

MORE THAN MEETS THE EYE

WHY ASC HAD TO TAKE REINS AND FORCE EQUESTRIAN INTO ADMINISTRATION

EA went into voluntary administration last month after Sport Australia withdrew its funding over concerns about it being dysfunctional. The administrators' efforts to reform a federated governance model, to give the sport's 18,000 members a greater voice, is being furiously opposed by state associations.

Thousands of EA members around the country are expected to vote on constitutional change at an online creditors meeting on Tuesday.

Chris Barrett is Chief Sports Reporter of The Sydney Morning Herald.

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Dear Members,

We note commentary about an apparent anomaly between the date of the Sports Australia letter and the Directors first engagement with KordaMentha, along with other issues. We accept that there is a high level of distrust in the community, built on a history of poor communication and engagement. We offer the fullest possible explanation, limited only by the rights of individuals to a reasonable level of privacy and confidentiality.

On the resignation of two Directors on 11 May 2020, the remaining four Directors immediately sought a meeting with the State Chairs. That meeting was held on the evening of 11 May. We all committed, in that meeting, to work collaboratively to rebuild the Board. An advertisement for nominations was already in place, though there had been no responses over six weeks. Several possible appointees were canvassed directly.

We became aware that the State Chairs met collectively with a member of the Board of Sport Australia on 19 May to discuss the affairs of EA Limited. We now know that this was not a Sports Australia sanctioned meeting. They met without the courtesy of either an invitation or advice to the Board, or feedback on the conversations. The Directors and the State Chairs clearly had a different view to the meaning of "working collaboratively". We have some knowledge of the conversations that took place.

EA is not a small social club but governed by the Corporations Act and conventions of best practice governance. This was, and is, a major issue for the current Directors, three of the four holding professional qualifications and standing in the corporate governance community. The Board, under law, is not an administrative committee of the States.

The States' put the Directors in a "no win" situation, professionally and personally. Our obligation, by law, is to act in the best interests of EA, and not to be influenced or to make decisions in the interests of any stakeholder group. **The States may have the only voting rights but, according to the constitution, the membership includes all participating members. We could not act except such disregard by the States of our position or our obligations. The States' actions, and history of similar behaviour, caused us to lose faith that we could work reasonably and collaboratively together, and that we could fulfil our obligations at law.**

We wrote a resignation letter on 22 May 2020. It was forwarded to the EA office for formatting before providing it to the State Branch Chairs. A staff member commented, "is there nothing better you can do than resign?" It was an insightful question and gave us pause.

We contacted Sports Australia on behalf of the Directors on Monday 25 May. We sought funding to support an independent review of the sport and its structure, to work with the States and the members to develop a more sustainable and stable model. Sports Australia declined to fund such an approach. In their view, based on experience, such an approach would fail. The States would walk the journey and then renege when it came to making the necessary constitutional change. That prophecy would seem to have been substantiated by the States' behaviours to date.

Sports Australia went on to advise that they had already come to a decision to withdraw support, and that a letter would be forthcoming once it had cleared formal ministerial approval.

Financially, the issue is cash flow, not funds in the bank. With the loss of Sports Australia funding, looming obligations such as insurances, commitments already made for membership renewal "holiday" periods that immediately reduced revenues by 25%, and the projected decline in renewals due to Covid-19 – the future for EA was dire.

If EA were to trade insolvently then creditors would not be paid in full – and staff would not receive their full entitlements. It would be unconscionable not to act. It also weighed on our minds that **Directors are personally liable for debts while trading insolvently.** We might be committed to the sport, but none of us wish to risk our homes.

We needed to act while EA had the capacity and funds to recover. Voluntary Administration seemed the only viable approach. We made enquiries within our professional community, and explored two options: an individual (Eddie Senatore, the gentlemen now engaged as an adviser by five of the States), and a well-known major Administrator (KordaMentha). The complexity of EA warranted a demonstrably independent firm that could scale to demand.

We approached KordaMentha on 27 May for advice on the obligations and processes for entering Voluntary Administration, how they would be engaged, and likely costs. This was necessary preparatory work so that we could respond properly when Sports Australia issued its demands on us. The rest of the story has been publicly transparent.

We remain Directors because one of the options you must consider under the Corporations Act is to end Administration and return EA to the control of the Directors. We do not believe that course is recommended by anybody. We are also somewhat bemused at suggestions that we have “had our snouts in the feed trough”. The four of us concluded that must have been a meeting we missed! So far there has only been angst, effort and cost.

It has been suggested that we might be “rewarded” with ongoing Directorships. We are not sure that “reward” is the right term. We have stated our position publicly elsewhere. Cathi has asked, for personal reasons, that her Directorship come to an end at the conclusion of this process. The rest of us neither seek to be involved, nor resile from a duty to continue. We have simply made ourselves available to a Nominations Committee should they see ongoing contribution by any or all of us as useful.

We look forward to a better sport – one where we are kinder to each other, where we have a little more trust, and a little more forgiveness. But it will not happen overnight and explaining why choices have been made is an important part in building a better future. We hope this letter helps.