



Department of Employment, Economic Development
and Innovation

Reference No: RAC/1032

28 May 2009

Mr T Hanmer
Chair
Queensland Race Product Co Ltd
PO Box 63
SANDGATE QLD 4017

RECEIVED
28/05/09

Dear Mr Hanmer

I refer to your undated letter regarding the Product and Program Agreement and race information legislation. The following comments are provided for your assistance and should not be construed as legal advice. I would recommend that Queensland Race Product Co Ltd obtains its own legal advice on the issues you have raised.

The general intent of the Product and Program Agreement is well known. As the control bodies major partner, UNITAB provides the principal source of funding for the Queensland racing industry under the Product and Program Agreement.

With respect to the race information legislation, I make the following comments.

As a licensed wagering operator, under the Racing Act, UNITAB is required to apply to each control body for an authorisation to use Queensland race information.

Pursuant to section 113E(6) of the Racing Act, in deciding whether to impose a condition to pay a fee or the amount of the fee, a control body must take into account the fees paid by UNITAB to it under the Product and Program Agreement. This means that the amount of the race information fee may be deducted from the fee paid by UNITAB under the Product and Program Agreement, if a control body considers that an appropriate outcome. In such circumstances, if the amount paid by UNITAB under the Product and Program Agreement is greater than the amount payable under a race information authority, then it is likely no additional amount would be payable by UNITAB.

Office of Racing

Level 4, 33 Charlotte Street
Locked Bag 180
City East Qld 4002
Telephone +61 7 3234 1400
Facsimile +61 7 3234 1411
Email info@racing.qld.gov.au

I would refer you to the Explanatory Notes that accompanied the Revenue and Other Legislation Amendment Bill (No.2) 2008 at pages 51 - 52 where it is stated:

"Subsection 6 of section 113E provides that when determining the amount of fees that a licensed wagering operator is required to pay for the use of Queensland race information, a control body must take into consideration the monies that are paid to it by that licensed wagering operator under any other agreement. This supports the purpose of the proposed amendments, which is to ensure that those whose revenue is derived from wagering on Queensland racing make a contribution to the cost of conducting racing in Queensland. For example, UNITAB Limited currently pays the control bodies monies under an agreement referred to as the 'Product and Program Agreement'. Having considered this, the control bodies could decide the fee payable by UNITAB Limited under subsection 3 of clause 113E is calculated by deducting the monies already payable by UNITAB Limited under the 'Product and Program Agreement' from the fees which would otherwise be imposed under subsection 3. "

It would be inappropriate for me to comment on the issue of whether it is sound commercial practice or a long-term business strategy for an organisation to disregard the significant revenue provided under the Product and Program Agreement by charging an additional fee that may impact on its long term relationship with UNITAB.

I trust this is of assistance.

Yours sincerely



Mike Kelly
Executive Director
Office of Racing

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