

April 10 2017

By email

Hon. Justice Middleton

President, Australian Competition Tribunal

Email: registry@competitiontribunal.gov.au



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Dear President,

I write to formally submit our concern over the Application lodged by TABCORP and in particular with the Divestment Remedy Proposal of Odyssey.

The divestment strategy is flawed for a number of reasons. The first is that the divestment is only of Odyssey and the Sentinel system. This system is a basic monitoring system that has no reporting and no In Venue Gaming System. In fact, it doesn't even produce the basic regulatory reporting for the OLGR which means we would be unable to meet our regulatory burden with Sentinel alone. The reason my business cut over from Maxgaming to Odyssey was because of, in our minds, the superior In Venue Gaming System Odyssey has over Maxgaming. The player loyalty, the card based gaming and the reporting suites are all superior. This divestment has TABCORP maintaining ownership and control over the most important features of Odyssey's business and in 18 months potentially leaving Odyssey with just a basic monitoring system. If this was to occur Odyssey would not be able to compete and the industry would be faced with a monopoly. EBET has promised a roadmap of deliverables since they purchased Odyssey 5+ years ago. They have failed to deliver these promises in that timeframe so I am also lost as to how they can be delivered over the next 18 months and I cannot see what guarantees have been given that they will be delivered. Our contract was recently signed for 3 years, many other venues have a 5 year contract and were signed without the knowledge that the key competitive advantage of Odyssey could be removed within 18 months.

Currently Maxgaming has 80% of the market and there has been little shift in marketshare since EBET took control of Odyssey. In fact, over the past decade Odyssey has had little impact on changing the marketshare in the Queensland LMO space. One reason for this is it's a time consuming expensive experience cutting over from one LMO to the other. The other is Maxgaming have used its large presence to influence the price of the LMO market. I have a personal experience of the aggressive price strategy of Maxgaming. In 2010, I was the General Manager of the Cowboys Leagues Club. The Cowboys had always been an Odyssey site and when the contract was due

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Maxgaming tendered for the business and offered an extremely low price of \$70 per machine per day, significantly lower than the existing Odyssey contract. Soon after this I took my current role at the Arana Leagues Club which were a Maxgaming site and were paying, for the same service, \$130 a

machine a month. I had a meeting with Maxgaming representatives and requested my price be reviewed and the best they could offer was a new 5 year contract at \$118. I questioned the then representatives of Maxgaming only to be told the Cowboys price was for new business not existing business. Since then it's my understanding Maxgaming have continued to use price to maintain their marketshare. I also have no doubt that it has been Maxgaming's strategy to create a monopoly in Queensland. I was at an industry meeting in approximately 2003/04 when a group of managers were told that Maxgaming had held a meeting with the regulator, the QOGR to discuss pricing "when" (not if) the monopoly occurs. Odyssey have been able to stave off the monopoly but in my opinion only because EBET took control. Odyssey's balance sheet and cash position before EBET did this was untenable. I am deeply concerned that with TABCORP divesting Odyssey the price pressure will be further applied and that combined with having control of their only competitor's distinctive advantage in the In Venue Gaming System will create a monopoly.

In closing, by allowing this divestment to occur would breach the most basic competitive condition – they would have in-depth intimate knowledge of their only competitors commercially sensitive information. This combined with the price pressure that would be applied and leaving Odyssey without their competitive advantage is a recipe for disaster and only one outcome can be foreseen – the creation of a monopoly.

Yours faithfully



JOE KELLY ACCM
General Manager