



Association of Australian Bookmaking Companies Inc.

Chair:
Locked Bag 5001
Alexandria
NSW 2015

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

Dear Mr Gregson

**Re Request for Authorisation – Sky Channel Pty Ltd, Tabcorp Limited,
Thoroughvision Pty Ltd – Request for Authorisation A91031 & A91032**

I refer to your invitation to the Association of Australian Bookmaking Companies Inc (“the Association”) to comment on the Application for Authorisation in respect of Sky Channel Pty Ltd, Tabcorp Limited, and Thoroughvision Pty Ltd (“Sky/TVN Authorisation”).

In broad terms, the Authorisation would validate the terms of settlement between TVN and Sky with the respect to the “Split Vision” dispute.

The facts and effects of the dispute are recited at length in the Application. It is helpful to underline the observation that the downturn in wagering turnover described in the document was experienced by all parts of the wagering sector, bookmakers as well as TABs.

The benefits in resolving that dispute are also described at length in the document.

However, it is not clear why the resolution of a dispute between two parties over broadcasting rights should justify an “additional fee” for non-TAB wagering providers.

At para 4.28, it is said,

“An additional fee is payable in relation to the provision of Sky Channel on TVN shareholder racecourses to corporate bookmaker headquarters or betting auditoriums used primarily by wagering operators other than licensed totalisator operators.”

This Association objects to such a step. No justification is given for this approach. The document declines to define the "market" so as to allow for due analysis and comment. There is reference to an unrelated decision of the Commission (see 9.10), but no analysis to justify the imposition of added costs on the non-TAB wagering sector based on TVN racecourses. It simply asserts that, whatever the market definition, there are "little or no anti-competitive detriments" flowing from the Authorisation (see for example, para 9.2).

In respect of non-TAB operators on TVN controlled racecourses, this is not correct.

It would appear that Sky is taking the opportunity to advantage the commercial interests of the wagering arm of its parent company, Tabcorp.

How the terms of supply to non-TAB providers is at all relevant to the terms of settlement of a dispute over access to racing product is not clear. Instead, this seems outside the bounds of the MOU and appears discriminatory.

As noted in the Application, Tabcorp is a direct competitor to bookmakers as a supplier of fixed-odds products. The document does not however, give a true reflection of the competitive advantages enjoyed by Tabcorp and (and through TAB Sportsbet, all TABs), over other wagering providers. These include approved types of business vehicle, taxation, access to advertising, to name a few.

It is notable that the MOU would continue the advertising advantages enjoyed by the TAB by requiring "*wagering operators controlled by Tabcorp must provide to TVN any Tabcorp group wagering information required by TVN for broadcast by the TVN Channel*". (see para 4.9) Again, a national advertising reach is provided, despite apparent restrictions.

The wish to discriminatorily impose costs is in marked contrast to the operation of a roughly comparable clause, that dealing with the continued provision of the services to "commercial operators" in the event a "third party wagering licence" is issued by Victoria. In this case, provision of services is to continue on "standard commercial terms".

This should be the approach under this Authorisation.

As the subject has been raised in the Application for Authorisation, it is submitted that the Commission now has no choice but to impose a condition on any approval, that the services the subject of the Authorisation continue to be provided to all commercial operators on an even-handed basis.

Thank you for the opportunity to comment on the Application. Please do not hesitate to contact me if you would like any additional information.

Kind regards



Tony Clark
Chair
13 March 2007