

Summary of Legal Rights of Tag League Players when excluded or threatened with exclusion from other sports.

Where a business exerts market power to negatively affect the supply of services and more broadly the, choices available to a consumer or (in this case) Tag League player, the affected individual can seek to enforce personal legal rights and remedies in relation to the following laws:

1. Misleading and deceptive conduct

Under s.18 of Schedule 2 of the *Competition and Consumer Act 2010* (Cth) ('CCA'), known as the Australian Consumer Law ('ACL') a person must not, in trade or commerce, engage in conduct that is misleading or deceptive or is likely to mislead or deceive. Entities engaged in trade or commerce would need to comply with this obligation in relation to the market more generally, including with regard to suppliers and competitors, especially if the misleading and deceptive conduct is directed towards consumers. If comments being communicated, broadcast, or otherwise published by a Competitor against Tag League to others, such as individuals consuming or paying for/using the services offered by both parties, then it would be arguable that this action by an offending entity is misleading and deceptive and in breach of s.18 of the ACL.

2. Anti-competitive behaviour

As regulated by the ACCC under the CCA and ACL, certain business practices that limit or prevent competition are against the law. These laws include:

a. Exclusive Dealing - s.47 of the CCA relevantly states:

Subject to this section, a corporation shall not, in trade or commerce, engage in the practice of exclusive dealing. Broadly speaking, exclusive dealing occurs when one person trading with another imposes some restrictions on the other's freedom to choose with whom, in what, or where they deal. Where a supplier limits or forces the consumer to only partake of the services, at a competitor's loss (of that consumer's business/patronage), those restrictions on the consumer's freedom with whom they deal could be characterized as anti-competitive behaviour, with the offending entity in breach of s.47 of the CCA.

b. Unconscionable Conduct - s.20 of the ACL states:

A person must not, in trade or commerce, engage in conduct that is unconscionable, within the meaning of the unwritten law. Generally speaking, conduct may be unconscionable if it is particularly harsh or oppressive. To be considered unconscionable, conduct it must be more than simply unfair—it must be against conscience as judged against the norms of society. Business behaviour may be deemed unconscionable if it is particularly harsh or oppressive, and



is beyond hard commercial bargaining. For example, Australian courts have found transactions or dealings to be ‘unconscionable’ when they are deliberate, involve serious misconduct or involve conduct that is clearly unfair and unreasonable. If characterised as particularly harsh or oppressive conduct by an entity against Tag League, and that behaviour also directly affects the consumer or player, that behaviour may be deemed as unconscionable and thus in breach of s.20 of the ACL.

3. Human Right to Freedom of Association

The right to freedom of association protects the right to group together voluntarily for a common goal and to form and join an association. Examples include sporting clubs, political parties, professional clubs, non-governmental organisations and trade unions. This right is enshrined under articles 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR) and article 8(1)(a) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), and also article 15 of the Convention on the Rights of the Child (CRC). The right to freedom of association is also relevant to article 1 of the ICCPR, the right to self-determination. Examples of conduct and behaviour that infringes the right to freedom of association includes that which:

- prohibits or creates disincentives for membership of particular organisations;
- regulates membership of groups or associations;
- requires a person to disclose membership of a group or association;
- or
- treats people differently on the basis of their membership of a group or association

Where an entity engages in and employs such conduct, they could be said to be in breach of this basic human right. In Australia, human rights are protected and enforced at a State and Federal level.

The Tag League Association will assist anyone who feels their legal rights have been violated and have a genuine complaint.

If you have any questions or wish to make a complaint, please send an email to: manager@tagleague.com.au

