

Chapter 1

Background to the inquiry

Introduction

1.1 On 11 August 2017, the Board of Australian Rugby Union (ARU) announced that it would discontinue the Super Rugby licence for the Western Force.¹ The decision prompted outrage among rugby union fans who believed that the process the ARU used to arrive at that decision was flawed.²

1.2 Eliminating one Australian team from the international competition also saw broader concerns raised around the governance and financial sustainability of rugby union in Australia and the ARU as custodians of the game.

Committee's interest in the inquiry

1.3 On 6 September 2017 the Senate referred the future of rugby union in Australia to the Senate Community Affairs References Committee for inquiry and report by 13 November 2017 with the following terms of reference:

The future of rugby union in Australia, with particular reference to:

- a) the Australian Rugby Union Board deliberation leading up to the decision to reduce Australian rugby teams from five to four in the national competition;
- b) whether there continues to be a truly national rugby union footprint in Australia;
- c) the role of national and state-based bodies in encouraging greater national participation in rugby union;
- d) the corporate governance arrangements and composition of national and state-based rugby union bodies, including community representation on those bodies;
- e) the impact of the decision to reduce the number of Australian teams on national participation in rugby union; and
- f) any other related matters.³

1.4 The committee received extensions to report until 15 November 2017.⁴

1 Australian Rugby Union (ARU), 'ARU to discontinue Western Force Super Rugby licence', *Media release*, 11 August 2017, <http://aru.com.au/MediaReleases/Article/tabid/1699/ArticleID/18199/ARU-TO-DISCONTINUE-WESTERN-FORCE-SUPER-RUGBY-LICENCE.aspx> (accessed 21 September 2017).

2 Mr William Pulver, Chief Executive Officer, ARU, *Committee Hansard*, 20 September 2017, p. 1; The Hon. Michael Murray, Minister for Sport and Recreation, Western Australian Parliament, *Committee Hansard*, 11 October 2017, p. 1; Name withheld, *Submission 4*, [p. 2]; Name withheld, *Submission 9*, [p. 2]; Mr Angus Tibbits, *Submission 11*, p. 1.

3 *Journals of the Senate*, No. 58, 6 September 2017, p. 1873.

1.5 When this inquiry was announced, and when Mr Cameron Clyne, Chairman of the ARU appeared before the committee, the ARU stated publicly that it 'questioned the merit' of the inquiry.⁵

1.6 The committee considers there are two main reasons for undertaking the inquiry. First, the inquiry offered an opportunity for members of rugby union clubs across Australia to place on record their concerns regarding the process the ARU worked through to arrive at the decision it did and their concerns about the ARU's stewardship of the game more broadly, particularly with a view to ensuring the game becomes sustainable into the future.

1.7 Second, the sport attracts more than \$1.8 million in federal funding each year.⁶ Accordingly, ensuring appropriate governance arrangements support the expenditure of this funding is in the national interest.

Brief overview

1.8 During this inquiry witnesses questioned:⁷

- the ARU's decision to agree to remove a professional rugby team and its impact on the sport;
- the process by which the ARU decided that the Western Force would be removed, including licence arrangements and the underlying analysis which supported the ARU's decisions;
- whether decisions made by the ARU exacerbated the financial challenges for the sport in Australia; and
- the impact of the decision on player welfare and confidence in professional Rugby Union in Australia.

1.9 The elite rugby union competition in the southern hemisphere is known as Super Rugby. Super Rugby is convened by a joint venture of the rugby union boards

4 *Journals of the Senate*, No. 68, 13 November 2017, p. 2190; *Journals of the Senate*, No. 69, 14 November 2017, p. 2208.

5 Mr Cameron Clyne, Chairman, ARU, *Committee Hansard*, 16 October 2017, p. 1; ARU, *ARU Statement regarding Senate inquiry*, 7 September 2017, <http://www.aru.com.au/MediaReleases/Article/tabid/1699/ArticleID/18209/ARU-STATEMENT-REGARDING-SENATE-INQUIRY.aspx> (accessed 24 October 2017).

6 Australian Sports Commission, *Annual Report 2015-16*, p. 138 (\$1 889 090); Australian Sports Commission, *Annual Report 2014-15*, p. 190 (\$2 290 850); Australian Sports Commission, *Annual Report 2013-14*, p. 176 (\$2 665 113).

7 Mr Tony Howarth, Chairman, Western Australian Rugby Union (RugbyWA), *Committee Hansard*, 20 September 2017, p. 32; Mr Mark Sinderberry, Former Chief Executive Officer, RugbyWA, *Committee Hansard*, 20 September 2017, p. 34; Mr Ross Xenos, Chief Executive Officer, Rugby Union Players' Association (RUPA), *Committee Hansard*, 11 October 2017, p. 8; Mr John Welborn, *Committee Hansard*, 11 October 2017, p. 38; Dr David Masters, *Submission 3*, p. 2; Name withheld, *Submission 4*, pp. 3–4; Mr Gary Gleeson, *Submission 8*, p. 2; Name withheld, *Submission 12*, [pp. 1–2]; Name withheld, *Submission 15*, p. 11; Name withheld, *Submission 16*, [p. 1]; Name withheld, *Submission 17*, p. 3.

of Australia, New Zealand, South Africa and Argentina known as SANZAAR. The competition includes teams from each of those countries and one from Japan.⁸

1.10 SANZAAR is responsible for determining the format of the competition and leads the discussion regarding television broadcast rights.⁹ The Chairman and the Chief Executive Officer of the ARU represent Australia on the SANZAAR Board.¹⁰

1.11 The ARU is the governing body for rugby union in Australia. The members of the ARU are the State and Territory Unions, Super Rugby licensees and the Rugby Union Players' Association (RUPA).¹¹ The business of the ARU is managed by a board of directors appointed by the members.¹²

1.12 The number of professional Australian rugby teams has varied over time. Before the Western Force joined the Super Rugby competition in 2006, there were only three professional Australian teams: Queensland Reds, New South Wales Waratahs and the ACT Brumbies.

1.13 A fifth Australian franchise, the Melbourne Rebels, joined the Super Rugby competition in 2011.¹³

1.14 In 2016, the Super Rugby competition expanded from 15 teams to 18 teams, including teams from Argentina and Japan and a fifth South African team.¹⁴

1.15 A new broadcast agreement was negotiated for the period 2016–2020 to cover the expanded competition.¹⁵ The new broadcast agreement provided a substantial windfall to the SANZAAR joint venture partners, including Australia. The ARU informed the committee that it received \$285 million over the broadcast term.¹⁶

1.16 In 2017, after one season with the 18-team format, SANZAAR decided to revisit the decision to alter the competition format.¹⁷ Altering the format of the Super Rugby competition during the term of the broadcast agreement required the agreement of all of the joint venture partners. This requirement meant that Australia possessed a veto power that it could have exercised in the SANZAAR process.¹⁸ The ARU, as the Australian representatives, decided not to exercise that right.

8 Mr Pulver, *Committee Hansard*, 20 September 2017, p. 2.

9 Mr Pulver, *Committee Hansard*, 20 September 2017, pp. 2, 7–8.

10 Mr Pulver, *Committee Hansard*, 20 September 2017, p. 8.

11 ARU Constitution, cl. 3.2(a).

12 ARU Constitution, cl. 5.

13 Mr Pulver, *Committee Hansard*, 20 September 2017, p. 16.

14 Mr Xenos, *Committee Hansard*, 11 October 2017, p. 8.

15 Mr Pulver, *Committee Hansard*, 20 September 2017, p. 10.

16 Mr Pulver, *Committee Hansard*, 20 September 2017, p. 10.

17 RUPA, *Submission 1*, [p. 3].

18 Mr Pulver, *Committee Hansard*, 20 September 2017, p. 9.

1.17 On 10 March 2017, the SANZAAR partners unanimously agreed to reduce the number of teams in the competition from 18 teams back to 15 teams.¹⁹ As part of this agreement, the SANZAAR partners agreed that two South African and one Australian teams would be removed from the competition.

1.18 The decision on which Australian team would be removed was solely the decision of the ARU.²⁰

1.19 Ultimately, the ARU decided that the Australian team to be removed would be the Western Force.

1.20 The next chapter of this report considers why the ARU decided not to veto the removal of an Australian Super Rugby team and how it decided which team would be removed.

1.21 Chapter 3 examines the corporate governance of the ARU and its stewardship of rugby union in Australia.

1.22 A final chapter contains the committee's conclusions and recommendations.

Conduct of the inquiry

1.23 The committee advertised the inquiry on its website and wrote to relevant individuals and organisations inviting submissions by 12 October 2017. A list of submissions made to the inquiry can be found at Appendix 1.

1.24 The committee held three public hearings in connection with the inquiry:

- 20 September 2017—Perth;
- 11 October 2017—Perth; and
- 16 October 2017—Canberra.

1.25 A list of the witnesses who appeared at the hearings can be found at Appendix 2.

1.26 The committee thanks all those who contributed to the committee's inquiry.

Note on references

1.27 All references to Committee Hansard are to proof transcripts. Page numbers may vary between proof and official transcripts.

19 Mr Pulver, *Committee Hansard*, 20 September 2017, p. 2.

20 Mr Pulver, *Committee Hansard*, 20 September 2017, p. 9.