



**Australian
Competition &
Consumer
Commission**

Our ref: 49759
Contact Officer: Anna Giannakos
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3 October 2012

23 Marcus Clarke Street
Canberra ACT 2601

Dear Sir/Madam

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www.accc.gov.au

Notifications N96146-N96148 lodged by Tabcorp Wagering (Vic) Pty Ltd, Tabcorp Wagering Manager (Vic) Pty Ltd and TAB Ltd

I refer to the above mentioned exclusive dealing notifications lodged by Tabcorp with the Australian Competition and Consumer Commission (the ACCC) on 14 September 2012. A copy of the notification is enclosed with this letter.

The notified conduct

Under the notifications, Tabcorp proposes to offer 'Tabcorp Venue Goods and Services' at a discounted price (or with a rebate or credit) on condition that the person (a hotel or club) has acquired or agreed to acquire a membership of a 'Nominated Membership Organisation'.

The Tabcorp Venue Goods and services include:

- the Sky Channel racing channels or equipment used in conjunction with wagering services
- funds which may be used to assist in the promotion of retail standards and
- inactive programs which apply where licensed venues experience significant growth in respect of their Tabcorp-related businesses.

The current Nominated Membership Organisations are:

- Australian Hotels Association NSW
- Australian Hotels Association Vic
- Clubs NSW and
- Community Clubs Association of Victoria Inc.

Previous notification N93545 considered by the ACCC in 2008

The notified conduct is equivalent to the conduct currently covered by notification N93545 (which was lodged on 12 August 2008). In considering N93545 in 2008 the ACCC consulted with interested parties about the benefits and detriments of the notified conduct.

Following this consultation, the ACCC advised interested parties on 19 December 2008 that it had decided to take no further action regarding the notification. The ACCC advised interested parties that:

In reaching this position the ACCC considered that the notified arrangements would generate public benefits by reducing the cost of relevant Tabcorp venue goods and services to eligible venues, which would be likely to be reflected, at least to some extent, in the price and quality of goods and services offered by licensed venues.

The ACCC has taken into account the potential impact of the notified arrangements on licensed venues not eligible for the proposed offers. In this regard the ACCC noted that the majority of venues are members of a nominated membership organisation or could easily take out such membership.

The ACCC has also taken into account the potential impact of the notified arrangements on membership organisations whose members are not eligible for the proposed offers. In this respect, the ACCC noted that the benefits available through the Tabcorp offer are only one of the factors on which membership organisations compete to attract members. In addition, Tabcorp has publicly stated that it would consider opportunities to work with any membership organisation provided any arrangement entered into was of commercial value to Tabcorp.

Tabcorp competes with other suppliers in supplying some of the venue goods and services the subject of the Tabcorp offers. The ACCC also considered the impact of the arrangements on competing suppliers of these goods and services. In this regard the ACCC noted that under the notified arrangements there is no impediment to eligible licensed venues acquiring relevant goods and services instead of, or in addition to, those which Tabcorp proposes to offer at a discount. Further, other suppliers of these products are free to respond to the Tabcorp offer with competing offers of their own.

ACCC consideration of current notifications

The ACCC is currently considering the notifications lodged by Tabcorp. The ACCC invites you to make a submission on the likely public benefits and effect on competition, or any other public detriment, from the proposed arrangements.

In particular the ACCC would appreciate your views on the conclusions reached by the ACCC in its 2008 assessment, and whether any developments in the market since that time mean that these conclusions no longer hold.

If you would like to make a submission, we would appreciate receiving this submission by **cob 12 October 2012**.

Submissions will be placed on the ACCC's public register subject to any request for exclusion. Please see the ACCC's publication [Guidelines for excluding information from the public register](#) which is also enclosed.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Anna Giannakos on (03) 9290 6920 or by email anna.giannakos@acc.gov.au.

Yours sincerely



Marie Dalins
Director
Adjudication Branch

**N96146 - N96148 - Tabcorp Wagering (Vic) Pty Ltd & Ors –
Interested Party Consultation List**

1. Clubs Victoria Inc
2. Giddy Up
3. Restaurant & Catering Australia