

24 July 2019

Update on UBET – Racing Queensland Dispute

Tabcorp Holdings Limited (**Tabcorp**) and its subsidiary UBET QLD Limited (**UBET**) (together the **Company**) refer to the Claim made by Racing Queensland in the Supreme Court of Queensland on 28 June 2019 (the **Claim**).

Today, the Supreme Court of Queensland issued orders that caused a redacted version of the Claim to be made publicly available.

The Claim relates to the extent to which the point of consumption tax (**POCT**) imposed on UBET is borne by UBET or Racing Queensland and impacts the calculation of fees under two contractual arrangements:

- the Queensland Product and Program Deed between UBET and Racing Queensland (**QPP**), which sets out the long-term commercial relationship between the parties, including fees payable by UBET to Racing Queensland; and
- the Deed of Understanding between Tabcorp and Racing Queensland (**DOU**), which sets out minimum financial commitments to Racing Queensland regarding the UBET business and provides for annual top up payments for the calendar years 2018 to 2020 if UBET does not meet those minimum commitments.

QPP

Under the QPP, UBET believes that it is entitled to reduce or offset the fees paid to Racing Queensland by an amount that reflects 100% of the increase in wagering tax paid by UBET across racing and sport as a result of the introduction of the POCT, when compared to the previous wagering tax regime in place with effect from 1 July 2014 (the **2014 Regime**).

It appears, based on the Claim, that Racing Queensland agrees that UBET is entitled to make a reduction or offset, but only of a much smaller amount.

The difference in view relates, in part, to how the 'increase' in tax is calculated. Rather than referring to the actual increase in wagering tax paid by UBET, Racing Queensland's position appears, based on the Claim, to be that it is only the increase attributable to the change in specified percentages that is relevant, being from 14% to 15% for totalisator wagering and 10% to 15% for fixed odds wagering. Racing Queensland's position does not appear to reflect other differences between the wagering tax regimes, including that the 2014 Regime had a deduction for GST (a c.9.09% reduction in the specified percentages) that is not contained in the POCT.

In addition, it appears, based on the Claim, that Racing Queensland's position is that:

- UBET should receive no reduction or offset to reflect the increase in tax on sports wagering revenue; and
- once the increase in tax is calculated, UBET is only permitted to reduce or offset the fees paid to Racing Queensland by 39% of such increase.

Accordingly, Racing Queensland alleges that, under its reading of the QPP, UBET has underpaid it by an amount of approximately \$11m (inclusive of GST) for the period October to December 2018. The potential impact of the alleged underpayment is then extended across the term of the QPP until 2044, although the precise impact is variable and dependent on several factors, including future trading performance. As UBET believes that it is entitled to be "made whole" in respect of the impact of the POCT for the duration of the QPP it does not consider that there has been an underpayment.

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DOU

Under the DOU, Tabcorp understands, based on the Claim, that Racing Queensland's position is effectively that the top up payment calculation requires any reduction or offset of fees under the QPP (to take into account the impact of POCT) in the calendar years 2018-2020 to be repaid to Racing Queensland. This means that if Racing Queensland is correct, UBET would bear the full wagering tax increase in that period (irrespective of the outcome on the QPP). Tabcorp believes that the DOU does not require any such repayment.

The Company intends to defend its position vigorously and is currently preparing its formal Defence to the Claim.

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