

Our Ref: 53860
Contact Officer: Michael Drake
Contact Number: (03) 9658 6517



**Australian
Competition &
Consumer
Commission**

14 February 2014

Mr Peter Brown
National Rugby League Limited
Rugby League Central
Driver Avenue
Moore Park NSW 2021

GPO Box 3131
Canberra ACT 2601

23 Marcus Clarke Street
Canberra ACT 2601

tel: (02) 6243 1111
fax: (02) 6243 1199

www.accc.gov.au

By email: pbrown@nrl.com.au

Dear Mr Brown

Collective Bargaining Notifications CB00284 & CB00285 lodged by the Australian Wagering Council Limited

The Australian Competition and Consumer Commission (the **ACCC**) has received two collective bargaining notifications from the Australian Wagering Council Limited (**AWC**). In the first, the AWC, on behalf of:

- Bet365;
- Centrebet;
- Betstar;
- IASBet.com;
- Sportingbet;
- Sportsbet;
- Tomwaterhouse.com;
- UNIBet;
- Betfair; and
- Ladbrokes

(collectively, the **Participants**) proposes to collectively negotiate with the National Rugby League Limited (the **NRL**) the terms on which the Participants acquire rights pertaining to providing wagering services on NRL events (**collective bargaining**). The relevant contracts are referred to as the Product Fee and Integrity Agreement.

In the second notification, the AWC, on behalf of the Participants, proposes to enter into agreements where the Participants or a subset thereof may agree to only negotiate with the NRL via the AWC, or agree not to negotiate with, or acquire certain goods or services, from the NRL (**collective boycott**).

A copy of the notifications is attached.

Collective bargaining notification process

The ACCC is the Australian Government agency responsible for administering the *Competition and Consumer Act 2010* (the **Act**). The broad objective of the Act is to

benefit all Australians by promoting competition and to ensure consumers are treated fairly.

The competition provisions of the Act prohibit certain forms of anti-competitive agreements or conduct including agreements which typically occur during collective bargaining.

Collective bargaining refers to an arrangement where one or more competitors in an industry come together to negotiate terms and conditions (including price) with a supplier or a customer.

In the context of collective bargaining, a collective boycott refers to a situation where a group of competitors agree not to acquire from, or not to supply goods or services, to a business with whom the group is negotiating, unless the business accepts the terms and conditions offered by the collective bargaining group.

Both collective bargaining and collective boycott conduct will typically raise concerns under the Act.

The arrangements notified by the AWC involve collective bargaining and collective boycott conduct.

While the Act prohibits certain forms of anti-competitive conduct, it does recognise that conduct which may otherwise breach the Act may, in some circumstances, be of benefit to the public. The Act accordingly allows businesses that are considering engaging in anti-competitive arrangements to seek immunity from legal action. One way businesses may obtain immunity to engage in collective bargaining and collective boycott conduct that may be at risk of breaching the Act is to lodge a notification with the ACCC.

Once a notification has been validly lodged with the ACCC, immunity from legal action in respect of the notified conduct commences **14 days** after the notification was lodged, unless the ACCC issues a draft objection notice proposing to prevent the immunity coming into effect.

Broadly, the ACCC may proceed to remove the immunity provided by a collective bargaining notification where it is satisfied that the likely benefit to the public from the proposed conduct will not outweigh the likely detriment to the public from the proposed conduct.

Collective bargaining notification lodged by the AWC

On 13 February 2014, the AWC lodged the two collective bargaining notifications described above (CB00284 & CB00285 respectively).

The immunity from legal action provided by notification will commence on 27 February 2014 provided the ACCC does not issue a draft objection notice proposing to prevent the immunity coming into effect.

Consultation with the NRL

The ACCC would value your comments on the notifications. As discussed by phone this morning, we look forward to speaking with you early next week once you have had a chance to review the notifications.

If you wish to discuss any aspect of this matter, please do not hesitate to contact Michael Drake on (03) 9658 6517 or myself on (03) 9290 1475.

This letter has been placed on the ACCC's public register.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'G Jones', with a stylized flourish extending to the right.

Gavin Jones
Director
Adjudication Branch