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Mr Jared Henry  
Director  
Broadcasting Content Policy  
Department of Broadband, Communications and the Digital Economy

By email: [jared.henry@dbcde.gov.au](mailto:jared.henry@dbcde.gov.au)

Dear Mr Henry

### **Live odds promotions during broadcast of live sporting events**

Free TV welcomes the opportunity to participate in the development of measures to address Government concerns around the promotion of live odds during live sports coverage. Free TV's members are committed to working with the Government to ensure that vulnerable and young people are not exposed to inappropriate gambling messages.

The vast majority of Australians access and engage with their sport on commercial free-to-air television. Sporting events are consistently among the highest rated shows on commercial free-to-air television, with audiences of up to 4 million for high profile events. The size and diversity of the commercial free-to-air audience means that Free TV members can play a leading role in the responsible promotion of live odds in sporting broadcasts.

### **Proposed Code: *Live Odds and Exotic Bets Code of Practice***

In response to the Council of Australian Governments (COAG) Select Council on Gambling Reform communiqué on 27 May 2011, Free TV members have developed a proposal for a voluntary Industry Code to apply to the promotion of live odds in live sporting broadcasts on commercial free-to-air television and the complementary online services offered by Free TV members.

The proposed *Live Odds and Exotic Bets Code of Practice* (proposed Code) deals with concerns articulated in the COAG communiqué in a practical, accountable and appropriate way. Free TV members are cognisant of the need to present gambling and live odds information in a socially responsible manner, and have suggested limitations and restrictions that will avoid or mitigate the impact of live odds promotions on vulnerable members of the community.

### **Application of the Code**

The proposed Code has been drafted to apply to the commercial free-to-air television industry. The proposed Code also applies to the online services offered by Free TV members. The proposed Code applies to all live sporting events broadcast by Free TV members.

## Features

Key features of the proposed Code are:

**1. No promotion of live odds during play of live sporting events, including by commentators**

The promotion of live odds during commentary and/or by sporting role models was a specific area of concern identified by the COAG communiqué. The proposed Code prohibits the promotion of live odds during play, including by commentators of the game.

By limiting the promotion of live odds to pre-set breaks in play (such as half time), the discursive and casual references to live odds throughout games will be removed. This also gives families the opportunity to take viewing breaks in times where live odds promotions may be present, without missing any of the game.

**2. No promotion for negative exotic bets at any time during a live sporting event**

Free TV notes the concerns raised around negative exotic bets by various representatives in Federal and State parliaments in the lead up to the COAG meeting in May. Under the proposed Code, the promotion of negative exotic bets during the broadcast of a live sporting event is prohibited.

**3. Any promotion of live odds to include a responsible gambling message in the same form as the promotion**

The inclusion of a responsible gambling message with any reference to live odds serves as a reminder to persons considering gambling to do so in a controlled and limited manner. Requiring the responsible gambling message to be in the same form as the promotion ensures that the message and promotion reach the same audience. For example, if a live odds promotion was audio only and the responsible gambling message was visual, then a visually impaired person may not receive both messages.

**4. A complaints mechanism to deal with any breaches of the Code**

The proposed Code sets out a framework to deal with complaints, including the establishment of a Complaints Board. The proposed Code allows for complaints to be received orally, and all complaints must be dealt with within 30 working days. The outcome of any complaint must be published on the relevant member's website for a set period.

**5. General requirements for the responsible promotion of live odds where permitted, including restrictions relating to young people**

Free TV members are conscious of the need to ensure that the promotion of live odds, where permitted, is done in a way that does not misrepresent the benefits of gambling, or normalise gambling behaviour. Restrictions include prohibiting certain claims that can be made in relation to the benefits of live odds gambling, and banning any encouragement towards excessive or high stakes betting. In developing these requirements, Free TV has had regard to the *Alcohol Beverages Advertising (and Packaging) Code*.

Special restrictions have been included to minimise the impact of any permissible promotions on children. This takes into account the specific concerns of the COAG communiqué in relation to young people and the promotion of live odds. In particular, the proposed Code bans the depiction of children participating in live odds betting, bans the depiction of live odds betting as a family activity, and bans any promotion of live odds that is directed at children.

### Response to queries

In proposing the Code, Free TV members have taken the initiative in developing a set of restrictions that deal with the concerns around live odds promotion during live sporting events

in a socially responsible manner. The proposed Code balances these concerns with the established practices of odds referencing in live sports broadcasts.

### ***Existing arrangements***

As part of this consultation process, certain information in relation to existing arrangements for the promotion of live odds was requested.

The first three points sought information on existing arrangements for the promotion of live odds. Free TV members currently have a range of complex arrangements in place, which differ depending on the sport and promoter. As you will appreciate, the details of these arrangements, including their structure, scope and term are commercially sensitive. Making these details public is likely to impact on the negotiation of future commercial agreements. As such, Free TV members would prefer to discuss the details of these arrangements directly with the Minister at the foreshadowed meetings.

### ***Impact of changes***

The fourth point seeks Free TV's view on the likely impact of any changes. Free TV understands that there is not presently a proposed form for the regulation of live odds promotion during broadcasts. As a result, it is difficult to ascertain the impact of changes when the details of those changes are still unknown.

The proposed Code, if implemented, will likely have a negative economic impact on agreements for the promotion of live odds in the future. This impact will be minimised if the Government adopts a platform neutral approach.

Free TV members have taken the likely economic impact into account in proposing the Code.

### ***Any activities out of scope & extent to which Free TV members can control live odds promotion***

Free TV members do have some concerns in relation to broadcasts taken as live feeds, inclusive of commentary (such as the Super Bowl from the United States). While care will be taken to ensure that these broadcasts comply with the proposed Code (or any other regulations regarding the promotion of live odds), there is a chance that these broadcasts may contain references to live odds during play, or references to negative exotics.

### **Contact details**

Thank you again for the opportunity to comment on the draft Guidelines. Please contact me on (02) 8968 7100 if you would like any further input or require clarification. Free TV members look forward to discussing this issue with the Minister at a later date.

Yours sincerely



**Julie Flynn**  
**CEO**

## Live Odds and Exotic Bets Code of Practice

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### 1. Commencement

This Code will commence operation on [*insert commencement date*].

### 2. Scope

2.1 This Code is a voluntary code of practice.

2.2 This Code has been adopted by and applies to the members of FreeTV.

2.3 This Code covers Advertisements for Live Odds and Negative Exotic Bets during live Sporting Events:

- broadcast on free to air television; and
- transmitted over the internet

by the Members.

### 3. Objectives

The objectives of this Code are to:

- regulate the paid promotion of live Odds during Live Sporting Events;
- prohibit promotion of Negative Exotic Bets during Live Sporting Events;
- encourage responsible gambling;
- provide an effective and speedy means to deal with matters covered by this Code; and
- put in place a mechanism for regular reviews of this Code's relevance and effectiveness.

### 4. Regulation

This Code operates in conjunction with the:

- 2010 Commercial Television Industry Code of Practice. In particular paragraph 6.14 relating to commercials for betting or gambling; and
- The Australian National Advertisers Association Code of Ethics.

### 5. Compliance

Members must endeavour to fully comply with the terms of this Code. However, it will not be a breach of this Code if:

- a Member is delivering services in accordance with contractual commitments entered into before 27 May 2011; or
- a failure to comply is accidental, due to reasonable mistake, arises from content included in a live feed from outside Australia or the conduct of a third party not bound by this Code

### 6. Principles for promoting of Live Odds:

Advertisements for Live Odds should be:

- socially responsible; and
- not mislead or deceive the audience.

### 7. General restrictions on promoting Live Odds

Advertisements for Live Odds must not:

- make exaggerated claims;
- make claims that are not capable of proof;
- claim or imply that skill can influence the outcome of a bet;
- encourage excessive or high stakes betting;
- challenge or dare the audience to bet;
- promote betting on Live Odds as a way to success or achievement, including as a way to:
  - meet living expenses;
  - overcome financial difficulties;
  - improve social standing;
  - advance in employment;
  - improve sexual prospects; or
  - overcome personal difficulties.
- associate a bet on Live Odds with excessive consumption of alcohol; nor
- associate a bet on Live Odds with any inducement to gamble.

### 8. Restrictions relating to children

Advertisements for Live Odds must not:

- be directed at children;
- portray children participating in Live Odds betting activities; nor
- portray Live Odds betting as a family activity.

### 9. Negative Exotic Bets

Members will not broadcast or publish Advertisements for Negative Exotic Bets during Live Sporting Events.

### 10. References to Live Odds during commentary

Commentators will not present Advertisements for Live Odds during Play.

### 11. On screen references to Live Odds during Live Sporting Events

Members will not

- broadcast Advertisements for Live Odds during Play; or
- display Advertisements for Live Odds within the frame that contains the stream of the Live Sporting Event, when a Live Sporting Event is transmitted over the Internet.

### 12. Responsible Gambling Message

- 12.1 An audio Advertisement for Live Odds will conclude with an audio Responsible Gambling Message.
- 12.2 A visual Advertisement for Live Odds will conclude with a visual Responsible Gambling Message.
- 12.3 An Advertisement for Live Odds that is both audio and visual will conclude with both an audio and a visual Responsible Gambling Message.

### 13. Complaints Body

- 13.1 Complaints relating to compliance with this Code will be handled by a complaints handling body constituting:
- two nominees appointed by FreeTV; and
  - one independent nominees appointed by [TBA].
- 13.2 The complaints handling body will be known as the "Live Odds Complaints Board" or LOCB.
- 13.3 Nominees to the LOCB will be referred to as "LOCB Board Members".
- 13.4 Nominees to the LOCB will serve for 2 year terms but may be removed or substituted by the nominator at any time.
- 13.5 The LOCB will:
- meet monthly or less frequently if permitted by the volume of complaints;
  - consider and determine complaints received in relation to compliance by Members with the provisions of this Code; and
  - respond in writing to any oral complaint where the complainant requests a written response and to each written complaint within 30 working days of receipt of the complaint.
- 13.6 The LOCB will not consider any complaint where the name and address of the complainant has not been provided.
- 13.7 Members will assist the LOCB with any information reasonably requested for the purpose considering a complaint.
- 13.8 The LOCB may meet by audio or video conference as is most convenient to LOCB Board Members.

13.9 The LOCB will make written determinations of each complaint which will be published with any response from the member that is the subject of the complaint for not less than **[one month]** on the corporate website of the member that is the subject of the complaint.

### 14. Complaint Handling

- 14.1 Each Member will publish on its website an address of the LOCB for written complaints relating to this Code.
- 14.2 Members will accept oral complaints regarding compliance with this Code relating to any Live Sporting Event they have broadcast or transmitted.
- 14.3 Switchboard operators will be trained regarding the existence and content of the Code and make a written record of each oral complaint received which, if requested by the complainant, will be transmitted to the LOCB.

### 15. Promotion of this Code

Members involved in the promotion of Live Odds will promote this code by:

- regular (not less than one per week) on air announcements regarding the existence of this Code;
- providing information regarding how to obtain a copy of this Code and how to use its complaint handling procedures in a reasonable proportion of such announcements; and
- posting a copy of this Code on their website in association with an online mechanism for lodging complaints.

### 16. Future Review

This Code will be reviewed by Free TV after **[three]** years of operation. Activities to be undertaken during the review will include a review of complaints received, a call for comments from Members, the public and government, consideration of any comments received and the consideration of advisable amendments to this Code.

### 17. Definitions

*Advertisement* means a promotional reference purchased in advance by an advertiser.

*Code* means this Live Odds Code of Practice.

*Commentator* means in relation to a Live Sporting Event the person or persons calling the event as it takes place.

*Free TV* means Free TV Australia Limited (ABN 76 101 842 184) of 44 Avenue Rd Mosman, NSW 2088.

*Live Odds* are odds offered for a bet on the outcome of an event that are updated constantly after the event has commenced.

## DRAFT 3A: FOR DISCUSSION

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**Live Sporting Event** means a live-to-air sporting broadcast or a sporting broadcast delayed for time zone reasons broadcast as plausible live without reformatting. Live Sporting Events do not include horse, harness and greyhound racing.

**LOCB** means the Live Odds Complaints board created under paragraph 13 of this Code.

**Member/s** means the members of Free TV.

**Negative Exotic Bet** is a bet that an event will not occur. For example, that a player will not score a try or a goal, will not make a number of runs or not completing a specified time on the field of play.

**Play** means in relation to broadcast or transmission of a Live Sporting Event, the broadcast or transmission of the run of play or active progress of the Live Sporting Event not including half time, quarter time.

**Responsible Gambling Message** means a short statement designed to encourage the listener and/or viewer to gamble responsibly. Responsible Gambling Messages include statements required by State Laws and industry codes of practice including:

- (a) **Victoria:** Any statement prescribed for inclusion in advertisements under section 4.7.9 of the *Gambling Regulation Act (2003)*. A responsible Gambling Message within the *Victorian Bookmakers Responsible Gambling Code of Conduct*.
- (b) **Queensland:** Any statement required by a Responsible Gambling Policy Document made pursuant to the *Responsible Gambling Queensland Code of Practice*.
- (c) **South Australia:** the *South Australian Advertising (Interstate Betting Operators) Code of Practice* or the *Advertising (Licensed Racing Clubs) Code of Practice*; or

where not required by law or a code, includes: "Gamble Responsibly", "[name of advertiser] supports responsible gambling", "Bet within your limits", or "Stay in control when gambling".