

Report of the National Authority on its Consideration of Law 16B1

Context:

The National Authority was convened by the General Counsel, Eilis S Magner, to meet on Friday January 25 2013 in Canberra. Attending were Barbara Travis, a member of the National Authority since 2008 and Laurie Kelso. Kelso is not normally a member of the National Authority but the Management Committee approved a proposal to coopt him on the basis that three members of the National Authority (Bruce Neill, Simon Hinge, and Sean Mullamphy) were disqualified by earlier involvement in the incident which led to the question being posed.

The question of the proper interpretation of the Law was raised by Ben Thompson after an appeal at the 2012 playoff. The director, after polling a number of players, ruled that Pass was a logical alternative in the context of the auction that had occurred.

Ben Thompson was the respondent in the appeal in question. His letter was before the National Authority. The appellants and the Chair of the Appeals Committee were invited to comment on the question. The Chair of the Appeals Committee provided written comments, which were also before the National Authority. Bruce Neill chose to attend and provide oral comments on certain discussions of the law that he had been party to at the Spring Nationals in October 2012. The director concerned, Sean Mullamphy also attended the Committee meeting in case the members of the National Authority had any questions. None were forthcoming. Both Bruce Neill and Sean Mullamphy left the room before the National Authority discussed the question.

Discussion:

1. The National Authority noted at the outset
 - a. that if screens had been employed, as would be expected at a playoff, the question may not have arisen; and,
 - b. there is earlier authority for the proposition that the identity of the players polled must remain confidential to the director.
2. The National Authority formed the view that it was important that an Appeal Committee should know exactly both what question the director asked the players who were polled and what explanation of the methods and understandings of the pair in question was provided. If the question is badly worded or the explanations are incorrect, the Appeal Committee has the power to set aside the result of the poll. The National Authority formed the view that it is therefore essential that the question and the explanation should be set out in writing.
3. The National Authority was of the view that
 - a. if a player, upon being asked, indicates that he/she cannot conceive of being in the position indicated that player's views must be discounted.
 - b. if the poll is conducted correctly and
 - i. the result is that the action is deemed to be a logical alternative, an Appeals Committee must accept that result.
 - ii. The result is that the action is deemed not to be a logical alternative, an Appeal Committee may determine that the action was a logical alternative (in effect the Committee members widen the panel that is polled).
4. The National Authority, noting the comments of the Chair of the Appeal Committee on the effect of this determination on the power of the Appeal Committee draws attention to the

fact that its concern has in fact been with the application of Law 16B1(b) and that the Appeal Committee retains authority to decide whether an action “could demonstrably have been suggested over another by the extraneous information”.

Application to the Case

While the National Authority is concerned chiefly with the question of how these matters should be decided in future, we are conscious that Ben Thompson, as the player who raised the question would be interested in a comment on how the appeal in which he was involved would have been decided. It is noted that in this case the director had not set out the question or the explanation of methods in writing, the Appeal Committee was not bound to accept the result of the poll. It notes further that: if the question and information had been documented as here determined, the Appeals Committee would have been bound to accept the decision that Pass was a logical alternative.