

# Freehills

Ms Danielle Staltari  
Assistant Director  
Australian Competition and Consumer  
Commission  
PO Box 1199  
DICKSON ACT 2602

22 August 2007  
Matter 81243812  
By fax: 02 6243 1211

Dear Ms Staltari

**Racing and Wagering Western Australia - Notification lodged under  
section 93 of the Trade Practices Act 1974**

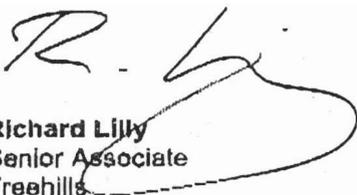
I refer to your emails to me on 20 and 21 August 2007, containing various questions with respect to the above.

Please find enclosed a document prepared by our client, setting out responses to each of those questions.

Please do not hesitate to telephone me again on 08 9211 7614 if you require further information or wish to discuss this matter further.

Otherwise, I look forward to receiving the Commission's response to the Notification in due course.

Yours sincerely



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Attached

1 RWWA memorandum dated 22 August 2007

Doc 8.004072835 3



RACING AND WAGERING WESTERN AUSTRALIA

22 August 2007

## HORSE TRAINER'S EMPLOYEES WORKERS COMPENSATION - ACCC NOTIFICATION

Response to queries raised by ACCC dated 20 and 21 August 2007.

- **When will RWWA be able to inform the ACCC of the identity of the specified insurer?**  
 With the acquisition of Promina by Suncorp, the workers compensation businesses of GIO and Vero will be merged, which means that there will be 5 main workers compensation underwriters in Australia (excluding niche underwriters such as Catholic Church Insurance and Wesfarmers). In light of the process set out below, RWWA anticipates settling on an insurer by 31 December 2007.
- **Will the notified conduct apply to horse trainers in both the thoroughbred and harness racing industries?**  
 The insurance requirement will only apply to trainers in the thoroughbred racing industry, as harness racing involves a large number of "hobby" trainers who may not employ workers.
- **Who do horse trainers currently obtain their workers compensation insurance from?**  
 Currently, horse trainers arrange their own workers compensation insurance. The WA Racing Trainers' Association has requested that RWWA seek uniform cover for its members, on the basis that the current cost of workers compensation insurance is too high.

Contact details for the WA Racing Trainers' Association are set out below.
- **What process is RWWA using to select the specified insurer? For example, will the insurer be selected through a tender process?**  
 RWWA, in conjunction with its insurance brokers (Jardine Lloyd Thompson), is currently gathering information to present to all workers compensation insurers who are interested in providing cover. Subject to the notification being allowed to stand, Jardine Lloyd Thompson will invite each of the 5 main insurers to tender. As policies are standardised and these insurers have effective claims handling facilities, the final selection is likely to be determined largely by price.
- **I note that RWWA has previously required horse trainers, as a condition of being granted a licence, to hold workers' compensation insurance for employees. Could RWWA please explain the reasons for requiring horse trainers to obtain workers compensation insurance from one specified insurer?**  
 RWWA has a statutory responsibility to the racing industry to ensure that adequate workers compensation insurance for horse trainers is available in the most efficient and cost effective form. This responsibility arises under section 35 of the *Racing and Wagering Western Australia Act 2003* (WA). A review was undertaken in 2005 by the RWWA Operations Committee of the insurance needs and practices of the racing industry in

Western Australia. This review recommended a compulsory uniform workers compensation insurance policy for all trainers.

The primary beneficial reason for the proposed scheme is to ensure overall lower insurance premiums for horse trainers. Premiums tend to be particularly high for horse trainers, because of the considerable risk of injury in training horses. Other related reasons are:

- RWWA has an important role in the supervision of racing in WA and wishes to ensure that racing clubs and participants have adequate risk management processes in place. In this regard, RWWA has given great priority to the risk attaching to personal safety of participants.
  - To ensure that adequate workers compensation insurance is available to the industry in the most efficient and cost effective form. RWWA wishes to assist the industry by being in a position to offer a packaged solution to the industry, negotiating competitive premiums and in facilitating the payment of premium contributions from participants.
  - RWWA has an obligation to ensure that racing industry issues such as insurance are dealt with in an appropriate and adequate manner. RWWA therefore has a duty to ensure that the industry is properly informed and educated about the insurance risks, options and obligations that are part of today's racing. RWWA will ensure that each trainer understands their role and the insurance responsibilities and safeguards that attach to this.
- **Could RWWA please explain why the volume discounts that RWWA will be able to negotiate with the insurer cannot be provided on a voluntary basis?**

The advice to RWWA is that an insurance underwriter's ability to discount premiums is controlled by volume: the larger the premium pool, the greater the potential discount. If trainers chose their own insurers, the premium pool is distributed amongst a range of insurers, thus making it unlikely that the premium pool for any one insurer would be large enough to justify a significant discount on premiums.

- **You advise that RWWA intends to review its arrangements from time to time so that the insurance business in question will be contestable. Could you please provide further information about this review process and what criteria RWWA will use to assess the specified insurer?**

RWWA have been advised by Jardine Lloyd Thompson that, in their experience, it is not good practice to approach the insurance market every year because insurers who see an account every year and who are unsuccessful often become disinterested. As a result they may be disinclined to quote at a time when RWWA may need the support of the whole market. Accordingly, RWWA proposes to offer the successful insurer a 3 year term before the cover is put to tender again. At that time RWWA would offer the policy to the other 4 insurers (or others, if more enter the market) and assess responses against the same criteria as are proposed for the initial tender process.

**Will RWWA receive a fee or a rebate from the specified insurer?**

RWWA will not receive a fee or a rebate from any insurer or broker in relation to providing this cover. As stated above, RWWA's sole motivation is to meet its statutory obligation to ensure there is adequate and cost effective insurance for the racing industry and its participants.

- **Could RWWA please provide contact details for horse trainer associations in WA**

The WA Racing Trainers' Association contact details are:

WA Racing Trainers' Association  
75 Gardiner Street, Belmont, WA, 6104  
Secretary – Mr Brian Paddick

EXCLUDED FROM  
PUBLIC REGISTERPhone [REDACTED]  
Email [REDACTED]

The trainer's representative assigned to assist RWWA is:

Mr Ross Price

Phone [REDACTED]  
Email [REDACTED]

- **Is the requirement to obtain workers compensation insurance a legal requirement? If yes, what legislation provides for this?**

Yes. Section 180 of the *Workers Compensation and Injury Management Act 1981 (WA)* requires all employers to have workers compensation insurance.

- **What transitional measures will be put in place for those horse trainers who have workers compensation insurance with a different provider, to the provider which will be selected by RWWA?**

If the notification is allowed to stand, horse trainers with existing insurance policies will be provided whatever assistance they need from RWWA (with assistance from Jardine Lloyd Thompson) to have those policies cancelled and obtain pro rata refunds of premiums paid to the date of cancellation. It is RWWA's understanding that it is a simple matter to have an insurance policy cancelled and part of the premium paid refunded in proportion to the period unused. The proposed date of cancellation will be 30 June 2008, meaning that most existing policies will run their full course (or something close to that).

- **When does RWWA intend to implement the notified conduct on horse trainers?**

Subject to the notification being allowed to stand, RWWA proposes to implement the scheme within 3 months of the insurance provider being selected, and become effective from 1 July 2008.

**Are there difficulties for horse trainers seeking to obtain workers compensation insurance?**

RWWA has been informed that, due to the potential dangers involved with dealing with horses, the premiums for workers compensation insurance to which some trainers have been exposed have been very high. As a result of this, it is RWWA's understanding that some trainers have neglected to take out workers compensation insurance. Again, RWWA is seeking to implement the proposed scheme to ensure that trainers are adequately insured in the most efficient way possible, in line with its statutory function and in the best interests of those working in the industry.

**Bruce Johnston**  
**FINANCE OFFICER - INSURANCE**