

Gaming & Leisure Industry Update

May 2013

NSW Tote odds betting approved & race club sanctions broadened

On 1 May the NSW government passed legislation that will allow NSW licensed on course bookmakers to offer bets on and off course reflecting the declared tote price, commonly called Tote odds betting. The change brings NSW in line with bookmakers in other jurisdictions who can offer this product, including the Northern Territory, Victoria, Queensland and South Australia. All three racing codes have supported the change. The legislation also broadens the range of sanctions available to Racing NSW if a registered NSW race club fails to comply with a condition of its registration. These include suspension of the race club's registration and civil penalties of up to \$5,500 for a first offence and \$11,000 for subsequent offences. This is in addition to the previously available sanctions of censure and de-registration. The changes are intended to assist in ensuring the ongoing sustainability and integrity of the NSW racing industry.

NSW Race fields 2% fee for 'premium race meetings'

Under amendments made to the Racing Administration Regulation 2012 (NSW), the maximum fee that can be charged by the three controlling bodies, GRNSW, HRNSW and RNSW, for use of NSW race field information on any race held at a 'premium race meeting' has been increased from 1.5% to 2% of the holders wagering turnover. A 'premium race meeting' means a race meeting at which any one or more: (1) horse race is held offering prize money of \$150,000 or more; (2) harness race is held offering prize money of \$30,000 or more; or (3) greyhound race is held offering prize money of \$25,000 or more. The maximum fee that can be

charged for all other races continues to be capped at 1.5%. The amending legislation also permits race field information use approvals to be varied as a consequence of the change in that maximum amount.

More Joyous stewards inquiry

Racing NSW stewards have held an inquiry into the circumstances surrounding the performance of More Joyous in the All Aged Stakes held at Royal Randwick on 27 April. In particular, the inquiry focused on assertions made by More Joyous' owner, John Singleton, that in the lead up to the race he was informed by third parties that there was an issue with the health of More Joyous, and that that information had been disclosed to one of those parties by Tom Waterhouse, the son of More Joyous' trainer Gai Waterhouse, a couple of days before the race.



After two separate days of hearings, John Singleton has been fined \$15,000 for displaying conduct prejudicial to the image or the conduct of racing. Gai Waterhouse has denied two charges of failing to inform the stewards of More Joyous' condition and will defend those charges in the coming week. Tom Waterhouse has been cleared of any wrongdoing, but warned to keep his bookmaking business separate to his mother's horse training business. Thomsons will continue to monitor the fallout from this inquiry, including any wider reach ramifications for the racing industry that may flow.

Inquiry into the advertising and promotion of gambling services in sport

The joint select committee inquiry into the impact of advertising and promotion of gambling on sport is fast approaching its reporting date of 16 May 2013. The inquiry was called amid ongoing concerns regarding what many believe is excessive and inappropriate advertising, promotion and sponsorship by certain Australian-licensed betting operators around and during sporting events.

The inquiry has undergone three public hearings to date, with each hearing focusing on several of the inquiry's terms of reference and the questioning of key stakeholder witnesses. The primary concern is that the advertising is influencing vulnerable people, and children in particular, risking a future generation of problem gamblers who intrinsically connect sport with gambling. However, the inquiry has also become caught up in the heat generated by the Australian Crime Commission's investigation into the integrity of Australian sport. The prominent argument being that sporting codes cannot effectively avoid conflicts of interest and decrease the risk of match fixing whilst receiving monetary incentives from betting operator sponsorship deals.

It remains to be seen what substantive reform, if any, will result from the inquiry. Many stakeholders have recently announced self-regulated industry advertising codes in the hopes of satisfying the concerns and avoiding potentially strict legislative regulation. However, with opposition leader, Tony Abbott, recently announcing that he will legislate a ban on the advertising if elected and with the ongoing concerns about integrity in the wagering and sporting industries, it is questionable whether industry regulated efforts will ultimately be enough to satisfy decision makers. Thomsons will provide a full alert once the committee's findings and recommendations are released.

Echo Entertainment offers unsolicited proposal to NSW Government

Echo Entertainment Group Ltd, the operator of The Star casino in Sydney, has made an unsolicited proposal to the NSW Government in the hopes of extending its current exclusive licence arrangement, which is due to end in 2019. Echo Entertainment's proposal, which is reportedly accompanied with an unspecified payment for the additional period of exclusivity, counters Crown Limited and James Packer's proposal to build a second Sydney

casino and six star resort at Barangaroo after The Star's exclusivity period ends.

Echo Entertainment's proposal leaves the NSW Government in a position to decide which of the mutually exclusive arrangements is ultimately better for the State to pursue. In a media release, NSW Premier, Barry O'Farrell, has stated that both Echo Entertainment and Crown Limited have been given a deadline of 21 June 2013 in which to lodge their final competing Sydney casino proposals. Following this, an independent steering committee, chaired by Mr David Murray AO, will complete its comprehensive assessment and provide its advice to the NSW Government. Thomsons will continue to monitor all developments.

UK moves to regulate (and tax) online gambling on the basis of where bets are placed

The UK is currently proposing changes to its gambling licensing laws, which will see online gambling regulated on the basis of where bets are placed (that is, a 'point of consumption' system) opposed to where the gambling operator is physically located, from December 2014.



Under the current system, gambling providers located offshore are permitted to operate in the UK if they hold a gambling licence in certain approved jurisdictions. The new system will require these offshore operators to obtain a UK licence in order to provide services or advertise to UK-based consumers. The Government has justified the changes from a consumer protection standpoint. However, a key consequence of introducing the new system may be to bring all offshore operators, usually located in tax-friendly jurisdictions such as Gibraltar, within the UK's tax regime.

In a written submission to a UK parliamentary committee, the Gibraltar Betting and Gaming Association, an industry body comprising the largest Gibraltar-based gambling operators, stressed that if the Government proceeds with the proposed legislative reforms it would

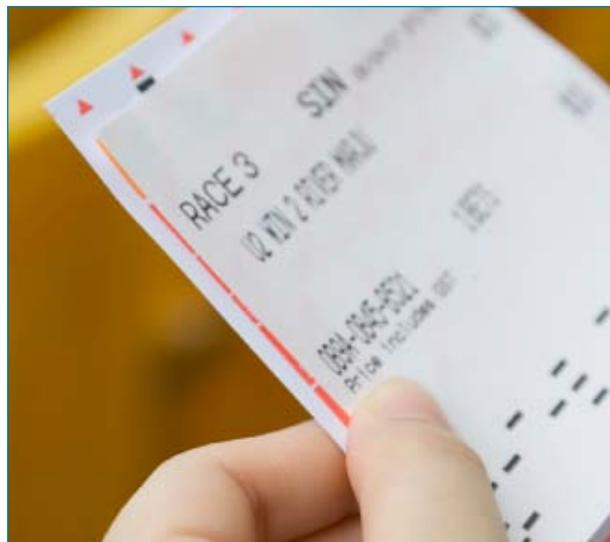
have little alternative but to commence judicial proceedings to challenge the measures. The key argument appears to be that the new system would offer an unfair advantage to gambling operators physically located in the UK, in breach of fundamental EU principles of freedom of establishment and free movement of services. Again, Thomsons will continue to monitor all developments.

Review commissioned into future of ACTTAB

The ACT government has appointed PricewaterhouseCoopers (PwC) to undertake a detailed review into the future ownership and governance arrangements of ACTTAB. Treasurer Andrew Barr says the study, due to be released later this month, will identify the full range of future ownership options and the issues associated with each. The various options range from retaining full government ownership through to the partial or full transfer of ownership to the private sector. As well as examining each of the options, the study will look at staff interest, including transferring employees and their entitlements. ACTTAB is one of two remaining government owned betting agencies in Australia and in 2011-12 it reported a \$2.1 million after-tax profit. Mr Barr says the government would only consider full private ownership if it was in the public interest.

ACCC approves fixed odds deal between ACTTAB and Tabcorp

The Australian Competition and Consumer Commission (ACCC) has granted authorisation to Tabcorp for its agreement with ACTTAB to provide fixed odds wagering management services. Authorisation is a process where the ACCC may grant protection from legal action for conduct that might otherwise breach the Competition and Consumer Act 2010 (Cth). The authorisation has been granted for a period of 5 years. In return for the payment of management fees by ACTTAB to Tabcorp, the deal enables ACTTAB to provide the same fixed odds wagering services to its customers as those provided by Tabcorp. ACCC Deputy Chair Dr Michael Schaper said "The ACCC considers that the agreement will enable ACTTAB to supply fixed odds wagering services to its customers that it may not otherwise be able to provide... competitive detriments are likely to be small due to the significant presence of betting exchanges and corporate bookmakers in Australia and overseas, who compete with ACTTAB and Tabcorp for customers and drive pricing in relation to fixed odds wagering."



The rise and rise of social gaming

FarmVille, Words with Friends and Draw Something are all examples of electronic games played online in real time amongst friends, and all form part of the burgeoning 'social gaming' industry whose revenue is expected to reach \$6 billion in 2013, on the back of 184.3% growth per year on average since coming into existence in 2007. Established in 2007, Zynga is one of the leaders in the industry, and as of January 2013 it had over 265 million monthly active users. Social games are quickly evolving from farming and simulation type games like FarmVille where players use real money to buy virtual currency known as "farm coins" which they use to manage their virtual farm, to casino style games like Slotomania, Zynga Poker and DoubleDown Casino. As with FarmVille, these casino style games allow players to buy virtual currency or chips for real money which are then used to play the games. However, by adopting a virtual currency that is not redeemable for "money or anything else of value", the position in Australia is that these games are not currently prohibited under the Interactive Gambling Act 2001 (Cth) (IGA) because they do not satisfy the definition of a "gambling service".

The rise in popularity of these casino style social games has resulted in some publicity of late, including from Independent Senator Nick Xenophon, who has called on the 'loophole' with respect to casino style games and the use of virtual currency to be banned. Looking forward, one of the key issues in the debate appears to be the distinction between casino style social games on the one hand, and more traditional social games, like board games and fantasy sports on the other.



In relation to the casino style social games, there are two key arguments as to their negative impact. Firstly, it is said that the games, which are easily accessible by children and appeal to them by featuring colourful cartoon

characters, normalise gambling and increase the likelihood of children developing gambling problems later in life. Secondly, the games feature inflated odds that may mislead adults. In contrast, the look and feel of more traditional social games that are not related to casinos or gambling in the traditional sense are arguably less damaging from a public policy perspective.

Although both categories are clearly very different, both will still fall within the IGA's definition of a prohibited "gambling service" if the player pays to play the game, the game is a game of chance or mixed chance and skill, and the game is played for money or anything else of value. The final report into the review of the IGA released in March 2013 appeared to recognise this distinction, noting that a difficulty in attempting to prohibit gambling-like applications that allow the purchase of virtual currency with real money would be defining such games in a way that does not inadvertently capture the myriad of other social games. Thomsons will continue to monitor developments and opportunities in this dynamic area.

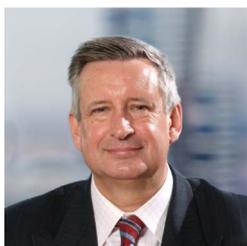
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