

Balint, Ilona

From: Gregson, Scott
Sent: Monday, 1 May 2006 4:35 PM
To: Balint, Ilona; Philp, Susan
Subject: FW: Application for Authorisation A30243 Lodged by the Association of Australian Bookmaking Companies Incorporated [SEC=UNCLASSIFIED]
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Attachments: 28040206 - S Gregson, ACCC.pdf
ACCC Classification: SEC=UNCLASSIFIED

From: Richards Cheryl [mailto:c.richards@racingvictoria.net.au]
Sent: Monday, 1 May 2006 3:51 PM
To: Gregson, Scott
Subject: Application for Authorisation A30243 Lodged by the Association of Australian Bookmaking Companies Incorporated

Dear Mr Gregson

Please see attached letter.

Regards

Stephen Allanson

Acting Chief Executive Officer

Racing Victoria Limited

<<28040206 - S Gregson, ACCC.pdf>>

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28 April 2006

Mr Scott Gregson
General Manager
Adjudications Branch
Australian Competition & Consumer Commission
PO Box 1199
DICKSON ACT 2602

Via email: scott.gregson@accc.gov.au

Dear Mr Gregson

Application for Authorisation A30243 Lodged by the Association of Australian Bookmaking Companies Incorporated

I refer to your letter of 31 March 2006 in relation to the Application for Authorisation lodged by the Association of Australian Bookmaking Companies Incorporated ("**AABC**").

As you are aware, Racing Victoria Limited ("**RVL**") provided brief comments on the application for interim authorisation on 18 April 2006. The comments contained in this letter expand on and add to those comments.

1. **Overview of RVL**

In December 2001 RVL was registered as a public company limited by guarantee under the Corporations Act. At this time RVL assumed, from the Victoria Racing Club, the functions and responsibilities as the Principal Racing Authority governing thoroughbred racing in Victoria. This change in governance of Victorian Thoroughbred Racing coincided with the commencement of the *Racing (Racing Victoria Ltd) Act 2001*.

RVL was established with the support of the Victorian thoroughbred racing clubs, racing industry bodies and the State Government to provide independent governance of thoroughbred racing in Victoria. RVL acts as a representative of the Victorian Thoroughbred Industry and is responsible for the marketing of Victorian thoroughbred racing. It's constitutional objectives are to develop, encourage, promote and manage the conduct of the racing of thoroughbred horses in Victoria. In particular, it exercises the following functions:

- (a) The provision and management of all Officials including Stewards, Starters, Judges, Clerks of Scales and Barrier Attendants. For the 2004/05 thoroughbred racing season, RVL provided Officials at 580 race meetings and 130 race trials.

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- (b) The investigation of thoroughbred racing related matters and the administration of all Stewards Inquiries. This includes the discharge of disciplinary action and penalties where appropriate.
 - (c) The issuing of licenses needed to participate in Victorian thoroughbred racing. For the 2004/05 thoroughbred racing season, RVL processed 1250 Trainers License applications, 277 Jockeys' applications and 2900 Stable Employee applications.
 - (d) The implementation of Policies, such as the Careless Riding Policy, which are designed to make race riding safer and to ensure that all horses have a fair chance of success.
 - (e) Trainer Education Initiatives including the provision of Taxation Compliance Seminars (held in conjunction with the Australian Tax Office).
 - (f) The provision of all Drug Control Programs to ensure the health and welfare of all horses and riders, a level playing field for all participants and the maintenance of public confidence of the industry by the betting public and the wider community.

These functions ensure that Victorian thoroughbred racing generally, and race meetings in particular, are managed and conducted to the highest integrity, building continuously on the reputation of the industry.

RVL notes that a number of concerns raised by the AABC relate to the regulation of wagering which is, of course, not a matter over which RVL has any jurisdiction. Similarly, RVL is not responsible for the impact of Victorian legislation upon the operations of bookmakers.

2. **Uncertainty about the Scope of the AABC's Application for Authorisation**

RVL does not support the Application for Authorisation made by the AABC, on the basis that the scope of the proposed arrangements as detailed in the AABC's "Submission in Support of the AABC's Application for Authorisation" dated 29 March 2006 ("**AABC's Submission**") are unclear and could include conduct which is not appropriate to be authorised.

Paragraph 2 of the AABC's Submission states that:

- "2. *The purpose of the AABC's application for authorisation is to allow AABC to engage in collective negotiations on behalf of its members with:*
- (a) *Australian State and Territory Racing controlling bodies and/or other rights owners with a view to obtaining a approval for the members of AABC to publish and use race fields information and similar rights;*
 - (b) *national, and State and Territory sports organisations and/or other rights owners to obtain approval to publish and use information relating to that sport,*
- where required or authorised by members of AABC."*

Further details of the intended scope of the Application for Authorisation is found in paragraph 23 of the AABC's Submission which states that:

"23. *The conduct for which authorisation is sought is:*

- (a) *the negotiation by AABC, on behalf of its members, of the terms and conditions of an agreement between controlling bodies of race fields and the members of AABC, to enable approval to be granted for the members of AABC to use race field information, including the negotiation of any extension, variation or renewal if applicable;*
- (b) *the participation by AABC in any dispute resolution mechanism in relation to disputes between controlling bodies of race fields and the members of AABC with regards to the use of race field information;*
- (c) *the negotiation by AABC, on behalf of its members, with sports organisations, peak state and territory sporting bodies and/or their representatives, where required or considered necessary, of terms and conditions or arrangements under which members of AABC would be entitled to conduct business free of risk of claim or persecution being made by that or another party; and*
- (d) *the participation by AABC in any dispute resolution mechanism in relation to disputes between any of the organisations, persons or authorities referred to in paragraph (c) and members of AABC."*

RVL is of the view that there is a significant degree of uncertainty in respect of the intended scope of the AABC's Application for Authorisation as outlined in paragraphs 2 and 23. Paragraph 2, by using the phrase "race field information and similar rights" seems to limit the scope to obtaining approval to publish and using race field or similar data rights.

However, paragraph 23 would seem to be much broader in scope. In particular, it is uncertain what type of negotiation paragraph 23(c) is intended to cover. It is unclear whether the clause is intended to only cover the approval of the publication of race fields under s.5.1.16A of the *Gambling Regulation Act* or any form of relationship between RVL and the bookmakers. The broad manner in which this clause is drafted suggests that if it were to apply to RVL, it could potentially cover a broad spectrum of negotiations over and above the use of race field information.

RVL also queries the circumstances in which it would be appropriate for AABC to collectively bargain on behalf of its members with respect to any disputes or dispute resolution mechanisms as proposed in paragraphs 23(b) and (d). One of the key requirements upon which RVL proposes to assess whether approval to use race field information will be granted is whether the particular betting operator impairs the integrity of the sport. RVL believes that it would be inappropriate to allow "collective bargaining" of any issue that relates to the integrity or probity relating to a particular bookmaker.

If the intended scope of paragraph 23 is broader than the approval or use of race fields data then RVL is of the view that it would not be appropriate for the AABC to collectively bargain where RVL had a dispute with a single corporate book maker pursuant to RVL's supervisory and regulatory functions.

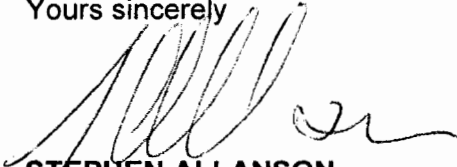
3. **Additional Comments on the AABC Submission**

RVL objects to the statement in paragraph 62 of the Application for Authorisation that RVL would seek to impose a "collusive arrangement" under the powers granted to it in s.2.5.16A of the Act. RVL undertakes its statutory duties with integrity and in accordance with all laws.

Finally, RVL wishes to re-emphasise that it would strongly oppose any collective boycotting activity.

Please contact me if you would like to discuss any of the issues raised in this letter further.

Yours sincerely



STEPHEN ALLANSON
Acting Chief Executive Officer