

24 May 2018

By email: adjudication@accc.gov.au

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General Manager - Adjudication
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Our ref SXM:MSF 225070.01574

Dear Mr Jones

Racing & Wagering Western Australia - Application for authorisation of fixed odds management services agreement

We act for Racing and Wagering Western Australia (**RWWA**).

RWWA seeks reauthorisation of its fixed odds wagering management services agreement (as amended and novated) the subject of existing authorisation AA1000405 (and previously authorised under authorisations A91342 and A91343) by way of revocation and substitution under section 91C(1) of the *Competition and Consumer Act 2010* (Cth).

We **enclose** the following documents:

- (a) application information summary;
- (b) confidential application and submission which contains commercially sensitive information over which confidentiality is sought; and
- (c) a non-confidential application and submission, being a redacted version of the confidential application and submission that may be placed on the public register.

Confidentiality

RWWA acknowledges that the Application and supporting documentation will be made public and placed on the Commission's authorisation register. However, parts of the supporting submission and the supporting documents contain information which is commercially sensitive and confidential to RWWA.

Accordingly, pursuant to section 89(5) of the Act, RWWA requests that the Commission exercise its power under section 89(5A) to exclude this information from the register kept by the Commission pursuant to section 89(3). RWWA requests that the Commission treat that information as strictly confidential.

47 Offices in 20 Countries

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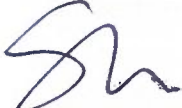
Information in respect of which restriction of publication is claimed is clearly indicated by square brackets with the words [CONFIDENTIAL INFORMATION DELETED] in the non-confidential public version of the submission. RWWA requests that the Commission place only this letter, the enclosed application information summary and the public version of the supporting submission on the public register.

Lodgement fee

RWWA will pay the \$2500 lodgement fee by credit card online at acc.gov.au/payments. The 'Payment Description' will be recorded as 'RWWA – MSA R&S 2018'.

Please contact Michael Ferguson or Scott Meacock if you have any queries in relation to the Application or require any further information.

Yours faithfully



Squire Patton Boggs (AU)

Enclosures

Information

Applicant

1 Details of the applicant for revocation and substitution:

- (a) Racing and Wagering Western Australia (ABN 21 347 055 603) (**RWWA**)
14 Hasler Road OSBORNE PARK WA 6017.
- (b) RWWA is a Western Australian government authority which provides a variety of totalisator and fixed odds wagering products in relation to racing and other sporting events to customers. Further information on RWWA can be found on its website at www.rwwa.com.au.
- (c) Address for service of documents:

Squire Patton Boggs (AU)
Level 21, 300 Murray Street
PERTH WA 6000

Attention: Michael Ferguson/Scott Meacock

Email: michael.ferguson@squirepb.com
scott.meacock@squirepb.com

Direct: 08 9429 7402
08 9429 7417

Authorisation to be revoked (the existing authorisation)

2 Details of the authorisation sought to be revoked:

- (a) Authorisation AA1000504-1 permitted RWWA to make and give effect to all provisions of an agreement between RWWA and TSG Australia Wagering Pty Ltd (previously William Hill Australia Wagering Pty Ltd and Sportingbet Australia Pty Ltd) and Sportingbet Holdings Ltd (**2012 Agreement**), which governs the provision of fixed odds wagering and risk management services to RWWA by William Hill until 28 November 2024.
- (b) RWWA seeks revocation of existing authorisation AA1000504-1 because the 2012 Agreement has been amended and novated under the terms of an amending agreement between RWWA, TSG Australia Wagering Pty Ltd (previously William Hill Australia Wagering Pty Ltd) (**Amending Agreement**) and a deed of novation between RWWA, TSG Australia Wagering Pty Ltd and CrownBet Pty Ltd (**Deed of Novation**).

Authorisation to be substituted (the new authorisation)

3 The other persons who also propose to engage, or become engaged, in the proposed conduct and on whose behalf authorisation is sought are:

- (a) TSG Australia Wagering Pty Ltd ACN 106 487 736, Level 27, 120 Collins Street, MELBOURNE VIC 3000

TSG Australia Wagering Pty Ltd (formerly William Hill Australia Wagering Pty Ltd) is now a subsidiary of CrownBet and its ultimate holding company is the Stars Group Inc. It holds a licence to conduct the business of a Sports Bookmaker issued by the Northern Territory Government on 1 September 2015. The licence expires on 30 June 2020.

- (b) CrownBet Pty Ltd ACN 162 554 707, Level 27, 120 Collins Street, MELBOURNE VIC 3000.

CrownBet Pty Ltd was the successful acquirer of the Australian operations of William Hill plc. The acquisition was effected by CrownBet Pty Ltd's purchase of all of the shares in William Hill Australia Holdings Pty Ltd.

CrownBet holds a licence the conduct the Business of a Sports Bookmaker issued by the Northern Territory government on 1 July 2014. The licence expires on 30 June 2024

The proposed conduct

- 4 RWWA seeks authorisation to give effect to all of the provisions of the 2012 Agreement as amended and novated under the Amending Agreement and the Deed of Novation until the expiration of the 2012 Agreement (as amended by the Amending Agreement), 30 December 2028.
- 5 Substitute authorisation is sought until the expiration of the 2012 Agreement (as amended by the Amending Agreement), 30 December 2028. The grounds supporting this period of authorisation are set out in the attached Submission.
- 6 The arguments in support of authorisation are set out in the Submission.
- 7 The name of persons, or classes of persons, who may be directly impacted by the proposed conduct are set out in the Submissions.

Market information and concentration

- 8 The products and/or services, and the geographic areas, supplied by the applicant (and those products and services in which two or more parties to the proposed conduct overlap) are described in the Submissions.
- 9 The relevant industry is described in the Submissions.
- 10 The competitive constraints on the parties to the proposed conduct, including any likely change to those constraints should authorisation be granted are set out in the Submissions.

Public benefit

- 11 The benefits to the public that are likely to result from the proposed conduct are set out in the Submissions.

Public detriment including any competition effects

- 12 RWWA submits that no public detriment arises from giving effect to the provisions of the 2012 Agreement (as amended and novated from time to time under the Amending Agreement and the Deed of Novation).
- 13 Arguments in support of its views are set out in the Submission.

Contact details of relevant market participants

14 The likely interested parties are identified in the Submissions.

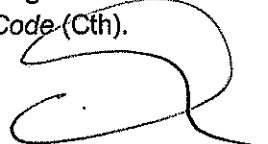
Declaration by Applicant(s)

Authorised persons of the applicant(s) must complete the following declaration. Where there are multiple applicants, a separate declaration should be completed by each applicant.

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned undertake(s) to advise the ACCC immediately of any material change in circumstances relating to the application.

The undersigned are aware of the provisions of sections 137.1 and 149.1 of the *Criminal Code (Cth)*.



Signature of authorised person

MANAGER COMPLIANCE RISK + LEGAL

Office held

Glenn Miller

(Print) Name of authorised person

23 MAY 2018

This [insert day] day of [insert month] [insert year]

Note: If the Applicant is a corporation, state the position occupied in the corporation by the person signing. If signed by a solicitor on behalf of the Applicant, this fact must be stated.

RACING AND WAGERING WESTERN AUSTRALIA

Management Services Agreement between Racing and Wagering
Western Australia and William Hill Australia Wagering Pty Ltd

Submission in support of application for revocation and substitution of
authorisation AA1000405

PUBLIC VERSION

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GLOSSARY

2012 Agreement means the Management Services Agreement dated 30 October 2012 under which WHAW provides the Services to RWWA.

ACCC means the Australian Competition and Consumer Commission.

Act means the *Competition and Consumer Act 2010* (Cth).

Amended 2012 Agreement means the 2012 Agreement as amended by the Amending Agreement and the Novation Deed.

Amending Agreement means the agreement between RWWA and TSGW dated 11 May 2018.

Conduct means all of the conduct under the Amended 2012 Agreement.

CrownBet means CrownBet Pty Ltd ACN 162 554 707.

Current Authorisation means Authorisation AA1000405 made by the ACCC on 27 April 2018.

Novation Deed means the Deed of Novation between RWWA, TSGW and Crownbet dated 11 May 2018.

Revoked Authorisations means Authorisations A91342 and A91343.

RWWA means Racing and Wagering Western Australia.

RWWA Act means the *Racing and Wagering Western Australia Act 2003* (WA).

Services means the services provided under the Amended 2012 Agreement to facilitate RWWA's offering of its fixed odds wagering products, some of which are described in paragraph 5.17.

TSG means The Stars Group Inc.

TSGW means TSG Australia Wagering Pty Ltd ACN 106 487 736, formerly known as WHAW.

WHAW means William Hill Australia Wagering Pty Ltd.

William Hill means William Hill plc.

1 EXECUTIVE SUMMARY

- 1.1 In this application RWWA seeks revocation of the Current Authorisation and re-authorisation to allow it to continue to give effect to the 2012 Agreement as amended and novated from time to time under the Amending Agreement and the Novation Deed.
- 1.2 On 27 April 2018 the ACCC revoked the Revoked Authorisations by which it had authorised the conduct under the 2012 Agreement and substituted the Current Authorisation. The Revoked Authorisations were granted on 8 May 2013 and expired on 9 May 2018, whereas the term of the 2012 Agreement expired on 28 November 2024. The Current Authorisation expires on 28 November 2024.
- 1.3 At the time RWWA applied for the Current Authorisation RWWA's counterparty to the 2012 Agreement was WHAW, and the ultimate holding company of WHAW was William Hill, one of the world's largest corporate bookmakers.
- 1.4 In February 2018 TSG, a Canadian corporation involved in the on-line entertainment business, acquired a majority equity interest in CrownBet Holdings Pty and as a result became the ultimate holding company of CrownBet.
- 1.5 On 23 April 2018, CrownBet announced it had acquired the Australian operations of William Hill by purchasing all of the shares in William Hill Australia Holdings Pty Ltd. As a result of that acquisition:
 - (a) WHAW changed its name to TSGW;
 - (b) the ultimate holding company of TSGW is now TSG;
 - (c) RWWA and TSGW entered into the Amending Agreement; and
 - (d) RWWA, TSGW and CrownBet have entered into the Novation Deed.
- 1.6 The Amending Agreement and the Novation Deed are subject to the satisfaction of conditions precedent, including the grant of authorisation by the ACCC.
- 1.7 RWWA offers fixed odds wagering on sports, racing and other events through its network of retail outlets, through an operated assisted telephone service, online and through mobile betting services using trading names including "TABtouch". It is also the exclusive provider of totalisator wagering services in Western Australia.
- 1.8 Since 2009 RWWA has offered its fixed odds wagering products with the assistance of fixed odds management services provided by large competitors including Centrebet, Sportingbet and, most recently, WHAW. Each of those arrangements has been authorised by the ACCC on the basis that the public benefits that arise by reason of the conduct outweighs any public detriment from that conduct.
- 1.9 The amendments to the 2012 Agreement made by the Amending Agreement are not "market facing" and do not alter the Services or Conduct. **[CONFIDENTIAL INFORMATION DELETED]**. The parties have also taken the opportunity to update certain clauses to reflect changes in legislation and good practice.
- 1.10 Importantly, RWWA maintains control over the odds that it offers on its fixed odds wagering products and CrownBet offers its own, independently set odds, so competition between RWWA and CrownBet will be maintained.
- 1.11 In any event the fixed odds wagering market in Australia is highly competitive, moving towards wagering online and through mobile devices, and is characterised by large, well-resourced corporate bookmakers which are subsidiaries of or related to large international corporate bookmakers. Those corporate bookmakers are the drivers of price competition in the online and mobile wagering market and diminish any possibility that CrownBet and RWWA will act together to offer less favourable odds, or a reduced product offering.

- 1.12 In the circumstances, RWWA submits that the public benefits previously identified by the ACCC continue, and will continue, to arise from the conduct under the Amended 2012 Agreement, notwithstanding the changes to the machinery provisions effected by the Amending Agreement and the change in identity of the entity providing the services effected by the Novation Deed. The novation is to an entity in the same corporate group as TSGW.
- 1.13 Those public benefits are the improved efficiency in RWWA's provision of its fixed odds wagering products which is likely to lead to increased competition between the providers of fixed odds wagering products and a broader range of such products being offered to customers.
- 1.14 No public detriment arises from the conduct under the Amended 2012 Agreement.
- 1.15 RWWA seeks reauthorisation until 30 December 2028 that being the new expiry date of the Amended 2012 Agreement.
- 1.16 Confidential copies of the relevant agreements are attached as follows:
- (a) Management Agreement - **Confidential Annexure 1**;
 - (b) Amending Agreement – **Confidential Annexure 2**; and
 - (c) Deed of Novation – **Confidential Annexure 3**.
- 1.17 RWWA seeks reauthorisation of the Amended 2012 Agreement on the basis that in the case of conduct that potentially contravenes sections 45AD (cartel conduct) and 45 of the Act, TSGW and CrownBet will obtain the benefit of the ACCC's grant of authorisation to RWWA because of section 88(2) of the Act.

2 APPLICANT

- 2.1 The applicant, RWWA, is a body corporate established on 1 August 2003 under the RWWA Act. It is the controlling statutory authority for thoroughbred, harness and greyhound racing in Western Australia.
- 2.2 RWWA's details are:

Name:	Racing and Wagering Western Australia
ACN:	347 055 603
Address:	14 Hasler Road, Osborne Park, WA 6017
Telephone :	(08) 9445 5333
Contact:	Glenn Miller
Position:	Manager - Compliance Risk & Legal
Telephone:	(08) 9445 5298
Email:	glenn.miller@rwwa.com.au

- 2.3 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.'¹ 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;

¹ Section 35(1)(b) of the RWWA Act

- (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.
- 2.4 RWWA is licensed in Western Australia to offer off-course totalisator betting which it does trading as "TAB" and to offer fixed odds wagering on sports, racing and other events.
- 2.5 Its wagering distribution network comprises:
- (a) a retail network of 327 outlets throughout Western Australia, including 88 full-time TAB agencies, 98 'PubTAB' agencies and 141 'self-service' agencies;
 - (b) an operator assisted call centre for placing bets for thoroughbreds, harness, greyhounds, Favourite Numbers, Fixed Odds Sports and Racing;
 - (c) online betting – an internet betting platform that offers the full range of TAB betting products (ozbet.com.au, tabozbet.com.au, tabtouch.com.au and playeronline.com.au);
 - (d) mobile betting – a platform for betting via mobile phones (tabtouch.mobi and related tabtouch apps); and
 - (e) an internet site that provides racing and sporting information (www.rwwa.com.au).
- 2.6 RWWA is the principal source of funding for the racing industry in Western Australia. After various prescribed deductions, the RWWA Act² requires RWWA to distribute all of its profits to the racing industry.
- 2.7 In the period between 2012/13 and 2016/17 RWWA paid the amounts in Table 1 below to the Western Australian racing industry by way of distributions, grants and subsidies.

Table 1

2012/13	2013/14	2014/15	2015/16	2016/17
\$115.9 million	\$130.8 million	\$142.1 million	\$147.9 million	\$150.9 Million

- 2.8 RWWA must also distribute approximately 25% of its revenues from totalisator and fixed odds wagering on sporting events (after paying dividends and winnings on the wagers and wagering tax) and any Unclaimed Sports Dividends into a government sports account for distribution to Western Australian sports.³ In total, during the period from 2012/13 to 2016/17, RWWA paid approximately \$19.7 million into this account.
- 2.9 RWWA contributes to the Western Australian economy through payment of taxes. It is required to pay 'betting tax' to the Western Australian government as follows:
- (a) pari-mutuel (totalisator) racing - 11.91% of margin;

² Section 106 of the RWWA Act.

³ Section 107 of the RWWA Act

- (b) pari-mutuel (totalisator) sports – 5.0% of turnover;
- (c) fixed odds wagering (sport) – 0.5% of turnover; and
- (d) fixed odds wagering (racing) – 2.0% of turnover.

2.10 The amounts of betting tax RWWA paid in respect of those amounts for the period 2012/13 to 2016/17 are set out in Table 2 below.

Table 2

	2012/13	2013/14	2014/15	2015/16	2016/17
Wagering Tax	\$40.4 million	\$42.7 million	\$42.2 million	\$41.9 million	\$40.4 million
Wagering GST	\$26.9 million	\$28.0 million	\$28.6 million	\$27.4 million	\$26.5 million

2.11 RWWA's total annual turnover since the 2011/12 year is set out in Table 3 below.

Table 3

	2012/13	2013/14	2014/15	2015/16	2016/17
Turnover	\$2.041 billion	\$2.144 billion	\$2.108 billion	\$2.090 billion	\$1.993 billion
Margin/ Revenue	\$342.6 million	\$367.3 million	\$364.4 million	\$357.2 million	\$341.1 million

2.12 Over that period RWWA's revenue from fixed odds wagering increased from \$25.6 million to \$97.1 million.

3 AUTHORISATION TO BE REVOKED

- 3.1 RWWA seeks to revoke the Current Authorisation, which was granted on 27 April 2018.
- 3.2 The other party to the Current Authorisation is WHAW. The reasons for the application to revoke the Current Authorisation are set out below.

4 PARTY TO THE SUBSTITUTED AUTHORISATION

- 4.1 The other party involved in the substituted authorisation is CrownBet. CrownBet's details are:

Name:	CrownBet Pty Ltd
ACN:	162 554 707
Address:	Level 27, 120 Collins Street, Melbourne Victoria 3000
Telephone :	(03) 9257 3515
Contact:	Andrew Menz
Position:	Strategy and Regulatory Affairs Director
Telephone:	0422 190 790
Email:	Andrew.Menz@crownbet.com.au

- 4.2 The ultimate holding company of both CrownBet and WHAW, now known as TSGW, is TSG.

TSG, CrownBet and TSGW

TSG

- 4.3 TSG is incorporated in Canada and is listed on the Toronto Stock Exchange and the Nasdaq Stock Exchange.
- 4.4 TSG is a leading provider of technology-based products and services in the global gaming and interactive entertainment industries. Its gaming business is its primary source of revenue. It acquired a majority equity interest in CrownBet Holdings Pty Ltd and its subsidiaries and affiliates in February 2018.
- 4.5 Through its Stars Interactive Group Division (based in the Isle of Man, but operating globally) and CrownBet, TSG owns and operates a variety of gaming and related interactive entertainment businesses, including a developing sports betting (also known as sportsbook) business. In Australia, through its acquisition of CrownBet Holdings, TSG has a presence in the online sports betting market. For more information see www.starsgroup.com.
- 4.6 The fact that the Australian operations of William Hill were for sale was common knowledge. The ACCC referred to the sale in its determination for the Current Authorisation.

CrownBet

- 4.7 CrownBet was the successful acquirer of the Australian operations of William Hill. The acquisition was effected by CrownBet's purchase of all of the shares in William Hill Australia Holdings Pty Ltd.
- 4.8 CrownBet holds a licence to conduct the Business of a Sports Bookmaker issued by the Northern Territory government on 1 July 2014. The licence expires on 30 June 2024.
- 4.9 **[CONFIDENTIAL INFORMATION DELETED]**

TSGW

- 4.10 TSGW (formerly WHWA) is now a subsidiary of CrownBet and its ultimate holding company is TSG. It holds a licence to conduct the Business of a Sports Bookmaker issued by the Northern Territory Government on 1 September 2015. The licence expires on 30 June 2020.
- 4.11 **[CONFIDENTIAL INFORMATION DELETED]**
- 4.12 **[CONFIDENTIAL INFORMATION DELETED]**

5 THE PROPOSED CONDUCT

- 5.1 The Conduct the subject of this application is the same as the conduct authorised by the Current Authorisation.
- 5.2 The application for revocation and substitution has been made as a matter of caution as a result of CrownBet's acquisition of William Hill's Australian operations. RWWA and TSGW (a subsidiary of CrownBet) have entered into the Amending Agreement and RWWA, TSGW and CrownBet have entered into the Novation Deed to reflect the fact that, when it is in a position to do so, CrownBet will supply the Services to RWWA **[CONFIDENTIAL INFORMATION DELETED]**.
- 5.3 As was the case in the application for the Current Authorisation, substitution is sought because the conduct described below may amount to cartel conduct within the meaning of Division 1 of Part IV of the Act or may substantially lessen competition within the meaning of section 45 of the Act.

Amending Agreement

- 5.4 The Amending Agreement sets up a three stage process. **[CONFIDENTIAL INFORMATION DELETED]**
- 5.5 **[CONFIDENTIAL INFORMATION DELETED]**
- 5.6 As RWWA has previously submitted, corporate bookmakers generally develop their systems to provide fixed odds wagering products to their customers. Each of them has expertise in doing so. Developing the necessary systems to provide fixed odds management services to a separate business:
- (a) is not a core part of any corporate bookmaker's business nor an area in which they would have expertise ready to hand; and
 - (b) requires a substantial investment of time, money and resources to develop those systems.
- 5.7 **[CONFIDENTIAL INFORMATION DELETED]**
- 5.8 **[CONFIDENTIAL INFORMATION DELETED]**
- 5.9 **[CONFIDENTIAL INFORMATION DELETED]**
- 5.10 **[CONFIDENTIAL INFORMATION DELETED]**
- 5.11 Clauses 8, 9, 11, 12 and 13 do not substantively amend the 2102 Agreement and clause 13 restates termination rights.
- 5.12 The third and final set of amendments comes into force when the Deed of Novation becomes effective.
- 5.13 RWWA submits that none of the amendments affects the public benefits that the ACCC has found arise as a result of the conduct under the 2012 Agreement and the changes do not give rise to any public detriment. The conduct under the 2012 Agreement as amended by the Amending Agreement is the same as the conduct under the unamended 2012 Agreement.

Deed of Novation

- 5.14 The Deed of Novation is intended to come into effect when CrownBet can provide and RWWA can receive the Services **[CONFIDENTIAL INFORMATION DELETED]**. The novation is to CrownBet which is in the same corporate group as TSGW and, consequently, although there is a change in the legal identity of the person providing the Services, the Services are provided from within the same corporate group.

Conduct remains the same

- 5.15 Despite the Amending Agreement and the Deed of Novation, the conduct under the 2012 Agreement post amendment is the same as the conduct under the 2012 Agreement pre amendment.
- 5.16 The conduct includes:
- (a) to the extent it is permitted to do so by any applicable laws, regulations, and Regulatory Approvals, RWWA agrees to offer all of the events and bet types from which it is able to accept bets from third parties (either directly or indirectly);
 - (b) RWWA and CrownBet agree to establish a joint management committee to oversee the provision of fixed odds management services by CrownBet;

- (c) CrownBet provides RWWA with risk management information, which may influence the odds fixed for RWWA's books;
- (d) RWWA provides risk thresholds and target margin parameters which CrownBet uses when it establishes and maintains fixed odds books for RWWA; and
- (e) CrownBet performs the final calculations that determine the odds that RWWA offers on its fixed odds wagering products.

5.17 CrownBet:

- (a) establishes and maintains fixed odds books (covering the same range of events and bet types offered by CrownBet to its own customers) on behalf of RWWA;
- (b) accepts and processes the above fixed odds investments on behalf of RWWA, in accordance with risk thresholds and target margin parameters that RWWA provides to CrownBet;
- (c) provides wagering and risk management services in respect of each book utilising CrownBet's full functionality for such services including bookmaking management, authorisation controls, implementation of risk parameters, calculation of fixed odds in respect of particular events and bet types (in accordance with the specified risk and target margin parameters), racing and sports wagering expertise and real time systems-based trading alerts;
- (d) conducts related activities including undertaking research and managing event selling and fixed returns (including by 'laying off' wagers in accordance with the risk parameters); and
- (e) provides a range of implementation services, sports betting technology and ancillary services in relation to the books.

5.18 Under the Amended 2012 Agreement:

- (a) CrownBet is not limited in the fixed odds it can offer in respect of its own books; and
- (b) RWWA will independently ascertain and provide the risk management threshold and target margin parameters to CrownBet which uses those thresholds and parameters in providing fixed odds to RWWA through CrownBet's risk management system.

Rationale for conduct

5.19 As RWWA submitted in relation to the Revoked Authorisations and the Current Authorisation, it is not able by itself to conduct efficient and profitable fixed odds wagering operations offering the same scale and scope of fixed odds wagering products as those offered under the 2012 Agreement because:

- (a) RWWA is a smaller operator in relation to fixed odds wagering, relative to the larger operators such as Tabcorp and the larger corporate bookmakers;
- (b) on its own, RWWA would lack the liquidity in its fixed odds books required to efficiently and profitably conduct and manage its own fixed odds wagering, while offering a sufficiently broad range of wagering products at attractive odds for its customers;
- (c) RWWA does not have sufficient scale, expertise (in the form of specialist bookmakers and analysts), technology or risk management skills to:

- (i) manage risk in its books (including 'framing' the market, balancing the book and laying off wagers); and
 - (ii) supply a full range of events and bet types, at competitive odds, particularly in relation to fixed odds wagering on sports;
 - (d) the relative remoteness and size of Western Australia traditionally presents difficulties with access to larger numbers of customers despite the recent and rapid growth in digital wagering, including from overseas clients; and
 - (e) supplying fixed odds wagering products on its own would expose RWWA to considerable risk and inconsistent and volatile returns.
- 5.20 To be able to independently undertake a full scale fixed odds wagering operation, a wagering operator must be of sufficient size and scale to achieve the liquidity needed to effectively manage risk. Without appropriate scale, a fixed odds book is very volatile with even small wagers causing dramatic fluctuations in odds. Taking larger wagers therefore becomes extremely difficult, and results in a poorer competitive offering for customers.
- 5.21 RWWA does not have the necessary size and scale that is necessary to independently offer a range of fixed odds products and the necessary odds to allow it to independently offer fixed odds wagering products.
- 5.22 A wagering operator that provides an independent fixed odds wagering operation also requires extensive technical expertise and technological systems to support such wagering.
- 5.23 **[CONFIDENTIAL INFORMATION DELETED]**
- 5.24 The above estimate is for a basic risk management system and fixed odds bookmaking operation and does not include some of the more advanced functionality embedded within the majority of systems of established operators. It also does not include the costs of employing sufficient operating staff.
- 5.25 If RWWA were to embark upon that level of expenditure, its ability to carry out its statutory functions would be adversely affected.
- 5.26 In addition to the above financial burden, there is also the question of accessing appropriate expertise. RWWA would find it difficult to access a sufficient number of skilled bookmakers/analysts across different event types (i.e. racing, sports, etc.) to support an individual fixed odds wagering operation. RWWA estimates that, depending upon the scope and volume of fixed odds wagering products it offered, it would need between **[CONFIDENTIAL INFORMATION DELETED]**.
- 5.27 Most corporate bookmakers are registered in the Northern Territory, but their experienced, senior operating team of bookmakers, form analysts and risk analysts are primarily based in Sydney or Melbourne.
- 5.28 To establish its own fixed odds wagering operation RWWA would have to recruit suitably experienced fixed odds wagering operators who are prepared to relocate to Western Australia, where all of RWWA's operations are situated. The recognised geographic isolation of Western Australia has traditionally made it difficult for RWWA (and other WA organisations outside of mining and associated industries) to attract experienced staff away from Sydney and Melbourne, particularly with the well-publicised downturn in the Western Australian economy.
- 5.29 RWWA believes that it would be extremely difficult to attract such a large number of experienced fixed odds wagering operators, at least without offering significant financial incentives.

Term of reauthorisation

- 5.30 RWWA seeks reauthorisation of the Conduct to 30 December 2028, which is the date on which the Amended 2012 Agreement now terminates.
- 5.31 In its application in 2012, RWWA sought authorisation of the 2012 Agreement for the whole of its term. The ACCC authorised the 2012 Agreement for a period of 5 years and noted that the relevant areas of competition were dynamic and were likely to continue to evolve.
- 5.32 In its application for the Current Authorisation the ACCC granted authorisation until the expiry of the 2012 Agreement.
- 5.33 While there have been changes in the relevant areas of competition as outlined above, those changes have not affected the public benefits that arose under the 2012 Agreement nor have they resulted in any increased likelihood of anti-competitive detriment.
- 5.34 The competition between wagering operators offering fixed odds wagering products to customers has only increased during the almost 6 years in which the 2012 Agreement has had the benefit of authorisation. This is particularly because of the growing number of large well-resourced corporate bookmakers that have entered the Australian market over the last 3 to 4 years and the competitive responses of the existing participants in the market to those entrants.
- 5.35 The ACCC should grant reauthorisation until the Amended 2012 Agreement expires because:
- (a) to date the conduct under the 2012 Agreement has not resulted in any anti-competitive detriment; competition in all aspects of fixed odds wagering in Australia has only increased;
 - (b) it is likely that competition in the Australian fixed odds wagering market will only continue to increase in the future; and
 - (c) the ACCC can re-consider its grant of reauthorisation at any time if it concludes that the circumstances that existed when reauthorisation was granted have materially changed.

Other stakeholders / interested parties

- 5.36 Other stakeholders in the wagering industry, or parties who may otherwise be interested in the Application, include other totalisators, corporate bookmakers, racing clubs, regulatory bodies, punters, licensed hotels/retail agencies as well as the employees of RWWA and WHAW. Contact details for major stakeholders are set out in Annexure 4.

6 WAGERING INDUSTRY

- 6.1 The ACCC has a deep and detailed understanding of the wagering industry in Australia, having considered it in the context of informal merger clearance applications and applications for authorisation over at least the past 11 years.

Wagering

- 6.2 Wagering involves a customer staking a wager (usually money) on the outcome of a particular event or contest or an uncertain event or matter. The principal form of wagering in Australia is betting on the outcome of races (thoroughbred, harness or greyhound races) and other sporting events. There is also limited wagering on other events such as political or entertainment events.
- 6.3 In 2016/2017, the total turnover from wagering was estimated at \$33 billion.

- 6.4 Racing comprises the large majority of wagering turnover. Total national racing turnover for 2016/2017 was estimated at \$22.9 billion, representing 70% of all wagering turnover. Total national 'sports' turnover for the same period was estimated at \$10 billion, representing 30% of all wagering turnover.
- 6.5 In Australia, customers have the following wagering options:
- (a) pari-mutuel (or totalisator) wagering;
 - (b) fixed odds wagering (bookmaking);
 - (c) tote derivative products offered by corporate bookmakers; and
 - (d) wagering through a betting exchange.

Pari-mutuel (or totalisator) wagering

- 6.6 In pari-mutuel wagering, the final odds are known only when the operator stops accepting wagers for a particular event. The customer therefore does not know the final odds until the time wagering closes on the particular event. Once wagering on a race or event is closed, all wagers are consolidated into a pool. The pari-mutuel operator deducts a set percentage (called the commission or take out rate) from the pool as its commission. The amount remaining is the dividend pool from which dividends are paid to customers who placed winning wagers.
- 6.7 The revenue of the pari-mutuel operator is the commission it deducts from wagers placed on each event. The amount of commission that a pari-mutuel operator can charge is regulated by State legislation. RWWA's weighted average pari-mutuel commission rate was approximately 18.7% for the 2016/17 year.⁴
- 6.8 Each Australian State or Territory has licensed or otherwise authorised a wagering operator to provide off-course pari-mutuel wagering in their respective state or territory. Licensed totalisators are commonly referred to as the 'TAB'. Through various subsidiaries, Tabcorp Holdings Ltd holds all of the totalisator licences issued by Australian states and territories except in Western Australia, where the licence is held by RWWA.
- 6.9 All TABs in Australia offer pari-mutuel wagering on racing and fixed odds wagering on racing, other sports and other events.
- 6.10 TABs in Australia distribute their products through a number of channels, including:
- (a) physical retail outlets (including outlets owned by the TAB), agency outlets and outlets in licensed premises such as hotels;
 - (b) telephone; and
 - (c) online.
- 6.11 In their retail outlets, TABs accept wagers in cash or through accounts, while customers who wager over the telephone or online must open an account with the TAB.

Fixed odds wagering

- 6.12 In fixed odds wagering, the odds in respect of the wager are fixed at the time the wager is actually placed by the customer and do not change. However, the odds offered to successive customers for the same outcome are likely to differ as the wagering operator will change the odds offered for future bets on the same outcome depending on betting patterns.

⁴ The weighted average takes into account the actual product mix with various products having commission rates from 14.24% to 25%.

- 6.13 In fixed odds wagering, the operator's revenue is not a set commission but is dependent upon a number of factors including the outcome of the particular event, the operator's management of its book and whether or not the wager is 'laid off' with another operator to spread risk.
- 6.14 Fixed odds wagering constitutes 59.9% of all wagering and is the predominant form of wagering in Australia (excluding betting exchange turnover)⁵ and the vast majority of all sports wagering turnover.
- 6.15 In recent years, large, international corporate bookmakers have entered the Australian market and are now major suppliers of fixed odds wagering on racing, sporting and other events. While they are regulated by relevant state and territory authorities (including by way of licensing), there is no legislative restriction on the number of bookmaker licences that can be issued (unlike the monopoly licensing regimes with respect to totalisators).
- 6.16 By far the most dominant category of bookmaker in Australia are corporate bookmakers. The corporate bookmakers operating in Australia are generally subsidiaries of large, well established international wagering operators. They are typically licensed in the Northern Territory (for tax and regulation purposes), but offer fixed odds wagering products to punters in all states and territories. Corporate bookmakers have steadily increased their presence in the wagering market in recent years.
- 6.17 In Australia, other than CrownBet, they include:
- (a) Tabcorp – as well as its totalisator operations, Tabcorp is the largest fixed odds bookmaker operating in Australia. For calendar year 2017, its revenue from fixed odds wagering was \$728 million.
 - (b) Sportsbet – wholly owned by Paddy Power, a UK listed worldwide online betting company. Sportsbet provides fixed odds wagering products on a range of racing, sports and other events in Australia and overseas through online and telephone channels. For calendar year 2017, its revenue from fixed odds wagering was \$187 million.
 - (c) Bet365 – a privately owned gambling company based in the UK which offers fixed odds wagering on racing and sporting events. It is recognised as one of the largest global internet based gambling organisations.
 - (d) Unibet – which was founded in 1997 and is a subsidiary of a publicly listed Swedish company. Unibet acquired Betchoice, then an independent Australian bookmaker in 2012. Unibet claims to be one of the largest online gambling companies.
 - (e) Ladbrokes – a British based betting and gambling company. The company employs people across the UK, Ireland, Belgium, Spain and Australia. Ladbrokes purchased Bookmaker Pty Ltd a Brisbane-based online bookmaker in 2013. In 2014 it acquired the Australian on-line bookmaker Betstar.

Other forms of wagering

- 6.18 A number of corporate bookmakers in Australia offer 'tote-derivative' or 'tote-odds' wagering in Australia. The odds for these products are set by reference to the final totalisator dividend offered by one or more of the totalisator operators in Australia.
- 6.19 A betting exchange is essentially a marketplace for customers to bet on the outcome of discrete events. Betting exchanges permit customers to wager directly against each other by wagering (with fixed odds) on opposing outcomes of a particular event. Customers can bet for or against a particular outcome, with wagers of opposing outcomes matched. The betting

⁵ Australian Racing Fact Book 2016

exchange operator is a facilitator of this wagering and does not take on any risk with respect to the outcome of the event.

- 6.20 Betfair Australia is the only betting exchange in Australia. It launched in 2005. Originally a joint venture between Betfair (established in the UK in 1999) and Crown, it became wholly owned by Crown Resorts in 2014.

Regulation of wagering in Australia

Totalisators

- 6.21 Legislation in each of the States and Territories specifies the conditions under which an off-course totalisator licence may be granted, including the period of time for which it is granted. It also requires the licensed operator to comply with a number of conditions, obligations and restrictions, including the payment of taxes and other fees to the State or Territory government, compliance with legislated maximum or specified commission rates, entry into arrangements with the relevant racing industry bodies under which the operator provides economic contributions to the racing industry and, in some cases, obtains approvals to conduct wagering activities, and the products that the operator can offer.

Bookmakers

- 6.22 The overwhelming majority of corporate bookmakers operating in Australia are licensed as sports bookmakers in the Northern Territory due to its favourable licensing conditions and regulatory regime.

Product fees

- 6.23 Each State and Territory has introduced legislation under which wagering operators are required to pay fees for the use and publication of racing information or race fields (collectively referred to as Race Fields Legislation). The fees payable under Race Fields Legislation vary from State to State and from code to code, and are calculated by reference to turnover or gross revenue.

7 INTERRELATIONSHIP BETWEEN WAGERING AND OTHER INDUSTRIES

Racing

- 7.1 The racing and wagering industries are closely interrelated, both economically and legally. The predominance of wagering on racing events, and the historical development of the racing and wagering industries, has resulted in a mutually dependent relationship between the racing industry and wagering operators.
- 7.2 The Australian racing industry makes a significant contribution to the Australian community from providing entertainment through the holding of race meetings to creating employment and other economic activity. Wagering activity depends to a large degree on the quality of the racing product delivered by the racing industry – the better the product, the more wagering activity is generated.
- 7.3 In turn, the wagering industry and particularly the TABs provide a significant proportion of the funding for the racing industry in their States and Territories. As conditions of their licences, or by statute, the TABs are required to provide certain levels of funding to the racing industry in their State and Territory.
- 7.4 These requirements are not placed on corporate bookmakers.

Race Fields information

- 7.5 As noted above, the Race Fields Legislation enacted by each State and Territory requires all wagering operators to pay fees to use and publish racing information of a State or Territory. Those fees are paid for the benefit of the racing industry in each State or territory.

Other Industries

- 7.6 The relationship between the wagering industry and industries on which wagering is conducted (such as sports) differs from the relationship between wagering and the racing industry. These other events are largely funded through different means — for example, ticket sales, sponsorship and media rights — rather than by wagering operators.
- 7.7 Despite this, there are significant links between the wagering and sports industries. This includes the payment of product fees to sporting associations and organisations for the provision of sports ‘product’ upon which wagering is conducted.

8 MARKETS

- 8.1 The Application relates to the supply of wagering and risk management services by TSGW and then by CrownBet to RWWA and the supply of fixed odds wagering products by RWWA, TSGW and then CrownBet.
- 8.2 In its consideration of the Original Authorisations, the ACCC said that the areas of competition that it had previously identified⁶ remained relevant to its assessment of the 2012 Agreement. Those areas were:
- (a) the supply of wagering and risk management services necessary to provide fixed odds wagering products to the public; and
 - (b) the provision of wagering products to the public.
- 8.3 While the ACCC also noted that the evolving nature of wagering meant that the relevant areas of competition are likely to change over time, RWWA submits that the above markets remain the relevant markets for the purposes of the Application.

Supply of wagering and risk management services

- 8.4 The services that WHAW provides to RWWA under the 2012 Agreement are necessary for any wagering operator that wishes to offer fixed odds wagering products to customers.
- 8.5 RWWA could potentially source such services from other competitors such as Tabcorp and Sportsbet/Paddy Power. Each of those entities have their own internal wagering and risk management services and, so far as RWWA is aware, they do not supply those services to external third parties such as RWWA.

Provision of wagering services to the public

- 8.6 The principal forms of wagering in Australia are pari-mutuel and fixed odds wagering on racing and fixed odds wagering on racing and sporting events.
- 8.7 Recent developments in Australia have continued the convergence of pari-mutuel and fixed odds wagering and the development of a national wagering market with customers choosing to bet by telephone and particularly online through smartphones and tablets.
- 8.8 Wagering on sports is also becoming increasingly popular with customers.

9 THE FUTURE WITH AND WITHOUT

- 9.1 In undertaking its assessment of the public benefit and public detriment, the ACCC considers the future with the conduct and the future without the conduct the subject of the application for authorisation.

With

⁶ ACCC Determination on applications for authorisation A91123, A91124, A91158 & A91159 lodged by TOTE Tasmania Pty Ltd, ACTTAB Ltd and RWWA, 9 September 2009, [4.8]

- 9.2 The Amended 2012 Agreement is reauthorised. The key feature of the factual is therefore that the current arrangements continue until the expiry of the Amended 2012 Agreement on 30 December 2028. This will allow RWWA to continue to supply fixed odds wagering products to its customers and to continue as a more effective competitor to the other suppliers of fixed odds wagering products and competing products in the Australian market.

Without

- 9.3 If the ACCC does not reauthorise the Amended 2012 Agreement, a number of counterfactuals are possible.
- 9.4 The first effect would be that TSGW would be required to perform the Services to RWWA under the terms of the 2012 Agreement. RWWA considers that this would almost certainly lead to the termination of the 2012 Agreement (including for convenience) because:
- (a) **[CONFIDENTIAL INFORMATION DELETED]**
 - (b) **[CONFIDENTIAL INFORMATION DELETED]**
- 9.5 If the 2012 Agreement is terminated, RWWA could cease to offer fixed odds wagering products, it could develop its own systems and processes or it could obtain the services from an alternative supplier. It is not likely that RWWA would simply cease to offer fixed odds wagering products.

RWWA develops its own systems

- 9.6 First, RWWA could itself establish the systems and employ the personnel necessary to provide its own risk management services. While this is possible in terms of fixed odds wagering products to be offered on racing, it is unlikely to eventuate in relation to fixed odds wagering products to be offered on other sporting events.
- 9.7 RWWA's expertise is in relation to racing. It has less understanding of the complexities that surround wagering on other sporting events, and none of the necessary systems. In this counterfactual, the range of fixed odds wagering products that RWWA could offer would be substantially reduced, making RWWA less attractive to punters as and substantially affecting its competitive position.
- 9.8 Further the cost of establishing such an operation is a significant consideration for RWWA, particularly in light of its possible privatisation.

Alternative Supplier

- 9.9 RWWA may be able to enter into an agreement with another entity to provide fixed odds management services. Companies that could conceivably supply such risk management and related services on the existing range of racing and sports events in Australia and internationally include Tabcorp, Paddy Power and the other corporate bookmakers in Australia.
- 9.10 **[CONFIDENTIAL INFORMATION DELETED]**
- 9.11 In general, corporate bookmakers develop their systems to service their core customers. Establishing business to business services is not a core part of that business. Further, establishing business to business services requires a significant amount of system development, management and resourcing. **[CONFIDENTIAL INFORMATION DELETED]**
- 9.12 RWWA's experience is that it takes a significant period of time for a provider to work through issues associated with providing the Services to RWWA. Even where the necessary systems and software have been developed, issues still arise on an ongoing basis.
- 9.13 The prospect of RWWA making alternative arrangements with Tabcorp is uncertain. Before 2008, RWWA conducted its fixed odds wagering activities through Tabcorp. Tabcorp

unilaterally terminated those arrangements in 2008, which led to RWWA and others entering into arrangements with Centrebet. **[CONFIDENTIAL INFORMATION DELETED]**

9.14 **[CONFIDENTIAL INFORMATION DELETED]**

9.15 Further as the ACCC has noted in relation to the each of the authorisations that RWWA has sought in relation to its fixed odds wagering activities, RWWA would be likely to seek authorisation of any new arrangements that would be likely to raise the same concerns that arise under the Amended 2012 Agreement in terms of potential breaches of the Act. If the ACCC refuses to reauthorise the Amended 2012 Agreement it would seem unlikely that it would authorise new but similar arrangements with another supplier.

10 PUBLIC BENEFITS

10.1 By the Amended 2012 Agreement RWWA outsources the Services which it could not more efficiently and cost-effectively provide itself.

10.2 The ACCC has accepted that:

“...the 2012 Agreement is likely to generate public benefits by improving the efficiency with which RWWA’s Management Services are provided, relative to the future without the conduct. These efficiencies are likely to come from economies of scale and transactions cost savings.”

10.3 The ACCC also considered that the 2012 Agreement would enable RWWA to provide a broader range of fixed odds wagering products than in the future without the conduct and would therefore preserve industry competition.

10.4 RWWA submits that those public benefits have been realised.

Efficiency in delivery of the Services

10.5 The Amended 2012 Agreement addresses a range of commercial obstacles that RWWA faces in offering fixed odds wagering products to its customers. As noted above RWWA lacks the size and scale to independently conduct fixed odds wagering efficiently for any extended period of time.

10.6 There have been significant changes in the wagering industry in Australia over the last 10 years that are continuing to cause increased competition. These changes include:

- (a) over the past 5 years digital wagering (online through websites or using apps) has increased from 30% to 51% of industry turnover. Between FY06 and FY15, retail sales have fallen from 54% of industry turnover to just 35%⁷;
- (b) over the past 10 years, fixed-odds racing and sports wagering has grown from 26% to 63% of industry turnover⁸;
- (c) over the past 10 years, sports betting has increased from 11% of total national wagering to 21%. Tabcorp estimates that current growth rates for sports betting is 14% per year, compared with overall wagering growth on racing of 4%⁹;
- (d) all forms of wagering have experienced a rapid uptake of mobile based online betting including because of improvements in convenience and speed of placing bets online, the use of apps to place wagers has increased in line with the popularity of smartphones, customers are becoming more comfortable with the

⁷ Application by Tabcorp Holdings Limited [2017] ACompT 1, Statement of Douglas John Freeman at [254(b)] and Statement of Robert Michael Sean Cooke at [133(h)].

⁸ Application by Tabcorp Holdings Limited [2017] ACompT 1, Statement of Douglas John Freeman at [248]

⁹ Application by Tabcorp Holdings Limited [2017] ACompT 1, Statement of Douglas John Freeman at [270]

electronic transfer of funds and large scale advertising campaigns by corporate book makers;

- (e) this growth in digital wagering has seen substantial growth in the number of large corporate bookmakers offering fixed odds wagering. Corporate bookmakers conduct their operations across Australia, by telephone and online, with online sales constituting the bulk of their business; and
- (f) large, well-capitalised and long established international wagering companies (among them Paddy Power and Ladbrokes) have recently acquired a number of independent Australian corporate bookmakers (such as Sportsbet and Betstar).

10.7 The efficiencies generated by the 2012 Agreement have enabled RWWA to conduct its fixed odds wagering in a more competitive manner than would have occurred in the absence of the 2012 Agreement, in a product offering that is increasing steadily in popularity. This is illustrated by the following:

- (a) in 2012/13, RWWA's fixed odds margin after tax increased by 39% and its sports betting margin after tax increased by 21% over the previous year continuing year on year growth. In that year, RWWA's wagering margin was \$342 million and it contributed \$120 million to racing and sports in Western Australia by way of distributions, grants and subsidies;¹⁰
- (b) in 2013/14, RWWA's fixed odds revenue grew by 128% over the previous year, revenue through the smartphone and tablet channel grew by about 116%, the WATAB performed at or above national benchmarks for revenue growth and fixed odds yield and its revenue from sports betting increased by 36% over the previous year. RWWA's wagering revenue was \$367 million and it contributed \$135 million to racing and sports in Western Australia by way of distributions, grants and subsidies;¹¹ and
- (c) in 2014/15, RWWA achieved growth in:
 - (i) fixed odds sports turnover of 9%;
 - (ii) in fixed odds racing turnover of 29%;
 - (iii) fixed odds margin of 33%; and
 - (iv) mobile channel (smartphones and tablets) turnover of 70%.¹²
- (d) in 2015/16, RWWA achieved growth in:
 - (i) fixed odds sports turnover of 9%;
 - (ii) fixed odds racing turnover of 20%; and
 - (iii) mobile channel turnover of 29%.

10.8 RWWA's results and its ability to maintain and increase funding to the racing industry have been achieved in the face of:

- (a) the increased competition that has resulted from the factors identified in - paragraph 10.6 above;

¹⁰ RWWA Annual Report 2012/13

¹¹ RWWA Annual Report 2013/14

¹² RWWA Annual Report 2014/15

- (b) the significant downturn in the Western Australian economy in the second half of 2013 as a result of the severe decline in mining activity in the State and the ongoing economic uncertainty in the wider Australian economy.
- 10.9 While the benefits arising from the 2012 Agreement are not solely the cause of RWWA's competitive performance, the results achieved in its fixed odds wagering business contributed strongly to its performance. RWWA believes that it could not have achieved close to its actual results without WHAW providing the Services under the 2012 Agreement.
- 10.10 RWWA expects that it will continue to achieve more success in its fixed odds wagering activities if the Amended 2012 Agreement is reauthorised.

Broader product offering

- 10.11 By way of example, through its arrangements with WHAW in the 2012 Agreement, RWWA currently offers around **[CONFIDENTIAL INFORMATION DELETED]**.
- 10.12 **[CONFIDENTIAL INFORMATION DELETED]**
- 10.13 This scenario would expose RWWA to a high degree of risk of losing market share for fixed odds wagering, and consequentially market share generally. The loss of market share will not be limited to the fixed odds betting, but will also result in loss from other wagering products as existing customers who utilise a broad range of wagering products look to alternative operators who can offer the full range of services.
- 10.14 RWWA submits that the reauthorisation of the provisions of the Amended 2012 Agreement will result in a continuation of the public benefits that the ACCC identified in the Revoked Authorisations and the Current Authorisation.
- 10.15 Reauthorisation of the Amended 2012 Agreement will ensure that those public benefits continue which, in turn will mean that RWWA:
- (a) can continue to supply fixed odds wagering products in a manner that appropriately manages its risks and costs, which enhances the prospect of achieving more consistent returns within a nominated target margin range and reduces RWWA's administration and transaction costs fostering business efficiency;
 - (b) can continue to offer fixed odds wagering products to customers, with a broader range of fixed odds wagering products (on a wider range of events and bet types) and more attractive odds, thereby providing customers with greater choice and more competitively priced products;
 - (c) remains as an additional supplier in the industry from which fixed odds wagering products can be sourced, thus providing a further competitive constraint to existing suppliers, including through the offering of a broader range of fixed odds wagering products, at more competitive odds; and
 - (d) can continue to carry out its responsibilities and functions which underpin the Western Australian racing industry, including by allowing RWWA's ability to provide funding (by way of distributions, grants and subsidies) to the Western Australian racing industry and the general sporting industry in Western Australia, and otherwise contribute to Western Australian taxation revenues and its economy more generally. RWWA is required to distribute all of its profits (after deducting prescribed amounts) to the racing industry.

11 PUBLIC DETRIMENT

- 11.1 RWWA submits that there is likely to be little (if any) public detriment arising from the relevant conduct under the Amended 2012 Agreement. On this basis, RWWA submits that the conduct under the Amended 2012 Agreement should be reauthorised.

- 11.2 The conduct under the Amended 2012 Agreement is the same conduct that the ACCC authorised in granting the Revoked Authorisations and the Current Authorisation.
- 11.3 As RWWA submitted in the applications for the Revoked Authorisations and the Current Authorisation, and as the ACCC found, there is no anti-competitive detriment arising from the relevant conduct under the 2012 Agreement. The appointment of WHAW, and CrownBet in relation to the Amended 2012 Agreement, is essentially an outsourcing by RWWA of services that it cannot efficiently and cost-effectively provide itself.
- 11.4 In the Authorisations the ACCC stated that:
- “..there is limited scope for coordination [between RWWA and WHA] on products or areas other than the price of fixed odds wagering products.”
- 11.5 The only likely area in which RWWA and CrownBet might coordinate is in respect of pricing or the fixed odds each offers.
- 11.6 This risk does not arise because RWWA independently provides the risk threshold and target margin parameters to CrownBet which uses and applies them to its risk management system to generate fixed odds for RWWA. RWWA can provide whatever risk threshold and target margin parameters it wishes, even if the use of them in the calculation of the fixed odds may result in RWWA achieving a reduced margin or even a loss on any particular book. **[CONFIDENTIAL INFORMATION DELETED]**
- 11.7 There will continue to be price differentiation between RWWA and CrownBet because of:
- (a) the significant differences in costs structures between RWWA and CrownBet;
 - (b) the fact that CrownBet does not have any significant retail presence and is reliant on price as a differentiating factor in its online and telephonic operations; and
 - (c) the fact that each of them offers different discounts, rebates and other incentives to customers.
- 11.8 The Amended 2012 Agreement expressly provides that:
- (a) the fixed odds provided by CrownBet to RWWA are likely to differ from the fixed odds that CrownBet offers to its customers;
 - (b) CrownBet makes its own decisions about the fixed odds that it offers independently of RWWA; and
 - (c) CrownBet is not obliged to disclose to RWWA any details about the fixed odds that CrownBet offers to its customers.
- 11.9 Over the period of operation of the 2012 Agreement, the fixed odds offered by RWWA to its customers have differed from the fixed odds offered by WHAW to its customers on the same event. While the fixed odds offered by RWWA and WHAW on the same event tended to converge over time, there remain differences in both the fixed odds products and the pricing of the fixed odds products offered by them. **[CONFIDENTIAL INFORMATION DELETED]**
- 11.10 Further RWWA and WHAW compete with each other and others such as Tabcorp, Bet365, Paddy Power and Ladbrokes to supply fixed odds wagering products to the public. As the ACCC noted it is the corporate bookmakers (not the TABs) that drive price competition in fixed odds wagering products for online customers, and that deprives RWWA and WHAW of the opportunity and incentive to attempt to raise the prices of their fixed odds wagering products (by reducing the odds they offer). If they sought to do so, their competitors would take market share from them.
- 11.11 Because the terms of the Amended 2012 Agreement which have produced the results above have not materially altered, the outcomes in paragraphs 11.9 and 11.10 above will continue.

12 CONCLUSION

- 12.1 RWWA submits that reauthorisation of the Amended 2012 Agreement will continue the public benefits that the ACCC said were likely to arise, and which have arisen, from the 2012 Agreement to date.
- 12.2 The ACCC's conclusion in the Revoked Authorisations and the Current Authorisation that the 2012 Agreement was not likely to result in any significant public detriment has been borne out and that conclusion remains valid. Reauthorisation of the Amended 2012 Agreement will ensure that those public benefits continue.

ANNEXURE 1
CONFIDENTIAL COPY OF 2012 AGREEMENT

ANNEXURE 2
CONFIDENTIAL COPY OF AMENDING
AGREEMENT

ANNEXURE 3
CONFIDENTIAL COPY OF NOVATION
AGREEMENT

ANNEXURE 4
MAJOR STAKEHOLDER CONTACT DETAILS

STATES AND TERRITORIES

(The information below was accessed at <http://www.racingaustralia.horse/FreeFields/Directory.aspx> on 8 November 2017)

Organisation	Website
AUSTRALIA	
Racing Australia	www.racingaustralia.horse
Australian Bookmakers Association	www.australianbookmakers.com.au/index.html
Harness Racing Australia	www.harness.org.au
Greyhounds Australasia	www.galtd.org.au
AUSTRALIAN CAPITAL TERRITORY	
<i>Principal Racing Authority</i>	
Canberra Racing Club Inc	www.thoroughbredpark.com.au
<i>Major Race Club</i>	
Canberra Racing Club Inc	www.thoroughbredpark.com.au
<i>Industry Body</i>	
A.C.T Bookmakers Association	www.australianbookmakers.com.au/index.html
<i>Government</i>	
Office for the Minister of Racing and Gaming	www.gamblingandracing.act.gov.au
Gambling and Racing Commission	www.gamblingandracing.act.gov.au
TAB	
ACT TAB Limited	www.acttab.com.au
NEW SOUTH WALES	
<i>Principal Racing Authority</i>	
Racing NSW	www.racingnsw.com.au

Major Race Club	
Australian Turf Club	www.australianturfclub.com.au
Industry Body	
NSW Bookmakers Co-Operative Ltd	www.australianbookmakers.com.au/index.html
Government	
Minister for Racing	www.olgr.nsw.gov.au/the_minister.asp
Office of Liquor, Gaming and Racing	www.olgr.nsw.gov.au
TAB	
TABCORP Holdings Limited	www.tabcorp.com.au
NORTHERN TERRITORY	
Principal Racing Authority	
Thoroughbred Racing NT	www.trnt.org.au
Major Race Club	
Darwin Turf Club Inc	www.darwinturfclub.org.au
Government	
Department of Business, Gambling and Licensing Services	www.nt.gov.au
TAB	
Tattsbet Ltd (NT TAB Pty Ltd)	www.tatts.com
QUEENSLAND	
Principal Racing Authority	
Racing Queensland Ltd	www.racingqueensland.com.au
Major Race Club	
Brisbane Racing Club Ltd	www.brc.com.au
Industry Body	

Queensland Bookmakers Association	www.australianbookmakers.com.au/index.html
Government	
Office of the Minister for Sport	www.qld.gov.au
Department of Sport and Recreation	www.nprsr.qld.gov.au/about/organisation/minister.html
Office of Racing	www.nprsr.qld.gov.au
TAB	
TattsBet Ltd	www.tatts.com
SOUTH AUSTRALIA	
Principal Racing Authority	
Thoroughbred Racing S.A Limited	www.theracessa.com.au
Major Race Club	
South Australian Jockey Club	www.sajc.com.au
Industry Body	
South Australian Bookmakers League Inc	www.sabookmakers.com.au
Government	
Minister for Recreation and Sport	www.ors.sa.gov.au
Independent Gambling Authority	www.cbs.sa.gov.au/wcm/
TAB	
TattsBet Ltd (SA TAB Pty Ltd)	www.tatts.com
TASMANIA	
Principal Racing Authority	
Tas Racing Pty Ltd	www.tasracing.com.au
Major Race Club	
Tasmanian Turf Club	www.tasmanianturfclub.com
Tasmanian Racing Club	www.tasracingclub.com.au

Industry Body	
Tasmanian Bookmakers Association	www.australianbookmakers.com.au/index.html
Government	
Minister for Racing	www.tas.gov.au
Tasmanian Gaming Commission	www.gaming.tas.gov.au
Racing Services Tasmania (Office of Racing Integrity)	www.racing.tas.gov.au
TAB	
TattsBet Ltd (Tote Tasmania Pty Ltd)	
VICTORIA	
Principal Racing Authority	
Racing Victoria Limited	www.racing.com
Major Race Club	
Victoria Racing Club	www.vrc.net.au
Industry Body	
Victoria Bookmakers' Association Ltd	www.vicbookmakers.com.au
Government	
Minister for Racing	www.vic.gov.au
Office of Gaming and Racing Department of Justice	www.justice.vic.gov.au
Victorian Commission for Gambling Regulation	www.vcglr.vic.gov.au
TAB	
TABCORP Holdings Ltd	www.tabcorp.com.au
WESTERN AUSTRALIA	
Major Race Club	
Perth Racing	www.perthtracing.com.au

Industry Body	
WA Bookmakers Association Inc	https://wbookmakers.com/
Government	
Office of the Minister for Racing and Gaming	www.rgl.wa.gov.au
Gaming and Wagering Commission of Western Australia	www.rgl.wa.gov.au

CORPORATE BOOKMAKERS

Organisation	Website
Bet365	https://www.bet365.com.au
Ladbrokes	https://www.ladbrokes.com.au
Sportsbet	https://www.sportsbet.com.au
Unibet	https://www.unibet.com.au