

# COMPANY Director

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## Two strikes

*How new executive pay rules  
will play out in 2012*

## Sports boards

*The many challenges in  
building winning teams*

## James Strong

*Calling for a united voice of  
directors and heightened debate  
on governance*

### PLUS

*Should you embrace social  
media and what are the risks?*



# Making it past the try line

**Domini Stuart** examines the challenges directors of sports boards have to tackle to build and support winning teams.

## SPORTS BOARD CHALLENGES

- ▶ A tight economy
- ▶ Technology
- ▶ Diversifying and expanding income streams
- ▶ Competing state and national demands
- ▶ Increasing legislation and compliance
- ▶ Implementing change

**S**port is big business; at an elite level, boards are governing complex and multifaceted corporations.

"Of course, it starts with the sport itself – the teams you put out on the park and the success they achieve," says Andrea Slattery FAICD, who was the first woman to be appointed to the South Australian Cricket Association (SACA) board of directors. "There's also the business of maintaining the code at grass roots, state-based and international levels. Then there's the business of maintaining the facilities and managing the activities within those facilities. And, underpinning all of this is the business of membership because membership is the key to your business success."

Just as with the corporate sector, economic challenges are high on the agenda.

"Sport is just one option for people who have an increasingly busy lifestyle," says Michael Johnston GAICD, a senior sports analyst at the Australian Sports Commission. "People have multiple choices in terms of how they spend their free time and disposable income, and sport needs to maintain its relevance to participants.

"However, many of the challenges facing sports are part of a broader community issue. In an increasingly tight fiscal environment, families are

selective with their disposable income, companies are making tough decisions on sponsorships and individuals are finding it hard to commit the time to volunteering and participating."

Developing technology is also having an effect on the way individuals participate in sport.

"Over the past couple of decades, racing crowds have fallen off dramatically and I think technology is the key factor," says Stephen Ferguson GAICD, CEO of the Brisbane Racing Club. "A decade or so ago, if you wanted a bet you had to go to a racecourse or your local TAB. Now you can watch races live on TV and have a bet on your mobile phone."

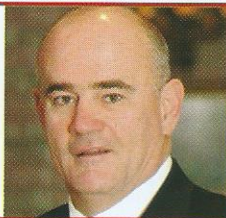
For most clubs, increasing competition for scarce resources has triggered a major move towards diversification.

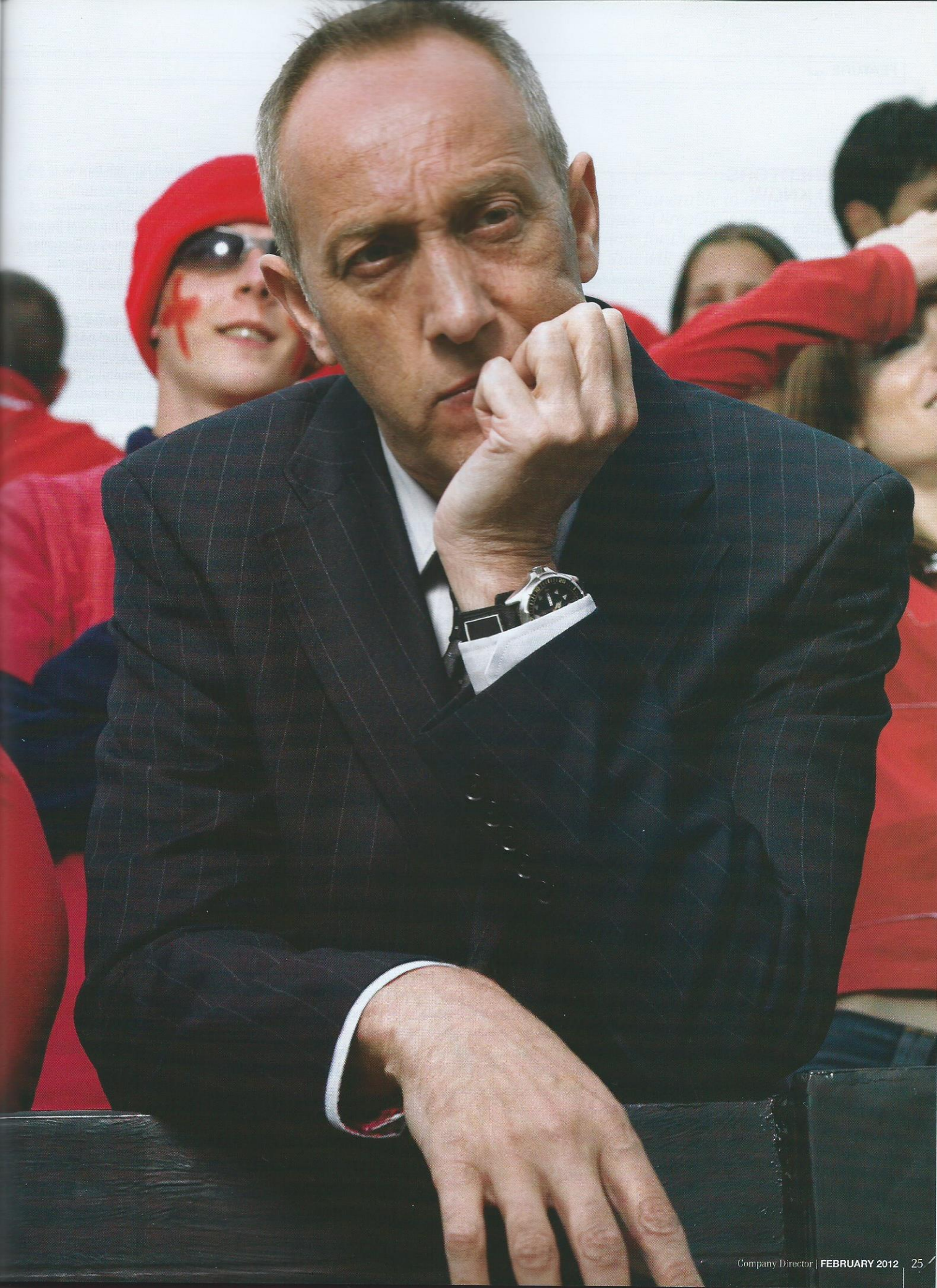
"We've got two race courses in Brisbane – Eagle Farm and Doomben – and both have meetings about 50 times a year, but it's no longer possible to rely on these earnings," says Ferguson. "So we now hold markets every Sunday. We're very big on hospitality, with first-class facilities for corporate and social events. We've built a community sports and polo field in the middle of Doomben Racecourse and are now running three or four polo events a year. We're also looking to events like music festivals – anything that can increase the scale of the business."

This shift is affecting sporting bodies at the local, state and national levels.

"All boards are now under increasing pressure to deliver results on and off the field," says Peter McGrath, a partner at Griffin Legal and chairman of the Australian Rugby Union.

*'A decade or so ago, if you wanted a bet you had to go to a racecourse or your local TAB. Now you can watch races live on TV and have a bet on your mobile phone'* **STEPHEN FERGUSON**





## WHAT DIRECTORS NEED TO KNOW

**MICHAEL JOHNSTON:** Be strategic. Many underperforming sporting organisations have boards that are focused on operations at the expense of strategy.

**DAMIAN IRVINE:** Embrace diversity and control the club as you would any other company in terms of transparency, due diligence, integrity, objectivity in decision making and governance.

**JAMES BUNN:** Build a strong and positive culture in the club. Compliance with good corporate governance practice is a given when all members of the community are able to self-manage their behaviour.

**BRUCE GOTTERSON:** Take advice from professionals experienced in the registered clubs area and encourage all directors to do ongoing training.

**MARK CARTWRIGHT:** Surround yourself with great people, invest in the education and training of volunteers and take your responsibility seriously. But, at the same time, do all you can to make the experience enjoyable for yourself and others.

**STEPHEN FERGUSON:** Remember the job may be voluntary but that doesn't mean you're off the hook in terms of director liability.

**ANDREA SLATTERY:** You must bring your expertise and skills to the board and not your ego. This is a professional appointment and requires your full dedication and attention for success.

"This is not only for the sport but for their sponsors, owners and stakeholders."

### GROWING RESPONSIBILITIES

Today's directors have a range of fiduciary duties and responsibilities that go well beyond the traditional need to win games or achieve sporting excellence.

"They're required to ensure legal and financial compliance and reporting," says James Bunn FAICD, a non-executive member of AFL Sydney Swans Centre Circle Organising Committee. "They have a duty to be effective and make good decisions within risk and strategy frameworks."



*'Directors have a duty to be effective and make good decisions within risk and strategy frameworks'* JAMES BUNN

A number of sports still operate within a federal structure, with a national office and state and territory associations. The role of the national board is to govern the sport throughout Australia, but affiliation with state-based bodies can result in divided loyalties.

"Board members of the national organisation, finding themselves reliant on continued support from the state or territory that appointed them, may make decisions not necessarily in the best interests of the national body but instead for the benefit of the body from where they receive their electoral support," says McGrath. "This conflict is clearly an impediment to independent decision-making and, in some cases, may lead to decisions being made contrary to the law."

Overall, legislation is becoming increasingly complex.

"The boards of clubs operate under the provisions of the *Corporations Act 2001* and in some cases, the *Co-operatives Act*, *Registered Clubs Act*, *Gaming Machines Act* and their associated regulations, as well as many other laws," says Bruce Gotterson, a partner and member of the Clubs Industry practice group at Piggott Stinson. "Directors need to keep up to date

on all relevant issues, but this can be a lot to ask of volunteers."

Mark Cartwright, an executive consultant at ACTSPORT, is concerned that if the trend towards increasing legislative and statutory obligations on sporting boards continues, it will become increasingly difficult to attract directors of an appropriate calibre.

"This is a real risk and it is up to the industry to work with government to ensure no further disincentives to volunteerism are legislated," he says. "While sport must be mindful of the various risks associated with the nature of activities we conduct, we cannot be put in a situation where

sitting on a sporting club board is perceived as too risky for an individual."

The risk extends to clubs of all sizes and it is already exacting a toll.

Allen Roberts FAICD, managing director of Strategy Audit, recently resigned from the board of a small community sporting club where he had spent much of the time as treasurer.

"The club is incorporated, which means it's subject to the *Corporations Act*, just like BHP," he says. "But I was the only person on the board who had any understanding of the rules and practice of governance. I spent some years doing my best to force an evolution of the culture but in the end, I felt I had no choice but to back away."

At the community level, involvement with children and young people adds an extra layer of complexity and responsibility.

"In Rugby Union, for instance, you've got scrums involving eight or nine year olds," says Ferguson. "Your first priority has to be safety. You have to be very sure the people doing the instructing are properly qualified."

Steven Howard GAICD, a founding director and former chairman of Sports Taekwondo Australia (STA), was hampered by state-based regulations.

"STA runs state championships, an annual national championship event and selection events for international tournaments including the Olympic Games," he says. "Most of our participants are aged between eight and 24 yet, despite approaching everyone from lawyers to the Department of Justice, we could never

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MARK CARTWRIGHT



get a clear directive on whether our Victorian Working With Children checks were valid in the other states. This created a sense of unease – a concern that you might accidentally violate a law and suffer a financial and reputational cost – and this is something that would affect all organisations working with children.”

### THE REAL PURPOSE

While director liability remains a serious concern, Damian Irvine, chairman of the Cronulla Sharks, has seen positive outcomes.

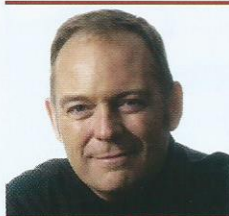
“In recent years, boards have been revamped and modernised so that they are better aware of their obligations and the need for strong governance,” he says. “Far greater diversity and a balance of skill sets and experience are now being seen as an advantage for sporting club boards whereas, in the past, they were notoriously difficult to break into if the aspirant had not been part of the club for many years or was not a financial supporter.”

Nevertheless, he acknowledges that it remains a challenge to implement the cultural and structural changes needed to bring clubs into line with world’s best practice for organisations with comparable revenue size, employee numbers and turnover.

*‘Stakeholders and sponsors move with the times, but many Australian sports clubs have traditionally been run on models that make growth and change rather difficult’* DAMIAN IRVINE

“Stakeholders and sponsors move with the times, but many Australian clubs in a range of sports have traditionally been run on models that make growth and change rather difficult,” he says. “The outcomes and flow-on in culture change are enormous but, unless you take this approach, your club is always going to struggle to attract suitable sponsorships from companies that, these days, value ethical business practices and sound governance very highly.”

The boards of many sporting organisations are created by a member vote. That means



*‘Sporting clubs are vulnerable to being hijacked by well-meaning people. Directors need to understand they’re not just there for their sporting expertise but to make choices that will shape the future of their community’* STEVEN BOWMAN

management has an important role in encouraging members to vote with information and integrity.

“Sporting clubs need to work not only from the top, but from the bottom,” says Slattery. “Communication is key. Members need to understand the business plan and the skills required on the board and also the overall vision so that the selection process can incorporate that vision.”

Steve Bowman, managing director of ConsciousGovernance.com, has worked with sporting clubs of all sizes. He believes many people, including those within the sporting clubs themselves, overlook a critical aspect of their role – as the glue that holds communities together.

“Many sporting clubs have boards made up of fantastic directors who are passionate about sport and often deeply embedded in the sport,” he says. “Unfortunately, that means sporting

“This is a soccer club for disadvantaged youth from the public housing estates in Carlton and Kensington, supported largely by the Eritrean Community,” she says. “They keep boys engaged, mentored and supported through civil life and school while being passionately devoted to soccer. They are far from a big name, and they’re doing it tough in terms of voluntary roles and staying afloat, but there’s so much more than sport going on there.”

Whatever the level, Gotterson suggests directors can benefit from ongoing training, competent management and appropriate advice.

“The role can be demanding but the rewards of contributing to the ongoing development of sport can be very satisfying,” he says. ①



clubs are vulnerable to being hijacked by well-meaning people. Directors need to understand they’re not just there for their sporting expertise but to make choices that will shape the future of their community. That goes all the way through all types of clubs and that’s why sport is such a strong part of the Australian culture.”

Melanie Raymond MAICD, a member of the national not-for-profit advisory committee at the Australian Institute of Company Directors, cites the Northern Lions Football Club as a grass-roots example.



*‘The role can be demanding but the rewards of contributing to the ongoing development of sport can be very satisfying’* BRUCE GOTTERSON