

**Inquiry into the advertising and promotion of gambling services in sport
Responses to Questions on Notice from the Public Hearing on 19 March 2013**

Mr STEPHEN JONES: Was any evidence provided to your department on the quantum of that revenue that is represented by gaming promotion during a sporting fixture?

Answer: No.

Senator XENOPHON: Given the role that the department played in shaping this, in consultation with the codes, on notice, can you provide a view as to whether Tom Waterhouse's appearances to date would be in breach of any code or not?

Dr Pelling: I can provide on notice a description of the way that the code will operate.

Answer: As at 23 April 2013, revised broadcasting industry codes of practice, with amendments to restrict the promotion of live odds during sports broadcasts, have not been registered by the Australian Communications and Media Authority (ACMA). The ACMA will only register an amended code of practice if it is satisfied that:

- the code, as proposed to be amended, provides appropriate community safeguards for the matters it covers,
- the code, as proposed to be amended, is endorsed by the majority of the providers of broadcasting services in the section of the industry to which the code applies; and
- members of the public have been given an adequate opportunity to comment on the code.

While the public consultation period on the commercial radio sector's proposed amendments has closed, the consultation period for amendments proposed by the commercial television and subscription television sectors is not due to close until 20 May 2013.

In general terms, the proposed amendments would prohibit the promotion of live odds by commentators in live sports broadcasts at any time, and the promotion of live odds by other persons during play in a live sports broadcast. The promotion of live odds by such other persons, and the broadcast of spot commercials or paid and clearly identified sponsorship segments delivered by persons other than commentators would be permitted before play commences, after play concludes, during scheduled breaks in play or during unscheduled breaks in play (where play has been suspended and the players have left or are yet to enter the sporting field). The proposed amendments would not apply in relation to coverage of live horse or dog racing events. The amendments would also not apply in relation to the promotion of live odds pursuant to contractual commitments entered into before 27 May 2011.

It is not appropriate for the department to provide a view on whether certain appearances by Tom Waterhouse would breach the broadcasting industry codes of practice (if amended as proposed) if they occurred after the ACMA had registered the revised codes of practice. As

the industry regulator, the ACMA is responsible for monitoring and enforcing compliance with industry codes of practice.

Mr CIOBO: Is the department aware of any other products or services where advertising the product or services is permitted but advertising the price of a service is not?

Answer: The proposed amendments to broadcasting industry codes of practice to restrict the promotion of live odds during sports broadcasts would not prohibit the advertising of the price (or minimum cost) associated with placing a live odds bet or using a service that accepted such betting. The amendments seek to restrict the provision of live odds information, which suggest the probability (and associated return) of a particular action or outcome in relation to an event, rather than the price to place such a bet. The probability can be expressed either as a traditional odd (for example, 5-4 or 25-1) or as a payout for a \$1.00 outlay.

The department is not aware of any products or services where advertising a product or service is permitted but not its price.

The consumer protection laws in the *Competition and Consumer Act 2010* contain various provisions regulating the way that products may be advertised, including in relation to information about pricing. However, these do not prohibit the advertising of the price of products or services provided the information about pricing does not otherwise breach consumer protection law, for example, the prices are not presented in a way that would be misleading.

Advertisements for other products may also be subject to product specific regulation. For example, advertisements for therapeutic goods directed towards consumers are subject to the requirements of the *Therapeutic Goods Act 1989*, the *Therapeutic Goods Regulations 1990* and the *Therapeutic Goods Advertising Code 2007*. Under this framework, the advertising of prescription-only medicines direct to consumers is prohibited. Generally, advertisements for non-prescription medicines (which may include price information) can be directed towards consumers, although prior approval is required for certain types of direct to consumer advertisements, and the advertising of certain non-prescription, but pharmacist-only, medicines to consumers is prohibited.

Further questions on the operation of the above Acts, if required, should be directed to the administering agencies.