

## Reconfiguring Media Sport for the Online World: An Inquiry Into “Sports News and Digital Media”

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This article examines a pioneering intervention by government in the control and ownership of media sport under prevailing networked digital media conditions. The 2009 Australian Senate Inquiry into “Sports News and the Emergence of Digital Media” provided a political forum for debate among 44 participants, including the International Olympic Committee (IOC) and the World Association of Newspapers. The participation of these and other international organizations demonstrated that this national inquiry was of global significance in regulatory and commercial debates over how the “media sport content economy” might operate in the digital age. Our analysis focuses on the causes of the disagreements that prompted the Inquiry, which demonstrated that emerging media sport markets are characterized by complex interaction, tense competition, and awkward overlaps between broadcast media and networked digital communications. This situation has disturbed the established media sport order and destabilized pivotal organizing categories, including the definition of “sports news.”

*All sporting bodies from FIFA to the English Premier League, PGA [Professional Golfers Association] and LPGA [Ladies Professional Golf Association] are going to be analysing this [inquiry] very carefully. (Canning, 2009)*

In 2009, Australia hosted the world’s first formal political inquiry into the operation of online digital media sport and news reporting. The Parliament of Australia Senate Standing Committee on Environment, Communications and the Arts Inquiry into “The Reporting of Sports News and the Emergence of Digital Media” and its subsequent report (Parliament of Australia, 2009) followed a series of protracted disputes between sports organizations, and news media companies and agencies. These conflicts involved powerful sporting codes and had a significant impact on major national and international events. Examples here included the hosting of almost every Test cricket series played in Australia between 2005 and 2009, high-profile Australian Football League (AFL) fixtures, as well as court action over the replaying of rugby league and Australian rules football highlights on the Fox Sports Web site ([www.foxsports.com.au](http://www.foxsports.com.au)) and YouTube. News coverage of sports events had been affected directly by journalist lockouts from venues and retaliatory boycotts by journalists and news organizations (AIPS, 2009; Linden, 2009; Magnay, 2006; Oakes, 2009; Webster, Murray, & Jackson, 2007). While the Inquiry addressed Australian media and sport

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Date submitted: 2010-02-17

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relations, the right to reproduce digital images on news Web sites and mobile platforms has also been the subject of fierce contestation at recent (and pending) mega-events, such as the Football, Cricket and Rugby World Cups (Sparre, 2007; Associated Press, 2009; Menary, 2010). The disagreements in Australia were of such intensity that the now governing Australian Labor Party (ALP) made a pre-federal election promise that a formal inquiry would be held to examine the issues at the heart of these expensive and time-consuming skirmishes (Davies, 2009), with the Senate Committee beginning work in February 2009.

The opening statement above, offered by a sports media analyst, indicates that the problems confronting committee members are experienced throughout elite-level professional sport worldwide. The hegemonic control over popular sport content once exercised by highly capitalized broadcasters is under challenge from online operators, Web sites, and digital media. This shift is threatening long-established revenue streams, disrupting once relatively stable institutional relations between sports leagues and media organizations, and undermining existing market regulatory structures and media policies (Hutchins & Rowe, 2009a, 2009b). These factors reflect deep market uncertainty triggered by changing audience behavior, new on-demand and live digital content provision services and mechanisms. In outlining the broader setting in which the Inquiry unfolded, Table 1 summarizes the challenges faced by media sport institutions and actors.

**Table 1. Examples of the Challenges Faced by Media Sport Institutions and Actors.**

<b>Sports Organizations</b>	<b>Broadcasters</b>	<b>News Media Outlets</b>	<b>Telecommunications, Digital and Mobile Media Companies</b>	<b>Fans and Users</b>
<ul style="list-style-type: none"> <li>▪ Maintain or improve the value of broadcast rights, contracts.</li> <li>▪ Deal with the potential devaluing of broadcast rights by online media.</li> <li>▪ Establish alternative business models and strategies designed for online media, and develop their own broadcast and online media production.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Establish complementary and attractive online sites and distribution points for viewers.</li> <li>▪ Compete with new market entrants, including tele-communications providers.</li> <li>▪ Adjust to an altered advertising market</li> <li>▪ Circumvent or prevent online piracy and</li> </ul>	<ul style="list-style-type: none"> <li>▪ Establish viable business models that identify profitable linkages between print and/or broadcast and online media.</li> <li>▪ Compete with or limit the activities of online content aggregators</li> <li>▪ Deal with changing viewer, listener, and</li> </ul>	<ul style="list-style-type: none"> <li>▪ Break the stranglehold of broadcasters over coverage rights to popular sports.</li> <li>▪ Establish profitable business models for online sport.</li> <li>▪ Obtain and package reliable "premium content" to attract users.</li> <li>▪ Cope with regulatory uncertainty in a fast-changing communications environment.</li> <li>▪ Consistently profit in an aggressively competitive and</li> </ul>	<ul style="list-style-type: none"> <li>▪ Access quality sports news and information in the face of plentiful online choice.</li> <li>▪ Decide which sites, voices and sources can be "trusted" to provide accurate, timely, and reliable content.</li> <li>▪ Deal with increased expectations of "pay for view or access" online.</li> <li>▪ Decide how to access sport content (e.g., online and/or broadcast</li> </ul>

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|--|---|--|-------------------------|---|
| <ul style="list-style-type: none"> <li>▪ Circumvent or prevent online piracy and unauthorized content reproduction.</li> <li>▪ Accommodate online feedback, criticism, and content reproduction by fans and consumers.</li> <li>▪ For minor sports, explore opportunities for exposure and revenue generation through the Internet.</li> </ul> | <p>unauthorized content reproduction.</p> <ul style="list-style-type: none"> <li>▪ Accommodate online feedback, criticism and content reproduction by fans and consumers.</li> <li>▪ Deal with regulatory uncertainty in a fast-changing communications environment.</li> </ul> | <p>reader habits and practices.</p> <ul style="list-style-type: none"> <li>▪ Confront new online competitors for users and “eyeballs,” including “official” sports Web portals.</li> <li>▪ Adjust to an altered advertising market.</li> </ul> | <p>emerging market.</p> | <p>and/or print), as well as how much and how often in a “24/7” media environment.</p> <ul style="list-style-type: none"> <li>▪ Choose whether to pay, or try to access (perhaps illegally) sports content for free.</li> <li>▪ Decide whether to exercise the ability to create fan-produced or modified content.</li> </ul> |
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In the light of these broad sectoral problems, the concrete differences between “old” media, such as print, television, and radio, and “new” online media, were presented in a written submission to the Inquiry (Cricket Australia, 2009):

- Digital media are available 24 hours, seven days per week (unlike live-to-air broadcast platforms).
- Platforms and applications are constantly evolving.
- New technologies are being developed every day.
- Time offers no bounds.
- Geographical reach and storage capacity are unlimited.
- The public can access with ease.
- Updating of material is possible at any time and as often as desired.
- Aggregation of material is easy and possible by anyone, not just “news” organizations.

This list serves to explain why new “players” — telecommunications, mobile and digital media companies — have been able to emerge and operate in the media sport market (Hutchins & Rowe, 2009c). A key point here is that the list was presented by a prominent sports organization as an unwelcome threat to its established media operations and profitability, which contrasts markedly with how networked digital media are claimed to have empowered an energetic, rich, and politically complex “participatory media culture” amongst fans in other areas of popular culture, like film, television, music, and story-telling (Andrejevic, 2008; Bruns, 2008; Jenkins, 2006a; Ross, 2008). Sport now stands

alongside these other sites of cultural production in having to adapt to a changing communications environment. It is the pressure of adapting quickly and effectively that helped prompt the Inquiry, with sports bemoaning the ease with which broadcast footage can be reproduced, modified, and retransmitted digitally without permission via the Internet.

The conflict arising out of the transition from print-analogue to convergent-digital media communications systems — and the realignment of the commercial and legal relationships related to these systems — are the subjects of this article. The conditions detailed in Table 1 and the specific disputes that preceded the Inquiry are indicative of emergent media and market conditions that are changing the ways in which media sport (Wenner, 1998) is produced, transmitted, consumed, and understood. These conditions, in turn, reflect the changing operation of the “media sports cultural complex,” a concept that describes the relationship between sports media and the prevailing cultural formations of which they are an important part (Rowe, 2004). Here, we focus on the regulatory and commercial dimensions of the historically naturalized relationships among broadcast television networks, commercial media, and professional spectator sports. These have developed over the past four decades, but are presently destabilized by the expansion of digital networked communications, particularly broadband Internet and wireless mobile communications. Just as the Internet provided the communications architecture enabling the disruption and reorganization of the global musical economy (Leyshon, Webb, French, Thrift, & Crewe, 2005), the “media sport content economy” (Hutchins & Rowe, 2009a) is undergoing a parallel transformation. This process is the source of substantial discord among sports organizations, media companies, news providers, and telecommunications operators. Contentious issues subject to debate include who owns footage, images, and information; whether and/or how they are able to retransmit these materials; and the degree to which exclusive control over coverage rights can be protected. Industry responses to these matters are attempting to mitigate risks to once reliable income streams for sports organizations and news producers, thereby leading to an identified need for the Inquiry. These risks are posed by a fragmented online “attention economy” (Lanham, 2006) that sees broadcast and print news consumption increasingly supplemented and/or replaced by online sources, including leading content aggregators such as Google. As will be shown, news companies and sports organizations are also now competing directly, a situation complicated further by the emergence of telecommunications operators that are using their commercial power to deliver sports footage to fans via online and mobile platforms.

The Inquiry is an original response to the ongoing struggle for ownership and control of digital media content; a struggle so vigorous that it became manifest as a formal national political forum. In economic terms, communications innovation has created disequilibrium in media sport market relations (cf. Latzer, 2009), with the Senate Committee’s intervention an attempt to restore a more stable alignment between the interests of sports and news media organizations. An emphasis on restoring stability (or, more exactly, “equilibrium”) is demonstrated by the repeated use of the word *balance* in the Committee’s Terms of Reference:<sup>1</sup>

- a. The balance of commercial and public interests in the reporting and broadcasting of sports news;

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<sup>1</sup> See [http://www.aph.gov.au/Senate/committee/eca\\_ctte/sports\\_news/tor.htm](http://www.aph.gov.au/Senate/committee/eca_ctte/sports_news/tor.htm)

- b. the nature of sports news reporting in the digital age, and the effect of new technologies (including video streaming on the Internet, archived photo galleries, and mobile devices) on the nature of sports news reporting;
- c. whether and why sporting organizations want digital reporting of sports regulated, and what should be protected by such regulation;
- d. the appropriate balance between sporting and media organizations' respective commercial interests in the issue;
- e. the appropriate balance between regulation and commercial negotiation in ensuring that competing organizations get fair access to sporting events for reporting purposes;
- f. the appropriate balance between the public's right to access alternative sources of information using new types of digital media, and the rights of sporting organizations to control or limit access to ensure a fair commercial return or for other reasons;
- g. should sporting organizations be able to apply frequency limitations to news reports in the digital media;
- h. the current accreditation processes for journalists and media representatives at sporting events, and the use of accreditation for controlling reporting on events; and
- i. options other than regulation or commercial negotiation (such as industry guidelines for sports and news agencies in sports reporting, dispute resolution mechanisms, and codes of practice) to manage sports news to balance commercial interests and public interests.

While this was the first inquiry of its type internationally, it is not entirely surprising that a government in a country where sport is central to its national culture (Cashman, 1987, 1995) should convene a parliamentary committee to investigate the operation of its digital media sport market. Sport is, according to the Australian Competition and Consumer Commission (ACCC), one of only two examples of "compelling content" online alongside movies (ACCC, 2006, p. 18) and is monitored closely by this national regulatory authority in terms of how content is controlled and owned. Similarly, Rupert Murdoch, the world's most powerful broadcast sport proprietor, has stated unequivocally that "sport absolutely overpowers film and everything else in the entertainment genre" (quoted in Eckersley & Benton, 2002, p. 20). These opinions help to explain why so many media and sports organizations participated in the Inquiry (see Table 2), each jockeying for position in a convergent media sport marketplace.

Our empirical analysis is based upon attendance, observation, and note taking at the four days of Senate hearings held in Canberra, Sydney, and Melbourne (during which 49 people were interviewed by the Committee), the Inquiry's 44 written submissions, the Committee Proof Hansard of hearings, and the Senate Committee's final report (Parliament of Australia, 2009). As part of an Australian Research

Council-funded project (2008-2010)<sup>2</sup> investigating popular sport media content and practices online, this article proposes that this national Inquiry is a pioneering political intervention in the political economy of media and sport.

**Table 2. Submissions to the Senate Standing Committee Inquiry into "The Reporting of Sports News and the Emergence of Digital Media" (Total: 44).**

News Media Companies, Agencies and Corporations (12)	Agence France-Presse (AFP), Associated Press (AP), Australian Associated Press (AAP), Australian Broadcasting Corporation (ABC), Getty Images, Fairfax Media, News Limited, Premier Media Group (PMG), Reuters News, Special Broadcasting Service (SBS), Sports Media Publishing (SMP), West Australian Newspapers
Sports Organizations (11)	Australian Football League (AFL), Australian Racing Board, Cricket Australia, International Cricket Council (ICC), International Olympic Committee (IOC), National Rugby League (NRL), Softball Australia, Newcastle Knights Rugby League club, Racing Victoria, Tennis Australia, Victoria Racing Club (VRC)
News Media Associations and Representative Bodies (7)	Australian Press Council, Australian Subscription Television and Radio Association (ASTRA), Free TV Australia, News Media Coalition (NMC), Pacific Area Newspaper Publishers' Association (PANPA), South African National Editors' Forum (SANEF), World Association of Newspapers (WAN)
Telecommunications and Digital Media Companies (4)	Hutchison Telecoms, Optus, Yahoo!7, ninemsn
Sports Industry Bodies and Associations (4)	Coalition of Major Professional Sports (COMPS), Australian Athletes Alliance (AAA), Australian and New Zealand Sports Law Association (ANZLA), Australian Womensport and Recreation Association
Government Departments /Agencies (2)	Australian Sports Commission (ASC), Department of Health and Ageing
Individuals (2)	Dr. Kayt Davies (Edith Cowan University), Mr. David Smith (Edith Cowan University)
Other (2)	Confidential submission, Lander & Rogers Lawyers

\* Table reproduced from Hutchins & Rowe, 2009b.

<sup>2</sup> DP0877777: ARC Discovery Grant, "Struggling for Possession: The Control and Use of Online Media Sport."

### The Changing Structure of Market Competition

The organizations and individuals listed in Table 2 highlight the wide range of entities involved in the production, dissemination, regulation, and consumption of media sport and news. For the analytical purposes of this article, the categories in this table can be further condensed to: (a) news media companies and related industry bodies; (b) sports organizations and associations; and (c) telecommunications, digital and mobile media companies. The animosity between the first two groups is discussed in the next section, followed by the growth and operation of the third group, with particular attention paid to the growing commercial power of online and mobile content providers. Discussion focuses specifically on the changing structure of market competition following the emergence of convergent media technologies and, in broader terms, of a "convergence culture" (Jenkins, 2006a, 2006b).<sup>3</sup> These concerns and the stories of the particular disagreements attached to them are selected because of their relationship to the structural changes occurring within the media industries due to communications technology innovation and new patterns of online media and mobile technology use by fans and audiences. These changes are stimulating disruption, experimentation, adjustment, and unexpected outcomes across a range of sports and contexts that require close, systematic analysis (see Boyle & Haynes, 2004; Haynes, 2004; Hutchins & Mikosza, 2010; Hutchins, Rowe & Ruddock, 2009; Poor, 2006; Ruddock, Rowe & Hutchins, 2010; Sanderson, 2009; Scherer, 2007; *Sociology of Sport Journal*, 2009).

#### *The Increasing Rivalry Between Sports Organizations and News Companies*

The Australian media environment is different from any other in the world. It is more aggressive. . . . It is a very small media environment, it is an aggressive media environment, it is a very strong media environment and it pushes the boundaries. If you want to take the Olympic Games, generally we have more trouble with the Australian media than we do with all other media in the world put together. . . . In saying that, that does not mean it is a problem for us; it is that they push the boundaries. (Anthony Edgar, IOC, Proof Committee Hansard, April 29, 2009, p. 6)

Edgar, head of media operations for the IOC and one-time News Limited (an arm of News Corporation, the world's most prominent media sport corporation headed by the aforementioned Rupert Murdoch) employee, is describing the aggression that characterizes the Australian media sector. News media are prepared to "push the boundaries" in the pursuit of stories, footage, and audiences in an extremely competitive, but comparatively small market. The uses, limits, and profitability of digital communications technologies are a pivotal part of this contest, which has been intensified by the recent entry of sports organizations into the market for online sports information, news, and advertising. Sport-specific coverage and commentary is, for instance, available through the official sites of the National Rugby League ([www.nrl.com](http://www.nrl.com)), Australian Football League ([www.afl.com.au](http://www.afl.com.au)), and Cricket Australia

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<sup>3</sup> Matters related to intellectual property covered by the Inquiry are discussed in an earlier article (Hutchins & Rowe, 2009b).

([www.cricket.com.au](http://www.cricket.com.au)). In the international sphere, the National Football League ([www.nfl.com](http://www.nfl.com)), Major League Baseball ([www.mlb.com](http://www.mlb.com)), National Association for Stock Car Racing ([www.nascar.com](http://www.nascar.com)), and elite football clubs, such as FC Barcelona ([www.fcbarcelona.com](http://www.fcbarcelona.com)) and Manchester United ([www.manutd.com](http://www.manutd.com)), represent some of the most advanced examples of this trend, distributing specialist and professionally produced audio-visual and text-based news and information. Faced by potential threats to broadcast rights income caused by the Internet and Web fragmenting their audiences, sports leagues are investing heavily in the production, control, and distribution of their own online content, either independently or by outsourcing Internet and/or mobile rights to a telecommunications operator.

The developments outlined here signal an historic shift away from the longstanding focus of governing sports organizations on the administration of competition and management of media rights and sponsorships. Sports are increasingly media content providers in their own right, with sports and news Web sites now competing against each other directly for both users and advertising under circumstances where both are proving difficult consistently and profitably to monetize. In combination with an already combative Australian media market, this burgeoning competition helps to explain the antagonism between sports and news organizations during the Inquiry. The Group Editorial Director for News Limited, Campbell Reid, described this competition during his opening address to the Committee and after questioning:

. . . actually, what appears to be going on here is that sporting bodies want to act as news providers themselves, so they want to restrict competition by limiting the existing news providers. There is nothing to stop sports bodies becoming media organisations that produce and distribute their own content — in fact, in the digital age the barriers to entry are low, and they are doing it already. (Proof Committee Hansard, April 16, 2009, p. 48)

If the sports organisations wish to compete as media organisations and suppliers, they are not coming from a backward position in this. In the past they would have had to buy a printing press, but now they simply have to have a Web site. (Proof Committee Hansard, April 16, 2009, p. 51)

That sports organizations are competing online with news companies was confirmed during the appearance before the Committee of the Confederation of Major Professional Sports (COMPS)<sup>4</sup>:

*Chair.* Is it not a little disingenuous to say that you are not setting yourselves up in competition against media organisations by having your own Web sites that we all have programmed into our PDAs or whatever?

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<sup>4</sup> Members of COMPS regard themselves as “the custodians of the nation’s major professional sports” (COMPS, 2009, p. 1). Formed in 2005, members of this coalition are the AFL, National Rugby League (NRL), Australian Rugby League (ARL), Cricket Australia, Australian Rugby Union (ARU), Football Federation Australia (FFA), Professional Golfers Association (PGA), and Tennis Australia. Despite keeping a low public and media profile, COMPS is arguably Australia’s most powerful and (collectively) wealthy sports lobby group.

*Mr. McLachlan.* I did not say we were not competing with them in the online space. There is no doubt about that. Your comment was that we were aspiring to be a media company. In this space we do compete. There is no doubt about that. (Proof Committee Hansard, April 15, 2009, p. 25)

Nielsen//NetRatings (2008) data verify the change illustrated by these comments. Over the 12 months of 2008, the NRL and AFL Web sites were ranked third and fourth, respectively, in the top five most popular sports sites in Australia.<sup>5</sup> The other three sites in the top five were news Web sites run by media companies — Fox Sports ([www.foxsports.com.au](http://www.foxsports.com.au)), the *Herald-Sun's* Super Footy ([www.news.com.au/heraldsun/sport/afl](http://www.news.com.au/heraldsun/sport/afl)) and ninemsn's Wide World of Sports ([wwos.ninemsn.com.au](http://wwos.ninemsn.com.au)) — showing clearly that sports and news Web sites are in competition.

In seeking to attract as many users as possible to their sites, sports organizations were accused by media organizations of unfairly restricting the online activities of the news media and journalists and, in the process, attempting to dictate the shape, content, and even definition of news. The main point of disagreement here was over the right of news Web sites to show “live” score updates and audio-visual highlights of sporting fixtures, including the features and length of these highlights. Many of the major sports organizations, including COMPS and the AFL, claimed that the presentation of this sports content was not, in fact, news reporting but an “entertainment offering” that is unfairly and “directly monetised by news organisations” (Proof Committee Hansard, April 15, 2009, pp. 15, 33), and so undercutting “the value drivers” of broadcast rights (Proof Committee Hansard, April 15, 2009, p. 20). In opposition, news organizations claimed that they were doing nothing more than responding to sociotechnical transformation. It was argued that the presentation of digital news, including moving and still images, is a product of technological evolution, with audiences having grown accustomed to 24/7 on-demand content. A failure to adjust to changing audience habits, such as accessing “breaking” sports news, regular score updates, image archives, and highlights packages online, would, they claim, be impractical and commercially counterproductive:

News happens with a timing that cannot be predicted. A facet of digital media is its ability to break news. Publishers can see from user surveys and usage patterns that the key demand of users of news Web sites is “breaking news” — provided by RSS feeds, e-mail alerts, Twitter, dynamically loaded web pages and so on. These can be delivered either to the traditional web environment or to the mobile platform.

Delivering news in this way has quickly gone beyond a technical capability. The expectations of the Australian public have been reframed, as they relate to how our citizens wish to consume news. (Pacific Area Newspaper Publishers' Association [PANPA], 2009, p. 13)

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<sup>5</sup> Measured across five metrics: average daily unique browsers, total time, average session duration, page impressions, and total sessions.

Such disputes are difficult to resolve, given that both news companies and sports are responding to the same changes in communications technology and audience behavior. They find themselves moving from a previously stable commercial or strategic partnership model to one based on direct competition in the presentation of media sport. This debate also touches upon an important and slippery issue — the definition of “news.”

The character and definition of news or journalism was raised in 14 separate interviews with the Senators. What was at stake on this occasion goes well beyond legislative or regulatory matters to the question of how news is understood culturally, socially, and professionally at a time of rapid technological expansion and changing media practices. In other words, this Inquiry was a politically sponsored exchange over the features and availability of sports news and journalism in “the network society” (Castells, 2000). A contradiction emerged over the course of the hearings. News companies were justifiably opposed to sports or anyone else wanting to control the form that news should take online, while also refusing to offer an opposing operationalization or set of guidelines to characterize news, except in the most general of terms:

By definition, news is something that people are interested in. The use by media groups of sports content is determined by the number of people who are interested in it. Indisputably, the definition of news includes the publication or broadcast of content that remains of interest to the general public regardless of how old that content is. (Campbell Reid, Proof Committee Hansard, April 16, 2009, p. 48)

I suppose this very much comes down to your definition of news. There is almost no definition of news, in the sense that, if you go into a newsagent on any given day and look at the front pages, every single newspaper pretty much is going to be different. It will certainly express its headline differently. And therefore its emphasis and its judgment on news are different even between the publishers themselves. So I think that it is very difficult to be prescriptive about what is or is not news. (Mark Hollands, Chief Executive Officer, PANPA, Proof Committee Hansard, April 16, 2009, p. 61)

Observation of speakers representing commercial media companies indicated that news is a highly subjective category, consisting more or less of “whatever we are doing now and what we will want to do in the future.” This is a problematic position, reflecting an arguably deliberate ambiguity maintained by journalists, editors, and news directors who are claiming to act in “the public interest” (Davies, 2009; Morrison & Svennevig, 2002). As Davies (2009, p. 7) observes, missing from the statements offered to the Inquiry is any recognition of a categorical distinction between pandering to base “public curiosity,” and reporting news that serves a “social or civic good.” News producers are, in this instance, insisting on the right to report news, regardless of purpose and with no limitations placed upon the content or practices contained within this activity. It is this insistence that explains the agitation of sports organizations.

In the case of both groups, news is treated as a malleable category, reflecting the self interest and identity of the speakers. Sports are demanding a rigid, content-driven definition of news defined in terms of time, features, and repetition. This formulation effectively divorces the technical characteristics of

footage from any social and political function achieved by news, and ignores the fact that effective journalism requires flexibility when responding to changing social conditions, commercial considerations, and technologies (cf. Turner, 2005). Any social or cultural relevance achieved by online news reporting would, as formulated by sports organizations, be little more than a second-order effect of a prescribed media format. Seeking to reject this proposition, news companies advanced a case founded upon an appeal to the "public interest," but which was only articulated in vague terms. This vagueness is connected to a desire that no limits be placed upon online sport content format, length, and features. Despite their alternating specificity and ambiguity, both sets of responses are arguably the product of exactly the same pressure — content aggregation and reproduction that undercuts the market value of exclusive rights and control over media content (del Aguila-Obra, Padilla-Melendez, & Serarols-Tarres, 2007). Sports want certainty in terms of format rights to nullify the activities of external media sources that reproduce "their" sports footage. News companies are also fighting online content aggregators that summarize or reproduce their stories, thereby reducing their ability to attract advertisers and readers. In the words of Rupert Murdoch, the likes of Google News (and Yahoo! News and All Headline News) are akin to "kleptomaniacs" and "parasites" when they reproduce News Corporation stories on their Web pages (Johnson, 2009). In countering new online competitors for "eyeballs," news companies are reluctant to specify the format and content of news, needing flexibility to operate in new and experimental ways that can potentially attract additional audiences and advertisers via digital platforms.

This critical aspect of the Inquiry underscores the changing and multidimensional features of news and the challenge of categorically and dynamically explaining it. Tuchman's seminal *Making News* (1978, p. 31) reminds the reader that news is, among many things, a perishable product that must be renewed daily, a characteristic that is compounded by its irregularity and unpredictability — as in the professional concept of the "slow news day" (Tiffen, 1991, pp. 3, 15). Sport, therefore, is a valuable and keenly sought-after form of news content due to its routine nature, "live" narrative quality, reliable appeal to audiences, and centrality to national and global popular culture. The difference between the era when Tuchman published her study and the present day is that the sports "product" must be "refreshed" at least hourly, rather than daily, especially on weekends. The technological capacity of online communications and the prolific user uptake of broadband Internet and 3G mobile have catered to, and created demand for, up-to-the-moment sports news, scores, and highlights, thus placing intense pressure upon news outlets to deliver information as quickly and reliably as dedicated sports Web sites. News media have long used technology "primarily to compete against other news media" for commercial dominance (Gans, 1979, p. 80), with the competitive circle now having expanded to encompass sports organizations previously unable to compete in this market (Hutchins & Rowe, 2009a). To survive and prosper in this newly reorganized market space, news outlets must provide Internet users with access to quality visual footage, images, and stories, an activity which sees them "pushing the boundaries" when showing sports highlights.

Testimony and submissions to the Inquiry demonstrated that this is a time of pervasive uncertainty in terms of market relations and norms, legal and legislative determinations, and the conventions of digital news. The "fluidly complex conditions" (Allan, 2004, p. 4) under which news and journalism are produced presently bear the hallmark of "cultural chaos" (McNair, 2006) and confusion relating to the "mission" of the news media (Rowe, 2009). In this perplexing communications and

information setting, even news producers may reduce news to little more than material that they judge “people are interested in,” thereby offering the rather nebulous hope of profitability online if enough users access it and their attention can be monetized. In response to the matter of news conventions, the senators satisfied neither party, deciding that it is not the business of government to determine what constitutes news and, instead, observed blandly, “People’s definition of news is not static” (Parliament of Australia, 2009, p. 45). The Committee enunciated that instead of asking for government intervention, sports should pursue litigation if they believed that their rights are being infringed by news Web sites showing match highlights and live scores, which would help copyright law to “keep pace with technological developments” (Parliament of Australia, 2009, p. 49). Such legal action involves a potentially costly hazard — that the courts can make sense of the “chaos” within intellectual property law caused by the proliferation of digital media production, distribution, and consumption (Gillespie, 2007; deZwart, 2009). The next section examines a driving force behind this proliferation, which is the burgeoning role of telecommunications carriers and of digital and mobile media companies in the sphere of media sport.

*The Rise of Telecommunications, Digital and Mobile Media*

The participation of Hutchison Telecoms, Optus, Yahoo!7, and ninemsn<sup>6</sup> in the Inquiry demonstrates another important shift in the political economy of media sport, with telecommunications carriers and digital media companies increasingly influential operators. Their market entry and growth represent the first genuine challenge to the dominance of television broadcasters in the transmission of popular sports events in over 40 years (Rowe, 2010). Indicators of these altered market conditions are evident internationally (Boyle & Haynes, 2004) in such instances as France Telecom’s Orange purchase of Internet Protocol television (IPTV) and mobile rights to French Ligue 1 football, and Singtel acquiring the Internet rights for Italy’s top-tier domestic football league, Serie A (Ovum Analysts, 2008; *SportBusiness International*, 2008). Google, furthermore, recently signed a two-year global coverage deal to provide live and on-demand user access to every match played in Indian Premier League (IPL) cricket (Sinclair, 2010). In Australia, the largest national telecommunications carrier, Telstra, has been very active in obtaining exclusive online rights to popular domestic sports content (Hutchins & Rowe, 2009a), with these acquisitions forming part of a broader spectrum of “premium rate” industry strategies applying to convergent media (Goggin & Spurgeon, 2007). The financial strength of the telecommunications sector underlines the concern of broadcasters about these activities, particularly given the spread of IPTV and online streaming services. For example, Australian telecommunications carriers reported annual revenues of AU\$25.2 billion in the 2006–2007 financial year, approaching four times the AU\$6.9 billion annual revenue of broadcast and subscription television broadcasters (Productivity Commission, 2009). The Inquiry also demonstrated that, in addition to supplying much-desired income to sports organizations, carriers bring with them unexpected challenges in relation to managing coverage rights. A notable

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<sup>6</sup> Hutchison is a global telecommunications company based in Hong Kong and operating in multiple countries, including Vietnam, Israel, and Thailand. Hutchison merged recently with Vodafone in Australia and will operate under the name VHA. Optus is the second largest telecommunications company in Australia and is owned by Singapore Telecommunications or “Singtel.” Yahoo!7 is a partnership between Yahoo! and the Australian television broadcaster, the Seven Network. Ninemsn is a partnership between Microsoft and the Australian television broadcaster, the Nine Network.

outcome here saw Cricket Australia and its exclusive mobile content carrier, Hutchison Telecoms, directly contradict one another during the Inquiry, thereby signaling the uncertainty that characterizes the operation and understanding of networked digital media sport.

Cricket Australia's conduct in the area of news media accreditation was singled out for attention in the Senate Committee's report (Parliament of Australia, 2009, pp. 20–25). The legitimacy of the strict conditions placed upon journalists and news workers when covering international cricket fixtures was queried, with news agencies and organizations either refusing to sign agreements, requesting amendments to accreditation terms, or only reluctantly signing them. While the accreditation issue is not the primary focus of this article,<sup>7</sup> it does intersect with mobile communications and exclusive rights deals applying to this platform. As Cricket Australia has discovered, the growing value and complexity of mobile and wireless media poses awkward policy and commercial challenges and must take into account imminent and unrealized technological innovations that foster changing user practices (cf. Boyle, 2004; Castells, Fernandez-Ardevol, Qiu, & Sey, 2007; Goggin, 2006). Hutchison has sponsored the Australian Test cricket team since 2002, an arrangement that sees live footage and highlights of fixtures sourced from Channel Nine distributed to "3" logo-branded mobile devices and attached to Hutchison user plans. The "parcelling" of various media rights beyond the staples of television and radio to the new media of fixed Internet and mobile has, until recently, been viewed by sports leagues as a good opportunity for revenue raising. Splitting content for different media has enabled supplementation of existing broadcast revenue streams and the development of strategies for digital media distribution, albeit mostly based on the logic of enclosure. This logic situates networked digital media in much the same way as analogue broadcast, insisting that exclusivity should be guaranteed online, and proving inflexible in the face of convergent media technologies and practices. For example, the manager of media rights at Cricket Australia made a pointed comparison during the hearings between her sport's "exclusive arrangement with Hutchison" to those that it has with traditional broadcast media, Channel 9 and ABC radio (Proof Committee Hansard, April 15, 2009, p. 18). The experience of the past two years has defied the stance of Cricket Australia on this matter, especially with the expanding capacity of 3G mobile devices (like Apple's iPhone and the Blackberry) to access the Internet and perform many personal computing functions:

There can be some things that appear very new, such as mobile, for instance, that appear very distinct and different from other forms of new media, that after a short time really become part of the general landscape. The difference is mainly because of their newness and not because of the fact that, in the longer term, they have any real distinguishing factors. Anybody who has a Blackberry or a Windows mobile device will know that you can access virtually any internet sites using those devices. The fact that it is mobile is really incidental to the site; it is just another way of accessing it. (Dominic Young, Board Member, News Media Coalition, Proof Committee Hansard, April 15, 2009, p. 4)

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<sup>7</sup> Problems related to the accreditation of journalists at sport events are addressed by items (h) and (i) in the Inquiry's Terms of Reference (presented above) and in the Committee's final report (Parliament of Australia, 2009).

This explanation demonstrates that the once relatively fixed meaning of the term *Internet* is being confounded by a superabundant range of uses on multiple intersecting digital platforms (Green, 2008), both fixed and mobile, which then have flow-on effects upon market structures and social practices.

Other mobile carriers and online sources showing highlights of Test cricket are, in the opinion of Cricket Australia, eroding the value of their exclusive coverage arrangement with Hutchison. This devaluation occurs they argue because users of other mobile brands are accessing cricket highlights on sites such as Fox Sports, much as they would from a desktop computer. Cricket Australia's response has been to enforce enhanced media accreditation conditions that require journalists entering Test match venues to agree that any news story or content that they produce will not be transmitted or retransmitted to mobile devices without explicit permission (Parliament of Australia, 2009, pp. 20–21). Even when faced with the prospect of a lockout from a stadium, this is a difficult guarantee for a journalist to give in view of the wide-ranging Web access available through 3G mobile devices and the practices of content aggregation, embedding, and sharing.

As discussed in the Senate Committee's report (Parliament of Australia, 2009, p. 25), Hutchison's submission to the Inquiry directly contradicted the position of Cricket Australia, which is a surprising response from a "valued sponsor" and rights holder of eight years standing. Whereas Cricket Australia argued that the value of their coverage contract was being compromised by "unauthorized" mobile and online distribution, Hutchison put forward a contrary position and regarded present arrangements as satisfactory:

*Senator Lundy.* I think that is an important point for the committee to hear given that Cricket Australia have expressed a general view that they fear for current and future loss of revenue against things like their capacity to sell Internet rights and digital rights to cricket. From Hutchison's perspective, you have just said — and you have just renewed your contract again — that you are not seeing that or feeling that as an organisation and you are quite confident that you are getting good value for money in that ongoing relationship with Cricket Australia. I guess I am seeking confirmation that that is the case.

*Ms. Hutton.* We can only really speak from our cricket relationship, but ordinarily major sporting rights are bundled together with marketing or other sponsorship. It is very difficult to distinguish between straight mobile or wireless rights and Internet rights and look at them separately from the overall marketing or sponsorship benefits that you get from an arrangement. When we sell our content or our services to our customers or customers purchase a mobile phone from us we promote our relationship with Cricket Australia and we promote our relationship with the Test cricket team. Part of that is providing access to live cricket TV and a range of other cricket services. It goes further than that in terms of all the brand sponsorship benefits. It is a bit difficult to say that the fair-dealing regime has eroded value. We do not see that. Certainly, in our recent discussions I cannot see that that is the case. I was looking forward to hearing the witnesses from the sporting organisations yesterday provide some further clarity around

what erosion they have seen or provide actual evidence of that erosion, but I did not see it yesterday. (Proof Committee Hansard, April 16, 2009, p. 14)

An explanation as to why Cricket Australia and Hutchison are at odds here lies in the nature of their respective operations in an evolving digital media environment. Cricket Australia (2009, p. 4) draws between 65% and 80% of its income from media rights (e.g., Channel Nine and Hutchison), suggesting that its interests are best served by an uncompromising stance toward any activities by unofficial carriers that involve the retransmission of footage. Conversely, Hutchison is not a content producer but a telecommunications company that on-sells content produced by third parties (through the televising of sports performances) to attract customers to its mobile handset and user plans. In addition to sponsoring and transmitting cricket, Hutchison 3G takes regular "feeds" from news outlets, including Sky News, Fox Sports and CNN as part of its "Mobile TV" service. To complain loudly that the value of their cricket service was diminished by news companies would potentially risk their relationship with these providers and the reliable daily news content that they supply. Moreover, for those fans interested in cricket, mobile highlights accessed through the Fox Sports Web site can be seen as an advertisement for the live footage of each domestic Test series available on Hutchison handsets. Our attention now turns to the outcomes and implications of the Inquiry for the contemporary and future development of the media sport industries.

#### **Conclusion: Media Sport as "Shareware"**

A critical function of the Senate Inquiry was to act as a political forum for sports and the news media to begin negotiating "satisfactory arrangements in the future" (Parliament of Australia, 2009, p. 52) that will prevent the problems and disputes of recent years. The significance of the Committee's recommendations (Parliament of Australia, 2009, pp. 45–52) lies in their untested capacity to ease the institutional, commercial, and technological transition demanded by the movement from a broadcast and print-dominated media sport environment to one routinely featuring digital online communications. This rationale is revealed on the final page of the Committee's report, which is indicative of a determination to minimize conflict in the midst of a broader "large-scale and diffuse institutional battle" over the shape of national and international digital media markets (Benkler, 2006, pp. 468–469).

The Inquiry achieved its aim of forcing dialogue between warring sports and news providers, who were then invited by the Minister for Broadband, Communications and the Digital Economy, Stephen Conroy, to participate in a series of post-Inquiry private meetings. Proceedings were led by the Chair of the ACCC, Graeme Samuel, and resulted in the formulation of a "Code of Practice for Sports News Reporting - Text, Photography and Data" (Department of Broadband, Communications and the Digital Economy, 2010). Consulting the code reveals something of a working model for global media sport institutions and actors. The fascinating feature of this document is that it deals with digitized text, photographs, and basic sport contest information, such as scores and teams lists. However, key questions surrounding the online retransmission of audio-visual footage from sports events, which were debated extensively during the Inquiry's hearings, are ignored. Just as prior to the Inquiry, complicated disagreements over the length, features, and distribution of sport footage are left to the judgment of the

courts. In other words, nothing has changed in the area of online audio-visual footage, which represents both the most important and difficult to resolve source of conflict at present and in coming years. In assessing the overall post-Inquiry "winners" and "losers," the major sports did not emerge unscathed, receiving criticism for journalist accreditation regimes (including platform "discrimination") that are directly targeted by the new Code of Practice. In contrast, news companies, despite being admonished for their most audacious attempts to "test the boundaries" of intellectual property law, have few impediments to operating largely as before (Hutchins & Rowe, 2009b).

The Inquiry provided significant insights into how sports organizations and news media are dealing with a fast-changing media landscape. Broadcast and print are giving way to narrowcast and digital communications. Media sport no longer revolves mainly around capturing and maintaining a singularly conceived mass audience and rigorously policing access to it. Audiences are multiply-constituted and segmented, even during a live sports event (for example, those who watch television only; experience the event online; watch and follow simultaneously on television and online; view live and via mobile; watch on mobile alone; check news sites and/or specialist sports sites; and take advantage of the different experiences available to viewers on television, the Web, and mobile). Faced by a cornucopia of digital choice, the task of generating "rusted-on" loyalty from mass audiences is difficult and unpredictable, especially among younger fans. Instead, it requires the strategic and nimble engagement of viewer and user attention directed toward particular moments and purposes. This scenario applies equally to news media and sports organizations and explains the fierce competition between them for the valuable attention of fans and audiences. One of the oldest, largest, and most successful "sports brands" in the world, the Olympics, is presently adapting itself to this changed landscape after noting the ageing of its audience members and becoming concerned about its capacity to attract new, younger viewers. According to IOC President Jacques Rogge, part of the response to this development has been to use "channels including YouTube, Facebook and Bebo to reach kids through media that they are immediately comfortable with" (quoted in Roberts, 2009), an approach that is complemented by the strengthening of "its partnership with the computer game industry" (IOC, 2009, p. 19).

The transition identified here is crystallized in the work of Jenkins (2006a, p. 256), who posits that intellectual property should no longer be treated as a "limited good" — predicated on tight control for fear of diluting its value. Instead, popular media content is akin to "shareware": that is, "something that accrues value as it moves across different contexts, gets retold in various ways, attracts multiple audiences." The commercial requirements of media sport mean that this would be a relatively circumscribed version of shareware compared to Jenkins' application of the term to fan communities and participatory media cultures. However, even a slight loosening of the grip over the production and modification of content brings with it opportunities that arguably favor sports organizations. Ross (2008, p. 86), for example, reports that, after having conducted a series of interviews with media industry professionals in the United States, she was told repeatedly that sport "was good for the Internet," because of the importance of "extra-textual elements (players' contracts, statistics, line-up decisions, and coaching decisions)" in the coverage of events. These features of sport are ideally suited to the delivery of coordinated and complementary content across multiple platforms and sites, providing match footage, highlights, updates, news, behind-the-scenes insights, specialist commentaries, coach and player perspectives, in-depth discussion and analysis, debates, games, and competitions, as well as fan-produced

Web sites, videos, commentaries, applications, bulletin boards, blogs, and social networking profiles. Attempting to limit all these possible elements to a single network neighborhood, Web site or television "footprint" is unfeasible and, as the Inquiry highlighted, expensive, aggravating, and exhausting to enforce. More recently and in another country, even a consummate sport television event like the 2010 Super Bowl drew surprised acknowledgments from television executives that social networking had contributed to, rather than detracted from, the achievement of record viewer ratings (Schechner & Ovide, 2010).

Another necessary step is to consider selling platform-neutral rights to sport, thus positioning telecommunications carriers, television networks, and digital media companies as competitors in the same market space, as opposed to the separation of different platform rights into ever multiplying and cross-cutting packages. The latter practice is increasingly difficult to sustain in convergent media industries and cultures. For instance, ESPN Star Sports has purchased the rights to television, Internet, mobile, and radio across 24 Asian territories for Formula One motor racing (Fry, 2008, p. 39), which makes it incumbent upon the rights holder to integrate the sport's primary and extra-textual elements to enrich and commodify the experience of the viewer and user. This arrangement also means that any decision to on-sell rights for a specific medium is the responsibility of ESPN, not of the sports organization. Both of these advantages have led a communications director of one Australian sports organization to give serious thought to a platform-neutral approach to media rights (interview with author, 2009).<sup>8</sup> The consolidation and acceleration of such strategic calculations within the media sport industries may be an unacknowledged – but highly significant – outcome of the 2009 Senate Inquiry. These proceedings revealed conclusively that media sport is undergoing a seismic realignment, with once dominant broadcast systems interacting, competing, and overlapping with an array of increasingly popular digital media delivery mechanisms, thereby forcing officials and executives across the sector to adopt new attitudes and practices. Government, it has been shown in this instance, can provide only limited guidance in this endeavor, even where it openly and formally recognizes the vital role of sport in the control, profitability, and operation of digital media markets.

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<sup>8</sup> This interviewee has been de-identified to comply with the conditions required by a University research ethics committee.

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