

Betting, Information, Broadcast Of
Horse Racing
Subsidiary Communications Authorization

Application for Subsidiary Communications Authorization (SCA) to transmit horse-racing information to off-track betting parlors, granted. Service would not be legally receivable in neighboring states where pari-mutuel betting is still illegal.

FCC 79-296

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

In Re Application of

STREET BROADCASTING CORPORATION
Radio Station WIZR-FM
Johnstown, New York

File No. BSCA-
781211AV

For Subsidiary Communications Authoriza-
tion

MEMORANDUM OPINION AND ORDER

(Adopted: May 10, 1979; Released: May 17, 1979)

BY THE COMMISSION:

1. The Commission has before it for consideration an application filed December 11, 1978, by Street Broadcasting Corporation, licensee of Station WIZR-FM, Johnstown, New York, for a Subsidiary Communications Authorization (SCA) proposing, *inter alia*, transmission of horse racing information to off-track betting (OTB) parlors within the jurisdiction of the Capital District Regional Off-Track Betting Corporation, an agency of the State of New York.

2. By means of the subject application, Capital District Regional Off-Track Betting Corporation, proposed lessee of the subcarrier channel, will provide timely horse racing information (e.g., betting odds, track conditions, jockey changes etc.) to the OTB parlors within its jurisdiction. For the reasons set forth in our 1964 *Policy Statement, Report and Order* in Docket No. 15040, 36 FCC 1571 (1964), we determined that the broadcasting of such information would assist illegal gambling and, as such, would be contrary to the public interest. Subsequently, the State of New York enacted off-track betting legislation which led to the establishment of legally authorized OTB

parlors throughout New York. Thereafter, in 1971, we issued a Declaratory Ruling pertaining to the broadcasting of timely information on horse racing by stations in New York. 32 FCC 2d 705 (1971). In that ruling, we found that this use of broadcast facilities would serve to promote private, and still illegal, gambling in New York as well as gambling in neighboring states where pari-mutuel betting is still illegal. At that time, we concluded that there is no basis for any relaxation or limitation of the strictures set forth in the 1964 *Policy Statement*.

3. After careful consideration of this matter, we are of the view that the dissemination of such horse racing information to legally authorized OTB parlors by means of an SCA would not contravene our earlier pronouncements and would not promote or assist illegal gambling. Unlike over-the-air broadcasting, this service is not legally receivable in neighboring states where pari-mutuel betting is still illegal.¹ Nor would the proposed SCA service be available to illegal betting parlors located within New York State. Moreover, it should be noted that the legislation authorizing off-track betting in New York was enacted to both provide the state with additional revenue and "prevent and curb unlawful bookmaking and illegal wagering on horse races". See *N.Y. Unconsol. Law* Section 8062. The proposed SCA would assist those citizens engaged in legal gambling. In view of the above and the fact that legalized gambling, in effect, competes with illegal gambling, we would be unwarranted in concluding that this SCA service would aid illegal gambling.

Accordingly, IT IS ORDERED, That the aforementioned application IS HEREBY GRANTED.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO, *Secretary*.

¹ In this regard, any unauthorized reception of this SCA service would be a violation of Section 605 of the Communications Act and subject to criminal prosecution.