

Monday, 10 December 2018

Keno Licensing Project  
Office of Liquor, Gaming and Racing  
Department of Justice and Regulation

Via email: [olgr.klp@justice.vic.gov.au](mailto:olgr.klp@justice.vic.gov.au)

Dear Sir/Madam,

## **Submission to Discussion Paper: Keno Licensing Project**

Tabcorp welcomes the opportunity to respond to the discussion paper regarding the Victorian Keno Licensing Project.

Tabcorp recognises the important role the Keno Licence plays in providing an additional revenue stream to retail venues and providing employment in communities across Victoria. We also understand how working in partnership with Government, the community and our retail venues can deliver outcomes in the best interests of Victoria.

Our submission can be summarised as follows:

- To ensure certainty – and maximise returns to the Government, community and retail partners – Tabcorp believes that the term of the Keno Licence should be at least 20 years. A longer term will maximise the value of the licence and give more certainty for investments in products, venues and infrastructure which will further improve the viability of retail venues;
- The regulatory regime applicable to the Keno Licensee must be clear and certain but also retain appropriate flexibility. The manner in which customers transact with keno venues (including payment methods) and the technologies employed to provide those services change rapidly. It is critical that the regulatory environment accommodates these developments;
- As consumer preferences shift towards online purchasing, products such as Keno can be responsibly provided online with enhanced monitoring and harm minimisation controls, especially with a requirement for all online customers to hold a registered account with the operator.
- Tabcorp believe that there is an opportunity to expand the distribution of Keno through a broader range of distribution channels in Victoria. This wider distribution will assist in promoting the visibility of the product and support jackpot offers, benefiting the existing retail partners and providing a new income stream for small businesses.
- The Victorian Keno tax rate is one of the highest in the nation. Providing reasonable taxes for the benefit of the community is appropriate in all regulated industries, particularly those which have the potential to do harm. However, the high tax rate in Victoria reduces the ability of the Licensee to invest in the product. The benefit of the taxes is also often unknown to the community. Hypothecating or directly using Keno taxes for a specific community good (i.e. hospitals and charities) would be beneficial for customers, the Keno Licensee and the community;

- Tabcorp has one of the strongest track records with respect to responsible gambling and would continue to be a responsible contributor to the Victorian community as the operator of Keno Licence.

Detailed responses to the questions in the discussion paper are outlined in Attachment A.

## About Tabcorp

Tabcorp is an ASX50 diversified gambling entertainment group and is the largest operator of Keno in Australia.

Our vision is to be the trusted gambling entertainment company. As such, Tabcorp is proud to have one of the strongest track records with respect to responsible gambling and has a key focus on harm minimisation.

Tabcorp's head office is in Melbourne and it employs over 5,000 Australians, including over 1,200 in Victoria. Tabcorp operates highly recognisable brands such as Keno, Tatts, Tattslotto, Oz Lotto, Powerball, TAB, UBET, Sky Racing and Trackside. Tabcorp is also a trusted partner in over 9,000 venues across Australia, including over 1,700 in Victoria, and in over 60 countries worldwide.

Tabcorp has an Australian history dating back to 1881, working with governments and the community to responsibly deliver gambling products. Over two-thirds of our revenues are re-distributed to licensed venue partners including pubs and clubs, lotteries agents, the racing industry, Governments and the community – this represented around \$3 billion in FY18.

36% per cent of Tabcorp senior leaders are female, and we are proud to be recognised by the Commonwealth Government as one of the country's leading promoters of workplace diversity and gender equality – the only gambling company to receive this recognition from the Government.

## Conclusion

Tabcorp already works closely with the Victorian Government, our venue partners and the community, and we are interested in continuing to be a responsible contributor in the Victorian community as the operator of the Keno Licence.

To discuss this submission or if you have any questions pertaining to the detail, please do not hesitate to contact either Andrew Collins, General Manager – Corporate Development on 0417 104 772 or Tom Callachor, General Manager – Government & Industry Relations on 0417 992 933.

Yours sincerely,



**David Attenborough**  
Managing Director & Chief Executive Officer

## Attachment A

### Question 1 - What changes, if any, could be made to the legal requirements for the keno licensee and why?

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#### a) Agility to accommodate technological advancements

The regulatory and legislative environment governing the keno licence should be clear and certain but also include appropriate flexibility. For example, the manner in which customers transact with wagering service providers (including payment methods) and the technologies employed to provide those services continue to rapidly evolve – in the context of keno, it is critical that the regulatory environment accommodates these types of developments in order for keno offerings to remain relevant and accessible.

Relevantly, the technical standards applicable to the keno licence are implemented most efficiently where changes in technology are easily accommodated as developments arise. The licence should allow for timely processing of requests for approval for system changes or technological enhancements to avoid delay where possible; speed to market is critical in business, and essential in best servicing keno customers. A simplified regime, including appropriate delegated authority to the Victorian regulator, will help to reduce the cost and complexity of making system changes for both the licensee and the regulator. The standards should also continue to support national operating models and consolidation of host systems in order to maximise efficiency to support product development.

Tabcorp supports the recent changes made to the *Gambling Regulation Act 2003* (Vic) to provide flexibility to the Minister in any licensing process. Value can be created for all stakeholders via appropriate consultation afforded in a flexible process.

#### b) Licence term

The ten-year licence term currently provided for by the *Gambling Regulation Act 2003* (Vic) creates unnecessary uncertainty for both the licensee and keno agents. Tabcorp submits that due to the significant investment required in technology systems, retail equipment and fit-out, the keno product would be best served with a licence term of at least 20 years (in line with the recent extension of Gaming Machine Entitlements and licence terms in other jurisdictions).

#### c) Unclaimed prize fund

The ongoing development of keno could be further supported if keno prizes that are unclaimed by customers are able to be invested back to benefit the game of Keno. Unclaimed prize funds could be redistributed back to customers or directly to community causes in ways that benefit them whilst growing the game. This additional keno promotion will help drive sales of the product and in turn generate greater revenue for keno agents and increase tax contributions by the licensee. There would be no change to the perpetual right of customers from claiming the prizes and these could be funded from the promotional fund created.

#### d) Single keno licence

The current single licence model remains appropriate for the conduct of keno in Victoria. We expect that any introduction of multiple licences would reasonably lead to player confusion given the nature of the product and branding and needlessly create duplication and inefficiencies. A single keno licence helps meet an appropriate and unique balance of

economic, social, governance and public interest objectives and is the model that operates in all other Australian jurisdictions.

The regulatory environment for a single keno licence should continue to provide exclusivity protection in the broader retail environment in Victoria and, where applicable, be strengthened as developments that challenge the exclusivity arise.

## **Question 2 – What changes, if any, could be made to harm minimisation requirements for the conduct of keno in Victoria and why?**

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### **a) Responsible Gambling measures**

Tabcorp fully support a regulatory framework requiring the application of appropriate responsible gambling measures to reduce any harm associated with keno. The responsible gambling measures should be balanced with the promotion of employment, small business and economic development generally in Victoria. Tabcorp considers that industry, the Government and the community have a shared responsibility to help prevent the development of gambling-related harm and to ensure that problem gambling support services are available for those individuals requiring assistance.

For the majority of people, gambling is a pleasurable leisure activity and an enjoyable form of entertainment. Tabcorp appreciates, however, that a portion of the population struggle to gamble responsibly. In support of the Government and community efforts (and as part of Tabcorp's core values), Tabcorp is deeply committed to assisting in preventing gambling-related harm. Our Keno Responsible Gambling Code of Conduct outlines practices adopted by Tabcorp when providing services and products to our keno customers.

Tabcorp supports the retention of the requirement in the *Gambling Regulation Act 2003* (Vic) for the keno licensee to maintain a comprehensive and approved code reflecting the same principles.

### **b) Introduction of keno digital**

Whilst the introduction of a digital is primarily to respond and adapt to changing consumer behaviors, there are valuable harm minimisation benefits from customers being required to open registered digital accounts – which would be a requirement to play keno online. Introducing keno accounts would enable the licensee to implement player tracking services to proactively monitor customer behavior to assist with the mitigation of gambling related harm.

Digital keno accounts would also allow customers to make more informed choices about their keno play. Keno accounts would enable customers to access information about their playing history, limit their account spending and self-exclude from play at any time. Maximum deposit and spend limits could also be applied to accounts.

## **Question 3: What changes, if any, could be made to the licensing arrangements for keno and why?**

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### **a) Licence terms certainty**

In order for the Government to maximise any premium payment for the keno licence, the potential licensee needs to have confidence that the terms and conditions forming the basis of their submission for the licence will remain in place, unless changed via mutual agreement, for the term of the licence. In circumstances where this is not possible, a potential licensee would place maximum value on a licence arrangement that provides for some form of off-setting mechanism in the event that changes to the licence occur that de-value the licence.

## b) Keno distribution

The current keno licence restricts the distribution of keno in Victoria to wagering outlets and licensed venues, namely pubs and clubs. Other Australian jurisdictions offer a range of products including Keno in outlets not limited to wagering outlets and licensed venues. It would be beneficial within new licence conditions that a Keno be made available in a wider range of distribution channels than is currently permitted in Victoria. These channels can responsibly deliver keno in a manner which meets harm minimisation objectives whilst generating an additional income stream for small businesses, deeper and more attractive jackpot pools for players and increased tax contributions to government.

## c) Keno digital

Other Australian jurisdictions have either permitted, or are currently actively considering permitting, the distribution of keno via digital channels. As consumer preferences shift towards online purchasing, the consumption of gambling products can be provided in a beneficial and responsible way, including the requirement to hold a registered account with the operator. Keno digital accounts allow for transactions to be monitored, measured and where required, restricted (both proactively by the customer and the licensee). Best practice responsible gambling policies can be implemented with this additional visibility of customer activity.

## d) Cashless transactions

Similar to other gambling modes, keno is experiencing changes in the competitive landscape. Such changes include the way customers expect to interact with product and service providers and the way they wish to pay for those goods and services. Customer preferences drive continuous improvements in the customer offering, and continued innovation is critical to maintaining keno's relevance.

The recent Black Economy Taskforce Report (October 2017) to the Commonwealth Treasurer made numerous recommendations to encourage the move towards cashless payments. An underpinning strategy of the report was to *move people and businesses out of cash and into the banking system, which makes economic activity more visible, auditable and efficient.*

## e) Transitional arrangements for incoming licensee

In selecting a keno licensee, the Minister is required to ensure that any incoming licensee "has sufficient technical capability and adequate systems to conduct the activities authorised by the Licence". While Tabcorp appreciates the importance of seamless and uninterrupted transition of the conduct of keno games to an incoming licensee (contemplated in the current Keno Licence), it is unreasonable to expect the incumbent licensee, at the end of the licence term, to be required to transfer or assign all systems to an incoming licensee. Further to this, the incoming licensee could reasonably be a direct competitor of the incumbent in the production or operation of keno systems. Short-term transition assistance should provide adequate protection.

## Question 4: What changes, if any, could be made to the revenue distribution arrangements under the keno licence and why?

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### a) Tax rate

Victoria imposes the highest taxes of any jurisdiction in which Tabcorp operates keno in Australia. This tax rate has an impact on the financial viability of the licensee to promote

keno and drive sales. This limitation has a consequential impact on the ability of keno agents (small businesses) to make a commercial return from the product, ultimately limiting sales and generation of tax contributions.

To recognise the significant upfront and annual operating costs associated with conducting and maintaining a keno retail network, consideration may be given to a progressive tax structure, with benefits to the State increasingly conferred as sales performances increase.

Customers are more likely to support a product when they can see the benefits that the product delivers to the wider community. Directing the taxes paid from the Keno Licence to specific services, such as the construction of new public health or charity facilities, and recognising this in a formal manner, such as an appropriate presentation, would be more beneficial for customers, the Keno Licensee and the community.

## **b) Retail commission rates**

The flexibility of an agreement-based commission rate for retail partners provides the opportunity for the licensee to work with stakeholders to develop a structure that best supports promotion of the keno product through retail channels. This commission model could include the sharing of revenue on digital sales if this was to become an approved distribution channel.

## **c) Multi-jurisdiction benefits**

Tabcorp currently operates the keno game in conjunction with other jurisdictions in order to deliver more attractive prize levels to customers which effectively drives participation (i.e. via jackpot pooling).

Notwithstanding that the current percentage of sales that is contributed to the prizes fund supports this pooling across multiple jurisdictions, continuation of this practice would be supported by the ability to adjust the returns to players from time to time, within an approved range, without the need to request a legislative change.

As evidenced in Tabcorp's lottery operation, the ability to conduct draws and host transactions in a more centralised way also has natural benefits when conducting games with national or multi-jurisdictional prize pools. The new licence should allow for this capability.

## **Question 5: What factors could be influencing the difference in the performance of the keno market between Victoria and other jurisdictions?**

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Numerous factors, including timing of introduction, competing products and structural differences in the distribution network have led to variances in the performance of keno across the country.

### **a) Club culture and distribution channels**

Club venues in the northern states, which can have much larger numbers of gaming machines than those in Victoria, have developed over many decades into large community hubs providing multiple services and entertainment options to the local community. This venue structure, including the scale of the facilities and customer dwell time, fits well with the social nature of keno. This is particularly so where the club is in a regional area, which makes up a larger percentage in many other States such as Queensland and NSW. Compared with Victoria the vast majority of the population lives in metropolitan Melbourne.

South Australia, whose mix of licensed venues are more closely aligned with those of Victoria, has seen success in the wider distribution of keno through lottery outlets. Distribution of keno through a wider distribution network is seen as complimentary to pubs

and clubs and helps deliver a more prominent position of the keno product benefiting all distribution points.

## **b) Timing and competition with gaming**

The timing and way in which keno was introduced in Victoria has influenced the performance of keno. Keno in Victoria was first conducted much later than in most other Australian jurisdictions, at approximately the same time as gaming machines. This introduction alongside gaming machines meant that from the beginning, keno was seen as a secondary offering and struggled to gain a foothold or prominent position in the market.

## **c) History of multiple operators**

The initial introduction of keno was split across two different operators, who offered two completely separate keno products. The history of keno operations in Victoria impacted customer experience, product parity and brand awareness.

This market confusion was not removed until 2012 when Victoria issued a single keno licence to Tabcorp. Keno has strengthened recently in Victoria, but still has some time before it matures in its product lifecycle and attracts a core following of customers.

The relative underperformance of keno in Victoria, despite now offering an almost identical product to those operated in other jurisdictions, underscores the importance of retaining the single operator structure already contemplated in this submission.