

Profile

Michael Rowe

Senior sports media rights consultant and lawyer



Michael Rowe



Tim Holden



Alex Morrissey

Tim Holden

Senior Legal Counsel (Commercial)
Football Federation Australia

CAMLA Young Lawyers representative, Alex Morrissey, recently caught up with two experienced lawyers working in sports broadcasting, Michael Rowe and Tim Holden to chat about some key issues facing the industry and some tips for young lawyers wanting to move into sport or media organisations.

Michael Rowe is a senior sports media rights consultant with 22 years' experience including four years as the Head of Broadcast for the Women's Tennis Association Tour.

Tim Holden is the Senior Legal Counsel (Commercial) at Football Federation Australia.

1. How and where did your career start?

Michael: My legal career started at the Commonwealth Director of Public Prosecutions office where I worked for 8 years. Late in that period I started to consider what it would be like to work in the sports industry given I have a love and enjoyment of sport. I started a Masters in Sports Management at Deakin University in Melbourne. That gave me exposure to people who were either already in the industry looking to further themselves or like me, trying to gain entry into the industry. Early on in my time studying, I was approached by an existing sports law practice in Melbourne which had a broad base of national sporting organisations as clients. I accepted a role as a Senior Associate essentially providing advice and services to national sporting organisations, predominately Olympic sports. During this time Tennis Australia became a major client. Eventually I left private practice to become the inaugural General Counsel setting up the legal department at Tennis Australia.

Tim: I started my legal career with Allens as a Paralegal while I was at the University of Sydney law school. I then started as a graduate lawyer with Allens in the Litigation and Dispute Resolution department and later moved to the Intellectual Property group. All up, I was there as a lawyer for about 4 years before an opportunity came up to join FFA as an in-house counsel. I've been here for about 5 and a half years now.

2. What do you enjoy most about working in the sports media industry?

Michael: I'm a fan of most sports, in particular international competition. For me the opportunity of bringing together my love of sport with my life as a lawyer and later as a sports media rights manager was a major attraction.

Tim: There are a number of things. I am very fortunate to be able to practice as a lawyer and have the sport of football as the subject matter of the work I do. This always makes the work a little more interesting. The FFA legal team is involved

in all aspects of FFA's business – including the commercial and regulatory side of governing football in Australia and administering the various Australian National Teams and professional competitions such as the Hyundai A-League – so the variety of work is fantastic. It keeps you on your toes and I really enjoy the fact that I am not pigeon-holed into one practice area.

3. Michael, sports rights deals can involve intense bidding and negotiation processes – what are some of the reasons for this?

Michael: My general experience is that intensity arises out of competition for a sporting organisation's broadcast rights. Competition should create a better outcome for the sporting organisation licensing the rights. An open bidding process via a Request for Proposal is preferable but might not best suit the incumbent broadcaster who might seek to rely on existing relationship to retain the rights. This can also create an intense environment as all parties seek to obtain the best deal.

4. The importance of commerciality is often emphasised to young lawyers. Michael, how do you think young lawyers, especially those in private practice, can develop commercial skills?

Michael: Commercial experience is gained by having a presence early in the negotiation process. Yes lawyers write contracts setting out the negotiated terms, but lawyers can also bring to the table skills that assist in the negotiation. If a private practice lawyer or an in-house lawyer can become involved earlier in the negotiation process, that is before deal terms are agreed, then this will help with the development of the lawyer's commercial skills.

The larger broadcast rights deals in Australia are often negotiated by a team of people which includes a lawyer. The lawyer not only provides legal input but can also provide advice and expertise relevant to the commercial aspects of the deal. This can only be to the benefit of the client.

5. Tim, we recently witnessed the spectacle of the World Cup in Brazil and the Asian Cup is going to be held in Australia next year. What type of involvement do the lawyers at FFA have with these types of events and what impact do events like these have on your workload as a lawyer?

Tim: The FIFA World Cup does have a big impact on my workload but I'm not complaining! It really is rewarding to be involved in sending our National Team to compete in that tournament. There are a few different aspects to my involvement. The collective bargaining agreement with the players association, which governs each player's participation in the National Team, is a key aspect. There's a lot of work that happens in the year leading up to the event to support the business through various service relationships to address our operational and logistical requirements. The FIFA World Cup was in Brazil this time around so we had a lot of dealings with Brazilian companies which introduced some new challenges as we were working outside of the Australian context. We also had a lot to do with FIFA around the rules and regulations that govern participating and commercial rights.

The AFC Asian Cup Australia 2015 is going to be a fantastic event. My involvement to date has primarily been around the broadcast side of things. FFA acquired the broadcast rights for the tournament a couple of years ago so I was involved in that deal as well as our subsequent agreement to grant the broadcast rights to Fox Sports Australia. I have also worked with our Local Organising Committee to contract a host broadcaster to produce the broadcast feed for the event. Otherwise, we have an excellent team of lawyers at the LOC who are doing a great job!

6. Tim, you've been involved in some intellectual property disputes whilst at the FFA. Do you think the current IP laws provide adequate protection for sports rights holders?

Tim: That's a good question. Copyright is fundamental to the commercialisation and exploitation of the audio-visual coverage of our events. The revenue that FFA receives from the exploitation of its rights, including its online and digital rights, is crucial for football.

As part of the recent ALRC review [into Copyright and the Digital Economy], I was involved in a submission on behalf of the Coalition of Major Professional and Participation Sports (COMPPS) that argued against the introduction of a fair use exception in the form recommended by the ALRC. As I see it, such an exception may negatively impact our ability to protect the copyright in one of our most valuable assets. So I'm a bit concerned about where that may go.

I also think that the rise of social media has made it difficult for rights holders to protect their IP rights. It is so easy to infringe IP on social media and as things progress I can see that many users are losing sight of the fact that what they are doing online may be wrong. From a rights holders' perspective, I can see that there may be circumstances where a rights holder may elect not to enforce its IP rights – for example, to increase brand awareness. But when there is a commercial angle to the use – and content sharing sites with built in commercialisation models makes this particularly challenging – it can really become an issue. This is an area that created some difficulties for us around the FIFA World Cup. I've found that traditional enforcement options are less effective in the digital age and I would probably say that stronger deterrents are necessary to deal with the rise of social media.

7. Michael, how did you make the move from legal counsel to a commercial role and what inspired the change?

Michael: During my time at Tennis Australia I was providing legal services across the breadth of the business for instance from player development, commercial, governance, event management and policy work. Eventually given the importance, I became more closely associated with commercial dealings of the Australian Open, more specifically both broadcast and sponsorship. In addition to my role as GC, I also filled the role as an interim manager in Broadcast for approximately 12 months until a permanent Head of Broadcast was appointed. Negotiating international deals gave me further insight into sports media which eventually led to me taking a role as Head of Broadcast for the Women's Tennis Association Tour in London where I worked for 4 years.

The broadcast position had a variety of aspects to it which I was attracted to including developing strategies, negotiating deals, managing relationships but also the legal aspects. I wasn't walking away completely from my prior life as a lawyer as broadcast deals invariably are documented within a contract so my acquired legal knowledge was still very useful.

8. Tim, you have worked in-house and in private practice lawyer, what is the biggest difference or challenge that you have noticed?

Tim: I really enjoyed working at Allens but I think that I enjoy the in-house setting a little more. I am fortunate to work very close to the business and I can see firsthand how my advice can shape what is going on. You don't often get that close in a private practice. In my experience, the most noticeable difference or challenge is probably the lack of resources. In an in-house environment you obviously don't have the benefits of the big firm support system.

9. For young lawyers looking to pursue an in-house legal role in sport or media organisations what would you recommend?

Michael: It is important to understand the media and its changes as it evolves from the traditional television form to digital. Digital distribution across various forms is important to understand for all types of sports. It can help some sports achieve distribution where it might not otherwise do so via television alone. Keeping abreast of broadcast deals and the manner in which they are structured is important. Education via publications and industry networking is also very important.

Tim: A solid understanding of the sporting industry is really important. This could come from playing sport or following the business side of the industry, or both, and ideally in multiple sports. It would also be beneficial to get involved with a club or association in some way. Sports administration experience is really valuable. I think it is really important to develop your skills in private practice for a period of time too. I have found my commercial litigation and IP experience to be particularly beneficial to my role at FFA. I also think that organisations such as ANZSLA and CAMLA are very helpful in terms of making contacts within the legal profession and sporting industry and I would encourage others to get involved.

Alex Morrissey is a legal counsel at Fox Sports and member of the CAMLA Young Lawyer Committee.

Michael Rowe can be contacted at: mjrowe20@gmail.com

Tim Holden can be contacted at: Tim.Holden@footballaustralia.com.au

If you have someone you would like us to interview, drop us a line at [camla@tpg](mailto:camla@tpg.com.au).