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Mr Peter Hoult
Chairman
Tasmanian Gaming Commission
c/- Department of Treasury and Finance
GPO Box 1374
Hobart TAS 7001

Dear Mr Hoult

Responsible Gambling Mandatory Code of Practice for Tasmania – Draft Code

Free TV welcomes the opportunity to comment on the Tasmanian Gaming Commission's draft *Responsible Gambling Mandatory Code of Practice for Tasmania* (the Code).

Free TV welcomes the Tasmanian Gaming Commission's adoption of a number of the recommendations from Free TV's response to the November Discussion Paper, such its removal of the overly broad definition of 'advertising' from the Code.

Most importantly, Free TV strongly supports the amendments to the proposed ban on the broadcast of gambling advertisements. The reduction of the time zones to which the ban applies to match the national standards prescribed by the Commercial Television Industry Code of Practice will significantly reduce the negative impact of the ban on regional television broadcasters (eg Southern Cross Media and WIN) who rely on national broadcast streams. At the same time, the Commission's decision to apply this ban to all broadcast platforms, instead of the previous position of singling out commercial free-to-air television and radio, will ensure it has an equitable and proportionate impact on all market players.

Nevertheless, Free TV continues to hold its position that state-specific regulation of broadcast advertising is inappropriate. We are particularly concerned that the draft Code foreshadows possible future amendments that would extend the ban to once more place it out of line with national standards. As television programming in Australia is generally determined at a national level, even small discrepancies between states can place a substantial burden on the industry. For this reason, we strongly argue that it is more appropriate to work towards national standards in this area than to apply an ad hoc state by state approach.

Free TV also remains concerned that the ban falls short of national standards by failing to include an exception for news and current affair programming, creating a risk of it capturing news reporting on gambling matters (such as unusually high jackpots or popular sports racing).

Similarly, while the Commission's decision to apply the ban to all broadcasters is preferable to the previous approach of singling out commercial free-to-air television and radio alone, Free

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TV continues to be concerned that it does not apply to other competitors in the market, for example internet-based services such as IPTV.

2011 presents a unique time in the media sector, with the public accessing media via an ever increasing range of rapidly developing technologies. As well as the traditional platforms such as television, radio, newspapers and cinema, consumers now have access to the internet, pay TV, IPTV, computer games, digital media players, mobile phones, and content on tablet devices such as the iPad. Importantly, the divides between different media platforms are becoming less apparent to the consumer, as people seamlessly access internet content on their televisions and broadcast content on their computers and smartphones.

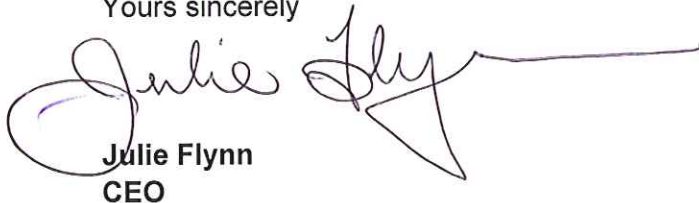
In this converged media environment, regulations which apply inconsistently across platforms are anachronistic, and serve to create inequities in the market and undermine the overall integrity of the regulatory system. Market dynamics dictate that when advertising is restricted on one medium, it merely redistributes to other, less regulated media. Thus regulation which applies to only select platforms will have a disproportionate financial impact on those platforms without reducing the public's exposure to the content.

We note that in other areas of the Code the Commission has applied the Productivity Commission's recommendation (at 8.23) that advertising restrictions should be built around content, not platform. We urge you to take the same approach in this case and remove the platform specific ban on gambling advertising altogether.

Finally, Free TV remains concerned with the lack of a practicality exception to requirement that responsible gambling messages be incorporated into all advertisements. While Free TV appreciates the new footnote clarifying that there is flexibility in the size, font, content and positioning of such messages, this does nothing to address those circumstances where it will be impossible to ensure that such messages are included in a broadcast, such as where incidental advertising appears in the background of sporting events. For this reason, Free TV recommends that the Commission follow the example of clause 6.13 of the Queensland Responsible Gambling Code of Conduct and only require such messages "where appropriate."

Thank you again for the opportunity to provide comment on the draft Code. Please contact me if you would like any further input or require clarification.

Yours sincerely



Julie Flynn
CEO