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

**ALSO BY EMAIL: [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au)**

Dear Mr. Gregson

**Application by Sky Channel Pty Limited (Sky), Tabcorp Holdings Limited (Tab) and ThoroughVision Pty Limited (TVN) – A91031 and A91032**

I have been asked to respond to your correspondence dated 20 February 2007 addressed to my Chairman Mr. Gary Pemberton AC.

Based on the available level of detail, Racing NSW welcomes the proposal by Tab, Sky and TVN to permanently resolve the “split vision” dispute.

However, Racing NSW asks that the ACCC satisfy itself whether certain aspects of the agreement are consistent with the primary “public interest” argument advanced by the appellants – namely, the maximisation of wagering revenue. This request arises from the fact that wagering represents the thoroughbred racing industry’s primary source of funding and is critical to its future prosperity.

For example, any exclusive deal negotiated by TVN with a free to air provider would mean that Sky (as the primary racing telecaster) and TVN itself would be unable to offer a live broadcast of certain events to its target audience – the punting public. This would impede wagering turnover because wagering is heavily dependant on the re-investment of winnings from race to race at different race meetings. The importance of such re-investment is highlighted by Sky’s stated objective of providing “wall to wall” coverage, and the need to have such coverage available from a single source. This was demonstrated by the significant fall in wagering during the “split vision” when racing telecasts were provided on two separate channels.

Accordingly, the fact that a free to air station may secure exclusive live broadcast rights to one or more events could reduce the level of wagering investment in racing, and therefore, the industry’s prime revenue source.

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Similarly, punters rely heavily on betting trends and other relevant information, including interviews with owners, trainers and jockeys to determine whether to bet on a race and if so their selection and level of investment. All of this information depends on track access. Accordingly, any agreement that restricts the broadcast content received by Sky or TVN viewers is likely to have a detrimental impact on wagering turnover and revenue to the thoroughbred industry.

## **Conclusion**

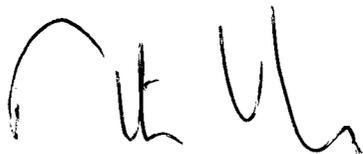
Racing NSW strongly endorses the proposed arrangements to end "split vision" of racing telecasts between to channels.

If no resolution is achieved it would have significant ramifications on the racing industry's prime source of revenue, viz. wagering activities as was the case during the split vision period.

However, and given the central importance of wagering turnover to the thoroughbred racing industry, it is submitted that the ACCC should satisfy itself that the confidential arrangements are consistent with the public interest objective in relation to the following issues:

- the possibility that TVN's right to negotiate exclusive free to air live broadcast rights may preclude Sky and TVN itself from presenting the punting public with live access to "certain excluded events" and therefore adversely impact wagering (the thoroughbred industry's key source of funding);
- the scope and content of pre-race vision and information does not constrain either TVN or Sky from presenting relevant information direct from the racetrack.

Yours faithfully  
RACING NSW



P N V'LANDYS  
CHIEF EXECUTIVE

**FAXED**  
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