

Submission by Racing and Wagering Western
Australia to the Australian Competition and
Consumer Commission

The Global Tote Limited applications for authorisation A91565 &
A91566 – interested party consultation

RWWA

- 1.1 RWWA is a body corporate established on 1 August 2003 under the *Racing and Wagering Western Australia Act 2003* (WA) (**RWWA Act**). It is the controlling statutory authority for thoroughbred, harness and greyhound racing in Western Australia.
- 1.2 Its activities are overseen by the Western Australian Gaming and Wagering Commission.
- 1.3 One of its 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 Its functions also include, amongst others:
 - (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; and
 - (c) to control, supervise and regulate the conduct of thoroughbred, harness and greyhound racing in WA, including the responsibility for steward and drug testing activities.
- 1.4 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.
- 1.5 RWWA currently pools its pari-mutuel wagering operations into the SuperTAB pool operated by Tabcorp Wagering Manager (Victoria) Pty Ltd, a wholly owned subsidiary of Tabcorp, pursuant to a varied and restated pooling agreement dated 9 February 2016 which was the subject of a revocation and substitution application. The Commission authorised that agreement on 3 June 2016.
- 1.6 Its wagering distribution network comprises:
 - (a) a retail network of 310 outlets throughout Western Australia, including 80 full-time TAB agencies, 103 'Pub TAB' agencies and 127 'self-service' agencies²;
 - (b) an operator assisted call centre for placing bets for all forms of racing, Favourite Numbers, Fixed Odds Sports and Racing;
 - (c) www.tabtouch.com.au – an internet betting platform that offers the full range of TAB betting products;
 - (d) Tabtouch.mobi – a platform for betting via mobile phones; and
 - (e) an internet site that provides racing and sporting information (www.rwwa.com.au).

¹ Section 35(1)(b) of the RWWA Act

² RWWA 2012-13 Annual Report.

- 1.7 RWWA is the principal source of funding for the racing industry in Western Australia. After various prescribed deductions, the RWWA Act³ requires RWWA to distribute all of its profits to the racing industry. RWWA:
- (a) in 2015/2016 returned over \$152M to the Western Australian racing industry by way of distributions, grants and subsidies;
 - (b) is required to 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) into a government sports account for distribution to Western Australian sports.⁴ In 2015/16, RWWA paid approximately \$4M into this account;
 - (c) contributes to the Western Australian economy through payment of taxes. It is required to pay a 'betting tax' to the Western Australian government at the rates of:
 - (i) 11.91% of its margin from pari-mutuel wagering on racing;
 - (ii) 5.0% of its turnover from pari-mutuel wagering on sports;
 - (iii) 0.5% of turnover from fixed odds wagering on sport; and
 - (iv) 2.0 % of turnover from fixed odds wagering on racing;
 - (d) in 2015/16, paid approximately \$41.9M in betting tax and a further approximately \$27M in GST; and
 - (e) had a total turnover of just over \$2B for the 2015/16 financial year. A copy of RWWA's annual report for 2015/16 is available from its website at www.rwwa.com.au.

Pari-mutuel (or totalisator) wagering

- 1.8 In pari-mutuel wagering, the odds of any bet are only fixed at the point in time at which the pari-mutuel operator stops accepting wagers for a particular event. As such, the punter is not aware of the odds until the time wagering closes on the particular event.
- 1.9 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 punters who placed winning wagers.
- 1.10 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.
- 1.11 Generally, pari-mutuel wagering is supplied by totalisators which can either be on-course or off-course. An on-course totalisator only accepts wagers placed by punters who are

³ Section 106 of the RWWA Act.

⁴ Section 107 of the RWWA Act

physically present at a race course. An off-course totalisator can accept wagers from punters who are not physically present at a race course.

- 1.12 By far, the majority of pari-mutuel wagering in Australia is conducted off-course.
- 1.13 Each State and Territory also permits other parties (for example, racing clubs) to conduct 'on-course' totalisators on racing events at race courses in that state or territory.

Proposed Conduct

- 1.14 Global Tote Limited (GTL) is seeking authorisation to enter into and give effect to a number of access agreements between the Applicant and third party corporate bookmakers operating in Australia. Particularly clause 10.3 of the agreement will restrict payment of rebates to a corporate bookmaker's customers in relation to bets made on their new wholesale Global Tote totalisator product for races and sporting events overseas and in Australia, without prior consent of the Applicant.
- 1.15 The proposed conduct restricts the ability for participants of the pool to compete on price, other than the parent company of GTL which we understand will not be restricted from rebating customers.
- 1.16 In its submissions GTL claims it will provide Australian businesses with the "*opportunity to participate in GTL's global pool...*". No Australian corporate bookmaker holds a licence to conduct totalisator wagering, they therefore cannot accept pari-mutuel wagers. It is therefore not clear from the submissions how Australian corporate bookmakers will be able to participate in the GTL pools as licensed totalisator comingling.
- 1.17 It is feasible that corporate bookmakers would accept the bet under the provision they have for Tote Derivative and/or Best of Tote wagers (at fixed price based on the totalisator declared dividend) and then place matching bets on their own behalf through GTL pools. The corporate bookmaker would potentially receive a rebate from GTL based on the bookmaker's turnover.
- 1.18 If this is the proposed conduct then any benefit to the betting public would be limited and the main benefit would be to the bookmaker's profits. There is also the potential negative impact on Australian licensed Totalisators through loss of market share as a result of cartel behaviour and the flow on impact would result in loss of revenue available to the Australian racing industry.
- 1.19 Any benefit from turnover generated through GTL on racing product will most likely be offset by the bet back offset available to corporate bookmakers against their turnover as applicable under most product fee agreements. The racing industry will receive no additional revenue as the turnover generated is likely to be transferred from existing product and unless both GTL, as well as the corporate bookmaker pay product fee on the same turnover no additional benefit will be realised.
- 1.20 RWWA submits that while the entry of Global Tote Limited into the wagering market may have the effect of increasing competition between wagering operators in Australia, it does have concerns that the approval of the authorisation application by Global Tote Limited will allow cartel conduct providing an uneven competitive market environment.