

THE GLOBAL SPORTS-MEDIA NEXUS: REFLECTIONS ON THE 'SUPER LEAGUE SAGA' IN AUSTRALIA*

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ABSTRACT

Despite the social and (increasingly) commercial significance of sport and sporting bodies worldwide, they remain under-represented in the mainstream management literature. One of the more recent and dramatic examples of the global sports-media nexus is the 'Super League saga' in Australia. This paper recounts the tale of the Super League saga, providing a holistic analysis of the events and competitive issues arising by drawing on literatures concerning the economic nature and value of sports leagues, the resource-based view of the firm and the nature of psychological contracts in changing environments. The analysis confirms the general monopolistic tendencies of professional sports leagues in an increasingly global industry driven by the sports-media nexus, in accord with a number of comparable cases internationally. The particular conditions of the Australian marketplace that exacerbate this tendency beyond, for example, that found in the USA, and differences in the outcomes of battles between rival leagues are also considered. The Super League saga portrays the importance of effective management of resources key to the production of the 'rugby league product' including, among others, the often over-looked importance of careful management of *local* resources for the success of *global* strategies, and, where human resources are key, the importance of psychological contracting. The holistic analysis of the Super League saga in Australia affords lessons that extend well beyond the realm of sports.

INTRODUCTION

Increasingly, the importance of creating and sustaining a competitive advantage *vis-à-vis* both domestic and international competitors is being recognized in the management literature (Barney, 1995; Becker and Gerhart, 1996; Stalk et al., 1992). Explorations of how organizations might achieve competitive advantage

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have covered a range of industry sectors and companies, including Canon, Cascio, Caterpillar, the Hollywood film studios, Honda, NEC, Southwest Airlines, WalMart and Xerox (Barney, 1995; Miller and Shamsie, 1996; Prahalad and Hamel, 1990; Stalk et al., 1992). The off-the-field strategic battles in which sporting organizations engage, however, remain under-represented in this mainstream academic management literature – despite their social and commercial significance. The more prescriptive literature widely applies sports analogies to business (for example, McNutt and Wright, 1995) and business analogies to sport (for example, Easton, 1996). The use of sporting analogies as social representations of competing businesses may, however, hold some dangers. Saunders et al. (2000), for example, argue that the emphasis in sport on following contrived rules and seeking victory over one's competitor may lead to imitative behaviours regardless of whether the strategies being mimicked are indeed successful. Furthermore, the commodification of sport, propelled by the advent of television and given new impetus with pay TV, has resulted in an array of commercial battles that propel sport beyond a mere analogy.

Once considered 'play' or 'pastimes' (Elias and Dunning, 1986), sport has gradually commercialized through the growth of spectatorship, with revenues being generated via gate-takings and activities such as on-course betting (Rowe, 1996). While the advent of 'live' broadcasting and the commentary of sports through radio and television initially resulted in declining revenue for sporting bodies, popular sports have increasingly entered more economically rewarding contracts with television interests, with 'the negotiation of television contracts rapidly becoming the biggest issue in the game' (Egan, 1999, p. 46). In 1996, for example, soccer's global governing body, FIFA, sold the worldwide TV rights for the 2002 and 2006 World Cup to a partnership between Bavarian media mogul Leo Kirch and Swiss company Sporis for US\$2.2 billion – US\$1 billion for 2002 and US\$1.2 billion for 2006 (Boehm, 1998). Rupert Murdoch's Fox Network paid US\$1.6 billion for the rights to telecast National Football League for five years, and British Sky Broadcasting (BSkyB), a satellite television station in which Rupert Murdoch's News Corporation holds a major share, in 1992 purchased the rights to televise English Premier League Soccer for £304 million over five years (Karp, 1995). In the world of baseball, Murdoch's Fox has agreed to pay Cablevision Systems Corp. US\$23–25 million (or \$460,000–500,000 per game) to sublicense 50 Yankees games (Freeman, 1999). The value of sport to media entities is explained in the *The Economist* (1996, p. 81):

Not only is sport by far the best way to persuade affluent young men to watch television; it has a quality that films and other dramatic entertainment lacks. Miss *The Lion King* on television, and you will happily go out and rent the video; miss the Cup Final or the Superbowl, and, given a certain initial supply of testosterone, you will feel a social outcast. The 'nowness' of sport makes it a uniquely powerful way of buying audiences. Sport also has another advantage for an impatient entrepreneur: it does not need expensive product development. You merely sign the cheques.

Increasingly, however, media bodies are not just purchasing rights to televise sporting events, but also sporting teams. Direct ownership of sporting teams by media moguls avoids the cost of paying for the right to broadcast their games on their

pay TV networks in situations where clubs or teams sell their rights separately to competing broadcasters (Grover et al., 1997; Santoli, 1998; *The Economist*, 1998). Where a sporting competition as a whole sells broadcast rights, ownership of a team equates with voting rights and, in the case of highly popular teams, possibly influence beyond a single vote (Davies, 1998). In this light, the £682 million attempted takeover bid by Murdoch's BskyB of Manchester United, the largest and perhaps most popular football (soccer) club in the UK (Olins, 1999), takes on new meaning, even though this bid was unsuccessful.

The benefits to sporting bodies of media sponsorship extend beyond revenues generated directly from the sale of broadcasting rights. Boehm (1998) describes, for example, how the injection of TV money into English soccer has helped attract outstanding foreign players to England which, combined with television coverage, has helped to fuel an explosion of interest in the game. This exposure undoubtedly contributed to the sales of shirts, posters and other merchandise by Manchester United that helped produce profits of £28 million on a turnover of £88 million in 1998 (Olins, 1999). The marketing reach of the global television networks aids sporting teams in developing their 'brand' globally and engage in further lucrative deals with other corporate entities. Pepsi Cola has, for example, recently secured Manchester United for an advertising push in Asia, aimed at the mutual development of the two brands (Marsh, 1998).

A corollary to the growth in sports broadcasting internationally is a mushrooming of sponsorship interest. Corporate sponsorship is the second biggest revenue earner for the international arm of Major League Baseball in the USA, for example, with sponsorship sales growing over 300 per cent in the past five years (Lefton, 1999). Unlike patronage, where support is given without expectation of returns for the benefactor, sponsorships require short and/or long-term contributions to the financial success of the sponsoring organization (Bennett, 1999). Sponsorship results not only in the promotion of the sponsor's product or services, but, perhaps more importantly, a positive global corporate image (Warner, 1998; Wise and Miles, 1997). While a wide array of sponsorship opportunities exist in areas such as the arts, community projects and special events, the high and ongoing visibility of sport through spectatorship and media coverage, and its political acceptance in countries that reject Western news and 'cultural imperialism' is invaluable (Bennett, 1999; Karp, 1995). World Series Baseball, for example, is telecast live to over 200 countries (Lefton, 1999), with broadcast rights generating approximately 75 per cent of revenue for the US Major League Baseball's international arm (MLBI). The introduction of digital TV in Europe in 1996, with its prospects of interactive entertainment, expands the potential returns for sponsors (Dransfeld et al., 1999). From the teams' perspectives, attachment to a major multinational enterprise rather than a home location would give teams the ability to have an international identity (Leifer, 1999).

Alongside the growing sports-media alliance is increased payments to players, with those sports people able to draw spectators and generate TV revenues gaining most. Rupert Murdoch's Los Angeles Dodgers recently signed a free agent pitcher to a six-year, US\$105 million contract (Burton and Howard, 1999). Michael Jordan received US\$33 million for the 1997-98 basketball season. Over his career, Jordan has contributed an estimated US\$500 million to NBA gate and TV revenue (Quirk and Fort, 1999). Increased payments have not always been easily won, with the frequent disputes over the division of revenue between team owners and players

marring baseball in the USA being but one example (see, for example, Staudohar, 1997). In turn, spectators have also been faced with increased costs for seats (Quirk and Fort, 1999).

The sports-media alliance has also resulted in some changes to sport. For example, one day cricket 'is one form of sporting contest which has all the appearances of being (in more than one sense) made for television' (Rowe, 1996, p. 573). Other examples include American football, baseball, golf, tennis, squash, Australian football, surf-lifesaving, rugby league and netball (Phillips, 1998). Opinions on the relative virtues of these changes remain mixed, and sports-media alliances have not always been fully embraced. In recognition of sport's cultural importance, for example, the UK, France and Germany have legal restraints that prevent high profile sporting events, such as soccer's World Cup or the Olympics, from being sold exclusively to pay TV (Boehm, 1998). The foray in the UK over the proposed takeover of Manchester United by BskyB was reportedly greeted by hostility among fans (*Birmingham Evening Mail*, 1998; *The Economist*, 1998), and attempts by Murdoch to secure the pay TV rights to televise rugby league in Australia embroiled the sport in a battle for three years and cost rugby league substantially through downturns in fans, viewers, advertisers, and sponsors (Phillips and Hutchins, 1998).

The Australian 'Rugby League saga' is one of the more recent and dramatic examples illustrating the commercial power of and potential dissension in the sports-media nexus, involving a lengthy legal battle ostensibly between Rupert Murdoch's News Limited and the Australian Rugby Football League. As described in the decision handed down on 4 October 1996 by the Full Bench of the Federal Court of Australia in *News Limited and ors v Australian Rugby Football League Ltd and ors* (hereafter referred to as 870 FCA) on appeal from the Federal Court and depicted in the popular press, the case revolved around an attempt by the appellants (one of whom was Murdoch's News Limited) to establish a new professional rugby league competition in Australia, known as Super League. This Super League was intended to operate in competition with the established national rugby league competition, which had been conducted for a number of years under the auspices of the New South Wales Rugby League Limited (NSWRL) or the Australian Rugby Football League Limited (ARL). The prolific number of articles revolving around the implications of a new rugby league, both in Australia and overseas (for example, *Daily Mirror*, 1996; Facey, 1996; *Milwaukee Journal Sentinel*, 1996; Slot, 1996; Stapleton, 1996; Whalley, 1996) reflects the importance of the saga to the rugby league world. As Turner (1996, p. 14) notes, 'the extraordinary publicity given to this [Super League] saga . . . might appear to non-sports lovers as out of proportion to the case's importance'.

The origins of the case are best understood, however, as a battle between Foxtel and Optus Vision for the international free-to-air and pay-TV rights to the sport in Australia (*Evening Standard*, 1996; Irvine, 1996; *The Guardian*, 1996; *The Independent*, 1996a; Woods, 1996). Foxtel is the pay-television channel 50 per cent owned by News Limited, a subsidiary of Rupert Murdoch's News Corporation, in a co-venture with public telco Telstra. Optus Vision is the pay-TV channel comprising a co-venture between telco Optus, Continental Cablevision and Kerry Packer's Publishing and Broadcasting Ltd, which is also involved in the operations of terrestrial Channel Nine. Indeed, with the advent of pay TV in Australia in 1995, competition for the broadcasting rights to sport intensified in the drive to develop

a viable subscriber base (Davies, 1998). Thus the ownership of the broadcasting rights to a highly popular sporting competition was deemed to *potentially* furnish a media empire with a significant competitive advantage *vis-à-vis* its competitors, in a particular sports market.

The story that emerges from consideration of the 'Super League saga' portrays an array of competitive issues relating to the nature of competitive forces in professional sporting leagues, the management of key resources by the existing authorities, psychological contracting, and environmental scanning and learning. The present paper begins by recounting the unfolding of the Super League saga in Australia, drawing on sources such as the extensive legal judgements and commentary, media reports, historical records and corporate documents. This is followed by a discussion of the fundamental competitive issues concerning the economic nature and value of sports leagues. Contrasts are drawn with a number of comparative cases internationally, and reflections on the events in Australia offered. As the performance and capabilities of an organization are dependent not only on the present, but also the path followed through history (Amit and Schoemaker, 1993; Barney, 1991; Dierickx and Cool, 1989; Peteraf, 1993), we begin our discussion with a brief review of the historical context out of which the Super League saga has arisen and the course of events culminating in the formation of the rugby Super League.

THE COURSE OF EVENTS IN THE 'SUPER LEAGUE SAGA'

The birth of rugby league in Australia can be traced to 8 August 1907, when at a meeting held at Bateman's Hotel in Sydney a vote was taken to establish the New South Wales Rugby Football League (NSWRL). This NSWRL was in fact an organization that splintered from the established authority, the New South Wales Rugby Union. Nine league clubs had been established in Sydney by late April 1908, with the first club competition administered by the NSWRL commencing that same month and a team chosen to represent Australia on tour in England at the end of 1908. In 1982, the first non-Sydney clubs joined the competition, and by 1995 the competition had expanded to 20 teams (although the actual club membership of the NSWRL had changed over time). The NSWRL was incorporated in 1983 as a company limited by guarantee, and the ARL (first formed in 1924 under the name of the Australian Rugby League Board of Control) in 1986. During the 1980s, all clubs participating in the competition were incorporated as companies limited by guarantee.

A rugby league match was televised for the first time in 1961, with the television channels Two, Seven, and Nine taking turns thereafter to televise matches on Saturday. In 1987, Channel Nine was granted the rights by the NSWRL to televise the State of Origin Games for three seasons, and in 1990 the Australian Broadcasting Corporation (Channel Two) secured the rights to televise matches for three years. A series of agreements were executed between the NSWRL, ARL and Channel Nine in March 1994, which granted Channel Nine the exclusive Australian rights for televising both the competition and State of Origin matches until 1999, on free-to-air and pay-television through Optus Vision. From 1982 to 1994, Sydney ratings for rugby league increased from 17.3 to 46.7, with rugby league competitions becoming the most watched programmes in Australia (Phillips, 1998).

As the most popular television and spectator sport in New South Wales and Queensland, rugby league constituted a rich market in Australia (Irvine, 1996). Thus, the inability of News Limited to gain the rights to televise the Australian rugby league competition for its pay-television channel Foxtel provided a key impetus for subsequent moves to establish Super League in Australia.

Rugby League's Battle for Couch Potatoes^[1]

Newspaper and magazine articles mooted the formation of a 'rebel' Super League arose as early as March 1994. The initial proposal to establish a Super League was presented to News Limited by Mr Ribot, the then CEO of the Brisbane Broncos of which News Limited had become a sponsor in January 1994 through an associated company^[2] – with the knowledge and concurrence of his board in April 1994 (870 FCA). In this report, an independent management structure for the new competition, differing from the structure then in place through the NSWRL, was suggested. The possible obstacle of the NSWRL and ARL was also acknowledged. More detailed proposals for a Super League competition comprising a reduction from 20 to no more than 12 teams emerged in June and August 1994, generating interest among a number of clubs, coaches and players. The key points in the 12 August document, entitled 'Superleague', are outlined in Table I.

In response to the growing threat of Super League, emphasized by continuing media speculation (for example, Masters, 1994) and the then growing likelihood of a European Super League (later a reality), Commitment Agreements between the ARL, the NSWRL and each of the 20 clubs participating in the national competition were executed in November 1994. In summary, the intended effect of the Commitment Agreements was to prevent for five years (1995–99):

Table I. Key points in the 12 August 1994 'Superleague' document

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- A company named Superleague Ltd and owned by News was to be set up.
 - Superleague Ltd was to establish an élite national competition (including one New Zealand team) between 12 privately owned teams, of which News would own up to four.
 - Four teams would be based in Sydney, with new teams based on Perth, Adelaide and Melbourne.
 - Superleague Ltd would conduct an internationally televised World Club Series involving Australia, New Zealand and the United Kingdom.
 - News was to obtain a 15% management fee, the profit share allocated to clubs which it owned, among other benefits. The ARL and NSWRL would conduct Tests and retain profits from these matches, and would be given a grant to promote the game.
 - Superleague Ltd was to devise revenue from sponsorship, free-to-air and pay-television rights, gate takings and merchandising.
 - The company was projected to make an operational profit of \$5 million in 1997, growing to \$12 million by 1999.
 - An objective outlined in the proposal was 'to ensure that no other competition [could] exist in competition to Superleague'.
 - For success, the co-operation of some clubs was required, while the co-operation of players needed by the new competition was *essential*.
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Source: (870 FCA).

- the participation by the clubs' teams in rugby league competitions organized by any competition organizer other than one approved by the NSWRL and ARL;
- the acquisition by the clubs of the services of any competition organizer, other than one approved by the NSWRL and ARL;
- the acquisition by the clubs of the services of premium players to participate in competitions conducted by persons other than the NSWRL and ARL, or persons approved by either of those bodies.

At a meeting of club representatives and the ARL on 6 February 1995, Kerry Packer informed the meeting that the Nine Network had contractual rights until the year 2000, and that legal action would be brought against any club or individual failing to honour their contractual obligations. Clubs not signing the Commitment Agreements were threatened with expulsion. As an addendum to the Commitment Agreements, Loyalty Agreements – in which clubs essentially 'pledged loyalty' to the ARL and NSW Rugby League – were signed in February 1995. The Loyalty Agreements contained provisions with substantially the same effect as the relevant provisions of the Commitment Agreements.

On 23 March 1995, a meeting was held within News Corporation in response to the Commitment and Loyalty Agreements. Several alternative strategies were apparently discussed, as detailed in Table II. Notes of the meeting submitted in evidence during the trial (870 FCA) state that the initial attempt to establish Super League had failed due to incorrect assumptions: it had been assumed that the ARL would accept the Super League concept when faced with the threat of clubs defecting, and that the ARL was *able* to grant television rights to News Corporation. The determination of Kerry Packer to enforce the contractual obligations of the ARL, clubs and players had also been underestimated, and News' position in the eyes of the clubs weakened. It is apparent that the last option in Table II – establish a rebel competition – was approved at the 23 March meeting. This mounting of a

Table II. Alternative strategies considered by News Limited on 23 March 1996

<i>Approach</i>	<i>Description</i>	<i>Comment</i>	<i>Cost</i>
Co-operative reform	<ul style="list-style-type: none"> • Work with governing body 	<ul style="list-style-type: none"> • Position is weak as dependent upon co-operation (strong if expertise is recognized) • Required changes may be unappealing 	Low
Forced reform	<ul style="list-style-type: none"> • Facilitate ground swell for change • Existing governing body changes through fear of rebel competition 	<ul style="list-style-type: none"> • Position is weak as dependent on constituent parties • Strength depends on credibility of threat of rival competition 	Low Medium
Rebel competition	<ul style="list-style-type: none"> • New competition 	<ul style="list-style-type: none"> • Strength depends on credibility of threat of rival competition 	High

Source: (870 FCA).

credible rival Super League without the support of the 'ARL Establishment' was deemed to require a more aggressive approach, including: (1) the signing up of players required for a ten-team Australian competition at approximately double their current earnings; and (2) the mounting of a legal challenge to the Commitment and Loyalty Agreements that bound clubs for five years.

News' approach to signing up players involved entering contracts with the coaches of four Australian and one New Zealand team, constituted by a letter countersigned by the coach. Each coach received a signing-on fee upon execution of the letter. On 30 and 31 March secret meetings were called by the four Australian coaches, with players being addressed by Mr Ribot and Mr Lachlan Murdoch about the Super League. In each case, the coach supported the Super League approach. The salaries offered to the players ranged between \$80,000 and \$600,000 – well in excess of what they were currently receiving – and sign-on fees ranged from \$20,000 to \$100,000. Around 33 players signed during these initial two days, with other players subsequently signing similar contacts, including 13 from the Auckland Warriors. At the time that News Limited mounted the initial legal challenge to the Commitment and Loyalty Agreements, approximately 42 players were parties to Super League contracts, with this increasing to 300 players by the date of the hearing of the appeal.

News Limited's legal challenge to the Commitment and Loyalty Agreements was instigated against the NSWRL, the ARL, and 17 of the 20 clubs to participate in the 1995 competition on 30 March 1995. The core of News' argument attacked the Commitment and Loyalty Agreements as contravening provisions of Part IV of the Trade Practices Act 1974 dealing with restraint of trade, arguing that the Commitment and Loyalty Agreements were therefore void *ab initio*. More specifically, News Corporation pleaded that the Commitment and Loyalty Agreements contained exclusionary provisions and would be likely to have the effect of substantially lessening competition, and that the NSWRL and ARL had taken advantage of their substantial market power in one or more of several markets, including the 'Rugby League Competitions Market', to deter or prevent competition.

The board of the NSWRL met on 1 April to consider the Super League developments, with three representatives also attending from Kerry Packer's Publishing and Broadcasting Ltd, Optus and Optus Vision. Assistance in the form of financial and human resources was offered to the NSWRL in order to stem defections to Super League provided that, among other things, the NSWRL accelerated the reduction in teams (in the Sydney area) and player contracts were signed with the ARL rather than the clubs. A press release following this meeting stated that any players or coaches associated with Super League would not be considered for representative selection and, if in breach of his obligations to the ARL, would be pursued through the courts. A document dated 11 April 1995, and reported in 870 FCA, outlined the 'deal terms' between the NSWRL/ARL and Channel Nine/Optus Vision, and included:

- a commitment by Channel Nine/Optus Vision of up to \$40 million to fund exclusive player contracts, which was non-recoupable except under certain conditions;
- consent of Channel Nine/Optus Vision being required if the ARL/NSWRL wishes to change the competition, or its format or frequency, in an adverse manner;

- extension of the existing television rights of Channel Nine/Optus Vision for a further five years.

Also on 11 April 1995, the NSWRL, ARL and the twelve 'loyal' clubs aligned to them responded to News' legal challenge by way of cross-claims. The ARL and NSWRL essentially argued that the establishment of Super League constituted an attempt to destroy the existing competition by unlawful means, including a breach of fiduciary and contractual obligations owed to the NSWRL, ARL and other clubs by some of the clubs participating in the national competition. News and its associated Super League companies had induced or encouraged these breaches. The eight 'rebel' clubs filed cross-claims alleging that the Commitment and Loyalty Agreements were voidable as they had been signed under duress.

Murdoch's Upstart Rugby League Fools Out^[3]

In the six months preceding the trial, News continued with its strategy to establish Super League in Australia. On 20 April 1995, News and a subsidiary, Star League Pty Ltd (Star) entered into separate heads of agreements with seven newly established entities, described as a 'licensee' in the agreement to which it was a party. In this agreement, Star was to set up and promote a Super League competition involving Australian and New Zealand teams. News was entitled to all shares in Star until start-up costs and accumulated losses were recouped, after which the capital of Star was to be restructured so that licensees could obtain shares entitling them to 50 per cent of the vote at a general meeting. Star was to own all intellectual property rights, and was to pay News a 15 per cent management fee. The licensee was required to maintain a team that was to participate in the Super League competition, and each current club forming part of a syndicate owning a particular licensee was to release existing players' contracts to enable the best possible team to be fielded. On the same day, separate deeds were entered into between News, Star, the relevant licensee and the corresponding clubs. As part of this deed, News agreed, subject to certain conditions, to indemnify the club *inter alia* from any liability that it may incur to ARL and or NSWRL under the Commitment Agreement or the Loyalty Agreement. The Club's directors and officers also received indemnity, subject to certain conditions, from any similar liability. At the time of the trial, eight clubs had entered such deeds. A significant impediment to gaining club and player support for Super League, identified at the 23 March 1995 meeting within News, was thereby removed.

The Super League concept became a key element in not only News Limited's Foxtel pay-television interests in Australia, but also its extensive North and South American, European and Asian broadcasting networks (Cain, 1996; *Milwaukee Journal Sentinel*, 1996). Through StarTV in Asia, BSkyB in Europe and Fox Broadcasting in the United States, Murdoch has the ability to give a chosen sport global coverage (Karp, 1995). The procurement of television rights for News Corporation's international satellite and cable networks has been enhanced, at least in the case of rugby, through direct backing in the sport itself. In April 1995, the Rugby Football League in Britain accepted an £87 million offer from BSkyB for a five-year television deal, involving the creation of a European Super League and switching to a Summer season (Hadfield, 1998), despite some opposition (*Marketing Week*, 1995). The European Super League competition was designed to run alongside the winter season in Australia and New Zealand. The deal isolated the

ARL by specifying that Great Britain could only play Super League opposition teams at the international level (Hadfield, 1998), with clubs from the European and Australian Super Leagues meeting in the autumn to contest the World Cup Challenge. It was reportedly hoped to partially counter a summer terrestrial schedule featuring the Olympics and European championships (Curtis, 1996; Lawrenson, 1996). The local rugby competition in Australia thus became an integral part of Murdoch's global strategies. The competition kicked off for its first season in 1996, and dovetailed nicely with the broadcasting on Premier League. A similar arrangement was struck with the New Zealand Rugby League in April, with Papua New Guinea, Western Samoa, Tonga and Fiji also joining Super League in June 1995. Murdoch's worldwide commitment to Super League was said to be around £300m (Curtis, 1996).

The trial began on 25 September 1995 and concluded on 15 December 1995 after 51 sitting days that generated 4875 pages of transcript and volumes of documentary evidence. Judge Burchett's judgment is reported in *News Limited v Australian Rugby Football League Limited* (1996) 58 FCR 447. Ostensibly, Judge Burchett found in favour of the NSWRL, ARL and 'loyal clubs', and against News Corporation, the Super League companies and the 'rebel clubs'. Judge Burchett's orders (at 548–556) had the effect, *inter alia*, subject to limited exceptions, of restraining News Limited and the Super League companies from organizing or participating in any football competition or game anywhere in the world that was not authorized by the NSWRL or ARL, until 31 December 1994.^[4]

The effect of these orders was potentially devastating for News Corporation's Australian pay-TV operations, with the ban until the year 2000 leaving Foxtel no major sports drawing card and News Limited facing damages to the establishment ARL of an estimated Au\$154 million (Woods, 1996). It also, however, undermined News Corporation's global investments. Through the sports–media nexus, the rugby leagues competition market in Australia had effectively become part of a global industry, whereby a company's competitive position within that industry in one country is interdependent with that in another country (Porter, 1980; Prahalad and Doz, 1987). European clubs were concerned, for example, that the remainder of the £87 million deal signed with News Corporation may not be fulfilled (Richards, 1996; Slot, 1996). From the perspective of News Corporation, without the trans hemisphere competition, summer Super League would lose much of its appeal to British clubs, spectators and, perhaps most importantly, television viewers (Hadfield, 1996a; Wilson, 1996). News Limited, the licensees and Star filed a notice of appeal in response to Burchett's judgment, pursuant to the leave granted by the Full Court. The eight rebel clubs, together with Sydney Bulldogs Ltd (a company associated with Canterbury-Bankstown Rugby League Club Ltd, one of the rebel clubs) also filed a notice of appeal.

Stunning Turnaround Sends Old ARL Warhorses Reeling^[5]

The appeal was heard over nine hearing days by the Full Bench of the Federal Court of Australia, and culminated in the decision of 4 October 1996. In a decision described as 'a change of direction more startling than any Brad Fittler side-step' (Hadfield, 1996b), the appeals were allowed and the earlier orders made and confirmed on 11 March 1995 set aside. Although several lesser issues were remitted to the trial judge, the Full Bench upheld the core argument of News that the Commitment and Loyalty Agreements included exclusionary provisions, as

defined in s.45 of the Trade Practices Act. To establish a contravention of the TP Act in this instance, it must be established that:

- at least two parties are competitors or potential competitors;
- they entered into a contract or understanding;
- a substantial purpose was to restrict the supply or acquisition of goods or services to or from a particular person or class of persons.

In short, the Full Bench found that: (1) the clubs were in competition with each other; (2) there was an arrangement or understanding between the clubs to which the ARL was a party; and (3) that the Commitment and Loyalty agreements were clearly aimed specifically at News as a rival competition organizer. The exclusionary provisions of the Commitment and Loyalty agreements were, in effect, an illegal collective boycott (Pengilly, 1997), and were therefore void *ab initio*.^[6] Having found the existence of exclusionary provisions, it was deemed unnecessary to consider the arguments relating to the NSWRL and ARL taking advantage of their market power; or the existence of provisions having the purposes or likely effect of substantially lessening competition in the market.

The existence of fiduciary relationships and obligations owed to the ARL, NSWRL and other clubs was also not found by the appellant judges. Players' contracts were, until 1990, tripartite agreements between the NSWRL, player and club. Following a successful legal challenge to the draft system implemented by the NSWRL in the Full Federal Court,^[7] the NSWRL was no longer a party to player contracts. This change was based on legal advice that if the player was bound by a contract of service (as opposed to a contract *for* service) to which only the club (as employer) and player (as employee) were parties, it would not be subject to the Trade Practices Act. Thus, the ARL and NSWRL had no direct (contractual) control over the players, except that which might exist through their relationship with the clubs. The ARL and NSWRL alleged these relationships were fiduciary in nature, and hoped to invoke the associated fiduciary obligations of the clubs in relation to, among other things, the retention of the players in the ARL organized competition.

Fiduciary relationships typically embody mutual confidence and trust, joint decision-making, and mutual subordination of one's own interests to all participants in the joint undertaking. A number of matters led the Full Bench justices to conclude that fiduciary relationships, as pleaded by the ARL and NSWRL, did not exist. Two of these matters related to the structure of the relationships. First, incorporation of the NSWRL in 1983 heralded fundamental changes in the structure of the NSWRL and in the relationships between clubs and the NSWRL. Incorporation created a separate legal entity to take over the assets and operations of the NSWRL, and was controversial as it took power away from the clubs and vested it in the NSWRL board. The clubs, themselves, were not included as members of this new incorporated body, despite being members of the NSWRL prior to incorporation. The extent of the restructuring also subjected the clubs to extensive control and regulation by the NSWRL, including competition admission requirements. According to the Full Bench, the NSWRL 'carefully constructed its relationship with the clubs, so as to confer on itself the power of control thought to be necessary for the effective conduct of national competition' (870 FCA). This tight control was found to reinforce the absence of the mutual trust and confidence considered characteristic of fiduciary relationships.

The second matter related to the decision-making process. While clubs were often consulted regarding major decisions and nominated club representatives could vote at general meetings, the NSWRL board (following incorporation) was the major decision-making body. The full-bench found that it was set up in such a way that allowed it to act independently of the vested interests of the clubs, and thus was not the joint decision-making characteristic of fiduciary relationships. Without the existence of a fiduciary relationship between clubs, the NSWRL and the ARL, clubs were not required to remain 'loyal' to the ARL and NSWRL, beyond meeting their contractual obligations for the 1995 season. Similarly, players bound by employment contracts to which the NSWRL and ARL were not a party did not themselves owe fiduciary or contractual obligations to the NSWRL.

According to *The Independent* (1996b), the importance of the 4 October decision of the Federal Court to Murdoch's interests worldwide was underlined by an increase in BSkyB's share price by 12p to a record price of 606.5p, increasing the stock market value of the company by £206 million to £10.43 billion. Super League began its first season in March 1997. In the preceding year, the ARL competition had been severely damaged by the dissension and litigation among players, clubs and the organizing bodies related to the formation of Super League. Although the Super League competition had not begun, league attendances fell 17 per cent in 1996 compared to the previous year, with merchandise sales falling from Au\$55 million to \$15 million (Phillips and Hutchins, 1998). For the 1996 premierships season the ARL reported a loss of Au\$9.7 million. With the 4 October decision, the damage to rugby league was compounded. Super League trialled several innovations, including video refereeing, while the ARL continued to emphasize its 90 year heritage (Walter, 1997a). Despite the record crowd at the ARL's grand final and the 60,000 strong attendance at Super League's grand final, both competitions were facing significant losses. Super League was reported to have lost Au\$267 million by 30 June 1997 (Walter, 1997a). Despite these disastrous outcomes, rugby league earned Sydney's highest TV programme ratings (Wilson, 1997b), emphasizing its continuing value to pay-TV stations.

On 25 June, the ARL announced its resolve to work towards a single competition. After six months of negotiation, a deal was reached in December between the Australian Super League (ASL) and the Australian Rugby League to form a merged 20 team competition from 1998. Comprising eight ASL teams, 11 ARL teams and a newly formed Melbourne team, the united premierships was named the National Rugby League and was to be run by the ARL and ASL in a 50-50 partnership (Fisher, 1997; Wilson, 1997a). The reduction of teams to 16 in 1999 and 14 in 2000 was also agreed. This agreement was made against a backdrop of massive losses being experienced in the Australian market by rival pay TV operators Optus Vision and Foxtel (Morrissey, 1997; Walter, 1997b) and the earlier approval in November 1997 for programme sharing arrangements between Optus and Foxtel (Wilson, 1997b).

COMPETITIVE FORCES IN PROFESSIONAL TEAM SPORTS LEAGUES

The decision of the Full Federal Court of Australia in the Super League litigation has raised a number of questions and debates in the legal, sports and wider business communities, including the implications for principles of market definition

(Corones, 1997a; Sweeny, 1997), joint venture arrangements in general (Baxt, 1997; Griggs, 1997), employment contracts in sports leagues (Pengilly, 1997); and rules of admission to sporting competitions and sponsorship contracts (Pengilly, 1997); as well as a questioning of the philosophical basis of the Australian TP Act itself (Corones, 1997b; McInerney, 1997). While the litigation has generated a great deal of interest in legal circles, it was also an integral component of *business* strategies of the respective parties in the Super League saga. An understanding of the respective strategies – from inception through to agreement on a merged competition – can best be gleaned by first delineating the fundamental competitive issues surrounding professional team sports leagues.

The League Product and Competitive Balance

The 'league product' may be described as the competition or game that is jointly produced between teams (Vrooman, 1996). This product is 'sold' to spectators who attend the matches, to television broadcasters and pay TV operators in the form of broadcast rights, and to sponsors of rugby league football (Corones, 1997b). The value of this 'product' is enhanced, naturally, as the number of people who consume it increases and as its market appeal to sponsoring organizations is recognized. This, in a very real sense, generates a network effect through positive network externalities, along the lines described by Shapiro and Varian (1998). The production and distribution of this product comprises a composite of markets in which competition exists not only between leagues for scarce resources and patronage, but also within leagues. For example, a team joining a league not only competes against other teams in the same league through matches, but also to varying degrees for players, sponsorship, municipal patronage, territorial rights, broadcast rights, fans and entry to and continuing membership of the league. Indeed, the Full Federal Court of Australia (at 42, 649–650) found that the clubs in the ARL competition '... were in vigorous competition, notably for spectators, sponsors and television viewers ... [and] were competing for a place in the competition ... the clubs were or were likely to be in competition for the services of the League and ARL as competition organisers'.

Despite these independent operations of teams in a league, teams must work together to create the league product (Mason, 1999): in the case of rugby league, this would be a series of games culminating in championship games. The appeal of the league product rests in the intensity of the viewers' experience, derived from uncertainty of outcome and emotional identification with specific teams and players (Shilbury et al., 1998; Vrooman, 1996; Whannel, 1992). The former requires an appearance of rivalry in on-the-field performance. The teams are thus necessarily interdependent, not only because the game requires participation of two teams, but also to maintain a level of competitive balance. Quirk and Fort (1997, p. 244) note that while 'competitive balance' is '... a catchall term that refers to a number of different aspects of competition on the playing field', it is typically reflected by a higher level of uncertainty regarding the outcome in league games and pennant races. While 'winning' by a professional sports team profoundly contributes to its own success, particularly in relation to the generation of demand among fans (Irwin et al., 1999), the accumulation of talent (for example players, coaches) by individual clubs in pursuit of maximum profits may lead to significant negative externalities and a self-defeating dominance in a league by the larger clubs (Vrooman, 1996; Whitney, 1993) as uncertainty of outcome is reduced.

Individual performance also carries with it positive externalities, such that any one player may contribute more to the performance of one team than another.

Rather than competing openly in the market, what could be considered collusive agreements are often put in place between teams within the one league, and also between leagues. For example, the introduction of the draft recruit system by the Japan Professional Baseball League (JPBL) in 1965 was prompted in part by concern that free competition for promising young players would maintain the dominance of already strong teams, ultimately undermining the popularity of professional baseball (La Croix and Kawaura, 1999) as the uncertainty of outcome was reduced. Similarly, the decline of domination by the New York Yankees in the American League and the Yomiuri Giants in the Central League following the introduction of the rookie draft system in 1965 is argued to have improved the competitive balance in both leagues (Fort and Quirk, 1995). The Australian Rugby League also introduced a number of measures designed to enhance competitive balance, including the introduction in 1988 of a salary cap on contract payments, match payments and other benefits each club could make to its graded players (approximately AU\$1.8 million in 1995), and attempts to implement a draft system in 1990 (which was successfully challenged as an unreasonable restraint of trade).

Monopolistic Tendencies

Collusive agreements in such areas as player allocation, designation of territorial and broadcast rights, and limiting the number of franchises below what population centres can sustain also underpin the operation of professional sports leagues as monopolies controlling elite-calibre competition in their respective sports (Mason, 1999; Quirk and Fort, 1999). Indeed, in the United States, for example, each of the major professional team sports leagues – the Major League Baseball (MLB), National Basketball Association (NBA), National Hockey League (NHL) and the National Football League (NFL) – hold monopoly positions.^{[8][9]} In principle, two or more independent and competing leagues in sport may exist simultaneously: sports leagues are not ‘natural monopolies’ in that they do not enjoy such economies of scale that they produce succeeding units of output at declining costs (Quirk and Fort, 1999; Ross, 1991). Nonetheless, there is a strong tendency towards monopolies. If there is competition between two or more leagues, this would eliminate most monopoly rents such that team owners would earn no more than normal profits and income would be redistributed to players, TV networks and other stakeholders (Quirk and Fort, 1997). In large part, this tendency to monopoly can be attributed to the network externalities arising from the enhanced product value of the league that derives from its agglomerating attractions, both as a sport and as a commercial enterprise. The attraction of monopoly rents explains Super League’s early objective of ensuring that no other competition could exist in competition to Super League, as outlined in the proposal of 12 August 1994 (Table I).

Because the monopoly rents to be derived from large, amalgamated leagues are so immense, and the losses suffered in interleague war so great, there is a strong incentive to eliminate competition between leagues even where two might survive quite profitably in the longer term. For example, the National Football League (NFL) in the USA, which began as the American Professional Football Associa-

tion in 1920, has since inception faced at least seven rival leagues – the American Football League 1, 2, 3, and 4; the All American Football Conference; the World Football League; and the US Football League. Even despite the strong roster of team locations and players in the AFL 4 and financial income from TV interests (Quirk and Fort, 1997), rivalry between the AFL and NFL over expansion territories was eventually quashed by an agreement in 1966 for an interleague championship, followed by full amalgamation in 1970. Not all rivalry between professional sports leagues has, however, resulted in mergers.

American professional basketball provides numerous examples (as does baseball, football and hockey) of rival leagues being driven from the market, with women's basketball providing a very recent and stark example of this historically typical outcome. Between 1985 and 1995, attendance at women's college basketball in the United States tripled and TV ratings soared (Hamilton et al., 1996), with interest spurred by the Olympic success of the US women's team (Yafie, 1997). Despite several women's basketball leagues folding since the 1970s (Wulf, 1997), the recent momentum of interest in women's basketball presented a window of opportunity to establish a new women's professional basketball league in the USA. The first to emerge in this latest case was the American Basketball League (ABL) which debuted in spring of 1997 (Robinson, 1997), having played its inaugural game in autumn of 1996 (Bhonslay, 1998). In June of 1997, the National Basketball League (NBA) launched the Women's National Basketball Association (WNBA).

The WNBA was positioned differently to the men's NBA competition, being more affordable for spectators, and with a season beginning after the men's league playoffs to avoid head-to-head competition with NFL, NHL, and NBA. Its eight teams were operated by NBA teams in eight cities (Littman, 1997), and it was able to use the NBA's teams' arenas in the slower months for a shorter 30 game schedule, as well as the NBA's management and financial resources (Yafie, 1997). The WNBA was also backed by exclusive sponsorship from 14 corporations, including Anheuser-Busch, CocaCola, General Motors, McDonalds and Nike (Robinson, 1997; Yafie, 1997) and significant TV deals. Broadcast packages with NBC (which has the highest overall sports rating in the USA), ESPN (the strongest male demographic on cable) and Lifetime (the strongest female demographic) and the integration of WNBA marketing with the NBA added to its success (Littman, 1997). The ABL comprised nine teams operating in smaller markets and playing a longer 44 game season through autumn and winter, alongside the NBA. While the ABL had fielded a strong roster of players, it received comparatively little television exposure (Wulf, 1997), with telecasts appearing on only two cable channels – Sports Channel and BET (Bell, 1997) – and game attendance averaging 3500 fans. While the NBA was estimated to spend US\$15 million on marketing, the ABL spent only US\$3 million (Wulf, 1997).

Speculation on which league – if either – would survive was rife (for example, Bhonslay, 1998; Robinson, 1997) with consolidation or a merger touted as inevitable (Hamilton et al., 1996). On 22 December 1998, the American Basketball League ceased operations and filed for bankruptcy protection midway through its third season (Smith, 1999). According to the league co-founder Gary Cavalli, the ABL's inability to get the necessary TV exposure and sponsorship support were instrumental in its demise (*Associated Press*, 1998). Interestingly, these were also key reasons for the demise of the NBA rival American Basketball Association in the

1970s. Lack of television revenue was also key in the demise of the American Basketball League, the World Hockey Association, and the United Baseball League, in which a match was never played (Jabaily, 1999).

Despite the well-documented tendency towards monopolies of professional team sports leagues and the failure of rival leagues, some very successful dual professional team sports leagues do exist, most notably in baseball. The Japanese Professional Baseball League (JPBL), which began regular play in 1936, split into two leagues in 1950 – the Central League comprising eight teams and the Pacific League with seven teams. Since 1958, the number of teams in each League has remained constant at six, with the two Leagues competing in the Japan Series. All teams are located in one of Japan's five major metropolitan areas, and six of the twelve in Tokyo. The stability of these two leagues can, in a large part, be attributed to the ownership structure of teams. In contrast to major league baseball (MLB) in the USA, major Japanese corporations own JPBL teams, using them to enhance corporate image. The teams' profitability is, therefore, not the primary objective, as an unprofitable team may contribute to overall corporate profitability through the enhancement of corporate image (La Croix and Kawaura, 1999).

A dual league structure also exists in US baseball. The National League (NL), established in 1876, is the oldest existing professional team sports league in the United States. Over its history, the NL has faced a number of challenges from rival leagues, at times entering into collusive agreements to ensure the survival and profitability of dual leagues. This was the case in the National Agreement of 1882 between the NL and American Association (AA) in which each team honoured each others' reserve lists. This dual League structure withstood the attempts at entry of another league, the Union Association, and ultimately competition from the Players League. The National Agreement between the NL and AA lasted until 1891 when a dispute over the signing of two star players resulted in resumption of rivalry (Quirk and Fort, 1997). After the 1891 season, four AA teams were merged into the monopoly NL and the remainder disbanded. The next major challenge for the NL came from the American League (AL), which began operations in 1900. The AL pulled out of the National Agreement in 1901 and competed openly with the NL. In 1903, the NL accepted the AL as a major league, equal in status to the NL. The two leagues agreed to respect each other's player reservation rights and effected a division of geographical markets (Scully, 1989).

Subsequent agreements covering major leagues baseball in the United States have enshrined the operation of collusive agreements within and between baseball leagues, covering aspects of competition such as the allocation of territories, restrictions on entry, constraints on competition for talent (such as the reserve clause, drafting rights or mechanisms for transfer of players), and collective negotiation of television broadcast rights (Scully, 1989), thereby ensuring monopoly returns despite the existence of two leagues.^[10] Many of these practices would seem to contravene US antitrust legislation embodied in the Sherman Act of 1890. Since 1922, however, baseball has remained the only sport exempt from antitrust litigation (Kovach, et al., 1997), with the exception of the broadcasting of all professional team sports.^[11] Notably, Rugby League in Australia has not been afforded the luxury of an exemption under the Australian Trade Practices Act.

REFLECTIONS ON THE SUPER LEAGUE SAGA

The above overview of the competitive issues underpinning operations of professional team sports leagues competition markets suggests that newly formed rival leagues have only limited chances of long term, independent success. This is supported by history, and explained by Quirk and Fort (1997, p. 359) as follows:

A rival league succeeds only when enough of the market potential in a sport is left unexploited to support a league roster of eight or more teams; and a dominant league that leaves this much market potential unexploited is making a gross mistake indeed.

This argument explains the recent establishment of the new American Basketball Association 2000 (ABA, 2000) by ABA 2000 Founders and Proprietors Inc. Given that the NBA maintains franchises in only 29 of the top 75 markets, with minimal expansion planned, the ABA 2000 believes there exists a 'beckoning opportunity' to tap into the 46 top markets lacking a professional basketball franchise. While any rivalry between the ABA 2000 and NBA is yet to play itself out, the perception of unexploited market potential in the Australian Rugby League market was a critical basis for the entry of Super League. This is most clearly evidenced in the intention to establish teams in the major cities of Melbourne, Adelaide and Perth, as noted in Table I.

The experience of women's basketball in the USA, however, clearly illustrates that this unexploited potential includes not only franchise territories and fans attending matches, but also broadcast and sponsorship opportunities. The market potential of broadcasting sports and the associated sponsorship dollars provided an impetus for Murdoch's pay TV network. As explained by Steve Bornstein, CEO of the ESPN network (cited in McCarthy, 1996, p. 52), 'Every time I think the rights payments for major sporting events might be reaching the peak, somebody like Rupert Murdoch comes along and bids an outrageous amount.' Nonetheless, as a preemptive move to establish a worldwide broadcast consumer base, these bids are likely to be seen in a different light. The establishment of Super League in Australia was a key element in a global strategy of Rupert Murdoch to build a strong subscriber base through sports for his worldwide broadcast network. In this light, the seemingly extreme level of investment and losses by Murdoch in Australian rugby league are diminished: the value of securing the Australian rugby league competitions market extended well beyond Australian shores.

The question of why a dual league structure, as with MLB, did not emerge in the Australian rugby league competitions market naturally arises. The answer is found in not only the arguments above concerning the monopolistic tendencies in the sports league industry generally and the absence of exemption from the Trade Practices Act for rugby league, but also the nature of the markets in Australia associated with the production and distribution of rugby league competitions. Three aspects of these markets are of particular importance. First, the supply of rugby league players is not unlimited. Unlike basketball in the USA where it was asserted there are more than enough top class players to field two women's leagues (see, for example, Bhonslay, 1998; Kallam, 1996), it is questionable whether there exists sufficient player talent to field two major rugby league leagues in Australia. Second, and adding to this problem, is that few sports – with the partial exception of rugby

union – may be considered close substitutes to rugby league. As noted by Coronas (1997a, 1997b), a rugby forward could not easily switch to cricket or basketball, and vice versa. Third, the rugby league viewing population in Australia, with a population of only 20 million, is far smaller than that of either Japan or the USA. Revenues generated through pay-TV from sports are proportionately smaller, and rugby league does not yet generate the revenues and world-wide appeal associated with sports such as soccer, basketball, baseball, or even cricket. Arguably, the audience size may matter less than viewer demographics and the cost of producing the sports competition: golf tournaments may have low ratings, but are relatively inexpensive to produce, and watched by a wealthy demographic. As evidenced by the losses of both parties in the Super League battle, however, rugby league competitions are not inexpensive to produce. Nor are viewers necessarily wealthy. This aspect of the Australian market is reflected in News' determination to reduce the number of teams from 20 to 12.

Given that a dual league structure was unsustainable or, at the very least, undesirable, the question of why the long-established rugby league authorities in Australia were not successful in subverting the challenge from Super League arises. Certainly, the expansive resources of the News empire – in terms of financial backing, broadcast networks and managerial expertise – were of immense importance. Such resources were also clearly influential in the outcome of the recent rivalry between the NBA backed WNBA and the ABL. But the NBA, like the ARL and NSWRL, was the long-established authority and, historically, few rival leagues succeed against the established major leagues, even in spite of greater resources (see Quirk and Fort, 1997, pp. 294–363): the survival of Super League, even as a merged competition, was not a *fait accompli*. A less obvious factor than financial and broadcast backing, but no less compelling, was the way in which the respective parties conceptualized and managed resources core to the production of the rugby league product.

Core Resources in the Super League Saga

The resource-based view of the firm, in which the links between sustainable competitive advantage and an organization's resources and capabilities are key, identifies resources as the basic building block. Hunt (1995, p. 322) sees resources as 'anything that has an enabling capacity'. Resources may be defined as assets that are tied at least semi-permanently to the firm (Wernerfelt, 1984), whether they be financial, capital, or human/social factors or processes, tangible or intangible. A firm's capabilities that create a competitive advantage are derived from bundles of resources brought to bear on value-adding activities (Barney, 1991; Peteraf, 1993; Wernerfelt, 1984; Wright and McMahan, 1992).

Barney (1991) identifies four criteria for resources to support capabilities that create a sustainable competitive advantage: they must be (1) valuable or 'rent producing'; (2) rare; (3) difficult to imitate; and (4) non-substitutable. Indeed, the first criterion is largely contingent upon the other three. The rareness, inimitability and non-substitutability of a resource may be enhanced through unique historical conditions, causal ambiguity and social complexity. The historical events that have shaped a firm's resources influence the nature of the capabilities developed over that time (Amit and Schoemaker, 1993; Barney, 1991; Dierickx and Cool, 1989; Peteraf, 1993), with differing paths through history enhancing firm heterogeneity. Causal ambiguity arises where the cause or source of the competitive advantage

is difficult to identify (Barney, 1991; Kamoche 1996; Wright and McMahon, 1992). Hart (1995) argues that resources contributing to causal ambiguity are typically 'invisible' or tacit resources based upon accumulated experience or 'learning by doing'. Socially complex resources depend upon unique social relationships. The complexity that makes them difficult to duplicate is amplified in circumstances where no one individual understands the 'whole' (Boxall, 1996; Hart, 1995). Such resources may be path dependent and embody a degree of causal ambiguity, making them difficult not only for a competitor to duplicate or even identify, but also for the bearer.

News Limited and the NSWRL/ARL identified different resources as core to their strategies to establish – or impede – Super League in Australia. The key resource identified by News as critical to establishing Super League in Australia was players, as evidenced in Table I: for success, the co-operation of some clubs was required, while the co-operation of players needed by the new competition was *essential*. Coaches were also deemed a key resource, with Mr Ribot giving evidence in court that '... it was very important to sign up the coaches, since they were thought to be instrumental in signing up players' (870 FCA). To some extent, the ARL and NSWRL also recognized the importance of players to the production of the rugby product. At the 14 November meeting, for example, the chairman of the NSWRL and ARL is recorded as replying to a question from the Penrith club representative as follows (870 FCA):

... we are currently working with our lawyers now to see how we can, we're doing our best to tie the clubs up and also we've obviously got to tie the players up because as you say quite rightly, I mean, another organisation can easily have 10 private franchises ... and start something quite separately from the clubs, there's nothing at all to stop them if they can get sufficient players they can go ahead and run a competition in opposition to ours. But I guess that if we've got all the players tied up and all the clubs tied up, it's pretty difficult to do.

Attempts to tie up players were initially undertaken indirectly, through the Commitment and Loyalty agreements with clubs. This was followed by the threat of punitive action against any club or person failing to comply with their contractual obligations, and the threat of expulsion from the competition. Financial incentives for players to play exclusively in the ARL competition do not appear to have been offered until 1 April 1995 when a press release indicated that the NSWRL, with the support of Channel Nine and Optus (through Optus Vision), would offer such incentives. Significantly, this occurred *after* the actual loss of players and coaches to Super League in March 1995. Overall, the approach of the ARL and NSWRL to managing players and coaches as a strategically significant resource appears somewhat reactionary. It can, however, in part be explained by the emphasis the ARL and NSWRL placed on their role in the 90-odd year history of rugby league in Australia as a core resource – a heritage that News Limited did not possess.

It would appear from evidence provided in court and transcripts of meetings that the NSWRL and ARL considered a defining resource in their possession to be the 'bonds of loyalty and unity' tying the clubs, ARL and NSWRL together. In the transcript of a meeting held on 14 November 1994 at the ARL's premises and attended by representatives of all but one of the clubs, Mr Arthurson, the then chairman of the NSWRL and ARL, was recorded as saying (870 FCA):

Gentlemen . . . the one thing that we must ensure never happens is that control of the game of Rugby League ever falls out of the hands of the accepted authority of the game which is, of course, the Australian Rugby League . . . We've had plenty of challenges but we've always been able to answer those challenges by virtue of the fact that, apart from the unity that we've amongst the clubs, we've had that unswerving loyalty, not only towards each other but towards the game itself . . . ^[12]

This 'unswerving loyalty' had been shaped and reinforced through a shared history, as explained in Mr Arthurson's evidence, recorded in court transcripts (870 FCA):

. . . the reason I wanted them (the club executives) to sign the loyalty agreements was that I wished to preserve what I considered was the league's and the clubs' greatest asset, and that is our competition. It's a competition, incidentally, which we have developed together over more than 80, almost 90, years . . . And because of the bonds of unity, the historic bonds of unity, that existed between the clubs, it's enabled us to do great things together.

The continued unity was clearly hoped to stem 'defections' and impede the establishment of Super League, and ensure the ARL and NSWRL remained the accepted authorities. In turn, this would ensure a rich rugby league competition market in Australia for Channel Nine and Optus Vision.

The bonds of loyalty and unity believed to exist between the NSWRL, ARL and clubs may be likened to a psychological contract which exists between employer and employee (Argyris, 1960; Guest, 1998a, 1998b; Rousseau, 1989, 1995; Schein, 1980; Tornow and De Meuse, 1994). Broadly defined, the psychological contract is based upon a belief that reciprocal exchange obligations exist between an employee and employer which are mutually understood (Rousseau, 1998). Being unwritten and not legally binding, it is an essentially emotional bond that evolves and changes as it is affected by the immediate (e.g. work) and broader environment (Tornow and De Meuse, 1994). Contracts are thus likely to differ across groups within organizations, between organizations, and over time (Herriot and Pemberton, 1997). There is, however, some debate over the *precise* definition and boundaries of the psychological contract, and indeed whether it is a construct or a metaphor (see, for example, Guest, 1998a, 1998b; Rousseau, 1998). One aspect of this debate of particular significance to the Super League saga is the question of whose perceptions are taken into account in the psychological contract.

In one approach, the contract has been described as the *employee's* perception of the reciprocal obligations existing with his or her employer: it may or may not be aligned with the employer's perception, and is inherently subjective (McFarlane-Shore and Tetrick, 1994; Rousseau, 1989, 1995). The use of the contract metaphor for subjective perceptions of an employee is not without its limitations. Pearce (1998), for example, notes the difficulty faced by organizations in both identifying and addressing the *individual* preferences of each employee, particularly in light of the emotional dynamics of the workplace. Those elements of the content of psychological contracts that are socially constructed with references to broader environmental changes and interactions are, however, arguably less subject to significant 'idiosyncratic' variations in individual preferences, and perhaps more

easily identified by the organization. This would require a social constructionist (Gergen, 1999) as opposed to constructivist (Guba and Lincoln, 1994) approach to studying psychological contracts, and is the manner in which psychological contracts are considered in this inquiry.^[13]

Eschewing a constructivist perspective does not, however, overcome a second concern with the above approach to psychological contracts, namely its 'one sided perceptual focus' (Guest, 1998a, p. 658). Contracting is a social process involving two or more parties, each of whom may hold markedly different perceptions of the respective obligations. Only by recognizing the perceptions of *both* parties can an understanding of psychological contracting be gleaned (Herriot and Pemberton, 1997). Indeed, as Guest (1998a, 1998b) elaborates, early definitions of the psychological contract by Argyris (1960) and Schein (1978) explicitly view the psychological contract as embodying the perceptions of both parties. Similarly, in the case of the Super League saga, considering the perspective of both parties to the employment relationship regarding the obligations implied in that relationship sheds significant light on events.

While not an employer *per se*, the ARL and NSWRL were the governing bodies of the sport in Australia, undertaking activities such as marketing, managing competitions, liaising with government on behalf of the clubs and sport as a whole, and determining yearly admission of clubs to the competition. That the psychological contract is affected by changes in the environment is significant when considering the relationship of the ARL and NSWRL with the clubs, coaches and players. When rugby league was first established in Australia in 1907, the sporting environment was considerably less commercial than that of the 1990s. The gradual commercialization of sport was accelerated by the popularization of television. The comparatively late advent of pay-TV in Australia in the 1990s further encouraged such a philosophy. This trend towards commercialization was evidenced among the rugby league clubs themselves with the admission of the Brisbane Broncos to the competition for the 1988 season: this club was unique in that it formed part of a privately owned group. As noted above, it was the CEO of this club who, with the support of the board of directors – each of whom owed fiduciary duty to the group's shareholders but not necessarily the NSWRL or ARL – prepared the initial Super League proposals of April and June 1994 that were assessed by News Limited. In this context, it is not surprising that issues such as the annual requirement for applications for admissions to competition and salary caps imposed by the NSWRL caused dissatisfaction among clubs and players.

The value of a resource is often time sensitive: what may be valuable under certain conditions at a particular time may lose that value under differing conditions (Miller and Shamsie, 1996). The historic bonds of unity and loyalty were undoubtedly once embodied in the psychological contract as perceived by each of the competition organizers, rugby league clubs, and players. Such bonds, being based on complex social relationships built over time, are typically difficult to imitate. The deterrent these bonds constituted to potential competitors of the ARL and NSWRL as competition organizers could conceivably furnish the ARL and NSWRL with a competitive advantage. It seems, however, that these bonds were, at the very least, weakening in the face of greater economic rewards through direct allegiances with pay-TV and the changing nature of sport, constituting the erosion of a significant barrier to entry to the rugby competitions market.

While much North American research on contract violations has focused on perceptions of employees concerning contract violations by employers, rather than the perceptions of employers concerning contract violations by employees (Guest, 1998a), the events in this Australian case highlight the importance of also considering the latter. From the perspective of the ARL and NSWRL, the actions of those players and coaches in support of Super League appeared to be perceived as a breach of a longstanding, implicit contract. The reliance on the psychological contract to sustain the 'bonds' of unity and loyalty was thus eventually replaced by attempts to make this loyalty and unity legally binding through the Commitment and Loyalty Agreements, and claims that the clubs held fiduciary obligations to the NSWRL, ARL and other clubs. Ultimately, neither of these attempts succeeded in court. While the Commitment and Loyalty Agreements were found to constitute a collective boycott, changes to the structure of the relationship between the ARL, clubs and players since 1984 and player contracts from 1990 negated any claim of fiduciary obligations. Significant impediments to the ARL and NSWRL's management of resources that were needed to not only produce the league product but also maintain dominance in the rugby league competitions market were, arguably, self-imposed. What had once been viewed a key resource of the ARL and NSWRL – namely, the bonds of unity and loyalty between the NSWRL, ARL and clubs – became a rigidity in their strategic response to the threat of Super League in Australia. Clearly, the argument presented by Leonard-Barton (1992) that the institutionalization of organizational capabilities may lead to strategic inertia in the face of environmental change applies not only to capabilities, but also core resources.

The strategic simplicity manifested in the tendency of the NSWRL and ARL to employ a narrow range of competitive methods in their business strategies (Miller and Toulouse, 1998) – namely, a focus on the bonds tying the clubs, players and coaches to the competition organizers – is not inconsistent with their monopoly position. As the long established and unchallenged authorities in Australia, the ARL and NSWRL very likely perceived themselves as historically operating in a relatively certain and stable environment. Retrospective sense-making further invokes a perception of events as more orderly than is in fact the case (Weick, 1979). A heightened sense of order derived through such hindsight bias may result in simplified mental models of the world and the expectation of a predictable future (Bukhszar, 1999). If these mental models go unchallenged, there is little incentive for managers to pay attention to new ways of competing (Miller and Toulouse, 1998). Of course, the observations made here are themselves made with the benefit of hindsight. Anticipation of the longer term outcomes of the restructuring of relationships by the ARL and NSWRL may, in all probability, have been virtually impossible, and the strategies of the ARL and NSWRL not inappropriate at the time given the competitive forces in professional sports leagues. Nonetheless, the emergence of Super League is not devoid of some irony.

Irony in the Super League Saga

Stocks of knowledge and expertise, accumulated over time and embodied in organizational members, may constitute valuable resources (Boxall, 1996; Kamoche, 1996; Mahone, 1995). It is ironic that the formation of the NSWRL itself was through breaking away from and competing with the established competition. Furthermore, as in the Super League saga, this was achieved in part

through the somewhat controversial involvement of a media (publishing) entrepreneur to finance the greater incentives to players (Phillips, 1994). Perhaps of even greater significance is the more recent experience of certain NSWRL/ARL-Optus Vision/Channel Nine alliance members. While the ARL and NSWRL had limited experience with the sport-television nexus when compared, for example, to Rupert Murdoch's involvement in sports such as rugby league in Europe, NFL football and soccer worldwide through his television empire, Kerry Packer had significant expertise in this area. In particular, Packer had previously challenged an established sporting body and created an international competition outside their jurisdiction in order to feed his television interests.

In 1977, Kerry Packer, unable to gain from the Australian Board of Control the exclusive television rights to televise Test cricket in Australia for his Channel Nine away from the Australian Broadcasting Commission, decided to run his own series. Acquiring the services of the cricket captains of England, Australia, Pakistan and the West Indies to help convince players to join his World Series Cricket, Packer began to clandestinely sign up players at significantly higher financial rewards than they could expect to receive playing establishment cricket (Bailey, 1978). This 'revolution' (Cashman, 1984; Harriss, 1990) was conducted in secrecy, and virtually a *fait accompli* when it was revealed in the Australian newspapers in May 1977. Indeed, the ICC (who represented most of the Test playing countries of the world) was blissfully unaware, in part because 'it had never occurred to them that anyone would attempt to run a pirate series, which was not under their jurisdiction, undermined their authority, and was . . . a threat to the future of the game' (Bailey, 1978, p. 163).

Although the ICC viewed Packer's unofficial series as a threat to Test cricket, they agreed to give their practical support for the series provided certain conditions were met. These conditions appear generally intended to maintain the role of the home authorities in controlling all cricket matches and ensure the continued success of Test cricket. Whether or not the ICC conditions were acceptable to Packer is unclear, as the meeting ended abruptly when Packer did not receive an absolute guarantee of the exclusive rights to televise Australian cricket when the present contract expired in 1978/79 - which was not, in any case, within the powers of the ICC to grant (Bailey, 1978). The ICC met in July 1977 and determined that any players who, after October 1977, took part in matches that were conducted without their consent would be excluded from Test cricket, and that such games would not appear in the official record or be ranked 'First Class'. Individual countries were urged to extend this ban to all cricket under their jurisdiction. To further stem the loss of players to Packer's World Series Cricket, the financial remuneration to players of Test cricket was quickly improved. In response, Packer, through his company World Series Cricket Pty Ltd and with three individual members of his World XI, instigated legal proceedings against the ICC and TCCB, claiming that the proposed bans by the ICC and TCCB constituted an unjustified restraint of trade and unlawful inducement to players to break their contracts with Packer.

The High Court trial was heard over 31 days by Justice Slade who ruled that the ban introduced by the TCCB did in fact represent an unreasonable restraint of trade and an unlawful inducement to players to break their contracts with Packer. Packer therefore continued his World Series Cricket, including the Super Test and highly successful one-day cricket and night matches. Despite World Series

Cricket's initial unpopularity with 'loyal' cricket spectators, by May 1979 it appeared that Packer was clearly winning the battle for spectators and television viewers. It was doubtful that the two competitions could continue to survive. Cricket authorities, concerned for the welfare of the game (Cashman, 1984, 1994), agreed to a compromise with Packer, which included Channel Nine being granted rights for the one-day games and the continued right of the cricket Board to overall control of the game. Overall, the strategies pursued by Kerry Packer and Rupert and Lachlan Murdoch in establishing World Series Cricket and Super League respectively are strikingly similar, as summarized in Table III.

One could not be faulted for feeling a certain sense of *déjà vu* upon reflecting on the respective tales of World Series Cricket and Super League. This raises a pertinent question: to what extent, if at all, was a threat such as that which emerged in the shape of Super League anticipated by the ARL/NSWRL-Channel Nine/Optus Vision alliance? Justice Slade on 25 November 1977 in High Court stated that a challenge to the conventional structure of First Class Cricket was 'bound to happen sooner rather than later'. It would be difficult to sustain an argument that the challenge to both the established rugby league authorities and the dominance of Channel Nine and Optus Vision was any less likely in the 1990s – especially since the financial rewards derived from sports alliances with television were now even greater. Yet the nature of the ARL and NSWRL's strategies pertaining to the threat of Super League suggests that even if the possibility of such a threat was at one time considered, it was not seriously entertained until it was upon them.

Saunders et al. (2000) summarize an array of factors that may lead to imperfections in strategic decision making. These factors include: a tendency of managers to look for information that confirms hypotheses rather than disconfirming evidence; the influence of personal prejudices and prior knowledge on interpretations; limitations in managers' ability to assimilate new information and change views accordingly; and the need for structure and simplification. The result of such biases include emergent information being under utilized or even ignored, and the premature ending of the search for explanations and alternative strategies (Saunders et al., 2000). With reference to the Australian events, speculation produces a variety of explanations. Any learning by the NSWRL and ARL associated with memories of the cricketing revolution years prior to the Super League threat may well have faded: as Dierickx and Cool (1989, p. 1508) contend, 'all asset stocks decay in the absence of adequate maintenance expenditures'. The extent to which memories of past strategies – actual or observed – are distorted through memory and biases such as those described by Saunders and colleagues (2000) will influence the extent of learning (Schwenk, 1995). The events concerning World Series Cricket may have been considered an isolated incident, unrelated to rugby league given the non-involvement of the ARL and NSWRL. A focus on the sports involved rather than the pattern of events may well have obscured the connections to be made between the revolution in sport caused in the 1960s and 1970s by the introduction of television, and the relatively late advent of Pay TV in Australia in 1995. Failure to draw such connections may have been exacerbated by the complacency often associated with long-term monopolies, and the associated perception of environmental stability by the NSWRL and ARL, discussed above. This perception of predictability explains a proclivity to overlook the importance of environmental scanning, or to engage in highly selective scan-

Table III. Key similarities in strategies pursued to create non-establishment sporting competitions

	<i>World Series Cricket</i>	<i>Super League</i>
Key impetus for new competition	Packer unable to obtain exclusive television rights to Australian cricket from ABC.	Murdoch unable to obtain exclusive pay-TV rights for Australian rugby league from Optus Vision.
Competition	Established outside of traditional organizing body, employing secrecy. Cooperation of players in other countries achieved (e.g. UK, New Zealand, South Africa, West Indies, Pakistan).	Established outside of traditional organizing body and in secrecy, although ARL and NSWRL cooperation was said to be desired. Judge Burchett doubted the sincerity of this claim. Cooperation of players in other countries achieved (e.g. UK, New Zealand, South Africa).
Key resources of 'newcomers'	Players, signed in secrecy. TV network and associated financial incentives.	Players, signed in secrecy. TV network and associated financial incentives.
Key resources as perceived by 'establishment'	Heritage of an established authority of a game steeped in tradition. Ability to exclude players from established competition.	Heritage of an established authority of a game steeped in tradition. Ability to exclude clubs and players from established competition.
Facilitating factors for new competition	Dissatisfaction among players re financial incentives. Lack of security and career paths for players. Influential individuals used to sway players (e.g. English captain). Governing body (ICC) secure in their role and did not anticipate threat.	Dissatisfaction among players re financial incentives. Lack of security for clubs and therefore players. Influential individuals used to sway players (e.g. coaches). Governing bodies (NSWRL and ARL) secure in their role and did not anticipate threat.
Basis of legal challenge to 'establishment'	Restraint of trade. Breach of contract.	Restraint of trade.
Outcomes	Successful establishment of WSC for two years, followed by compromise with authorities. Nature of cricket changed permanently.	Successful establishment of Super League initially followed by compromise with authorities.

ning (Miller and Toulouse, 1998), with a subsequent reduction in awareness of and increasing vulnerability to environmental change (Milliken, 1987). The ability of firms to develop effective environmental sensing mechanisms and consider an array of explanations and strategies are well recognized as important capabilities in dynamic environments. The Super League saga in Australia clearly suggests that they may also be important in seemingly stable environments.

Kerry Packer was, however, arguably the catalyst for the change to the face of cricket, and the instigator of associated strategies revolving around the sports-TV

nexus. It is unclear from the legal judgments and print media when Packer became aware of the Super League threat prior to the 6 February 1995 meeting. His apparently late involvement in the Super League saga, despite his possession of valuable stocks of knowledge, can in part be explained by the nature of the alliance between the ARL/NSWRL and Channel Nine/Optus Vision. Channel Nine/Optus Vision was not, unlike News, a rugby league competition organizer. Furthermore, the *objectives* of the alliance partners were also different. While the ARL arguably wanted to preserve their historic competition, including its monopoly status as the only national rugby league, the Channel Nine/Optus Vision partners ultimately desired viewers for their pay-TV and terrestrial operations. These potentially divergent objectives in part explain the 19 November 1995 deal reportedly reached between Murdoch and Packer that resulted in the free-to-air television rights for Super League being awarded to Channel Nine, although it did not appear to eventuate (*AAP Newsfeed*, 1997).

CONCLUSIONS

Reflection on the emergence of the Super League threat in Australia offers a number of insights, some of which are specific to the Australian context. The case provides a caution against unfettered generalizations from the large triad countries of Europe, the USA and Japan to wider populations. While similarities in the dynamics of the global sports-commerce-media nexus exist across regions of the world, individual country differences can produce very different management strategies and outcomes. This case has highlighted the enduring importance of country differences such as domestic market size and national government policy variations in explaining differences in management outcomes. Specifically, the inability of dual leagues to coexist in the case of rugby league in Australia *vis-à-vis*, for example, the existence of dual baseball leagues in the USA can be attributed, at least in large part, to antitrust exemption for this sport in the USA and their favourable domestic market size. There are, nonetheless, a number of aspects of the case that hold implications for strategic management across a range of industries and regions, including those relating to the accurate identification and management of those resources that underpin competitive advantage.

The value of any resource is a function of the utility of the services it yields over time and its scarcity. While a resource may possess many of the characteristics typically embodied by a valuable resource (e.g. rarity, inimitability and non-substitutability), these characteristics alone are not always sufficient to confer value. Changing conditions in the environment or even strategies undertaken by those actually in possession of the resource may cause decay in the value of that resource or one's ability to manage it effectively, at times unwittingly. The impact of broad environmental changes, such as the increasing commercialization of professional sports leagues, was clearly evidenced in the declining value of historic bonds of loyalty and unity among the NSWRL and its clubs. Furthermore, the structural changes in the relationship between the ARL, the clubs and their players, and changes in player contracts led to rigidities in the management of key resources. Clearly, responses to environmental pressures may require not only a reassessment of the manner in which the resource is managed, but perhaps a timely *redefinition* of key resources.

Where human resources are key, as is so obviously the case with professional sports teams, consideration of the psychological contracting between the various parties may provide a valuable frame for analysis. Guest (1998a) notes that an important question to be addressed in research on psychological contracts is whether the content of the psychological contract changes as the relationship develops. If so, the question of how changes in what an employee seeks and what the employer offers are accommodated in the contract becomes central. The story of the Super League saga in Australia provides one clear illustration of asymmetric changes in psychological contracts over time, with significant consequences for competitive strategy. Identification of the key dimensions of this psychological contract is likely to be a challenging, yet fruitful, line of inquiry. In light of the wealth of archival information and ongoing events in the sports—media nexus in Europe and North America in particular, as well as this recent Australian example, professional sporting leagues are an attractive avenue for exploring these issues more deeply.

The Super League saga also holds lessons for global alliance management. For the effective implementation of global strategies, the need to achieve integration of value chain activities through the capture of advantages in the one country, that are then applied into others, is often emphasized (Bartlett and Ghoshal, 1988; Hamel and Prahalad, 1985; Prahalad and Doz, 1987). With the creation of Super League, rugby league in Australia had become part of a global media industry in which national teams and leagues provided the programme content for transnational media broadcasting networks. A characteristic of global industries is that competitive positioning in one country is affected by competitive positioning in another (Porter, 1980). The relative market dominance (and competitive positions) of each national rugby league affected the overall value of these leagues to a broadcast network. The popularity and long term viability of each national league was to a large extent contingent on their meeting in transnational competitions, televised worldwide. Importantly, the Super League saga highlights the often overlooked fact that the success of global strategies is often contingent upon effective management of *highly localized* tangible and intangible resources that may, through alliance structures, be only partially under one's control.

While a compromise was ultimately reached between the warring parties in the Super League saga, the analysis here of the rugby league battle in Australia and comparable incidents overseas illustrates the point that team sports are no longer simply a useful analogy for business — they are *big* business. The Super League saga in Australia adds to the predominantly North American and European evidence of the sports—media nexus in the professional team sports markets for competitions. The commercial value of these markets for competitions incites extreme rivalrous behaviours that can promote the quest for monopolistic positioning. Monopolistic tendencies of sports leagues develop from the network effect that enhances the 'rugby league product' value as an increasing number of persons (spectators) consume it. A cycle of increasing returns thus eventuates (Hill, 1998; Shapiro and Varian, 1998), in which the appeal of increased spectatorship to sponsors, merchandisers and broadcasters leads to an array of complementary products and services that further fuel spectatorship. The changing value-added structure of the professional team sports industry through increased revenue generation from broadcasting, sponsorships and merchandising alongside higher payments to players was thus given new momentum in Australia with the advent of

Pay TV. Despite its earlier emergence in the USA and Europe, the relative newness of Pay TV to the Australian environment in 1995 may provide part of the explanation as to why the ARL and NSWRL had not anticipated the potential threat posed by an alternative league and erected stronger barriers to entry. The long term monopoly of the ARL and NSWRL as competition organizers in the rugby league competitions market in Australia and the subsequent perception of environmental stability and predictability, also appears to have impeded effective environmental scanning and perhaps fostered strategic simplicity. The Super League saga in Australia may well serve as a cautionary tale to dominant firms in seemingly stable markets not yet exposed to some of the newer technologies and the competitive opportunities and risks these technologies afford.

NOTES

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- [1] Chrichton, S. (1996). 'Rugby league's battle for couch potatoes'. *The Evening Post (Wellington)*, Section: Features; Opinion, 12 October, 4.
- [2] In 1985, the NSWRL entered into a merchandising and publishing agreement with News Publishing Australia, also a company associated with News.
- [3] Woods, M. (1996). 'Murdoch's upstart rugby league fouls out'. *Variety*, World View Section, 18–24 March, 44.
- [4] The trial judge was critical of the tactics employed by News in relation to its dealings with the NSWRL and ARL, concluding (at 470–471) for example, that 'the secrecy, deceit and suddenness that were intended to be the hallmarks of this assault upon the League are apparent at every turn in the evidence'. While the business ethics of the various parties involved may be an interesting issue to pursue, and drew some attention in the media (e.g. Welland, 1996), they are not under consideration in this paper.
- [5] Stephens, T. (1996). 'Stunning turnaround sends old ARL warhorses reeling'. *Sydney Morning Herald*, 5 October, 11.
- [6] Section 1 of the *Anti-trust Act (Sherman Act)* 1890 in the United States and arts 85 and 86 of the *Treaty Establishing the European Community* 1957 also deal with the illegality of collective boycotts. See McInerney (1997) for an analysis of the outcome of the Super League litigation under the TP Act in comparison to these two bodies of law.
- [7] *Adamson v New South Wales Rugby League Limited* (1991) 31 FCR 242 (FCA/FC). The draft system required players out of contract with their clubs to submit themselves to the draft, specifying the terms under which they would agree to be engaged by a club. Clubs were provided with draft choices, in reverse order to their position on the ladder in the previous season. The player was obliged to accept employment with the first club requiring his services and prepared to meet his terms.
- [8] Although major league baseball has two leagues – the American League and the National League – they may in fact be considered a single entity as both are encompassed by the corporate entity Major League Baseball (MLB) (Whitford, 1995).
- [9] Fans do not consider minor leagues or college programmes as substitutable for the major league competition (Ross, 1991).
- [10] The operation of interleague competitions, such as the World Series (since 1903) and the interleague competition (since 1997), adds to the revenues and popularity of the

sport. These competitions require compatibility in standards, such as rules, which is substantially achieved through the bodies governing the AL and NL or specific agreements. For example, in both inter-league competitions, the designated hitter rule was used in all AL ballparks, but not NL stadiums. It is, however, ultimately the cartel-like agreements which ensure the survival of two leagues and negates destructive competition, rather than the compatibility of standards.

- [11] These received antitrust exemption when the US Congress in 1961 passed the Sports Television Act (amended 1966), thereby allowing the collusive negotiation of broadcast rights.
- [12] Of course, one cannot preclude the possibility that this was simply the 'rhetoric' of a leader.
- [13] The terms 'social constructionism' and 'constructivist' are, at times, confused in the literature. Social constructionism, as employed here, refers to an epistemology, whereas constructivism is a theoretical perspective underpinned by a subjectivist epistemology (see Crotty, 1998).

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