

12 May 2011

NSW Law Reform Commission

By email: nsw_lrc@agd.nsw.gov.au

Re: Consultation Paper 12, Cheating at Gambling – Tabcorp Submission

We refer to the NSW Law Reform Commission, Consultation Paper 12 (“Paper”), titled *Cheating at Gambling*. We welcome the opportunity to make a submission with regards to various matters raised in the Paper.

We note the terms of reference as highlighted in the Paper which requires the NSW Law Reform Commission to consider:

- a. Development of a specific cheating offence in relation to sports and event betting, and formulate a possible offence; and,
- b. Whether there should be a codification and consolidation of the offences concerned with cheating or fraudulent conduct in relation to sports and event betting and gaming activities; or, alternatively, whether there should be a core set of provisions expressed in similar terms to be included in the individual gambling Acts.

The report also highlights some related issues being:

- a. The possible establishment of a single Gambling Commission or Authority in NSW;
- b. Procedures for the approval of betting events and gaming activities; and,
- c. The roles of the sports controlling bodies and integrity units, and of the betting agencies, in securing the integrity of sporting and other events and of gaming.

- Creation of a cheating offence

Tabcorp prides itself on the integrity of its operations and recognises that if customers are not convinced of a betting operator’s veracity and reliability then the reputation of our business may suffer. As a result, Tabcorp does support the establishment and development of a specific cheating offence in relation to sports and event betting and the formulation of an offence, provided that there is a real and genuine ability for the offence to be enforced by relevant law enforcement or regulatory bodies.

If the offence were state based, and a person perpetuates the offence via an international betting operator or a betting operator licensed outside of NSW, it is unclear if the NSW regulators, or NSW law enforcement or NSW based legislation are in a position to manage the prosecution of the offences.

For this reason, we would support the amendment of the Commonwealth Crimes Act, rather than any state based legislation, with enforcement powers afforded to a federal entity to manage breaches of the offence. Whilst the Australian Federal Police may be able to manage enforcement of offences, given their conflicting workload, it is unlikely that true and effective enforcement would occur by the Police and consideration may need to be given to which entity is best placed to manage enforcement and prosecution of breaches of the newly created laws.



Wagering Division

Head Office
495 Harris Street
Ultimo NSW
Australia 2007

GPO Box 4168
Sydney NSW
Australia 2001

Tel 61 2 9218 1000
Fax 61 2 9218 5010

www.tabcorp.com.au
ABN 66 063 780 709



Tabcorp's concern with the ability for true and effective enforcement by state based regulators stems from particular situations where we have raised issues with the NSW regulator which breach NSW based legislation and the NSW regulator does not appear to have the appropriate powers to act. For example, we recently identified a betting agency offering cash betting in licensed premises. This is a breach of the Unlawful Gambling Act and we were referred by the NSW regulator to the NSW Police. We are unclear of the priority likely to be afforded to such a matter by the NSW Police.

A similar situation has occurred with regards to the NSW regulator enforcement of betting agencies situated outside of NSW breaching the laws with regards to gambling advertising. The NSW regulator does not appear to have the necessary powers that would enable it to regulate agencies which are licensed outside of NSW, but offer betting services to NSW residents and in the process of offering that betting service breach NSW laws.

For these reasons, whilst we support the creation of a specific cheating offence, we would need to properly understand how and by which entity the laws would be enforced as well as understand that there is a genuine ability and appetite for either regulators or law enforcement to prosecute the new cheating offence.

- The possible establishment of a single Gambling Commission or Authority in NSW

Tabcorp considers that the gambling industry is already highly regulated across Australia by both individual state based gambling regulators and some federal regulation.

We understand the reasons for the possible creation of a single Gambling Commission or Authority in NSW, is to unify all the regulatory gambling functions which are currently shared between different entities. For these reasons we tentatively support the introduction of a single Gambling Commission or Authority in NSW, but we would prefer the creation of a national Gambling Commission or Authority tasked with unifying the myriad and varied regulation that applies across Australia with regards to gambling.

A case in point is the current state based advertising gambling restrictions which differ across each state in Australia creating unnecessary complexity and difficulties for all betting operators. A national Gambling Commission or Authority may be tasked with the creation of unified gambling laws that apply across Australia.

- Procedures for the approval of betting events and gaming activities

We support a simplified and unified process for gaining approval of betting events and gaming activities and for there to be national uniformity of events on which bets can be placed. Currently states and territories differ with regards to how approvals are sought for new betting events and gaming activities and also the events on which betting can be offered. This inequity of events on which bets can be placed dependent on state, territory or international jurisdiction encourages NSW residents to open either international or other state or territory accounts and bet using those accounts.

We do not however support the introduction of a similar process that exists in Victoria for the approval of betting events and gaming activities. We have found this process to be unduly inflexible compared to, for example, the Northern Territory, such that we consider that we are placed at a competitive disadvantage in Victoria in terms of obtaining approvals for new sports events. Whilst we



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Head Office
495 Harris Street
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Australia 2001

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Fax 61 2 9218 5010

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ABN 66 063 780 709



appreciate that a regulator must take steps to properly educate themselves about new events and integrity impacts, the inflexibility of the Victorian process for approval of new events is at odds with both the:

- a. List of already approved events in, for example, the Northern Territory and overseas; and,
- b. The time it takes to approve events in other jurisdictions, such as the Northern Territory. Tabcorp has only requested one new event to be approved in the Northern Territory (due to the already lengthy list of approved events) and approval was granted within six working days.

This inequity in the process across different states and territories for the approval of new events, only serves to send customers to those jurisdictions where there is a full contingent of betting options available.

A preferred position is that there is a nationally agreed and consistent list of approved events on which betting can take place, which, given the approvals in place already in the Northern Territory should be based on the Northern Territory list. Additions to this list would require an appropriate process to be followed which satisfies the regulator of the integrity of the event, but in meeting this criteria, there should be a focus on ensuring that the administrative burden on betting agencies when applying for approvals is not unduly onerous. In considering approval, one of the matters that the regulator should consider is whether or not a customer can gain access to betting on the requested event via an international betting operator. If this can occur, there should be a pre disposition for approval, such that customers are not forced off shore to conduct their betting.

- The roles of the sports controlling bodies and integrity units, and of the betting agencies, in securing the integrity of sporting and other events and of gaming

We accept that Sports Controlling Bodies, racing control bodies and betting agencies play a combined role in managing and securing the integrity of sporting and other events. We currently have agreements in place with all racing and major sports bodies which require us to support racing and sports in both a reactive and proactive manner with regards to managing the integrity of racing and sports events.

With regards to sports, whilst we have taken the opportunity to ensure that these agreements have a national reach, technically we were only required to reach agreement with regards to events played in Victoria.

The VCGR has limited ability to take action against those betting operators who refuse to reach agreement with the Sports Controlling Bodies with regards to the payment of a product fee and management of integrity matters as the penalty would be an inability to offer betting on events played in Victoria.

To use an example, whilst it may be important for betting operators to reach agreement with the AFL (given that the majority of the games are played in Victoria) it may not be as important to reach agreement with the NRL, given that there are few games played in Victoria.

We would support extending this legislation across Australia, provided that sufficient enforcement powers are afforded to the regulators and law enforcement entities tasked with managing breaches of the legislation.

- Suspending/voiding betting markets



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We note one comment in the report which states *Consideration may also need to be given to the circumstances in which betting markets could or should be suspended or voided, and the powers needed to achieve this, where there is a reasonable cause for suspicion that cheating is taking place. The Gambling Commission already has these powers in the UK.*

We do not consider that this is a situation that needs to be regulated and is the responsibility of the betting agency to manage, given that the financial risk is with the betting agency and therefore the betting agency should control any decision to suspend or void markets.

Betting agencies are vigilant to customers' betting behaviour, and have strong risk management practices which identify when inconsistent or abnormal betting is taking place. For example, Tabcorp identified the situations involving the Melbourne Storm disqualification and the issues surrounding the Cowboys/Bulldogs game very quickly due to the inconsistent betting taking place and the markets were suspended.

Despite these high profile examples of markets being suspended for integrity purposes, betting agencies routinely suspend markets for non integrity related purposes and this can occur many times across the course of a day.

We consider that it would be impractical for a Commission to attempt to regulate how and when markets were suspended and firmly believe that this is a matter best managed by the betting agencies which carry the burden of financial risk associated with the suspension of markets.

We thank you for the opportunity to put forward our views regarding matters raised in the NSW Law Reform Commission Consultation Paper 12 and we trust that they are given due consideration by the Commission when finalising its report.

If you wish to discuss any of the matters we have raised, please do not hesitate to contact me on

Yours sincerely,

ROBYN ZIINO
GM REGULATORY & COMPLIANCE



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Head Office
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Ultimo NSW
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Sydney NSW
Australia 2001

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