



**Australian
Competition &
Consumer
Commission**

GPO Box 3131
Canberra ACT 2601

23 Marcus Clarke Street
Canberra ACT 2601

tel: (02) 6243 1111
fax: (02) 6243 1199

www.accc.gov.au

Our Ref: 50180
Contact Officer: Luke Griffin
Contact Phone: (02) 6243 1114

26 November 2012

Dear Madam/ Sir

Collective Bargaining Notification CB00280 lodged by the Victorian Off-Course Agents Association - request for submission

The Australian Competition and Consumer Commission (the ACCC) has received a collective bargaining notification from the Victorian Off-Course Agents Association (the Association). The notification would enable the Association to negotiate the terms of Distribution Services Agreements with Tabcorp Wagering (Vic) Pty Ltd (Tabcorp) on behalf of its members.

The purpose of this letter is to seek your comments on the notification.

Collective bargaining notification process

The ACCC is the Australian Government agency responsible for administering the *Competition and Consumer Act 2010* (the Act). The broad objective of the Act is to benefit all Australians by promoting competition and to ensure consumers are treated fairly.

The competition provisions of the Act prohibit certain forms of anti-competitive agreements or conduct including agreements which typically occur during collective bargaining.

Collective bargaining refers to an arrangement where one or more competitors in an industry come together to negotiate terms and conditions (including price) with a supplier or a customer.

While the Act prohibits certain forms of anti-competitive conduct, it does recognise that conduct which may otherwise breach the Act may, in some circumstances, be of benefit to the public. The Act accordingly allows businesses that are considering

engaging in anti-competitive arrangements to seek immunity from legal action. One way businesses may obtain immunity to engage in collective bargaining and collective boycott conduct that may be at risk of breaching the Act is to lodge a notification with the ACCC.

Once a notification has been validly lodged with the ACCC, immunity from legal action in respect of the notified conduct commences 14 days after the notification was lodged, unless the ACCC issues a draft objection notice proposing to prevent the immunity coming into effect.

The ACCC may proceed to remove the immunity provided by a collective bargaining notification at any time where it is satisfied that the likely benefit to the public from the proposed conduct will not outweigh the likely detriment to the public from the proposed conduct.

Collective bargaining notification lodged by the Association

On 19 November 2012, the Association lodged a collective bargaining notification concerning it negotiating on behalf of its 70 members for the provision of Agency services to Tabcorp.

A copy of the collective bargaining notification lodged by the Association is available from the ACCC's website at:

www.accc.gov.au/collectivebargainingregister

The immunity from legal action provided by the notification CB00280 will commence on 3 December 2012 provided the ACCC does not issue a draft objection notice proposing to prevent the immunity coming into effect.

Request for submissions

To assist the ACCC in its consideration of the notification it would be helpful to obtain your comments on the likely public benefits and the likely effect on competition, or any other public detriment, from the proposed arrangements.

The ACCC asks for submissions to be in writing so they can be made publicly available. They are placed on a public register for this purpose.

Persons lodging a submission with the ACCC may request that information included in the submission be excluded from the public register in certain circumstances. Submissions which are excluded from the public register may still be taken into account by the ACCC in conducting its assessment of the notified arrangements. Guidelines for seeking exclusion from the public register are attached for your information.

Submissions can also be lodged by email to adjudication@acc.gov.au or please contact Luke Griffin on 02 6243 1114 to organise making an oral submission. Please ensure that your submission is lodged with the ACCC by **3 December 2012**.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please contact Luke Griffin on (02) 6243 1114.

Yours sincerely



Marie Dalins
Director
Adjudication Branch

Victorian Off-Course Agents Association – CB00280 – Interested party list –
November 2012

AHA Victoria

Clubs Victoria Inc.

Australian Punters Association

Australian Bookmakers' Association/NSW Bookmakers' Cooperative Ltd

Office of Gaming and Racing Victoria

Racing Victoria Ltd

Victorian Commission for Gambling Regulation