

TAB — ASSIGNABLE BUSINESS LICENCES

4291. Mr J.E. McGrath to the Minister for Tourism; Racing and Gaming; Small Business; Defence Issues; Citizenship and Multicultural Interests:
- (1) Will the Minister table a copy of the standard 2016 Assignable Business Licence (ABL) agreement that sets out the contractual terms, conditions and obligations on remuneration and other relevant matters pertaining to the TAB and TAB agents?
 - (2) Can the Minister provide a list of differences between the 2016 ABL agreement currently in force and the previous (2006) ABL, and an explanation or rationale as to why those differences were proposed and presented to the agents?
 - (3) Can the Minister explain how the aggregated pool remuneration model incorporated in the 2016 ABL agreement is a sustainable model for both Racing and Wagering Western Australia (RWWA) and the TAB agents?
 - (4) Did RWWA provide an opportunity to the agents' negotiating committee to negotiate certain terms, conditions and obligations on remuneration and other relevant matters in relation to the 2016 ABL agreement?
 - (5) If yes to (4), what alternative proposals by the agents' negotiating committee were considered and accepted by RWWA?
 - (6) If no to (4), why not?
 - (7) Can the Minister explain the differences between the ABL agreement, the "Connect Contract" entered into with some agents, and the contract entered into with Bonded Agents?
 - (8) Will the Minister also table a copy of:
 - (a) The "Connect Contract"; and
 - (b) A standard contract between RWWA and Bonded Agents?

Mr P. Papalia replied:

- (1) [See tabled paper no 2201.]
- (2) A list of key differences between the 2016 ABL agreement and the previous (2006) ABL

ABL	2006	2016	Outcome
Term of the agreement	10 years	10 yrs + 5 yr option	5 year option gained to provide security of tenure in a competitive wagering market with a nil license fee
Aggregated Commission	2.64%	2.71%	Commission rate increase, negotiated by external mediation
Commission ratio	80/20	70/30	Consistent with 1996 ABL agreement, structure shift in order to maintain viability for all TAB Agents
<i>Assignable licence</i>	<i>Yes</i>	<i>Yes</i>	<i>Maintained</i>
Buyout upon closure	Yes	No	Consistent with 1996 ABL agreement, writing this liability into the contract would expose the capacity to fund the racing industry to the Agents' capital risk and the potentially over-valued goodwill of licenses being sold in a small business market **
<i>Relocation provisions</i>	<i>40km radius</i>	<i>40km radius</i>	<i>Maintained</i>
Incentive Scheme	Yes	No	2016 ABL guaranteed in aggregated commission 2.71%, the overall commission base of the 2006 ABL saw Agents receive commission of 2.64% plus the proceeds of the sales incentive scheme
Account Connectivity	No	Yes	Trailing commissions from new accounts in order to participate in online wagering growth
<i>PubTAB compensation</i>	<i>Yes</i>	<i>Yes</i>	<i>2km radius maintained</i>

Close proximity pubTAB commission	No	Yes	1.6% commission from pubTAB within 200m radius, previously this arrangement required the preparation and execution of a separate Close Proximity Deed outside of the terms of the 2006 ABL
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The 2006 ABL Agreement expired on 31st August 2016. RWWA and the Agents' Association subsequently negotiated:

- A new agency Agreement (2016 ABL) securing a ten year contract, with a five year option;
- No additional licence fee or goodwill cost to agents in taking up this new Agreement;
- Contractual conditions that allow agents to assign their rights under the Agency Agreement or continue to trade.

Points to note in regard to Agent rights for compensation are that:

The 2016 ABL does not contain a buyout clause in regard to "termination on review of network requirements". This clause is the only change from the 2006 ABL Agreement in regard to buyouts or compensation as a result of a relocation or loss of agency premises tenure. That is, the 2006 ABL Agreement offered TAB Agents no entitlement to compensation or claim against loss of goodwill in regard to any relocation or expiry of tenure of their agency premises;

The 2006 ABL Agreement compensation provisions provided a buyout only upon a "termination on review of network requirements". A twelve month notice of closure was required to be given by RWWA to an agency closing as a result of an assessment of operational requirements; and

It should also be noted that the 1996 ABL Agreement did not contain any provisions for buyouts or compensation as a result of either relocation or closure of an agency.

- (3) The aggregated commission structure under which the full-time TAB agency network operates has been a fundamental part of distributing commissions to TAB agencies for the past two decades.

The model has the ability to adequately remunerate individual Agents through the fixed and variable components of the commission structure. This in turn allows RWWA to:

- maintain the viability of a full-time agency channel against the more cost effective distribution of the pubTAB retail footprint;
- hold retail freehold interests and enter into premises leases for the full-time agency channel;
- invest capital into the network for upgrades and technology;
- sustain a network of retail agencies currently experiencing low turnover and declining sales which provides a "safety net" for Agents against fluctuations or ongoing declines in agency sales and can be adjusted to manage any commission over or under payment position accumulated over the financial year; and
- provide the incentive in the commission based remuneration model for Agents to grow the business and sees higher turnover agencies generate more commissions.

- (4) Yes. RWWA commenced negotiations with an Agent representative group in November 2014. An approval to commence negotiations had been obtained by both parties through the ACCC.

Negotiations in good faith were held regularly between RWWA and the Agents' negotiation representatives throughout 2015 and into 2016.

- (5)-(6) Key proposals presented by the Agent's negotiating group and agreed to by RWWA were:

- An additional five year term;
- "Critical Proximity" included in definitions;
- Removal of the 'Personal Involvement' 30 hours per week (clause) and replaced with the ability to use an Approved Person;
- Removal the clause allowing RWWA to vary the minimum hours that an entity must be in attendance (in conjunction with above);
- The "new location" radius to be one kilometre instead of 500 metres;
- 'Terms on which agent may assign' (clause) re-inserted;
- Termination on review of operational requirements returned to 12 months instead of six months;
- RWWA to pay all staff training fees for Approved Managers; and

Dormant Accounts and Eligible Accounts to be six months instead of 13 months (new definition for eligible account).

- (7) An outline of the 'Connect' Agreement and 'Bonded Agent' Agreements is provided below.

The Retail Sales and Marketing (Connect) Agreement:

Term: a fixed term of three five-year options. The final expiry is determined by the anniversary date of the initial establishment of the Agreement.

Commission: paid based on the individual agency gross margin derived from totalisator sales, a fixed rate on fixed odds sales (2%), a weekly base payment and the negotiation of incentive commission ("specials") on products, location and tote pool.

Termination on review of network requirements: RWWA must pay the agent compensation as per a formula being two times the annual agency remuneration for the 12-month period prior to termination.

Recital for privatisation: there is no statement of intent around privatisation.

Territorial issues: Agent is not entitled to an ongoing commission payment from a pubTAB service established within a 200-metre radius of the agency. (This arrangement needs to be agreed by a separate Deed).

The main purpose of establishing this Agreement was to recognise the increasing customer migration from traditional retail wagering to on-line and mobile services, as well as providing reward for effort. This included a "connectivity" commission component providing trailing commission on TAB accounts established within the agency as well as a prescribed buyout provision (similar to the 2006 ABL) if the Agreement was terminated.

A Bonded Agreement

Term: either RWWA or the Agent may terminate the Agreement at any time by giving three months' notice.

Commission: paid based on a percentage of all sales made in the agency and a weekly base payment.

Termination on review of network requirements: the Agent has no claim to compensation upon termination or expiry.

Recital for privatisation: a statement of intent that the Agreement continues in full force and effect if the wagering operations of RWWA are sold to a third party.

Territorial issues: Agent is entitled to an ongoing commission payment from a pubTAB service established within a 200-metre radius of the agency.

Bond: a Bonded Agent is not required to pay a "licence fee" or make a capital outlay to enter into the Agency Agreement. The Bonded Agent is required to have in place a security bond held by RWWA.

- (8) (a) [See tabled paper no 2201.]
(b) [See tabled paper no 2201.]