

13 December 2007

RIALTO TOWERS 525 COLLINS STREET MELBOURNE  
GPO BOX 769G MELBOURNE VIC 3001 AUSTRALIA  
DX 204 MELBOURNE www.minterellison.com  
TELEPHONE +61 3 8608 2000 FACSIMILE +61 3 8608 1000

**BY EMAIL: adjudication@acc.gov.au**

Mr Scott Gregson  
General Manager  
Adjudication Branch  
Australian Competition and Consumer Commission  
GPO Box 3131  
CANBERRA ACT 2601

Dear Mr Gregson

**Tabcorp - Applications for Authorisation A91065, A91066 and A91067  
TOTE Tasmania response to RWWA submission**

We refer to the submission by Racing and Wagering Western Australia (**RWWA**) in relation to the above application for authorisation made by Tabcorp Manager Pty Ltd. We act for TOTE Tasmania Pty Ltd (**TOTE Tasmania**) and have been instructed to provide you with this response to RWWA's submission.

In its submission, RWWA claims that the granting of interim authorisation of the 2007 Agreement between Tabcorp Manager Pty Ltd (**Tabcorp**) and TOTE Tasmania before 25 March 2008 (the date of expiry of the 1998 agreement between Tabcorp and TOTE Tasmania) would result in a cost to RWWA. RWWA states that this is because of the current fee structure in the pooling agreement between RWWA and Tabcorp.

Notwithstanding that parts of RWWA's submission is confidential, it would appear that RWWA's pooling agreement with Tabcorp includes a payment to RWWA by Tabcorp of an amount that is linked to a certain part of the fee structure of the 1998 agreement between Tabcorp and TOTE Tasmania.

TOTE Tasmania submits that this issue raised by RWWA is not relevant to the Commission's consideration of Tabcorp's application for interim or final authorisation. The terms on which RWWA and Tabcorp agree to pool are a matter for commercial negotiation between Tabcorp and RWWA. There is no logical nexus with the 2007 Agreement and the issue should not affect the Commission's consideration of the public benefits and public detriments arising from the 2007 agreement between Tabcorp and TOTE Tasmania.

We note that neither RWWA or any other interested party on the public record has objected to authorisation being granted – RWWA's objection only relates to *interim* authorisation. In its submission dated 7 November 2007, TOTE Tasmania has provided further information demonstrating the considerable public benefits flowing from authorisation. To TOTE Tasmania's knowledge, no interested party has opposed final authorisation being granted. Given the clear public benefits that will flow from the Commission granting authorisation, all of which

will flow immediately on the granting of interim authorisation, TOTE Tasmania requests that the Commission reconsider its decision not to grant interim authorisation at the earliest opportunity.

Please contact Geoff Carter on (03) 8608 2168 if you require any further information.

Yours faithfully

**MINTER ELLISON**

A handwritten signature in black ink, appearing to read 'Geoff Carter', written in a cursive style.

Geoff Carter  
Partner

Contact: Geoff Carter Direct phone: +61 3 8608 2168 Direct fax: +61 3 8608 1096  
Email: geoff.carter@minterellison.com  
Partner responsible: Geoff Carter  
Our reference: GRC 30-4873145