

Submission by Western Australian Bookmakers Association Inc to the Australian Competition and Consumer Commission

Racing and Wagering Western Australia
applications for re-authorisation A91342 & A91343 substitution of new authorisation
AA1000405 – interested party consultation

Further Information or Queries

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WABA

Western Australian Bookmakers Association Inc (WABA) is an Association representing licenced Bookmakers in Western Australia under various acts of the Western Australian government.

One of its purposes is to represent the interests members.

Members activities are overseen by the Western Australian Gaming and Wagering Commission, and Racing and Wagering Western Australia (RWWA).

WABA appreciates the opportunity to comment on the application.

WABA Members

WABA members contribute to racing industry by the payment of a betting levy. The levy is collected by the Western Australian government and then distributed to RWWA, and subsequently distributed to the racing industry within RWWA distributions.

This distribution of the betting levy is often not highlighted or able to be identified easily in the RWWA accounts. WABA members have contributed to the industry for many decades.

RWWA

In addition to RWWA overseeing operations of WABA members it is also a direct competitor of WABA members, this is addition to its supervisory and other regulatory roles.

RWWA is also responsible for the distribution of funds to racing bodies in Western Australia, in addition to its supervisory and gambling roles.

RWWA is responsible for the distribution of levies paid by WABA members to the Western Australian Government to racing bodies in Western Australia.

RWWA Application November 2012

In the RWWA application in November 2012 a number of claims have been made, the following comments are made in relation to certain claims or content in the submission.

Executive Summary page 2 RWWA claim,

"The 2012 Agreement would result in a better allocation of resources because RWWA would be likely to achieve cost savings in the administration and delivery of the Management Services by an experienced provider, and it could allow RWWA to offer fixed odds wagering products to customers at a better price than in the future without the conduct;"

WABA's experience is that fixed odds pricing by WABA members is usually equal or generally better than RWWA pricing in the market.

Commercial rationale page 6 RWWA claim,

"smaller operator in relation to fixed odds wagering, relative to the larger operators such as Tabcorp, Tatts and the larger corporate bookmakers;"

WABA has a number of members and all operate on a basis on being smaller than RWWA.

Item 4.1 RWWA page 8 it is claimed,

"Although it is not a Crown agency and is not subject to Ministerial direction, it is subject to various accountability mechanisms, including an obligation to report to Parliament."

This is not complete in that s.66(1) of the Racing and Wagering Western Australia Act 2003 requires submission of a strategic development plan to the Minister by RWWA, and the Ministers approval.

Further within Racing and Wagering Western Australia Act 2003 Part 6 Division 1,2 and 3 there are numerous other interactions and directions that the Minister can give and matters that RWWA must do in regard to the Ministers control and oversight.

In item 4.1 pages 8 and 9 RWWA list in point form a number of functions that are imposed by the Racing and Wagering Western Australia Act 2003.

The following exclusion within the summary is relevant to the matters,

"s50 (1)(b)(v) any other business considered by the board to be conducive to the success of or incidental to the business of gambling carried on by RWWA, but so that such other business is not conducted to the detriment of the business of gambling carried on by RWWA or in a manner which confers an unfair commercial advantage"

Item 4.1 RWWA page 10 it is claimed,

"requires RWWA to distribute all of its profits to the racing industry"

S106 of Racing and Wagering Western Australia Act 2003 states, 'must pay or credit the balance of its funds in accordance with this section.', it details distribution of funds according to a formula, not the profit calculation of RWWA.

It is not clear from the Annual Report how funds are calculated or distributed.

Item 4.3 page 11 did not include WABA or WABA members as other stakeholders or interested parties in the submission by RWWA.

Item 5.3 Wagering (b) Fixed Odds Wagering at page 15 RWWA state,

"While they are regulated by relevant state and territories authorities (including by way of licencing), there is no legislative restriction on the number of bookmaker licences that can be issued"

Despite this the added legislative requirement that Bookmakers must get approval from race courses to operate and the limited space at racecourses that the practical effect is there is a very real restriction on the number of bookmakers that can operate.

Further WA licenced bookmakers can only operate on-course, or from a racecourse. There is no provision to operate off-course from a corporate premises, as RWWA is allowed to. Telephone betting is also severely restricted in its operation to registered WA Bookmakers, in contrast to RWWA operations.

Item 7 Market Definition page 21 RWWA state,

"RWWA does not consider that it is necessary to form a view on market definition in order to assess the public benefits of the 2012 Agreement. Rather, it is sufficient to discuss the net public benefits arising from the Application in the context of a racing and wagering market generally."

The view of RWWA is insufficient and errs in that the market should be looked at in the terms of on-course, off-course and internet betting markets and segments, and the Western Australian market versus non Western Australian market.

Item 8.2 Factual fails to highlight WABA members as a direct competitor or RWWA in the fixed odds market. Especially on-course markets.

Item 9. Competition Analysis:(a) Anti competitive effects

Page 27 RWWA state,

"the 2012 Agreement will have no effect on consumer choice. Customers are not obliged to acquire fixed odds wagering products from either RWWA or Sportingbet."

Due to the fact that WABA members were not able to offer betting services to punters other than days a racing event was on and they were at a racecourse there was a large restriction on consumer choice, particularly pre race day betting.

Internet betting of WABA members was not approved generally or in a manner that would allow equivalent betting offerings to RWWA. WABA members operated at a significant market disadvantage to RWWA.

RWWA Application November 2017 AA1000405

In the RWWA submission in November 2017 a number of claims have been made, the following comments are made in relation to certain claims or content in the application.

Executive Summary Page 2 item 2.2 (f),

"the 2012 Agreement would result in a better allocation of resources because RWWA would be likely to achieve cost savings in the administration and delivery of the Management Services by an experienced provider, and it could allow RWWA to offer fixed odds wagering products to customers at a better price than in the future without the conduct;"

It is questionable if RWWA has been offering fixed odds wagering products to customers at a better price. Refer to Appendix A for a sample of pricing in the WA market on a Race.

Executive Summary Page 2 item 2.2 (g),

"customers who acquire a range of wagering products prefer to do so from the one provider, and by allowing RWWA to continue to provide a broader range of fixed odds wagering products at a lower price, the 2012 Agreement would provide greater competition for the provision of wagering services to customers."

This is disagreed with as the view is the market is very sensitive to price, the odds, and consumers are loyal to the best price on offer.

At item 2.6 RWWA in their submission acknowledge what they describe as 'fierce competition for fixed odds wagering customers'.

In the RWWA Statement of Corporate Intent 2015/16 it states, 'the ability to retain customers in the face of intensifying competition requires RWWA not only match the offerings of its competitors but also to offer something unique in the market.'

This again would indicate competitors pricing is the key.

Again at 8.7 RWWA state, 'the development of a national wagering market with customers choosing to bet by telephone and particularly online through smartphones and tablets' has occurred in contrast to a one provider model.

Executive Summary Page 2 item 2.3,

"RWWA believes that those public benefits have been realised."

It is disagreed that the public benefits in item 2.2 have been realised.

Executive Summary Page 2 item 2.4,

"The 2012 Agreement has permitted RWWA to continue to compete effectively against larger fixed odds wagering operators because of the costs savings and economies of scale and scope that it has generated. This competitive performance has allowed RWWA to maintain its revenue and thus support to racing and sports in Western Australia to an extent that would not otherwise have been possible in the past 5 years."

It is disagreed and viewed that other factors have contributed to RWWA revenue;

1. RWWA has had an advantage over WABA members in the internet market due to restrictions that have applied on internet betting by WA licenced bookmakers until 2017 when those restriction have been varied to allow fairer competition between WA licenced Bookmakers and RWWA in the internet arena.
2. RWWA has a monopoly on physical branches in Western Australia.
3. RWWA has engaged in on-course advertising and exclusivity agreements in WA.
4. RWWA has engaged in industry radio media services that provides exclusivity protections for its products and services.
5. RWWA revenue has maintained or increased due to monopoly opportunities it has enjoyed and whilst Corporate Bookmakers have entered the market RWWA has obtained market share from its competitor WA licenced bookmakers from its practices and market power.

Executive Summary Page 2 item 2.6,

'This economic picture, taken together with the increasingly fierce competition for fixed odds wagering customers from corporate bookmakers, has resulted in pressure on turnover and margins.'

Due to these pressures the conduct of RWWA and exclusionary marketing requires examination. This is detailed further in the submission.

Executive Summary Page 2 item 2.8,

"The increasingly competitive wagering market reinforces the need for RWWA to have access to Management Services in as cost effective a manner as possible. That can best be achieved under the 2012 Agreement and RWWA seeks re-authorisation of the 2012 Agreement until 28 November 2024 (the date upon which the 2012 Agreement expires) because re-authorisation will result in the continuation of the public benefits identified by the ACCC in the Original Authorisation."

The public benefits identified in the original authorisation require validation and further testing as a result of activities and realities in the market. This is detailed further in the submission.

Parties RWWA 3.2 page 3 it is stated,

"One of RWWA's principal functions is 'to foster the development, promote the welfare and ensure the integrity of metropolitan and country thoroughbred racing, harness racing and greyhound racing, in the interests of the long term viability of the racing industry in Western Australia.

RWWA's other functions relevantly include:

- (a) to carry on the business of operating an off-course totalisator wagering service;*
- (b) to carry on the business of operating an on-course totalisator wagering service on behalf of racing clubs where engaged to do so;*
- (c) to carry on the business of setting, accepting and making fixed odds wagers;*
- (d) to undertake and manage racing industry strategic planning, promotion, marketing, sponsorship and administration;*
- (e) to supervise racing clubs and their affairs;*
- (f) to make loans or grants to racing clubs and allied bodies (for racecourse development purposes); and*
- (g) to endeavour to ensure that racing industry issues such as insurance, broadcasting of race meetings and the establishment and maintenance of training facilities are carried out in an appropriate and adequate manner."*

RWWA has an overriding role to ensure the viability of the racing industry in Western Australia and RWWA's conduct in its gambling operations and some ancillary services may have not met this obligation.

Further concerns that s50 (1)(b)(v) of the Racing and Wagering Western Australia Act 2003 which states,

"any other business considered by the board to be conducive to the success of or incidental to the business of gambling carried on by RWWA, but so that such other business is not conducted to the detriment of the business of gambling carried on by RWWA or in a manner which confers an unfair commercial advantage:"

an adjunct to item 3.2 of the RWWA submission that is missing should be examined.

Parties RWWA 3.6 page 4 it is stated,

"In the period between 2012/13 and 2015/16 RWWA paid the amounts in Table 1 below to the Western Australian racing industry by way of distributions, grants and subsidies."

The amount has been blanked out from the public submission despite these amounts been available from the RWWA published accounts.

Summary financial year data.

Year	Gross TAB Turnover \$b	Distributions \$'000	Levies Other \$ '000	Net Of Levies Other
2013	2,022	113,662	34,187	79,475
2014	2,214	119,753	44,739	75,014
2015	2,086	123,679	54,248	69,431
2016	2,070	136,190	56,239	79,951
2017	1,974	136,269	62,800	73,469

note: Levies Other includes the contributions by WA Bookmakers by way of betting levy.

The overall trend of RWWA contributions from activities is downward as shown from the 'Net of Levies Other' figure.

The comment on distribution can be misleading as RWWA distributions includes betting levies collected by the Western Australian Government from bookmakers and provided to RWWA for distribution with its sources of funds.

Betting levies are a significant % of funds distributed to the WA racing industry via RWWA and need careful isolating when dealing with RWWA performance and returns to the industry.

These betting levies from RWWA competitors must be excluded from any effect on RWWA distribution from its betting arrangements.

The reality is that if RWWA was unable to undertake its fixed odds betting program as it wants or is disbanded these betting levies that it distributes will increase and offset decreases in RWWA generated funds for WA Racing.

Our analysis is that if RWWA was not authorised and chose not to conduct fixed odds betting the on-course market would remain competitive, well serviced and negligible effect on turnover. Noting there has been a significant decrease in on-course attendance and turnover in Western Australia.

No indication is given by RWWA of this offset or how it has accounted for, or method of claims of decreased industry funding in its submission.

At item 7.1 Proposed Conduct at (d) it states,

“conducts related activities, including undertaking research and managing event selling and fixed returns (including by way of 'laying off' wagers in accordance with the risk management parameters);”

This function is new or undisclosed in the submission of 2012.

The concern here is the 'laying off' of wagers. There is no disclosure if William Hill Australia Wagering Pty Ltd is trading with the RWWA book, that William Hill Australia Wagering Pty Ltd is managing, on RWWA 'laying-off', and the resultant effect on the market, if this occurs.

RWWA Powers and Functions, and Definitions

The Racing and Wagering Western Australia Act 2003 states,

3. Terms used in this Act

fixed odds wager means a wager where a fixed amount that will be won if the wager is successful is determined before the wager is accepted;

totalisator means the instrument known as the totalisator and includes -

- (a) any other machine, instrument or contrivance of a like nature and conducted on the like principles lawfully operated under any Act;
- (b) any totalisator pool scheme conducted by RWWA under this Act for enabling any number of persons to make wagers with one another on like principles;

totalisator agency means any totalisator agency established and operated under this Act, and includes any premises on which wagers may be made on a race or event through or with RWWA;

50. Functions of RWWA in relation to gambling

- (1) Without limiting the functions and powers of RWWA under Parts 3 and 4, the functions of RWWA in relation to gambling include the following —
 - (a) to ensure that on-course wagering by bookmakers and racing club totalisators is conducted in accordance with the Betting Control Act 1954 and the rules of wagering;
 - (b) to carry on —
 - (i) the business of operating an off-course totalisator wagering service on races and certain sporting and other events;
 - (ii) the business of operating an on-course totalisator wagering service on behalf of racing clubs where it has been engaged to do so;
 - (iii) the business of setting, accepting and making fixed odds wagers in relation to races and certain sporting and other events;
 - (iv) any other business related to gambling authorised under this Act to be carried on by RWWA;
 - (v) any other business considered by the board to be conducive to the success of or incidental to the business of gambling carried on by RWWA, but so that such other business is not conducted to the detriment of the business of gambling carried on by RWWA or in a manner which confers an unfair commercial advantage;

- (c) to develop and implement a scheme for the distribution of net profits and to negotiate funding arrangements with individual racing clubs.

Fletcher v Racing Queensland Ltd [2011] QCAT 422 (13 September 2011)

"Pari-Mutuel betting is a system which all bets of a particular type are placed together in a pool. Taxes, operating expenses etc are then removed from the pool and dividends are calculated by sharing the remaining pool among all winning bets. Australian totalisators are an example of Pari-Mutuel betting markets. Taxes, operating expenses etc that are removed from the pool are generally in the vicinity of 17% of the pool but can vary by market."

Horse Racing Clubs WA

Clubs are empowered to bet via Betting Control Act 1954 s17B,

"Use of the totalisator by racing clubs

- (1) The possession by the committee or other authority controlling a race course of a totalisator at that race course shall be lawful if -
 - (a) it was authorised —
 - (i) immediately prior to the coming into operation of this section, by or under The Totalisator Act 1883 2 or the Totalisator Act Amendment Act 1899 2 or pursuant to a licence under the Totalisator Regulation Act 1911 2 ; or
 - (ii) by the Commission under section 17D;
 - and
 - (b) that authorisation is not suspended or cancelled by the Commission under subsection (4),
and the operation of that totalisator by or on behalf of that committee or other authority for the purpose of making bets during the day of any race meeting conducted there, or in relation to prescribed activities with respect to the transmission of bets received to a totalisator pool operated by another operator so authorised, is hereby authorised, subject to subsection (3) and section 17C.
- (2) Subject to subsection (3), it shall be lawful for any person, with the express or implied permission of the operator of that totalisator, to participate in the use of, and the facilities afforded by, a totalisator operated, or purporting to be operated, in accordance with the authorisation conferred by subsection (1).
- (3) No person under the age of 18 years shall —
 - (a) participate in; or
 - (b) be permitted by the operator of that totalisator to participate in, the use of, or the facilities afforded by, a totalisator operated, or purporting to be operated, in accordance with an authorisation conferred by subsection (1)."

- "(5) The secretary or chief executive officer and members of the committee or executive body of a racing club authorised to possess and operate a totalisator shall in accordance with the regulations record, or cause to be recorded, full particulars of the operation of that totalisator and of its takings and the manner in which they were taken, of amounts distributed as dividends, of amounts remaining undistributed, of dividends unpaid, of the kind of bets made and such other matters as are prescribed."
- "(9) Subject to this Act and regulations made under this Act, a committee or other authority that is authorised to possess a totalisator at a race course shall operate the totalisator in accordance with the rules of wagering as defined in the RWWA Act."

Marketing Conduct by RWWA

RWWA have established agreements, including standard agreements with WA racing clubs for their betting business marketing and advertising at the race clubs. In particular for their tabtouch brand.

Concern are expressed that the agreement(s) contain exclusivity provisions that protect or give advantage to RWWA products and services over competitors, including WABA member bookmakers.

The exclusivity agreement extends to the fixed odds products this re-authorisation is sought for.

If the re-authorisation was not provided WABA member bookmakers would expect to be able to engage in marketing of their products at Perth Racing which has been denied currently to date.

RWWA has sought to make their mobile/smart phone application and internet access the exclusively promoted one on race courses.

The factual is whilst this authorisation has been in place and exclusive marketing conducted there has been a detrimental financial effect of WABA bookmaker turnover and their viability, including financial. There have been a number of Bookmakers cease operating on-course lessening competition in WA.

s35 of Racing and Wagering Western Australia Act 2003 enacts at (c) a requirement on RWWA to undertake and manage **racing industry** strategic planning, promotion, marketing, sponsorship and administration.

Attempts to exclude its competitors in the racing industry is not conducive to this obligation.

RWWA as has been highlighted previously is responsible for distribution of funds to the WA Racing Industry in accordance with the relevant act.

The practical effect of RWWA marketing its products at WA racing clubs is if those funds were not used for such purposes they would be available to the clubs by way of distributions or profits and funds.

RWWA is required to reach agreement with Clubs on distribution of funds and profits under its governance Act.

The bargaining powers are clearly not in balance with the control, power and influence RWWA has over WA racing clubs.

The method and agreement by Clubs of expenditure of funds they would be entitled too and allowing RWWA to place advertising, including restrictions to competitors, on its racecourse in return for receiving those funds it would be entitled in any case must be closely examined and tested thoroughly.

This investigation would need to include the additional cost of the advertising incurred by RWWA that would not be available to the racing clubs by way of distribution because of the advertising undertaken at WA race clubs on RWWA products.

The appropriateness of the body that has a legislative responsibility to ensure betting is conducted correctly, s50 (1) (a), and that competes with the entities it is checking to engage in conduct that discriminates against those businesses it is supervising must be subject to further scrutiny.

RWWA have in their most current Statement of Corporate Intent, 2015/16, have stated they are seeking to "Increase our share of the competitive wagering market by enhancing our products and services in both the retail and digital channels and cross channel."

RWWA has an obligation under Racing and Wagering Western Australia Regulations 2003 at s71 to Consult with specified bodies. WABA is one of those specified bodies in regard to 'Racing and supervision of on-course wagering', and no consultation has been undertaken with WABA on these marketing practices.

Radio Services by RWWA

RWWA has established radio services to promote racing in Western Australia.

This service been renamed Tab Radio.

Attempts by WABA to allow WA Bookmaker service providers to advertise on the service have been blocked by RWWA.

Concern are expressed that the exclusionary provisions protect or give advantage to RWWA products and services over competitors, including WABA member bookmakers and service providers.

That exclusionary provision extends to the fixed odds products this re-authorisation is sought for.

The factual is whilst this exclusionary provision has been in place and exclusive marketing conducted there has been a detrimental financial effect of WABA bookmaker turnover and their viability, including financial.

The funding for this radio service comes from general RWWA expenditure.

RWWA seek re-authorisation on the basis of that is predominately cost savings. However, they are willing to forsake additional revenue from radio advertising that would increase returns to the WA racing industry, as is their mandate, to implement an artificial and unfair exclusionary program to competitors.

A reasonable view would be that this restrictive operation of Tab Radio does not comply with s50 (1) (b) (v) of the Racing and Wagering Western Australia Act 2003.

As previously mentioned RWWA has an obligation under Racing and Wagering Western Australia Regulations 2003 at s71 to Consult with specified bodies. WABA is one of those specified bodies in regard to 'Racing and supervision of on-course wagering', and no consultation has been undertaken with WABA on the name change or restrictive radio/media marketing practices.

Further Parties

Whilst this application by RWWA deals with an agreement with itself and William Hill Australia Wagering Pty Ltd there are further parties utilising the authorisation as it currently approved.

Whilst RWWA operates its own premises, website and smartphone application its also conducts arrangements with race clubs in Western Australia.

WA Race Clubs are empowered to conduct betting in accordance with provisions detailed in section labelled 'Horse Racing Clubs', in particular s17B of the Betting Control Act 1954.

RWWA is able to operate an on-course totalisator wagering service on behalf of racing clubs where it has been engaged to do so, s50 (1) (b) Racing and Wagering Western Australia Act 2003.

RWWA does this in Western Australia with race clubs. Totalisator wager is Pari-Mutuel betting as distinct to 'fixed odds betting'.

The 'Rules of Wagering 2005' have various rules in Part 3 in regard to Totalisator betting, including speciality betting.

The review indicates there is no provisions in the Betting Control Act 1954, Racing and Wagering Western Australia Act 2003 or Rules of Wagering 2005 to conduct 'Fixed Odds Betting' by a racecourse operator. This includes via totalisator equipment that has been modified to take 'fixed odds bets'.

WA Bookmakers are licenced to operate on WA Racecourses and pay a betting levy to the Western Australian Government which in turn is passed to RWWA and distributed to race clubs in WA.

Racecourses in WA have engaged in 'Fixed Odds Betting' via their contractual arrangement with RWWA to provide totalisator services on their behalf.

This betting service is conducted by an agreement with the Club and RWWA, and includes William Hill Australia Wagering Pty Ltd participation by its operation with RWWA.

William Hill Australia Wagering Pty Ltd is not licenced in WA to conduct on-course betting in Western Australia.

RWWA provide the hardware and technology solutions for the racecourses, possibly in conjunction with William Hill Australia Wagering Pty Ltd.

The arrangement includes the racecourse participation of Pari-Mutuel pooling conducted by RWWA.

RWWA provided 'Fixed Odds Services' to race clubs results in WA Racing Clubs becoming a direct competitor of RWWA betting services, William Hill Australia Wagering Pty Ltd and the licenced on-course WA Bookmakers.

Prior to RWWA offering 'Fixed Odds Services' to race clubs WA Bookmakers and race clubs were not a direct competitor for 'Fixed Odds Betting', they sold different products in the market.

As previously mentioned RWWA has an obligation under Racing and Wagering Western Australia Regulations 2003 at s71 to Consult with specified bodies. WABA is one of those specified bodies in regard to 'Racing and supervision of on-course wagering', and no consultation has been undertaken with WABA on 'fixed odds betting' on-course.

RWWA Website and Apps

RWWA now operates an integrated website 'tabtouch.com.au' and phone app for its betting products, radio operations and community involvement.

The operations appear to come under the umbrella of s50 (1) (b) (v) of the Racing and Wagering Western Australia Act 2003, and as such there is a requirement that other business is not conducted in a manner which confers an unfair commercial advantage.

In particular RWWA's conduct on entering into marketing arrangements with WA Racing Clubs for its tabtouch brand that restricts its competitors on-course is incurring a detriment in the market, and clear commercial advantage for RWWA betting products.

The arrangement with William Hill Australia Wagering Pty Ltd on 'Fixed Odds' allows RWWA to receive the advantage, and our view is it effects the market negatively. A testing of whether William Hill Australia Wagering Pty Ltd from its relationship is receiving a benefit is also required.

Rules Of Racing 2005

The Rules Of Wagering 2005 are enacted by s120 of the Racing and Wagering Western Australia Act 2003, and RWWA is responsible for making the rules.

Part 4 of the The Rules Of Wagering 2005 regulate the conduct of bookmaker wagering generally .

RWWA has not instigated changes to these rules to enable WABA WA Bookmaker members to compete with RWWA on a fair and equitable basis.

This conduct of not updating or changing rules for market conditions for its competitors have negatively affected the business of WABA members.

Consumers, especially in Western Australia, have been negatively effected by the restrictions kept on RWWA competitors in not providing equal access to the market and allowing equivalent rights to sell products.

This disparity is particularly dominant in the online market which RWWA has confirmed is the growth segment.

s45 covers telephone betting and has not been updated to allow WABA members to sell and market to betting customers on the same open market basis as RWWA has, and severely restricts to the operations of WA Bookmakers, especially in regard to technology advances. This extends to a restriction on days that WA Bookmakers may sell, a restriction RWWA does not have.

S46 covers internet wagering and has not been updated to allow WABA members to sell and market to betting customers on the same open market basis as RWWA has, and severely restricts to the operations of WA Bookmakers, especially in regard to technology advances. This extends to a restriction on days that WA Bookmakers may sell and where it can sell from. A restriction RWWA does not have.

It would be reasonable to view that the provision of the legislation has been framed by government to allow modifications to occur with changed market conditions, circumstances and innovation, and the intention was not to have it used as method of stifling of competition in the wagering market.

Concerns

Submits that while the agreement of RWWA and William Hill Australia Wagering Pty Ltd into the wagering market may have the effect of increasing competition between wagering operators in Australia, there should be concerns that the approval of the authorisation application by RWWA will allow cartel conduct providing an uneven competitive market environment. In particular for the Western Australian market.

RWWA has an obligation to produce a Statement of Corporate Intent that can be layed before parliament. The last statement published on the RWWA website and recorded in parliamentary records was for 2015/16. If RWWA is not complying with its obligations under its Act then concerns must be had as to its ability comply with any undertakings with the ACCC or conduct in authorised matters.

RWWA has significant influence over WA Racing Clubs, including providing potential additional income, grants and subsidies. The weight of this RWWA influence over the decisions that can be made independently by Clubs in regard to betting decisions and benefits to be received by the RWWA wagering business conducted with William Hill Australia Wagering Pty Ltd are concerns.

If commercial betting 'lay-offs' and 'bet backs' are occurring between the parties then this must be disclosed and assessed to effect on the market.

Appendix A

Price Comparisons

26 November 2017 Bunbury Race Course

Race	Horse	Bookmaker	Tabtouch	Mins left
1	Reefkeeper	2.20	2.20	22
3	Brutus Maximus	1.30	1.30	22
	Masked Virtue	41.00	41.00	22
	Brutus Maximus	1.40	1.32	9
6	Regal Moon	1.35	1.38	7
	Fridas Gift	6.00	6.00	7
8	Awesome As	3.20	3.20	8