

~~Without Prejudice~~ (n)

13 March 2007

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Australian Competition & Consumer Commission
Adjudication Branch
PO Box 1199
Dickson ACT 2602

Attention: Scott Gregson
General Manager – Adjudication Branch

cc: Monica Bourke

Dear Scott,

Thank you for your kind invitation to provide our comments re the authorisation of the M.O.U. sought by TVN, Sky Channel and Tabcorp from the ACCC.

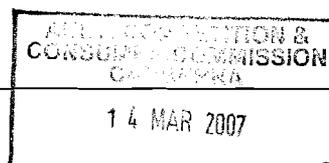
Who and What is Sportscolour PTY LTD?

Sportscolour Pty Ltd is a television production firm specializing in the televising of Horse Racing events for the STC, the AJC in Sydney and all venues that race in Victoria under the auspices of RVL both metropolitan and country.

NSW	STC	64	
	AJC	64	Total 128 Metro
VIC	Metro 128		
	Country	420	Total 543

This constitutes approximately 14 outside broadcast venues per week. All pictures of horse racing from these venues are generated and produced by Sportscolour. In addition to the televising of the races, extra facilities are also provided to the Stewards with different views for their surveillance of incidents that occur in a race that could affect the result ie. protest and the awarding of penalties to jockeys for interference, etc. This system invented by Sportscolour is adjudged the best in the world. In addition to this, we invented the Equitime Timing System (a copy of which is attached), the display of the jockey silks and running numbers. We also solved the problem in straight races at Flemington racecourse to tell which group of horses were in front i.e. the inside or outside division.

At the request of TVN we provided extra facilities for Hostings, Virtual Reality displays, wireless cameras etc, to enhance the coverage of their information to punters. This is a very valuable service to the punters and has significant benefits to all concerned.



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Sportscolour attends various Television conferences, such as NAB, etc, to observe the latest technologies and equipment so that we can implement these new factors to create any improvement in the televising of thoroughbred racing industry events.

The pictures generated and outputs from our outside television broadcasts vans are distributed to the following market segments.

- ❖ On-course to the racing clubs closed circuit television system.
- ❖ Sky Channel for distribution to their various market segments which include:
 - Australian pubs and clubs
 - International markets
 - Foxtel pay Tv
 - Austar satellite service
 - TAB outlets
- ❖ ThoroughVision for distribution to their various markets which include:
 - Australian pubs and clubs
 - TAB outlets
 - Foxtel pay TV
 - Austar satellite service
 - Telstra mobile telephones
 - The internet via Bigpond
- ❖ When required, the Seven and Nine Networks.
- ❖ News bureaus of all television networks
- ❖ Betfair outlets.

Our charter requires that we satisfy all of the above sectors on a regular basis.

The Customer (Punters)

Punters can be classified into 3 groups

1. Punters who bet on all three codes
2. Punters who will bet on 1 or more of the 3 codes
3. Punters who will bet on 1 code only

All of the above can be further divided into those who bet at:

1. The race course, Tote and Bookmakers
2. TAB Outlets
3. Phone Betting
4. Internet Betting

5. Mobile Phones
6. Austar
7. Betfair

All of the above outlets viability depend on their customers being able to access television coverage of the event they wish to invest on. It is a proven fact that people will bet more if they can see the race picture than if they cannot. The split picture proved this. TAB turnover dropped dramatically while that was on.

A new and important class of punter is getting larger. The population of Australia is aging rapidly and more people are retiring. This class of punter does not go to the racecourse or the TAB outlets but prefers to stay in the comfort of their own home and bet on a TAB phone account and watch the races on television. Depending on what class of punter he is, he can access TVN or Sky pictures. If he wants a complete informative coverage of thoroughbred racing, he watches TVN and only watches Sky if he wants to bet on Harness racing or Greyhound racing. Of the 3 codes racehorse punters are the largest group and Victoria and NSW are the jewels in the crown of horse racing so he mainly watches TVN.

TVN

The Victorian metropolitan clubs, Country Racing Victoria and the two NSW metropolitan clubs conceived and created TVN as a rights management company in an effort to gain leverage from intellectual property that vests within their industry including television rights.

Their vision also covered the development of a television platform to showcase thoroughbred horse racing and all its derivatives. It would also provide more information to the punter on previous performances of runners as well as up to-date information from the track. This information is provided in the hope it will assist the punter to pick a winner. This platform was also designed to provide points of interest and news from the track creating an ambience and feeling that you are immersed in the event.

TVN introduced to the public and punter remote from the track, full betting information, interviews with trainers and jockeys and steward's, race replays from approximately three different views, protest hearings from the steward's room to name but a few. All this was most welcome to the punters and public alike, the addition of a complete racing service hosted by racing expert commentators added to the desired information and again assisted the public and the punter to pick a winner and thereby stimulates betting turnover with its many benefits to all concerned.

This complete all encompassing service is also designed to attract and create an interest for the non racing enthusiast by bringing the colour of racing to their clubs and lounge rooms.

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We believe every club has the right to have a say in its destiny and further their financial viability, we believe TVN is assisting in helping them achieve this goal.

Tabcorp

The commissions paid by Tabcorp are the life blood of the three racing codes. They could not be as viable without the finance provided by it. It enables the whole industry to flourish by providing finance for, stake money, new infrastructure, updating of existing facilities, workcover adherence, insurance control, publicity etc. The list could go on and on. The greater the TAB turnover the higher the commissions paid to the clubs and the more viable they become.

Sky Channel (Wall to Wall Television)

Sky provides televising of harness racing, greyhound racing and horse racing. It provides totalisator betting figures and the coverage of races only from these venues.

It is constrained by time restrictions to provide any more desired information i.e. Race 6 from Flemington has just finished now we are going to Dapto Dogs or Kilmore trots and correct weight has not been signalled from race 6 at Flemington or a protest announced etc.

It does provide a limited service to followers of each of the three racing codes and also provides the telecasts to overseas countries and brings in racing pictures from Hong Kong, Singapore etc. or major overseas racing events.

Sky showcases Australian thoroughbred racing to the rest of the world and also shows different life styles and views of Australia which could help overseas tourists want to visit Australia. Sky Channel is a very valuable service to the three racing codes and creates publicity for Australia.

The Future

The present analogue system of television propagation is mooted to be switched off in the year 2008. New systems of digital 16 x 9 aspect ratio or high definition technology will prevail or a combination of both will be implemented.

Television viewers who can see high definition pictures will not accept any inferior system as the difference in quality is astounding.

Australians love new technology and the proliferation of mobile phones, plasma and LCD television receivers, small TV cameras, DVDs, tapes etc. is becoming more desirable. You cannot stop the march of new and better technology.

At any of the overseas conferences that we attend in which the latest TV equipment is displayed, it is all high definition capable.

No one in the television industry buys any cameras, OB vans, vision switches, monitors etc unless they are capable of generating and displaying high definition pictures. Although the

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initial high prices have come down, it is still a very expensive exercise. It needs high capital investment to achieve the procurement of these new technologies.

The racing industry must recognise this happening and budget for the implementation of this new technology.

The present wiring installed at these venues will not carry high definition pictures and the present installed monitors cannot display high definition pictures. These clubs will have to face a significant capital investment.

This will only be possible if the TAB can continue to provide adequate finance to the industry and that is another reason for all the parties to co-operate.

Competition

The ACCC seems to think there is a lack of competition between the parties concerned in the resolution of the MOU.

In my opinion, this is not correct because there is a complete difference in what they provide to separate sections of the punting fraternity. Sky is wall to wall TV service with limited information whilst TVN does a complete informative service of thoroughbred racing to the punter and provides extra facilities to enhance the coverage and give different views etc. TVN pays for extra facilities to achieve this, Sky does not. The beneficiary of both these facilities is Tabcorp i.e. the greater coverage the bigger the turnover and the greater the commission to the clubs. It is not the same picture or service.

As TVN seeks people to sign up to them for their service, they are in competition with Sky, Foxtel, etc. Pubs and clubs may prefer to have TVN in their premises instead of Sky or to have both. They now have a choice, before the development of TVN, they did not.

If the MOU did not come into effect.

The racing industry is believed to be the third largest industry in Australia and many thousand of people depend on the viability of this industry for their livelihood.

Additionally a great number of small and large businesses rely on the racing industry for their profitability and the ability to provide on-going employment. The State and Federal governments are also beneficiaries through general taxation and GST revenues created by this sector.

The spin off of these bodies is enormous and comparable to the building industry; the diversity of the benefits created by the three racing codes forms a vital part of the national economy. Anything that affects this in financial terms could be a national disaster.

If you do not accede to their reasonable requests we will go back to a split vision service with all its known shortfalls. Legal litigation between the applicants could be resurrected with all its financial costs and with that situation the only winners are the lawyers. Not to

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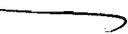
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grant approval for the MOU could be disastrous for all concerned and a complete retrograde step.

In granting approval for the MOU to proceed will benefit the public and all concerned. It also overrides any slight concern the ACCC may have in the small reaction to aspects related to competition. Co-operation not confrontation for the mutual benefit of all concerned is paramount.

Any further information you may require will be supplied at your request,

Yours faithfully

Eric J Ross 
Managing Director Sportscolour 

Addendum

**EXCLUDED FROM
PUBLIC REGISTER**