

**COMMONWEALTH OF AUSTRALIA**

*Competition and Consumer Act 2010 (Cth)*

**IN THE AUSTRALIAN COMPETITION TRIBUNAL**

**File No:** 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

**Statement of:** **Andrew Paul Catterall**

**Address:** 400 Epsom Road, Flemington, Victoria, 3031

**Occupation:** Chief Executive Office

**Date:** 17 April 2017



**This document contains confidential information which is indicated as follows:**

**[Confidential to Racing.com] [...]**

**[Highly Confidential to Racing.com] [...]**

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**STATEMENT OF ANDREW PAUL CATTERALL**

I, Andrew Paul Catterall, of 400 Epsom Road, Flemington, in the state of Victoria, Chief Executive Officer, say as follows:

**A. Introduction**

1. I am the Chief Executive Officer (**CEO**) of Racing.Com Pty Ltd ACN 104 883 267 (**Racing.com**), a position which I have held since January 2017.
2. I am authorised by Racing.com to make this statement in relation to an application by Tabcorp Holdings Limited (**Tabcorp**) to the Australian Competition Tribunal (**the Tribunal**) for authorisation of the merger of Tatts Group Limited (**Tatts**) and Tabcorp.
3. I commenced working at Racing.com in January 2017 as Chief Executive Officer.
4. In my capacity as CEO, I am responsible for providing strategic and operational leadership of Racing.com, stakeholder management, rights acquisition, commercial development and governance.
5. Prior to working at Racing.com, I held the following roles:
  - (a) from March 2015 to December 2016 – Chief Operating Officer (**COO**) of Beyond Boundaries Group which is a global sports, media and entertainment consulting, marketing and technology services company. In that role, I provided advisory services to, among others, Perth Racing Club in their media rights strategy and rights negotiations with Sky Channel Pty Ltd (**Sky**) and Racing.com; New Zealand

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Thoroughbreds regarding media and wagering; and Clubs NSW regarding their digital wagering strategy;

- (b) from February 2013 to March 2015 – Chief Commercial and Strategy Officer of Racing Victoria Ltd (**RVL**). In that role I led the development and implementation of the wagering and media strategy for Victorian thoroughbred racing including supporting ThoroughVisioN Pty Ltd (**TVN**) and negotiations with Sky, Seven West Media, Foxtel and other wagering operators. I also led the development of the wagering and product fee strategy for all wagering operators, and participated in the three code wagering joint venture with Tabcorp;
- (c) from 2004 to November 2012 – General Manager Strategy and Marketing with the Australian Football League (**AFL**) where, among other tasks I was heavily involved in media rights strategy, valuation and the establishment of AFL media as a digital and other media business;
- (d) from 1995 to 2004, I was a consultant at the gemba group and Boston Consulting Group.

6. Based on my roles described above, I have extensive experience in media rights, valuation, brand and customer management, wagering and gaming policy and strategy, and the establishment of digital platforms and media businesses.

7. I completed a Bachelor of Engineering (Mechanical) at the University of Melbourne in 1994 and an Advanced Management Program in Organisational Leadership and Strategy at INSEAD.

**B. Overview of Racing.com**

8. Racing.com is in the business of producing and distributing Victorian and thoroughbred racing content. It is comprised of three elements:

- (a) Racing.com digital media business, which began operating in September 2014:
  - (i) It is a joint venture between RVL and the four Victorian thoroughbred racing clubs – namely the Melbourne Racing Club, Victoria Racing Club, Country Racing Victoria and Moonee Valley Racing Club.
  - (ii) It manages an integrated network of websites and digital assets (eg apps for iPhone and Android) for Racing.com and the Victorian thoroughbred racing clubs and RVL.
  - (iii) Racing.com digital has a non-exclusive right to transmit the live coverage of Victorian thoroughbred racing on the Racing.com digital platform and

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the exclusive digital right to display or transmit archival footage of Victorian thoroughbred racing.

- (b) Racing.com broadcast media business, which began operating in August 2015:
- (i) It is a joint venture between RVL and Seven Network (Operations) Limited (**SWM**).
  - (ii) It produces and distributes the channel branded Racing.com that is retransmitted in a linear fashion to:
    - (A) free to air TV (**FTA**) channel 78 and regional FTA channel 68, both part of the Seven Network FTA offering;
    - (B) Foxtel pay TV channel 529; and
    - (C) digital platforms Racing.com, Seven Sports and Freeview.

By linear fashion I mean that the content and advertising on the channel is the same on all platforms, nationally, save for instances where Racing.com cannot broadcast a non-Victorian race event on Foxtel or digital platforms because of constraints imposed by Sky on rights holders and Foxtel.

- (c) A digital streaming sub-licence business, which began operating in late 2015:
- (i) Racing.com partners with RVL to administer the sub-licencing and delivery of live race streams (in the form of live race window content only sourced from the Racing.com live broadcast) to the digital platforms of wagering service providers (**WSPs**) including Tabcorp's digital platform. By live race window content I mean the race vision including three minutes of content before the race and 90 seconds of content after the last horse crosses the post.
  - (ii) RVL currently sub-licences Victorian thoroughbred racing content to:
    - (A) corporate bookmakers Sportsbet, Ladbrokes, CrownBet, Betfair, Bet365 and William Hill; and
    - (B) Racing and Wagering Western Australia (**RWWA**).
  - (iii) Apart from Swedish company Unibet, this includes all of the main competitors of the merger parties identified by Tabcorp in its Application.<sup>1</sup>

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<sup>1</sup> Form S, [71.]-[7.14].

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9. Racing.com also undertakes a number of other functions for and with RVL and the Victorian clubs:
- (a) Racing.com works with RVL to deliver on the sub-license of live vision of Victorian thoroughbred racing on a clean feed basis to Sky for approved distribution across Sky and Tabcorp platforms. Sky has an exclusive right to transmit live coverage of Victorian thoroughbred racing to commercial premises until 2020, a non-exclusive right to transmit live coverage of Victorian thoroughbred racing on pay TV via channel Sky Racing1, and a non-exclusive right to broadcast Victorian thoroughbred racing on Tabcorp digital platforms.
  - (b) Racing.com works with RVL to ensure the delivery of the end to end supply chain for media coverage of VTRI races, including:
    - (i) outside broadcast (capturing the footage on course);
    - (ii) race callers and hosts;
    - (iii) connectivity (to distribute the pictures from on course to play out and production facilities); and
    - (iv) distribution (to physically deliver the produced images on TV, digital and overseas).
  - (c) Racing.com works with Melbourne Racing Club to provide international distribution of live racing to overseas wagering operators; and
  - (d) Racing.com manages on behalf of RVL two print assets – Best Bets and Winning Post.
10. During my time as Chief Commercial and Strategy Officer of RVL, I was involved in the establishment of Racing.com. I provide information in relation to the formation of Racing.com in Section I below.
11. Racing.com seeks to acquire thoroughbred racing media rights from Principal Racing Authorities (**PRAs**) and/or racing clubs that manage their own rights around Australia and overseas in competition with Sky, a wholly owned subsidiary of Tabcorp. I provide information in Section E below in relation to Racing.com's recent proposals to acquire thoroughbred racing media rights from two PRAs, a race club and an overseas jurisdiction. I provide information in Section C below in relation to Racing.com's strategy in respect of media rights that will become contestable in the future.
12. In all other States and Territories in Australia, Sky holds the exclusive media rights to all racing content – thoroughbred, harness and greyhound racing – with the exception of some partial

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licencing to a corporate bookmaker of some digital rights in NSW. Sky holds the vast majority of exclusive and fully bundled rights for racing media content throughout Australia.

13. Sky broadcasts:
  - (a) on its subscription channels shown throughout its retail networks in NSW, Victoria and ACT – being the states where Tabcorp holds the monopoly totalisator rights and related retail monopoly rights;
  - (b) into the markets where Tatts has monopoly totalisator rights and related retail monopoly rights – namely Queensland, South Australia, Northern Territory and Tasmania;
  - (c) into Western Australia, where the monopoly totalisator rights and related retail monopoly rights are State-owned;
  - (d) on pay TV; and
  - (e) on Tabcorp digital platforms.
  
14. Sky has wholesale arrangements for the Sky digital stream to be provided to totalisator operators, RWWA, and UBET in South Australia and Queensland.
  
15. Racing.com competes with Sky in relation to the media rights it has acquired and potential future acquisitions as follows:
  - (a) for transmission of live coverage of racing on FTA (including with subsequent retransmission of the same linear channel onto pay tv and digital platforms);
  - (b) for transmission of live and archive coverage of racing on digital platforms;
  - (c) for transmission of live racing coverage on subscription services to pubs and clubs;
  - (d) for sub-licensing to WSPs non-exclusive rights to racing content transmitted by Racing.com; and
  - (e) for transmission of live and archive racing coverage to overseas wagering operators.

**C. Strategy of Racing.com**

16. Compared to its main rival, Sky, Racing.com has a more expansive strategy to maximise the use of its media rights with respect to innovation and the promotion of racing:
  - (a) It wishes to use its rights for racing industry programs on FTA television to give viewers, including punters, a free alternative means to watch premium coverage of the races (eg extensive pre- and post-race coverage) and related industry

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information. By securing a dedicated channel on FTA (with retransmission to pay TV) on a 24 hour, seven days a week basis, Victorian thoroughbred racing has been granted a unique and unprecedented opportunity to attract new audiences in homes across Australia.

- (b) The reach of digital streaming of Racing.com's broadcasts – on Racing.com's platforms and those of corporate bookmakers – is rapidly expanding to meet the demands of racing fans for access to live racing on mobile devices, anywhere, anytime, and with integration to the betting platforms of their preferred WSP.
17. Since its inception in August 2015, the broad distribution strategy of Racing.com has had a marked positive impact on wagering turnover growth for Victorian thoroughbred racing. The annual growth rate in turnover is at over 8.5% per annum (year on year comparison), which is a marked improvement on the flat turnover performance of the two years prior to the inception of Racing.com.
18. From my understanding of the limited data available in other jurisdictions, this is the highest growth rate for thoroughbred racing wagering turnover in Australia. This is significant given that Victoria is already the largest jurisdiction by wagering turnover.
19. The following media rights will become contestable in the foreseeable future:
- (a) South Australia this year and again in seven years' time;
  - (b) Queensland in 2020;
  - (c) NSW in 2025;
  - (d) Tasmania in 2026;
  - (e) the Northern Territory in the future;
  - (f) Perth Racing Club in 2022 or 2024;
  - (g) the rest of WA at similar timing to Perth Racing; and
  - (h) various international jurisdictions, including New Zealand before 2020.
20. Racing.com intends to bid for these rights, with the long-term strategy of incrementally building up content over time. I set out in Section E below Racing.com's recent proposal to acquire media rights from Thoroughbred Racing South Australia (TRSA) **[Confidential to Racing.com]** [.....]  
[.....]

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21. Racing.com's strategy needs to be long-term because Sky has to date employed a strategy of acquiring exclusive bundled (domestic and international) rights across all racing codes – thoroughbred, greyhound and harness – with staggered start and end dates of its media rights agreements. This is so even where it appears Sky does not intend to use those rights and Sky has taken no apparent steps to use them. Sky also imposes 'first and last' rights over future media bidding, which I am aware of from recent negotiations in Victoria, Western Australia and South Australia. In Section M below I set out my observations on the substantial barriers to entry for aspiring rivals in every medium (FTA, pay TV and digital).
22. In the jurisdictions where Tatts has monopoly totalisator rights and related retail monopoly rights – Racing.com will be able to compete on its merits against Sky to acquire media rights because its rival is not vertically integrated with the entity which holds the monopoly totalisator rights. In jurisdictions where Sky is vertically integrated with the entity that has the monopoly totalisator rights – Tabcorp – it is harder for Racing.com to compete on its merits, including because:
- (a) there is a pre-existing joint venture wagering relationship between Tabcorp/Sky and the PRA necessarily arising out of Tabcorp's monopoly totalisator rights in the jurisdiction;
  - (b) this gives Tabcorp/Sky advantages in various ways in acquiring media rights from the PRA in competition with Racing.com.

This is elaborated upon in Section D below.

23. I consider that Racing.com can provide a valuable service and benefit to other (that is, non-Victorian) thoroughbred racing rights holders that choose to partner with Racing.com and the VTRI in the form of:
- (a) growth in audience and broader engagement with customers and wagerers (punters) for that jurisdiction's racing;
  - (b) quality coverage, analysis and promotion;
  - (c) increases in wagering turnover, as demonstrated by RVL's successes in increasing wagering turnover since the inception of Racing.com;
  - (d) increased involvement in that jurisdiction's thoroughbred racing including in respect of thoroughbred ownership, breeding, race participation, race attendance, race club membership and sponsorship;
  - (e) reducing the risk – in terms of the outcomes of wagering and customer growth – from relying solely on the narrow distribution model of a single broadcaster, Sky; and



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- (f) the ability to provide pubs and clubs in Australia with access live racing vision, either free of charge or on a low cost or customised basis.

24. Although I am not an economist, I believe that media rights' acquisition by Racing.com has some network economics features, in that the value of Racing.com's service for each partnering jurisdiction will increase the more partnering jurisdictions there are. This is because:

- (a) having more jurisdictions' racing product, and potentially also other programming, in turn helps improve the audience, robustness and performance of Racing.com's media business. Racing.com's aim is to sustain a robust media business and associated wagering turnover and revenue uplift effects over the longer term for the benefit of the VTRI; and
- (b) having more jurisdictions' racing product on Racing.com also helps grow national engagement in the sport of thoroughbred racing for the benefit of everyone involved in the industry, nationally.

**D. Views on the Proposed Acquisition**

25. Racing.com is concerned about the proposed acquisition of Tatts by Tabcorp for two primary reasons:

- (a) removal of a rival – Tatts – who could otherwise partner with and/or enter into commercial arrangements with Racing.com in relation to the broadcast of Racing.com's thoroughbred racing content in its retail outlets, pubs, clubs and via its digital platforms; and
- (b) post-acquisition Tabcorp/Tatts/Sky will have more power to leverage its wagering joint ventures with the PRAs to obtain more favourable media rights deals in seven of eight of Australia's racing jurisdictions. This will occur, for the first time, in the four jurisdictions in which Tatts holds the monopoly totalisator rights and related retail monopoly rights.

26. Each of these reasons is elaborated upon below.

*Removal of a rival*

27. The wagering industry has undergone substantial changes in the past decade, including significant growth in digital wagering and a decrease in the demand for retail wagering. In my view, in this environment, a wagering business must evolve in terms of its core offering to customers in order to remain relevant.

28. Tatts has reportedly been taking steps to move towards a digital future and to lift the value of its 'bricks and mortar' retail business:

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- (a) Annexed hereto and marked with 'APC1' is a copy of a media report written by Mandy Ross of the Tatts Group titled, 'Beating the disruptors with bricks and mortar' dated 27 May 2015. It states that Tatts will spend tens of millions of dollars on digital marketing, analytics and customer relationship management (**CRM**) in 2015 and that CEO, Robbie Cooke, has been steering the company towards a digital future since he became CEO in 2013.
- (b) Annexed hereto and marked with 'APC2' is a copy of a media report written by Jessica Garden for the Sydney Morning Herald titled, 'Tatts Chief Robbie Cooke puts big stake on the line' dated 28 January 2014. It states that Tatts is planning to unveil a brand overhaul as it seeks to catch up after a period of under-investment in online and marketing.
- (c) Annexed hereto and marked with 'APC3' is a copy of a UBET media release dated 30 April 2015 in relation to Tatts recent innovations and new technology, including a new website and best in class mobile phone and iPad apps.

29. However, I have observed from both publicly available information and negotiations with Tabcorp/Sky, Tabcorp/Sky has presented Tatts with significant obstacles to taking independent steps to improve its digital future. Tabcorp/Sky is the sole provider of racing broadcasts into Tatts' retail outlets. This produces a number of difficulties for Tatts:

- (a) As the dominant broadcaster, Tabcorp/Sky levies very significant levels of fees and charges on Tatts' retail outlets and its sublicensed betting agencies such as pubs, clubs and hotels for access to Sky's broadcasts. **[Confidential to Racing.com] [...]**  
.....  
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.....]
- (b) Sky also consistently imposes 'take it or leave it' terms on these retail outlets, which necessarily must have live coverage of races if they want to attract and retain punters to come into their retail venues and watch races, place bets and consume other products and services.
- (c) Tabcorp/Sky also engages in other forms of anticompetitive tactics and conduct, for example, blackout conduct referred to in Sections K and L below.
- (d) Furthermore, during my negotiations with Tabcorp/Sky, I have observed that it has a narrow media distribution strategy, which centres on high priced subscriptions and limiting competition from FTA and other digital streaming media providers. This is described in Sections K and L below.

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- (e) A further difficulty is that Sky promotes Tabcorp betting services on its broadcasts which results in the Tabcorp wagering business being advertised to Tatts' customers in its own venues. Given the rise of digital wagering, this represents a significant missed opportunity for Tatts:
- (i) Tatts has recently gone on the record as noting that it was having difficulty in differentiating its retail brand with Tabcorp's online brand, which is attributable to Sky being the sole provider of vision available to Tatts' retail outlets. Annexed hereto and marked with 'APC4' is an article written by Nathan Exelby and published in the Herald Sun dated 12 July 2014 in regard to this matter.
  - (ii) The Tabcorp/Sky presentation on the benefits of the merger highlights that Tabcorp has a higher brand awareness in Queensland than the incumbent Tatts brand, UBET.<sup>2</sup> Unless there is a "keep off the grass" agreement between Tabcorp and Tatts that I am not aware of, then, customers from any state can open a digital betting account and Tabcorp is able to take market share from UBET in Queensland for digital customers through its branding and advertising on the retail channel in UEBT outlets. This is also true in other jurisdictions in which Tatts holds the monopoly totalisator rights and related retail monopoly rights.
  - (iii) I also note that Racing Queensland was reportedly engaged in a number of initiatives with UBET to improve Racing Queensland's wagering outcomes.<sup>3</sup>
30. The above issues – coupled with the comparatively poor performance of Tatts' wagering operations relative to other wagering products, which has been reported on during the course of the current takeover bid – highlights the potential for Tatts to improve its performance by adopting new competitive strategies, including to compete against and displace Sky's control over program content in Tatts' retail network.
31. If the merger does not proceed, Tatts has an economic incentive and ability to:
- (a) develop alternatives to dealing with Sky to place downward pressure on Sky's very high levels of fees and charges and provide a lower cost option to sub licenced betting agencies such as pubs, clubs and hotels. This could include an option for Tatts to offer certain venues a 'lower-spec' broadcasting and wagering solution than

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<sup>2</sup> Tab 6 of Annexures to Statement of James Watters filed in these proceedings on 13 March 2017, p. 9.

<sup>3</sup> Annexure E-3 to Statement of Dr Eliot Forbes filed in these proceedings on 13 March 2017.

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the full Sky offering. It could also include buying streaming or venue broadcast rights from Racing.com;

- (b) work with Racing.com to introduce new and differentiated innovations that could be customised for Tatts' venues and ensure that the Tatts' brand is exclusive at its venues;
- (c) build the brand of UBET to a larger national audience to capture digital wagering account holders from outside of Tatts' states through advertising on competitor media services like Racing.com; and
- (d) bid directly for rights and secure a wholesale position on key rights to use as leverage in cost/price/service negotiations with broadcasters such as Sky and Racing.com.

32. Even if Tatts does not explore the above opportunities, the mere presence of Tatts as an entity of sufficient scale to support a rival pay and/or FTA broadcaster, imposes a competitive constraint on Tabcorp/Sky, putting downward pressure on the fees and charges Sky imposes.

33. Tatts has previously gone on the public record as stating it would be willing to consider Racing.com's alternative to Sky to source thoroughbred racing vision for its digital platforms, in circumstances where Sky and Tatts had failed to reach agreement over the fee charged by Sky for its service and Sky announced a blackout of live Sky racing on UBET's website and mobile app. Annexed hereto and marked with 'APC5' is a copy of a media report written by Ben Dorries and published in the Courier Mail on 2 February 2016.

34. Given the impending merger, Tatts has not approached Racing.com.

35. Tabcorp claims that there is no media rights issue arising in these Proceedings because Tatts has never vied against it to buy media rights from PRAs.<sup>4</sup> There is a straightforward historical explanation for this – namely that Sky had tied up the exclusive media rights in Queensland, South Australia and the Northern Territory before Tatts merged with UniTAB Limited in 2006 and thus before it was large enough to have any chance of competing for media rights. In any event, while Tatts has not sought to acquire media rights in the past, this does not mean that it will not seek to do so in the future. This is especially so in the context of all other WSPs seeking to increase transmission of live sport (including racing) on their customer platforms.

*More power to leverage its wagering joint ventures with the PRAs*

36. Racing.com is further concerned about the proposed acquisition of Tatts by Tabcorp because post acquisition, Tabcorp/Tatts/Sky will have more power to leverage its funding agreements with PRAs to obtain media rights deals to the exclusion of any competitor.

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<sup>4</sup> Form S, [18.22]-[18.25] and [18.32]-[18.33].

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37. Currently, Tabcorp/Sky only has funding agreements in three of Australia's eight racing jurisdictions. Post-acquisition, it will have a funding agreement in seven of Australia's eight jurisdictions – ie Tabcorp/Sky is stepping into the shoes of Tatts in jurisdictions of Queensland, South Australia, Tasmania and the Northern Territory.
38. This creates the economic incentive and ability for the merged entity to block Racing.com (and other competitors) from competing with Sky for the following reasons:
- (a) PRAs in a formal joint venture with the merged entity will be financially incentivised to maximise wagering revenue in the short-medium term with the merged entity which is likely to result in the foreclosure of negotiations with competing broadcasters of media rights.
    - (i) This economic benefit is restricted to the PRA/Tabcorp/Tatts/Sky and not to the customers of racing media including commercial premises and individuals who are required to pay a fee to access the vision, a fee set by Sky in the absence of competitive constraint.
    - (ii) It is analogous to creating a wagering/racing vision monopoly across most of Australia in which:
      - (A) Sky dominates the media coverage in retail outlets and online, ie it is the only broadcaster who can stream live and archive vision.
      - (B) Sky charges a fee to retail outlets to access the vision – but that fee is ultimately part of the revenue of the merged entity.
      - (C) The merged entity dominates wagering advertising by restricting advertising on its broadcasts.
      - (D) The merged entity dominates wagering revenue – the link between wagering activity and live vision of races is uncontroversial.
      - (E) Wagering revenue is ultimately shared with the PRAs. Thus, the PRAs have an incentive to grant media rights to the merged entity.
      - (F) The monopoly rents in wagering/media rights are shared between Tabcorp/Tatts/Sky and the PRAs, to the detriment of Australian consumers who are denied access to competing broadcast options (eg Racing.com, other online providers – and the benefits of the competitive constraint they impose on

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Tabcorp/Tatts/Sky) and to product innovations that arise in competitive markets.

- (iii) The above strategy would be entirely consistent with the strategy of Tabcorp/Sky that I have observed in my negotiations with Tabcorp/Sky since 2013 (referred to in Sections K and L below).
  - (iv) The proposed acquisition comes at a critical moment in the history of racing broadcasting because wagering market share is fastest growing in the digital segment and there is potential for pro-competitive 'disruptive conduct' to shake up the status quo. For example, WSPs may be able to offer innovative products and services to customers if they are able to access racing media online streaming rights in competition with Sky.
  - (v) These problems will be magnified, particularly with the 'network economics' features of media rights referred to in paragraph 24 above.
- (b) The second way Tabcorp/Tatts/Sky can leverage its funding agreements with PRAs to obtain more favourable rights deals arises because Tabcorp/Tatts/Sky can create a nexus between revenues from wagering activities and revenues from media rights.
- (i) I set out in paragraphs 111 and 115 below instances in which Tabcorp/Sky – as the monopoly totalisator rights' holder – has:
    - (A) used the imposition of 'back charges' in its wagering joint ventures with VRI to recover back a portion of the rights fees it has paid for media rights fees; and
    - (B) sought to impose conditions in media rights deals about the level of race field fees that can be levied in the future.
  - (ii) The impact of the above is that Tabcorp/Sky can offer higher payments to PRAs for a grant of media rights than they otherwise would (as a stand-alone media operator), because they have the ability to use mechanisms in the wagering joint venture to 'claw back' the portion which was above what would have been offered absent the vertical integration.
  - (iii) Such arrangements clearly put Racing.com at a significant disadvantage vis-à-vis Sky in any negotiations, since it is unable to create the same nexus between revenues from wagering activities and revenues from media rights.
  - (iv) I also set out in paragraph 111 below examples of mechanisms that Tabcorp/Sky has improperly threatened to use to make PRAs and racing

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clubs 'play ball' on media rights or else face other repercussions (in the form of "dial down" measures in wagering joint venture arrangements).

- 39. The fact that Tabcorp is vertically integrated with Sky in New South Wales, Victoria and the ACT poses significant challenges for Racing.com for the reasons set out in this statement. However, if the merger proceeds, the predicament for Racing.com is far more dire, in terms of its long-term strategy to incrementally acquire the rights to thoroughbred racing vision in other jurisdictions in Australia and, over time, build up a credible alternative to Sky's offering.
- 40. Absent the merger, Tabcorp/Sky would not be in a position to leverage the racing funding agreements in its negotiations for media rights with five of Australia's eight PRAs. This materially improves Racing.com's chances of acquiring media rights in competition with Sky to deploy in the realisation of its long-term media strategy.
- 41. Whilst I don't know how each of the other states and territories' funding agreements is structured, it is apparent to me that the PRAs and monopoly totalisator operators have shared short to medium term economic interests and it follows that the problems negotiating with Tabcorp/Sky will be greater if Tabcorp is vertically integrated with Sky in seven jurisdictions.

**E. Recent attempts by Racing.com to acquire further media rights**

- 42. As part of Racing.com's long-term strategy to acquire thoroughbred racing media rights from PRAs and race clubs around Australia, Racing.com is currently participating in the bidding process for South Australia's broadcasting rights, and a small subset of Racing Queensland's broadcasting rights. Before I became CEO, Racing.com also participated in the bidding for Perth Racing's broadcasting rights.

South Australia

- 43. Thoroughbred Racing S.A. Limited (**TRSA**) is currently party to a Rights Agreement with Sky, which grants Sky exclusive rights in relation to the transmission by various means of coverage of TAB thoroughbred races and race meetings in SA (**Media Rights**) (**Rights Agreement**).
- 44. The Rights Agreement is due to expire in mid-2017.
- 45. I am informed by my predecessor as CEO of Racing.com, Scott Perrin, that in 2016, TRSA began exploring its options for the grant of media rights from mid-2017. Several months of discussions ensued between TRSA and Racing.com. I led formal negotiations from January 2017, [**Highly confidential to Racing.com**] [.....]  
[.....]

46. [.....]  
[.....]  
[.....]

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[Redacted]

(a) [Redacted]

(b) [Redacted]

47. [Redacted]

48. [Redacted]

49. [Redacted]

50. [Redacted]

51. As at the date of signing this statement, the outcome of the TRSA bidding process is unknown.

52. There is no doubt that Racing.com has placed a significant competitive constraint on Sky during the bidding process for TRSA rights:



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(a) Without Racing.com, Sky would have been able to adopt the tactics it did with RVL following the decision to close TVN when Tabcorp/Sky thought that RVL had no credible/viable alternatives (refer paragraph 127 below).

(b) **[Highly confidential to Racing.com]** [.....]  
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53. Racing.com’s negotiations with TRSA have been difficult given the dominance of Sky and the tactics Tabcorp/Sky has used when media rights negotiations have not gone its way. If the proposed merger takes place, next time the South Australian rights are up – Tabcorp/Sky will be vertically integrated with the monopoly totalisator rights’ holder in SA – making negotiations even more difficult. The reasons for this are elaborated upon in Section D above.

Queensland

54. **[Highly confidential to Racing.com]** [.....]  
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61. BRC has indicated that in looking to the future, it is looking to expand FTA coverage and will most likely require digital streaming options in any new deal to apply after the current agreement ends in 2020.

Western Australia and Perth Racing Club

62. In 2015 and 2016, and before I joined Racing.com as CEO, I advised Perth Racing Club (**Perth Racing**) on their domestic and international media rights strategy. At the time:

- (a) international rights were held exclusively by Tabcorp/Sky and due to expire in early 2016; and
- (b) domestic rights were held exclusively by Tabcorp/Sky and due to expire in 2019.

63. While only the international rights for Perth Racing were due to expire, there was an opportunity for Perth Racing to take advantage of the competitive tension in the market through the emergence of Racing.com, and hence seek bids on both domestic and international rights.

64. Racing.com, in partnership with Melbourne Racing Club, submitted an offer to provide:

- (a) domestic broadcasting and digital rights;
- (b) international rights; and
- (c) a proposal to sub license pay TV and streaming rights to Sky channel.

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65. The offer from Racing.com was significantly higher than the existing rights payments offered by Tabcorp/Sky.
66. In September 2016, after a lengthy negotiation process involving a series of bids from Tabcorp/Sky and Racing.com, Tabcorp/Sky and Perth Racing entered into a new six year agreement for the broadcasting of Perth Racing's vision on digital and non-digital platforms (both in Australia and globally):
- (a) Tabcorp/Sky secured an exclusive bundle of all rights for domestic and international.
  - (b) the total sum of money received by Perth Racing was a significant increase on previous deals for both domestic and international rights.
  - (c) Tabcorp/Sky enforced highly restrictive clauses around a limited number of four FTA "carve out days" in which the only way those race meets can be broadcast on national FTA TV will be if Tabcorp is the exclusive advertising partner of that entity's day's racing on the channel. Due to this clause, those FTA rights will likely be warehoused by Tabcorp/Sky.
  - (d) Tabcorp/Sky's offer ultimately succeeded over Racing.com's because Sky's final offer increased to a level comparable to Racing.com's. Perth Racing could also reasonably anticipate that if it renewed exclusive rights with Sky then further benefits would accrue to Perth Racing if Tabcorp became the totalisator operator in WA.
67. As I was directly involved in these negotiations for Perth Racing Club, I have no doubt that Racing.com was a significant competitive constraint on Sky during the bidding process for the rights. Without Racing.com, Sky would have been able to adopt the tactics it did with RVL following the decision to close TVN when Tabcorp/Sky thought that RVL had no credible/viable alternatives. Without Racing.com, the rights payments paid by Tabcorp/Sky would have been significantly lower.
68. The process also reinforced to me the increased problems Racing.com will face if Sky becomes vertically integrated with the totalisator operator in more markets, and media rights become interlinked with the local wagering joint venture.
69. This is because during the negotiations with Perth Racing Club, I saw firsthand the difficulties a racing club would face if it adopted a strategy that was different to that of the PRA (in this case, RWWA):
- (a) RWWA entered into agreements with Tabcorp/Sky in late 2016 in relation to all media rights for thoroughbred, harness and greyhound racing (not including metropolitan thoroughbreds) and retail agency, on-course and digital streaming distribution.

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- (b) RWWA would not separate country and provincial thoroughbreds from greyhound and harness to allow a single thoroughbred approach (combined with Perth Racing) to secure the best deal for thoroughbreds.
- (c) RWWA sought to protect the declining performance of the local totalisator operations (retail, on course and digital) from any accelerated competition from other wagering operators.
- (d) RWWA resells Sky channel to pubs and clubs in WA, and hence did not want any erosion of that business through competition.
- (e) The wagering arm of RWWA has been the focus of much privatisation discussion, and Tabcorp/Sky are rumoured to be the favoured bidder.
- (f) Perth Racing Club were worried about possible combined repercussions from RWWA and Tabcorp/Sky if they chose Racing.com and most of the rest of the industry was exclusively with Sky:
  - (i) RWWA was very clear in its belief that Tabcorp/Sky had power to impact race scheduling, club funding, club sponsorship, training grants, infrastructure grants and even the entire future of Perth Racing Club's two venues, Belmont and Ascot; and
  - (ii) RWWA was also clear that Sky had the capacity to "downgrade" Perth Racing Club's races to Sky Racing2, or black them out, and as such, the impact on local wagering revenue and product fee revenue would be passed through to the Perth Racing Club.

International

70. [Highly confidential to Racing.com] [.....]  
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**G. Tabcorp/Sky's recent conduct**

77. It is clear that Tabcorp/Sky is working hard to win the support of interested parties for the proposed acquisition. In recent months, it has entered into agreements with the following entities to ensure the proposed acquisition goes ahead:

- (a) Racing Queensland in or around March 2017 to allay the concerns of Dr Eliot Forbes (CEO of Racing Queensland) in relation to the proposed merger.<sup>5</sup>
- (b) Racing and Wagering Western Australia in or around March 2017 (the agreement was being finalised as at 13 March 2017) to allay the concerns of Richard Burt (CEO of RWWA) in relation to the proposed merger.<sup>6</sup>
- (c) Community Clubs Victoria on 10 March 2017. Attached hereto and marked 'APC6' is a copy of Tabcorp's press release. In it the CCV President is quoted as saying "We are pleased that Tabcorp has listened to the concerns of our member and has agreed to implement changes that will on the one hand reduce club operating costs, and on the other provide opportunities and pathways to greater revenues". I have been informed that the new arrangements include direct assistance from Tabcorp to reduce the cost of racing vision in clubs.
- (d) Australian Hotels Association NSW (**AHA NSW**) on 10 April 2017 for a five-year wagering partnership, to combat a recent deal that CrownBet entered into with AHA NSW to provide Wi-Fi and encourage Clubs NSW customers to bet using CrownBet's wagering app.
  - (i) Attached hereto and marked 'APC7' is an article from The Australian dated 10 April 2017 about the AHA NSW and Tabcorp/Sky deal.
  - (ii) Attached hereto and marked 'APC8' is a copy of Tabcorp's press release in relation to the deal. Tabcorp/Sky's conduct just this month is a good example of its aggressive behaviour to lock out rival WSPs and media broadcasters in its 'bricks and mortar' retail network.
  - (iii) Attached hereto and marked 'APC9' is an article from the Daily Telegraph dated 9 February 2017 titled "Tabcorp declares war on CrownBet over ATM-style withdrawal machines in NSW clubs".
  - (iv) The AHA NSW and Tabcorp/Sky deal demonstrates the value that Tabcorp/Sky places on its retail network (which will expand if the proposed

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<sup>5</sup> Statement of Dr Eliot Forbes filed in these proceedings on 13 March 2017, [39]-[40].

<sup>6</sup> Statement of Richard Burt filed in these proceedings on 13 March 2017, [34]-[36].

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acquisition goes ahead). It also shows that Tabcorp/Sky is continuing to adopt a narrow media distribution strategy and block rivals such as Racing.com and WSPs from competing on their merits.

**H. Comments on other statements**Yovich

78. I have read the statement of John Vincent Yovich of Perth Racing filed in these proceedings on 13 March 2017.
79. In paragraph 58, Mr Yovich refers to Perth Racing's recent agreement with Sky for the broadcasting of Perth racing's racing vision on digital and non-digital platforms (both in Australia and globally).
80. In paragraph 59, Mr Yovich states that he does not expect the proposed acquisition to reduce competition for Perth racing's broadcast vision because there were two broadcasters bidding for the rights – Sky and Racing.com. This fails to take into account the likely effect of the merger on competing broadcasters, such as Racing.com, who will face potentially insurmountable difficulties in having a competing offering to the merged entity for the reasons set out in Section D above, especially as the domestic rights for Perth Racing will not become available again until 2022-2024.

Gunston

81. I have read the statement of Ray Gunston (Currently of the AFL, formerly of Tatts) filed in these proceedings on 13 March 2017.
82. In paragraph 46, Mr Gunston states that he is aware of concerns about the fact that Tabcorp is the tote owner and operator and also has extensive vision rights and Sky channel.
83. He says, however, that he does not think the existing situation with respect to media rights will materially change as a result of the proposed merger, in part, because of the introduction of free-to-air coverage of racing by Racing.com and Channel 78.
84. Mr Gunston fails to take into account the likely effect of the merger on competing broadcasters, such as Racing.com, who will face potentially insurmountable difficulties in having a competing offering to the merged entity for the reasons set out in Section D above.

Attenborough

85. I have read the statement of David Attenborough, CEO of Tabcorp filed in these proceedings on 13 March 2017.

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86. At paragraph 64, Mr Attenborough attributes a non-publicly disclosed share of the anticipated benefits of the deal to revenue increases in the merged entity's wagering business including though business improvements in the form of new and increased product offerings, re-branding to the TAB brand, and retail and customer account investment in Tatts states.
87. For the reasons set out in Section D above, I share Mr Attenborough's views that the deal will result in some combination of improved revenues and/or cost outcomes. However, my view is that revenue increases in the merged entity's wagering business will be the result of foreclosing competing broadcasters of racing media rights, and thus promoting its own wagering product at the expense of WSPs. Since Tabcorp/Tatts/Sky will be in a formal joint venture with the PRAs in seven jurisdictions, the PRAs will be financially incentivised to maximise short to medium term wagering revenue with Tabcorp/Tatts/Sky and Tabcorp/Tatts/Sky will be in a position to pursue its narrow media distribution strategy without competitive threat, leading in the longer term to diminution in the value of the PRAs' media rights, and failures to take opportunities to enhance the value of those media rights.

**I. Formation of Racing.com**

88. In this section, I set out additional background on the formation of Racing.com.
89. When I joined RVL in February 2013:
- (a) I was tasked with the responsibility of developing a broad based media strategy for the Victorian Thoroughbred Racing Industry (**VTRI**). By VTRI I mean the combined effort of the race clubs and RVL in Victoria to deliver over 510 race meets per annum. This included the creation of a joint digital platform for the industry to rebuild and connect all of the club and RVL sites on a common platform. At this time, all of the VTRI domestic media rights were being managed and broadcast by TVN.
  - (b) I was also tasked with reviewing the Victorian Race Fields Policy, being the policy in relation to the fees payable by Australian-based WSPs for taking bets on Victorian thoroughbred races. The fees paid by WSPs to PRAs are a percentage of turnover or revenue that the WSP has received from wagering on the PRA's product. My task was to assess whether WSPs were making a fair and reasonable funding contribution to maintain the viability of the VTRI, whilst enhancing integrity through information sharing.
  - (c) I also participated in the wagering joint venture between the three codes of the Victorian Racing Industry (**VRI**) – thoroughbred, greyhound and harness racing – and Tabcorp Wagering (Vic) Pty Ltd that was signed on 21 December 2011 for a 12-



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year term.<sup>7</sup> The joint venture followed the award of the Victorian Wagering and Betting Licence to Tabcorp Wagering by (Vic) Pty Ltd, a wholly owned subsidiary of Tabcorp, by the Victorian Government in July 2011. I was a representative of the RVL executive on the VRI, and responsible for preparing RVL submissions and disseminating VRI information back to the RVL executive and board.

90. As a result of these responsibilities and roles:
- (a) I became aware that a very real and measurable risk to the VTRI was a near-term decline in wagering revenue due to the combined effect of:
    - (i) a loss of market share of Tabcorp and a rapid increase in the market share of corporate bookmakers for VTRI wagering product;
    - (ii) a loss of national market share of VTRI wagering product versus other sports wagering products; and
    - (iii) the end date (2024) of the Victorian Wagering and Betting Licence to Tabcorp Wagering (Vic) Pty Ltd and associated industry funding joint venture.
  - (b) Together with the RVL executive and board, I formed the view that, among other things, RVL should commence the process of assessing its options in respect of media and wagering to address this risk. One aspect of the process was to find ways to increase the distribution of Victorian racing product through a broader media strategy to reach more punters.
91. During the course of 2013 and 2014, RVL attempted to find ways to increase the distribution of Victorian racing product through a broader media strategy with TVN, a company specialising in the broadcasting of thoroughbred racing, which at that time was owned 50% by the Australian Turf Club (**ATC**) and 50% by the four Victorian thoroughbred racing clubs in equal shares.
92. I set out in Sections J and K below some observations on TVN, the ultimately unsuccessful negotiations between TVN and Tabcorp/Sky to reach an agreement and the decision by the shareholders of TVN on 24 December 2014 to wind up the company and to disaggregate the media rights of the Victorian and New South Wales clubs.
93. Following the decision to disaggregate the media rights, VTRI formed a committee to determine the best outcome for the media rights. The first teleconference of this group was

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<sup>7</sup> Described in Form S, [150]-[153].

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held on or around 27 December 2014, which I attended. The broad aims of the committee included:

- (a) maintaining VTRI's position in declining wagering categories such as Tabcorp's 'bricks and mortar' business where customers attend their local TAB outlet or on course to place a wager; and
- (b) strengthening VTRI's position in growing wagering categories, such as wagering through digital devices and online accounts, fixed odds type products.

94. The committee ran a competitive process for VTRI rights. Tabcorp/Sky competed in this process. SWM was the winning bidder. Thereafter, the broadcast media business of Racing.com was formed by RVL and SWM in 2015 to:

- (a) achieve contemporary coverage and broad distribution of Victorian and other thoroughbred racing to as many customers and wagerers (punters) as possible;
- (b) grow wagering turnover and revenue for Victorian thoroughbred racing;
- (c) grow fan engagement and increase involvement in Victorian thoroughbred racing including in respect of thoroughbred ownership, breeding, race participation, race attendance, race club membership and sponsorship; and
- (d) grow media-related revenue for the VTRI across advertising, streaming rights, subscriptions, and licenses for vision and data services.

95. Racing.com seeks to do this by making Victorian thoroughbred racing content available on every phone, laptop and connected device, on every TV set in every home, and in every hotel and club around Australia.

96. Racing.com formed with a view of bringing together two media-related businesses. SWM has extensive expertise in sports broadcasting and FTA offerings. RVL owns media rights and had prior experience in producing and distributing Victorian racing content through TVN. RVL and SWM were seen as each being able to bring expertise to Racing.com, a growing company with multi-faceted media distribution strategy (that is, digital, FTA and pay TV).

**J. TVN**

97. Prior to Racing.com's entry to the market, TVN competed with Sky to acquire the rights to thoroughbred racing content from PRAs outside Victoria and metropolitan Sydney, and to retain its rights granted by PRAs in Victoria and metropolitan Sydney.

98. TVN's stated objective was to enhance the presentation of thoroughbred racing vision for the enjoyment of race fans and viewers. In addition to race footage, TVN showcased additional

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footage relating to breeders, owners, jockeys and trainers, racing fashion and information on racing clubs. TVN only broadcast on pay TV through Foxtel. TVN did enter into an agreement with SWM to showcase a limited number of feature days (circa 18) on FTA channels 7-1 and 7-2 nationally.

99. After the formation of TVN as a thoroughbred racing TV channel, there were a number of disputes between TVN and Tabcorp/Sky about who had the rights to show different thoroughbred racing events. This became known as the 'split vision dispute' and was the subject of various litigation between TVN and Tabcorp/Sky concerning thoroughbred broadcasting rights. To resolve the dispute, Tabcorp/Sky and TVN entered into a Memorandum of Understanding (**MOU**) in 2007 which enabled them to share thoroughbred racing content.
100. The MOU was authorised by the Australian Competition and Consumer Commission (**ACCC**) in 2007 with an expiry date in 2012. It was extended on a number of occasions during 2013 and 2014 while Tabcorp/Sky and TVN sought to negotiate a new media rights deal.
101. When I joined RVL in February 2013, I was involved in supporting TVN in its negotiations with Tabcorp/Sky to reach a new media rights deal. I set out in Section K below my observations in relation to TVN's experience in its negotiations with Tabcorp/Sky. In short, I observed that Tabcorp/Sky had a very narrow media rights distribution strategy which was focussed on preventing competition from other media providers (eg FTA and digital streaming).
102. TVN had two months earlier secured the media rights to all thoroughbred racing in NSW. As a consequence, TVN now held the rights to all thoroughbred racing clubs in NSW and Victoria until 2028. I was informed and believed that this had been the culmination of more than seven years of hard work by the TVN board and management to realise its vision for the company, in conjunction with its shareholder clubs in NSW and Victoria.
103. By December 2014, TVN's negotiations with Tabcorp/Sky had still not resulted in a satisfactory agreement.
104. On or around 24 December 2014, the shareholders agreed to disband TVN and negotiate their rights separately.
105. On 21 January 2015, Racing NSW announced a new deal with Tabcorp/Sky. Shortly after this, TVN announced it would cease to operate after 15 March 2015.

**K. TVN experience negotiating with Tabcorp/Sky**

106. As set out above, during 2013 and 2014 I was involved supporting TVN (from a VTRI perspective) in its negotiations with Tabcorp/Sky to reach a new media rights deal. I worked

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closely with the executive team of TVN led by CEO, Bruce Mann, COO, Stephen Dole, and in time, Chairman, Alan Jackson.

107. My observations from meetings at that time and review of materials provided were that
108. Tabcorp/Sky's strategy was confined to a narrow distribution model limiting its broadcast to commercial premises, pay TV and Tabcorp digital account holders, and depending for its revenue on:
- (a) high priced pub and club subscriptions – Tabcorp/Sky's own analysis found that the vast majority of retail venues lost money on the bundled Tabcorp/Sky media and wagering service, primarily due to the cost of Sky subscriptions;
  - (b) attempting to prevent loss of digital market share by keeping access to all live and archive digital media rights exclusive to Tabcorp/Sky customers;
  - (c) its pay TV business;
  - (d) its wagering business; and
  - (e) recouping vision charges through Tabcorp's joint venture arrangements with PRAs throughout Australia where it holds the exclusive wagering licence.
109. During the negotiations with TVN, Tabcorp/Sky was seeking to impose negative control over the racing clubs' use of their media rights in order to, among other things, protect wagering turnover in Tabcorp's retail network by:
- (a) hindering competition in wagering from corporate bookmakers; and
  - (b) hindering competition from FTA and other digital streaming media providers.
110. This is despite that fact that expanding distribution with corporate bookmakers, FTA and digital streaming represented an opportunity to extract greater value from the racing clubs' media rights through new media revenues and product fee revenue growth.
111. I also observed that the capacity of TVN to get fair and direct value for media rights was interlinked in a complex and related way with Sky being vertically integrated with the totalisator operator in both the NSW and Victoria jurisdictions:
- (a) It was evident that a portion of the rights fee that TVN was seeking would be paid for in both states through "back charges" imposed on the wagering joint venture by Tabcorp/Sky for "media services". In Victoria, for example, the three codes share equally with Tabcorp a series of back charges to the wagering joint venture for Sky vision and data services to venues, and, the paying of rebates to pubs and clubs to lessen the burden of high Sky subscription fees. This matter was discussed regularly

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by RVL executives in meetings that I attended. During the course of my employment with RV, RVL submitted a request to Tabcorp/Sky for further information in relation to how “back charges” were calculated and the impact of higher rights payments to TVN on the level of “back charges”. I am not aware that this issue has been resolved.

- (b) During negotiations, Tabcorp/Sky were frustrated at the cost impact of the new RVL race fields policy, and sought assurances from RVL that there would be no future increases in Tabcorp’s race fields fees.
  - (c) I cannot recall the exact timing or the context of the presentations, but I do recall around this time that for a number of reasons Tabcorp/Sky made presentations to either VRI or RVL about “dial down” measures that it had in place for reducing promotion of a PRA’s racing product if the commercial terms of accessing the jurisdiction’s media or wagering (ie race field fees) were not acceptable to Tabcorp/Sky. These measures included de prioritising, or diminishing, a jurisdictions races in form guides, in venue wagering information, digital assets, or special betting offers. I took this to be a threat that penalties would be imposed on a PRA by Tabcorp/Sky if the PRA did not ‘play ball’ with the Tabcorp/Sky media strategy.
112. It was apparent to me, including from analysis of public information – such as brokers and analysts reports – that significant value accrued to Tabcorp due to its vertical integration with the Sky media business. Tabcorp had significant incentive to leverage transactions between the media and wagering arms of its business to increase the Earnings Before Interest and Tax (EBIT) of Sky, and, hence the overall valuation of Tabcorp – particularly because Sky had the highest multiple of all Tabcorp divisions.
113. While the VTRI was in a joint venture with Tabcorp/Sky for the Victorian wagering licence – and therefore VTRI and Tabcorp/Sky had aligned interests to grow TAB Victorian racing wagering – each had a different view about the most effective media strategy to achieve this.
114. During these negotiations, I reviewed the offers made to TVN by Tabcorp/Sky for rights payments. It was clear to me, based on my many years of experience in such negotiations with the AFL and Racing Victoria that the offers being made to TVN were below the value of those rights to the EBIT generated by Sky from its pubs and clubs network and the value generated for Tabcorp from that EBIT.
115. In summary, whilst VTRI and TVN were committed to supporting Tabcorp (as the Victorian totalisator rights’ holder) and Sky, it became very difficult to agree a fair exchange in circumstances where TVN was not being fairly compensated by Tabcorp/Sky because of the following:

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- (a) Tabcorp/Sky's locking up of rights and narrow distribution model through pubs and clubs, restricted into homes via pay TV only and a restricted model for mobile phones and digital devices limited to Tabcorp customers only;
  - (b) constraints on future race field fee increases; and
  - (c) "back charges" via the wagering joint venture.
116. As set out above, by December 2014, TVN's negotiations with Tabcorp/Sky had not resulted in a satisfactory agreement.
117. Immediately prior to the end of negotiations, Sky imposed a blackout of racing vision that lasted for 14 days in an attempt to get its way with TVN. TVN was able to partner with Foxtel, Fox Sports and Telstra as short-term measures, indicating potentially multiple means available to PRAs to disaggregate their media rights in a bid to pursue better commercial outcomes than dealing with Sky. Attached hereto and marked 'APC10' is a copy of RVL's press release dated 18 December 2014.
118. Although I was not employed at RVL until February 2013, I was aware that Tabcorp/Sky had blacked out vision on at least two prior occasions – each time because it has not liked actual or prospective competition over the acquisition and use of media rights by new entrants:
- (a) The first blackout was of all Sydney races in 2005 in response to the Sydney metropolitan race clubs deciding to take a 50% shareholding in TVN. This blackout lasted for circa 153 days and resulted in an 'in principle' agreement for a joint venture between Sky and TVN to create a premium thoroughbred racing channel. The 'in principle' agreement did not proceed as the parties were unable to reach final agreement, resulting in a further blackout in 2005.
  - (b) The second blackout was in 2005-06 in retaliation for the grant of media rights by Victoria and New South Wales to TVN. The 2007 ACCC authorisation referred to in paragraph 100 above ended the blackout after 377 days.
- A further instance I am aware of in 2015 is referred to in Section L below.
119. The above conduct clearly demonstrates and signals that Tabcorp/Sky will not hesitate to use its control over its monopoly retail networks – a control it has by virtue of it being the monopoly totalisator rights holder – in retaliation for the award of media rights that did not go its way. Tabcorp/Sky's ability and incentive to control the retail network in will only increase post-acquisition when it also controls the Tatt's retail monopoly networks, which I discuss further in Section D below.

**Confidential Restriction on Publication Claimed****L. Racing.com experience negotiating with Tabcorp/Sky**

120. As set out in Section I above, following TVN's decision to disaggregate its media rights, VTRI formed a committee to determine the best outcome for the media rights.
121. During this process, I met with:
- (a) Sky, together with Brodie Arnhold (CEO, Melbourne Racing Club), Mike Symons (Chair, Melbourne Racing Club) and Sam Walch (consultant), in relation to ensuring that Victorian thoroughbred racing remained on Sky Racing1.
  - (b) SWM, together with Mike Symons and Sam Walch;
  - (c) WSPs CrownBet and Sportsbet, together with Brodie Arnhold.
122. I ceased employment with RVL in March 2015, before the media rights negotiations were concluded. However, I continued to closely follow public announcements in relation to the media rights negotiations.
123. On 6 June 2015, RVL and the clubs publicly announced that SWM was its preferred media rights partner for FTA and digital rights.
124. Following that announcement, coverage of Victorian thoroughbred races was blacked out on Sky Racing channels with effect from 15 June 2015. Annexed hereto and marked 'APC11' is a copy of a RVL media release dated 15 June 2015 which states, among other things:

*Tabcorp Holdings has advised that no Victorian thoroughbred meeting will be broadcast on its Sky Racing channels into homes, pubs and clubs after it refused to roll over an existing interim agreement regardless of whether Seven West Media is broadcasting the meeting.*

*[RVL] said it was disappointed with the decision by Tabcorp Holdings to go ahead with a blackout of all Victorian thoroughbred racing on its Sky Racing channels from tomorrow.*

*[RVL] has offered to continue to supply Victorian thoroughbred racing to Sky Racing for a fair and reasonable commercial fee to ensure that punters, fans and participants are not disadvantaged.*

*Tabcorp Holdings' decision to institute the blackout follows the [RVL] Board's resolution that its preferred outcome for the broadcasting of Victorian thoroughbred racing is the combined free-to-air and digital broadcast deal tabled by Seven West Media, whilst maintaining the broadcast on Sky Racing 1 (Channel 519) and Sky Racing 2 (520).*

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*RV will continue to seek talks with Tabcorp Holdings on achieving its preferred media distribution model which involves both Seven West Media and Sky Racing with the goal of building a strong, sustainable future where current and future generations of fans and punters can access vision of Victorian thoroughbred racing whenever, wherever and however they choose.*

125. Tabcorp/Sky stated publicly that the reason for its blackout was because it did not have an agreement to broadcast the vision. However, I considered that this was a retaliatory measure imposed by Tabcorp/Sky because RVL and the Victorian racing clubs had decided to adopt a more broad based media strategy for Victorian racing. It is an example of the tough negotiating tactics that Tabcorp/Sky is willing to engage in to maintain its position as the dominant broadcaster of racing vision in Australia.
126. A commercial deal was eventually reached between Tabcorp/Sky and RVL, and coverage of Victorian thoroughbred races returned to Sky on 13 August 2015.
127. I was directly involved in the commercial negotiations between Tabcorp/Sky and RVL in early 2015. During the negotiations Tabcorp/Sky adopted many of the same negotiating tactics they had used in the negotiations with TVN during 2013 and 2014. I have since been informed by senior employees of the VTRI who continued to be involved in the negotiations that the approach was the same after my departure. It included that:
- (a) Tabcorp/Sky sought to aggressively reduce the media rights fees payable to the VTRI clubs, to amounts that were significantly less than what had been paid to the clubs under previous rights agreements through TVN. It was apparent that Tabcorp/Sky thought VTRI had no credible viable alternatives, and as such it could unilaterally impose materially lower fees.
  - (b) Tabcorp/Sky sought to include what they described as 'penalties' in the media rights agreement which, among other things, enabled Sky to reduce the media rights fees on account of any increase in race fields or products fees imposed upon Tabcorp by RVL. As with the TVN negotiations, this demonstrates the formidable challenges the VTRI faces when it has to negotiate in respect of media rights with a broadcaster who is vertically integrated with the entity that holds the monopoly totalisator rights and related retail monopoly rights in the jurisdiction.
  - (c) Tabcorp/Sky sought a complete and exclusive bundle of domestic and international rights, again, apparently on the basis it thought VTRI had no credible alternatives:
    - (i) Tabcorp/Sky refused to increase the share of revenue to the rights holders from the sale of international wagering and media rights even though the VTRI had evidence that the wholesale margin captured by Tabcorp/Sky far exceeded the costs associated with international distribution. This



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evidence came from the VTRI clubs led by Melbourne Racing Club who had other alternatives to export their live racing to key international jurisdictions for a significantly lower cost than the existing “wholesale” margin Sky was requesting.

- (ii) Tabcorp/Sky sought penalties in the domestic contract for any loss of international rights. That is, Tabcorp/Sky made the total domestic rights’ payments for all VTRI meets dependent on Sky retaining exclusive international rights for all clubs. If one club did not renew exclusive international rights with Sky, then the total domestic rights’ payment made to all clubs would be reduced.
- (d) Tabcorp/Sky sought exclusive digital replay and streaming rights. As referred to above, in my experience in negotiations with Tabcorp/Sky in 2013 and 2014, I formed the view that it has a very narrow media rights distribution model focussed on preventing competition from other media providers, such as other WSPs.
- (e) Tabcorp/Sky sought to restrict the distribution of vision on FTA, again consistent with its narrow distribution model.

**M. Barriers to entry**

128. RVL had a number of advantages that enabled it to set up a competing broadcasting business to Sky, which other PRAs (or rights holders) do not have:
- (a) The Victorian thoroughbred racing clubs established TVN as a broadcasting business in the early 2000s, and through that business, had the existing infrastructure, media experience and ability to invest in their own media channel.
  - (b) VTRI owned and operated an outside broadcasting business, Thoroughbred Racing Productions (**TRP**).
  - (c) VTRI owned and operated the Victorian clubs / RVL digital network and had secured control of the consumer brand Racing.com in 2014.
129. Notwithstanding this, there was still a significant capital investment required and executive effort to set up the Racing.com business and enable it to build its own distribution channels:
- (a) an executive team with the capacity to understand all the moving pieces, the required sequence of outcomes and the commercial terms to secure sustainable operations;
  - (b) a connectivity network to connect race track vision to broadcast capacity;
  - (c) channel production and play out capacity;

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- (d) streaming capability;
  - (e) interfaces to enable other digital assets (eg WSPs) to display live racing vision;
  - (f) magazine programs;
  - (g) secure a roster of broadcasting talent; and
  - (h) establish international distribution capacity.
130. RVL also had to find a partner (such as a FTA broadcaster, pay TV broadcaster or telco) who could invest the necessary capital required and provide the technology to enable VTRI races to be broadcast.
131. SWM was able to contribute to the Racing.com joint venture, among other things, the FTA spectrum required for FTA broadcast. There is extremely limited availability of this spectrum, and it has significant commercial value to SWM with a range of alternative, commercially attractive uses.
- (a) The barriers for SWM to establish Racing.com were significantly lowered as SWM was able to leverage RVL's existing production and supply chain capacity that VTRI had established through TRP, the Racing.com digital network, and the connectivity solution built with Telstra.
  - (b) In order to secure SWM's contribution, it was essential that RVL had a premium wagering product. The other PRAs in Australia (save for New South Wales) do not have the number or quality of race meetings to make their whole season of race vision attractive to FTA broadcasters.
132. It is my view from the process I led at RVL, and my current role, that without the FTA spectrum provided by SWM, that the VTRI would not have proceeded with expanding Racing.com into a full multi-platform broadcast offering. It is the FTA spectrum that is the distinguishing feature and advantage of Racing.com, combined with the broad digital streaming, that increases reach for VTRI races beyond the existing audience on Sky in pubs/clubs and on pay TV that drives industry wagering growth rates to generate wagering revenue growth.
133. Victorian thoroughbred racing is an attractive proposition for a potential joint venture partner such as SWM, as the Victorian clubs have a large number of race meetings (in excess of 500 per year) as well as high quality race meetings in terms of field size and calibre of horses, which make Victorian races a premium wagering product. This places Victoria in a unique position when compared to other States and Territories throughout Australia.

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134. It is my view that no state other than Victoria or NSW could attract a FTA, Pay TV or digital distribution partner to sustain a dedicated channel of racing product, regardless of distribution medium.
135. While Racing.com has been able to establish a competing business to Sky, it has significant overheads.
136. The ongoing viability depends on direct and indirect revenues to offset the above costs. Currently, Racing.com's primary sources of revenue include:
- (a) advertising and sponsorship;
  - (b) wagering streaming license fees (collected by RVL, this revenue subsidises the production funding that RVL provides to Racing.com);
  - (c) revenue from a sub license to Sky (significantly smaller than (a) and (b) above); and
  - (d) wagering revenue uplift (collected by RVL, this revenue subsidises the production funding that RVL provides to Racing.com).
137. In order to attract sufficient advertising, sponsorship and digital streaming agreements with WSPs, Racing.com needs to have a channel with the sufficient quality and number of races to attract an audience. At 520 meets, Victoria has a sufficient quality and volume of meets to establish a baseline of audience, but Racing.com will need more meets from other jurisdictions to strengthen this proposition to long-term viability.
138. Other states, outside of NSW, do not have the requisite volume of quality race meets to generate the required audience for sufficient advertising, sponsorship and digital streaming revenue.
139. To pursue a strategy as an alternative to an exclusive deal with Sky, a rights holder also needs to be able to influence the clock or schedule of races to ensure its races are protected and well positioned on Sky Racing1.
- (a) The clock for thoroughbreds is essentially built around Victoria and New South Wales. Smaller states have less leverage in such negotiations.
  - (b) Sky has a proven ability to impact the wagering performance on a race event or entire race season through:
    - (i) shifting live coverage of race meets to Sky Racing2 for in home (which has an inferior audience to Sky Racing1 in home because it is an additional pay channel);

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- (ii) moving the races from Sky Racing1 to Sky Racing2 (which has an inferior wagering performance and no audio in the retail outlets); and/or
  - (iii) constraining lead in and lead out coverage around feature race events that are important for building wagering.
140. Sky Racing1 remains the primary driver of wagering revenue in Australia, and has a materially higher wagering output per race than Sky Racing2. As such all states are keen to see their racing achieve or maintain a prominent and consistent position on Sky Racing1.
141. Racing.com has shown through the model in Victoria – and in the negotiations for Perth Racing rights and TRSA rights where Racing.com has been transparent in its intent to sublicense all rights to Sky on a non-exclusive basis and on fair commercial terms – that it believes the optimal outcome for a thoroughbred racing rights holder over the near term is to maintain its presence on Sky Racing1, but complement it with additional FTA, pay TV and broad digital streaming audience reach for as many (if not all) of its race meets as possible.

**N. Annexures**

142. Set out in Schedule A of my statement is a table of annexures that I refer to in my statement.
143. The matters set out in this statement are based on my knowledge of Racing.com's operations, my involvement with Racing.com's business and my experience in the racing and sports industries, save where expressly indicated to the contrary in which case I depose from information and belief. Where I depose from information and belief I believe such information to be true and correct.

Signature of witness



Name of witness: Andrew Paul Catterall

Date of signature: 17 April 2017

## Schedule A

Table of annexures referred to in Statement of Andrew Paul Catterall

Annexure	Title	Confidentiality
APC1	Media report written by Mandy Ross of the Tatts Group titled, 'Beating the disruptors with bricks and mortar' dated 27 May 2015	–
APC2	Media report written by Jessica Garden for the Sydney Morning Herald titled, 'Tatts Chief Robbie Cooke puts big stake on the line' dated 28 January 2014	–
APC3	UBET media release dated 30 April 2015	–
ACP4	Media article written by Nathan Exelby and published in the Herald Sun dated 12 July 2014	–
ACP5	Media report written by Ben Dorries and published in the Courier Mail on 2 February 2016	–
ACP6	Tabcorp press release dated 10 March 2017	–
ACP7	Media article in the Australian dated 10 April 2017	–
ACP8	Tabcorp press release dated 10 April 2017	–
ACP9	Media article in the Daily Telegraph titled "Tabcorp declares war on CrownBet over ATM-style withdrawal machines in NSW clubs" dated 9 February 2017	–
ACP10	RVL press release dated 18 December 2014	–
ACP11	RVL press release dated 15 June 2015	–

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Liz Tay | May 27, 2015

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# Tatts chief Robbie Cooke puts big stake on the line

Jessica Gardner

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Tatts Group chief executive Robbie Cooke will unveil a brand overhaul in the second half of 2014, perhaps including a name change, as the lotteries and wagering company seeks to catch up after a period of under-investment in online and marketing.

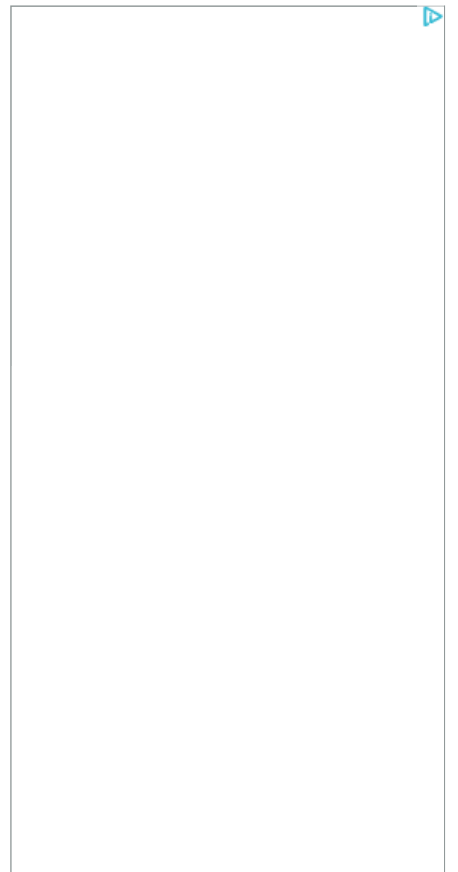
The company began working with brand agency Hulsbosch in March and, although Mr Cooke is guarded about the details, he said the result "will be something markedly different".



Chief executive Robbie Cooke is even considering a name change for Tatts. Photo: Paul Harris

Hulsbosch has worked with brands like Perpetual, Woolworths and Virgin Australia. Mr Cooke said he admired the way Virgin chief executive John Borghetti had corrected a messy brand situation to create a strong rival to Qantas. The agency helped the airline to unify many brands, like V Australia, Virgin Blue and Pacific Blue, under one banner.

Mr Cooke presides over a similar bunch of brands. The company operates lotteries in all states except Western Australia, but does so under four brands, including Tatts and Golden Casket. Its wagering brand TattsBet operates online as well as from retail outlets in



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Queensland, South Australia, Tasmania and Northern Territory, while consumers can buy either wagering or lotteries products at Tatts.com.

In an interview to mark his first anniversary on the job, Mr Cooke hinted at a similar strategy to Mr Borghetti's.

"In 12 months time the things I'd be looking for in the business would be a new lotteries website, new wagering website and the new brand rolled out," he said. "There will be marketing and investment put behind the brand and we are aiming for all those initiatives to drive online sales."

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Investors Mutual portfolio manager Simon Conn said it was essential that Tatts keep its products "relevant". "Online it's very easy to switch from one place to the next, so the brand becomes much more important," Mr Conn said. But he warned that with many start-ups fighting over the \$26 billion wagering market there was a danger for ventures to overspend on marketing.

Mr Cooke said he also intended to expand the distribution of Tatts' products. The company is poised to begin selling scratch lottery tickets from supermarkets after a trial in Coles Express outlets. "We've been testing to make sure that activity has actually increased sales rather than cannibalised sales from our traditional channels," he said.

Mr Cooke joined Tatts from online travel booker Wotif to replace outgoing CEO Dick McIlwain, who left after 20 years at the helm. The \$4.2 billion company had a reputation for defensive earnings but had failed to fully take advantage of e-commerce. In wagering especially, Tatts had lost ground against low-cost online-only operators.

Mr Cooke said he inherited a good business but conceded the company was "well and truly under done" in online. A year ago more people were working in human resources than in online, he said. The online team has doubled to 40, and is expected to double again this year.

Mr Cooke has "busted down" Tatts' organisational structure from six business units to three, which now collaborate on online marketing and customer communication.

Tatts investors have had a volatile year, with the share price falling 14 per cent from a 12-month high of \$3.41 in February 2013. Mr Cooke said the share price was important, but he tried not to focus on it day to day. "The share price will respond as we get the business positioned where it needs to be."

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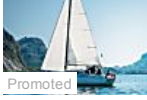

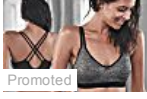




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# Herald Sun



📷 Tatts Group CEO Robbie Cooke plans to put a significant amount of expenditure back into their core business by investing in marketing strategies, advertising and new innovative ways of getting the Tatts brand in a prominent position in the marketplace. Picture: Darren England.

SuperRacing

## Nathan Exelby asks Tatts Group CEO Robbie Cooke all the tough questions

Nathan Exelby, The Sunday Mail (Qld)

July 12, 2014 10:00pm

THE success or failure of the recent Product Agreement for Queensland racing will rest to a large degree, in the short term at least, on the shoulders of Tatts Group Chief Executive Robbie Cooke, who has set some ambitious targets for his organisation to regain its position as a trailblazer in the wagering sector.

If Cooke succeeds, the money trail back into racing will benefit the entire industry.

Nathan Exelby spoke to Cooke about his plans to win back market share, the battle with corporate bookmakers, repairing Tatts' image to racing participants and comparisons to his predecessor Dick McIlwain.

**Nathan Exelby: The feeling in the racing industry is that it has been neglected by Tatts. Is that a fair accusation?**

**Robbie Cooke:** I think in a helicopter view you could draw that conclusion. I don't duck or shy away from that. There is some valid criticism there. It's when you peel back the skin of the onion and try and understand why that was the case.

What you've had is a situation where the competitor pack in the Northern Territory is paying a minimal contribution to the industry and have had an enormous advantage.

That is, the margin they've had over and above what Tatts has generated to spend in their marketing activities and siphon revenues away from Queensland.

We've been in a boxing ring with a hand tied behind our back and now the shackles are off and we can come out swinging and that's what this new deal facilitates.

**NE: The upside for racing in the deal is if Tatts can produce greater revenue. Are you confident you will claw back market share?**

**RC:** That will come with a significant amount of investment back into our business. We are looking to drive top line.

The business in the past has just assumed if you achieved a CPI rate in your growth that was a good outcome. I want to see this business doing five, six, seven per cent top line growth. We won't rest until we start doing that.

But that will come at a cost. We will be investing in marketing, advertising teams, new innovative ways of getting out there. We are talking to Facebook for instance about ways we can work with them in the wagering space.

We are looking at a few other quite innovative businesses too.

We are not sitting on our hands. We are running hard, we are running fast.

**NE: Many have expressed surprise at the longevity of this 30 year deal. How can racing lock itself in for so long without knowing what the future offers?**

**RC:** The thing people should bear in mind with the long term nature is that some of the commitments we have offered are to invest in our infrastructure and our brand. They do require a period of time to make those investments economic. You need a longer term license to achieve that.

Things can change in a 30 year period. Some of the issues that came up in the first 15 years of exclusivity (like) online, ability to advertise and race field fees, show how things can change. We were very conscious of having relief valves in the agreement so if there's a fundamental change in part of the model, we have the mechanics to deal with that through the life of the 30 years.

There are built in fail-safe mechanisms where in a collaborative way we can discuss it and I think that's an important part of the deal.



📷 Racetracks are a greatly under-utilised resource which needs to change according to Robbie Cooke. Picture: Peter Wallis.

### **NE: What can racing do better?**

**RC:** You have a huge amount of capital at racetracks that is under-utilised. There's an element in engaging those assets and working them through the non-racing periods.

We've put forward some joint venture concepts. We're passionately keen to pursue some of the JV's. We're prepared to put hard dollars into trying to leverage some of those on course assets and trying to drive them.

That brings more money to the clubs and it brings people to the course and gets them used to the facilities and might awaken people to what's on offer in a racing sense.

At Tatts we can work more closely with the industry to promote the product through our advertising. I've been very transparent about this. We've under marketed ourselves over the last seven or eight years. That lack of a presence hasn't been promoting the product as good

as it could have been and that's because of the fiscal imbalance with the different regimes across the country.

We've had less money to invest in marketing activities so we've been starved to compete.

Under the new deal you will see Tatts advertising a lot more and that will advertise the product and bring people back to the product.

**NE: You seem to have a very different attitude towards racing than your predecessor Dick McIlwain.**

**RC:** I have a huge respect for Dick. I worked for him when I joined UNiTAB on November 15 1999, the day we floated the business and I stayed there until the end of 2005.

The world was different in those days. I learnt an enormous amount about the business and we did some amazing things.

I was strategist and general counsel so I looked after regulatory and wagering rules, did all the acquisition stuff as well.

We had some fantastic opportunities and we beat the bigger guys. We bought the Northern Territory TAB, we stole that away from Tabcorp and Tab Limited. That gave us the understanding of the benefits of the bigger pool and integrating other businesses. Then we bought (South Australian) TAB after that. It gave what was a risky pool size some critical mass. It allowed us to compete in a bigger market.

Dick was the brains behind those transformational activities and that's why I've got a huge respect for the guy.

When I left, I went to Wotif for seven years and that exposed me to a whole different way of running a business, a whole new generation we were tapping into.

Without that break away I wouldn't have developed the appreciation of the online space and how you can make that work. I wouldn't have had the capacity to do that.

When I came into the (Tatts) job in January last year I think there were a lot of people in the industry who thought I might have been a McIlwain (version) two. I'm not.

I have a very different operating style. I have a very different view of where the world's got to and where we need to go.

That's not in disrespect to Dick, It's just that I'm a different person. I'm my own man and I have my own views as to what we do here.

That was one of the hard things coming on board. A lot of people were wondering whether I was someone they could work with, could partner with and I hope what we've generated through this process, through some very tough negotiations, I think we have come out the

other end with a much improved relationship and trust with Queensland racing, Tatts and the Government about what we're committed to do.

**NE: GIVEN the way the wagering landscape has changed in the last 15 years, does "Exclusivity" really mean anything today?**

**RC:** Obviously because we paid up for it!

It is one of those interesting ones. Back in 1999 when we had exclusivity it was quite a different proposition. What you're relying on today is the benefit that retail franchise can give you in terms of the brand.

That's the biggest opportunity — under-utilised at this time — for us. We've got 800 touch points with consumers, either retail or pubs and clubs, where we have an amazing opportunity to advertise our brand. That's something to date the business hasn't done well.

We have the Tab brand, TattsBet, tatts.com out there and there's no consistency in the public positioning of our product.

The desire of the business is to get that branding seamless at all touch points and then you leverage off that brand position and that exposure.

So when people go past one of our shops and they're thinking about going online, they should be thinking about going to ours, as opposed to the moment when you see a TAB outlet you go to the natural conclusion of tab.com.au and you're betting with our southern cousins, not with us.



📷 The rebranding of Tatts Group will occur in this calendar year according to CEO Robbie Cooke. Picture: Darren England.

**NE: So is it a holding pattern until you launch that new brand?**

**RC:** We've been working furiously the last six months and it is something quite radically different to what we have at the moment. That's a deliberate strategy.

We've also been looking widely across Australia and overseas to see what others are doing in a retailing sense, so when we do our rebranding we can refresh our retail approach as well.

We're flagging it will be this calendar year. The linchpin is getting our website, which will be a best of breed website, delivered and that will be the catalyst for change. Exciting times.

**NE: How many people had an input into the name?**

**RC:** I was around when we changed from TAB Queensland to UNiTAB and that was after we bought South Australia and the Northern Territory.

That was a staff contest to come up with UNITAB. Not a lot of sophistication in the process there!

This one we worked very closely with a branding company who worked with Virgin, Woolworths and it has been a very scientific process where we have talked to customer groups and segments, try and determine what they are looking for in the product offering and building up from that to what the brand should be and how the brand should respond to those different segments. We're hoping that science plays out well.

**NE: You have made a huge financial commitment to upgrading your retail facilities. That surprised a lot of people in this day and age.**

**RC:** There's an enormous investment in retail in the UK and the experience has been when a new store sets up, there's a lift in online sales and retail.

People assume online is going to kill traditional retail. The best evidence from my experience in my days of travel was Flight Centre.

Flight Centre has the biggest retail business of any travel business in Australia. They also have an online business and they've managed to make those two work hand in glove.

An opportunity exists in the wagering space as equal as it does in the travel space. That's what we're going to prove.

People forget back in 1999-2000 we had the old Tabonline.com site which was the online leader at that stage. We lost our way a little bit.

We had the leading online site, we were the first wagering company in southern hemisphere to introduce natural language speech recognition which was bleeding edge technology back in the day, we had enormous phone based business and we had pub, club and agency network.

We've always practised that multichannel model, we just in the last number of years lost our way, lost our momentum and lost our leading position.

That's what this is about. The next two to three years is about regaining the mantle in both bricks and mortar and online.

**NE: Young people cut their teeth on sports betting now. Is there a way to convert them to racing?**



**RC:** I think so. We strategize about this. It's one of the challenges for the racing industry generally.

Betting on sport is more attractive to the younger demographic. It's going to be a growth product, but it does open the path, if people are coming to TattsBet that way, we can then market to them, encourage them and educate them about the racing product.

I don't think it should be seen as the death of betting on racing. It's a way of engaging people. It might be a starter product.

The critical piece also comes back to the customer information database. We need to make it a seamless thing for them to go from one to the other.



📷 Converting the younger demographic from sports betting to racing is one of the challenges for the whole industry. Picture: Chris McCormack.

**NE:** You have been openly critical of corporate bookmakers. Do you concede they have done a good job in securing clients and offering products that people find attractive?

**RC:** Don't get me wrong, I am not a person who shies away from competition. When I was at Wotif.com we had more than 100 online sites trying to eat us for lunch every day.

Competition is good, it keeps you nimble and keeps you on your toes. Online will always remain a very competitive space and we're going to be in that environment competing head to head with the corporates and that forces you to stay relevant and make sure you're offering best of breed.

I think they have brought an energy into the industry that wasn't there before.

But they have had a very large advantage and they haven't contributed as much to the industry as the TABs and that's the point of differentiation.

**NE: They argue it's easier for TAB's to do that when there's certainty in the parimutuel pool, compared to them being exposed to more risk. How do you respond to that?**

**RC:** If you pull apart their financials, everybody loses sight of the fact these are companies with huge corporates behind them. You are talking about William Hill, Paddy Power. These aren't small companies, they are large billion dollar companies. They have very sophisticated risk management systems, they are yielding double digits.

They have a very predictable business. Their vulnerability to fluctuation in win rates is pretty benign. I would argue the other way. I think they have very predictable businesses.

**NE: The wagering trend has been away from parimutuel to fixed odds. Is that a concern?**

**RC:** I don't believe parimutuel will die. I believe it will find its own natural level and we're still on the way to that path. Parimutuel has some big advantages that people lose sight of.

You hear a lot of commentary about people not being able to get large bets on with corporates or fixed odds. There is never that issue with parimutuel. That will continue to be an attraction of those pools and in the exotic markets as well.

In the early 2000s there was a lot of aggressive pricing going on, where win rates were 3 per cent, people thought it would be a race to the bottom and margins would be savaged.

The reality is that win rates are still double digits in fixed price.

**NE: Would you give any consideration to dropping parimutuel takeout rates like Hong Kong?**

**RC:** The biggest issue for parimutuel is in some of the minor codes where it's the pool size that is the critical element.

Once people get certainty the pool will be at a certain level, that tends to act as a magnet and attract money. That's the critical element more so than where the deductions are.

We have the flexibility to move our take-out rate and we do that from time to time. You can do that to stimulate activity but we think pool sizes are the most critical element.

**NE: What about canning the rounding down of dividends, which infuriates punters?**

**RC:** When it was a 50 cent unit it was more significant. Now we've gone to a dollar unit, the roundings are not as large in a percentage sense as they were seven years ago.

It's not something we're actively looking at the moment.

**NE: What percentage of the Tatts Group business does wagering make up?**

**RC:** It's about 35 per cent. You do get people who say we are more focused on lotteries than wagering. Nothing could be further from the truth. Wagering has consumed more of my head space in the last 16 months than anything.

This is a business I am passionate about.

The thing a lot of people miss is that there's some huge efficiencies we get by running both the lottery and wagering businesses.

We have 400 IT professionals based in Brisbane that support those two businesses. We can leverage that resource.

We effectively run them off the same IT systems. That brings a lot of efficiencies to the table which benefits both lotteries and wagering businesses.

**NE: The Product deal includes the 39 per cent of racing revenue, the \$15M fixed fee CPI to 80% and the retail Sports betting (capped to \$5m). But do you see the real upside for this deal in some of the Joint Ventures?**

**RC:** I do. The one that we've specifically mentioned is virtual racing, virtual sport product. We are investigating that at the moment in rolling out into the retail network.

That's a 50-50 JV, we fund it. That has opportunities for both of us.

There are other ideas we have put forward. We can't share them at the moment, they require regulatory approval, but I think if we can get at least one of those ideas up and running, it gives the potential for new business and revenue streams.

We haven't gone out publicly with any numbers, but they are significant. They will make a difference to both the racing industry, the government and also to ourselves. It's a win-win-win.

**NE: The rumour mill says you start work at 3am each day. Is that right?**

**RC:** I am an early starter. I normally get up around 3.15am. I'm a morning person.

People make a thing of that, but at the end of it, if you want to be good at something, at anything, you have to put the hours in. You can't expect things to happen without putting

the hard yards in. I wouldn't do it if I didn't love it.

**NE: You have been quoted previously that there's a short lifespan on the term of a CEO. How long do you see yourself in this position?**

**RC:** Dick McIlwain had been in the chair for 20 odd years. I was in the chair at Wotif for seven years. I think that's a good time. I was able to achieve what I wanted to do.

I'm a fatalistic person by nature and if you're doing a good job, people appreciate what you're doing, if you're enjoying it and if there's still stuff to do and you haven't lost your energy, they are the keys for me.

If the day comes when people think I have lost my energy and enthusiasm and they think I should walk off, then that's a fair call.

I hope I realise that before I get to that stage.

Monday April 10 2017

## Tabcorp and the AHA unveil new five-year exclusive retail betting partnership

Tabcorp today announced a new five-year wagering partnership with New South Wales hotels through the Australian Hotels Association NSW.

The deal sees the AHA's 1116 NSW member venues nominate Tabcorp as their exclusive wagering partner, giving them access to enhanced benefits and expanded access to Tabcorp's unique digital commissions model.

NSW hotels account for \$1.6 billion in annual TAB turnover and the agreement will help pubs offer an improved betting experience to their customers, while reducing costs. It will also drive increased investment in retail facilities to better service venues and the many customers who choose to bet in a NSW hotel.

At the same time, Tabcorp is helping hotels to future-proof their PubTABs and cater to changing customer preferences through its unique digital commissions model, which provides hotels a share of commission on eligible bets that are placed within the venue via the TAB app.

The digital model, which has been operating since November last year, gives venues the same commission on eligible in-venue digital wagering as if the bets were placed in cash. It also enables pubs to benefit from ongoing commissions from any customers that they sign up to a TAB account.

The agreement builds on the strong history of co-operation between Tabcorp and the AHA NSW, which has seen venues play an important role in trialling new initiatives such as digital commissions, digital odds display and digital form.

Tabcorp CEO David Attenborough said:

"We are pleased to reach this agreement with the AHA NSW and its member hotels. Having a bet in a pub is an Australian social tradition and this partnership helps us and our venues to deliver the best wagering experience.

"At the same time, we are making sure pubs benefit no matter how customers choose to bet within the venue."

AHA NSW CEO John Whelan said:

"We're thrilled to partner with Tabcorp for a further five years. We're particularly excited with the direction Tabcorp is heading with digital wagering in PubTABs and we're looking forward to the roll-out of new hotel products and technology over the next five years.

"You can't beat an afternoon at your local pub with friends having a few bets. It's a unique Australian tradition. This partnership will allow us to provide punters an even better pub wagering experience."

TAB has been part of the NSW community for more than 50 years. Unlike other wagering operators, Tabcorp returns hundreds of millions of dollars to the NSW Government and NSW racing industry each year.

For more information:

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**STRICTLY EMBARGOED: Thursday, 30 April 2015**

## **Betting on a bright new future? UBET!**

After much anticipation, thrilling new punting brand, UBET, has officially launched at a gala 'green carpet' event in Sydney.

Amid the fanfare, UBET announced a series of high-profile sports ambassadors and suite of new sponsorships and, in the process, completed a full brand transformation sent a clear "watch out, we're back in game" message to its competitors.

Parent company Tatts Group announced it was rebranding its wagering division TattsBet in late 2014, and last night marked the start of a new era for the wagering space.

At the event, UBET announced its *League of Legends*, featuring some of the biggest names on the Australian sporting scene.

Three-time AFL premiership player Jonathan Brown, dual NRL premiership player, NSW Origin and Kangaroos legend Anthony Minichiello, former Wallabies captain Nathan Sharpe, four-time Bathurst champion Greg Murphy and former ESPN host and US sports expert, Jason Bennett all joined the UBET team as ambassadors.

All five will provide expert insights and commentary for UBET punters.

In addition to its existing sponsorships of racing carnivals around the country and the Gold Coast Suns, UBET announced new partnerships with the Port Adelaide Football Club, V8 Supercars, Melbourne City Football Club as well as official, national charity partner – Mates4Mates.

Chief Operating Officer Barrie Fletton said the rebrand wasn't simply a lick of new paint and a new name.

"This rebrand has been a whole of business evolution. This has been a huge undertaking, ensuring everyone understood the need for change and then working together to make it happen," Mr Fletton said.

"The customer is at the heart of everything we do and, personally, I'm very proud to see the dramatic change that has taken place both internally and externally. This is without question, the most exciting time in our business' history."

UBET, as the exclusive retail operator in Queensland, South Australia, the Northern Territory and Tasmania, has the distinct advantage of being one of only two wagering providers to offer a true multi-channel experience with web, mobile app and telephone betting available in addition to on and off-course retail outlets. One of the major changes under UBET is the emphasis on innovation and new technology.

UBET has launched a new website as well as best in class mobile and iPad apps, which provide punters with a vastly different digital experience. Some of the key features include a more intuitive design, quick multi bets, improved account management functionality and live Sky Racing vision (excluding NSW and Victorian thoroughbreds).



“We know how important vision is for punters, so this is a big win for our customers to be able to be watching the Sky coverage, whilst remaining in the app and reviewing the form or placing bets,” Mr Fletton said.

But UBET isn’t turning to the online world at the expense of bricks and mortar. It recently opened Australia’s first UBET store at New Farm in Brisbane, commencing a multi-million dollar investment in its 1,200 outlet-strong retail network, with the next store to roll out in Tasmania followed by Adelaide.

The new retail concept represents the TAB of the future – a vastly different look and feel with cutting-edge video wall technology, sound canopies, stadium-style seating and new betting terminals.

In an Australian first, the inclusion of UBET Live, a digital, in-play sports betting solution will allow punters to bet through a customised app on an in-store tablet device.

The new retail concept will be rolled out across all outlets over three to four years in Queensland, South Australia, Tasmania and Northern Territory.

**ENDS**

#### **Notes to Editors**

- Thursday 30 April, 2015 marks the official launch of the re-branded wagering division from TattsBet to UBET
- UBET has launched across all customer touch points including retail and digital spaces offering customers a new, innovative experience
- TattsBet started trading in 1962 as TAB Queensland. Privatised in 1999 and took over TAB operations in NT (2000), SA (2002), Tasmania (2012)
- UBET is licensed to operate retail exclusively in these four jurisdictions
- There are 1,200+ UBET stores in QLD, NT, SA and TAS and UBET’s digital offering extends nationally and is available to all Australians
- The business generates turnover in excess of \$3.5 billion annually
- The TAB stores won’t all move to UBET stores overnight. It’s a 3-5 year transition given the size of the network
- Parent company Tatts Group is Australia’s largest provider of wagering, lotteries and gaming in products and services in Australia

#### **About UBET**

UBET is Australia’s premier provider of pari-mutuel (or totalisator) and fixed price betting.

UBET conducts wagering on thoroughbred, harness and greyhound racing as well as on a variety of sports including AFL, NRL, Rugby Union, Soccer, Cricket plus many more both domestically and internationally.

With Australia’s largest wagering retail footprint, the UBET retail network consists of over 1,400 standalone, Pub, Club and on-course TAB outlets (soon to be UBET as part of a national retail

# **MEDIA RELEASE**



upgrade). UBET has in-excess of 150,000 active account customers betting securely 24 hours a day, 7 days a week over the phone or through a class-leading website as well as through mobile and tablet applications.

UBET provides punters with a range of pre-match and in-play markets, access to Live Sky Racing Vision through digital platforms and Australia's premier wagering rewards program – UBET+. Punters are also delivered expert analysis and tips from some of sport and racing's biggest names.

UBET is a wholly owned subsidiary of Tatts Group Limited and holds exclusive retail licences in Queensland, South Australia, Tasmania and the Northern Territory.

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☒ Sky Racing vision won't available on UBET's website and mobile app. Picture: Nikki Davis-Jones

## Racing

# Punters lose in vision feud between Tabcorp and UBET

Ben Dorries, @dorries\_email, The Courier-Mail  
February 2, 2016 6:26pm

QUEENSLAND punters are about to face a blackout of live Sky Racing vision on UBET's website and mobile app.

A breakdown in negotiations over the fee charged by Sky Racing for the vision service has led to punters being left in the dark from midnight on Wednesday.

Sky Racing, which broadcasts to millions of homes and thousands of retail outlets, is owned by Tabcorp, which is a competitor of UBET.



It is understood Sky Racing's proposed fee to UBET for broadcasting the race vision skyrocketed after the last contract deal expired.

The stalemate in negotiations is another sign of the growing chasm between Tabcorp and Tatts Group (operators of UBET).

UBET spokesman Brad Tamer said he hoped the situation could be resolved.

There is even the possibility that UBET could look to secure vision of Victorian races from racing.com. However, that would exclude vision from other states and greyhound and harness racing vision, which is now available on UBET's website and mobile app.

"Obtaining digital vision of all racing including Victorian thoroughbreds is of interest to us, provided we can strike the right commercial deal," Tamer said.

"But we are certainly keeping the dialogue open with Sky Racing.

"Neither party had been able to land on the place they wanted when it came to re-negotiations. So the service will be switched off. Unfortunately sometimes these things happen in business."

In a statement to customers, UBET advised: "As a valued customer, we wanted to advise you that due to contractual rights expiring, unfortunately, live Sky Racing Vision will no longer be available through the UBET website or the UBET App, from midnight of Wednesday 3 February.

"We understand this is disappointing and apologise sincerely for any inconvenience this may cause."

# MEDIA RELEASE

**Tabcorp**



10 March 2017

## **Community Clubs Victoria and Tabcorp launch multi-million dollar wagering, Keno and gaming partnership**

Tabcorp today announced a new five-year wagering, Keno and gaming partnership with clubs in Victoria through its long-term partner Community Clubs Victoria.

The wagering deal sees more than 100 member venues across Victoria share in new capital investment as well as sponsorship, marketing and promotional funding.

Clubs will also benefit from reduced costs and ongoing access to Tabcorp's ground-breaking digital commissions initiative, which provides venues with commission from eligible bets placed via the TAB app within their premises.

The digital model, under which clubs also get an ongoing commission from all wagering done by customers who open a TAB account in their venue, has already captured more than \$57m in in-venue digital turnover and provided TAB retail outlets with \$1.5m in commissions in just four months.

The agreement, announced today at Buckley's Entertainment Centre in Geelong, will help clubs continue to deliver the best service to their customers and provide financial and social benefits back to the communities in which they are based.

The benefits of the partnership extend across Keno and gaming with capital upgrades and performance incentives for Keno and extra training support for Tabcorp Gaming Solutions venues.

Tabcorp CEO David Attenborough said: "We are very pleased to reach this agreement with Community Clubs Victoria and their member venues. Having a bet in a club is a popular Australian social tradition and this partnership helps us and our venues to deliver the best wagering, Keno and gaming experience possible.

"At the same time, we are making sure clubs benefit no matter how customers choose to bet within the venue."

Community Clubs Victoria President Leon Wiegard said: "This is a great day for CCV member clubs. We are pleased that Tabcorp has listened to the concerns of our members and has agreed to implement changes that will on the one hand reduce club operating costs, and on the other provide opportunities and pathways to greater revenues.

"Clubs are not-for-profit community organisations that use the funds from their businesses to support sporting and social activities in the broader community. Tabcorp's partnership with CCV is going to ensure the best customer experience and help clubs achieve their true purposes.

Michael Tonks, Buckley's Group CEO, said: "The new agreement extends the long history of co-operation that clubs in Victoria have enjoyed with Tabcorp. We think the benefits that this deal provides for upgrades, incentives and digital commissions will help clubs such as Buckley's, and venues throughout Victoria, deliver the kind of service our patrons have come to expect.

"We are thrilled that CCV and Tabcorp have chosen to come to Geelong to launch the new agreement. Clubs are a big part of life in Geelong and the Bellarine Peninsula we are pleased that Buckley's and the other 10 clubs in the region will benefit from the new five-year agreement."

For more information:

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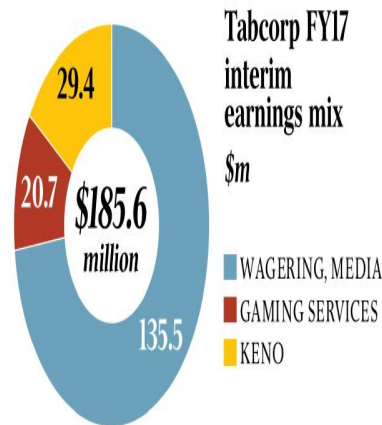
Tabcorp Holdings Ltd

[tabcorp.com.au](http://tabcorp.com.au)

ABN 66 063 780 709

## THE AUSTRALIAN

## Tabcorp pub deal trumps James Packer and CrownBet



Source: The company

Tabcorp FY17 earnings mix.

SCOTT MURDOCH THE AUSTRALIAN 12:00AM April 10, 2017

Tabcorp will today reveal an exclusive wagering deal with NSW pubs to effectively stop rival CrownBet from extending its controversial clubs agreement to hotels across the state.

Tabcorp and CrownBet are locked in an ongoing battle after the James Packer-backed gaming group reached a deal in February to provide exclusive digital wagering services to 1200 clubs across the state.

Under the clubs deal, CrownBet provides Wi-Fi and encourages club customers to bet using the company's wagering app and it has also started to roll out "cash in, cash out" machines that allow punters to collect their money on winning bets.

The ClubsNSW digital deal, which is reportedly worth up to \$300 million, took the gaming industry by surprise, with Tabcorp widely seen as the favourite to win the transaction.

The loss has been a major sticking point for Tabcorp, which is pushing ahead with its ambitious bid to create an \$11 billion mega-gaming group with rival Tatts Group. CrownBet has teamed up with Racing Victoria to protest against the merger proposal and argued the deal will leaving punters worse off across the east coast.

However, Tabcorp chief executive David Attenborough will today announce a deal with Australian Hotels Association NSW for a five-year wagering partnership.

There are 1116 AHA members across the state, and under the deal the pubs will receive a commission from the bets placed at their venues on the TAB app. The rate is the same as when bets are placed in cash.

Mr Attenborough said it was important the hotels received revenue to reflect the changing nature of the way punters placed bets.

It is estimated that NSW pubs and hotels account for \$1.6 billion in annual TAB turnover.

"We are pleased to reach this agreement with the AHA NSW and its member hotels. Having a bet in a pub is an Australian social tradition and this partnership helps us and our venues to deliver the best wagering experience," Mr Attenborough said.

"At the same time, we are making sure pubs benefit no matter how customers choose to bet within the venue."

AHA NSW chief executive John Whelan said wagering turnover through the state's hotels remained strong, and the Tabcorp deal would give pub customers flexibility to place bets.

"We're thrilled to partner with Tabcorp for a further five years. We're particularly excited with the direction Tabcorp is heading with digital wagering in PubTABs and we're looking forward to the rollout of new hotel products and technology over the next five years.

"You can't beat an afternoon at your local pub with friends having a few bets. It's a unique Australian tradition. This partnership will allow us to provide punters an even better pub wagering experience."

Tabcorp has also started rolling out digital form in pubs and retail betting agencies and increased investment in displaying digital odds.

Tabcorp has grown keener to combat CrownBet's growing ambitions. It signed a deal last month for a similar wagering deal with Community Clubs Victoria and Clubs Queensland recently said it was unlikely to follow the NSW lead and sign with CrownBet.

CrownBet chief executive Matt Tripp has previously flagged the group was keen to expand strongly in Queensland.





Tabcorp encouraging digital punting

NSW

# Tabcorp declares war on CrownBet over ATM-style withdrawal machines in NSW clubs

Andrew Clennell, State Political Editor, The Daily Telegraph

February 9, 2017 12:00am

 Subscriber only

- [\*\*CROWNBET: OFFICIAL NSW CLUBS BETTING PARTNER\*\*](#)
- [\*\*TABCORP, TATTS BET ON \\$11.3 BILLION MEGA-MERGER\*\*](#)

PLANS by an online bookmaker to install cash withdrawal machines in clubs across NSW has led to a declaration of war by rival gaming giant Tabcorp.

[As revealed in yesterday's Daily Telegraph](#), the James Packer-owned CrownBet revealed its ATM-style withdrawal machines was part of a 10-year deal signed with Clubs NSW.

But the plan yesterday sparked Tabcorp – which has its own betting machines located in the state's pubs and clubs – to write to hundreds of clubs across NSW warning them they may be in breach of the law if they install CrownBet machines in their clubs.

The letter from Tabcorp comes after CrownBet announced a deal with Clubs NSW for clubs to earn commissions on bets made with the online betting operator by their members in NSW venues.



📷 Tabcorp has written to hundreds of clubs across NSW warning them they may be in breach of the law if they install CrownBet machines in their clubs.

Under the proposal, the incentive for punters to bet with CrownBet will be to earn club loyalty points which can be redeemed for food and drink purchases at each venue.

In a statewide-first, the online gaming operator will also offer cash redemption machines which allow members to withdraw their winnings, rather than transfer them to personal bank accounts.

But a letter from Tabcorp Chief Executive David Attenborough to club chief executives yesterday insists the TAB “is the sole wagering provider that is entitled to provide gambling services (including digital wagering) offcourse in NSW, by virtue of its wagering licence and New South Wales wagering legislation”.



📷 ATM in clubs has led to a declaration of war by Tabcorp.

📷 Tabcorp Chief Executive David Attenborough.  
Picture: Hollie Adams

The letter goes on: “Tabcorp is reviewing the proposed CrownBet service and considering options, including whether the combination of features that comprise that service cause CrownBet (or would cause the owner or occupier of a New South Wales venue facilitating that service) to contravene various sections of the Unlawful Gambling Act.

“We note that s31 of that Act prohibits an owner or occupier of a premises from knowingly allowing the premises to be used for, or in connection with, bookmaking carried on by or on behalf of a person who is not a licensed bookmaker.





📷 Tabcorp is reviewing the proposed CrownBet service and considering options.

“Tabcorp’s strong understanding is that CrownBet is not a licensed bookmaker for the purposes of the UGA.

“We encourage you to evaluate the CrownBet proposal in light of the legal risks as well as Tabcorp’s commercial offering.”

Tabcorp paid \$75 million to the NSW government for a 20-year exclusivity deal with the clubs and pubs in 2013. A spokesman for Gaming and Racing Minister Paul Toole said yesterday: “Liquor & Gaming NSW will examine the (CrownBet/Clubs) arrangements to ensure they are consistent with regulatory requirements.”

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## Jacqueline Partridge

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**From:** James Tzaferis  
**Sent:** Thursday, 18 December 2014 5:45 PM  
**Subject:** Racing Victoria Media Release: A vision for the future

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# RACING VICTORIA MEDIA RELEASE

Thursday, 18 December 2014

## A vision for the future

Racing Victoria (RV) Chairman, Rob Roulston, has issued the following statement regarding the dispute between TVN and the Tabcorp-owned Sky Racing regarding the right to broadcast Victorian Thoroughbred Racing from today onwards:

“The Racing Victoria (RV) Board met today and is fully supportive of TVN’s efforts to secure a fair deal for Victorian Thoroughbred Racing for the distribution of racing media.

Victorian Thoroughbred Racing is regarded as one of the world’s leading racing jurisdictions, and a world leader in the quality and competitiveness of our racing, our integrity systems and the appeal and audience of our racing carnivals.

RV is not satisfied that Tabcorp’s (Sky Racing) latest offer is in the best interests of growing engagement and wagering for Victorian Thoroughbred Racing, and does not represent a fair commercial offer for the valuable media rights of our Clubs.

RV supports the TVN decision to not accept Tabcorp’s (Sky Racing) latest offer for the following reasons:

1. Tabcorp (Sky Racing) is seeking to pay TVN less money for more rights. The expanded rights being offered by TVN to Tabcorp cover all Victorian and NSW Thoroughbred Racing and include (i) commercial and pay TV; and (ii) non-exclusive digital live and replay rights. The previous agreement did not include NSW country and provincial racing or any digital rights.



2. Tabcorp (Sky Racing) is seeking to penalise Victorian Thoroughbred Racing for any future increases in race fields' fees. RV must have the capacity to establish a fair commercial price for wagering operators to take bets on our product, without any one wagering operator gaining a financial advantage over others.

3. Tabcorp (Sky Racing) is seeking to restrict the ability for Victorian Thoroughbred Racing to export our racing to overseas markets, by applying further financial penalties to the already reduced domestic offer if Tabcorp (Sky Racing) no longer had the exclusive international rights to our product. Tabcorp is not offering Victorian Thoroughbred Racing a fair share of existing and potential revenue from the international exposure of our world class product.

4. Tabcorp (Sky Racing) is seeking to penalise Victorian Thoroughbred Racing for any future expansion of free-to-air coverage of our racedays, beyond the 25 premium racedays already shown on the Seven Network. Increased coverage of Victorian Thoroughbred Racing on free-to-air television has helped grow engagement and wagering on our product, from which Tabcorp has also been a beneficiary.

5. Tabcorp continues to oversee a complex series of charges between the Victorian TAB Joint Venture and SKY Racing channels that sees Tabcorp essentially pass on much of the cost of TVN rights back to the Victorian Racing Industry. Victorian Thoroughbred Racing does not support the continued subsidisation of its own rights fees.

RV also supports TVN's negotiations with wagering service providers to see the broader distribution of live racing vision for Victorian Thoroughbred Racing on digital devices.

In summary, it should also be reinforced that it is Tabcorp's decision to not accept TVN vision for SKY Racing channels as of today.

RV is working hard with TVN to ensure that, unlike previous blackouts, punters and participants still have multiple options to watch Victorian and NSW racing live at home, on the move and in pubs and clubs.

RV would like to acknowledge the support of FOXTEL and FOX SPORTS in helping to deliver the broadcast of TVN into the high percentage of TAB pubs and clubs that also have FOX SPORTS.

RV would also like to acknowledge Telstra for supporting the provision of live free-of-charge racing vision to desktop via racing.com and racingnetwork.com.au; and to the Racing Network App.

The team at racing.com have today made live vision available on desktop and is now set on making it mobile-ready in the near future. This vision will be supported by racing.com's world class field and form, along with its free replay service for all Victorian races.

Given the complexity of these discussions, and the wide gap in positions between Tabcorp (Sky Racing) and TVN and Victorian Thoroughbred Racing, our expectation is that this issue may not be resolved until the New Year.”

## ENDS

### *Notes To Editors*

*In considering this statement, it is important to note the following regarding RV's role and responsibilities:*

- *RV is the Governing body for Victorian Thoroughbred Racing and its statutory rights and obligations is to look after the long term interests of the Victorian Thoroughbred industry;*
- *RV is not a shareholder in TVN, and does not control the media rights for the Victorian Clubs;*
- *RV is a joint venture partner of Vic TAB Pty Ltd (owned by Tabcorp), and Tabcorp owns the Sky Racing channels; and*
- *RV is responsible for the overall wagering framework and policies that are the dominant source of funding for the Victorian Thoroughbred Racing industry and its 70,000 participants.*

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