

Investigation report

Summary	
Entity	Tabcorp Holdings Limited
Australian Company Number	063 780 709
Type of activity	Commercial electronic messaging
Relevant Legislation	<i>Spam Act 2003 (Spam Act)</i>
Findings	217,687 contraventions of subsection 16(1) [Unsolicited commercial electronic messages must not be sent]
Date	11 September 2025

Background

1. The Australian Communications and Media Authority (**ACMA**) commenced an investigation into Tabcorp Holdings Limited (**TAB**)'s compliance with the Spam Act on 24 July 2025 following receipt of information obtained from TAB regarding commercial electronic messages (**CEMs**) being sent to account-holders who had previously opted out of receiving them.
2. The investigation concerned CEMs sent to 41,550 electronic addresses during the period from 31 March 2025 to 15 April 2025 (investigation period).
3. The ACMA's findings are based on information provided by TAB on 8 May 2025, and further submissions obtained from TAB on 14 August 2025 in response to:
 - a. a request for information from the ACMA on 24 July 2025
 - b. the ACMA's preliminary findings, also issued to TAB on 24 July 2025.
4. The CEMs subject to contravention findings are collectively referred to as the 'investigated messages', specifically 217,687 CEMs sent between 31 March 2025 and 15 April 2025 in contravention of subsection 16(1) of the Spam Act (refer to **Attachment A** of this report).
5. The reasons for the ACMA's findings, including the key elements which establish the contraventions, are set out below.

Relevant legislative provisions

Commercial electronic message

6. Under section 6 of the Spam Act, a CEM is an electronic message where, having regards to:
 - a. the content of the message; and
 - b. the way in which the message is presented: and
 - c. the content that can be located using links, telephone numbers or contact information (if any) set out in the message:

It would be concluded that the purpose, or one of the purposes, of the message is:

- d. to offer to supply goods or services; or
- e. to advertise or promote goods or services [...]

Consent – subsection 16(1)

7. Under subsection 16(1) of the Spam Act, a person must not send, or cause to be sent, a CEM that has an Australian link and is not a designated CEM.
8. Exceptions apply to this prohibition. Specifically, a person will not contravene subsection 16(1) of the Spam Act where:
 - a. the relevant electronic account-holder consented to the sending of the CEM (subsection 16(2))
 - b. a person did not know, or could not have ascertained, that the CEM has an Australian link (subsection 16(3)), or
 - c. a person sent the message, or caused the message to be sent, by mistake (subsection 16(4)).
9. Clause 6 of Schedule 2 to the Spam Act sets out when a person withdraws consent to receive CEMs. Relevantly, paragraph 6(1)(d) provides:

the relevant electronic account-holder, or a user of the relevant account, sends the individual or organisation:

 - (i) a message to the effect that the account-holder does not want to receive any further commercial electronic messages at that electronic address from or authorised by that individual or organisation; or
 - (ii) a message to similar effect.
10. Where an electronic account-holder sends an unsubscribe request to an entity, CEMs sent more than 5 business days after that request are sent without consent and in breach of subsection 16(1).

Evidential burden for exceptions

11. Under subsection 16(5) of the Spam Act, if an entity wishes to rely on any of the above exceptions, it bears the evidential burden in relation to that matter. This means that it needs to produce or point to evidence that suggests a reasonable possibility that the exception applies.

Reason for findings

CEMs must not be sent – section 16

12. To determine TAB's compliance with section 16 of the Spam Act, the ACMA has addressed the following:
 - a. Is TAB a 'person' to which section 16 of the Spam Act applies?
 - b. If so, did TAB send or cause the investigated messages to be sent?
 - c. If so, were the messages commercial?
 - d. If so, did the CEMs have an Australian link?
 - e. If so, were the CEMs designated as exempt from the prohibition on sending unsolicited messages?
 - f. If not, did TAB claim that the CEMs were subject to any exceptions?
 - g. If so, did TAB meet the evidential burden in relation to these claims?
13. If these conditions or elements of the offence are met (and the person has not raised an exception which is supported by evidence) then contraventions are established.

Is TAB a 'person' to which section 16 of the Spam Act applies?

14. TAB is an Australian public company, limited by shares, registered under the *Corporations Act 2001* and is therefore a 'person'.

Did TAB send, or cause to be sent, the investigated messages?

15. TAB made admissions that 217,687 marketing communications were sent between 31 March 2025 and 15 April 2025 to 41,550 account holders who had withdrawn their consent to receive marketing SMS and emails.
16. TAB states that it identified that the issue originated from a bug introduced in the deployment of its 'Preference Centre' release on 31 March 2025. TAB has submitted that this bug disrupted the workflow between two systems responsible for collating customer details, resulting in customers' marketing opt-out preferences being incorrectly changed to opt-in.
17. TAB has submitted that its investigation into the issue concluded that the root cause of the incident was due to limitations in the existing testing environments and inadequate end-to-end testing processes, which failed to detect the issue prior to deployment.

Were the messages commercial?

18. The ACMA is satisfied that at least one of the purposes of the investigated messages was to offer to supply TAB goods or services or advertise or promote TAB goods and services, including the offer of bonus bets, deposit matches and prizes (See **Attachment B** for examples).
19. Therefore, the investigated messages are CEMs.

Did the CEMs have an Australian link?

20. TAB's central management and business registration was in Australia when it sent the investigated messages. Therefore, the investigated messages had an Australian link.

Were the CEMs designated?

21. The investigated messages were not designated CEMs because:
- a. they consisted of more than factual information and were commercial in nature (clause 2 of Schedule 1 to the Spam Act), and
 - b. TAB is not an entity of a type set out in clauses 3 or 4 of Schedule 1 to the Spam Act, i.e., a government body, registered charity, registered political party or an educational institution.

Did TAB claim that any of the investigated messages were subject to any exceptions?

22. No, TAB stated that it had sent the investigated messages to account-holders who had opted out of marketing SMS and emails.
23. TAB did not provide information or make claims that the investigated messages were subject to any exceptions.

Conclusion

24. The ACMA finds that there are reasonable grounds to believe that TAB contravened subsection 16(1) of the Spam Act on 217,687 occasions between 31 March 2025 and 15 April 2025 by sending CEMs to account holders more than 5 business days after they had withdrawn their consent.

Attachments

Attachment A – Tabcorp Significant Event Report – reference number 1943186 - 8 May 2025

Attachment B – Indicative examples of email and SMS messages sent by TAB



WEEK FIVE



ACCOUNT NUMBER: 

FIRST QUESTION LOCKS IN...

00 00 00 00

 week five of Pick & Win is open.

Don't forget to make picks in both the AFL and NRL contests to increase your chances in taking home a prize!

Whether it's your chance to brag to your mates, or for the love of footy – get your picks in before kick-off!

Got questions? Check out the [Game Guidelines](#).

Play Here

To start picking:

1. Log in with the last 4 digits of your TAB account () & surname (.
2. You have a choice of AFL and NRL contests or take part in BOTH!
3. Check back each week to see your position on the leaderboard or make picks in a new contest.

WEEK FOUR WINNERS

AFL ROUND 3
WINNER IS: 

NRL ROUND 4
WINNER IS: 



This email is confidential and intended solely for the use of the addressee
 for account number 

All prices subject to fluctuation, check tab.com.au or the TAB App for current pricing.

Pick & Win Terms & Conditions: TAB Pick & Win is available to eligible TAB customers.
[T&Cs apply](#).

Authorised under NSW Progressive Authority No. GOCLP/1040; ACT Permit No. TP 25/00396.

CHANCES ARE YOU'RE ABOUT TO LOSE.

For free and confidential support call 1800 858 858 or visit www.gamblinghelponline.org.au/

You can also exclude yourself from all Australian online wagering operators by calling [1800 238 786](tel:1800238786) or via www.betstop.gov.au. BetStop - the National Self-Exclusion Register™.

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WEEKEND EXCLUSIVES

ACCOUNT NUMBER: [REDACTED]

SATURDAY RACING

RANDWICK / BENDIGO / DOOMBEN

RACES 1-7

RUN 2ND OR 3RD

GET A BONUS BET BACK

UP TO \$50*

FIXED ODDS WIN BETS ONLY

BET HERE




RACING & SPORT OFFERS

GET A BONUS BET BACK

THOROUGHBREDS - RACE BOOST

CRANBOURNE & GOLD COAST*



12 RACE BOOSTS

AVAILABLE FRIDAY

BET HERE

GREYHOUNDS - RACE SAVER

WENTWORTH PARK - ALL RACES*



11 RACE SAVERS

AVAILABLE SATURDAY

BET HERE

NRL - SGM SAVER

3+ LEGS, 1 FAILS - ALL GAMES*



FRI	SAT	SUN
2	3	2

BET HERE

AFL - SGM SAVER

3+ LEGS, 1 FAILS - ALL GAMES*



FRI	SAT	SUN
1	4	3

BET HERE



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This email is confidential and intended solely for the use of the addressee for account number [REDACTED]

Saturday Race Saver Offer: *Available once per person per race on first Fixed Odds win bet placed online on Races 1-7 at Randwick, Bendigo & Doomben on 12/04/2025. Minimum field requirements apply. Bonus Bet capped at amount listed in My Offers page (specific to individual customer). Token must be activated in your bet slip to be eligible. Bets placed with a multiplier are ineligible. No multi, bonus, cash out, partial cash out, or live bets qualify. [Promo T&Cs apply.](#)

Friday Thoroughbred Race Boost Offer: *Available once per person per race on first Fixed Odds win bets placed online on Races 1-6 at Cranbourne and Gold Coast on 11/04/2025. Minimum field requirements apply. Bonus Bet capped at amount listed in My Offers page (specific to individual customer), excluding stake and rounded to nearest \$1. Token must be activated in your bet slip to be eligible. Bets placed with a multiplier are ineligible. No multi, bonus, cash out, partial cash out, or live bets qualify. [Promo T&Cs apply.](#)

Saturday Greyhounds Race Saver Offer: *Available once per person per race on first Fixed Odds win bet placed online on All Races at Wentworth Park on 12/04/2025. Minimum field requirements apply. Bonus Bet capped at amount listed in My Offers page (specific to individual customer). Token must be activated in your bet slip to be eligible. Bets placed with a multiplier are ineligible. No multi, bonus, cash out, partial cash out, or live bets qualify. [Promo T&Cs apply.](#)

NRL Same Game Multi Saver Offer: *Available once per person on first standalone Same Game Multi placed online on games played 11/04/2025 to 13/04/2025. Minimum leg price \$1.10 and combined price \$2. If the specified leg(s), as allocated on the Bonus Bet token, lose(s) Bonus Bet capped at stake up to a designated amount specific to individual customers. Token must be activated in your bet slip to be eligible. Bets placed with a multiplier are ineligible. No multi, bonus, cash out, partial cash out or live bets qualify. [Promo T&Cs apply.](#)

AFL Same Game Multi Saver Offer: *Available once per person on first standalone Same Game Multi placed online on games played 11/04/2025 to 13/04/2025. Minimum leg price \$1.10 and combined price \$2. If the specified leg(s), as allocated on the Bonus Bet token, lose(s) Bonus Bet capped at stake up to a designated amount specific to individual customers. Token must be activated in your bet slip to be eligible. Bets placed with a multiplier are ineligible. No multi, bonus, cash out, partial cash out or live bets qualify. [Promo T&Cs apply.](#)

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You can also exclude yourself from all Australian online wagering operators by calling [1800 238 786](tel:1800238786) or via www.betstop.gov.au. BetStop - the National Self-Exclusion Register™.

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Thursday 3 Apr • 11:28

 Be ahead of the bounce with this offer from your Experience Manager, [REDACTED]:

[REDACTED], make a deposit into TAB # [REDACTED] and we'll match it with a Bonus Bet up to \$750! Deposit here: https://tab.app.link/tabx_deposit_a.

Please contact [REDACTED] on [REDACTED] for any enquiries.

1st eligible deposit. Ends 11:59pm AEST 06/04/2025. T&Cs apply: tab.app.link/deposit_tcs_a. Optout STOP to 0457885001. Chances are you're about to lose. For free and confidential support call 1800 858 858 or visit www.gamblinghelponline.org.au.

Wednesday 2 Apr • 14:30

TAB Pick & Win: Get your picks in before kick-off! tab.app.link/pickwinr

Try your hand at the AFL AND NRL contests to increase your chances of winning WEEKLY prizes.

Got questions? tab.app.link/pwr_help

> Log in with the last 4 digits of your TAB # [REDACTED] and your surname [REDACTED]

T&Cs apply: tab.app.link/pwr_tcs. NSW Permit No. GOCLP/1040; ACT Permit No. TP 25/00396. Optout STOP to 0457885001. Chances are you're about to lose. For free and confidential support call 1800 858 858 or visit www.gamblinghelponline.org.au.