

Western Australian Auditor General's Report



Opinion on Ministerial Notification



Report 2: 2019-20

26 July 2019

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The Office of the Auditor General acknowledges the traditional custodians throughout Western Australia and their continuing connection to the land, waters and community. We pay our respects to all members of the Aboriginal communities and their cultures, and to Elders both past and present.

WESTERN AUSTRALIAN AUDITOR GENERAL'S REPORT

Opinion on Ministerial Notification

Report 2
July 2019



**THE PRESIDENT
LEGISLATIVE COUNCIL**

**THE SPEAKER
LEGISLATIVE ASSEMBLY**

Opinion on Ministerial Notification

This report has been prepared for Parliament under the provisions of section 24 of the *Auditor General Act 2006*.

It deals with a decision by the Minister for Racing and Gaming, the Hon Paul Papalia CSC MLA, not to provide information to Parliament about WA TAB's business for the period 2005 to 2018.

A handwritten signature in black ink, appearing to read 'C Spencer'.

CAROLINE SPENCER
AUDITOR GENERAL
26 July 2019

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Ministerial decision not to provide information to Parliament

Introduction

This report deals with a decision by the Minister for Racing and Gaming, the Hon Paul Papalia CSC MLA, not to provide information to Parliament about WA TAB's business for the period 2005 to 2018.

Section 82 of the *Financial Management Act 2006* (FM Act) requires a Minister who decides that it is reasonable and appropriate not to provide certain information to Parliament, to give written notice of the decision to both Houses of Parliament and the Auditor General within 14 days of the decision.

Section 24 of the *Auditor General Act 2006* requires the Auditor General to provide an opinion to Parliament as to whether the Minister's decision was reasonable and appropriate.

What we did

The Audit Practice Statement on our website (www.audit.wa.gov.au) sets out the process we follow to arrive at our section 82 opinions, including:

- a review of entity documents
- a review of any advice provided to the relevant Minister by entities, the State Solicitor's Office or other legal advisers
- interviews with key entity persons including discussions about our draft findings and the Auditor General's opinion.

Our procedures are designed to provide sufficient appropriate evidence to support an independent view to Parliament on the reasonableness and appropriateness of the Minister's decision.

We have not performed an audit, however our procedures follow the key principles in the Australian Auditing and Assurance Standards.

Opinion

The decision by the Minister for Racing and Gaming, the Hon Paul Papalia CSC MLA, not to provide Parliament with information about WA TAB's business for the period 2005 to 2018 was reasonable and therefore appropriate.

Background

In Parliament on 12 February 2019, the Hon Dr Mike Nahan MLA, asked the Minister for Racing and Gaming for information about the WA TAB in the Legislative Assembly Question on Notice 4492. Parts (b), (e) and (f) requested the following information:

(b) What was the total number of bets taken each year at TAB outlets for the period 2005 to 2018 (to 30 June 2018)

(e) What was the total number and total value of bets placed with the TAB via the internet, either through www.ozbet.com.au or the TABTouch App, each year for the period 2005 to 2018

(f) What was the average gross profit for TAB outlets from gambling at TAB outlets each year for the period 2005 to 2018.

On 19 March 2019, the Minister declined to give answers for parts (b), (e) and (f) replying:

(b) The information requested is not currently publicly available and could compromise the TAB's competitive position if released. This is particularly pertinent given that, as the Member is aware, the McGowan Government is currently progressing the sale of the TAB. Therefore, I will not be providing this information.

(e-f) See answer to (b).

The full transcript of the question asked in Parliament and the Minister's response is in Appendix 1.

On 1 April 2019, the Auditor General received the Minister's notification of the decision not to provide the requested information, in accordance with section 82 of the FM Act.

Key findings

The decision by the Minister not to provide the information requested in parts (b), (e) and (f) was reasonable and therefore appropriate.

The Minister properly sought advice from the Department of Local Government, Sport and Cultural Industries (the Department) before responding to the request. The Department in turn sought advice from Racing and Wagering Western Australia (RWWA), which is responsible for the WA TAB, before advising the Minister.

The Department recommended the Minister not provide the commercially sensitive information as it could pose a significant risk to the WA TAB sale process, which is underway.

We assessed the information using our criteria for commercial sensitivity. Specifically:

Criterion 1 – Is the information sufficiently secret? Is it significant?

This criterion was met. The information was not generally known nor easily ascertainable at the time the Minister declined to provide it. In particular:

- the total number of bets taken each year at TAB outlets for the period 2005 to 2018 is not reported in RWWA's annual reports nor easily ascertainable from other publicly available information. RWWA's annual reports provide the total number of bets but it is not broken down by channels (e.g. retail outlets, phone, internet)
- the total number and total value of bets placed with the TAB via the internet each year for the period 2005 to 2018 is not reported in RWWA's annual reports nor easily ascertainable from other publicly available information. Racing Australia's Fact Books include fixed odds betting figures but this information is not broken down by channels
- the average gross profit for TAB outlets each year for the period 2005 to 2018 is not reported in RWWA's annual reports nor easily ascertainable from other publicly available information. While RWWA's annual reports provide gross and operating profit figures this information is not broken down by channels.

Criterion 2 – Is it in the public interest for the information to remain confidential?

This criterion was met. We assessed the potential benefits and detriments of disclosure and in our view protecting the State's commercial interest on balance outweighs the public interest in providing the information. RWWA operates the WA TAB in a highly competitive

and commercial environment. Consistent with our findings from a previous section 82 inquiry, disaggregated wagering information has commercial value and its disclosure could diminish the WA TAB's profitability by revealing market share information to competitors¹. A weakened competitive position could have a detrimental financial outcome for the proposed sale of the WA TAB.

¹ See [Office of the Auditor General report 26 tabled on 14 December 2017](#)

Appendix 1: Transcript of questions and answers

Legislative Assembly Question on Notice 4492

On 12 February 2019, the Hon Dr Mike Nahan MLA asked the Hon Paul Papalia CSC MLA, Minister for Racing and Gaming, for the following information:

In relation to the TAB, can the Minister advise:

- (a) What was the number of outlets operating in Western Australia each year for the period 2005 to 2018 (at 30 June 2018);*
- (b) What was the total number of bets taken each year at TAB outlets for the period 2005 to 2018 (to 30 June 2018);*
- (c) What was the total value of bets taken each year at TAB outlets for the period 2005 to 2018 (to 30 June 2018):*
 - (i) What was the total value of bets taken each year for the period 2005 to 2018 on horse racing;*
 - (ii) What was the total value of bets taken each year for the period 2005 to 2018 on trots;*
 - (iii) What was the total value of bets taken each year for the period 2005 to 2018 on greyhound racing; and*
 - (iv) What was the total value of bets taken each year for the period 2005 to 2018 on sporting events;*
- (d) What was the total number and total value of bets placed with the TAB via telephone each year for the period 2005 to 2018;*
- (e) What was the total number and total value of bets placed with the TAB via the internet, either through www.ozbet.com.au or the TABTouch App, each year for the period 2005 to 2018;*
- (f) What was the average gross profit for TAB outlets from gambling at TAB outlets each year for the period 2005 to 2018; and*
- (g) Do TAB outlets receive any benefit from telephone or online gambling (including through www.ozbet.com.au or the TABTouch App), and if so what benefits are received?*

On 19 March 2019, the Hon Paul Papalia CSC MLA, replied:

- (a) See tabled paper no [2300]*
- (b) The information requested is not currently publicly available and could compromise the TAB's competitive position if released. This is particularly pertinent given that, as the Member is aware, the McGowan Government is currently progressing the sale of the TAB. Therefore, I will not be providing this information.*
- (c-d) See answer to (a)*

(e-f) See answer to (b)

(g) Yes. From 2005 to 2018 TAB outlets at various stages have received:

- A per transaction commission for TAB account deposits and withdrawals*
- A per transaction commission for new TAB accounts, requiring verification of new account customer ID*
- Trailing commissions on sales from new TABtouch accounts opened at / linked to their agency*
- Sales commission on bets located in the agencies placed via TABtouch app on iPhones.*

Auditor General's Reports

Report number	Reports	Date tabled
1	Opinions on Ministerial Notifications	19 July 2019

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