



**Australian  
Competition &  
Consumer  
Commission**

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20 February 2007

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[name]  
[address]

[www.accc.gov.au](http://www.accc.gov.au)

Dear [name]

**Re: Sky Channel Pty Ltd, Tabcorp Holdings Ltd & ThoroughVision Pty Ltd  
application for authorisation A91031 & A91032 - interested party consultation**

**Introduction**

The Australian Competition & Consumer Commission (the ACCC) is currently conducting an interested party consultation process in relation to an application for authorisation lodged on 15 February 2007 by Sky Channel Pty Ltd (Sky), Tabcorp Holdings Ltd (Tabcorp) and ThoroughVision Pty Ltd (TVN) (collectively referred to as the parties). A public version of the parties' submission in support of the application was provided by the parties on 19 February 2007.

The purpose of this letter is to seek your comments in relation to the application as a potentially interested party.

**Application for authorisation by Sky, Tabcorp and TVN**

The parties are seeking authorisation for a Memorandum of Understanding (MOU) which broadly sets out the commercial terms between Sky and TVN for the sharing of thoroughbred racing content.

Under the MOU there will be two television channels being available. A consolidated wagering channel which provides "wall to wall" racing operated by Sky and a premium thoroughbred channel designed to promote thoroughbred horse racing operated by TVN.

The parties are seeking authorisation for schedules 1 to 7 of the MOU and any arrangements made under clause 2.3 of the MOU. Further details about these provisions of the MOU are outlined in the application and supporting submission, copies of which are enclosed for your information. Further information is also available on the ACCC's website [www.accc.gov.au](http://www.accc.gov.au).



## **Authorisation**

By way of background, the ACCC is the Australian Government agency responsible for administering the Trade Practices Act 1974 (the TPA). A key objective of the TPA is to prevent anti-competitive conduct, thereby encouraging competition and efficiency in business, resulting in a greater choice for consumers in price, quality and service.

The TPA, however, allows the ACCC to grant immunity from the TPA for anti-competitive conduct in certain circumstances.

One way businesses may obtain immunity is to apply for what is known as an 'authorisation' from the ACCC. Broadly, the ACCC may 'authorise' businesses to engage in anti-competitive conduct where it is satisfied that the public benefit from the conduct outweighs any detriment to the public including that constituted by any lessening of competition. The ACCC conducts a comprehensive public consultation process before making a decision to grant or deny authorisation.

## **Request for submissions**

To assist the ACCC in its consideration of the application it would be helpful to obtain your comments on the likely public benefits and the likely effect on competition, or any other public detriment, arising from the MOU.

Some of the issues interested parties may wish to provide comments on include how the MOU affects:

- the ability of thoroughbred, harness and greyhound clubs to license their broadcasting rights;
- the supply of racing broadcasting services to pay TV and free to air TV operators; and
- the supply of racing broadcasting services to pubs and clubs.

It would also be helpful to obtain your comments on the likely situation if the MOU did not come into effect.

## **How to provide submissions**

From the 1 January 2007, a six-month time limit now applies to the ACCC's consideration of applications for non-merger authorisations. The time limit imposes a discipline on all those involved in the authorisation process. Consultation with interested parties will take place according to an indicative timetable and the ACCC may be limited in its ability to take into account information provided outside those timeframes. An indicative timetable for the consideration of this matter is attached.

If you intend to provide a submission in relation to the application, I would be grateful if you could do so by close of business **13 March 2007**.

The ACCC asks for submissions to be in writing so they can be made publicly available. They are placed on a public register for this purpose.

Persons lodging a submission with the ACCC may request that information included in the submission be excluded from the public register in certain circumstances. Submissions which are excluded from the public register may still be taken into account by the ACCC when conducting its assessment of an authorisation application. Guidelines for seeking exclusion from the public register are **attached** for your information.

If you wish to lodge a submission, please address your submission to:

The General Manager  
Adjudication Branch  
Australian Competition and Consumer Commission  
PO Box 1199  
DICKSON ACT 2602

Submissions can also be lodged by email to [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au) or by facsimile on 02 6243 1211. If relevant, please provide a preferred email address for any future correspondence from the ACCC.

Please inform us if you do not wish to make a submission at this time, but would like to be informed of the progress of these applications at the draft and final determination stages. You can also forward this letter to any other party who may wish to make a submission to the ACCC regarding this application.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Monica Bourke on (02) 6243 1351.

Yours sincerely

Scott Gregson  
General Manager  
Adjudication Branch

**Sky Channel and TVN's applications for authorisation: Agreement affecting competition and exclusive dealing A91031 & A91032 – Indicative Timetable**

<b>15 February 2007</b>	Lodgement of application.
<b>19 February 2007</b>	Lodgement of public version of supporting submission
<b>20 February 2007</b>	Public consultation process begins.
<b>13 March 2007</b>	Closing date for submissions from interested parties.
<b>27 March 2007</b>	Applicant responds to issues raised in the public consultation process.
<b>April 2007</b>	ACCC assessment.
<b>May 2007</b>	Draft determination.
<b>May 2007</b>	Public consultation on draft determination including any conference if called.
<b>June 2007</b>	Final determination.

**List of interested parties**

Darwin Turf Club (Northern Territory)  
Brisbane Turf Club  
Queensland Turf Club  
Gold Coast Turf Club  
Tattersalls Racing Club  
Tasmanian Turf Club  
Tasmanian Racing Club  
Alice Springs Turf Club  
Hobart Greyhound Racing Club  
Ballarat Turf Club  
Geelong Racing Club  
Lismore Turf Club  
Newcastle Jockey Club  
Toowoomba Turf Club  
Sunshine Coast Turf Club  
Rockhampton Jockey Club  
Kalgoorlie Boulder Racing Club  
Australian Racing Board  
Australian Harness Racing Council  
Greyhounds Australasia  
Australian Trainers Association  
Thoroughbred Racing SA  
Greyhound Racing SA  
South Australian Harness Racing Club  
Racing Victoria Ltd  
Harness Racing Victoria  
Thoroughbred Breeders Association Victoria Inc.  
Greyhound Racing Victoria  
Queensland Racing Limited  
Greyhound Racing Authority Queensland  
Queensland Harness Racing  
ACT Racing – Thoroughbred Park  
Perth Racing - Western Australian Turf Club  
Western Australian Greyhound Racing Authority  
Western Australian Trotting Association  
Racing New South Wales  
Harness Racing New South Wales  
Greyhound & Harness Racing Authority of New South Wales  
Tasmanian Thoroughbred Racing Council  
Harness Racing Tasmania  
Australian Hotels Association  
Clubs NSW  
Clubs Queensland  
Clubs SA  
Clubs Victoria  
Clubs ACT  
Clubs WA  
Clubs NT  
Clubs TAS

Tattersall's Limited  
Association of Australian Bookmakers  
TOTE Tasmania Pty Ltd  
Racing and Wagering WA  
ACTTAB Limited  
Betcorp  
Betfair Pty Limited  
Victorian Bookmakers Association  
Australian Punters Association  
Sportsbet Pty Ltd  
SPT Management  
Foxtel Management Pty Ltd  
SingTel Optus Pty Ltd  
Austar United Communications Limited  
Seven Network Limited  
Network Ten Pty Ltd  
Nine Network Australia Pty Ltd  
Sportscolour Pty Ltd  
Australian Association of National Advertisers  
Racing Services Tasmania – Dept Infrastructure, Energy & Resources  
Department of Communication Information Technology & the Arts  
Victorian Commission for Gambling Regulation  
New South Wales Office of Liquor, Gaming and Racing  
Western Australian Department of Racing, Gaming and Liquor  
ACT Gambling and Racing Commission  
Racing, Gaming and Licensing  
Northern Territory Treasury  
Queensland Office of Gaming Regulation  
South Australian Office of the Liquor and Gambling Commissioner  
Tasmanian Gaming Commission  
Gambling Licences Review - Department of Justice