficiency losses. Lost productive efficiency is estimated at between [Confidential:] and [Confidential:] per annum. In order of magnitude terms an upper limit for the competitive detriments is about \$1 million per annum.

6. PUBLIC BENEFITS

44. The proposed salary cap is an outcome from the NZRU's Competitions Review, which had as its objective:

*"... to ensure (all NZRU competitions) provide the best possible platform for sustaining a winning All Blacks team and maintaining rugby as a game accessible and attractive to all New Zealanders."*¹³

45. From this overall objective of the Competitions Review, one of the main purposes of the salary cap is to create a more even competition, which will lead to the following outcomes:

- a. A more interesting and therefore more marketable NPC Premier Division championship. This will improve the financial performance of the NZRU and provincial unions;
- b. Increased spectator enjoyment of the NPC Premier Division championship;
- c. Improved performance and results for the All Blacks, New Zealand Super 14 teams and other national representative teams; and

¹³ From paragraph 1.2 Competitions Review, Final Report; NZRU.

d. Sustainable financial viability of the 14 provincial unions in the Premier Division.

46. Therefore this paper examines the public benefits of the proposed salary cap under the headings of improved financial performance of the NZRU and provincial unions, increased spectator enjoyment, improved national team performances in international competitions and provincial union financial sustainability.

47. In identifying the public benefits, a national economic efficiency approach has been adopted. This means that a national viewpoint has been adopted with transfers within the national economy ignored and the focus is on increases in net returns (or profits) not simply on increased revenues. This means that the public benefits identified are on the same basis as the competitive detriments discussed above.

48. Also, like the competitive detriments, the public benefits need to be considered relative to the counterfactual. As is clear from its Competitions Review final report, the NZRU believe that without change there exists the potential for declines in the financial returns to NZRU and provincial unions, the enjoyment of spectators in attending or viewing national provincial championship matches, the international competitiveness of New Zealand teams and the financial viability of provincial unions.

49. Therefore, in interpreting the public benefits below, it is important to appreciate that they relate to the salary cap either enhancing benefit levels relative to the status quo or the retention of current benefit levels compared to lower benefit levels, which might occur in the future without the salary cap intervention. For example, in the short term the salary cap may go some way to mitigate negative effects of the expanded competition and a reduced number of appearances by All Blacks in the NPC competition (due to the expanded tri nations series and rescheduling of that series to a time which corresponds with part of the NPC season).

Improved Financial Performance of NZRU and Provincial Unions

50. The NZRU has identified annual revenues (in 2005 dollar terms) to it directly attributable to its NPC competition are:

- a. TV broadcasting rights: **[Confidential:]**¹⁴;
- b. Air New Zealand: **[Confidential:]**;
- c. Vero Insurance (sponsorship of referees): **[Confidential:]**; and
- d. Gilbert Balls: **[Confidential:]**.

¹⁴ **[Confidential:**

]
] Source: NZRU.

51. It is reasonable to presume that all of this funding is principally derived as a consequence of Division 1 of the NPC and therefore is dependent upon maintaining or enhancing interest in the new Premier Division. In the case of the income from TV broadcasting rights, this is effectively export income from an overseas source. Without the NPC or Premier Division championship, no other New Zealand entity would get this income. Instead News Limited would purchase alternative overseas sports or other entertainment product for delivery to New Zealand and overseas audiences.
52. With respect to the Air New Zealand, Vero Insurance and Gilbert Balls sponsorship any reduction in revenues for NZRU is likely to result in savings to these New Zealand based organizations or diversion to other New Zealand recipients of sponsorship or expenditure on other marketing initiatives. However since sponsorship of the NZRU's NPC competition is the first choice of these institutions, any reduction in sponsorship of the NZRU's NPC by these organizations will have associated with it a reduction in net benefit to them. For the purposes of analysis, an indicative estimate of 10 percent is taken for this loss in producer surplus. This assumption has a very small effect on value of the total public benefits, which have been quantified.¹⁵
53. It is difficult to assess the extent to which the salary cap in leading to a more even, uncertain and interesting competition will enhance or at least stabilise or avoid a reduction in the current level of NPC broadcasting and sponsorship income for the NZRU. However assuming that the salary cap will contribute to the retention or enhancement of 10 to 20 percent¹⁶ of this income, the public benefits are in the range of **[Confidential:]** per annum (i.e. 10 to 20 percent of **[Confidential:]** broadcast rights revenue is **[Confidential:]** per annum plus 10 to 20 percent of 10 percent of the three sponsorships.)
54. For the ten provincial unions in the NPC Division 1 in 2004, the combined accounting information shows the following revenue sources:

¹⁵ For example halving this to 5 percent from 10 percent reduces public benefits by **[Confidential:]** per annum out of total estimated quantified public benefits of **[Confidential:]**. There are also other public benefits, which have not been quantified.

¹⁶ The Australian NRL has recently renegotiated an increase of 35 to 40 percent for broadcasting rights for 2007 to 2012. The renegotiation was done in 2005, two years before the expiry of the current contract "while the game was prospering due to the very even competition and significantly increased Television, Corporate and public interest in the game." (See Ian Schubert's statement)

	2001	2002	2003	2004
Merchandise and Royalty Income	[Confidential:]	[Confidential:]	[Confidential:]	[Confidential:]
NPC Round Robin Match Income	[Confidential:]	[Confidential:]	[Confidential:]	[Confidential:]
NPC Round Robin Ground Signage Income	[Confidential:]	[Confidential:]	[Confidential:]	[Confidential:]
Team Sponsorship Cash and In Kind	[Confidential:]	[Confidential:]	[Confidential:]	[Confidential:]
TOTAL	[Confidential:]	[Confidential:]	[Confidential:]	[Confidential:]

Source: NZRU.

55. For the revenue items listed in the table, a more even and interesting competition is likely to lead to an increase in revenues or (stabilising of existing revenues) without cost increases since the provincial unions costs are largely fixed across moderate changes in merchandise sales, match income, signage and sponsorships.
56. There is the issue of the 10 2005 Division 1 provincial unions being joined by an additional four unions for the premier division competition in 2006 onwards and the increase in the number of games from 48 to 70.
57. The Australian NRL, which has a salary cap in place, in a recent media release¹⁷ highlighted that for the 2005 season alone, club sponsorship had increased by 12 percent and crowds had increased by 12 percent. Since 2002, crowds had increased by 27 percent.
58. Following a strategic review in 1985, the Australian Football League (AFL)¹⁸ took a number of steps to produce a more even competition including a salary cap along with other measures. Over the period 1987 to 1996 aggregate crowd numbers increased from 2.9 million to 5.3 million (an increase of 83 percent) and club memberships rose from 71,000 to 287,000.¹⁹

¹⁷ Wednesday 31 August 2005

¹⁸ i.e. "Aussie rules".

¹⁹ See The Basis for a Successful Sporting Competition; Submission to the Commerce Commission on Behalf of the New Zealand Rugby Football Union Incorporated; The Boston Consulting Group; November, 1996.

59. On the basis of a 10 to 20 percent increase (or retention) in the 2004 sums as a consequence of the salary cap and a 10 percent²⁰ extra benefit for spending on rugby as a first choice as compared to alternative uses for the funds, the net public benefits range between **[Confidential:]** to **[Confidential:]** per annum, without any upward adjustment for the additional 4 teams joining the Premier Division and the addition number of games in a season. Multiplying by a factor of 1.4 (i.e. 14 teams divided by 10 teams)²¹ increases this range to **[Confidential:]** to **[Confidential:]** per annum.

Increased Spectator Enjoyment

60. In Decision 281 the Commerce Commission used an economic model to estimate the gain²² in consumer surplus or public benefits from the then proposed transfer regulations leading to a more even competition and therefore greater enjoyment for spectators. The key assumptions made on that occasion were:

- a. An average attendance per game of 5000 spectators;
- b. An average price per ticket of \$8;
- c. 117 games per year throughout the three divisions;
- d. A price elasticity of demand of 1;
- e. The impact of the transfer regulations on crowd size ranging between 0 and 20 percent.

61. The same economic model has been calibrated with the following data in relation to the future 14 team Premier Division from 2006 onwards:

- a. An average attendance per game of 10,000 spectators (compares with an average crowd size of 12,470 for Division 1 over the period 2002-04);
- b. An average price per ticket of \$15 (compares with total revenue for round robin and finals games averaging **[Confidential:]** per annum over 2002-04; divided by 48 games; divided by an average crowd size of 12,470. This gives an average ticket price of **[Confidential:]**);
- c. 70 games per year in the new Premier Division;
- d. A price elasticity of demand of 1;
- e. The impact of the proposed salary cap on crowd size ranging between 0 and 20 percent.

62. The table below sets out the gain in public benefits through increased spectator enjoyment for the same range of impacts of the proposed salary cap on game attendances:

²⁰ Halving this to 5 percent reduces public benefits by **[Confidential:]** to **[Confidential:]**, compared to total estimated quantified public benefits of \$7 million to \$14 million.

²¹ Using the increase in the number of games (48 to 70) would imply a factor of 1.46.

²² In fact the Commission assumed that the transfer regulations would prevent a reduction in the level of enjoyment. And this prevention was measured as the public benefit.

Gain in Average Attendance per Game (%)	Public Benefit (\$)
0%	0
5%	[Confidential:]
10%	[Confidential:]
15%	[Confidential:]
20%	[Confidential:]

63. Assuming the salary cap may either increase or retain between 10 and 20 percent of crowds the net public benefits in terms of additional enjoyment for spectators at the grounds is estimated to be between [Confidential:] and [Confidential:] per annum.²³

64. Also in Decision 281 a majority²⁴ of the Commissioners accepted that there was an additional benefit in the form of additional enjoyment for television viewers. The total viewing audience for the 1996 NPC competition for males and females in the 15-54 age group was estimated, on the basis of TV ratings and Statistics New Zealand population estimates, at 4.99 million person-viewings. The majority of the Commissioners accepted the additional value of more even games would lie at the lower end of the range 50 cents to \$10 per person viewing. Adjusting for the effects of inflation the range is 60 cents to \$11.80 per person viewing.

65. Given the stronger link between the salary cap and a more even competition than for the player transfer regulations in today's dollar terms an estimate for the range of the additional benefits per person would seem to be at least in the 60 cents to \$1.20 per person viewing.²⁵ In 2004 the total TV3 and Sky Sport NPC rugby viewings was [Confidential:]. Assuming the same number of viewings for the Premier Division in 2006 (i.e. applying no adjustment for the increase from 48 to 70 games per season) and thereafter, the additional public benefits are between [Confidential:] and [Confidential:] per annum.²⁶

Improved National Team Performances in International Competitions

²³ The benefit calculated here relates to the additional enjoyment for all spectators at grounds. It does not relate to the benefits for the additional spectators spending their money by attending games as compared to the second choice use of that money. This was considered in the previous section.

²⁴ Three of the four Commissioners.

²⁵ If figures of \$2-\$5 dollars are used which could be justified taking into account the benefits seen for example in relation to the impacts of a more even competition for the Australian NRL the range of benefits increases to between [Confidential:] and [Confidential:] per annum

²⁶ Given that there is a 46% increase in the number of games that could translate into [Confidential:] NPC rugby viewings next year which would increase the most conservative estimate to about [Confidential:] (based on 60c) and as high as [Confidential:] (based on \$5).

66. The NZRU firmly believe that by introducing the proposed salary cap and having a more even Premier Division competition there will be improvements in the skill factors of New Zealand's premier rugby players and consequently improved performances and results for the All Blacks, New Zealand Super 14 teams, and other national representative sides.²⁷
67. The nexus between the salary cap and these improved performances (or preventing a loss in the current levels of international competitiveness) will be as a consequence of both a more even competition producing a higher quality competition and through the effect of the salary cap reducing the extent players in certain positions might be "stock piled" in a particular province. There will be a greater likelihood of frontline candidates for All Black and other representative teams being first choice starting players for provincial sides during the Premier Division championship. In addition the salary cap is expected to see an increase in investment in player development by the 14 provincial unions in the Premier Division.
68. The salary cap and the related expansion of the competition by four teams may also see the retention of rugby talent in New Zealand and the bringing back from overseas of New Zealand talent. Whilst the salary cap will prevent some individual provincial unions increasing player payments there is the potential for a number of unions to increase player payments. There will be a number of places in provincial squads where the salary cap at least in the short to medium term will have no practical impact and some unions will need to go in search of talent located offshore to be competitive or perhaps offer increased payments to players who would otherwise head overseas.
69. In the longer term there is an expectation that the salary cap and the expanded competition will lead to an increase in total player payments. The salary cap is intended to reduce the disparity between provincial union player payments. The statements of Mr Ian Schubert and Mr Rod Fort highlight how if the salary cap is effective the prosperity of the NZRU and all provincial unions will be enhanced, thereby increasing the ability of New Zealand rugby to attract back or retain its rugby talent.
70. Bringing back overseas talent or retaining talent in New Zealand will help to lift the standards of New Zealand rugby.
71. There are a number of "indirect" but significant public benefits, which will arise from better performing national teams. These include:
- a. Greater enjoyment for New Zealand spectators and TV audiences of New Zealand international matches;

²⁷ See for example paragraphs 1.2, 1.19 and 1.31 of the Competitions Review final report, which emphasise that maintaining and enhancing the winning tradition of the All Blacks was a key principle guiding the decisions, which flowed from the review.

- b. Greater leverage for NZRU in its negotiations over TV rights, sponsorship and revenue sharing arrangements;
- c. Greater sponsorship expenditure by New Zealand firms spent in New Zealand (with NZRU) instead of being spent overseas via other promotional avenues with no benefit to New Zealand firms. For example Lion Breweries and Wools of New Zealand have used the All Blacks to promote their products overseas. If the All Blacks were not seen as a successful vehicle for this purpose this same marketing expenditure might accrue to overseas instead of New Zealand entities;
- d. Improved international trading opportunities for New Zealand firms via the “association with success” factor²⁸;
- e. Increased tourism to New Zealand – e.g. part of the attraction for many of the 2005 Lions tour supporters to visit New Zealand in the middle of winter is to support their team attempting to win a test series in New Zealand against the All Blacks, a feat seldom achieved. The tour pumped \$130 million into the New Zealand economy during the winter months according to an independent report commissioned by the Ministry of Tourism, the Auckland City Council, Tourism Dunedin and Tourism Auckland (see The Dominion Post, page C1, 6 October, 2005). Also part of the attraction for New Zealand hosting the 2011 World Cup and events such as the 2006 International Golden Oldies rugby festival is New Zealand’s current high standing in world rugby;
- f. A “feel good” factor for many New Zealanders.

Provincial Union Financial Sustainability

72. A major focus of the NZRU following its competitions review exercise was to achieve a more sustainable economic base for the game. The proposed salary cap is intended to address this in two ways.

73. Firstly, the recommendations arising out of the NZRU competitions review (including the salary cap) are intended to address potential problems, which may have arisen with respect to the financial resources available for maintaining and improving the game at the national level and for each of the provincial unions. In particular, as competitive balance in the Premier Division is improved spectator, fan and sponsor interest is maintained or enhanced increasing the financial resources at the national level and for each provincial union. Whilst a key objective is to reduce player payment disparity between the provincial unions, successful implementation of the competition review findings is intended to increase the “size of the cake” available for the NZRU and all unions.

74. Secondly, by making the competition more even the salary cap will assist in revenue earning opportunities for all of the 14 Premier Division unions and not

²⁸ See for example the submission made by TRADENZ in support of the NZRU’s 1996 application for authorisation of the transfer regulations. The submission described the spin-off benefits for New Zealand exporters from success by the All Blacks in particularly the Japanese, Australian and United Kingdom markets.

just the handful of major unions fortunate enough to have the financial and current playing resources to dominate semi-finals and final places²⁹. The benefits will arise from greater revenue from higher attendances at round robin games and also the effect of “sharing out” semi-final and final places (and to a lesser extent quarter-final places). Earning a home semi-final or final spot are particularly rewarding, whilst even earning away semi-final or final spot yields smaller but significant rewards to unions.³⁰

75. Thirdly, the salary cap will reduce the tendency for only a small number of unions to successfully bid for players between provincial unions. The unconstrained bidding up of payments for players services by only a few unions inevitably leads to the strong getting stronger, the competition more and more uneven and quite possibly the financial failure of one or more of the provincial unions.
76. Such an outcome would not only be devastating in terms of the provision of both professional and amateur rugby at all levels within the failing union’s geographic boundaries but it would have a negative impact on the competition itself and therefore for all other unions. A significant purpose of the NZRU’s proposed salary cap is to help ensure the long-term financial sustainability of provincial rugby unions throughout the country.
77. The salary cap may in some instances encourage a provincial union to seek the services of a particular player in competition with a provincial union with much greater financial resources. Knowing that the stronger unions may be constrained by the salary cap, will encourage the provincial union with less financial resources to seek the player’s services given that it may be able to clinch the deal at what it considers is a realistic price. Without the salary cap, the less resourced union may not even have bothered to compete for the player’s services.
78. Finally, the total restructuring package including the salary cap and the expansion of the Premier Division to 14 teams, has seen the amalgamation of two unions into the new Tasman union. This will see efficiency gains from economies of scale.

Summary of Public Benefits

79. The quantified public benefits of the proposed salary cap are:
 - a. Net national economic benefits from better broadcasting and sponsorship revenues for NZRU: **[Confidential:]** to **[Confidential:]** per annum;

²⁹ The new competition will also have “sudden death” quarter-finals, although these are unlikely to produce the windfall gains of (particularly hosting) semi-finals and finals.

³⁰ For example in 2003 Wellington hosted a final generating **[Confidential:]** in additional gate revenue and received **[Confidential:]** from its share of an away semi-final gate revenue. In 2004 Wellington generated an additional **[Confidential:]** from hosting a semi-final and final. Whilst there are some additional costs associated with hosting such matches many of the costs are fixed and therefore semi-final and final appearances have a considerable impact on provincial union bottom line results.

- b. Net national economic benefits from greater incomes for provincial unions: **[Confidential:]** to **[Confidential:]** per annum;
- c. Increased spectator enjoyment of between **[Confidential:]** (corresponding to a 10 percent increase in crowd size) and **[Confidential:]** (corresponding to a 20 percent increase in crowd size);
- d. Increased TV audience enjoyment of between **[Confidential:]** and **[Confidential:]** per annum and maybe as high as **[Confidential:]** to **[Confidential:]** per annum.

80. In addition there are a number of other public benefits not quantified in dollar terms. These include the indirect benefits which flow from an improvement in the performances of the All Blacks, New Zealand Super 14 teams and other national representative teams, such as

- a. Greater enjoyment for New Zealand spectators and TV audiences of New Zealand international matches;
- b. Greater leverage for NZRU in its negotiations over TV rights, sponsorship and revenue sharing arrangements;
- c. International marketing revenues from New Zealand firms being earned by NZRU instead of overseas entities;
- d. Improved international trading opportunities for New Zealand firms via the “association with success” factor;
- e. Increased tourism to New Zealand;
- f. A “feel good” factor for many New Zealanders.

81. Also the salary cap will assist with providing long-term financial sustainability for the 14 provincial unions in the premier division.

82. The total quantified public benefits range at a minimum between \$7 million and \$14 million per annum. In addition there are a number of other unquantified public benefits.

7. CONCLUSION

83. The decision taken by the NZRU to seek to introduce the proposed salary cap as part of a number of measures to enhance the sustainability of the NPC competitions is indicative of their assessment that the benefits for the NZRU, provincial unions, players, sponsors and the New Zealand rugby public generally will outweigh any costs.

84. This report has described in qualitative terms the various benefits expected and their significance. It has also presented arguments as to why any potential competitive detriments of the salary cap will be small. These qualitative arguments are in some respects more compelling than the quantitative analysis, which is reliant on limited data.

85. However on the basis of a conservative estimation of quantifiable competitive detriments and public benefits, this report concludes that public benefits are an order of magnitude greater than competitive detriments. An upper limit for competitive detriments is estimated to be \$1 million per annum. The public benefits, which have been quantified conservatively total between \$7 million and \$14 million per annum and could be as high as \$74 million per annum. There are also a number of additional public benefits, which have not been quantified.

APPENDIX 1

CURRICULUM VITAE

MICHAEL CAMPBELL COPELAND

DATE OF BIRTH	3 October 1950
NATIONALITY	New Zealand
EDUCATIONAL	Bachelor of Science (Mathematics) 1971
QUALIFICATIONS	Master of Commerce (Economics) 1972
PRESENT POSITION	Economic Consultant and Joint Managing Director, (Since 1982) Brown, Copeland & Co Ltd
	(Since 2001) Lay Member of the High Court under the Commerce Act
	(Since 2001) West Coast Regional Council Trustee, West Coast Development Trust
	(Since 2003) Director, Wellington Rugby Board
PREVIOUS EXPERIENCE:	
(1) <u>1978-82</u>	NZ Institute of Economic Research Contracts Manager/Senior Economist
(2) <u>1975-78</u>	Confederation of British Industry Industrial Economist
(3) <u>1972-75</u>	NZ Institute of Economic Research Research Economist
(4) <u>1990-94</u>	Member, Commerce Commission
GEOGRAPHICAL EXPERIENCE	New Zealand Australia Asia (India, Indonesia, Malaysia, Nepal, Pakistan, People's Republic of China, Philippines, Tajikistan, Sri Lanka, Uzbekistan)

South Pacific (Cook Islands, Fiji, Tokelau, Tonga, Vanuatu, Western Samoa)

United Kingdom

AREAS OF

Agriculture and Resource Use Economics (including

PRIMARY EXPERTISE

Resource Management Act)

Commercial Law and Economics (including Commerce Act)

Development Programme Management

Energy Economics

Industry Economics

Transport Economics

SECTORAL COVERAGE

Agriculture

Aluminium

Airports

Aviation

Electricity

Fertiliser

Flood Control

Forestry

Natural Gas

Pharmaceuticals

Public Transport

Rail Transport

Road Transport Sea Ports

Tourism

Public Utilities

Confidential Schedule K: NZRU Analysis of Impact of Cap

[Confidential:

]

[Confidential: Table removed]