

# HERBERT SMITH FREEHILLS ASSISTS TABCORP IN SECURING COMPETITION APPROVAL FOR LANDMARK A\$11 BILLION MERGER WITH TATTS GROUP

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News

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Herbert Smith Freehills is proud to be the primary legal adviser to Tabcorp Holdings Ltd in its bid to achieve a momentous A\$11 billion merger with Tatts Group Limited and to have represented Tabcorp before the Australian Competition Tribunal in its quest to secure competition approval for the transaction.

The Tribunal published its determination to approve the merger on 22 June 2017.

Herbert Smith Freehills' Australian competition and disputes teams, working with Gilbert + Tobin as co-competition advisers, were behind the innovative and unusual merger approval strategy, which achieved ultimate success in receiving the green light from the Tribunal for the largest gambling entertainment industry merger ever proposed in Australia.

Herbert Smith Freehills competition partner Patrick Gay observed that:

"The Tribunal's decision vindicates the proposition behind the merger – that it will add long-term, sustainable value to shareholders, the industry, and the community at large."

Competition partner lead Chris Jose said the innovative legal approach to bypass the 'normal' ACCC approval process and go direct to the Tribunal, was a deeply discussed and researched approach developed hand-in-hand with Tabcorp, Gilbert + Tobin and other key stakeholders.

“It was based on an in-depth understanding and appreciation of the fact that the ACCC views such approvals solely in the context of potential impact on competition in a particular market, whereas the Tribunal can fully consider a merger’s public benefits and also hear from a wider group of stakeholders, and in the context of this merger in particular, we felt that was really important.”

Disputes lead partner Grant Marjoribanks highlighted other advantages of the approach: “The Tribunal approvals process provides for greater transparency, with all evidence and submissions being available so they can be directly tested and addressed. The Tribunal also works to a very tight timeframe which, in complex or contentious matters, can be substantially quicker than ACCC clearance.”

In handing down the Tribunal’s decision, Justice Middleton stated: “As the Tribunal is satisfied that the proposed merger is likely to result in substantial public benefits and that the public detriments identified by the ACCC and the interveners are unlikely to either arise or are not of significance, the Tribunal is satisfied in all the circumstances that the proposed merger would result, or would be likely to result, in such a benefit to the public that the acquisition should be allowed to occur.”

The Herbert Smith Freehills team was led by competition partners Chris Jose and Patrick Gay and disputes partner Grant Marjoribanks, who were ably assisted by senior associates Sarah Benbow and Merryn Quayle. The Herbert Smith Freehills team worked alongside Gilbert + Tobin, which Tabcorp appointed as co-competition advisers.

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