

**SUBMISSION TO THE JOINT SELECT COMMITTEE ON GAMBLING REFORM'S  
INQUIRY INTO THE PREVALENCE OF INTERACTIVE AND  
ONLINE GAMBLING IN AUSTRALIA AND GAMBLING ADVERTISING**

**TABCORP HOLDINGS LIMITED**

**REVISED AND RE-SUBMITTED 30 JUNE 2011**



## **EXECUTIVE SUMMARY**

### **A changing market**

- The growth of the internet and associated technologies has led to more consumers preferring to access gambling services online.
- Online wagering activities have grown steadily over the last decade and are part of the global online gambling market.
- Online technologies have given rise to new wagering operators who are expanding wagering product.

### **Enforcing an online regulatory regime**

- The Interactive Gambling Act 2001 (Cth) (“IGA”) prohibits interactive gambling services, with the exception of wagering services. It is appropriate that wagering services continue to be exempt from the prohibition.
- The pace of change and growth of internet technologies means that the IGA, enacted in 2001, is not fulfilling its intended purposes.
- The IGA should be reviewed with a view to either:
  - i. Strengthening the IGA to ensure rogue domestic and offshore operators comply with its requirements; or
  - ii. Deregulating online gambling so that Australians are not forced to bet with offshore operators. This will also enable domestic operators to compete on a level playing field where player protection standards can be assured.
- If option 1 is preferred, international experience demonstrates that restrictions on online gambling can be effectively implemented through specific legislative and regulatory measures and financial transaction controls.

### **Minimising harm and maintaining consumer confidence in the online gambling environment**

- Gambling is one of Australia’s most heavily regulated industries. This is appropriate to ensure integrity, probity and community confidence in the industry.
- Regulation must balance the objective of protecting problem gamblers with the need to ensure recreational gamblers can continue to choose to enjoy this activity.
- It is important that appropriate harm minimisation measures apply to online gambling.
- In the case of sports betting, there is a role for governments, sporting bodies and the wagering industry to work together to protect sports integrity.
- In the current environment, a nationally applied code of conduct for wagering / sports betting operators should be established that covers:

- Requirements for arrangements to be in place with sports controlling bodies
- Marketing
- Credit betting
- Offering of financial inducements to open an account
- Responsible gambling messaging, self-exclusion and compliance with the national sports betting code of practice.

A regulatory approach to these matters should be taken if operators do not comply with the code of conduct.

To the extent applicable, the code should extend beyond wagering / sports betting operators and should cover all gambling operators.

### **Wagering market distortions created by the growth in online betting**

- A national wagering market has evolved as a consequence of the growth of online technologies.
- Industry funding and regulatory models have not responded to this change and market distortions have resulted.
- If these distortions are not addressed, the Australian racing industry will lose significant funding which will lead to a serious decline. The Australian racing industry is one of the industries in which Australia can claim a position of world leadership. A national approach to the regulation of wagering is appropriate to address these issues, if necessary through “lifting” responsibility for taxation and regulation to a federal level.

## 1. A changing market

### 1.1 *The growth of the internet and associated technologies has led to more consumers preferring to access gambling services online.*

Online technologies have changed the way Australians communicate and do business.

Between 1998 and 2008-09, the proportion of Australian households connected to the internet grew from 16% to 72%, with almost two thirds of these households having a broadband connection.<sup>1</sup> In the commercial sphere, 87% of businesses were estimated to have internet access in 2007-08.<sup>2</sup>

Online technologies have enabled a growth in electronic commerce, with online gambling expenditure growing between 10% and 20% per annum globally.<sup>3</sup>

Despite online gambling in Australia being restricted by the operation of the Interactive Gambling Act 2001 (IGA), the Productivity Commission has estimated that online gaming (casino, poker and bingo games) has increased.<sup>4</sup>

Research by Wood, Williams and Lawton has outlined four ways in which consumers derive utility from online gambling:

(a) the relative convenience, comfort, and ease of Internet gambling; (b) an aversion to the atmosphere and clientele of land-based venues; (c) a preference for the pace and nature of online game-play; and (d) the potential for higher wins and lower overall expenditures when gambling online.<sup>5</sup>

### 1.2 *Online wagering activities have grown steadily over the last decade and are part of the global online gambling market.*

Australian wagering customers have traditionally bet in retail betting shops, on-course or over the telephone. The growth of the internet has changed this with some account customers preferring to transact with wagering operators online.

Figure 1 demonstrates the increase in popularity of the internet in relation to Tabcorp's Victorian and NSW betting operations.

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<sup>1</sup> Australian Bureau of Statistics, *Household Use of Information Technology, Australia, 2008-09*, 8146.0, 9 February 2010

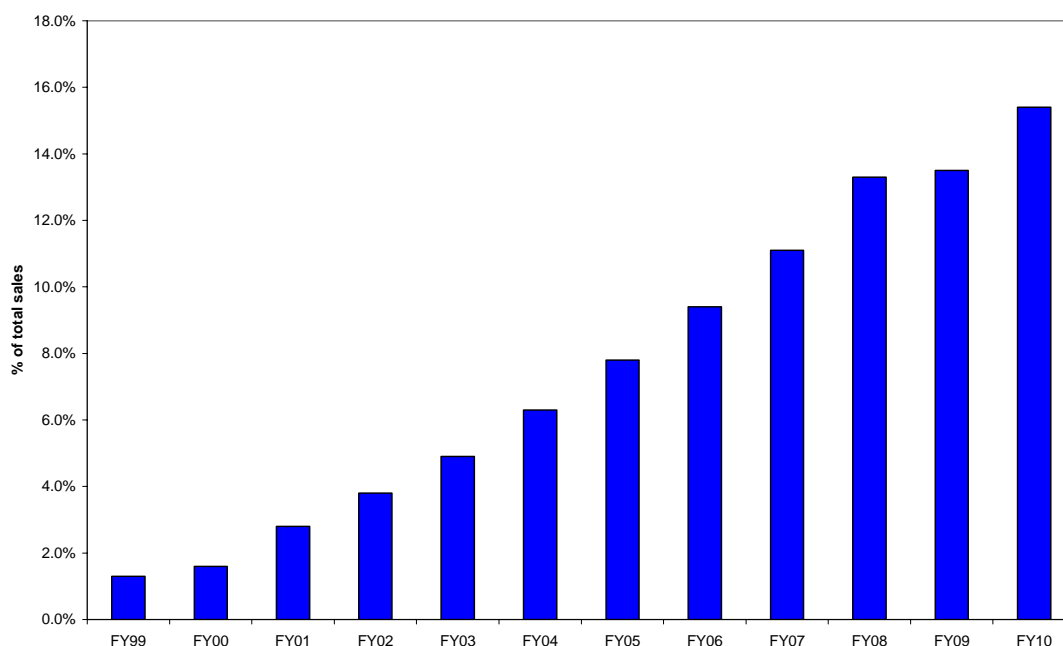
<sup>2</sup> ABS data cited in Department of Broadband, Communications and the Digital Economy, *Australia's Digital Economy: Future Directions*, 2009

<sup>3</sup> Gainsbury, S., *Emerging trends in online sports betting in Australia*, presentation to Victorian Responsible Gambling Awareness Week Forum, 23 May 2011

<sup>4</sup> Productivity Commission 2010, *Gambling*, Report no.50, Canberra, p15.17

<sup>5</sup> Wood, R., Williams, R. & Lawton, P., *Why do Internet gamblers prefer online versus land-based venues? Some preliminary findings and implications*, *Journal of Gambling Issues*, Issue 20, June 2007

**Figure 1: Tabcorp's internet wagering turnover as % of total turnover**



Source: Tabcorp

The borderless nature and immediacy of the internet means that the online gambling market is global. Australians can now place bets with wagering operators not licensed in their home state much more readily than before. For example, Victorian and NSW residents can now easily locate and place bets with interstate corporate bookmakers and betting exchanges or with international operators established to target customers in Australia. These operators are not precluded from accepting such bets. The immediate nature of the internet has enabled customers to compare products offered by wagering operators and choose the product that best appeals to them.

**1.3** *Online technologies have given rise to new wagering operators who are expanding wagering product.*

The internet has allowed wagering providers to achieve wide distribution and raise their profiles at very low cost. It has enabled them both to enter the wagering market in the first instance and to be very competitive once they have entered it.

Corporate bookmakers have taken advantage of the growth of the internet by establishing businesses that offer wagering services online to a national audience.

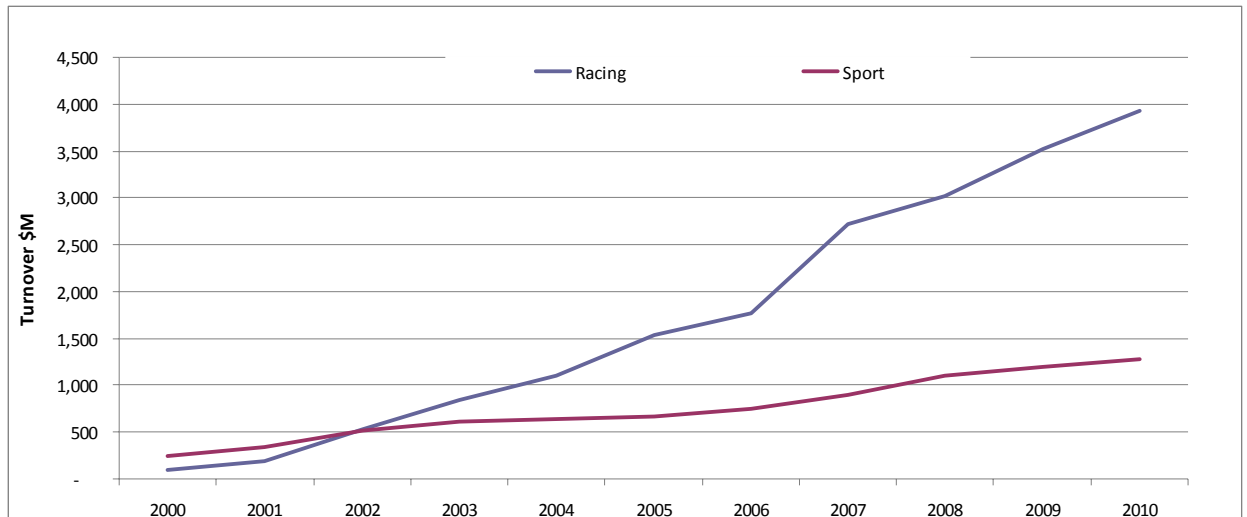
Corporate bookmakers have established their online businesses in jurisdictions that charge little or no wagering tax and racing industry fees, and have regulatory structures that allow them to offer products and services not permitted in other jurisdictions. The Northern Territory is one example of a jurisdiction with a flexible regulatory structure. Such an environment enables corporate bookmakers to:

- Offer better prices to customers because of the relatively low tax and racing industry contributions required; and

- Offer a broader product suite to customers, including the ability to bet on novelty events and to extend credit to their customers.

This “arbitrage” of taxes, product fees and regulation has fuelled growth in the corporate bookmaking market. Figure 2 shows the growth in Northern Territory corporate bookmaker turnover over the past decade.

**Figure 2: Growth of Northern Territory corporate bookmaker turnover**



Source: Tabcorp analysis

Betting exchanges are a relatively new form of wagering, allowing customers to bet against each other on a variety of events at mutually agreed odds.

Betting exchanges were introduced in Great Britain in 2000. In January 2006 the Tasmanian Government licensed the conduct and operation of Betting Exchanges in Tasmania under the Gambling Control Act (TAS) 1993. The package of legislative reforms included provisions designed to provide a probity and integrity framework.

The Tasmanian-licensed betting exchange, Betfair, now matches bets from customers around Australia on racing and sporting events in all Australian jurisdictions and across all codes.

Tasmania and Victoria are the only jurisdictions with regulation in place that contemplates the operation of betting exchanges.

Since the vast majority of corporate bookmaker and Betfair turnover is channelled over the internet, Tabcorp estimates that more than 30% of the Australian wagering market is now online.

## 2. Enforcing an online regulatory regime

- 2.1 *The Interactive Gambling Act 2001 (Cth) ("IGA") prohibits interactive gambling services, with the exception of wagering services. It is appropriate that wagering services continue to be exempt from the prohibition.*

The ongoing exclusion of wagering services from the definition of interactive gambling services under the IGA should be retained.

As the Productivity Commission has noted:

Internet wagering represents a relatively small technological step since people could already lodge their bets remotely by 'phone'.<sup>6</sup>

TABs take online wagers that are based on real events such as horse races or football games, that take place elsewhere and are not controlled by the gambling operator, as opposed to wagers taken by interactive gaming operators.

Wagering through the internet is merely an alternative method of transmitting bets to the TAB and is equivalent to existing telephone services that the TAB has been operating for many years.

- 2.2 *The pace of change and growth of internet technologies means that the IGA, enacted in 2001, is not fulfilling its intended purposes.*

Among other things, the IGA seeks to prohibit Australian customers from accessing interactive gaming services. The Productivity Commission has noted that despite this, Australians continue to access prohibited online gaming services.<sup>7</sup> The Productivity Commission further notes:

Overall, it is probable that the prohibition on online gaming, and in particular the prohibition on advertising online gaming, has reduced the growth in demand below what it otherwise would have been. Nevertheless, it is not clear that the effect has been large. Australian consumption of online gaming has grown and will continue to do so, making the prohibition less effective over time.<sup>8</sup>

The Productivity Commission has recommended a phased liberalisation of online gambling. The Productivity Commission argues liberalisation would enhance consumer choice, may have consumer protection benefits and broader economic benefits in tax collected and commercial opportunities. The Productivity Commission also notes potential risks for problem gambling of liberalising online gambling.<sup>9</sup>

It is therefore timely that a comprehensive review of the IGA be undertaken with a view to either:

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<sup>6</sup> Productivity Commission 1999, *Australia's Gambling Industries*, Report No.10, AusInfo, Canberra, p18.27

<sup>7</sup> Productivity Commission 2010, p 15.15

<sup>8</sup> Productivity Commission 2010, p 15.18

<sup>9</sup> Productivity Commission 2010, Chapter 15

- i. Strengthening the IGA to ensure rogue domestic and offshore operators comply with its requirements; or
- ii. Deregulating online gambling so that Australians are not forced to bet with offshore operators. This will also enable domestic operators to compete on a level playing field where player protection standards can be assured.

2.3 *If option (i) is preferred, international experience demonstrates that restrictions on online gambling can be effectively implemented.*

There has been significant evolution in regulatory options available to curb illegal online activity, including:

- The reduction in offshore betting with US residents which was achieved by effective prosecution action under US legislation, which has been supported by the Unlawful Internet Gaming Enforcement Act (UIGEA).
- The activities undertaken by the Australian federal government in switching off access to certain websites. This measure has also been used extensively in Europe, particularly Italy.
- Financial transaction controls introduced by many countries, including the US and Norway.
- Regulatory reforms introduced to manage cross border betting in Europe, for example action against Betfair in Italy, action against Centrebet in Norway and action against Full Tilt and UniBet in Belgium.
- Actions undertaken by sporting bodies to secure product fee rights (eg French Federation of Tennis v Expekt and Unibet of 30 April 2008 and the subsequent dismissal of Unibet's appeal on 15 October 2009).

Should the Australian government wish to more rigorously enforce the existing prohibitions in the IGA, international experience suggests this can be achieved.



### **3. Minimising harm and maintaining consumer confidence in the online gambling environment**

#### **3.1** *Gambling is one of the Australia's most heavily regulated industries. This is appropriate to ensure integrity, probity and community confidence in the industry.*

Australia's gambling industries operate within strict regulatory frameworks which govern industry probity and the delivery of gambling products. Tabcorp believes government undertakes its regulatory role appropriately.

As a leading Australian gambling operator, Tabcorp has formulated a responsible gambling framework, based on best practice across Australia and internationally and consultation with employees, counselling services, community groups, governments and expert researchers.

It is our aim to develop gambling environments that are supportive to customers and where potential harm to individuals and the broader community is minimised.

Based on a social health approach, the company's responsible gambling framework consists of three components namely:

- Primary prevention – those initiatives that the company pursues before a person decides to gamble, for example the provision of information to enable informed choice, financial support for research.
- Secondary protection – activities we pursue once an individual has decided to gamble, for example responsible gambling codes, employee training programs, a responsible gambling manager for our business.
- Safety net and rehabilitation – interventions that are appropriate where an individual has most likely developed a problem with their gambling, for example funding for counselling services and the operation and funding of self-exclusion programs.

Tabcorp has continually led the industry in the development and introduction of responsible gambling initiatives which is why we have been recognised as global leader in the promotion of responsible gambling by the Dow Jones Sustainability Index.

#### **3.2** *Regulation must balance the objective of protecting problem gamblers with the need to ensure recreational gamblers can continue to choose to enjoy this activity.*

Industry sustainability requires the gambling industry to be serious in its attempts to address problem gambling.

However, too often the gambling debate ignores the legitimate right of people to gamble responsibly as a recreational activity.

Research into the incidence of problem gambling consistently demonstrates that the vast majority of gamblers do so responsibly and do not have a problem with their gambling. It is critical that gambling continues to be an enjoyable recreational pursuit for these people.

Therefore, there is a balance to be struck in the development of policy to ensure that the costs to recreational gamblers of introducing new initiatives aimed at minimising harm are not outweighed by the benefits to those people who have a problem.

Australians value freedom of choice in how they spend their time and money. As a community, we also value the desire to assist community members in trouble. There needs to be an emphasis on personal responsibility in dealing with matters such as gambling, rather than simply relying on broad regulatory measures.

Promoting responsible gambling rather than simply addressing problematic gambling is critical to achieving this balance.

3.3 *It is important that appropriate harm minimisation measures apply to online gambling.*

As technology evolves, so too will consumer preferences around how they transact with organisations, including wagering operators.

Tabcorp is an innovation leader and is responsive to consumer preferences and demands. For example, Tabcorp's TAB wagering business has recently developed an iPhone application, as well as the recently launched iPad application.

For Tabcorp, our responsible gambling program applies equally to those account customers who utilise new betting technologies as it does to customers who bet in our retail agencies.

However, different wagering operators take different approaches to the responsible delivery of their gambling products.

In an online environment where wagering services can be so readily accessed, responsible service is of paramount importance. Greater availability, ease of play and anonymity have been cited as features of the internet that may lead to problem gambling behaviour.<sup>10</sup>

The approach of states and territories to harm minimisation in online wagering differ markedly. For example, while totalisators in general cannot provide credit to their customers, bookmakers are free to offer credit betting services. Between jurisdictions, differences also apply to restrictions on bet types, wagering advertising and the capacity of operators to offer account opening inducements to wagering customers.

Customers who wish to take advantage of credit betting, account opening inducements and a broad product offering are taking their business to jurisdictions with regulatory environments that allow wagering operators to provide these services.

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<sup>10</sup> Monaghan, page 23

3.3 *In the case of sports betting, there is a role for governments, sporting bodies and the wagering industry to work together to protect sports integrity.*

Tabcorp supports a regulated sports betting environment that provides Australian customers and sports participants the highest levels of consumer protection and integrity.

To that end, Australia's TABs have led the way in addressing integrity concerns by entering into cooperative working arrangements with sports controlling bodies, regulators and the police. Among other things, these arrangements involve the TABs reporting suspicious betting activity on sporting events.

Around 30% of TAB sports bets are on exotic products, for example first goal scored. Recreational customers enjoy placing small exotic bets because they can win larger dividends for a relatively modest investment. Exotic bets pose no greater risk to sports integrity than head to head contests as suspicious betting activity on all bet types is monitored and reported. If exotic bets are prohibited, consumers will either discontinue their betting activity or such activity will be driven underground, either to illegal domestic or offshore operators. This will lead to a decrease in product fees collected by sports and taxes collected by governments.

To preserve sports integrity, Tabcorp supports the introduction of nationally consistent criminality provisions for people who corrupt sporting events.

Tabcorp also supports the establishment of a specialist unit, reporting to the Australian and state/territory governments, to oversee sports integrity.

3.4 *Code of conduct*

For the reasons outlined above, it is important that those offering online wagering services comply with minimum, consistently applied responsible gambling and integrity standards. Tabcorp recommends that in the current environment in which online wagering services are able to be delivered online, a nationally applied code of conduct for wagering / sports betting operators should be established that covers:

- Requirements for arrangements to be in place with sports controlling bodies
- Marketing
- Credit betting
- Offering of financial inducements to open an account
- Responsible gambling messaging, self-exclusion and compliance with the national sports betting code of conduct.

Should wagering / sports betting operators fail to comply with the code of conduct, nationally consistent regulation should deal with these matters.

To the extent applicable, the code should extend beyond wagering / sports betting operators and should cover all gambling operators.

#### **4. Wagering market distortions created by the growth in online betting**

##### *4.1 A national wagering market has evolved as a consequence of the growth of online technologies.*

The Australian wagering industry is undergoing the most significant change in its history.

Historically, the industry has consisted of:

- State/territory-based totalisators, offering wagering services on-course, in retail shops, over the telephone and, more recently, over the internet, and
- Bookmakers, offering fixed odds wagering services on-course and more recently, over the telephone and internet.

Punters in a particular state or territory have traditionally bet with their home state's totalisator which, in turn, made significant returns to the local racing industry. Although bookmakers make a small contribution to racing industry funding, between 70% and 90% of the racing industry's funding comes from TAB operations, depending on the state or territory. Tabcorp alone contributes more than \$550 million to the racing industries in Victoria and NSW.

The borderless nature of the internet now means that whereas wagering has previously operated as a series of state-based markets, it has evolved to become a national market. For example, a Victorian punter can now bet with a Northern Territory bookmaker on a South Australian race or sporting event. This has many implications, including for how the racing industry is funded.

##### *4.2 Industry funding and regulatory models have not responded to this change and market distortions have resulted.*

Whilst the Australian online wagering market has evolved to a national one, state and territory governments and racing industry authorities continue to regulate the industries as if they were still state/territory based markets. Each jurisdiction has its own approach to:

- Racing industry funding, including race fields fees
- Wagering taxation
- Integrity management
- Products approved
- Regulatory approval processes
- Harm minimisation / responsible gambling requirements.

Wagering customers will seek out wagering opportunities that provide the best price, product offering and suite of complementary services. Wagering operators will seek out a business environment that enables them to maximise returns. Where a non-level playing field exists, customers and wagering operators will "jurisdiction shop" to find the environment that best suits them.

In general a wagering tax is levied on TAB operators offering parimutuel and fixed odds betting on racing and sports. In Victoria and NSW the parimutuel tax rate is 19.11% and the fixed odds tax rate is 10.91%. In contrast, in the majority of situations, no or marginal wagering tax is levied on bookmakers. The differences in the tax rates applied to wagering operators according to jurisdiction and type of operator allow some operators to offer better prices to their customers, not based on their business model or efficiency, but purely as a result of lower taxes.

Similarly, a non-level playing field exists for fees payable to the racing industry. Totalisator betting contributes approximately 5-6 cents in every dollar of turnover to the racing industry. Corporate bookmakers contribute a fraction of this level. In the case of the revenue based fee model adopted in Victoria, the effective contribution can be, on average, less than 0.7 cents for every dollar bet.

*4.3 If these distortions are not addressed, the racing industry will lose significant funding. A national approach to the regulation of wagering is appropriate to address these issues.*

The impacts of a non-level playing field in the areas of taxes, racing industry fees and regulation leads to leakage of wagering revenue to jurisdictions in which wagering operators pay little or no contribution to the racing industry.

In 2008, Tabcorp estimated that the loss of income for the NSW and Victorian racing industries as a result of these distortions was \$58 million and \$45 million respectively. As online wagering continues to grow, this leakage will continue.

The impact of this leakage on employment and economic activity generated by the racing industry, particularly in regional areas, will be material. It is therefore urgent that the distortions be addressed.

Tabcorp believes that the key to addressing these distortions lies in a national approach to the regulation of wagering, including a single national approach to taxation and funding of the racing industry, possibly administered by the Commonwealth.

Tabcorp provided detailed recommendations on these matters in its submissions to the PC's 2009/10 inquiry into gambling (available on the PC's website). Tabcorp's submissions were based on a comprehensive analysis of the wagering and racing value chains. It was unfortunate that the PC's final report ignored stakeholders who derive value from wagering and racing activities other than consumers. The racing industry funding arrangements proposed by the PC would have significant and possibly catastrophic impacts on employment and economic activity.

## **Overview of Tabcorp**

Tabcorp is a diversified entertainment group that strives to offer a first-class entertainment experience for our customers across Australia.

Tabcorp manages leading customer brands in Australia, including the TAB in Victoria and New South Wales, Tabaret gaming in Victoria, Keno, TAB Sportsbet, Luxbet and Sky Racing, serving millions of customers every day.

Tabcorp was listed on the Australian Stock Exchange (ASX) in August 1994 to acquire the wagering and gaming businesses of the former Victorian Totalizator Agency Board. Tabcorp acquired the Star City hotel and casino in Sydney, in 1999. In 2003 the company merged with Jupiters, the owner of hotel and casino complexes in Brisbane, Gold Coast and Townsville as well as gaming machine monitoring. In 2004, Tabcorp completed the acquisition of Tab Limited, the New South Wales based wagering, media and gaming company.

Tabcorp implemented a demerger of its casinos business from its wagering, gaming and keno businesses in June 2011.

Tabcorp employs more than 3,000 people in Australia.

Tabcorp is committed to ensuring its products are enjoyed by its customers and delivered responsibly. In recognition of its efforts, Tabcorp has been recognised as global leader in the promotion of responsible gambling by the Dow Jones Sustainability Index.

The company makes a significant contribution to the communities in which it operates.