

ARTICLE XXI

ANTI-COLLUSION

Section 1. Prohibited Conduct. No Team, its employees or agents, shall enter into any agreement, express or implied, with the AFL or any other Team, its employees or agents, to restrict or limit individual Team decision-making as follows:

(a) whether to negotiate or not to negotiate with any player;

(b) whether to offer or not to offer an AFL Player Contract to any Free Agent;
or

(c) concerning the terms or conditions of employment offered to any player for inclusion, or included, in an AFL Player Contract.

Section 2. Other Team Conduct.

No Team may have a policy not to negotiate with, or enter into an AFL Player Contract with, any player who is free to negotiate and sign an AFL Player Contract with any Team, on any of the following grounds, if such policy is inconsistent with Section 1, above:

(a) that the player has previously been subject to the exclusive negotiating rights obtained by another Team; or

(b) that the player has refused or failed to enter into an AFL Player Contract for a prior season containing an option clause (i.e., any clause that authorizes an extension or renewal by a Team of an AFL Player Contract beyond its stated term); or

(c) that the player has become a Free Agent.

Section 3. Team Discretion. Section 2 above does not diminish any Team's right not to negotiate or contract with any particular player on any policy ground not specified above. In conjunction with other evidence of an alleged violation(s) of Section 1 above, a Team's adherence to a policy identified in Section 2 above may be offered as evidence of an alleged violation of Section 1 above, but may not be the basis of any separate proceeding seeking any penalty or other relief against any Team or the AFL.

Section 4. Exchange of Salary Information. The provision of Salary and Room data between any Team and the AFL shall not itself be proof of a violation of Section 1 above.

Section 5. League Disclosures. Neither the AFL nor anyone acting on its behalf shall knowingly communicate or disclose, directly or indirectly, to any AFL Team that another AFL Team has negotiated with or is negotiating with any Free Agent, prior to the execution of an AFL Player Contract with that Free Agent, if such communication or disclosure is inconsistent with Section 1 above. It shall not be a violation of this

Article for the AFL to respond to an inquiry from a Team about whether and under what circumstances proposed transactions would be permissible under this Agreement consistent with this Agreement. The AFL advising Teams of its good faith interpretation of this Agreement, as to whether a type of transaction is or is not permitted under this Agreement, shall not itself be proof of a violation of Section 1 above. In conjunction with other evidence of an alleged violation of Section 1 above, a Team's communication or disclosure of the kind identified in the first sentence of this section may be offered as evidence of an alleged violation(s) of Section 1 above, but may not be the basis of any separate proceeding seeking any penalty or other relief against any Team or the AFL. Nothing in this Section shall be construed as a limitation on the provisions of Section 4 above.

Section 6. Enforcement of Anti-Collusion Provisions. Except as provided in Section 17(d) below, any player or the AFLPA acting on that player's or any number of players' behalf, may bring an action before the System Arbitrator alleging a violation of Section 1 of this Article. In any such proceeding, the Federal Rules of Evidence shall apply. Issues of relief and liability shall be determined in the same proceeding (including the amount of damages, pursuant to Section 10 below, if any). The complaining party shall bear the burden of demonstrating by a clear preponderance of the evidence that the challenged conduct (1) was or is in violation of Section 1 of this Article, and (2) caused any economic injury to such player(s).

Section 7. Burden of Proof. The failure by a Team or Teams to negotiate with, to make offers to, or to sign contracts with Free Agents shall not, by itself or in combination only with evidence about the playing skills of the player(s) not receiving any such offer or contract, satisfy the burden of proof set forth in Section 6 above. However, any of the types of evidence described in the preceding sentence may support a finding of a violation of Section 1 of this Article, but only in combination with other evidence which by itself or in combination with such evidence indicates that the challenged conduct was in violation of Section 1 of this Article. Nothing in this Agreement shall preclude the AFL or its Teams from arguing that any evidence is insufficient to satisfy the burden of proof set forth in Section 6 above. Nothing in this Agreement shall preclude any player(s) or the AFLPA from arguing that any evidence is sufficient to satisfy the burden of proof set forth in Section 6 above, except as set forth in this Article.

Section 8. Summary Judgment. The System Arbitrator may, at any time following the conclusion of the permitted discovery, determine whether or not the complainant's evidence is sufficient to raise a genuine issue of material fact capable of satisfying the standards imposed by Sections 6 and/or 7 above. If the System Arbitrator determines that complainant's evidence is not sufficient, he or she shall dismiss the action.

Section 9. Remedies. In the event that an individual player, or the AFLPA acting on his, or their, behalf, successfully proves a violation of Section 1 of this Article, the player or players injured shall have the right:

(a) To terminate his (or their) existing AFL Player Contract(s) at his (or their) option; any AFL Player Contract terminated during the course of a playing season shall be terminated as of the end of that season; and

(b) To recover all of his damages, as described in Section 10 below, for any alleged injuries suffered as a result of the violation.

Section 10. Computation of Damages. Upon any finding of a violation of Section 1 of this Article, compensatory damages (i.e., the amount by which any player has been injured as a result of such violation) and non-compensatory damages (i.e., the amount exceeding compensatory damages) shall be awarded as follows:

(a) Two times the amount of compensatory damages, in the event that all of the Teams found to have violated Section 1 of this Article have committed such a violation for the first time. Any Team found to have committed such a violation for the first time shall be jointly and severally liable for two times the amount of compensatory damages.

(b) Three times the amount of compensatory damages, in the event that any of the Teams found to have violated Section 1 of this Article have committed such a violation for the second time. In the event that damages are awarded pursuant to this subsection: (1) any Team found to have committed such a violation for the first time shall be jointly and severally liable for two times the amount of compensatory damages; and (2) any Team found to have committed such a violation for the second time shall be jointly and severally liable for three times the amount of compensatory damages.

(c) Three times the amount of compensatory damages, plus, for each Team found to have violated Section 1 of this Article for at least the third time, a fine of \$1,000,000, in the event that any of the Teams found to have violated Section 1 of this Article have committed such violation for at least the third time. In the event that damages are awarded pursuant to this subsection: (1) any Team found to have committed such a violation for the first time shall be jointly and severally liable for two times the amount of compensatory damages; (2) any Team found to have committed such a violation for at least the second time shall be jointly and severally liable for three times the amount of compensatory damages; and (3) any Team found to have committed such a violation for at least the third time shall, in addition, pay a fine of \$1,000,000.

Section 11. Player Election. A proceeding prosecuting an alleged violation of Section 1 of this Article shall initially be limited to the issues of liability and damages sustained to the date of the System Arbitrator's determination. In the event the System Arbitrator finds a violation, the player shall make a determination within thirty (30) days of the date of the System Arbitrator's determination, or within thirty (30) days after the last game of the season for such player (including any playoff games) if the finding is made during the course of a season, whether the player intends to void the applicable AFL Player Contract. If the player voids the applicable AFL Player Contract, the player may commence a supplemental proceeding before the System Arbitrator, for the purpose of determining his future damages, if any, only after the player has signed a new AFL

Player Contract or after the first scheduled game of the next regular season, whichever is earlier. If the player elects not to void the applicable AFL Player Contract, he may immediately commence a supplemental proceeding before the System Arbitrator for the purpose of determining his future damages, if any.

Section 12. Payment of Damages. In the event damages are awarded pursuant to Section 10 above, the amount of compensatory damages shall be paid to the injured player or players. The amount of non-compensatory damages, including any fines, shall be paid directly to any AFL Player pension fund, any other AFL Player benefit fund, or any charitable fund for the benefit of present or former AFL Players, as selected by the AFLPA, subject to the reasonable approval of the AFL.

Section 13. Effect on Cap Computations. In the event damages are awarded pursuant to Section 10 above, the amount of non-compensatory damages, including any fines, will not be included in any of the computations described in Article XIX (Salary Cap, Minimum Team Salary & Guaranteed League-Wide Player Compensation) above. The amount of compensatory damages awarded will be included in such computations.

Section 14. Effect of Salary Cap. In awarding any amount of damages, the System Arbitrator shall take into account that, in any League Year in which a Salary Cap is in effect, no Team would have been authorized to pay out any Player Compensation in excess of that permitted under the Salary Cap.

Section 15. No Reimbursement. Any damages awarded pursuant to Section 10 above must be paid by the individual Teams found liable and those Teams may not be reimbursed or indemnified by any other Team or the AFL.

Section 16. Costs. In any action brought for an alleged violation of Section 1 of this Article, the System Arbitrator shall order the payment of reasonable attorneys' fees and costs by any party found to have brought such an action or to have asserted a defense to such an action without any reasonable basis for asserting such a claim or defense. Otherwise, each party shall pay his or its own attorneys' fees and costs.

Section 17. Termination. The AFLPA shall have the right to terminate this Agreement, under the following circumstances:

(a) where there has been a finding or findings of one (1) or more instances of violation of Section 1 of this Article with respect to any one AFL Season which, either individually or in total, involved five (5) or more Teams and caused injury to twenty (20) or more players; or

(b) where there has been a finding or findings of one (1) or more instances of a violation of Section 1 of this Article with respect to any two (2) consecutive AFL Seasons which, either individually or in total, involved seven (7) or more Teams and caused injury to twenty-eight (28) or more players; for purposes of this Section 17(b), a player found to have been injured by a violation of Section 1 of this Article in each of two (2) consecutive seasons shall be counted as an additional player injured by such a violation for each such AFL season; or

(c) where, in a proceeding brought by the AFLPA, it is shown by clear and convincing evidence that fourteen (14) or more Teams have engaged in a violation or violations of Section 1 of this Article, causing injury to one or more AFL Players.

(d) In order to terminate this Agreement:

(i) the proceeding must be brought by the AFLPA;

(ii) the AFL and the System Arbitrator must be informed at the outset of any such proceeding that the AFLPA is proceeding under this Section for the purpose of establishing its entitlement to terminate this Agreement; and

(iii) the System Arbitrator must find that the Teams engaged in willful collusion with the intent of restraining competition among Teams for players.

Section 18. Time Limits. Any action under Section 1 of this Article must be brought within ninety (90) days of the time when the player knows or reasonably should have known with the exercise of due diligence that he had a claim, or within ninety (90) days of the first scheduled regular season game in the season in which a violation of Section 1 of this Article is claimed, whichever is later. Any party alleged to have violated Section 1 of this Article shall have the right, prior to any proceedings on the merits, to make an initial motion to dismiss any complaint that does not comply with the timeliness requirements of this Section.

Section 19. Prior Conference. Prior to the initiation of any proceeding under this Article by the AFLPA, the parties shall confer in person or by telephone to attempt to negotiate a resolution of the dispute.