

Wagering and Betting Discussion Paper

Wagering and Betting Licensing Project

Office of Liquor, Gaming and Racing

Table of contents

1	Introduction	4
1.1	Wagering and Betting Licensing Project	4
1.2	Document Purpose	4
1.3	Submissions	4
1.3.1	Responding to this discussion paper	4
1.3.2	Queries	4
1.3.3	Further discussion	5
2	Background	5
2.1	Wagering and betting	5
2.2	Wagering and betting participation	5
2.3	Minimising harm from wagering and betting	5
2.4	Wagering and betting industry	6
2.4.1	State-based TABs	7
2.4.2	Bookmakers	7
2.4.3	Betting exchange operator	7
2.5	Summary of wagering service providers	8
2.6	Illegal offshore wagering	8
2.7	Victorian racing industry	8
2.7.1	Economic impact of the Victorian racing industry	8
2.8	History of wagering in Victoria	9
2.9	Previous Victorian wagering licences	10
3	Current regulatory structure	11
3.1	Overview	11
3.2	Gambling Regulation Act 2003	11
3.3	Racing Act 1958	11
3.4	Interactive Gambling Act 2001 (Cth)	11
4	Current Victorian Wagering and Betting Licence	12
4.1	Overview	12
4.2	Products	12
4.3	Distribution	12
4.4	Licensing process requirements	12
5	Revenue distribution	13
5.1	Totalisator commissions	13
5.2	Taxation	14
5.3	Unclaimed dividends	14
5.4	Joint Venture Agreement	15
5.4.1	Victorian racing industry funding	15
5.4.2	Returns to the wagering and betting licensee	16

6	Inter-jurisdictional comparison	18
7	The wagering and betting landscape	20
7.1	Wagering and betting turnover	20
7.2	Comparison of racing and sports betting.....	20
7.3	Shift to online and fixed odds betting	21
7.4	Wagering market share	21
8	Summary of discussion questions	23
9	Reference material	24

1 Introduction

1.1 Wagering and Betting Licensing Project

The Department of Justice & Regulation established the Wagering and Betting Licensing Project to manage the process of developing and implementing future licensing arrangements for wagering and betting in Victoria.

The objectives of the Wagering and Betting Licensing Project (WBLP) are to maximise the net benefits to Victorians from the conduct of wagering and betting by recognising and providing for consumer enjoyment of wagering and betting while:

- ensuring an appropriate regulatory framework exists
- minimising gambling related harm
- maximising value to the State
- maintaining a viable Victorian racing industry
- ensuring that integrity and fairness is maintained throughout the licensing process.

1.2 Document Purpose

The purpose of this discussion paper is to seek the community's views on current and future licensing arrangements for wagering and betting in Victoria. Information gathered through this process will inform the development of future regulatory arrangements.

This discussion paper raises issues and questions that are designed to assist you to make a submission. You can, however, raise other issues or provide additional information relevant to the wagering and betting licensing arrangements in Victoria.

1.3 Submissions

1.3.1 Responding to this discussion paper

Interested persons and organisations are encouraged to make a submission on any or all of the matters raised in this discussion paper. A submission can be as long or as short as you like. There is no prescribed format, however your submission should be limited to matters pertaining to the WBLP. Submissions on other matters will not be considered.

You can respond to the discussion paper by uploading a submission through the Whole of Victorian Government online platform, Engage Vic on the website at engage.vic.gov.au.

The closing date for submissions is close of business on 21 September 2018.

All submissions will be published on the Engage Vic website.

Please ensure the submission does not include confidential, commercial-in-confidence or personal information. The department reserves the right not to publish any information that is defamatory, discriminatory or unrelated to the review project.

1.3.2 Queries

If you have a query about this paper or the submission process, you can contact the WBLP by email at olgr.wblp@justice.vic.gov.au.

1.3.3 Further discussion

Following consideration of the submissions made in response to this paper, the WBLP may invite a person or organisation who has made a submission to meet to discuss their submission with the project team.

2 Background

2.1 Wagering and betting

In this discussion paper, wagering and betting refers to betting on racing (thoroughbred, harness and greyhound), simulated racing, sports and other approved events such as political elections. Notwithstanding the specific definition of wagering in the *Gambling Regulation Act 2003* (GRA) (pari-mutuel betting on a horse race, harness race or greyhound race), wagering and betting broadly refers to both pari-mutuel (totalisator), fixed odds and exchange-based betting.

Wagering and betting occurs in person (at racecourses and State-based TAB venues) and via telephone and the internet for customers with betting accounts with a wagering service provider.

2.2 Wagering and betting participation

Findings from the most recent Victorian prevalence study in 2014 indicate that over 20 per cent of Victorian adults reported betting on races in the previous 12 months.¹ Nationally, the 2015 Household, Income and Labour Dynamics in Australia (HILDA) survey showed that 5.6 per cent of Australian adults regularly gambled (i.e. gambled in a typical month) on horse or dog racing.²

The Victorian prevalence study reported that 4.8 per cent of Victorian adults had bet on sports in the previous 12 months. Nationally, 3.3 per cent of Australians were regular sports betting gamblers.³

Women bet on racing at similar levels to men (20.17 per cent compared to 21.11 per cent), however, significantly fewer women bet on sport compared to men (1.82 per cent compared to 7.99 per cent).⁴

2.3 Minimising harm from wagering and betting

The Government expects wagering service providers, including the wagering and betting licensee, to adopt best-practice gambling harm minimisation strategies to address gambling harm in the Victorian community.

In 2015, 41 per cent of regular race and sports bettors experienced one or more gambling-related problems, a rate double the national average for regular gamblers.⁵

Victorian research shows that 52 per cent of people experiencing problem gambling bet on racing and 45 per cent bet on sports. That means people experiencing problem gambling were two times more likely to bet on racing and seven times more likely to bet on sports than non-problem gamblers.

The GRA requires licence holders and Victorian bookmakers to have a responsible gambling code of conduct. The wagering and betting licensee's responsible gambling code of conduct can

¹Hare, S (2015) *Study of Gambling and Health in Victoria: Australia*, Victorian Responsible Gambling Foundation and Victorian Department of Justice and Regulation.

²Armstrong, A and Carroll, M (2017) *Race betting in Australia*, Australian Gambling Research Centre

³Armstrong, A and Carroll, M (2017) *Sports betting in Australia*, Australian Gambling Research Centre

⁴ Hare, S (2015) *Study of Gambling and Health in Victoria*

⁵ Armstrong, A and Carroll, M (2017) *Race betting in Australia* and *Sports betting in Australia*, Australian Gambling Research Centre

be found at: <https://www.vcglr.vic.gov.au/resources/data-and-research/gambling-data/list-responsible-gambling-codes-conduct>. The Victorian Bookmakers' Association responsible gambling code of conduct can be found at: <http://www.vicbookmakers.com.au/code-of-practice.htm>.

On 8 September 2017, all Australian state and territory gaming ministers agreed in principle to the key elements of a National Consumer Protection Framework for Online Wagering. This will include, for the first time, a nationally consistent approach to harm minimisation measures for online wagering, including mandatory opt-out pre-commitment, self-exclusion and activity statements.

A significant amount of work is required on the detailed design of the National Framework. The majority of the elements of the National Framework will be implemented by individual states and territories within their own regulatory framework.

The Victorian Government has passed legislation to enable the Minister for Consumer Affairs, Gaming and Liquor Regulation to specify harm minimisation requirements which must be met by wagering service providers, located either in Victoria or interstate.

The Victorian Government has also passed legislation to prohibit wagering service providers from displaying or causing to be displayed, static betting advertising:

- within 150 metres of the perimeter of a school
- on public transport infrastructure, including fixed infrastructure such as train stations, bus shelters and tram stops and moving infrastructure such as trams, trains, ferries, buses and taxis
- on or above public roads, road reserves and road infrastructure.

The static betting advertising prohibition commenced on 9 May 2018.

Discussion Question
1. Is the existing regulatory framework for the wagering and betting licence appropriate with respect to reducing harm associated with wagering and betting and why? If not, what changes could be made to the regulatory framework to further reduce harm associated with wagering and betting?

2.4 Wagering and betting industry

The wagering and betting industry in Australia is significant and broadly comprises:

- State-based TABs
- Bookmakers – both on-course and corporate
- Betfair – the only betting exchange operator in Australia.

While Tabcorp, the Victorian wagering and betting licensee, and Victorian bookmakers are the only wagering service providers authorised to conduct betting in Victoria, the nature of wagering is such that it is not confined by state and territory borders.

Online and phone betting allows Victorian customers to bet via an account with interstate and international TABs and bookmakers, so long as the TAB/bookmaker holds a relevant licence in an Australian jurisdiction to operate wagering services within Australia.

Online and phone betting also allows interstate customers to bet via an account with the Victorian TAB (the wagering and betting licensee) and Victorian bookmakers.

2.4.1 State-based TABs

Each Australian state and territory has a single state-based TAB. In Victoria, Tabcorp operates the only retail betting network in Victoria and provides wagering products through:

- retail agencies (approximately 92)
- licensed venues (approximately 639)
- racecourses (approximately 90)
- online and telephone betting accounts.

The inherent advantages for pari-mutuel betting of larger pools has resulted in the co-mingling of state totalisator pools through pooling arrangements. There are currently three Australian totalisator pools:

- SuperTAB – Victoria, Australian Capital Territory and Western Australia
- NSWTAB – New South Wales
- UBET – Queensland, South Australia, Tasmania and the Northern Territory.

The recent acquisition of Tatts Group Limited (Tatts) by Tabcorp Holdings Limited means the combined entity is licensed to conduct totalisator betting in each state and territory except for Western Australia. However, to date, no decision in relation to the consolidation of totalisator pools has been made noting that jurisdictional regulatory approvals would also be required.

2.4.2 Bookmakers

There are 182 registered sole trader bookmakers, 45 registered bookmaking partnerships and four registered bookmaking companies in Victoria.

These bookmakers primarily operate on-course at Victorian thoroughbred, harness and greyhound race meetings. A small number of Victorian bookmakers also offer betting on fixed odds sports.

On-course bookmakers are also licensed in each Australian jurisdiction.

Corporate bookmakers offer betting on racing, sports and other approved events. Most of the major licensed corporate bookmakers operating in Australia are licensed in the Northern Territory. Interstate corporate bookmakers represent a significant and growing share of the Victorian wagering and betting market.

Bookmakers offer a range of products not provided by the wagering and betting licensee including tote derivative products (e.g. best tote) and Top Fluctuation betting.

2.4.3 Betting exchange operator

Betfair is the only licensed betting exchange operating in Australia. A betting exchange is different from a traditional bookmaker in that it does not "hold a book" and does not carry any risk on the outcome of an event. It allows customers to wager directly against each other at fixed odds by using a computer program to match opposing bets by registered players. It then derives a commission from the winning player for facilitating the wager.

Tabcorp also holds the right to operate a betting exchange under the wagering and betting licence but is yet to establish one.

2.5 Summary of wagering service providers

Table 1 below provides a summary of the types of wagering service providers able to conduct betting on racing and sports.

Table 1: Summary of wagering service providers

Betting Product	Pari-mutuel betting		Fixed odds betting		Exchange betting	
	On-course	Off-course	On-course	Off-course	On-course	Off-course
Racing	Local State TAB	State TABs	Local State TAB On-course bookmakers	State TABs On-course and corporate bookmakers	N/A	Betfair
Sports betting	Local State TAB	State TABs	Local State TAB On-course bookmakers	State TABs On-course and corporate bookmakers	N/A	Betfair

Note – Tabcorp is also able to conduct, but to date has not established, a betting exchange under the Victorian wagering and betting licence.

2.6 Illegal offshore wagering

Illegal offshore wagering refers to wagering with providers who are not licensed in Australia to provide wagering services, regardless of whether they are licensed outside Australia. These providers do not pay taxes, nor do they pay product fees to Australian racing and sporting bodies for offering wagering markets on their product.

It is not illegal for an Australian consumer to place a bet with an illegal offshore wagering provider. However, it is illegal for a company to provide certain gambling services to Australians if the company is not licensed in an Australian state or territory.

In September 2015, the Commonwealth Government announced a review of the illegal offshore wagering market in Australia. The report found that the size of the illegal offshore wagering market in Australia was difficult to quantify, with estimates ranging from \$63.9 million to \$1 billion annually.⁶

2.7 Victorian racing industry

The Victorian racing industry (VRI) comprises the thoroughbred, harness and greyhound racing industries in Victoria. The bodies responsible for controlling racing in Victoria are Racing Victoria, Harness Racing Victoria and Greyhound Racing Victoria.

2.7.1 Economic impact of the Victorian racing industry

The racing industry is an important part of Victoria's economy, providing employment and supporting a number of related industries.

A 2013 study commissioned by the VRI into the size and scope of the VRI outlined that the industry contributed more than \$2.8 billion annually to the Victorian economy⁷. Almost half of this contribution occurred in regional Victoria.

⁶ Review of Illegal Offshore Wagering, the Hon Barry O'Farrell, 18 December 2015

⁷ Size and Scope of the Victorian Racing Industry, IER Limited, 2013

The study found that participation in the racing industry was significant and that the VRI was responsible for sustaining more than 26,600 full-time equivalent jobs. This included jobs in racing and support industries such as retail, tourism and accommodation.⁸ There were more than 142,000 participants in the VRI including owners and syndicate owners.⁹

There are over 120 racing clubs in Victoria that hold race meetings, the vast majority of these in rural and regional areas. These include major metropolitan thoroughbred clubs such as the Victoria Racing Club, home of the Melbourne Cup Carnival and once a year clubs such as the Drouin Picnic Racing Club and the Elmore Harness Racing Club.

The report found that there were more than 1.8 million attendances (not individual attendees) at Victorian race meetings annually, with more than 200,000 attendances by interstate and international visitors, demonstrating the value of the VRI to Victoria's tourism industry.¹⁰ Other down-the-line industries supported by attendance at Victorian race meetings included the food, retail, entertainment, accommodation, transport and fashion industries.

2.8 History of wagering in Victoria

The wagering and betting licensing arrangements in Victoria reflect the historical development of the racing industry and the inherent nexus between wagering and betting and the racing industry.

Wagering on the races has evolved from simple wagers between watchers of a race to a multi-billion dollar global industry. Key developments in the wagering industry have included:

- the government licensing on-course bookmakers in 1906 in a largely unsuccessful effort to stamp out illegal bookmaking, particularly off-course SP (Starting Price) bookmakers who operated out of houses or shops
- the introduction of the automated totalisator, a machine for automatically calculating pari-mutuel pool sizes and odds from various wagers taken by separate operators, to Victorian racecourses in the 1920s
- following the findings of a Royal Commission, the establishment of the Totalisator Agency Board (TAB) as a statutory body in 1960 to provide off-course betting venues as a measure to combat illegal bookmaking
- the authorisation of the TAB to conduct (limited) sports betting in 1985
- the privatisation of the Victorian TAB in 1994 and the licensing of Tabcorp, a new public company, to operate a pari-mutuel system and approved betting competitions for 18 years. Tabcorp was also provided with one of two gaming licences (along with Tatts)
- the legalisation of telephone betting by Victorian bookmakers in 1994
- the legalisation of sports betting by approved sports bookmakers, first in the Northern Territory in 1996 and subsequently in all Australian jurisdictions by 1999
- first Australian online bookmaker goes live in 1996
- the privatisation of other state and territory TABs - New South Wales in 1998, Queensland in 1999, the Northern Territory in 2000, South Australia in 2002, Tasmania in 2011 and the Australian Capital Territory in 2014
- the Tasmanian Government licensing Betfair Pty Ltd, Australia's first exchange betting operator in 2005

⁸ Ibid

⁹ Ibid

¹⁰ Size and Scope of the Victorian Racing Industry, IER Limited, 2013

- the introduction of Victorian race fields legislation in 2005 to ensure that all wagering service providers make a fair and reasonable economic contribution back to the racing industry on which their businesses are based, and the High Court's subsequent confirmation of the Constitutional validity of race fields legislation in 2012
- the repeal of advertising restrictions in Victoria for interstate wagering service providers in 2009 following the Betfair decision
- the 2008 decision to end the Victorian gaming licence duopoly held by Tabcorp and Tatts and move to a venue operator model for gaming machines from 2012
- the introduction of restrictions on gambling advertisements during live sporting telecasts and on credit betting in 2017 and 2018
- the introduction of a point of consumption wagering tax in South Australia in 2017 and moves to introduce similar taxes in other Australian jurisdictions (including Victoria)
- the acquisition of Tatts by Tabcorp, the holders of the wagering licences in every state and territory except for Western Australia, in 2017
- the prohibition of static betting advertising in Victoria in May 2018.

2.9 Previous Victorian wagering licences

Prior to the privatisation of the Victorian TAB in 1994, the VRI was the recipient of all net profits from the operations of the TAB.

The privatisation of the TAB coincided with the granting of a wagering licence to Tabcorp and gaming licences to Tabcorp and Tatts. A condition of Tabcorp's licences was that it and the VRI establish an agreement concerning the funding of the racing industry and the formation of an unincorporated joint venture (JV).

A JV was subsequently formed between the VRI and Tabcorp and operated until its expiry, along with the wagering licence, in August 2012. Under the JV, the VRI was entitled to a 25 per cent share of the joint venture's total profit (incorporating the net profit arising from Tabcorp's Victorian wagering and gaming businesses) and fees for the racing program, product supply and marketing.

The agreed arrangements reflected the close association and financial exposure of the VRI with the TAB since its inception, the involvement and investment by the TAB in the development of the gaming sector in Victoria and the expectation that the widespread introduction of gaming machines in Victoria would impact on wagering revenue.

In 2008, the Government announced that the gaming industry would be restructured to abolish the Tabcorp and Tatts gaming duopoly and that venue operators would own and operate their own gaming machines. It was also announced that a new 12 year wagering licence would be competitively tendered.

In recognition of the effect on VRI revenues of the de-coupling of the Victorian wagering and gaming licences, the Government announced that the wagering tax rate would be reduced (with the difference between the previous and new tax rates redirected to the VRI) and that funding arrangements for the racing industry post 2012 would be 'no less favourable' than those in place at the time of expiry of the original JV arrangements.

3 Current regulatory structure

3.1 Overview

The conduct of unauthorised gambling is prohibited in Victoria. The GRA and the *Racing Act 1958* (Racing Act) authorise gambling on horse, harness and greyhound racing and on approved betting events (primarily sports).

3.2 Gambling Regulation Act 2003

The GRA establishes a regulatory role for the Victorian Commission for Gambling and Liquor Regulation (VCGLR) in relation to the wagering and betting licence. The GRA:

- authorises the conduct of wagering and approved betting competitions when conducted in accordance with a licence or permit under the GRA and contains enforcement provisions against illegal betting
- requires the Minister to approve fixed odds racing betting events and the VCGLR to approve fixed odds or totalisator non-racing (mainly sports) betting events and simulated racing events
- provides for a single wagering and betting licence and sets out the process for the granting of that licence
- restricts certain activities (e.g. some forms of advertising, extending credit and offering inducements to open a betting account).

The GRA generally regulates the operation of totalisator and fixed odds betting by the wagering and betting licensee including prescribing commission rates and the taxation regime for totalisator and fixed odds betting. It also sets out a range of requirements for the wagering and betting licensee, including:

- making betting rules for totalisator and fixed odds betting
- verifying the identity of registered players
- holding the account funds of registered players on trust
- providing information at the direction of the Minister
- in relation to banking, accounting and auditing.

The GRA also requires all wagering service providers to obtain the approval of the appropriate controlling body to publish and use race fields.

3.3 Racing Act 1958

The Racing Act authorises betting on horse, harness and greyhound racing and on approved betting events (within the meaning of the GRA) at a licensed racecourse or approved off-course premises with a registered bookmaker or approved substitute.

3.4 Interactive Gambling Act 2001 (Cth)

The *Interactive Gambling Act 2001* (Cth) (IGA) regulates interactive (online and telephone) gambling services by prohibiting interactive gambling services from being provided to customers in Australia. Under the IGA, telephone betting and online betting on a horse race, harness race, greyhound race or sporting event is permitted, except in the case of a sporting event where the event has started.

Under the IGA, it is illegal for gambling companies to provide certain gambling services to Australians unless the person or company holds a licence under the law of an Australian state or territory.

Discussion Question

2. Are the regulatory requirements for the wagering and betting licensee appropriate and why? If not, what changes could be made to the regulatory requirements for the wagering and betting licensee and why?

4 Current Victorian Wagering and Betting Licence

4.1 Overview

The GRA provides for a single wagering and betting licence with a term of 12 years which can be extended for up to two years.

In July 2011, Tabcorp was awarded the wagering and betting licence for 12 years commencing in August 2012 and expiring on 15 August 2024. Tabcorp paid an up-front premium of \$410 million as consideration for the licence.

The wagering and betting licence conditions require Tabcorp to enter into a Joint Venture Agreement (JVA) with the VRI through VicRacing Pty Ltd (VicRacing) and Racing Products Victoria Pty Ltd (Racing Products). The Minister can only grant a wagering and betting licence if the applicant has entered into arrangements with VicRacing and Racing Products that the Minister considers are no less favourable than those in force under the previous licence.

4.2 Products

The wagering and betting licence authorises the wagering and betting licensee to conduct:

- wagering (i.e. totalisator betting on racing)
- approved betting competitions (i.e. fixed odds sports and racing betting)
- approved simulated racing events (i.e. Trackside)
- a betting exchange.

Tabcorp is the only wagering service provider licensed to conduct a totalisator in Victoria.

To date, Tabcorp has not established a betting exchange under the wagering and betting licence.

4.3 Distribution

Under the wagering and betting licence, Tabcorp can conduct authorised betting on-course at Victorian racecourses, off-course in agencies, hotels and clubs, online or by phone.

Tabcorp has wagering retail exclusivity by virtue of being the only operator authorised to offer totalisator and fixed odds wagering in retail outlets in Victoria.

4.4 Licensing process requirements

The GRA sets out requirements for the wagering and betting licence. A person must have a physical place of business in Victoria and be a body corporate in order to apply for the wagering and betting licence. The VRI is restricted from applying for the licence.

The process set out in the GRA includes:

- the Minister calling for Registrations of Interest (ROI) in the grant of a wagering and betting licence
- a report by the Secretary of the Department of Justice and Regulation (the Secretary) on each ROI that satisfies any specified requirements

- after consideration of the Secretary's report, the Minister may invite one or more (or no) registrants to apply for a wagering and betting licence
- a written report by the Secretary on each licence application.

The Minister may grant a licence application only if the Minister is satisfied that the granting of the application is in the public interest taking into account:

- issues of good repute and executive officer suitability
- the technical capability, systems and financial background of the applicant
- the financial resources and ability of the applicant to establish, maintain and ensure the financial viability of a wagering and betting business
- whether the applicant has demonstrated a commitment to the promotion of a viable and growing VRI
- that the applicant has entered into arrangements with the VRI that are no less favourable than those in force under the previous licence
- that the applicant has a Responsible Gambling Code of Conduct.

Discussion Questions
<p>3. Is the structure of the Victorian wagering and betting licence appropriate and why? If not, what changes could be made to the structure of the Victorian wagering and betting licence and why? Your response may include, but not be limited to, the:</p> <ul style="list-style-type: none"> a. term of the licence b. number of licences c. products authorised under the licence d. exclusivity of totalisator betting e. exclusivity of a retail network <p>Your response may also consider the impact of any changes with respect to reducing harm associated with wagering and betting.</p>
<p>4. Is the licensing process set out in the GRA for the wagering and betting licence appropriate and why? If not, what changes could be made to the licensing process for the next wagering and betting licence and why?</p>

5 Revenue distribution

5.1 Totalisator commissions

The GRA requires the wagering and betting licensee to make betting rules specifying the maximum commission rates for totalisator betting. The totalisator commission must not exceed 25 per cent other than for internationally pooled totalisator events where it must not exceed 40 per cent. The maximum rates must be approved by the Treasurer before taking effect.

Under the current rules, different commission rates apply to different products. For example, the current commission rates for win, place and trifecta betting are 14.5 per cent, 14.25 per cent and 20 per cent respectively.

5.2 Taxation

Wagering in Victoria is currently taxed on a point of supply basis and wagering tax is only applied to the wagering and betting licensee. The wagering taxes payable by the wagering and betting licensee are set out in the GRA.

Table 2 below sets out the tax rates payable for the different wagering products under the licence.

Table 2: *Wagering tax rates in Victoria*

Betting Type	Tax rate
Totalisator betting	7.6 per cent of commission
Fixed odds racing	4.38 per cent of net investment (total amount invested less the total amount paid out as winnings)
Fixed odds sports	4.38 per cent of net investment
Simulated racing (Trackside)	10.91 per cent of net investment
Betting exchange	10 per cent of commission

Wagering tax in 2016-17 totalled \$54.1 million representing 3.3 per cent of total gambling tax revenue for Victoria, which is paid into the Hospitals and Charities Fund.¹¹ Wagering tax revenue has been decreasing as a result of the shift towards online wagering with interstate corporate bookmakers who are not subject to Victorian wagering taxes and a shift between higher-taxed totalisator betting and lower-taxed fixed odds betting.

On 14 May 2018, the Victorian Government announced that a point of consumption wagering and betting tax (POCT) would be introduced from 1 January 2019. The POCT will apply to the net wagering revenue derived from all wagering and betting activity by customers located in Victoria. This will ensure that all wagering and betting companies pay their fair share of Victorian taxes – no matter where they are based.

The new tax will replace the existing wagering taxes. A single 8 per cent tax rate will apply to all bet types. The POCT will apply to operators whose annual net wagering revenue exceeds a \$1,000,000 tax-free threshold.

Implementation of the POCT will increase the tax burden placed on wagering and betting operators, including the wagering and betting licensee, which may change the way they operate, potentially impacting the level of wagering and betting activity by Victorians.

As part of introducing the POCT, it is not proposed to change the rate currently used to determine the Victorian Racing Industry Benefit (VRIB). It is also not proposed to change the current arrangements relating to VRI's ability to impose race field fees for the usage of its race fields.

The Victorian Government has committed that the VRI will be no worse off as a result of the introduction of the POCT. Under the new wagering taxation arrangements, the VRI will receive an additional funding stream, the *VRI POCT Payment* equal to 1.50 per cent of all taxable net wagering revenue.

5.3 Unclaimed dividends

The GRA requires the wagering and betting licensee to remit unclaimed dividends (of more than six months) to the State. An amount equivalent to these unclaimed dividends was in part used to

¹¹ VCGLR, *Annual Report 2016–17*

fund the Victorian Racing Industry Fund (VRIF) for four years as part of the 2015-16 Budget. The VRIF provides funding to:

- improve racing and training infrastructure, particularly in country Victoria
- improve public facilities at Victorian racing venues
- support the breeding industries of the three racing codes
- increase the focus on the welfare of racing animals
- support the wellbeing of jockeys and trainers and other industry participants.

5.4 Joint Venture Agreement

The wagering and betting licence requires Tabcorp to enter into an agreement (currently in the form of a JVA) with the VRI through VicRacing and Racing Products. The GRA provides that the Minister can only grant a wagering and betting licence if the applicant has entered into arrangements with VicRacing and Racing Products that the Minister considers are no less favourable than those in force under the previous licence.

The JVA arrangements include:

- an unincorporated JVA between Tabcorp and VicRacing
- a Product Supply Agreement between Tabcorp, Racing Products and VicRacing
- a Racing Program Agreement between Tabcorp, Racing Products and VicRacing
- the payment of the VRIB, being the difference between the racing totalisator betting tax payable (7.6 per cent) and what would have been payable under the previous tax rate (19.11 per cent) to the VRI
- a 50:50 share of the profits of the joint venture between Tabcorp and the VRI.
- The details of these agreements, including the amounts payable to the VRI as program and product fees, are commercial-in-confidence between the parties.

The profit share arrangements result in the VRI receiving funding from bets placed with the wagering and betting licensee on racing, simulated racing and sports betting.

5.4.1 Victorian racing industry funding

The VRI derives its funding from a variety of sources including wagering, sponsorships, broadcast rights, hospitality, functions, ticketing and memberships. The VRI is heavily reliant on wagering income to support the industry with around 90 per cent of the industry's income coming from wagering activities.

One consequence of the JVA arrangements is that the VRI receives more funding from totalisator betting than fixed odds betting with Tabcorp (because of the VRIB payment).

Traditionally, the VRI's wagering income has primarily come from the JVA arrangements with Tabcorp. However, the shift from totalisator to fixed odds betting (and resultant impact on VRIB income) and increasing competition in the wagering sector has required the VRI to diversify its income streams.

While income from the JVA has been falling, income from race fields fees charged to bookmakers and interstate TABs has been increasing.

Figure 1 below shows the shift in the composition of VRI funding from 2007-08 to 2016-17.

Figure 1: VRI funding – 2007-08 to 2015-16



Source - VRI

5.4.2 Returns to the wagering and betting licensee

The Australian Gambling Statistics produced by the Queensland Government Statistician's Office report on racing (on and off-course pari-mutuel betting) and sports betting (fixed odds sport and racing) expenditure (also known as player loss or gross profit) for the Victorian TAB.

Table 3 below shows a small increase in total TAB expenditure during the period 2010-11 to 2014-15 followed by a decline in 2015-16. It also shows that TAB racing (pari-mutuel) expenditure has been generally declining while TAB fixed odds betting expenditure (sport and racing) has been increasing.

Table 3: Victorian TAB expenditure – 2010-11 to 2015-16

Year	TAB racing (pari-mutuel) expenditure (\$M)	TAB Fixed odds betting (sport and racing) expenditure (\$M)	TAB Total expenditure (\$M)
2015-16	494.15	280.95	775.1
2014-15	542.74	259.75	802.49
2013-14	571.13	213.50	784.63
2012-13	613.37	160.08	773.45
2011-12	611.97	128.44	740.41
2010-11	634.21	93.39	727.60

Source – Australian Gambling Statistics, Queensland Government Statistician's Office

Tabcorp is entitled to a 50 per cent share of the profits of the JVA. However, Tabcorp's net profit (revenue) from the Victorian wagering and betting licence is not publically available because of

the commercial-in-confidence nature of the JVA arrangements and the unknown costs associated with operating the licence.

Tabcorp reports its wagering revenue on a company, rather than a state, basis (i.e. it includes wagering revenue from its Victorian and New South Wales operations, the Luxbet corporate bookmaking operation (which ceased in December 2017) and ACTTAB (following its acquisition in 2014-15)). It should also be noted that Tabcorp consolidated its media businesses into the wagering entity from 2014-15. Prior to this, Tabcorp wagering revenue excluded media revenue.

Table 4 below shows Tabcorp's national wagering revenue and Earnings Before Interest, Taxes, Depreciation and Amortisation (EBITDA) from 2007-08 to 2016-17. Both wagering revenue and EBITDA have been relatively stable since 2014-15.

Table 4: Tabcorp Wagering Revenue and EBITDA – 2007-08 to 2016-17

Year	Wagering Revenue (\$M)	Wagering EBITDA (\$M)
2016-17	1,873.0	350.0
2015-16	1,873.0	382.1
2014-15	1,856.9	375.8
2013-14	1,574.7	282.2
2012-13	1,558.0	265.0
2011-12	1,673.4	313.5
2010-11	1,569.1	287.5
2009-10	1,671.1	330.7
2008-09	1,582.6	314.6
2007-08	1,469.9	314.2

Source – Tabcorp Annual Reports – 2007-08 to 2016-17

Discussion Questions
5. Is the link between racing industry funding and the wagering and betting licence (including racing, simulated racing and sports betting) appropriate? Why or why not?
6. Are the current commission and taxation arrangements under the wagering and betting licence appropriate and why? If not, what changes could be made to the commission and taxation arrangements and why?
7. Are the revenue distribution arrangements under the wagering and betting licence appropriate and why? If not, what changes could be made to the revenue distribution and why? Your response may include, but not be limited to, the: <ul style="list-style-type: none"> a. joint venture arrangements between the wagering and betting licensee and the VRI b. alternative models that provide industry funding and returns to the licensee.

6 Inter-jurisdictional comparison

Each Australian jurisdiction has a single state-based TAB that can offer betting online, by phone and through an exclusive retail network. However, the key terms of each wagering and betting licence (or equivalent) are different. Table 5 below provides a summary of the key licence terms in Victoria, New South Wales, Queensland and South Australia.

Queensland is the only jurisdiction to separate the race wagering and sports betting activity of its TAB into separate licences. However, both of those licences have the same licence and exclusivity period end date. Victoria is the only jurisdiction (of those compared) that does not have separate licence and retail exclusivity periods.

Victoria differs substantially from other jurisdictions on the licence term. Victoria's fixed-term 12 year licence is substantially shorter in duration than those in New South Wales (99 years), Queensland (92 years for race wagering and 84 years for sports wagering) and South Australia (94 years). However, it should be noted that the exclusivity periods in New South Wales, Queensland and South Australia are materially lower than each jurisdiction's licence term.

The maximum totalisator commission is similar across all jurisdictions. However, there are some small differences in the individual commission rates applied to different bet types across the three national totalisator pools.

South Australia is the only jurisdiction to have implemented a POCT payable by all wagering service providers (including interstate TABs and corporate bookmakers) at a rate of 15 per cent of net wagering revenue. Similar taxes are being considered or have been announced in several other jurisdictions including Western Australia (15 per cent), Queensland (15 per cent) and Victoria (8 per cent). Victoria has announced that the POCT will replace the existing wagering tax framework. It is currently unclear whether the implementation of point of consumption wagering taxes will replace, or be in addition to, existing wagering taxes in other jurisdictions.

Table 5: Comparison of current key licence terms (Vic, NSW, Qld and SA)

State	No. of licences	Products	Licence term	Exclusivity period	Totalisator Commission	Taxation
Vic	1	Totalisator betting on racing and sports Approved betting competitions (i.e. fixed odds sports betting) Simulated racing events Betting exchange.	12 years and up to 2 year extension	Term of licence	Must not exceed 25% (40% for an internationally pooled totalisator)	Tote – 7.6% of commission Fixed odds racing/ sport – 4.38% of net investment Simulated racing – 10.91% of net investment
NSW	1	Totalisator betting on racing and declared betting events Fixed odds racing Fixed odds declared betting events (sports) Computer simulated racing	As specified in licence (99 years expiring in 2097)	15 years initially extended for an additional 20 years to 2033	Must not exceed 25%	Tote – 13.5% of commission Fixed odds racing/ sport – 7.43% of net investment Simulated racing – 10.91% of

State	No. of licences	Products	Licence term	Exclusivity period	Totalisator Commission	Taxation
						net investment (after first \$255 million bet per annum)
						However, between 2016-17 and 2020-21, wagering taxes will be progressively reduced to achieve racing tax parity with Victoria
Qld	2	Race wagering licence authorises betting on racing Sports betting licence authorises betting on a sporting event or other event	As specified in licences (92 years expiring in 2098 for race betting licence and 84 years expiring in 2098 for sports betting licence)	Exclusivity period for both licences expires in 2044	Must not exceed 25%	Tote – 14% of commission with an offset for GST Fixed odds – 10% of gross revenue with an offset for GST
SA	1	Totalisator betting on races and approved contingencies Other forms of betting on races and approved contingencies (i.e. fixed odds betting)	As specified in licence (94 years expiring in 2100)	15 years initially extended for an additional 15 years to 2032)	Must not exceed 25%	All betting operators (including licensee) pay betting operations tax (a point of consumption based wagering tax) of 15% of net wagering revenue over \$150,000

The licensing process requirements for the Victorian wagering and betting licence are set out in section 4.4 above. In comparison to Victoria, the licensing processing requirements in other jurisdictions are relatively simple. For example, the *Wagering Act 1998* (Qld) provides that an application must:

- be made to the Minister
- be in the approved form
- be accompanied by the application fee.

7 The wagering and betting landscape

7.1 Wagering and betting turnover

Racing Australia produces an annual fact book that contains state-by-state and national thoroughbred wagering turnover data as well as turnover data for harness racing, greyhound racing and sports betting. Racing Australia sources its TAB figures directly from state-based TABs. Racing Australia sources bookmaking figures from government departments or state controlling bodies.

TAB and bookmaking figures reflect turnover conducted by wagering service providers licensed in each state.

Wagering on racing and sports betting is significant and growing. In 2016-17, Racing Australia reported that national turnover on racing and sports betting was \$32.6 billion.¹² This represents year-on-year growth of 12.9 per cent.

7.2 Comparison of racing and sports betting

Betting on racing remains the most popular form of wagering, representing approximately 70 per cent of all racing and sports betting in 2016-17. While betting on racing continues to increase, its market share is declining as a result of the growing popularity of sports betting.

Table 6 below shows the respective growth of racing and sports betting over the last decade. It shows that racing turnover increased by 29.4 per cent while sports betting increased by more than 400 per cent.

Sports betting has grown its market share from around 12 per cent in 2007-08 to around 30 per cent in 2016-17.

Table 6: *Gambling turnover (racing and sports betting) – 2007-08 to 2016-17*

Year	Total Racing (\$M)	Sports Betting (\$M)	Total All Betting (\$M)
2016/17	22,931.04	9,666.81	32,597.85
2015/16	20,640.98	8,243.41	28,884.39
2014/15	22,567.66	5,891.53	28,459.19
2013/14	20,912.86	4,455.25	25,368.11
2012/13	20,811.85	3,991.44	24,803.29
2011/12	20,427.69	3,221.21	23,648.90
2010/11	20,168.00	3,333.41	23,501.41
2009/10	19,672.52	2,945.00	22,617.52
2008/09	19,369.47	2,573.31	21,942.78
2007/08	17,716.73	2,398.00	20,114.73

Source – Racing Australia Fact Book 2016/17

¹² Racing Australia Fact Book 2016/17

7.3 Shift to online and fixed odds betting

Australia's online wagering market, worth approximately \$1.4 billion in net wagering revenue in 2014, has been growing considerably in recent years. Between 2004 and 2014, on an annual basis, online wagering grew at around 15 per cent compared with just 3 per cent growth in the general gambling market.¹³

The shift towards online wagering is likely to continue due to its increased accessibility and convenience, increased competition and advertising, innovation and the breadth of offerings available to consumers. Coupled with a shift towards sports betting (little to no totalisator betting), these factors have also likely contributed to a decline in pari-mutuel betting.

Table 7 below shows the changes in the type of Victorian TAB turnover between 2009-10 and 2016-17. In summary, there has been a significant shift towards fixed odds betting (from a low base for harness and greyhounds) and away from pari-mutuel betting. There has also been a strong shift towards internet betting and away from on-course, retail and telephone betting.

Overall, total Victorian TAB turnover increased by 6 per cent over that period.

Table 7: Victorian TAB turnover breakdown – Percentage change between 2009-10 and 2016-17

	Thoroughbred % Change	Harness % Change	Greyhound % Change	Sport % Change	Total % Change
On-course pari-mutuel betting	-67%	-82%	-30%	N/A	-67%
Retail pari-mutuel betting	-41%	-59%	-38%	N/A	-43%
Telephone pari-mutuel betting	-69%	-81%	-79%	N/A	-72%
Internet pari-mutuel betting	79%	32%	110%	N/A	77%
Total pari-mutuel betting	-33%	-51%	-19%	N/A	-34%
Fixed odds betting	330%	5,091%	49,178%	N/A	575%
Total TAB betting	-3%	-13%	42%	45%	6%

Source – Racing Australia Fact Book 2009/10 and Racing Australia Fact Book 2016/17

7.4 Wagering market share

The Racing Australia Fact Book 2016-17 outlines the relative national market share of TABs and bookmakers for thoroughbred racing and sports betting.

¹³ Point of Consumption Tax Consultation Paper (2015), Department of Treasury and Finance, Victoria

For thoroughbred racing, TABs held a 53.7 per cent market share compared to 46.3 per cent for bookmakers in 2016-17.¹⁴ For sports betting, bookmakers were the dominant player in the market holding a market share of 78.3 per cent compared to 21.7 per cent for TABs.¹⁵

Discussion Question
8. What are the trends, or likely future trends, in the Victorian wagering and betting landscape and how will these impact on the next wagering and betting licence?

8. What are the trends, or likely future trends, in the Victorian wagering and betting landscape and how will these impact on the next wagering and betting licence?

¹⁴ Ibid

¹⁵ Ibid

8 Summary of discussion questions

<p>1. Is the existing regulatory framework for the wagering and betting licence appropriate with respect to reducing harm associated with wagering and betting and why? If not, what changes could be made to the regulatory framework to further reduce harm associated with wagering and betting?</p>
<p>2. Are the regulatory requirements for the wagering and betting licensee appropriate and why? If not, what changes could be made to the regulatory requirements for the wagering and betting licensee and why?</p>
<p>3. Is the structure of the Victorian wagering and betting licence appropriate and why? If not, what changes could be made to the structure of the Victorian wagering and betting licence and why? Your response may include, but not be limited to, the:</p> <ul style="list-style-type: none"> a. term of the licence b. number of licences c. products authorised under the licence d. exclusivity of totalisator betting e. exclusivity of a retail network. <p>Your response may also consider the impact of any changes with respect to reducing harm associated with wagering and betting.</p>
<p>4. Is the licensing process set out in the GRA for the wagering and betting licence appropriate and why? If not, what changes could be made to the licensing process for the next wagering and betting licence and why?</p>
<p>5. Is the link between racing industry funding and the wagering and betting licence (including racing, simulated racing and sports betting) appropriate? Why or why not?</p>
<p>6. Are the current commission and taxation arrangements under the wagering and betting licence appropriate and why? If not, what changes could be made to the commission and taxation arrangements and why?</p>
<p>7. Are the revenue distribution arrangements under the wagering and betting licence appropriate and why? If not, what changes could be made to the revenue distribution and why? Your response may include, but not be limited to, the:</p> <ul style="list-style-type: none"> a. joint venture arrangements between the wagering and betting licensee and the VRI b. alternative models that provide industry funding and returns to the licensee.
<p>8. What are the trends, or likely future trends, in the Victorian wagering and betting landscape and how will these impact on the next wagering and betting licence?</p>

9 Reference material

Acronyms	Description
ACT	Australian Capital Territory
JV	Joint Venture
JVA	Joint Venture Agreement
GRA	<i>Gambling Regulation Act 2003</i>
HILDA	Household, Income and Labour Dynamics in Australia
NSW	New South Wales
POCT	Point of Consumption Tax
SA	South Australia
TAB	Totalisator Agency Board
VCGLR	Victorian Commission for Gambling and Liquor Regulation
VRI	Victorian Racing Industry
VRIB	Victorian Racing Industry Benefit
VRIF	Victorian Racing Industry Fund
WBLP	Wagering and Betting Licensing Project