

[REDACTED]
Manager, Gambling Compliance Team
Australian Communications and Media Authority
By email: [REDACTED]

30 January 2026

Dear [REDACTED]

Re: Tour de France Crown Ad – Prelim Investigation Report BI-751

Thank you for the opportunity to respond to the ACMA's Preliminary Investigation Report no BI-751 concerning the broadcast of a television commercial for Crown Resorts Ltd (Crown) during the 2025 Tour de France (TDF).

SBS takes its obligations in relation to gambling advertising restrictions seriously, as reflected in the detailed consideration and care taken across all elements of Crown's sponsorship of the Tour de France, including the long-running *Plat du Tour* program.

In December 2025, the ACMA advised SBS that an investigation had been opened in September into advertising purchased by Crown that was broadcast as part of SBS's live coverage of the TDF in early July 2025. The Preliminary Investigation Report sets out the ACMA's view that one advertisement broadcast in the Sydney market ("Crown Ad 1") breached clause 3.4 of Appendix 3 of the Commercial Television Industry Code of Practice (the Free TV Code), as applied to SBS through Code 4.2.1 of the SBS Code of Practice.

SBS appreciates the opportunity to respond and submits that the preliminary breach finding should not be sustained for the reasons set out in this letter.

1. Summary

SBS considers Crown Ad 1 falls within the Dining and Entertainment Exception in Appendix 3 and is therefore excluded from the definition of a "Commercial relating to Betting or Gambling":

- The advertisement promotes only dining, accommodation and entertainment services at Crown and does not draw attention to betting or gambling in a manner calculated to directly promote their use, within the terms of Appendix 3. Crown Ad 1 is unambiguously focused on culinary, hospitality and accommodation experiences and contains no gambling imagery, language or behavioural prompts.
- The ACMA's preliminary finding rests on the display of a written strapline in the final three seconds of Crown Ad 1 that reads "Sydney's premier casino resort" because it "immediately focuses the mind of the viewer on the casino... and in doing so promotes gambling activities". SBS submits this misapplies the terms of Appendix 3, which precludes advertising that draws attention to gambling in a manner calculated to directly promote its use.

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- The Exception is premised on the venue being a “place where gambling takes place”. Mere description of such a venue as a “casino resort” does not properly disqualify it from the Exception’s operation.
- The ACMA’s proposed interpretation unduly narrows the Exception in a way that departs from its text and intent, frustrating its purpose.
- The ACMA’s reliance on assumptions – unsupported by evidence or research – about audience perceptions of the Crown logo and brand, and the inclusion of voluntary anti-gambling messaging, introduces considerations that are not relevant to the application of the test set out in the Exception; namely, whether the material drew attention to, and was calculated to directly promote, gambling.
- While SBS takes full responsibility for content on its platforms, ClearAds’ approval of the Crown Ads and other advertising of this kind demonstrates the industry’s consistent understanding and application of the Exception over decades, which differs from the narrower interpretation now advanced by the ACMA.

2. Uncontested matters

The following matters are not in dispute:

- There were no complaints received by either SBS or the ACMA about any of the Crown commercials or any element of Crown’s sponsorship of the *Plat du Tour* program.
- The relevant television broadcast was a Live Sporting Event and a Long Form Live Sporting Event for the purposes of the Free TV Code. The TDF television broadcast was subject to the restrictions on gambling advertising for live sporting events set out in Appendix 3 to the Free TV Code.
- Crown Ad 1 contains a generic promotional reference to Crown as an organisation, placing it within the second limb of the definition of “Commercial relating to Betting or Gambling”, but SBS submits it is excluded from that definition by the Dining and Entertainment Exception.
- The two other Crown commercials that were run on SBS in Perth (“Crown Ad 2”) and Melbourne (“Crown Ad 3”) that did not contain a written reference to the word “casino” fell within the Dining and Entertainment Exception. Like Crown Ad 1, Crown Ad 2 contained “Crown PlaySafe” messaging in its final frame.
- The Preliminary Investigation Report incorrectly indicated that SBS had argued the Incidental Accompaniment Exception in Appendix 3 would apply to Crown Ad 1 (at para 21) and made a corresponding finding that this exception did not apply (para 26). SBS has not relied on this exception in running the Ads or referred to that exception in any correspondence with the ACMA. It is uncontested it did not apply.

3. The Commercial Television Code of Practice and the Dining and Entertainment Exception

Appendix 3 expressly excludes from the timing and placement requirements for gambling advertising:



“a commercial relating to entertainment or dining facilities at places where betting or gambling takes place... provided in each case that the contents do not draw attention to betting or gambling in a manner calculated to directly promote their use.”

Through this “Dining and Entertainment Exception”, the Code recognises that many large venues where gambling occurs, including casinos, clubs, RSLs, hotels and resorts, offer a range of non-gambling activities including restaurants, accommodation, and performance, convention and event spaces.

The exception was drafted to allow non-gambling facilities at these venues to be promoted without triggering gambling advertising restrictions where the advertising does not draw attention to gambling and is not calculated to directly promote gambling.

4. The Dining and Entertainment Exception applies to Crown Ad 1

The basis of the preliminary breach finding rests on ACMA's view (para 24) that:

...for Crown Ad 1 which ends with the tagline, 'Sydney's premier casino resort', the mention of 'casino' immediately focusses the mind of the viewer on the casino (gambling) activities provided by Crown...and in doing so promotes gambling activities, which in the ACMA's view continue to be synonymous in the community's understanding with the Crown logo/brand. It is not just a descriptor of the venue. It reminds the viewer that this venue provides a casino, and in doing so, promotes the casino and its gambling facilities as an additional activity that viewers can do, along with dining and entertainment when they visit Crown establishments.

SBS submits the ACMA has applied a different test to that set out in Appendix 3. When properly construed, Crown Ad 1 only draws attention to and is calculated to directly promote dining, accommodation and entertainment services – not betting or gambling.

4.1 The correct test has not been applied

The ACMA has indicated the word “casino” in a written strapline for three seconds at the end of Crown Ad 1 “immediately focuses the mind of the viewer on the casino...and in doing so promotes gambling activities” and “reminds the viewer that this venue provides a casino and in doing so promotes the casino” (para 24).

SBS submits this applies a lower test than that set out in Appendix 3. The relevant question is not whether the content notes the existence of a casino, but whether it draws attention to gambling in a manner calculated to directly promote its use.

Even if the word “casino” were taken to draw some implicit attention to gambling (as the ACMA contends and SBS disagrees), it does not do so “in a manner calculated to directly promote” gambling, which is an essential element of the test that has been overlooked in the Preliminary Investigation Report.



4.2 Crown Ad 1 is focussed solely on dining, accommodation and entertainment. It does not “draw attention” to gambling

Crown Ad 1 is entirely focused on non-gambling services:

- The visuals consist exclusively of dining experiences, food preparation, accommodation and entertainment amenities at Crown.
- There is no depiction or allusion to gambling, table games, gaming floors, betting interfaces, gaming staff, or gambling-related language or references to play, winning, excitement, thrills or other emotions some may associate with gambling.
- The overall tone of the Ad is low and slow, with audio, visual and written elements emphasising sophisticated dining, an accommodation environment conducive to relaxing (“serious staycations”), views from the venue and lounging in the pool.
- The narrative structure of the advertisement repeatedly emphasises Crown’s accommodation, hospitality and entertainment environment.

A single, unspoken word in a final strapline of a 30 second advertisement otherwise devoid of gambling content cannot reasonably be characterised as drawing attention to gambling within the terms of Appendix 3. This construction gives undue weight to a single written word without consideration of the advertisement as a whole, or how the ordinary reasonable viewer would view and understand the advertisement.

4.3 The use of the written word ‘casino’ is not “calculated to directly promote” gambling use

Relevant definitions of the words “draw attention”, “calculated”, “directly”, “direct” and “promote” from the *Macquarie Dictionary* are provided as an appendix to this letter. In concert, these definitions indicate that a commercial about dining and entertainment facilities will fall within the Exception if it does not cause people to take notice of gambling in a manner that is carefully and straightforwardly designed to encourage gambling.

In this case, nothing in Crown Ad 1 emphasises gambling in a manner that is straightforwardly designed to encourage it:

- The entire 30-second advertisement is unambiguously focused on culinary, hospitality and accommodation experiences.
- The absence of any gambling imagery means the final tagline cannot be understood as a behavioural prompt through implication or juxtaposition.
- The viewer exclusively and repeatedly sees dining, entertainment and hotel facilities, not gambling.

Relevantly, nothing in the tagline:



- contains a 'call to action' to gamble;
- encourages attendance at the casino;
- references gambling availability, offers or inducements;
- invites wagering or betting; or
- highlights gambling activity of any kind.

There is no attention drawn to gambling by this content, and there is no calculated and direct promotion of gambling. Even if the ACMA is correct that a viewer might be subtly reminded a casino is on the premises at the very end of the commercial (a position with which SBS does not agree), there is no calculated, direct promotion of gambling, which is the test to be applied in Appendix 3.

4.4 The fact the venue includes a casino is a threshold requirement for the Exception

The term "casino resort" is a standard descriptor for a multi-facility venue combining hospitality, food, entertainment, shopping and (among other services) a casino. Some venues incorporate this descriptor into their name, like [REDACTED]

The Dining and Entertainment Exception is directed to commercials about entertainment or dining facilities at "places where betting or gambling takes place". Stating that the venue is a "casino resort" or "casino hotel" cannot and should not prevent its coverage by the Exception. Rather, the commercial must be about a mixed-use venue of this kind for the Exception to apply.

If these venues cannot be simply, discreetly and factually described (or indeed, the name of their venue used) without a finding that gambling is being directly promoted in a calculated manner, then the Exception is unreasonably and unexpectedly narrowed in its application.

5 The ACMA's view of Crown's public brand perception and the inclusion of Crown's Playsafe messaging are not relevant considerations

5.1 The ACMA has relied on considerations about the audience's understanding of the Crown brand and logo that are not supported by evidence or relevant to Appendix 3

The brand name "Crown" appears for less than one second at the 26 second mark in the Ad. Crown's logo (the word Crown beneath a stylised crown) appears in the final two seconds. It does not appear in the tagline in question.

The ACMA's reasoning in the Preliminary Investigation Report relies in part on assumptions about audience perceptions of the Crown logo and brand (para 24):



...the mention of 'casino' immediately focusses the mind of the viewer on the casino (gambling) activities provided by Crown...and in doing so promotes gambling activities, *which in the ACMA's view continue to be synonymous in the community's understanding with the Crown logo/brand.*

SBS recognises that as part of its functions, the ACMA can and does conduct or commission research into community attitudes on issues relating to programs and datacasting content ((s10(1)(h) ACMA Act 2005). This includes recent publications such as "*What audiences want - Audiences expectations for content safeguards*", which indicated "the latest broadcasting and online gambling advertising restrictions are achieving their intended objectives around live sport...". The restrictions referred to include the long held and well understood operation of the Dining and Entertainment Exception, which has been consistently applied (as noted below) in a way that, in the ACMA's view, is achieving its intended objective.

In this matter, however, the ACMA's assertion about viewer or audiences' perceptions or assumptions is not supported by any evidence or research. This includes the preliminary findings about the ordinary reasonable viewer's contemporary understanding of what is "synonymous... with the Crown logo/brand" (para 24) or what "viewers understand are available at a casino resort" (para 25), noting the ACMA's previously expressed view that "there can also be significant diversity in views across audiences, which may change over time or vary within different contexts".¹

In the absence of evidentiary support, conjecture about public perceptions is insufficient to sustain a breach finding.

In any event, Appendix 3 does not require an assessment of a brand's reputation or viewer association; it requires assessment of whether the content of the advertisement is draws attention to gambling and is calculated to directly promote gambling.

The ACMA's view about what audiences might feel, understand or know about the brand, does not mean this brand's advertisements cannot fall within the Exception. Indeed, as noted, the Exception is designed to apply to mixed-use venues of this kind, some of which may be well-known within their community or otherwise familiar to some audiences. Limiting its application to brands about which the audience does not have an understanding would inappropriately and unreasonably limit the provision and its operation.

Even if viewers associate Crown with gambling activities, that does not prevent Crown from promoting non-gambling services within the terms of the Exception.

¹ **What audiences want – Audience expectations for content safeguards** *A position paper for professional content providers*, ACMA, June 2022, p 9



5.2 The Crown PlaySafe messaging does not transform the Ad into a gambling promotion and is not a relevant consideration

A small Crown PlaySafe logo and messaging appears in the final three seconds of the 30 second of the promotion, along with an Enjoy Responsibly alcohol advisory logo (which appears elsewhere in the Ad for 17 seconds).

The Preliminary Report (para 25) references the Crown PlaySafe messaging in the footer as "support" for the ACMA's conclusion that the display of the word "casino" directly promotes gambling:

The Crown Safe messaging in the footer of the final frame of Crown Ad 1 is not definitive in this regard, but does add some support for the ACMA's finding above that the ad promotes a betting or gambling organisation in Crown.... The Crown Safe messaging may have been included in Crown Ad 2 (which the ACMA accepts, falls within the Dining and Entertainment Exception) out of an abundance of caution, but it was appropriate to Crown Ad 1 which advertises the gambling activities that ordinary reasonable viewers understand are available at a Casino resort.

SBS is of the view the mere presence of a voluntary harm-minimisation message cannot transform the non-gambling content presented in Crown Ad 1 into calculated and direct gambling promotion:

- The inclusion of PlaySafe material is not evidence that Crown Ad 1 promotes gambling; indeed, PlaySafe messaging appears in Crown Ad 2, which the ACMA accepted falls within the exception.
- The ACMA has agreed that the inclusion of the PlaySafe messaging in the exempt Crown Ad 2 was "out of an abundance of caution". It is unlikely that the choice to include the PlaySafe message in Crown Ad 1 was motivated by a different, calculated intent to directly promote gambling.
- It would be difficult to maintain that the inclusion of an anti-gambling protective measure is relevant to a consideration of whether the contents are "calculated to directly promote" gambling. A logo of this kind is designed to reduce gambling harms. The intent and effect is the opposite of promotion.
- The presence of an "Enjoy Responsibly" alcohol advisory does not indicate this commercial is alcohol advertising or promotes the consumption of alcohol. By extension, it would be unreasonable to maintain that a PlaySafe message indicates the commercial is directly promoting gambling.

6 The ACMA's finding is inconsistent with the industry's understanding of the intent and effect of the provision and may lead to inconsistent outcomes

While SBS remains responsible for the content of the commercials it runs, SBS relies on assessment of the content by ClearAds to check compliance with the Free TV Code, including providing a classification. All three Crown Ads were given a "G" classification by ClearAds. A G-rating is not available to a commercial relating to betting or gambling.

SBS provided the ACMA with an extract of ClearAds' advice in their letter of 11 August 2025. Relevantly, the advice indicated ClearAds had specifically turned their minds to the question of the tagline and



found that it did not draw attention to gambling, nor was it calculated to directly promote it within the terms of the Code:

The use of the word "casino" in the [Crown Sydney] advertisement should be assessed within its surrounding context and in this instance it refers to a venue that has a range of entertainment, accommodation and dining facilities. These services are the primary focus of the advertisement, and no gambling or betting activities are promoted or implied. Use of the word "casino" is used as a descriptor of the venue and there are no references relating to games, betting, poker machines or incentives to gamble.

In summary, under the exception the advertisement[s] would qualify [for the Exception] because:

- [they] relate to entertainment and hospitality services offered at a venue where gambling may take place;
- the reference to "casino" [in the Crown Sydney advertisement] is incidental and contextual, functioning as part of the venue description rather than a direct promotion of gambling;
- the content does not draw attention to betting or gambling, nor is it "calculated to directly promote" their use.

ClearAds applies the Free TV Code on a daily basis, across multiple broadcasters. The fact that the material was approved by ClearAds is relevant to understanding how the provision has been interpreted and regularly applied to advertisements for mixed-use over decades². The divergence between ClearAds' (and SBS's) view and the ACMA's interpretation indicates there are competing constructions of the provision, and the industry's prevailing understanding about the operation of the Exception differs materially from the interpretation now advanced by the ACMA.

Neither SBS nor Free TV could locate any audience complaints under clause 6.5.3 of the Free TV Code, over the life of its operation. SBS could not locate any previous decisions, supplementary materials or guidance that support or foreshadow the ACMA's current construction of the provision that a single, written use of the phrase "casino resort" in the final seconds of a commercial could be interpreted as drawing attention to, and calculated direct promotion of, gambling.

If the ACMA plans to take a view of the Exception that is inconsistent with prevailing industry understanding and longstanding practice, SBS contends that industry consultation and guidance on the meaning of the provision may be a fairer, consistent and more transparent regulatory response than a breach finding in this instance.

Conclusion

When properly construed, the Crown Ad 1 falls within the terms and the intent of the Dining and Entertainment Exception:

² The Exception has been in the Code in some form since at least 1999 (where it appeared in relation to General programming). The Exception was carried across into the restrictions on gambling advertising in live sport when they were first made in 2013 and then strengthened in 2018.



- Crown Ad 1 is a commercial relating to entertainment and dining facilities at a venue where gambling takes place.
- The commercial does not draw attention to betting or gambling in a manner calculated to directly promote their use within the terms of the Free TV Code.
- The Dining and Entertainment Exception therefore applies, meaning the advertisement is not a "Commercial relating to Betting or Gambling".

Accordingly, clause 3.4 of Appendix 3 was not engaged, and the preliminary breach finding should not be sustained.

SBS has appreciated the opportunity to address these matters and trusts this information will be of assistance. If you require any further detail or wish to discuss the material provided above with SBS, please contact me at [REDACTED].

Yours sincerely

A large black rectangular redaction box covering the signature area.

Amy Stockwell
SBS Ombudsman



Appendix 1: Extracts of definitions from the *Macquarie Dictionary*

"Draw attention"

9. **call attention to**, to bring to the notice of other people; emphasise; highlight: in her speech the minister called attention to the falling unemployment figures.

...

11. **draw attention to**, to cause others to take notice of: the refugees staged a protest to draw attention to their plight.

"Calculated"

1. ascertained by mathematical methods: *In fact the computerised pop-up sprinkler system, which irrigates at a calculated rate during non-daylight hours, minimises evaporation and makes very effective use of water. –MERCURY, 1988.

2. **(of a course of action)** undertaken after careful consideration of the possibility of failure: a calculated risk.

3. deliberate or cold-blooded: *The new century saw a period of punitive expeditions, calculated operations of extermination. –AL GRASSBY AND MARJI HILL, 1988.

"Directly"

1. in a direct line, way, or manner; straight.

2. without delay; immediately.

3. presently; soon.

4. absolutely; exactly; precisely.

–conjunction 5. as soon as: directly he arrived, he mentioned the subject.

"Direct"

15. going straight to the point; straightforward; downright.

"Promote"

2. to further the growth, development, progress, etc., of; encourage.