



AUSTRALIAN HARNESS RACING COUNCIL Inc.

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13th March 2007

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

Dear Mr Gregson,

**Re: Sky Channel Pty Ltd, Tabcorp Holdings Ltd & ThoroughVision Pty Ltd
Application for Authorisation A91031 & A91032 – Interested Party
Consultation**

Receipt of your letter of 20 February 2007 is acknowledged seeking comments on the application by Sky Channel Pty Ltd (SKY), Tabcorp Holdings Ltd (Tabcorp) and ThoroughVision Pty Ltd (TVN).

The Australian Harness Racing Council (AHRC) has no contractual arrangements with any of the parties but has an acute interest in their business dealings because of the potential impact on our stakeholders. The AHRC is the peak industry body for harness racing in Australia with a key focus on regulatory matters, but has a keen interest in ensuring the commercial well-being of its constituent bodies. These comprise the Controlling Bodies for harness racing in each of the six states of Australia and the Principal Clubs.

The AHRC Executive has reviewed the application for authorisation for a Memorandum of Understanding which broadly sets out the commercial terms for SKY and TVN for the sharing of thoroughbred racing content, until December 2012. In effect, SKY will continue to deliver the “wall to wall” wagering product covering thoroughbred, harness and greyhound racing and TVN will offer a “premium thoroughbred channel”. The Executive supports the application – subject to the qualifying comments below - on the basis that the “split vision” alternative which the wagering public was forced to endure in 2005 and 2006 caused considerable harm to the three Codes of Racing in terms of wagering revenues, punter disillusionment and attendances at race meetings.

Every Harness Racing club in Australia experienced the negative impact of the dispute between SKY and TVN over thoroughbred broadcast rights and a return to that situation could have disastrous consequences for our industry.

The AHRC Executive strongly advocates that the proposed SKY-Tabcorp-TVN agreement should not have a detrimental affect on harness racing television coverage (specifically, that thoroughbred racing should not intrude on time slots traditionally occupied by harness racing events). The Executive is concerned that SKY could be obligated to provide greater coverage of thoroughbred racing than before the dispute, such as events from the Northern Territory and overseas, because rights to this product may have been acquired by TVN. Incorporating this additional thoroughbred product in SKY's programming could lead to a lessening of exposure, and therefore revenue, for harness racing.

Furthermore, the Executive is concerned that the agreement does not result in significantly increased charges to commercial venues (pubs and clubs) which could result in venues cancelling the SKY service or reducing operating hours for their TAB outlets, thus causing a lessening of exposure for harness racing and impacting on wagering turnover.

In relation to the specific questions posed, the AHRC Executive makes the following comments:

- a. *How the MOU affects the ability of thoroughbred, harness and greyhound clubs to license their broadcasting rights...*

There would seem to be no detrimental affect on harness racing clubs in this regard, at least in the short term. TVN is committed to promoting thoroughbred racing and SKY remains the only viable outlet for the broadcast of harness racing to the wagering public. Towards the end of the agreement however there would be a much more competitive negotiating environment for thoroughbred clubs, which could erode the funds available for harness racing rights.

- b. *How the MOU affects the supply of racing broadcasting services to pay TV and free to air TV operators...*

It is SKY's stated intention to operate the "wall to wall" racing presentation on pay television. If this continues for the duration of the agreement it would be beneficial to harness racing. There is little exposure for harness racing on free to air television at present.

- c. *How the MOU affects the supply of racing broadcasting services to pubs and clubs...*

It is imperative the agreement does not result in significantly increased charges to commercial venues, which could cause them to cancel the SKY service or reduce the operating hours for their TAB facility. There is already considerable market sensitivity over the cost of racing vision, as the Commission is well aware, and harness racing can ill afford any lessening of exposure which would result in a reduction in wagering turnover.

- d. *The likely situation if the MOU did not come into effect.*

If the Commission does not authorise the MOU there will undoubtedly be a return to the situation in 2005 and 2006, when Sydney and Victorian thoroughbred

racing was covered on TVN and the balance of thoroughbred races, plus all harness racing and greyhound TAB meetings, were broadcast on SKY. The negative impact on revenue for the three Codes of Racing during that period has been well documented and there is no doubt any return to that situation would have a similar result. Indeed, it could be argued that punter and commercial venue disillusionment would be even greater with any repeat of the "split vision" situation.

The AHRC Executive requests to be kept informed of progress with the Commission's deliberations on this matter.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Geoff Want', with a stylized flourish at the end.

Geoff Want
Chairman