

Infringement Notice

Under

Paragraph 64C(1)(a) of the Interactive Gambling Act 2001

Part 5 of the Regulatory Powers (Standard Provisions) Act 2014

Infringement Notice Number: 0014

To: Tabcorp Holdings Limited
ACN 063 780 709

Of: Level 19, Tower 2, 727 Collins Street
Melbourne VIC 3008

Email: [REDACTED]

[REDACTED]

I, Rochelle Zurnamer, an infringement officer authorised under subsection 64C(2) of the *Interactive Gambling Act 2001* (the IGA), for the purposes of issuing an infringement notice under paragraph 64C(1)(a) of the IGA, having reasonable grounds to believe that Tabcorp Holdings Limited ACN 063780709 (Tabcorp) has committed one contravention of subsection 15(2A) of the IGA (the contravention), a civil penalty provision, which is subject to an infringement notice under Part 5 of the *Regulatory Powers (Standard Provisions) Act 2014* (the RPA),

HEREBY give an infringement notice (the Notice) under paragraph 64C(1)(a) of the IGA and Part 5 of the RPA, in relation to the contravention, to Tabcorp.

Details of alleged contravention

It is alleged that Tabcorp contravened subsection 15(2A) of the IGA by providing a prohibited interactive gambling service to customers in Australia, in the form of an in-play betting service on the outcome of a professional men's tennis event on 24 October 2023 (the subject event).

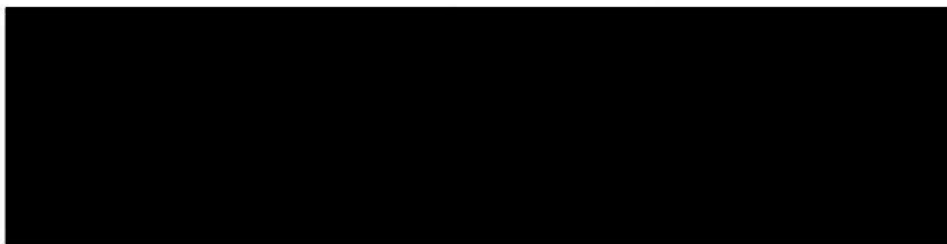
Schedule 1 to this Notice sets out brief details of the alleged contraventions of the civil penalty provision.

Amount of Penalty

The total pecuniary penalty (the penalty) specified in this Notice for the alleged contravention is **\$18,780** calculated in accordance with paragraph 104(2)(b) of the RPA, as shown in the table in Schedule 2.

Payment of Penalty

The penalty should be paid to the Australian Communications and Media Authority (ACMA), on behalf of the Commonwealth, by deposit into the following account by 29 October 2024. Please include the narration "Tabcorp Holdings Limited - 0014" with your payment:



Request for an extension to pay

You may apply to have the period in which to pay the penalty extended. To be effective the application for an extension must occur on or before 29 October 2024, or the date of any extensions that have been granted by the ACMA. This should be addressed to myself in the first instance at [REDACTED] You can apply for an extension more than once.

If the application to extend the period in which to pay is not granted, the period in which to pay will end on the day that is the last day of the period in which to pay or the day that is 7 days after the day Tabcorp received ACMA's decision not to extend, whichever is the later.

If the penalty is paid

If the penalty is paid to the ACMA, on behalf of the Commonwealth, on or before 29 October 2024, or the date of any extensions that have been granted by the ACMA and the Notice has not been withdrawn, proceedings seeking a pecuniary penalty order will not be brought, in relation to the alleged contravention.

Payment of the penalty does not constitute an admission of guilt or liability.

If the penalty is not paid

If you do not pay the penalty on or before 29 October 2024, or the date of any extensions that have been granted by the ACMA, proceedings seeking a pecuniary penalty order may be brought, in relation to the alleged contravention.

Withdrawal of the infringement notice

The ACMA may withdraw this Notice. To be effective the withdrawal must occur on or before 29 October 2024, or the date of any extensions that have been granted by the ACMA.

If you believe that the Notice should be withdrawn, you should write to the ACMA setting out the basis/reasons for this position, on or before 29 October 2024, or the date of any extensions that have been granted by the ACMA. This should be addressed to myself in the first instance. The ACMA may take this into consideration when deciding whether or not to withdraw this Notice.

Should the ACMA withdraw the Notice, proceedings seeking a pecuniary penalty order may be brought, in relation to the alleged contravention.

If the Notice is withdrawn after the penalty is paid, the penalty will be refunded.

Dated this 30 September 2024



Rochelle Zurnamer
Executive Manager
Gambling & Mis/Disinformation Branch
Australian Communications and Media Authority
Authorised Infringement Officer

SCHEDULE 1

BRIEF DETAILS OF THE ALLEGED CONTRAVENTION IS SET OUT BELOW, IN ACCORDANCE WITH SECTION 104 OF THE RPA.

1. Background

- 1.1. Under section 21 of the IGA, on 20 May 2024, the ACMA commenced an investigation into whether Tabcorp had contravened the IGA.
- 1.2. During the period of the investigation, Tabcorp was the provider of the service at www.tab.com.au
- 1.3. The ACMA found that the Tabcorp service accepted online bets on the outcome of professional women's and men's tennis events between 27 April 2023 and 24 October 2023, where the bets were placed, made, received or accepted after the beginning of the event.
- 1.4. This infringement notice relates to the contravention committed in relation to the subject event.

2. Matters giving rise to the Notice

- 2.1. Tabcorp did not dispute that its services had accepted online bets on the subject event after it had commenced.
- 2.2. Tabcorp provided the following information regarding these online bets:
 - Between 27 April 2023 and 24 October 2023, Tabcorp accepted 854 online in-play bets on 69 professional women's and men's tennis events across 45 individual days.
- 2.3. It was also not in contention that any, or all, of the customers of the Tabcorp service were physically present in Australia.

3. Relevant civil penalty provision of the IGA

Subsection 15(2A) of the IGA

- 3.1. Subsection 15(2A) of the IGA provides that:

A person must not provide a prohibited interactive gambling service that has an Australian - customer link (see section 8 of the IGA – extracted below).
- 3.2. Subsection 15(2) of the IGA states that a person who contravenes subsection (1) commits a separate offence in respect of each day during which the contravention occurs.
- 3.3. Section 8 provides that:

For the purposes of this Act, a gambling service has an Australian-customer link if, and only if, any or all of the customers of the service are physically present in Australia.
- 3.4. Subsection 5(1) provides that:
 - (1) For the purposes of this Act, a prohibited interactive gambling service is a gambling service, where:
 - (a) the service is provided in the course of carrying on a business; and
 - (b) the service is provided to customers using any of the following:
 - (i) an internet carriage service;
 -
- 3.5. Subsection 5(3) lists services that are not prohibited interactive gambling services, including an excluded wagering service (paragraph 5(3)(aa)).

3.6. A service is an excluded wagering service for the purposes of the IGA, to the extent that it relates to betting on a sporting event except to the extent the service is an in-play betting service (subsection 8A(3) of the IGA).

3.7. Paragraph 10B(a) of the IGA relevantly provides that a gambling service is an in-play betting service to the extent to which:

the service relates to betting on the outcome of a sporting event, where the bets are placed, made, received or accepted after the beginning of an event.

....

4. Contravention of subsection 15(2A) of the IGA by Tabcorp

4.1. The Tabcorp service satisfies the key elements of a prohibited interactive gambling service under subsection 5(1) as it:

(a) is a gambling service for the placing, making, receiving or acceptance of bets

(b) is provided in the course of carrying on a business

(c) is provided to customers using an internet carriage service.

4.2. The subject event was not an excluded wagering service because, although it related to betting on a sporting event, Tabcorp accepted 12 online bets in total, on the subject event, after the beginning of the event and therefore provided an in-play betting service (subsections 5(3), 8A(3) and section 10B of the IGA).

4.3. It is not in contention that any, or all, of the customers of the Tabcorp service were physically present in Australia (section 8 of the IGA) in contravention of subsection 15(2A) of the IGA.

4.4. Accordingly, the ACMA finds that Tabcorp contravened subsection 15(2A) of the IGA on one occasion by providing a prohibited interactive gambling service to customers physically present in Australia, in the form of an in-play betting service on the subject event.

4.5. Subsection 15(2A) of the IGA is a civil penalty provision.

4.6. Subsection 15(2B) provides that a person who contravenes subsection (2A) commits a separate contravention of that provision in respect of each day during which the contravention occurs (including the day the relevant civil penalty order is made or any later day).

4.7. The maximum penalty that the court could impose for a contravention of subsection 15(2A) of the IGA is **\$11,737,500** per day for corporations.

5. The amount of the penalty

5.1. The total penalty specified in the Notice is calculated in accordance with subsection 104(2) of the RPA, being the lesser of:

(a) one-fifth of the maximum penalty that a court could impose on the person for that contravention; and

(b) 12 penalty units where the person is an individual, or 60 penalty units where the person is a body corporate.

5.2 The amount of each penalty unit being \$313 at the time of the contravention.

SCHEDULE 2

PENALTY FOR CONTRAVENTIONS OF SUBSECTION 15(2A) OF THE IGA

| Date of contravention/s | Number of contraventions of subsection 15(2A) | Penalty units | Amount of penalty unit | Penalty imposed |
|--------------------------------|--|----------------------|-------------------------------|------------------------|
| 24 October 2023 | 1 | 60 | \$313 | \$18,780 |