

IN THE AUSTRALIAN COMPETITION TRIBUNAL

ACT 1 of 2017

Re: Application by Tabcorp Holdings Limited under section 95AU of the *Competition and Consumer Act 2010* for an authorisation under subsection 95AT(1) to acquire shares in the capital of a body corporate or to acquire assets of another person

Applicant: Tabcorp Holdings Limited



STATEMENT

Statement of: Michele (Michael) Lavorato
Address: 20-22 Camden Road, Campbelltown NSW 2560
Occupation: Chief Executive Officer of Campbelltown Catholic Club
Date: 27 April 2017

Filed on behalf of	Australian Competition and Consumer Commission		
Prepared by	Simon Uthmeyer		
Law firm	DLA Piper		
Tel	+61 3 9274 5470	Fax	+61 3 9274 5111
Email	Simon.Uthmeyer@dlapiper.com		
Address for service	DLA Piper		
	140 William Street		
	Melbourne VIC 3000		

I, **Michele (Michael) Lavorato**, of 20-22 Camden Road, Campbelltown NSW 2560, Chief Executive Officer, say as follows:

1. I am the Chief Executive Officer of Campbelltown Catholic Club (**CCC**), a registered club in New South Wales. I have worked at CCC since 1989 and I have held the position of CEO for 11 years. I am authorised to make this statement on behalf of CCC.
2. I make this statement in relation to an application by Tabcorp Holdings Limited (**Tabcorp**) to the Australian Competition Tribunal for the authorisation of the proposed merger of Tabcorp and Tatts Group Limited (**Tatts**).

About Campbelltown Catholic Club

3. CCC is a club based in Campbelltown, in the outer suburbs of Sydney, and has been operating in this location since the late 1960s. It was originally established to support Catholic education, sport and culture in the Campbelltown area. CCC is a not-for-profit association. It is a company limited by guarantee and is owned by its members.
4. CCC has a number of facilities available to its members and guests, including a hotel, a leisure centre, restaurants, bars and wagering and gaming facilities (including 490 gaming machines at the main venue). The Campbelltown Golf Club, which is about 3 km from CCC's main site, is also part of CCC.

Wagering facilities and racing vision at Campbelltown Catholic Club

5. In relation to wagering facilities, CCC's main venue has a dedicated TAB area where wagering facilities and Keno are available to members and patrons.
6. As part of its wagering offering, CCC subscribes to Sky, and Sky channels are shown on screens around the venue. Sky is provided by Sky Channel Pty Ltd, which is part of Tabcorp and which I will refer to as Tabcorp.
7. CCC's wagering facility (known as the TAB facility) is provided by Tabcorp. Since I started working at CCC in 1989, CCC has signed two agreements with TAB Ltd (which is part of Tabcorp and which I will refer to as Tabcorp) for the TAB facility: the first was in 1990 and then an updated agreement in 2009, which is the agreement that is in place now. The 2009 agreement is a Licensed Venue TAB Distribution Services Agreement between CCC and TAB Ltd dated 28 September 2009 (**2009**

TAB Agreement). Attached to this statement and marked **[HIGHLY Confidential to Tabcorp]** Annexure "ML-1" is a copy of the 2009 TAB Agreement.

8. I was the person at CCC who dealt with Tabcorp in relation to the 2009 TAB Agreement. My experience of dealing with Tabcorp was that there was no ability to negotiate in relation to the terms of the agreement. Tabcorp told us what its requirements were (e.g. we must dedicate a certain amount of wall space to the race wall sheets) and what commission it would pay. Tabcorp dictated to us what we needed to do. If we didn't agree with the proposed terms, then our agreement for the TAB facility would not be renewed.

9. Under the 2009 TAB Agreement:

- (a) **[HIGHLY Confidential to Tabcorp]** [redacted]
[redacted]
[redacted]
[redacted]
[redacted]
- (b) [redacted]
[redacted]
- (c) [redacted]
[redacted]
[redacted]
- (d) [redacted]
[redacted]
[redacted]
- (e) [redacted]
[redacted]

10. The commission that CCC receives from Tabcorp is based upon the level of turnover from the wagering facilities. Currently, CCC receives commission on wagering of between **[HIGHLY Confidential to Tabcorp]**[redacted] of wagering turnover, depending on our turnover. The average commission we receive is **[HIGHLY Confidential to Tabcorp]**[redacted]. Over the course of a year, CCC receives

commission from Tabcorp of about [HIGHLY Confidential to Tabcorp][] [] .

11. There are significant costs associated with operating the wagering service, including wages of staff in the dedicated TAB room and the cost of Sky (which is discussed in more detail below). After deducting those costs from the commission CCC receives on wagering turnover, CCC makes a significant loss on the wagering service and has done so every year I have worked at CCC (since 1989). A conservative estimate of the total loss to CCC from the wagering service is approximately \$100,000 a year.
12. CCC's subscribes to Sky channel, which is an essential component of the wagering service, because people won't bet if they can't see the racing vision. CCC subscribes to both Sky 1 and Sky 2 and has these channels showing on screens throughout the venues for as long as the venues are open.
13. The only communication that CCC receives from Tabcorp in relation to Sky is an annual email attaching the new rate card (which sets out the new rates for the Sky channel subscription and is normally updated annually) and the monthly invoices for the Sky channel subscription. Attached to this statement and marked Annexure "ML-2" is a copy of the current rate card.
14. The price for the Sky channel subscription, as set out in the rate card, contains a variable component and a fixed component. The variable component is 0.625% of annual average weekly wagering turnover for all venues. The fixed component is a charge based on whether the venue is a country, provincial or metropolitan venue. CCC pays \$300 per week as the fixed component ,comprising \$245 for Sky Racing 1 and \$55 for Sky Racing 2. CCC pays approximately [HIGHLY Confidential to Tabcorp][] per year for the Sky channel subscription.
15. The rate card contains a cap, so that a venue does not pay more than \$45,000 a week for Sky. In my view that cap is of no value, because there are no circumstances in which a venue would have wagering turnover anywhere near the level required to reach this cap.
16. CCC continues to provide a wagering service, despite incurring a significant loss on it, because our members expect us to offer it. There is a general expectation from our members that a club of our size has a wagering offering, and CCC is here for its members, so we continue to provide these facilities.

Digital / online wagering

17. At CCC, there has been a decline in the revenue from wagering over a number of years. I have also noticed an increase in the popularity of online or digital wagering, especially since the arrival of smartphones and the proliferation of wagering advertising on TV in recent years. For example, I see patrons (especially younger patrons) watching sport and racing on our screens and placing bets on their phone through websites or apps of corporate bookmakers (e.g. CrownBet and Sportsbet). In general, our older patrons prefer to use the retail wagering facilities, whereas our younger patrons prefer to use digital wagering facilities. I expect the decline in retail wagering turnover will continue and that digital wagering will continue to increase in popularity. It is very difficult to quantify the "leakage" of revenue to digital wagering, but I expect it will continue to increase as digital wagering continues to increase in popularity. CCC wants to minimise this "leakage" by being able to offer digital wagering facilities to its patrons.

18. The opportunity to explore digital wagering facilities is very appealing to CCC. Recently, in February 2017, ClubsNSW announced that it had entered into a corporate partnership arrangement with CrownBet for CrownBet to offer digital wagering facilities to clubs in NSW. CCC is very interested in entering into a contract with CrownBet for digital wagering facilities, or at least exploring the possibility of doing so, for the following reasons:
 - (a) CCC would like to be able to offer a digital product to our patrons so that we are maximising the potential revenue from wagering. This would reduce the "leakage" of revenue to digital wagering that I referred to above, which in turn will reduce the loss CCC incurs on the wagering facilities.

 - (b) The proposed offering from CrownBet has a different commission structure and offers the potential for CCC to earn much higher revenue from wagering than we currently earn with Tabcorp. Under the CrownBet offering, if CCC signs up a person to a CrownBet digital account, that person will always be linked to CCC and CCC will earn commission on all bets placed by that person, regardless of where the person is when he/she places the bet (unless he/she is in another licensed venue). This

has huge appeal to CCC, because it presents an opportunity to maximise wagering turnover.

19. Currently, CCC cannot explore the CrownBet offering any further, because there is uncertainty in the industry (being the NSW clubs industry) as to whether clubs are allowed to offer digital wagering facilities to patrons. The NSW regulator, Liquor & Gaming NSW, is currently considering this issue. Until the regulator provides further guidance to the industry about this issue, there is no point in CCC giving further thought to providing digital wagering facilities, whether through CrownBet or any other provider.

Service provided by Tabcorp

20. CCC's relationship with Tabcorp is different to those it has with other suppliers. With other suppliers, we have what I would describe as a "partnership" or a "relationship" in that our suppliers' representatives speak to us regularly and they really understand our business so that they can provide the right products and a better service to us. I have meetings with our liquor, food and soft drink suppliers at least quarterly.
21. On the other hand, Tabcorp is the only supplier of retail wagering facilities in NSW, so we have no choice but to use Tabcorp. My view is that, because of this lack of choice, Tabcorp makes no effort to keep us (its customer) happy. Our Tabcorp representative visits our Gaming Manager about every six to nine months (so once or twice a year on average), whereas the representatives from our gaming machine provider visit weekly. In the 27 years I have been at CCC, I have sat down with a Tabcorp representative only twice.
22. There is no real ability to negotiate with Tabcorp (for example, in relation to commission on retail wagering, or the terms of the agreement for the retail wagering facilities, or the price of the Sky channel subscription), despite Tabcorp knowing that clubs lose a lot of money on the retail wagering facilities.
23. The level of service that Tabcorp has provided over the years has been poor, for the reasons stated above and because Tabcorp has failed to address the problems and concerns we have raised, such as the following.
 - (a) The TAB facility cannot cope with high levels of demand. For example, at our annual Melbourne Cup event and on other popular race days, there

are thousands of people at our venue and we experience huge demand for the TAB facility. The Eureka terminals (equipment that forms part of the TAB facility) cannot cope with the high volume of bets being placed and they regularly break down and stop working altogether. The Tabcorp network also becomes very slow under pressure. This results in patrons not being able to place bets, or having to wait much longer than they should have to wait to place bets. The technology is 15 years old and has not been upgraded, despite technology in all other areas of CCC becoming much more sophisticated over that period. The CCC senior management team has asked Tabcorp every year for a number of years if it can provide a temporary terminal at our venue for Melbourne Cup Day, but this request has fallen on deaf ears.

- (b) The CCC management team has also raised the issue of system failures with Tabcorp on numerous occasions, but Tabcorp has not done anything to improve the system or otherwise fix these problems. I feel that our voice carries no influence, because we have only three terminals out of thousands supplied by Tabcorp across the state. And, as the only supplier of retail wagering facilities in the state, there has been no incentive on Tabcorp to upgrade or improve those facilities.

Recent Tabcorp presentation and correspondence with Tabcorp

24. As stated above, ClubsNSW recently announced that it has entered into a corporate partnership with CrownBet in which CrownBet will offer digital wagering facilities to clubs in NSW. CCC is very interested in taking up the CrownBet offer for the reasons explained above.
25. On 1 March 2017, CCC's Tabcorp representative, Dean Antony (Senior Business Partner Manager, Keno), visited CCC's senior management team and wanted to discuss the recent announcement by ClubsNSW of its partnership with CrownBet. I was not there at the time, because I was in hospital recovering from surgery, so I did not attend. The rest of CCC's senior management team (Maryann Cook (Gaming Manager of CCC), Roger Cubitt (Chief Financial Officer of CCC), Graeme Derrig (Chief Marketing Officer of CCC) and Craig Epton (Chief Operating Officer of CCC)) met with Mr Antony.

26. The senior management team reported back to me after that meeting, on the same day. Within a few days, the senior management team provided me with a file note of the meeting, which Roger Cubitt had drafted. Attached to this statement and marked **[HIGHLY Confidential to Tabcorp]** Annexure "ML-3" is a copy of the file note of that meeting.

27. At the meeting, Mr Antony made a presentation about Tabcorp's new digital offering and compared it to the CrownBet offering. Mr Antony also provided a copy of the presentation called "Tabcorp Wagering Proposal Presentation" dated 21 February 2017. Attached to this statement and marked **[HIGHLY Confidential to Tabcorp]** Annexure "ML-4" is a copy of the presentation.

28. The file note of the meeting shows that Mr Antony made the following comments:

- (a) **[HIGHLY Confidential to Tabcorp]** [REDACTED]
- (b) [REDACTED]
- (c) [REDACTED]
- (d) [REDACTED]
- (e) [REDACTED]
- (f) [REDACTED]
- (g) [REDACTED]

- (h) [REDACTED]
- (i) [REDACTED]
- (j) [REDACTED]

29. The CCC senior management team reported to me that Mr Antony said that the existing agreement between CCC and Tabcorp does not allow CCC to enter into an agreement for digital wagering facilities with any other suppliers. That is, CCC cannot offer Tabcorp's retail wagering facilities and digital wagering facilities from another supplier (such as CrownBet) alongside one another.
30. The CCC senior management team told me that Mr Antony gave them the impression that there would be implications if CCC signs a contract with a digital wagering provider. They said that their impression of the meeting was that Tabcorp was essentially saying *'actually, the deal with CrownBet is not good news, it's not legal, you're not going to make as much money as you think you will, and anyway our agreement doesn't allow co-existence with another digital supplier'*.
31. After this meeting, I felt uncomfortable about the issue of Sky if CCC decided to take up CrownBet's offering. The CCC senior management team reported to me that, although Mr Antony did not talk about Sky during the meeting, they left the meeting with the impression that he was alluding to the fact that Tabcorp controls Sky and there may be implications in respect of Sky if CCC were to take up the CrownBet offer. I was concerned about whether Tabcorp would continue to supply Sky to CCC and, if so, that the price would increase. Also, on 10 March 2017, I read an article in *The Australian* about the ACCC's concerns about Tabcorp's acquisition of Tatts. In light of the concerns I already had following the visit from Mr Antony referred to above, I wrote to Tabcorp about my concerns. Attached to this statement and marked Annexure "ML-5" is a copy of my letter to Paula Dwyer, the Chairman of Tabcorp. In that letter, I stated:

'... I'm sure you know that CrownBet is now offering a digital wagering advertising offer to clubs in NSW, and my club is actively considering this opportunity. The issue I have is that a representative of your company recently visited my Senior Managers and indicated that your company would remove its wagering services if our club took up the offer with CrownBet. SKY Channel is an important part of our service to our members and any constraints to the existing service will be damaging to my business.

So, after reading today's paper I thought I would ask you directly if you will withdraw SKY Channel, or increase its price, if I terminate my TAB contract and take up CrownBet's offer?

Your quick response would be appreciated.'

32. I did not receive a direct response to that letter, but on 16 March 2017, CCC received a letter from Tabcorp, which appeared to have been sent to all NSW clubs. Attached to this statement and marked Annexure "ML-6" is a copy of the letter from Tabcorp dated 16 March 2017. That letter stated, among other things:

'To be clear, notwithstanding Tabcorp's position as to the legality of the CrownBet offer, I can confirm that Sky Racing will continue to be supplied to all venues. We have also clarified this position with ClubsNSW directly.

Subscription charges will be calculated on the basis of the current Sky Racing rate card and in accordance with the terms of the existing Sky Racing licence agreement.

The rate card includes a fixed price component and a variable fee based on wagering turnover. The variable fee is calculated by reference to wagering turnover at the premises, which would include any digital turnover. ...'

33. In response to that letter, I wrote to David Attenborough, the Chief Executive Officer of Tabcorp, on 23 March 2017 seeking clarification in relation to the Sky Racing fee. Attached to this statement and marked Annexure "ML-7" is a copy of my letter to David Attenborough of Tabcorp dated 23 March 2017. In that letter, I stated:

'I seek a point of clarification with respect to the calculation of the variable component of the SKY Racing fee. I understand that TAB does not currently take digital turnover into account when calculating the Sky Racing fee. So

considering the new approach outlined in your letter will include digital turnover, I take it that 'digital' is intended to include all bets placed on a person's digital devices within the venue through any digital wagering service provider. Given the variety of service providers in the market, the inability of the club to determine how customers bet using their own device that the fact that the club makes no commission on those bets, it seems unlikely that the club will have access to this information and nor should it have to pay for such turnover.

In the event the club has an arrangement with a corporate bookmaker, such as CrownBet, that provides it with access to turnover information and commission on bets, it will almost certainly be the case that the club will be contractually prohibited from disclosing that information to TAB in the same way clubs are contractually prohibited from disclosing TAB information to third parties.

It would be helpful to understand how Tabcorp intends to deal with this situation.

In addition, it would also be helpful if you could provide clarity as to whether or not Tabcorp will continue to provide TAB retail wagering services if the club chooses to enter an arrangement with CrownBet.'

34. I have not received a response from Tabcorp to that letter.

Concerns about ongoing supply and price of Sky vision

35. As stated above, Sky channel is an essential component of CCC's wagering service, because without it, no one can watch races. Customers in our venue will not bet on a race they cannot watch.
36. Although Tabcorp confirmed in its letter dated 16 March 2017 that Sky Racing will continue to be supplied to all venues, my concern relates to the price that Tabcorp will charge for Sky in the future.
37. For example, the subscription charges for Sky channel are calculated by reference to the rate card, which is published by Tabcorp. As explained above, Tabcorp normally increases the price of the Sky channel subscription about once a year. It does that by sending an email to venues (including CCC) attaching the new rate card. There is no

price certainty with this type of pricing structure. Therefore, CCC is vulnerable to price rises on the fixed component of the pricing (which accounts for about half of the total cost) and there is nothing that CCC can do if prices go up.

38. Venues have no choice but to accept the price in the new rate card, or cancel their Sky subscription. If a venue cancels its Sky subscription, its wagering offering will be virtually worthless.
39. Based on our dealings with Tabcorp in the past, the recent comments made by our Tabcorp representative when he visited CCC on 1 March 2017 and the lack of clarity around pricing, I have no confidence that the price of Sky will not increase in the future, especially if the merger proceeds, because Tabcorp will be an even stronger and more dominant market player than it already is. Tabcorp already has a very dominant footprint in our club, by providing our retail wagering facilities, Sky channel and Keno. In addition, our central monitoring service (**CMS**) is currently provided by Tatts, which will be part of the merged entity. If the merger proceeds, the merged entity will be a bigger player in the market and will be the provider of our retail wagering facilities, Sky channel, Keno and central monitoring services. If that happens, I am concerned about CCC having even less ability to negotiate in relation to the supply of the retail wagering facilities and Sky than it already has.
40. Tabcorp has clearly said to CCC that it will only provide our retail wagering facilities if we agree to a wagering exclusivity clause. That clause will prevent CCC from acquiring digital wagering facilities from another provider. If CCC ultimately decides that it will not agree to the exclusivity clause, then CCC will not have any retail wagering facilities and will only be able to offer digital wagering facilities to its patrons (assuming the regulator says that is allowed). If that happens, I have real concerns that Tabcorp will cancel CCC's Sky channel subscription. If CCC does not have Sky channel, then we will not be able to offer wagering facilities to our customers, which will have an impact on our business and our members.

Public benefits

41. I understand that Tabcorp claims that the merger will result in operational efficiencies, which will benefit third parties, including retail venues. I have no confidence in the claim about efficiencies and this benefit being passed onto third parties. As explained above, Tabcorp's existing facilities and equipment are very

outdated and do not work well. Tabcorp has had the opportunity to upgrade its facilities and equipment for many years, but has not done so.

42. If the merger proceeds, I have no confidence that Tabcorp will invest in its facilities and equipment to the benefit of clubs, because it has made no effort to do that in the past. I also have no confidence that any costs that the merged entity incurs in relation to upgrading and changing systems (e.g. changing over the terminals and other hardware so that Tabcorp and Tatts venues have the same systems) will not be passed onto venues including CCC.

Dated: 27 April 2017

Signed: .....
Michele (Michael) Lavorato

INDEX OF ANNEXURES TO STATEMENT OF MICHELE (MICHAEL) LAVORATO

Annexure	Title	Confidentiality
ML-1	Licensed Venue TAB Distribution Services Agreement between Campbelltown Catholic Club and TAB Ltd dated 28 September 2009	HIGHLY Confidential to Tabcorp – Restriction of publication of whole document claimed
ML-2	Sky rate card	
ML-3	File note of meeting with Tabcorp on 1 March 2017	HIGHLY Confidential to Tabcorp – Restriction of publication of whole document claimed
ML-4	"Tabcorp Wagering Proposal Presentation" dated 21 February 2017	HIGHLY Confidential to Tabcorp – Restriction of publication of whole document claimed
ML-5	Letter from Campbelltown Catholic Club to Paula Dwyer dated 10 March 2017	
ML-6	Letter from Tabcorp to NSW clubs dated 16 March 2017	
ML-7	Letter from Campbelltown Catholic Club to David Attenborough dated 23 March 2017	

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Re: Application by Tabcorp Holdings Limited under section 95AU of the *Competition and Consumer Act 2010* for an authorisation under subsection 95AT(1) to acquire shares in the capital of a body corporate or to acquire assets of another person

Applicant: Tabcorp Holdings Limited

ANNEXURE CERTIFICATE

This is the highly confidential annexure marked "**ML-1**" annexed to the statement of **Michele (Michael) Lavorato** dated 27 April 2017.

Highly Confidential Annexure "ML-1"

Licensed Venue TAB Distribution Services Agreement between Campbelltown Catholic Club and TAB Ltd dated 28 September 2009

Filed on behalf of	Australian Competition and Consumer Commission		
Prepared by	Simon Uthmeyer		
Law firm	DLA Piper		
Tel	+61 3 9274 5470	Fax	+61 3 9274 5111
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Applicant: Tabcorp Holdings Limited

ANNEXURE CERTIFICATE

This is the annexure marked "**ML-2**" annexed to the statement of **Michele (Michael) Lavorato** dated 27 April 2017.

Annexure "ML-2"

Sky rate card

Filed on behalf of	Australian Competition and Consumer Commission		
Prepared by	Simon Uthmeyer		
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[PUBLIC VERSION]

WAGERING VENUE

Effective 1 May, 2016

Sky Racing subscription fees for Wagering Venues are calculated by adding the Entertainment Access Fees and the Wagering Turnover component together.



REGION GROUP	ENTERTAINMENT ACCESS WEEKLY FEE	
Country	\$210	\$45
Provincial	\$227	\$49
Metro	\$245	\$55
PLUS	Wagering Turnover Fee 0.625% of Annual Average Weekly Wagering Turnover	

An Example

The weekly Sky Racing (Sky Racing 1 & Sky Racing 2) subscription fee for a Country venue with annual average weekly wagering turnover of \$20,000 is \$210 (Sky Racing Entertainment Access Fee) + \$45 (Sky Racing 2 Entertainment Access Fee) + \$125 (0.625% of \$20,000) = \$380

Enquiries - Please call Sky Racing Sales Support on 1800 251 710

Note: All Weekly Subscription Fees quoted are exclusive of GST.

*Capped at \$45,000 per week



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Applicant: Tabcorp Holdings Limited

ANNEXURE CERTIFICATE

This is the highly confidential annexure marked "**ML-3**" annexed to the statement of **Michele (Michael) Lavorato** dated 27 April 2017.

Highly Confidential Annexure "ML-3"

File note of meeting with Tabcorp on 1 March 2017

Filed on behalf of	Australian Competition and Consumer Commission		
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Highly Confidential Annexure "ML-4"

"Tabcorp Wagering Proposal Presentation" dated 21 February 2017

Filed on behalf of	Australian Competition and Consumer Commission		
Prepared by	Simon Uthmeyer		
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ANNEXURE CERTIFICATE

This is the annexure marked "**ML-5**" annexed to the statement of **Michele (Michael) Lavorato** dated 27 April 2017.

Annexure "ML-5"

Letter from Campbelltown Catholic Club to Paula Dwyer dated 10 March 2017

Filed on behalf of	Australian Competition and Consumer Commission		
Prepared by	Simon Uthmeyer		
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CAMPBELLTOWN CATHOLIC CLUB
KING OF CLUBS

10 March 2017

Paula Dwyer
Chairman
Tabcorp Holdings Limited
Level 31
680 George St
Sydney NSW 2000

Via email: enquiries@tabcorp.com.au; dwyerp@tabcorp.com.au

Dear Ms Dwyer

I read with interest the story about the ACCC's concern with your acquisition of Tatts in the business pages of today's The Australian ("Tabcorp nears winning post").

My interest relates to the way your company uses its wagering and media market power to protect its dominant position in clubs. The boss of the ACCC is quoted as saying he would like to "see to what extent Tabcorp promotes exclusivity and prevents others coming in when they bundle services to the club" and that Tabcorp has "extra leverage because they are not only providing the wagering services but Sky Racing."

I'm sure you know that CrownBet is now offering a digital wagering advertising offer to clubs in NSW, and my club is actively considering this opportunity. The issue I have is that a representative of your company recently visited my Senior Managers and indicated that your company would remove its wagering services if our club took up the offer with CrownBet. SKY Channel is an important part of our service to our members and any constraints to the existing service will be damaging to my business.

So, after reading today's paper I thought I would ask you directly if you will withdraw SKY Channel, or increase its price, if I terminate my TAB contract and take up CrownBet's offer?

Your quick response would be appreciated.

Michael Lavorato
Chief Executive Officer

cc Mr Rod Sims
Chairman
Australian Competition & Consumer Commission (ACCC)
rebecca.burns@acc.gov.au; nicholas.heys@acc.gov.au

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This is the annexure marked "**ML-6**" annexed to the statement of **Michele (Michael) Lavorato** dated 27 April 2017.

Annexure "ML-6"

Letter from Tabcorp to NSW clubs dated 16 March 2017

Filed on behalf of	Australian Competition and Consumer Commission		
Prepared by	Simon Uthmeyer		
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	140 William Street		
	Melbourne VIC 3000		

Tabcorp

Thursday 16 March, 2017

Maryanne Cook
Campbelltown Catholic Club

Delivered via email to: mcook@cathclub.com.au

Dear Maryanne,

Update on SKY Racing

I understand that some clubs have discussed the recent CrownBet offer with Tabcorp business managers, and that there have been questions about whether Sky Racing would continue to be supplied to venues which enter into an agreement with CrownBet. I also appreciate that there may be some confusion about our position as a result of misinformation in the market.

To be clear, notwithstanding Tabcorp's position as to the legality of the CrownBet offer, I can confirm that Sky Racing will continue to be supplied to all venues. We have also clarified this position with ClubsNSW directly.

Subscription charges will be calculated on the basis of the current Sky Racing rate card and in accordance with the terms of the existing Sky Racing licence agreement.

The rate card includes a fixed price component and a variable fee based on wagering turnover. The variable fee is calculated by reference to wagering turnover at the premises, which would include any digital turnover.

For ease of reference, links to the current Rate Card & Licence Agreement are listed below:

[Click here to download the current Rate Card](#)

[Click here to download the SKY Licence Agreement](#)

I trust that this addresses any confusion in the marketplace.

Should you have any questions about this email I would encourage you to call your BDM Brad Clarke on 0472 829 520.

Kind Regards,



David Attenborough
Managing Director & Chief Executive Officer

IN THE AUSTRALIAN COMPETITION TRIBUNAL

ACT 1 of 2017

Re: Application by Tabcorp Holdings Limited under section 95AU of the *Competition and Consumer Act 2010* for an authorisation under subsection 95AT(1) to acquire shares in the capital of a body corporate or to acquire assets of another person

Applicant: Tabcorp Holdings Limited

ANNEXURE CERTIFICATE

This is the annexure marked "**ML-7**" annexed to the statement of **Michele (Michael) Lavorato** dated 27 April 2017.

Annexure "ML-7"

Letter from Campbelltown Catholic Club to David Attenborough dated 23 March 2017

Filed on behalf of	Australian Competition and Consumer Commission		
Prepared by	Simon Uthmeyer		
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CAMPBELLTOWN CATHOLIC CLUB
KING OF CLUBS

23 March 2017

Mr David Attenborough
Chief Executive Officer
Tabcorp Holdings Limited
Level 3 I
680 George St
Sydney NSW 2000

Dear Mr Attenborough

Thank you for your communication dated 16 March 2017, clarifying that Tabcorp will continue to provide the SKY Racing service to clubs whether the club offers the TAB or CrownBet. In addition, that the pricing for this service will accord with the existing standard rate card.

I seek a point of clarification with respect to the calculation of the variable component of the SKY Racing fee. I understand TAB does not currently take digital turnover into account when calculating the Sky Racing fee. So considering the new approach outlined in your letter will include digital turnover, I take it that 'digital' is intended to include all bets placed on a person's digital devices within the venue through any digital wagering service provider. Given the variety of service providers in the market, the inability of the club to determine how customers bet using their own device and the fact that the club makes no commission on those bets, it seems unlikely that the club will have access to this information and nor should it have to pay for such turnover.

In the event the club has an arrangement with a corporate bookmaker, such as CrownBet, that provides it with access to turnover information and commission on bets, it will almost certainly be the case that the club will be contractually prohibited from disclosing that information to TAB in the same way clubs are contractually prohibited from disclosing TAB information to third parties.

It would be helpful to understand how Tabcorp intends to deal with this situation.

In addition, it would also be helpful if you could provide clarity as to whether or not Tabcorp will continue to provide TAB retail wagering services if the club chooses to enter an arrangement with CrownBet.

Regards

Michael Lavorato
Chief Executive Officer