

11th of April 2017

Registrar
Australian Competition Tribunal
Owen Dixon Commonwealth Law Courts Building
305 William Street
Melbourne VIC 3000



By email: registry@competitiontribunal.gov.au

RE: Tabcorp / Tatts - submission in support of authorisation

The Australian Lottery and Newsagents' Association (ALNA) wishes to make this submission in relation to the application by Tabcorp seeking authorisation from the Tribunal to acquire the Tatts Group.

Our submission is in relation to public benefit issues that are expected to flow from the acquisition.

ALNA is the peak national industry body representing Newsagents' and Lottery Agents, who along with affiliated state lottery associations, represent these small businesses in almost every rural town, regional centre, urban and metropolitan shopping centre in Australia.

Newsagents and Lottery agents are an important and trusted part of Australian communities – and approximately 2.4 million Australians shop at their local agency every day. Our members therefore make a significant contribution to the Australian economy, employing 20,000 people and generating an estimated annual turnover of \$2.5 billion. Agencies have commercial relationships with over 25,000 other businesses, further demonstrating their valuable contribution.

As a representative body, ALNA is committed to protecting the interests of our members around Australia and makes various submissions to relevant Federal Government bodies, including the Productivity Commission and Treasury concerning member's issues. ALNA holds an ACCC National Collective Bargaining Authorisation, which enables us to negotiate with a range of suppliers (including Tatts) on behalf of our members.

This submission is also supported by the Lottery Retailers Association (LRA) who we are affiliated with, and the Lottery Agents Association of Tasmania (LAAT), who we work very closely with.

Our interest in the current authorisation application is specifically focused on lottery products. Those products are an important part of many news and lottery agent's businesses.

Tatts currently operates the public lotteries in all Australian states and territories, except Western Australia (*where the state lottery is operated by the government*). For our member businesses offering lottery products, these products make up a considerable part (approximately 10 -25%) of their direct revenue – and in many cases of lottery only kiosk significantly more than this. Lottery products also attract considerable foot traffic, which then provides retailers the opportunity to generate further revenue through the sale of other products offered. We are also the strongest distribution channel for Tatts in terms of lottery products – which means that we have an important shared objective of supporting the development of lottery products in competition with other entertainment options. Apart from lottery operators' own online sales and some very small dedicated online retailers, 87% of all sales are currently in retail outlets and the retailers are almost all small businesses.

This transaction is therefore important to us.

ALNA strongly supports the application because we believe that a merged business, led by Tabcorp, is likely to prove a synergistic and mutually beneficial commercial partner for news and lottery agents over coming years to further develop lottery products and their distribution through news and lottery agents. The ongoing strength of small business is in our submission a public benefit.

From a public benefit perspective, we do submit that it would be a benefit to the general public, if we did not see the further expansion of lottery products into more major retailer outlets as a result of this merger.

Allowing major retail players to further enter the market will not benefit consumers. It will however make more gambling products subject to impulse buying along with groceries and petrol; it will expose the products to more children. Furthermore, it will damage small businesses such as lottery agents, newsagents, pharmacists and small grocers. All with no real public benefit to consumers nor small business.

Consequently, we encourage the parties, as part of this merger, to agree to limit future lottery outlets to small businesses such as news and lottery agents, in line with the limitations on the sale of lottery tickets to certain small business outlets already in place in QLD.

National Competition Policy does not necessarily provide that there can be no limitations on who may sell certain products. Such limitations are done all the time, and as a regulated product there are a range of other factors that need to be considered. Public benefit is one important test and the other, and very important preliminary test is whether the limitation is anti-competitive and allows prices to consumers to be higher than they otherwise might be. In other words, give someone monopoly power.

In Australia, the sale of gambling products, including lotteries, is widespread. Sales are either by Tatts or Tatts agents. The products, the price and the choice of product are the same. Outlets are widespread and include online. Apart from Tatts own online sales the sellers are mostly all small businesses. Our contention is that allowing the majors to sell more lottery products will not have any pro-competitive benefits but will simply damage small business and will not benefit consumers.

It is our view that when state lottery rights are renewed in the future, there would still be many potential bidders including a number of large overseas corporate bookmakers and lottery operators that would be well positioned to compete.

Our industry, like many others, is currently experiencing significant structural changes caused by innovations in digital media. One of the traditional revenue streams that has been impacted by this disruption is lotteries. Revenue from lotteries products sold in bricks and mortar agencies has been at threat of decline. This is partly the result of operator only online sales as well as online foreign owned companies, such as Lottoland, offering online lottery betting products. It is also a reflection that the customer base for lotteries is skewing older. Many younger people have never bought a lottery ticket and are attracted to online 'instant gratification' wagering products using their mobiles (such as online exotic impulsive sports betting). They are less inclined to buy a lottery ticket on a Tuesday from one of our members, and then to wait until the end of the week to find out if they have won.

The reinvigoration of lottery products requires a commercial partner that recognises and values the role of news and lottery agents, and is prepared to collaborate and invest in lottery product innovation with retailers. Equally, we are genuinely interested in collaborative discussions with the merged business about innovative business cases for better utilizing all products in their merged portfolio.

ALNA considers that Tabcorp has demonstrated a track record of achieving growth and sustained product momentum, in partnership with its 'bricks and mortar' distribution partners.

Examples are:

- (a) ALNA understands that in 2014 the Keno business had a strong retail presence. However, the brand was tired and had been in decline for some time. To address these issues, Tabcorp re-invigorated the brand and transformed the customer experience through increased investment – including making it more attractive to a younger demographic. The turnaround of Keno is the same kind of reinvigoration that we think is needed for lotteries.

- (b) Tabcorp has introduced digital commissions into its NSW and Victorian wagering venues (pubs and clubs). This better aligns the 'bricks and mortar' and digital strategies by ensuring that clubs and pubs benefit from their patrons online wagering. This contrasts with the current experience of news and lottery agents, where Tatts has taken steps to actively encourage customers to use online lottery products in a way that cannibalises the revenue of news and lottery agents.
- (c) Tabcorp has shown a strong commitment to marketing and promotion. We understand that, anecdotally, Tabcorp has revenues of around \$5 billion, but spends approximately \$170m on marketing and promotional activities. This is consistent with our view of Tabcorp being prepared to invest in and drive the lotteries business forward. ALNA also understands that as a consequence of the transaction, the newly merged business will have more scale and resources (*through cost savings and efficiencies*) to invest in lottery products, innovation and customer experience. It is further our understanding that Tabcorp are aligned in this mindset.

For all of these reasons, ALNA considers that the transaction offers our members an opportunity to partner with a merged business that we are confident would have a culture and approach that works better in partnership with news and lottery agents to support the lotteries business.

The merged entity's greater scale, resources, commitment to investment, national footprint and enhanced operational strength would help to realise and deliver considerable mutual benefits to our members and their customers.

We appreciate the Tribunal taking the time to understand our views and hope this submission is of assistance.

Yours sincerely,



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