

22 January 2019

Your Ref: ACMA2007/792-1

[REDACTED]
General Manager
Content, Consumer and Citizen Division
Australian Communications and Media Authority
PO BOX Q500
Queen Victoria Building NSW 1230

By email: [REDACTED]

Dear [REDACTED]

Tabcorp complaint under the *Interactive Gambling Act 2001 (Cth)* (IGA)

Tabcorp has previously communicated with your office in relation to services provided by Lottoland Australia Pty Ltd (**Lottoland**).

On 10 April 2018 you wrote to [REDACTED] of Tabcorp referencing the *Interactive Gambling Amendment (Lottery Betting) Act 2018* which came into force on 9 January 2019.

We are concerned that Lottoland's revised product offering, while purporting to be a bet on the outcome of financial markets, continues to directly associate with lotteries and constitutes an interactive gambling service in breach of section 15 of the *Interactive Gambling Act 2001 (IGA)*. This product does not satisfy the requirements to be considered an "excluded wagering service" under section 8A of the IGA.

We are also concerned that notwithstanding the breach of section 15 of the IGA, the revised product is a deliberate attempt by Lottoland to circumvent the intention of recent amendments to the IGA which restrict lottery betting in Australia – amendments which received almost unanimous support of the Australian Parliament. The revised product is simply a lotto product dressed up as a bet on financial markets. At the very least, we think that Lottoland should be restricted from using the names, brands and features which misled consumers into thinking the revised product is still a lottery product.

We have outlined further details of our complaint below, and respectfully request that you investigate these breaches, and if required and appropriate, consider advising the Minister for Communications to use powers within the IGA to implement the full intention of recent amendments to the IGA.

Background and details of breach

A service which relates to betting on an event or a contingency is not an excluded wagering service where it is a service relating to betting on the outcome of a game of chance or of mixed chance and skill (s 8A(5)(c)(v) of the IGA). The use of financial market data to generate winning numbers is ostensibly delivering customers the ability to bet on something that is a game of chance.

Tabcorp Holdings Limited	87 Ipswich Road Woolloongabba QLD 4102	Ph: +61 7 3435 4500	tabcorp.com.au ABN 66 063 780 709
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Effectively, Lottoland continues to allow customers to bet on the outcome of a lottery albeit that the numbers are drawn from data connected to selected financial market indexes as opposed to ball draws which are a feature of licenced lottery products.

We consider that the Result ID employed by Lottoland in its 'Jackpot Betting' products (i.e. the 10 digit number taken from the opening value of selected financial markets) is effectively a game of chance which customers enter into and then, via the mapping exercise conducted by Lottoland, the customer is taken to have bet on the outcome of the numbers drawn. There is no certainty as to the outcome of the opening value of the selected financial markets, clearly it is driven by chance.

In light of the above, Tabcorp submits that Lottoland does not provide an "excluded wagering service", as a service relating to betting on the outcome of a game of chance is covered by section 8A(5)(c) of the IGA.

Lottoland states on its website at <lottoland.com.au> that it does not offer betting on the outcome of lotteries. However, the "new" Lottoland product is simply a lotto product dressed up as a financial betting product, and little has changed after 9 January (as admitted by Lottoland). For example:

- a) Lottoland continues to use almost identical game logos as those used by Lottoland when it allowed consumers to bet on the outcome of lotteries. For example:

The following game logos were previously used by Lottoland to promote bets on the outcome of lotteries:



The following game logos are currently used by Lottoland to promote its "Jackpot betting" games:



- b) The jackpot game card (entry forms) on Lottoland's website closely resembles lottery entry forms, and matches the game rules of the particular lottery the "jackpot" game is attempting to mimic in terms of the numbers a consumer is required to choose;
- c) The entry forms where a consumer supposedly places a bet with Lottoland look very similar to Australian lotto entry forms. (These entry forms are the same as used by Lottoland prior to 7 January.)
- d) Lottoland's rules to win a prize mimic the Tabcorp, US Powerball and US MegaMillions rules to win a prize. (The only difference is how the winning numbers are actually determined.)
- e) Lottoland itself states that it has made no changes to its games following the commencement of the amendment to the IGA, other than the source of the winning numbers. For example, below is a table prepared by Lottoland which appears on the "Help & FAQ" page for its "MON & WED Jackpot" product:

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What has Changed With MON & WED Jackpot?

MON & WED JACKPOT CHANGES

	BEFORE 07/01/19	AFTER 07/01/19
Product Name	MON & WED Jackpot	MON & WED Jackpot
Minimum Jackpot	\$2,500,000	\$2,500,000
Jackpot Odds	1 : 8,145,060	1 : 8,145,060
Winning Tiers	6	6
Game Price	\$1.00	\$1.00
# Numbers Selected	6 + 2 extra numbers	6 + 2 extra numbers
Results Fetched From	International Lotto	Financial Markets

Please do not hesitate to contact me at [REDACTED]@tabcorp.com.au or [REDACTED]@tabcorp.com.au (General Manager – Government & Industry Affairs) if you require any further information in relation to our complaint.

We look forward to hearing from you.

Your sincerely,

[REDACTED]

General Counsel – Lotteries & Keno

[REDACTED] – General Counsel, Regulatory Strategy

