



Our Ref: PH:SL:1279
Your Ref: AA1000621
Tel: [REDACTED]
Contact: Alexandria Anthony

18 November 2022

Sophie Magliano
Australian Competition & Consumer Commission
23 Marcus Clarke Street
Canberra ACT 2601

By Email: exemptions@accc.gov.au

Dear Ms Magliano,

Application for Revocation of Authorisation A91531 – TBA response to specific questions

You have asked us the following eight questions/clarifications, which we have copied below with our client's answers to these questions set out below each question.

1. Please explain the nature of the agreement that centres will collect membership fees and provide them to TBA. Are these agreements reflected in contracts?

The arrangement or agreement by which centres collect membership fees is reflected in the Standard Terms of Tenpin Bowling Australia Registered Centre agreements (**Standard Terms and Conditions**) TBA has in place with registered bowling centres. There are two different types of registration options available to bowling centres:

- the Traditional Sports Registration option; or
- the Lane Levy Sports Registration option.

The bowling centres are able to elect how they want to pay for their registration (either lane levy or traditional).

If the centres elect for the lane levy method, then the registration will cover the membership fees for all league bowlers that use the bowling centre, and the contact details for at least 85% of league bowlers at the centre will need to be provided to TBA (post-COVID the requirement was reduced to 75% of league bowlers playing at the centre). It is then up to the registered bowling centre to communicate and collect fees from league bowlers so that it can pay the lane

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levy/recoup the fees it pays for registration by receiving funds from league bowlers for registration, which cover the cost of the lane levy. The lane levy method accounts for just over 10% of registered centres.

Alternatively, the centres can elect to pay using the traditional method, which places the onus on league bowlers to join up as members (online or in the centre). It is a direct to customer method. It is a requirement for registration that at least 85% of league bowlers playing at the bowling centre are TBA members (although post-COVID this was reduced to 75%). This then places the onus on the centre to assist in the communication to league bowlers and ensure they have become registered with TBA to meet the 85% criteria. The traditional method accounts for almost 90% of registered centres.

If it would assist the ACCC, TBA can provide the Standard Terms and Conditions to the ACCC on a confidential basis.

2. On what basis can a bowling centre leave/cease registration with the TBA, as opposed to having its registration cancelled by the TBA?

A bowling centre can choose to not register with TBA for the year. There will be no need to pay membership fees, as there will be no lane levy to pay (on the Lane Levy Sports Registration option) and no requirement to have 85% (or 75%) of league bowlers at TBA as members.

In practice TBA does not generally cancel registrations, it may just prevent the bowling centre from registering for the following year if it has failed to reach the membership target/pay the appropriate lane levy fee.

3. Are there any penalties for leaving the arrangements, or a minimum period of membership the bowling centre needs to commit to?

Registration by the bowling centres is annual and lasts for a year.

Membership for individuals is also annual and lasts for the year.

If a bowling centre chooses not to be registered/re-register, it will not have access to the benefits provided by TBA for the relevant year. Similarly, if an individual chooses not to renew their membership, they won't have access to membership benefits.

If a bowling centre fails to meet the requirements, TBA does not simply cancel the bowling centre's registration. TBA allows each centre to remain a registered centre until proven otherwise. At the end of October, TBA finalises its views on where each centre reached in terms of the 85% requirement. If the registered centre has not reached the 85% target, it may be ineligible for competition the following year.

A further potential consequence is that it may be unable to register the following year if it has failed to pay for registration in the current year/has outstanding fees. In those circumstances

where there is a cancellation, TBA reserves the rights to not pay the centre for money that it would be otherwise entitled to receive in relation to its involvement in TBA programs.

However, the reality is that TBA does not usually cancel registrations, but instead will deal directly with the centre to work with it to increase membership.

Over the last 5 years, nine centres have been de-registered as a result of not reaching the 85% criteria. In the same time period, and five centres have signed up to be registered centres (either new or returning centres) that weren't registered centres in the previous year.

4. Are there any requirements or qualifications that TBA must meet to obtain/maintain funding from the ASC?

TBA has a funding agreement with the ASC which covers a combination of elements as the peak body, inclusive of participation, governance, compliance and performance. It agrees annually on a series of objectives in addition to annual requirements on governance and policy. For example, it has signed on the National Integrity Framework as part of its agreement with the ASC through Sport Integrity Australia.

5. Does the ASC provide any governance or regulatory oversight of TBA?

The ASC provides funding and support, leadership and through the funding places performance requirements on National Sporting Organisations such as TBA. The ASC provides the support and enabling functions for sports to best deliver what sports do best. For example, TBA has an agreed Governance and Organisational Enhancement Plan that is monitored and supported by ASC. Sport Integrity Australia as an agency also provide policy and support to hear complaints made against these policies.

As a company limited by Guarantee, ASIC remain TBA's key regulatory body.

6. How does TBA know how many bowlers there are at particular centres and whether centres are reaching their target proportion of bowlers as TBA members?

TBA has a competition management program (Tenpin Results) in place which is provided by the company Simpler Technology. This involves a Software Licence, Maintenance and Support Agreement between TBA and Simpler Technology under which TBA pays a fee in return for the competition management services.

Simpler Technology extracts data from the scoring systems for leagues. It provides information to TBA that allows it to identify the total number of league bowlers that are playing at the centre, and then TBA is able to cross-check this against how many members there are at that centre. TBA is provided with the name of non-members who are league bowlers and the centre they participate at with, but no further information.

If the cross-check identifies that the centre is not at the 85% target, then TBA contacts the bowling centre, and the centre is able to contact the league bowlers to encourage them to become members.

If the bowling centre is not paying for registration by a lane levy, then TBA may seek that they pay the gap between the actual members and the 85% criteria. For example, if a centre had 100 league bowlers and 70 members, the centre may be required to pay for 15 bowlers to reach the criteria level and be registered for the following year. In practice, this is the last resort as TBA personnel and centres will endeavour to have the remaining bowlers sign up as members prior to this point in the process.

7. To what extent does the authorised conduct allow the parties to encourage development in the sport of tenpin bowling? How are new bowlers attracted to the sport? What roles do TBA and the centres play in that?

The authorised conduct is very important in allowing the parties (specifically TBA) to encourage development in the sport of tenpin bowling. It allows TBA to obtain membership funds efficiently and effectively, meaning that TBA is able to acquire sufficient funding to provide real benefits to its members. These benefits include programs that encourage participation in tenpin bowling. TBA provides major competitions in which participants can participate or follow as a fan. Australia is hosting the tenpin bowling World Cup and Para World Cup in Queensland this month, and it provides competitions including the Tenpin Premier League, the TBA National Inclusion Masters, the Australian National Championship and the Disability National Championship, which allow athletes to compete at the elite level. TBA is involved in programs such as Bowl Patrol (for children developing an interest in bowling), Sporting Schools and Bowl Abilities that make tenpin bowling accessible to younger people or people with disabilities – these programs encourage development in the sport.

TBA has national participation programs built on research supported by the ASC to recruit participants to the sport. TBA also delivers coaching courses and keeps ongoing communication with accredited coaches who deliver activity across registered activities.

TBA also promotes the sport through media and other partners, highlighting a domestic league that is produced and broadcasted, with ESPN Aus/NZ running the recap magazine type shows. The target audience for this is new fans.

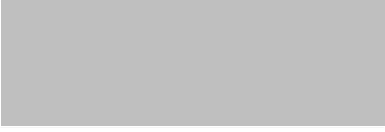
8. How does TBA support registered centres in encouraging social competitors or social league bowlers to become competition league bowlers?

Like most sports, this is the role of the club / centre to support the pathway of participants and retention of participants at their local centre. However, TBA engages in various tactics to support centres in the conversion of social / recreational players to regular participants.

One example is through the Australian Sports Commission (ASC) funded Sporting Schools program, TBA actively secures schools to participate in a multi-week bowling program at centres, with payment provided to centres for lineage. This is beneficial to the sport and the centre as these activities often occur in non-peak times, meaning the centre increases its utilisation and generates additional revenue through the program as well as the potential to attract new / ongoing participants.

Please let us know if you have any further questions or require specific clarification on any particular points.

Yours faithfully



Alexandria Anthony | Associate
SPORTSLAWYER

