

Wednesday 15 April 2009

Dr Ian Holland
Secretary
Senate Environment, Communications and the Arts Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Dr Holland,

On behalf of the Directors and the Members of the Victoria Racing Club Limited (**VRC**), I have pleasure in providing the VRC's submission to the Australian Senate Standing Committee on Environment, Communications and the Arts (the Committee) for its "Inquiry into the reporting of sports news and the emergence of digital media". The VRC appreciates the opportunity to provide to the Committee a late submission.

The VRC strongly supports the Committee inquiry as it believes that the emergence of digital media poses a number of challenges. This is due to the likely further exponential growth and accessibility of digital media.. The misuse of news reporting in digital media threatens the VRC's commercial interest.

The VRC unequivocally favours the rights of news reporting organisations (irrespective of technology medium) to have access to sports information for their news reporting, editorial commentary and debate. Such access should continue to be subject to accreditation procedures. The VRC believes that access to sports for news reporting purposes is both critical for Australian society and equally advantageous for the promotion of the Australian Thoroughbred Industry and for the VRC. However, as the Committee has recognised through this Inquiry, the emergence of digital media will result in less clarity between what is news and what constitutes exploiting the commercial advantage of the VRC (and for that matter of other sports organisations). The VRC also notes the recent press commentary in The Australian newspaper (April 4, 6, 13) regarding the challenges facing traditional news organisations with digital media through exploitation by digital organisations. The VRC recommendation is that commercial content of all organisations (including both news organisations and the sports commercial content providers) needs to be protected in the emerging digital world.

The VRC believes that the Committee consider further regulation to ensure greater consistency across all technology mediums, especially digital media. The regulation should protect both news under Fair Dealing guidelines and also the commercial content of sports without having to rely on the court system. The VRC has noted that for major global sporting events such as the Olympic Games, FIFA World Cup, Wimbledon, the NFL, etc, their strict accreditation process has enabled protection of their commercial content. In Australia, with the smaller size and scale of sporting organisations such as the VRC, this is far more challenging.

The Victoria Racing Club

The VRC has been at the forefront of Australian Thoroughbred Racing since 1852 (as the Victorian Turf Club) and the first Melbourne Cup was held in 1861 (and won by Archer).



SNAPSHOT

- not for profit incorporated entity
- a company limited by guarantee
- 29,000 members approx.
- members have race day privilege's and vote for the board and change to the constitution
- VRC has built and owns all of its first class facilities at Flemington

Today the Melbourne Cup Carnival which is one of the Australian premier entertainment and sporting festivals.

The Melbourne Cup Carnival comprising The Melbourne Cup, Derby Day, Oaks Day and Stakes Day, showcases Australian and international thoroughbred racing at its highest level. It also showcases Australian society, all interested in the sport, fashion and thoroughbred racing.

The status of the Melbourne Cup Carnival as one of Australia's premier entertainment sporting events can be demonstrated by:

- 2008 Melbourne Cup had an average FTA TV audience of 2.2 million people
- the other events of the 2008 Melbourne Cup Carnival had an additional audience of 1.5 million people
- majority of Australian's watched or listened to the Melbourne Cup
- attendances at the Melbourne Cup Carnival events were over 396,000 people

In a recent 2008 report by IER (undertaken on behalf of the VRC) of the Melbourne Cup Carnival the report highlighted its importance to Victoria and Australia being:

- 2008 Melbourne Cup Carnival recorded a national gross economic benefit of \$700 million to Australia and Victoria at \$465 million
- interstate and international visits to Melbourne were up by 21% during the Melbourne Cup Carnival
- Melbourne Cup Carnival was responsible for more than 100,000 bed nights
- around Australia 1.25 million people attended private Melbourne Cup parties.

The ongoing success of the Melbourne Cup Carnival as an entertainment and sporting Australian icon is dependent on three core and interlinked drivers. These drivers maximise the social and economic value of the Melbourne Cup and critically Thoroughbred Racing. These being:



These core drivers are dependent on:

Prizemoney and Industry Returns	Wagering and Public Engagement	Industry Participation
<ul style="list-style-type: none"> • returns to industry • headline events • club, industry viability • returns to owners 	<ul style="list-style-type: none"> • wagering • attendance and viewership • sponsorship • media rights 	<ul style="list-style-type: none"> • depth of calendar and race fields • breadth of participation • horse quality and supply • balance of competition

Broadcasting

The Melbourne Cup Carnival success is funded by the VRC through:

- industry distributions from wagering
- attendances
- catering
- sponsorship
- broadcast rights

Media coverage especially through Free to Air television provides the mass audience appeal that generates interest, attendances and exposure including the VRC sponsors. Over and above FTA TV the Melbourne Cup Carnival is available across radio, pay TV and newspapers. Also increasingly there is significant interest through digital media that will be increasingly important in future years. This will ensure the VRC's commercial content is available more broadly and is appropriately recognised and paid for by digital aggregators through digital media rights.

As highlighted earlier, digital media is experiencing exponential growth. In the recent 2008 report *Broadband Growth and Policies in OECD Countries* it highlighted the very significant growth across most sectors.

“Since the spread of broadband, traditional Internet activities (e.g. obtaining information) have intensified. New kinds of - often increasingly participatory - Internet activity and content-rich broadband applications have also been on the rise. Higher data-intensive applications are on the horizon, e.g. streaming high-definition video and TV, new peer-to-peer applications, health or education applications, virtual conferencing, and virtual reality applications. Emerging usage trends such as the

migration towards user-created content and social network will stimulate further opportunities but will also present challenges for policy.”

Broadband Growth and Policies in OECD Countries

Similarly in Australia growth will continue and will be further enhanced by the recent announcements by the Australian Government of the proposed \$43 billion (approx.) National Broadband Network with suggested speeds of 100mbs.

“Traditional TV services will still be the main way to reach households, but other exciting options for the multi-channel, multi-platform world of the future are opened up.”

Alliances set for shake-up - The Australian (13 April 2009)

The critical driver for the demand for digital media will be content and a key element here will be sport, especially premium sport such as the Melbourne Cup Carnival. In future years this has been identified by the VRC as an additional growth area for increasing the value of its media rights. The commercialisation of content on digital media is in essence (similar to television ratings) through unique browsers (UB's). By delivering UB's from the Melbourne Cup Carnival digital media can deliver revenue through advertising, pay per view and or subscriptions to the digital rights holder. Just like traditional media, digital media holders will pay for exclusive content such as the Melbourne Cup Carnival. The crucial issue is that (again as in traditional media) that content needs to be exclusive. Exclusivity includes highlights, abundant coverage and or archival material. The critical factor that the VRC suggests needs to be considered by this Inquiry is protection of the VRC's digital media rights and avoiding the VRC's commercial content being misused by news reporting organisations.

As highlighted earlier the protecting of digital content in digital media is critical for both news reporting organisations and sports and we quote:

“There is a collective consciousness among content creators [i.e. the VRC] that they are bearing the costs and that others are reaping some of the revenues - inevitable that profound contradiction will be a catalyst for action...”

“ [They] need to be honest in their role as deliverers of other people's content”

Google dubbed internet parasite - The Australian (6 April 2009)

The VRC supports the protection of commercial content for both news reporting organisations and similarly for the originators, the sporting organisations, such as the VRC for the Melbourne Cup Carnival.

The additional challenge in Australia is that in many cases news reporting organisations across technology medium's are also the same organisations bidding for exclusive media rights of sporting events. This gives rise to challenges for leading sports organisations in addressing conflict without resulting to legal challenges.

Inquiry Recommendation

The VRC makes the following comments and recommendations for consideration by the Inquiry in respect of digital media:

- media rights are an important revenue generator both directly and indirectly
- in the future digital media will become increasingly important and valuable
- support open access for accredited news reporting across all technology mediums
- support the diversity of reporting of sports news
- axiom of Fair Dealing applied similarly across all technology mediums including digital media
- sports commercial content must be protected and not subverted on the pretext of news
- sports commercial content cannot be transferred to other digital operators for ambush marketing
- regulation and or formalised codes of practice that are technology medium neutral should build on the accepted principles of Fair Dealing operating successfully in traditional media (FTA TV, Pay TV, Radio and newspapers)
- digital media will require adherence to frequency, archival and highlights, guidelines to avoid misuse of sports commercial content
- regulation in some form is important to protect sports commercial content and to avoid costly time consuming legal challenges
- alternative solution could be that the VRC has ownership of the Melbourne Cup Carnival events (within Copyright) which would possibly enable a simpler determination of commercial sports content

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Conclusion

In conclusion the evolving digital media medium offers unparalleled opportunities for further attractive content for all parties. The VRC is desirous of using this medium to further commercially enhance the Melbourne Cup Carnival through greater access in Australia and overseas and of providing further enhancements to traditional media. These digital media enhancements offer significant commercial advantages for the VRC. The VRC is also committed to Fair Dealing and the reporting of news and is firmly of the view that both news and the VRC's commercial interests can be aligned. However the VRC does seek protection through this Senate Inquiry for the misuse of news that unfavourably affects the VRC's commercial interests.

The VRC thanks the Committee for addressing this very important issue and is available to discuss further if required.

Yours sincerely,

Dale G Monteith
Chief Executive