



**RACING
QUEENSLAND**

Racing Queensland Board
trading as
Racing Queensland
ABN: 80 730 390 733

Racecourse Road Deagon QLD 4017
PO Box 63 Sandgate QLD 4017

T: 07 3869 9777
F: 07 3269 6404
E: info@racingqueensland.com.au
W: www.racingqueensland.com.au

31 January 2017

Anna Giannakos
Australian Competition and Consumer Commission
23 Marcus Clarke Street
CANBERRA ACT 2601

By email: adjudication@accc.gov.au

Dear Anna

RE: A91565 & A916566 – THE GLOBAL TOTE LIMITED – SUBMISSION

We refer to:

- the application for authorisation lodged by The Global Tote Limited (Company No. 1944) for the making and giving effect to a provision in its commercial agreements that may constitute a breach of the *Competition and Consumer Act 2010 (Cth)* (**CCA**); and
- the letter to interested parties, including Racing Queensland, dated 22 December 2016 seeking submissions.

Please find enclosed on behalf of Racing Queensland a submission in respect of the authorisation application.

In the event that the ACCC ultimately determines to authorise the conduct, Racing Queensland considers that the proposed length of the authorisation (being 5 years) is unjustified and unnecessarily long. Consequently, Racing Queensland considers that, should the ACCC approve the authorisation application, the length of the authorisation should be considerably reduced.

If Racing Queensland can be of any further assistance in the ACCC's consideration of the proposed authorisation or proposed conduct, please do not hesitate to contact Allan Lonergan, General Counsel on 07 3869 9702 or aloneragan@racingqueensland.com.au.

Yours faithfully

Dr Eliot Forbes
Chief Executive Officer

1 About Racing Queensland

- (a) Racing Queensland is a statutory body established under the *Racing Act 2002* (Qld) and is the control body for Thoroughbred, Greyhound and Harness racing in Queensland.
- (b) Racing Queensland has previously issued an approval to The Global Tote Limited (**GTL**) to use Queensland race information with respect of Queensland thoroughbred, harness and greyhound racing (which expired on 31 December 2016), and is currently considering a further application to use race information in 2017.

2 Length of the authorisation

- (a) If the ACCC ultimately determines to approve the authorisation application, Racing Queensland submits that any such approval should not be for 5 years.
- (b) GTL have requested that the ACCC grant the authorisation for a period of 5 years. However, the request for a 5 year authorisation has been made despite the fact that the proposed agreements between GTL and Authorised Wagering Operators can be terminated with 90 days' notice (and are therefore short term arrangements that do not clearly justify a long term authorisation).
- (c) GTL has not attempted to expressly justify why a 5 year period is necessary in its submission or application.
- (d) Racing Queensland notes that the ACCC has discretion as to the length of any authorisation that it grants. This discretion is particularly important given that the length of time that conduct occurs can exacerbate or reduce any anti-competitive or detrimental impacts of the conduct.
- (e) Racing Queensland is conscious that longer term authorisation is generally for conduct that involve long-term contracts (such as infrastructure contracts), such that it is not commercially viable to enter into the contract and then have authorisation expire part way through the contract term.
- (f) Given GTL have acknowledged that the proposed contracts they seek authorisation for are not long term, and can be terminated with 90 days' notice, a 5 year authorisation seems unnecessary to give effect to the relevant commercial arrangements and only likely to entrench anti-competitive conduct.
- (g) Moreover, given the authorisation relates to a product that does not yet exist in the market, it seems optimistic to assume that the arrangements necessarily require 5 year authorisation in order for GTL's product to enter the market. GTL would be able to apply for a new authorisation if a shorter term (such as one to two years at most) was granted by the ACCC, without the market and consumers potentially bearing the consequences of the authorised anticompetitive conduct for a longer period of time than necessary for the contracts to operate effectively.
- (h) GTL have acknowledged in the authorisation application that the scope of products is uncertain, and claims that it is 'difficult to know the precise scope' of the affected markets. In that context, Racing Queensland considers that it would be inappropriate to grant a long term authorisation, given the scope and impact of the proposed conduct is unknown – even to GTL.

3 Conclusion

- (a) Racing Queensland appreciates the opportunity to provide a submission in relation to this application, and would be pleased to assist the ACCC with any further queries it may have in relation to this matter.