THE AFL'S HOLY GRAIL: THE QUEST FOR AN EVEN COMPETITION

DR CHRIS DAVIES*

Abstract

The Australian Football League (AFL) and its forerunner, the Victorian Football League (VFL), have implemented a number of labour market controls including metropolitan zoning, country zoning, a transfer system and more recently, a salary cap and draft system. The restraint of trade doctrine requires that any party implementing labour market controls be able to show that such restraints help to achieve the stated objectives of such controls, namely the creation of more even competition. This paper therefore examines how the evenness of a competition such as the AFL may be measured. The author's study involves measuring the number of different teams that have won premierships in the various decades of the VFL-AFL, whether all teams have made the finals at least once in these decades, and how many teams have fulfilled their 'finals quota' in a given decade. It is suggested that the figures obtained from this study indicate that the AFL has been successful in creating a more even competition during the 1990's, one that is continuing into the present decade.

INTRODUCTION

Labour market controls have been used in professional team sports for well over a hundred years,[1] with the stated intention of creating a more even, and arguably a more financially viable league competition. The argument for this is that the attractiveness of the competition depends on the high degree of uncertainty about the results with Dabscheck[2] and Buti[3] suggesting that this basic premise has been generally accepted in the

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literature. Sports administrators have also sought to justify these labour and product market controls on the basis of the peculiar economics of the sports industry.[4] This means that rather than clubs seeking to put competitors out of business, there is a mutual interdependence to ensure that all survive as even the strongest clubs can only survive provided other clubs remain viable entities.[5] Thus the paradox of competition in professional team sports is that, whilst a club's objective is to finish the season in a higher league position than any of its rivals, it also has vested interest in the continuing success of its league rivals, for the more successful the rival is in terms of league position and popularity, the larger will be the attendance resulting from the common product[6]

While recent publications in sport economics have looked at this question of measuring equality in a sports competition, it is suggested that the methods advanced in these publications may run into the evidentiary problems highlighted in *Adamson v New South Wales Rugby League ('Adamson')*[7], namely that the sample size may be too small to be statistically significant, and that the economists who have carried out this type of work may not be accepted as experts in statistics by the court. It should also be noted that in *Adamson*, Hill J also questioned the application of economic theory to sports competitions.[8]

This paper will therefore examine this question of what can be presented as expert evidence in relation to the equality of a competition, and then present material that looks at the equality of the Australian Football League (AFL) competition in a way that may avoid the problems highlighted in *Adamson*. It will also provide a brief overview of the use of labour market controls by the AFL, and its forerunner, the Victorian Football League (VFL).[9] It is suggested therefore that the contribution this

[4] Ibid 142.
[5] W.C. Neal, 'The Peculiar Economics of Professional Sports' (1964) 78 *Quarterly Journal of Economics* 1.
[6] P.J. Sloane, 'The Economics of Professional Sports: The Football Club as Utility Maximiser' (1971) 18 *Scottish Journal of Political Economy* 121, 124.
[7] (1991) 27 FCR 535. This case involved a legal challenge by the players to the draft system implemented by the New South Wales Rugby League (NSWRL).
[8] Ibid 563.
[9] When the VFL formed in 1897 it consisted of eight Victorian teams, with five more being admitted over the next 28 years, though one team, University only competed from 1908-1914. During the 1980's the competition began to take on a more national identity, beginning with South Melbourne's move to Sydney in 1982. Two more interstate teams then joined the VFL in 1987, West Coast and the Brisbane Bears (now the Brisbane Lions). To reflect this change in identity the name was changed from the Victorian Football League to the Australian Football League for the 1990 season. It should also be noted that the reserve

paper can make to the literature is to present some figures that would seem to indicate that the AFL has created a more even competition, and provide a methodology that may be more acceptable to the courts than the statistical based method that was used in *Adamson*.

I   LABOUR MARKET CONTROLS AND THE VFL/AFL

When the VFL was formed in 1897 it introduced a metropolitan zoning system. Under this system all players in the Melbourne metropolitan area were tied to a specific club, depending on where they lived, and could not play for another club unless released by the club to whom they were zoned. In 1968 country zoning was introduced dividing country areas of Victoria and parts of NSW into zones which were then allocated to the various clubs. A player wishing to play in the VFL therefore had the club he would play for determined by the area in which he lived and could only change clubs after the original club granted a clearance and received a transfer fee in return.[10]

In 1986, the now national VFL adopted a national draft system as its method of distributing player talent equally amongst the clubs due to perceived problems with the transfer system and after the zoning systems and their associated clearance rules were the subject of successful litigation in *Foschini v Victorian Football League and South Melbourne Football Club ('Foschini')*[11]. The system was modelled on the National Football League (NFL)'s draft and involved the last placed team from the previous season's competition year given the first choice of the available players for the following season. The second last team then gets the next pick, and so on, until every team has had a selection, and the process is repeated for second, third round etc draft choices. Such a system can involve just the players already playing in the league through what is commonly known as an internal draft. Alternatively, the draft can consist of new players to the competition in what is referred to as an external draft. Both are utilized by the AFL, with players entering the competition for the first time doing so by means of an external national draft or alternatively, the rookie draft.[12] Players can be traded from one team to another in the

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grade teams of the Victorian based AFL teams merged with the Victorian Football Association (VFA) to form a new competition called the VFL.

[10] Brahm Dabscheck, 'Sporting Labour Markets and the Courts' (1985) 2 *Sporting Traditions* 2, 2.

[11] (Unreported, Supreme Court of Victoria, Crockett J, 15 April 1983).

[12] This draft is limited to players under the age of 23 and takes place after the national draft. It operates on the same principle as the national draft in that the lowest placed team has the first selection of the available players. Note the

national draft, or change teams by means of the internal pre-season draft. Players entering the competition for the first time by means of the external national draft are required to sign a two year contract with the club that drafts them.

The VFL introduced a salary cap system in 1984. This system unlike the maximum wage restraint, does not limit the amount that any one player can earn, but instead it restricts the overall amount that a particular club can spend on player salaries. For the 2007 AFL season that level will be $6.94m.[13] The idea behind a salary cap is that by ensuring that all clubs have the same amount of money to spend on players, the best players will not all be signed by the richer clubs, and so a more even competition will be created.

However, both the salary cap and draft system rules implemented by the VFL and AFL have included, at certain times, various concessions for some clubs. For instance, when West Coast, Adelaide, Fremantle and Port Adelaide entered the competition they were granted a number of pre-draft selections. Sydney and Brisbane were granted state based zones that enabled them to select players from NSW and Queensland respectively before the national draft. From 1986 to 1992, each Victorian club was allowed to select one player from its metropolitan zone before the national draft.[14] The influence of these selections can be seen from the fact that all the AFL premiers from 2000-05 still had a number of players who were not obtained directly from one of the AFL drafts, or from the trade aspect of the national draft.

Prior to 2006 a system of priority selections was also used whereby teams that won less than five games in a season were eligible for a priority selection before the first round of the national draft. The AFL has now abandoned this system, one reason being that there were suggestions that teams could deliberately lose games late in the season in order to qualify for a priority selection. However, teams that do not win the prescribed number of games will be eligible for an extra selection between the first and second rounds.

Brisbane and Sydney were granted an extra 10 percent and 15 percent increase in the salary cap respectively to compensate for the fact that they

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rookies are than placed on the rookie list but can be elevated to the senior list to replace players who have long term injuries.

[13] 'Strength in new pay deal', *AFL Record*, 4 August, 2006, 16. The AFL and the AFL Players Association agreed that this will rise to $7.43m in 2008, $7.70m in 2009, $7.96m in 2010, and $8.22m in 2011.

[14] Michael Lovett (ed), *AFL Record: Guide to Season 2006* (2006) 335.

had more players from other states. This was seen as protection from other clubs making good offers to entice players back to their home states. The reason why Sydney was granted a further five per cent was to take into consideration that the higher cost of housing in Sydney. Brisbane and Sydney are no longer granted an extra ten per cent above the salary cap, though Sydney retains a seven per cent housing allowance.

Despite these concessions, the aim of the twin system of the salary cap and draft system is to help create a more even competition. These concessions were granted to help rectify some in-built inequalities that were considered to exist at various times. This, for instance, is why Sydney retains its housing allowance. If the aim of a more even competition is accepted as a legitimate objective of a league, [15] then the restraint of trade doctrine requires a determination of whether the labour market controls used actually achieve the stated objective. This raises the question as to how and who can present such evidence in a court of law, thus requiring an examination of the area of expert witnesses. Therefore, before looking at the use of expert evidence in *Adamson*, it is necessary to present a brief review of general principles regarding the use of expert witnesses.

II   EXPERT EVIDENCE IN SPORTS CASES

A   The Principles of Expert Evidence

An underlying principle of evidence law is that witnesses are only allowed to give evidence relating to what they have experienced with their senses, and are not allowed to give evidence that relates to their opinion. One exception to this opinion rule is the use of expert witnesses. However, while such witnesses have been allowed by the courts to provide evidence in a wide variety of areas, 'it has always been a fundamental tenet of evidence law that they are not permitted the privilege of giving evidence in

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[15] Note that the High Court in *Buckley v Tutty* (1971) 125 CLR 353, 377, while declaring rugby league's retain and transfer system to be an unreasonable restraint of trade, acknowledged that it was a legitimate objective of the league to ensure that the teams in the competition were as strong and as well matched as possible. In *Adamson v New South Wales Rugby League* (1991) 27 FCR 535, 560, Justice Hill stated that the three legitimate interests of the league were: (1) the desirability of a strong and competitive competition with the teams as equally matched as possible, (2) all the clubs competing to be as financially viable as possible, and (3) that rich clubs would not be able to plunder the weaker clubs of their players. This raises the issue of protectable interests, a concept at the heart of the justification of a restraint of trade, as a covenantee is entitled to protect certain interests: see J. Carter and D Harland, *Contract Law in Australia* (2002) 588.

the form of opinions if they are not properly designated experts.'[16]   In *Clark v Ryan*[17], for instance, a case that involved a highway collision between an articulated semi-trailer and a van, there was also an issue as to whether a particular witness was qualified to give expert evidence. Dixon CJ stated that such evidence could have been given by someone more highly qualified that the expert, and what had been presented in court was partly the evidence of opinion outside of any qualifications that the witness could be said to possess.[18] Thus, an expert witness is expected to be just that, an expert, in what is known as the expertise rule.[19] For instance, in the litigation involving the Seven Network and News Ltd regarding the demise of the Seven Network's pay televisions station, C7, the reports of two expert witnesses were rejected by the court on the grounds that the witnesses were not experts in the relevant area.[20] It should also be noted that an expert is expected to be independently objective and impartial, with the degree to which the expert displays these features having an impact on the fact finder's evaluation of the probative value of the evidence.[21]

As well as the requirement that the person presenting the evidence be an expert, a further requirement is that it must involve an area capable of being classified as an area of expertise. [22]   Dixon CJ in *Clarke v Ryan* stated that experts could not testify in areas that were not part of a formal sphere of knowledge.[23] Freckelton and Selby[24] suggest that *Murphy v R* [25] supports the use of a common knowledge rule[26]. Furthermore, Mason CJ and Toohey J have stated that the evidence must be outside the fact

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[16] Ian Freckelton and Hugh Selby, *Expert Evidence: Law, Practice, Procedure and Advocacy* (2005) 24.

[17] (1960) 103 CLR 486.

[18] Ibid 492.

[19] Freckelton and Selby, above n 16, 24.

[20] *Seven Network v News Ltd and Others No 14* [2006] FCA 500; *Seven Network v News Ltd and Others No 15* [2006] 515, though it should be noted that in the later case, parts of the expert report were accepted.

[21] Freckelton and Selby, above n16, 25. For case law see *National Justice Compania SA v Prudential Assurance Co Ltd ('The Ikarian Reefer')* [1993] 2 Lloyd's Rep 68, 81-82.

[22] Freckelton and Selby, above n 16, 61, 64.

[23] *Clark v Ryan* (1960) 103 CLR 486, 491.

[24] Freckelton and Selby, above n 16, 179.

[25] (1989) 167 CLR 94.

[26] Note however s 80 of the *Evidence Act 1995* (Cth), s 80 *Evidence Act 1995* (NSW) and s 80 of the *Evidence Act 2001* (Tas) which state that the evidence is not inadmissible only because it is a matter of common knowledge. Freckelton and Selby suggest that this section in these acts appears to have abolished the common knowledge rule in those jurisdictions: see Freckelton and Selby, above n 16, 101.

finder's experience and knowledge.[27] Dixon CJ in *Clark v Ryan* stated that the opinion of witnesses possessing peculiar skills is admissible whenever the subject matter of inquiry is such that inexperienced persons are unlikely to prove capable of forming a correct judgment on the subject matter without such assistance.[28]

More recently in *Makita(Australia) Pty Ltd v Sprowles* [29] Heydon JA stated that:

> [I]f evidence is tendered as expert opinion evidence is to be admissible, it must be agreed or demonstrated that there is a field of "specialised knowledge" [30]; there must be an identified aspect of that field in which the witness demonstrates by reason of specialised training, study or experience, the witness has become an expert; the opinion proffered must be "wholly or substantially based on the witness's expert knowledge".

Thus, the courts have indicated what is acceptable expert evidence, and this will be considered when examining the issue as to what evidence can be used to establish whether labour market controls have achieved a sporting league's objective of creating a more even competition.

B   Expert Evidence in Adamson

In *Adamson* one of the expert witnesses was Brahm Dabscheck, an academic from the University of New South Wales, who gave evidence relating to a method he had developed that attempted to measure the degree of competitiveness over a given period of time. This method involved using the average finishing places of the 12 Melbourne based teams that competed in the VFL from 1925 to 1972. The method consisted of taking a minimum number of years equal to the number of teams in the competition, then making the assumption that if there was strict equality in the competition, each team during this period would finish just once in each place in the competition. Hence, if the competition consisted of 12 teams then over a 12 year period, assuming equality of players, each team would occupy every position from first to twelfth. In such a result, the mean score of each team would be 6.5. The actual placing was taken from

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[27] *Murphy v R* (1989) 167 CLR 94, 111.

[28] *Clark v Ryan* (1960) 103 CLR 486, 491.

[29] (2001) 52 NSWLR 705, 743-44.

[30] Note that his Honour was using the wording of s79 *Evidence Act 1995* (Cth), s79 *Evidence Act 1995* (NSW) and s79 *Evidence Act 2001* (Tas) which state that an exception to opinion evidence is that which is based on specialised knowledge.

this period and a standard deviation from the mean was calculated from the actual results.[31]

Dabscheck's methodology, however, was strongly criticised in *Adamson* with Hill J doubting the underlying assumption that if there was equality of playing talent every team would fill once, and only once, each position in the ladder over a time span corresponding to the number of teams in the competition[32]. His Honour's opinion was based on the fact that because of the relatively short time period of the study, the sample size was simply too small to produce a statistically sound result[33]. Thus, there is judicial opinion that there are problems in using statistics to determine the evenness or otherwise of sports leagues as the sample size may not be large enough to apply such statistics.

Justice Hill also stated that there was no objective test accepted by the experts in the field upon which he could rely to measure the competitiveness of teams in the competition, and that there was no accepted method of arriving at an 'index of competitiveness'.[34] Hill J was also of the opinion that Dabscheck was not qualified to give evidence in relation to his method, as such evidence could only be given by a person qualified as an expert in statistics, with his Honour pointing out that Dabscheck had only studied statistics for one year as an undergraduate student.[35] His Honour was also critical of Dabscheck and another witness, Professor Swan, for having such obvious support for free labour markets,[35] and therefore potentially lacking the impartiality required of an expert witness. Justice Hill then concluded that the issue of reasonableness in regard to the draft was to be determined by reference to the practical operation of the rules of the draft, not by 'academic economic theory.'[36]

A narrow interpretation of Hill J's decision would limit these findings in relation to expert witnesses to the specific facts of the case. Thus it would be limited to the specific statistical test that was presented to the court in *Adamson* and to the academic who gave such evidence. A broader interpretation, however, one favoured by the author, is that the findings underline more basic problems with the presentation of statistical data by economists in regard to whether a competition is an even one or not. This is because the sample size may not be substantially larger than that which

[31] Dabscheck, 'Sporting Equality', above n 2, 184.
[32] *Adamson v NSW Rugby League Ltd* (1991) 27 FCR 535, 563.
[33] Ibid 562-3.
[34] Ibid.
[35] Ibid, 563.
[35] Ibid.
[36] Ibid.

was used in *Adamson,* and so therefore the question remains as to whether the sample size is sufficient for proper statistical analysis. It is also suggested that many economists are unlikely to have any more statistical training than the academic who gave evidence in *Adamson,* and this may well present a problem when the evidence given relies almost entirely on a statistically obtained result.

It is also suggested that there are other inherent problems with relying on statistically obtained results when looking at this question of whether a competition is even or not. Competitions like the VFL-AFL have not remained the same over a long period of time, but have continued to evolve. Thus, the number of teams in this competition has changed with new teams being admitted, the merger of two teams to create the Brisbane Lions, and the demise of one team during the time when the competition was the VFL.[37] Other factors, such as the number of finalists each year and how the final system has worked, have also changed reasonably regularly over the history of the VFL-AFL. All these factors make it harder to obtain a reliable result solely by the application of statistics. Utt and Fort,[38] when applying league winning percentages (Gini coefficients) to measure within season competitive balance in Major League baseball, noted that additional complexity created by unbalanced schedules, inter-divisional matches and inter-league play[39] has to be overcome before these coefficients can precisely estimate competitive balance. This author questions whether all these variables can in fact be sufficiently overcome to produce a meaningful set of statistically based results.

It is the author's opinion, therefore, that *Adamson* represents an authority that the application of economic theory to sports competition is questionable; that there are problems in using statistics when looking at the

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[37] The original teams that formed the VFL in 1897 were Carlton, Collingwood, Essendon, Fitzroy, Geelong, Melbourne, South Melbourne and St. Kilda. In 1908 Richmond and University were admitted, though University do not compete after 1914. West Coast and the Brisbane Bears were admitted in 1987, Adelaide in 1991, Fremantle in 1995 and Port Adelaide in 1997. In 1997 Fitzroy and the Brisbane Bears merged to form the Brisbane Lions.

[38] Joshua Utt and Rodney Fort, 'Pitfalls to Measuring Competitive Balance with Gini Coefficients' (2002) 3 *Journal of Sports Economics* 367.

[39] Major League Baseball is divided into two leagues, the National League and the American League. Legally, the two leagues are separate entities, though since 1903 the winner of the National League has played the winner of the American League in the World Series. More recently, inter-league games have been incorporated into the regular season. Both leagues are divided geographically, with teams in those divisions playing each other on a more regular basis that they do other teams in the same league but in a different division of either the National or American League.

question as to whether a sporting league has created a more even competition; and that there is a possibility that the majority of economists are not going to be accepted as experts in statistics by the court because of their lack of high level training in statistics. It is also suggested that Hill J's reasoning in regard to the use of expert evidence in *Adamson* is consistent with the use of expert witnesses in Australian courts, and this needs to be kept in mind when examining the sports economics material relating to whether a sporting league has created a more even competition.

C   Sports Economics and its Use as Expert Evidence

There have been many studies by sports economists that look at the question as to whether labour market controls have helped to create more even competitions,[40] with the intention of providing suggestions for decision makers in the professional sport industry.[41] As well as the previously mentioned admissibility problems, the author has other reservations concerning their usefulness in relation to a study of the AFL. For instance, Borland and MacDonald concluded that it is the seasonal competitive balance that matters in regard to attendance for a number of different sports, there being a relation between attendance and competitive balance within a season and between seasons.[42] Owen and Weatherston,[43] examined the seasonal factors when looking at Super 12 rugby union attendances in New Zealand, as did Utt and Fort in regard to Major League baseball in the US.[44] While the author accepts that attendances are, and always will be, affected by the teams' on-field performance during a particular season, this is not necessarily relevant to a study of the AFL which is prepared, and has the resources, to subsidise clubs that struggle financially during a particular season. In recent years the AFL, with money procured from lucrative television rights deals, has given grants of around $1m to Melbourne, Kangaroos and the Western Bulldogs and during the 2006 season, a $2m package to Carlton[45]. Another factor that must be considered is that the purpose of the labour market controls presently implemented by the AFL, namely the salary cap and draft system, is to provide a much longer term benefit than just one season. Any analysis, therefore, of whether the AFL achieves its legitimate objective of a more even competition, and thus justifies its protectable interests, must be taken

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[40] Dabscheck, 'Sporting Equality', above n 2.

[41] Jeffrey Borland and Robert MacDonald, 'The Demand for Sport' (2003) *Oxford Review of Economic Policy* 478.

[42] Ibid 486.

[43] P.Dorian Owen and Clayton R. Weatherston, 'Uncertainty of Outcome and Super 12 Rugby Union Attendance' (2004) *Journal of Sports Economics* 347.

[44] Utt and Fort, above n 37.

[45] 'Blues receive assistance', *AFL Record*, 21-23 July, 2006, 23.

with a longer term view in mind. It should also be noted that in *Rugby Union Players Association v Commerce Commission*,[46] a case involving a challenge to the introduction of a quota system to limit the movement of players in New Zealand rugby union, Smellie J stated that in looking at such matters, it is the long term view that needs to be taken into consideration.[47] Even Borland and McDonald acknowledge that sporting leagues administrators may have a basis for imposing rules and regulations that seek to achieve competitive balance, but that these 'regulations can only be justified on a public benefit basis where they can be demonstrated to address the issues of longer term competitive balance.'[48]

While the author accepts the validity of such economic studies to help determine the best way of organising sporting leagues, it is also justifiable to approach the question of whether labour market controls have created a more even competition from a legal perspective. This is because it is a legal requirement that the party implementing a restraint of trade illustrate that the controls help to achieve its stated objective, namely a more even competition, with the law also determining what evidence is admissible to support this claim.

D   The Use of Comparative Figures

The author's approach in regard to looking at whether a particular sporting league has created a more even competition is to present, not an analysis that provides a test of statistical significance as to whether the VFL-AFL competition is even or not, but a comparison of figures from which others, including judges, can decide for themselves whether or not the figures indicate that an even competition has been created. While this use of comparative figures may be considered to be a basic statistical measure of the deviation between two data, it does, however, fall short of producing a result based on an objective, statistical test that an expert witness would then be stating should be accepted by the court.

How this comparison of figures can be used can be illustrated by looking at the example of the use of batting averages, aggregates and other figures (such as the number of centuries scored) to decide who is the best batsman in the history of Test cricket. Although the comparison of these figures is only subjective, the outstanding figures of Sir Donald Bradman mean that the vast majority of cricket commentators and supporters consider him the best batsman of all time. The author would also add that these comparative

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[46] [1997] 3 NZLR 301.

[47] Ibid 327.

[48] Borland and MacDonald, above n 41, 498.

figures, or 'sports statistics', are used constantly in sport, and it is only sports economists who have applied statistical significance to them. Therefore, the author's method in this paper is based on figures that various sports use, and involve the two factors most people would use for measuring success in a sporting competition, namely, how many premierships various teams have won, and how often a team has made the finals.

Finally, it should also be noted that in *Smith v Pro Football Inc*,[49] a case challenging the National Football League's (NFL) draft system, both the majority and minority judges used comparative style figures in regard to how many times teams had made the playoffs over a period of years. These were used to help support their respective views as to the validity of the draft system.

Thus, this use of comparative figures can provide evidence to support the evenness or unevenness of a competition that may be more acceptable to the courts than a statistical significance approach.

III   HOW EVEN IS THE AFL COMPETITION

A   Dabscheck's Study

As previously mentioned, Dabscheck developed a method to attempt to measure the degree of competitiveness over a given time. Using such methodology for the period of 1925 to 1972, Dabscheck[50] concluded that the 12 team, Melbourne based competition during this period was an unequal one, indicating that the labour controls used during this period had not given rise to competition equality, a view also expressed by Crockett J in *Foschini*. Hill J, however, doubted the underlying assumption of this method that in an even competition each team would fill once, and only once, each position in the ladder over a time span corresponding to the number of teams in the competition. Another suggested flaw in the methodology is that it measures *absolute* or *total* equality, as this requires, amongst other things, a continuous rotation of the teams in regard to which team wins the premiership each year. It is suggested this is impossible for even in a totally even competition brought about by labour market controls, other factors such as injuries, poor umpiring decisions and bad weather, may affect matches, and therefore which team actually wins the premiership. It is further suggested that such a totally even competition would also be as predictable as an AFL competition where only a few

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[49] 593 F 2d 1173, 1184, 1202 (1978).
[50] Dabscheck, 'Sporting Equality', above n 2, 184-5.

teams are likely to win in every decade. Therefore, what the AFL is trying to achieve in its competition is *reasonable* equality, with this being defined as one which produces figures that are in between what an uneven competition would produce, and what a totally even competition would produce. Thus, in relation to how many teams in a given decade win the competition, a totally even competition would have ten different teams winning the premiership, while an uneven competition would have around three to four teams winning the competition. Therefore, a reasonably even competition would be one having six to seven different teams winning the premiership in a given decade.

It is suggested, therefore, that it is *reasonable* equality that should be the objective of a sporting league, as not only is it a far more realistic objective, but it is also what a sporting league that implements labour market controls is actually trying to achieve.

B   MacDonald's Study

Another study that examined the question as to whether the AFL competition is an even one was that made by MacDonald [51] who looked at three different hypothesis in relation to the AFL' s labour market controls, namely: (1) that seasonal, and long term, winning percentages of each club in the AFL competition had not declined in the post draft era; (2) the average winning margin in AFL matches had not declined in the post draft period; (3) there was no decline in the long term dominance of the AFL competition by certain clubs in the post-draft period. MacDonald's [52] conclusion was that the data in relation to all three hypotheses did not support the AFL's assertion that the draft system, in conjunction with the salary cap, had made the competition more even. While the first two criteria are both plausible measures of the success of the relevant labour market controls, the author does have a few reservations. Averaging out winning percentages, in the author's opinion, does not necessarily indicate how competitive a team has been over a length of time, as a few bad seasons in the nine used in the figures can hide the fact that for the rest of the seasons the team was highly competitive, if not for the premiership, then at least for a finals berth. It should also be noted that a few bad seasons in nine will not have a detrimental effect on a club's long term, financial viability. It is continually finishing at, or near, the bottom of the table, that will place clubs under significant financial strain.

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[51] Robert MacDonald, *A Study of the AFL's Labour Market Control Mechanisms* (Honours Thesis, Melbourne University, 1996).
[52] Ibid 60.

It is suggested that looking at the average winning margins is even less reliable, for although one of the aims of labour market controls is to create more matches with a close result, the reality is that factors such as injuries, temporary loss of form, or the effect of one team playing a 'blinder', means that there will always be big winning margins in a season, no matter how even the competition is. Also the actual winning margin does not always reflect how close the game actually was, particularly in one as high scoring as AFL. The average margin in MacDonald's study was 37 points before the draft, and 38 after its introduction. Such a winning margin will often reflect a game comfortably won by one side. However, it can just as easily reflect a game that was close for four quarters, with one team enjoying a small lead before kicking the final four goals or so to create a comfortable, but late, winning margin. Conversely, a close 16 point margin may reflect the opposite, where one team led comfortably all game and the opposition kicked the final few goals to make the score look respectable.

MacDonald also points out that the strong pre-draft and salary cap clubs like Essendon, Hawthorn and Carlton remained strong after the introduction of the draft and salary cap, while conversely, Fitzroy, South Melbourne (Sydney) and St. Kilda, remained weak before and after the introduction of the salary cap and draft system. He does acknowledge, however, that this may be partly due to the advantages or disadvantages the clubs acquired before the introduction of the draft.[53]

MacDonald was writing in 1996, and having the advantage of writing in 2006, the author would point out that in the years since McDonald's study Sydney and St. Kilda have both made AFL Grand Finals, Sydney in 1996 and 2005-6, St. Kilda in 1997. Sydney's appearance in the 1996 Grand Final was its first since 1945, while its premiership in 2005 was its first since 1933. Fitzroy, admittedly as a merged entity with Brisbane, won the 2001 premiership, its first since 1944, followed by two further premierships in 2002 and 2003. Adelaide, an expansion club, and North Melbourne (Kangaroos) have each won two premierships since 1996 while the three strong clubs mentioned by MacDonald have won just the one between them, Essendon having been successful in 2000. Hawthorn failed to make the finals for the four years between 1997-2000, including finishing second last (15th) in 1999, and missed out on the finals in 2002-6, again finishing 15th in 2004. Carlton meanwhile finished last in 2002, second last in 2003, and last in 2005 and 2006. Essendon and Hawthorn also finished in the bottom four in 2005, with Essendon then finishing second last in 2006. Thus, it would seem reasonable to conclude that the

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[53] Ibid.

AFL, in the last decade or so, has seen a definite decline in the dominance by a few strong clubs.

C   The Author's Analysis

The author's analysis on the evenness of the VFL-AFL competition involves firstly breaking the history of the VFL-AFL into ten 'decades': 1897 to 1906, 1907 to 1919 (excluding the years 1916-18 when not all the clubs participated because of World War I), then 1920-29, 1930- 39 etc up until 1990-99. Decades were considered to be the most appropriate length of time for this study because it is the long term perspective that needs to be examined when looking at whether a competition is an even one or not, particularly with the AFL which, as has been previously mentioned, is willing and able to subsidise short term losses.

The reason for using numerical decades was for both simplicity, and also because it fits in with how the sport itself looks at its history. The AFL, for instance, designated round 16 of the 2006 season as a Heritage Round, with the theme being the 1980's which was defined as being from 1980-89.[54] It is accepted that there is an argument that the various decades could have started at times that better reflected the introduction of the various labour market controls. However, these started at various years, the country zone was implemented in 1968, the salary cap in 1984 and the national draft in 1986. Therefore, there was no obvious year in which to begin the decades based on the introduction of the labour market controls. It should also be remembered that the introduction of a particular labour market control is unlikely to have an immediate, measurable effect on the competition, particularly zone systems and draft systems, as most of the players selected will be youngsters who will take a while to have an impact on the team's strength. It is suggested, therefore, that a more appropriate date to start examining whether the country zone, or the national draft, had an impact on the evenness of the competition will be 1°70 and 1990 respectively.

To ascertain how equal the competition was per decade, three criteria were then used:

1. The number of different teams winning premierships in a particular decade.
2. The periods of non- final appearances in the decade, that is, how many teams went the full decade without ever making the finals.

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[54] See Cameron Sinclair, 'The Decade in History', *AFL Record*, 21-23 July 2006, 35.

3. How many teams made their 'finals quota'[55] in a given decade. If eight teams in a 16 team competition for instance make the finals each year, that is 50 per cent, then each club should make the finals five times in a decade in an even competition as this represents 50 per cent of the time. While it is appropriate to look at whether clubs have fulfilled their full quotas it is suggested that reasonable, rather than absolute, equality is what the legitimate objective should be. It is therefore suggested that looking at whether clubs have attained 60 per cent of their finals quota in a given decade, is a more appropriate method of looking at the equality of the competition, as this is a measure of reasonable, rather than total equality.

Whilst looking at the number of teams winning premierships is a good starting point, premierships are not necessarily the best or only measure of success. This is why the make up of the finals was also included as this provides a better and broader picture. It is also suggested that in the modern era of full time professionalism in the AFL it is essential that all clubs remain competitive for the finals over a reasonable period of time. Long term periods of non-finals appearances, like Hawthorn's 32 years from 1925 to 1956 are no longer sustainable if a team is to survive in the professional era. This is why extended periods of non-final appearances, as well as actual final appearances, need to be examined when looking at the evenness of the competition.

1 Teams Winning the Premierships

Table 1 summarises the data relating to the number of teams winning the premiership in each decade. The first figure represents the number of different teams which won a premiership during that decade, the second the number of teams in the competition in that decade.

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[55] A quota in this context is defined as a stipulated number: see *The Australian Oxford Dictionary* (Second Edition, 1998).

Table 1: Number of Different Teams Winning Premiership Per Decade[56]

Decade	Results
1900's	5/8
1910's	5/9
1920's	6/12 (6/9)*
1930's	6/12
1940's	5/12
1950's	5/12
1960's	7/12
1970's	4/12
1980's	4/14 (4/12)
1990's	7/16

The data shows that the highest number is seven different premiership winners, the lowest, four. What the results also indicate is that there was a decline from the 1930's in the number of different teams winning the premiership, with the 1960's being the only exception to that trend until the 1990's. Based on the number of premierships won, the competition appears to be the least even during the 1970's and the 1980's, and in fact when these two decades are combined, just five teams won the premiership during that twenty year period. Thus, the figures from Table 1 suggest that the introduction of the country zoning system in 1968 had absolutely no impact on creating a more equal competition than what had previously existed. By comparison the 1990's, when the full impact of the salary cap-draft system was starting to be felt, not only was this trend towards a fewer number of different premiers in a decade reversed, but that decade has the equal highest number of premiership winners. It is also suggested that the greater number of teams in the competition since the mid 1990's has no bearing on this conclusion. If the presence of sixteen teams somehow makes it easier for more teams to win the premiership in a given decade, it does not explain why Brisbane were able to win three in a row between 2001-3, only the third time it has happened in the history of the VFL-AFL. This success, however, was built on the outstanding talent of promising young players, rather than the buying of players from other clubs that had been the basis of, for instance, Carlton's success in the 1970's and 1980's. Despite Brisbane's three wins, it should be noted that the present 2000 decade has had five different premiers in its first seven years.

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[56] Note that the figures in brackets in Table 1 and in the following tables, indicate what may be considered to be the more accurate description of the number of teams in the competition for that decade, given the fact that new teams entered the competition at some time during that decade. Therefore the first figures given are the actual figures, while those given in brackets are what might be considered to be the best representation for that decade.

2 Number of Teams Making the Finals in a Given Decade

It is suggested that the aim of a competition that strives to be an equal one is to have teams, if not winning the premiership, to at least not go for long spells without making the finals. This is because in the modern professional era it is essential that teams remain competitive for the finals as even financially well off clubs are likely to be placed under financial pressure if they suffer long periods without making the finals. The suggested minimum requirement in regard to this criterion is to have all teams make the finals at least once in each decade. Table 2 presents the figures in relation to how many teams made the finals at least once in the decade though it should be noted that only teams that were in the competition for the whole of that particular decade were counted. The underlying problem with this analysis is that the number of teams that have made the finals each year has varied over the history of the VFL/AFL. What amounted to a final four in an eight team competition operated from 1897 to 1907, a final four in a ten team was in force from 1908 to 1914, and a final four in a nine team competition operated until 1924. It subsequently became a final four in a 12 team competition until 1971 when a final five was introduced. Even when the competition was expanded to 14 teams in 1987, a final five was still used, though this was expanded to a final six in 1991. A final eight was introduced in 1994, firstly for a 15 team competition, then for the present 16 team competition in place since 1995. However, while the number of teams in the competition and the number making the finals has changed over time, it is worth noting that the number of teams *not* making the finals since 1925 has been remarkably consistent at eight. The only exception to this has been the period from 1973 to 1986 when seven missed the finals and 1987 to 1993 when nine missed the finals. Percentage wise the number of teams making the finals is now 50 per cent. Therefore, in order to make a more meaningful comparison with the present situation in regard to the AFL finals set up, a set of modified results have been made by looking at what the results would be if the finals representation was a consistent 50 per cent over the whole period of the VFL/AFL. An example as to how these modified results were calculated is the 1930's when a final four operated in a 12 team competition. To make this comparable, percentage wise, with the present day format of eight teams making the finals in 16 team competition, the results were modified for the 1930's so that the top six teams, that is 50 per cent, were considered to have made the finals each year. In 1933, for instance, Fitzroy and Collingwood finished fifth and sixth respectively and therefore did not make the finals, but were considered to have done so under the modified results.

Table 2: Number of Teams Making the Finals

Decade	Results	Modified Results
1900's	7/8	7/8
1910's	9/9	9/9
1920's	9/9	9/ 9
1930's	8/12	10/12
1940's	10/12	11/12
1950's	9/12	11/12
1960's	10/12	10/12
1970's	11/12	12/12
1980's	11/12	11/12
1990's	15/15	15/15

Only three times, in the decades 1907-1919, 1920-29 and 1990-99 did all the 'full time' teams make the finals at least once during that decade, though after modifying the results the 1970's also fulfilled this criteria. It should be acknowledged, however, that in each of those decades there were teams who played for a few seasons without making the finals. University, for instance, played until 1914 without making the finals before permanently withdrawing from the competition. North Melbourne (now Kangaroos), Footscray (now Western Bulldogs) and Hawthorn all joined the then VFL in 1925 without any of them making the finals in that decade, while Fremantle joined the AFL in 1995 and only made the finals for the first time in 2003. It is also interesting to note that the two decades that performed the worse in terms of the number of teams winning the premierships, namely the 1970's and 1980's, did much better on this criterion as in both decades 11 out of the 12 full time teams made the finals at least once, and with the modification of the results, the 1970's would have had all 12 teams making the finals at least once. The 1960's meanwhile had two teams in that decade that never made the finals even after the results were modified. Therefore, despite the fact that seven different teams won the premiership, the 1960's can still be considered as a decade where the competition was uneven. Compare that with the 1990's which also produced seven different premiership winners, yet at the same time also managed to have all the full time clubs make the finals at least once in that decade.

Overall, in regard to this criterion, it should be noted that even after modifying the results, the 1990's is still one of only four decades that have, or would have had, all full time teams making the finals at least once during that decade. Since the 1920's the only other time this happened was with the modified results of the 1970's. It should also be noted that all teams had made the finals at least once in the 2000 decade after just five years of this decade.

(a)   Teams Not Making the Finals: Other Figures

Linked to this factor of how frequently teams make the finals are two other interesting sets of figures, namely the longest periods without making the finals, and secondly, the teams who have made dramatic rises from the bottom of the ladder one year to the finals the following year. This, it is suggested, can only be presented as examples, rather than as figures that can be directly compared between the various decades. The record for the longest periods without making the finals is held by Hawthorn at 32 years from 1925-1956. The next longest periods are South Melbourne (now Sydney) with 24 years from 1946-69, and Melbourne 22 years from 1965-86. Even 'modifying' these results does not greatly alter the situation. Hawthorn's record for instance would only be altered by a 5th place in 1943, and hence would still have a period of 18 years without making the finals, one year in the finals, followed by another period of 13 years without, and South Melbourne a 17 year one without making the finals. It is suggested that one of the real tests of the effectiveness of the AFL's draft system, and its accompanying salary cap, will be to see a dramatic reduction in the incidence of these long spells without making the finals, though this can only be effectively analysed in the coming decades.

As far as teams reaching the finals the year after finishing at, or near, the bottom of the league ladder, the best example is Collingwood which went from last in 1976 to first place in 1977, and a subsequent place in the Grand Final. A look at the VFL-AFL records, however, indicates that such a move is not very common, usually occurring no more than once a decade. In the 1960's, for instance, the best result based on this criterion was Collingwood's seventh in 1968 to first on the league ladder in 1969. The usual situation is the gradual improvement which Melbourne, for instance, experienced in the 1930's when it went from tenth in 1933 to sixth in 1934 and 1935, before finally securing a finals berth by finishing fourth in 1936.

The 1990's, however, show a different story in regard to this criterion as four teams have gone from near bottom finishes one year to finals berths the next. Two of these teams, Melbourne in 1997-98, and Brisbane in 1998-99, went from last place one year to a place in the Preliminary Final, that is, the final four, the following year. Sydney meanwhile finished last between 1992 and 1994, yet was able to make the 1996 Grand Final. During the present 2000 decade it should be noted that Collingwood has gone from being a Grand Finalist in 2002 and 2003 to finishing 13th and 15th in 2004 and 2005, before returning to the top eight in 2006. This suggests that the combination of the salary cap, draft system and smaller playing lists now in operation in the AFL makes it easier for teams at the bottom of the competition in one particular year to quickly make their way

up the ladder the following year. The explanation for this would be that there is now less of a gap between the top teams and the bottom teams each season, making such moves much easier than they were in the past, though in some instances teams may have been helped by priority selections in the national draft. It is suggested that the examples given here further support the proposition that the AFL is now a more even competition than it has been since the 1920's.

3   Finals Quota

While examining how many of the teams made the finals at least once in each decade presents a broader picture than merely examining the number of teams which won premierships, it can also be a somewhat misleading. This is because this figure can be distorted by a number of teams making the finals just once, maybe twice, in a decade otherwise heavily dominated by a relatively few number of strong teams. The 1970's and 1980's are good examples of this. Therefore, the third criterion that was examined was that of a finals quota, that is, how many times each team should have made the finals in each decade, given a totally even competition.

In working out figures such as the finals quota it is suggested that Justice Hill's criticism of Dabscheck's method of measuring competition equality should be further examined. His Honour stated that Dabscheck's assumption was that if equality existed each team would fill once, and only once, each position on the ladder during the time in question. His Honour suggested that such an assumption would be correct over a long period of time, but raised doubts as to its accuracy over the relatively short time in which it was implemented. As Hill J pointed out a six sided dice would, over a long period of time, eventually fall an even number of times on each number. Over a short period of time variations, however, will occur.[57] Using Hill J's dice analogy for the finals quota what essentially is being done is to divide the dice numbers into two groups: one group representing the teams making the finals, the other for the teams that did not. When just four teams made the finals out of 12, that is, when the finals quota was 33 per cent, numbers one to four would represent not making the finals, numbers five and six would represent making the finals. When the finals quota is 50 per cent, as it presently is, then numbers one to three would represent not making the finals, numbers four to six would represent teams making the finals. In the latter case if the competition was indeed equal, then the dice would fall half the time on the bottom three numbers, half the time on the top three numbers. It is suggested that even over the relatively short time in which the VFL-AFL has existed, this would be statistically

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[57] *Adamson v New South Wales Rugby League Ltd* (1991) 27 FCR 535, 563.

easier to obtain than expecting each number to fall an equal number of times, as required by the Dabscheck method.

It should also be noted that in using this criterion the total equality that Dabscheck discusses would be represented by every team fulfilling their finals quota each decade. As previously mentioned total equality is unattainable as even in a perfectly equal competition brought about by labour market controls, other variables for which sport is well known will affect the results, and potentially the make up of the finals.[58] This is one of the reasons why reasonable equality, rather than absolute or total equality, should be the aim of a sporting organisation. Therefore, rather than requiring all the teams to make their quota in order for the competition to be considered equal, a result supporting the claim of an even competition would occur if the overwhelming majority of teams achieve around 60 per cent, that is around two thirds of their finals quota. The reason for using this 60 per cent is that with the present AFL finals system the quota is 50 per cent, meaning that five finals appearances are required to achieve the full finals quota. This 60 per cent format then requires teams to make the finals at least three times in that decade. Therefore, a 60 per cent formula rather than a 66 percent one, allows full numbers rather than fractions to be used.

(a)   Full Finals Quota

As previously mentioned the AFL's full finals quota is currently 50 per cent, that is, each side in a totally even competition would make the finals five years out of ten as eight of the 16 teams make the finals each year. The full finals quota was also 50 per cent between 1897 and 1907 when four teams out of eight made the finals. When four teams out of 12 made the final each year, as occurred between 1925 and 1973, the quota was only 33 per cent, that is, each team should have made the finals three times in that decade. In other periods the quota was somewhere in between the two, as either four out of nine or ten teams made the final (1908 to 1924),

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[58] The AFL presently has a 16 team competition for which there are 22 rounds before the finals series. This means that every season each team plays each other once, and then another seven teams, twice. The teams that play each other twice vary from season to season on a rotating system. While this system may make it appear that some clubs will have a slightly easier draw in a particular season, this evens out over a longer period, like the ten years that are used here. The author therefore argues that this present system has no impact on the figures used here, unlike the system used by the major team sports in the United States where the teams are divided into permanent, geographically determined divisions, conferences or leagues, the relative strength of which can determine a team's success over a given period of time.

five out of 12 (1974-86), or six out of 14 or 15 (1987-1992). One of the main advantages, therefore, of using a finals quota is that is does not matter that the decades had a differing number of teams making the finals each year, therefore the results do not have to be modified. Table 4 provides the data on the full finals quota criterion. Note that in the results column, the number of teams reaching their finals quota in that particular decade is listed first, the number not making that quota is given second. The higher the first number, therefore, in comparison to the second, the more equal the competition was in that particular decade. The percentages represent the number of teams reaching their quota in that decade as against the number of teams which did not. For teams which were not part of the competition for the whole of a particular decade, the ratio has been calculated on the number of years that they were actually in the competition. Fremantle, for example, was only in the competition for five years of the 1990's decade. As the ratio for that decade was 50 per cent, Fremantle would have exceeded its ratio if it had made the finals three times during the 1990's.

Table 3: Finals Quota

Decade	Results	Percentages
1900's	4:4	50%
1910's	4:6	40%
1920's	7:5	58%
1930's	6:6	50%
1940's	7:5	58%
1950's	7:5	58%
1960's	6:6	50%
1970's	6:6	50%
1980's	6:8	42%
1990's	7:9	44%

With the full finals quota method half the decades had an even split: the 1900's, 1930's, 1960's, 1970's and 1980's, that is, in each of those decades half the teams fulfilled their quota, half did not. Three decades, the 1920's, 1940's and 1950's, had positive splits in that more teams made their finals quota than did not, which meant, based on this criterion, these were the decades with the most even competition. Only two decades, the 1910's and the 1990's, had a negative split, that is, less teams made the quota than did not, an indication of an uneven competition. In relation to the 1910's it should be noted that two teams were only just under their quota in that they managed to make the finals three times rather than the required four. The 1990's showed a similar pattern with four teams being just under their finals quota. It should also be noted that it was a decade in which the number of teams in the competition and the number of teams making the finals changed several times as the VFL expanded into the

national AFL. This made the finals quota an awkward 4.75, and perhaps makes the figures look worse than they actually were. In fact, if the quota is simply taken as four, rather than being rounded up to five as was done, then the figures actually go from being the worse to being easily the best as 68 per cent of the teams would then have made their quota.

(b)   Sixty Per Cent of Finals Quota

As was previously mentioned, a better way of presenting the material in relation to the finals quota is to look at how many teams in a given decade achieved 60 per cent of their finals quota. The data is presented in Table 4, and as with Table 3, the number of teams achieving this 60 per cent of finals quota is given first, the number not, being given second.

Table 4: Sixty Per Cent of Finals Quota

Decade	Results	Percentage
1900	6:2	75
1910	5:5	50
1920	8:4	66
1930	6:6	50
1940	9:3	75
1950	8:4	66
1960	7:5	58
1970	8:4	66
1980	9:5	64
1990	14:2	88

It is suggested that the main aspect of these results are that they confirm that the 1990's was an even decade and that the relatively poor result in Table 3 was simply reflects the complicated quota system that developed in that decade due to the changing number of teams and numbers making the finals. The other results confirm what other criteria suggested, namely that for most decades the VFL/AFL has been an uneven competition as apart from the 1990's, no decade had more than 75 per cent of teams achieve 60 per cent of their finals quota.

IV   SUMMARY OF RESULTS

The then VFL competition started out as an uneven competition, probably due to a combination of population demographics, potential playing strength, and the readiness of clubs to having a competitive team in 1897. Over the next two decades, there appears to be an evening out, culminating in an even competition in the 1920's. This indicates the metropolitan zoning was initially successful in providing a means of creating an even competition.

The 1930's saw a return to a more uneven competition, perhaps due to the introduction of three new teams in 1925 which then struggled to be competitive throughout the 1930's. However, around this time clubs started to look well beyond their metropolitan zones for players, with some clubs being more successful in obtaining these players than others. This trend continued into the 1940's where the Second World War does not seem to have had much effect on the evenness/unevenness of the competition.

The 1950's saw the continuation of a competition almost as uneven as it had been at the very beginning of the VFL, and such a trend continued almost unchanged until the 1980s. In fact in the 60 year period from the 1930's to the 1980's, the VFL might be described as being 'equally unequal'. What this indicates is that the various labour controls implemented during this time, country zoning, the interstate draft, the maximum wage restraint, transfer fees and clearance rules had absolutely no effect in creating equality within the VFL. This agrees with Dabscheck's[59] conclusion in relation to his empirical data for the period 1925-73. All the country zoning seemed to have achieved was to help a few strong teams retain their inherent advantage and to create a new strong team in Hawthorn. Hawthorn in fact went from winning just one premiership prior to the introduction of the country zoning to winning the most premierships (eight) between 1971 and 1991, the period when the country zoning would have had the most influence on the results of the competition. The author would also suggest that without the labour market controls introduced by the VFL-AFL in the 1980's there was a real danger that only three teams would have had a realistic chance of regularly winning the competition: the two richest at that time, Essendon and Carlton, and as mentioned, the one with seemingly the best country zone, Hawthorn.

The 1990's saw a reversal in the trend, with a return to the most even competition since the 1920's, as indicated by it having the equal highest number of different teams winning the premiership, and the fact that all the full time teams made the finals at least once. This also meant that no team was in the midst of a 20-30 year period without making the finals, something that had occurred in every decade since the 1920's. It was also the only decade where two teams went from last place to a high finals place the following year. While the changing structure of the competition during the 1990's may have resulted in the poor result for the full finals quota criterion, rather than unevenness in the competition during that

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[59] Dabscheck, 'Sporting Equality', above n2, 184-7.

decade, it should be noted that the figures from the 60 per cent of final quota calculations support the view of the 1990's being an even competition. Therefore, whether it was the salary cap, draft system, or most likely a combination of the two, there was a markedly more even competition in the 1990's. It can therefore be concluded that the labour market controls brought in by the VFL-AFL since 1984 have had a significant effect in creating an even competition. It is further suggested that if the AFL is indeed an even competition it will continue to show the following trends over the coming decades: (1) around six different teams winning the premiership in each decade; (2) all teams making the finals at least once in every decade; (3) the vast majority of the sixteen teams, if not actually achieving their full finals quota in a given decade, then at least achieving 60 per cent of it.

After seven seasons in the present 2000's decade, it should be noted that five teams have won the AFL premiership and all 16 teams have made at least one finals appearance. It is suggested that the figures so far for this decade support the view that the AFL's present labour market controls continue to maintain an even competition.

V   CONCLUSION

In regard to the implementation of labour market controls, like the salary cap and draft systems, it is accepted that a legitimate aim of a sporting league is to attempt to have an even competition. Measuring this is difficult, as highlighted in the *Adamson* case involving a challenge to the New South Wales Rugby League (NSWRL)'s draft system where statistics could not be used to measure the evenness of a competition as the sample size examined was considered too small. This is why this paper has explored the use of the simpler comparison of figures, with the author fully acknowledging that such figures require a subjective interpretation, rather than amounting to objectively reached statistics. However, it is suggested that, based on the judicial reasoning in *Adamson*, it may only be these types of figures that can be presented as evidence to support a claim that a competition is an even one. The *Adamson* case also clearly indicates that the general principles of expert evidence apply to the presentation of material relating to whether labour market controls have created a more even competition.

This comparison of figures should involve a consideration of the two factors that most people involved in team sports would acknowledge as representing the best indications of on-field success, namely the number of premierships a team has won, and how often it has made the finals. It is suggested that splitting a competition into decades, then examining the number of teams that have won a premiership in a given decade, and then

comparing these figures, is an easy way to measure the evenness of a competition. Measuring the evenness of a competition by examining how often teams make the finals, although a little more difficult, can be judged by examining how many teams reach their finals quota, or at least 60 per cent of that quota, in a particular decade, and the periods of non-finals appearances experienced by the teams.

The author believes that the criteria presented in this paper indicate that while the labour market controls introduced by the VFL prior to 1984, except for the metropolitan zoning during the 1920's, did not create an even competition, the labour market controls used since 1984, namely the salary cap and draft system, have fulfilled their stated objective of creating an even competition. It is also suggested that this is supported up by anecdotal evidence from those within the AFL. [60]

The use of a salary cap and draft system makes the AFL one of the most regulated sporting leagues in the world, and in the context of industrial relations, its players are unquestionably subjected to restrictive employment conditions. Arguably the labour market controls presently used by the AFL have helped to create a competition financially stable enough to ensure the survival of all 16 teams. This is largely due to lucrative television deals the AFL is able to negotiate, based on the fact that it can provide eight games a week, with the present deal providing the AFL with $780m over a five year period. This in turn has provided the AFL with the means to support clubs in financial difficulty, most notably the Western Bulldogs, Melbourne, the Kangaroos, and more recently Carlton, thus ensuring that the players enjoy professional salaries and have the security that these salaries will be paid. The National Rugby League (NRL) by comparison, was in the recent past, less regulated as in the wake of the Super League war during the mid 1990's the salary cap was not enforced. It should also be noted that during this time when rugby league did not implement a salary cap both the Auckland Warriors and the Northern Eagles folded, with some players not being paid what was owed to them under the terms of their playing contracts.

It is suggested therefore that the figures presented here support a claim that since the 1990's the AFL has attained its objective of an even competition by the implementation of a salary cap and draft system. In relation to this achievement it is also suggested that while the draft system is important in initially creating a reasonably even spread of the playing talent, it is the

[60] Chip Le Grand, 'Interstate clubs hold all the vital aces, *The Australian* (Sydney), 5 June 2003, 16; Jessica Hallaron, 'Hayes enjoying club culture shock,' *The Sydney Morning Herald* (Sydney), 11 July 2003, 38.

salary cap that is crucial in helping to ensure that this evenness is maintained. It is further suggested that these criteria could also be used to determine the evenness of other sporting leagues.