Advance Deposit Wagering is an Industry Asset

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In January of this year, the industry began the process of revising California's advance deposit wagering ("ADW") laws in the hopes of avoiding a last minute, proverbial "food-fight" in front of state legislators. Over the ensuing five plus months, the parties exchanged approximately 15 drafts, representing the thinking of most stakeholders; tracks, horsemen, and ADW providers. Some took the effort very seriously, others didn't.

In the end, forced together by extremely strong leadership from Senator Dean Florez – Chair of the Senate's Governmental Organizations Committee – the industry worked until 3:30 a.m., on the very last day possible, to fashion a compromise. No one was completely satisfied with the end product, but it did include a number of concessions that will enable the continuation of telephone and internet wagering in the State.

At the center of the impasse was – not surprisingly – TVG's desire to maintain its hope for continuing the "exclusive ADW distribution model" on which its much maligned business model is built. Despite criticism of that model by nearly every horsemen's group around the country, and an ever growing number of racetracks, TVG remains convinced that prolonging the exclusive model – and depriving race fans of their right to choose among competing providers – is in the best interests of, well, who exactly? Restricting the distribution of California races and the ability to wager on those races is clearly not in the best interests of race fans, nor horsemen, nor racetracks, nor other California licensed ADW companies begging to do so. In fact, it is inconsistent with existing state law controlling the distribution of our race signals to licensed satellite facilities; every licensed facility is entitled to receive and utilize those signals.

So, in whose interest is it? The answer is obvious; it benefits TVG, and TVG alone!

"Exclusivity" in the context of ADW can be applied to either – or both – the right to televise and the right to accept wagers on races. When ADW was first authorized in the state, in 2002, TVG's then president Mark Wilson justified "exclusivity" as a necessity because cable and satellite networks were loathe to broadcast content that others would or could also broadcast; in other words, one couldn't watch the same NFL game on different networks. Well, that may have been the case, at least until the NFL network was developed. But, time has a way of changing things, and in this instance, the time has come to treat exclusivity of broadcast and wagering rights as two separate and distinct elements of a business deal.

In any other business, exclusive distribution rights are generally something that a distributor pays dearly for; far more than any other distributor is willing to pay. In the context of ADW however, TVG pays its California exclusive partners the lowest rate of any ADW provider in the industry; far lower! Admittedly, those rates were set nearly 10 years ago, when our track partners entered the deal relying completely on uncertain predictions of what lay ahead. But in the six years since California authorized ADW, the industry has learned much, and it is now not necessary to speculate in order to predict how the future of ADW will unfold.

Going forward, as California's existing exclusive ADW deals come to an end, any ADW company seeking an exclusive wagering rights or distribution arrangement should expect only to do so if it is willing to pay – top dollar – for such valuable rights. Absent such compelling economic reasons to do so, TOC expects that the right to wager on a California Thoroughbred race will be more equitably distributed among licensed ADW providers such that race fans will be able to wager on the provider of their choice, not as selected for them by some racing executive pretending to understand what the patron really wants in terms of a provider. Broadcast distribution partners, including TVG and HRTV, will however be compensated by any and all ADW providers that accept wagers on California races but don't broadcast the races themselves. There will be no free rides, as our broadcast partners deserve to, and will be, compensated for that service.

"Exclusivity" in terms of ADW broadcast and distribution rights may not be a dead concept in California, but one thing is for certain, those wanting to continue the model must expect to pay more – substantially more – for such rights, particularly given that California accounts for about two-thirds of the entire U.S. ADW handle. This is an extremely valuable market, with an extremely valuable signal. The industry must treat it as such, and utilize the new ADW law as a means of doing so!