

Submission

on

Gambling Advertising

to the

Joint Select Committee on Gambling Reform

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1. Introduction

On 24 June 2010 the Senate referred the following matter to the Community Affairs References Committee for inquiry and report by 2 September 2010: *The prevalence of interactive and online gambling in Australia and the adequacy of the Interactive Gambling Act 2001 to effectively deal with its social and economic impacts.*

FamilyVoice Australia made a submission, dated 20 July 2010, in response to this inquiry.

This inquiry was not completed before the prorogation of Parliament.

However, on 30 September 2010 the inquiry was revived by a resolution of the Senate. On 24 October 2010 the matter was referred to the newly established Joint Select Committee on Gambling Reform.

This committee is in receipt of the submissions to the previous inquiry.

FamilyVoice Australia stands by the comments made in its 2010 submission, including the recommendation that ***“The Interactive Gambling Act 2001 should continue to ban Australian hosted gaming sites. Online gambling sites hosted offshore should be included in the categories of sites to be subject to the proposed national mandatory filtering scheme.”***

The Joint Select Committee on Gambling Reform has decided as part of the inquiry to inquire specifically into gambling advertising.

The Committee is interested in views on: the level of gambling advertising; the display of betting odds at venues and during match broadcasts; commentators referring to the odds; and the general impact of gambling advertising on sport.

The Committee has invited public submissions on this matter to be received by 30 June 2011.

This submission complements the 20 July 2010 submission from FamilyVoice Australia to the Senate Community Affairs References Committee.

2. Gambling advertising

The *Interactive Gambling Act 2001* Section 61EA makes it, subject to various exceptions, an offence under Commonwealth law to publish an interactive gambling advertisement in Australia.

An “*interactive gambling advertisement*” is defined in the Act so as to exclude advertisements for online sports betting and other forms of interactive and online gambling currently permitted in Australia.

There are no legal restrictions on such advertising although various codes of practice, such as the *Commercial Television Code of Practice*, do put limits on when such advertising may be broadcast.

In its 2009 report the Productivity Commission tabulated the extensive list of State and territory laws and the various codes of practice applying to gambling advertising.¹

The Commission cited evidence from studies that “*a proportion of people with gambling problems (with estimates ranging from 5 to 20 per cent) are likely to substantially increase their gambling expenditure in response to advertising*”.²

Binde reports on three ways in which advertising may contribute to the prevalence of problem gambling:

(a) Advertising recruits new players, some of whom later become problem gamblers.

This effect ought to be at its strongest when a new game is introduced and when the market is immature. For example, people may be persuaded by advertising (Web banners or TV commercials) to try Internet poker, a game that for some becomes an obsession. Had it not been for advertising, a number of these persons would not have started playing and others would have done so later, when they were perhaps more aware of the risks involved or when Internet poker operators had increased their implementation of measures to counter excessive gambling.

(b) Advertising intensifies established gambling habits.

On the continuum between problem-free gambling and pathological gambling, some people will, because of advertising impact, move a little towards pathological gambling. A problem-free gambler may develop at-risk gambling behaviour, an at-risk gambler may become more of a problem gambler, and a problem gambler may behave more like a pathological gambler.

(c) Advertising may sustain and aggravate established problem gambling by providing hard-to-resist impulses for gambling that make it harder to adhere to a decision to quit or cut down on gambling.³

The first mechanism, of recruiting new players, could be significant if, contrary to FamilyVoice Australia's recommendation, online poker were to be allowed on Australian hosted internet sites. If the Interactive Gambling Act were weakened to allow online poker, restrictive advertising rules should limit the times for broadcasting advertisements and the nature of such advertisements. Also, broadcasting of accurate information about the potential losses that could be incurred from gambling should be made mandatory.

Advertising for sports betting has become more prevalent since the High Court decided in 2008 that section 92 of the Constitution which guarantees the absolute freedom of interstate trade and commerce effectively invalidated a Western Australian law restricting advertising to betting agencies registered in the State.⁴ This has opened up advertising to sports betting agencies registered under looser laws in the Northern Territory.

The High Court decision makes it constitutionally problematic for individual States to adequately control gambling advertising. This puts the onus on the Commonwealth to take the lead in promoting a co-operative federalist approach to this issue.

On 27 May 2011 the Council of Australian Governments Select Council on Gambling Reform issued the following communiqué on live odds promotion during the playing and broadcasting of sports events.

Ministers have agreed to take action to reduce and control the promotion of live odds during sports coverage.

Governments are concerned that promotion, including commentary by sporting role models, is becoming insidious in live sports coverage. We are concerned that this can significantly influence vulnerable and young people and normalise gambling behaviour.

Ministers agreed consultation will be undertaken with industry as to the scope of the measures designed to reduce and control the promotion of live odds during sports coverage.

Ministers acknowledge that racing will be exempt due to its long standing integral connection with wagering.

In the first instance, industry will be provided with the opportunity to address this issue through amendments to their existing industry codes.

However, if satisfactory amendments are not in place by the end of June 2012, the Australian Government will consider the need for legislation, noting that the measures would not apply to pre-existing contracts for the promotion of live odds during sports coverage as of 1am today.⁵

This approach is supported although it would be more prudent to move directly to legislation rather than relying on industry to amend codes of practice and possibly delaying an effective remedy unnecessarily.

More generally, the foreshadowed legislation should look more broadly at limiting gambling advertising, including a ban on all broadcasting of gambling advertisements during sports events and news programmes during G classification time zones.

Recommendations

1. If, contrary to FamilyVoice Australia's recommendation, online poker is allowed on Australian hosted internet sites, its introduction should be accompanied by restrictive advertising rules that limit the times for broadcasting advertisements and the nature of such advertisements, including a requirement for accurate information about the potential losses that could be incurred from gambling.

2. The Commonwealth should move directly to preparing and introducing legislation banning the promotion of live odds betting during sports events rather than delaying this until June 2012.

3. The Commonwealth should consider further legislative restrictions on the nature of advertisements for sports betting, including restrictions on the broadcasting such advertisements during sports events and news programmes in the G classification time zone.

3. Endnotes

1. *Gambling: Productivity Commission Inquiry Report 06/2010*, Table K.1 on p.K.5-K.6;
<http://www.pc.gov.au/projects/inquiry/gambling-2009/report>

2. Ibid., p. K.12 citing Binde, P. 2007, "Selling dreams — causing nightmares? On gambling advertising and problem gambling", *Journal of gambling issues*, iss. 20, pp 167-192, available at:
<http://www.camh.net/egambling/issue20/pdfs/04binde.pdf>

3. Binde, P. 2007, "Selling dreams — causing nightmares? On gambling advertising and problem gambling", *Journal of gambling issues*, iss. 20, pp 179-180;
<http://www.camh.net/egambling/issue20/pdfs/04binde.pdf>

4. *Betfair Pty Limited v Western Australia [2008] HCA 11 (27 March 2008)*;
<http://www.austlii.edu.au/au/cases/cth/HCA/2008/11.html>

5. Council of Australian Governments Select Council on Gambling Reform, *Communiqué*, 27 May 2011;
http://www.jennymacklin.fahcsia.gov.au/statements/Pages/jm_comm_gamblingreform_27may2011.aspx