



AUSTRALIAN HOTELS ASSOCIATION

27 Murray Crescent, Griffith ACT 2603
PO Box 4286, Manuka ACT 2603

T 02 6273 4007
E aha@aha.org.au
W aha.org.au

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By email

Hon. Justice Middleton
President, Australian Competition Tribunal

Email: registry@competitiontribunal.gov.au

Copies to: grant.marjoribanks@hsf.com
smuys@gtlaw.com.au
simon.uthmeyer@dlapiper.com
mcorrigan@claytonutz.com
geoff.carter@minterellison.com
prudencesmith@jonesday.com
john.kench@jws.com.au



Dear President,

Submission in support of application by Tabcorp Holdings Limited for authorisation of acquisition of Tatts Group Limited

Australian Hotels Association (**AHA**) welcomes this opportunity to make a short submission to the Australian Competition Tribunal (**Tribunal**) in support of the application by Tabcorp Holdings Limited (Tabcorp) for authorisation to acquire Tatts Group Limited (**Tatts**).

The AHA is the peak industry body for the hospitality and accommodation industries in Australia. The National Office of the AHA is the federal organisation that collectively represents eight state and territory AHA branches. The AHA National Office is based in Canberra and represents the interests, at a federal level, of more than 5,000 licensed hotels; from smaller family run pubs, to large hotels and accommodation resorts.

The AHA is strongly supportive of the proposed transaction. We believe that a combination of Tabcorp and Tatts will enable a more national retail operator operating in all Australian states and territories (except for WA), which will be better placed to compete with corporate bookmakers. This will also provide the scale and expertise to enable the combined business to invest in products and the retail channel, including hotels. This will directly benefit our members, improving the health of the hotel sector, and improve the experience and product offers available to our patrons.

I note that several of my state colleagues may seek to make their own separate submissions in support of the proposed transaction.

Submission to the ACCC

The AHA participated in the ACCC market enquiries process, where we expressed support for the transaction. I **enclose** with this submission a copy of our submission to the ACCC to also assist the Tribunal.

Economic and social contribution of pubs and hotels

Our 5,000 members range in size from small, family-operated pubs to large and corporatised hotels, taverns and conference facilities. AHA venues provide patrons with a range of services, including food and beverages, wagering, entertainment, as well as conference and function facilities.

The role played by pubs and hotels in Australia is significant – both in terms of its economic and social contribution.

We estimate that the hotel industry provides over 270,000 jobs and generates over \$12 billion in economic benefit each year. Our members support over 50,000 community groups and we form a critical part of the wider Australian tourism sector, which contributes \$47.5 billion annually to Australia's GDP.

As well as this direct economic contribution, pubs, hotels and hoteliers are a longstanding part of the social infrastructure in Australian communities, especially in many regional and rural communities.

AHA involvement in wagering activities

I understand that approximately 3,000 AHA member venues, or approximately two thirds of AHA member venues, offer some kind of in-venue wagering services. For these members, the products supplied by Tabcorp and Tatts are a key party of their businesses. The wagering and gaming facilities hotels offer to patrons include:

- wagering facilities through licensed, in-venue TAB facilities;
- gaming facilities, through the provision of Electronic Gaming Machines (**EGMs**); and
- Keno games, through the display of draws on televisions screens in-venue.

Each of the AHA state/territory branches have formal relationships with their respective licensed retail wagering operator and the AHA National Office has a formal partnership with Tabcorp and informal relationships with Tatts.

Over recent years, AHA members have seen revenue from wagering commissions fall significantly because of the growth and prevalence of online corporate bookmakers. In many cases, customers that would previously have placed a bet in venue with the hotelier will now sit in the pub, watch the racing vision and enjoy the environment which is provided (and paid for) by the hotelier but will then place bets with a corporate bookmaker using their mobile phone. Venues do not receive any commission from corporate bookmakers in relation to these bets.

The steady erosion of wagering revenues associated with the placing of bets online through corporate bookmakers has been a major concern of AHA members.

Benefits to hotels from the proposed transaction

AHA is excited about the opportunity presented by the combination of Tatts and Tabcorp. It offers the prospect of improved product quality, innovation and returns for our members and an improved entertainment experience for patrons.

AHA has a high regard for Tabcorp as a wagering operator. Tabcorp has shown a capacity and willingness to invest in its product and its retail network, with its recent acquisition and investment in the ACT retail wagering network being an example. To the extent that it shows a similar commitment to investing in the hotel network in current Tatts states, as we would expect, then this will be good for the industry and consumers. Examples of the kind of benefits that we anticipate include:

- Tabcorp has been innovative in rolling out new technology in venues, including investing in electronic betting terminals, electronic form guides etc.
- Tabcorp offers a range of benefits to hotels in Victoria and NSW that help to reduce the costs of providing services, which are not currently available to our members in Tatts states.
- In Victoria, NSW and ACT, Tabcorp has introduced paying commissions for bets placed digitally by their hotel patrons using their own personal device, e.g. mobile phone. This is a significant development and an important way for AHA members to help share in the benefits of the shift to online wagering.
- Tabcorp has a strong and recognisable brand and invests significantly in marketing and promoting its products. The recent reinvigoration of the Keno product by Tabcorp is a good example of their ability to 'refresh' products and brands.
- Creating a stronger national tote will also improve the quality of the wagering products that are available (i.e. it will permit more exotics) – which will help it to compete more effectively against the fixed odds products of corporate bookmakers. One way this could occur is through the development of a combined national pool, which will be more likely to occur if the same entity controls the existing separate pools.

For these various reasons, we consider that the transaction is likely to make available a range of significant benefits to hotels that will help increase revenue and reduce the costs of providing wagering services to our members (particularly in Tatts states), as well as improving the quality of wagering products we can offer and better positioning the tote in each state or territory to compete with online fixed odds products.

AHA has had a long history with Tabcorp. It has been a key supporter of the AHA and we expect this ongoing support by Tabcorp to continue following completion of the transaction.

No loss of competition

Wagering and media

Tabcorp and Tatts do not compete in the supply of wagering in retail venues, because they are each exclusively licensed to operate in different states and territories.

If such rights come up for renewal over coming years, there are a number of potential bidders, including significant corporate bookmakers and broadcasters. While hotels and other venues are not directly involved in any such bidding processes, we see "first hand" every day in our hotels the extremely rapid pace of change that is occurring in wagering, and particularly in retail wagering. As noted in our ACCC submission, given the current rate of change, the wagering landscape will be so

vastly different when retail licences expire there should be little if any weight placed on the current market structure and competitors.

In terms of media, AHA supports a single provider of racing vision into retail venues. Our experience in the past with 'split vision' is that it reduces wagering revenue for hotels. In any event, we are not aware of Tatts having ever raised the prospect of participating in the media market.

Tabcorp (and Sky) will continue to have to compete for the acquisition of rights from racing clubs and the emergence of Racing.com demonstrates that other players can and do obtain these rights, from time to time.

Gaming Services

Many of our AHA members hold gaming machine licences that permit them to provide gaming services to patrons through the provision of in-venue EGM's, such as poker and slot machines.

The AHA see a degree of overlap between Tabcorp and Tatts in relation to the provision of monitoring services for gaming machines in Queensland. In Queensland, Tatts supplies these services through its gaming business "Max". Tabcorp provides competing services through Odyssey (a subsidiary of Intecq). In Queensland, Odyssey and Max are the only current active competitors for monitoring services to hotels with gaming machines.

AHA understands that as part of the current transaction, Tabcorp are proposing to divest its Odyssey business in Queensland to a third party. If that occurs, then we are comfortable that this would address our only concern in relation to gaming services because there is otherwise only limited overlap in the services they supply in other states and territories, and there are a range of other significant players in those markets.

For these various reasons, the AHA strongly supports the transaction.

Yours faithfully,



STEPHEN FERGUSON
NATIONAL CEO



AUSTRALIAN HOTELS ASSOCIATION

24 Brisbane Avenue Barton ACT 2600 • PO Box 4286 Manuka ACT 2603 • Australia
email: aha@aha.org.au • Facsimile: (02) 6273 4011 • Telephone: (02) 6273 4007
Web: www.aha.org.au

20 December 2016

Australian Competition and Consumer Commission
ACCC ref: 61092
Contact officer: Sam Campbell / Sarah Hilborn
Contact phone: (03) 9290 1870 / (03) 9658 6409
mergers@accc.gov.au

Dear Sir/Madam,

Submission re: Tabcorp / Tatts Group merger

Thank you for the opportunity to provide a submission regarding the proposed merger of Tabcorp Holdings Limited (Tabcorp) Tabcorp with Tatts Group Limited (Tatts). Please see the observations below.

THE AUSTRALIAN HOTELS ASSOCIATION (AHA)

The Australian Hotels Association (AHA) is an organisation of employers in the hotel and hospitality industry registered under the *Fair Work (Registered Organisations) Act 2009*. Its diverse membership of more than 5,000 licensed hotel businesses includes pub-style hotels plus three, four and five-star international accommodation hotels located in each state and territory. The size and scope of the Australian hotel industry includes:

- Over 5,000 businesses
- Generating over \$12,000,000,000 economic benefit
- Providing over 270,000 jobs
- Supporting over 50,000 community groups

Many hotels participate in and derive benefit from the products and services offered by Tabcorp and Tatts. The wagering, gaming and media products and services offered by Tabcorp and Tatts are part of the key business pillars supporting many hotels and providing entertainment to patrons.

SUPPORT FOR THE MERGER

The AHA acknowledges that with any merger there is a risk of lessening competition. However, in the instance of the proposed merger of Tabcorp and Tatts Group Limited, the AHA believes that the risk of lessened competition is balanced by the benefits flowing from an integrated entity. Benefits to consumers will include improved products and services resulting from, e.g.

- Better alignment and performance of the Australian pub tab wagering offering to consumers
- Hotels being better able to compete against other wagering providers
- Economies of scale enabling higher returns that enable hotels and wagering partners to invest and innovate

Parity

One issue is that the AHA notes a current imbalance regarding the parity of commercial benefits to those hotels with Tabcorp agreements, as compared to those with Tatts agreements. This is due to any number of historical reasons within different jurisdictions including e.g. state/territory government agreements, legislation and regulations; different racing industry agreements; different product, customer and investment strategies between the businesses; and different rates of fees, rebates and commissions within each jurisdiction.

Whilst it would have been preferred for such parity issues to have been agreed prior to the merger, the AHA understands this is not possible. However, the AHA also understands that such parity issues will be dealt with in the usual commercial negotiations from time to time as the ways forward to improve performance are assessed.

ACT example

It is noted that Tabcorp recently bought the ACT retail wagering business from ACTTAB, which provides a useful “control sample”. ACT hoteliers advise they and their customers are immensely satisfied with the investment by Tabcorp in new retail offerings and other arrangements that have been put in place including e.g. stronger brand, digital commissions.

Summary of support

In summary, each of Tabcorp and Tatts has different products, services, strengths and weaknesses. The AHA is of the view that a mostly national framework will enable hotels to better compete. On balance, a merged entity is more likely to enable a more competitive environment for consumers and hotels, with better returns to the Australian racing industry, and state/territory governments.

WAGERING SERVICES

Competitive wagering environment

The Australian wagering environment is heavily competitive and fast moving. Wagering used to be restricted to pubs, clubs, racecourses, agencies and casinos. With the advent of digital platforms, the wagering environment is fast changing. The wagering industry was an early adapter of the so-called “disruptive technologies” in the internet age. The following shifts noted:

- Government owned TABs to privatised
- Betting on racing to betting on sport
- Retail to digital on line
- Telephone to digital on line
- Pari-mutuel to fixed odds
- TAB to corporate bookmaker
- Cash bets to on line deposits
- Australian owned to globalisation
- Leakage to offshore illegal operators

Choice

Customers have never had so much choice. Corporate bookmakers have successfully invaded what was previously the retail space. Punters used to bet face to face with their local Pub Tab. Now, the ingenuity of mainly foreign based corporate bookmakers means that punters sitting in hotels are

increasingly likely to using digital mobile telephones and be betting on line with any number of those corporate bookmakers (with only two of these owned by Tabcorp or Tatts).

Globalisation and consolidation

There is increasing globalisation and consolidation of wagering. We have seen, e.g.:

- Acquisition of Bookmaker.com and Betstar by Ladbrokes
- Acquisition of by Sportsbet by Paddy Power
- Acquisition of Tom Waterhouse, Sportingbet and Centrebet by William Hill
- Emergence of Crownbet and its acquisition of Betfair Australasia
- Joint venture in the broadcast of Victorian racing between Channel 7 and Racing Victoria
- NewsCorp and Tabcorp's Sun Bet's joint venture in Britain
- Apparent interest from Ladbrokes-Coral and Macquarie in Tabcorp or Tatts

Competition

None of the above has resulted in lessening competition. If anything, the consolidation has resulted in more innovative and diverse offerings for consumers. The merger of Tabcorp and Tatts is consistent with the wider globalisation of the wagering environment and AHA believes that the effect upon competition will be minimal. In fact a merged retail entity is believed to be able to deliver even more competition and benefits to customers. As stated above, the only concern of AHA is regarding the parity of returns to its members within each of the jurisdictions, which must be dealt with in the usual commercial processes.

WAGERING LICENCES

State/Territory retail exclusivity

The competition between retail based wagering outlets is virtually zero. Each of the state and territory governments have retail based wagering agreements in place with either Tabcorp or Tatts, the exception being WA where the government owns RAWWA. Hotels are only able to operate retail wagering with the authorised provider. This means that each state/territory has in place a virtual monopoly.

Many of these licences issued by state/territory governments include terms such as 30 years and 99 years. The next retail wagering licence for renewal is Victoria, which expires in 2024. The WA Government is considering the sale of its state-owned wagering operator, RAWWA. Apart from Tabcorp or Tatts, there are any number of wagering and broadcast operators that would be interested in a retail wagering licence.

Competition for licences

The only time that competition occurs is when a retail wagering licence is due for renewal. The primary negotiations are usually conducted between the relevant government and tendering companies. The local racing control bodies are involved but generally only at a secondary level. The local hotels are involved in negotiations at a tertiary level at best. The decision as to who their retail wagering partner will be is decided by others. In other words, hotels are virtually excluded from the primary negotiations.

What this all means is that when state/territory wagering licences come up for renewal, the ACCC should expect far more competition than the current usual tendering applicants of Tabcorp and

Tatts. Given the current rate of change, the wagering landscape will be so vastly different when retail licences expire there should be little if any weight placed on the current market structure and competitors.

The competition is not between the existing holders of exclusive retail wagering licences (Tabcorp and Tatts), but also includes the vast number of wagering operators within each state and territory. The increasing globalisation of wagering operators will see more companies able to compete for retail licences. The economies of scale that flow from a merged entity will be better enable the retail market to invest, innovate and compete with the on line market, and thus benefit consumers and hotels.

GAMING MANAGEMENT AND MONITORING SYSTEMS

There is no doubt that TGS (Tabcorp) and MAX (Tatts) are each other's closest competitors for the supply of gaming management systems and related services. AHA notes the consolidation of the market and that Tabcorp is in the process of buying Intecq, and Tatts is in discussions with Intralot.

Protections against misuse of market power

AHA has considered its options and how it would react in regard to a potential attempt by the combined Tabcorp/Tatts to increase prices or otherwise reduce service quality. AHA notes that the gaming management system space has other suppliers and is competitive. The gaming management providers are approved as part of a licensing process within each state and territory, each of which has different approval processes and regulations.

State and territory regulators are able to approve more than one entity to provide gaming management systems. Gaming management systems operate in a highly technical environment with many companies being able to overcome to barriers to entry. For example other licensed monitoring providers or potential providers include Intralot, Intecq, Scientific Games, IGT, Aristocrat, PVS Australia, Utopia Gaming Systems, and Federal. The AHA also notes:

- the recent changes to the *Competition and Consumer Act 2010* regarding the capacity of small businesses to lodge complaints with the ACCC regarding misuse of market power
- the AHA also notes the *Competition and Consumer Amendment (Misuse of Market Power) Bill 2016* currently before Parliament, which aims to introduce an "effects test" to the misuse of market power provisions in Section 46

LOTTERIES, KENO AND MEDIA

Lotteries and Keno

The AHA notes Tatts holds licences to operate lotteries in each state and territory, and Tabcorp holds licences to operate Keno in Queensland, NSW, Victoria and ACT. As with wagering, when these licences are up for renewal there is any amount of global providers capable of providing competitive tenders to the governments that issue those licenses.

Radio

In regards to radio, the current separate wagering radio offerings are fractured along geographic lines resulting in sub optimal offerings. A national wagering radio network will provide a far better service for consumers.

Television

In regards to television, AHA supports the integration of wagering and vision as both are inextricably linked. Tabcorp through Sky Racing has coverage of all Australian wagering events. Consumers enjoy having a single vision provider. However, Sky is not a monopoly given that Racing.com (and its predecessor TVN) own the rights to and broadcast Victorian thoroughbred racing in a joint venture with Channel 7.

AHA sees no issues with the merger of the lotteries, Keno and media divisions of Tabcorp and Tatts. AHA believes that a merger of Tatts and Tabcorp in the lotteries, Keno and media space will not result in less competition.

CONCLUSION

The AHA supports the merger of Tabcorp and Tatts. The benefits include a more competitive retail tote product with on line wagering services. Due to the licensing arrangements across Australian states and territories, and proven competition and change in an increasingly global business, the AHA believe there will be no lessening of competition in the wagering, lotteries and gaming services industry as a result of the merger.

Yours faithfully,



STEPHEN FERGUSON
AHA NATIONAL CEO