

Victorian Inter- Church Gambling Taskforce



Submission to the Senate Standing Committees on Environment and Communications on the *Communications Legislation Amendment (Online Content Services and Other Measures) Bill 2017* 12 January 2018

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The Victorian Inter-Church Gambling Taskforce, the Alliance for Gambling Reform and the Victorian Local Governance Association welcome this opportunity to make a submission to the Senate Standing Committees on Environment and Communications on the *Communications Legislation Amendment (Online Content Services and Other Measures) Bill 2017*. The submitting bodies welcome the Bill as a means to ensure that broadcast service providers follow through and properly implement the gambling advertising restrictions that the Commonwealth Government announced. The draft Codes from Free TV, Commercial Radio Australia and ASTRA have attempted to provide loopholes not to fully implement the government's announcement. For example, they provide exemptions to allow gambling advertising through sponsorship announcements, live sports is narrowly defined and exemptions to the restrictions are provided for long form sports broadcasts.

The submitting bodies would prefer to see simple legislation that banned wagering advertising altogether, as people who want to place a bet on a sporting event would have no trouble finding a host of online gambling providers with the most basic of internet searches. The advertising of gambling providers appears to be for the benefit of the media providers (television, radio and online content businesses) and the gambling providers themselves (although a number of them support strong restrictions on gambling advertising as they feel trapped into spending large amounts of funds on advertising simply to keep up with the more aggressive competitors). The costs of the increased harm caused by the gambling advertising, where it leads to people engaging in excessive gambling, is carried by those people, anyone dependent on them and the broader community (as gambling harm results in increased white collar crime such as fraud and increased mental health problems).

At the very least, a starting point towards a total ban on gambling advertising would be that the gambling advertising restrictions create a clear and safe zone where parents can be confident children can watch live sport without experiencing messages that normalise gambling as a part of that sport. This should apply regardless of where in Australia the sport is being watched, what type of sport being watched and what medium is being used to watch the sport. As Minister Fifield stated on 6 May 2017 when he announced the reforms, the

intention of the Commonwealth Government was to “provide a clear and practical zone for families and children to watch live sports.”¹

Recommendations

The submitting organisations support the passage of the *Communications Legislation Amendment (Online Content Services and Other Measures) Bill 2017* ideally with the following amendments:

- Broadcasters and online content providers be required to submit all gambling advertising and promotion content and scheduling covered by the standards restricting gambling advertising and promotion to the ACMA for approval prior to broadcasting.
- Part 3 subsections 15(5) and 15(6) be amended so that the ACMA should also be required to consider the likelihood the exemption will result in gambling related harm and the number of children likely to be exposed to the gambling promotion as a result of the granting of an exemption to the standards restricting gambling advertising and promotion.
- In Part 3 under Division 2, section 21, the restriction on gambling advertising and promotion should be amended to apply to the period from when the broadcast of the sporting event starts and ends or five minutes before the event starts and five minutes after it ends, whichever is the longer. For example, a television broadcast of a sporting event might start 30 minutes before the event itself starts, with pre-game entertainment or footage of the players warming up. This would mean there would be 25 minutes before the sporting event on which there could be saturation gambling advertising.
- The definition of “live” in relation to sporting events in the Bill should be amended so as to capture any replay of a sports event within a 24 hour period. This means that if a sporting event is happening overseas at 3 am in the morning Australian time and then it is replayed in Australia at 7:30 am it would be captured by the restrictions.

The harm caused by gambling advertising

Various studies have highlighted a growing culture of gambling, particularly amongst young adult males who are also disproportionately at risk of gambling harm.² Furthermore, studies have shown that, amongst people harmed by their gambling, gambling advertising increased their already high participation in gambling and made it harder for them to commit to reducing or abstaining from gambling.³

According to a 2005 Australian study for young people, early exposure to gambling increases the chances of engagement in harmful gambling in later life.⁴ One study has found that exposure to advertising has a significant impact on gambling behaviour among those aged 16-19 years as exposure to gambling advertising accounted for increases in gambling

¹ <http://mitchfield.com/Media/MediaReleases/tabid/70/articleType/ArticleView/articleId/1352/Major-reforms-to-support-Australian-broadcasters.aspx>

² Thomas, S., Lewis, S., McLeod, C., & Haycock, J. (2012b). 'They are working every angle'. A qualitative study of Australian adults' attitudes towards, and interactions with, gambling industry marketing strategies. *International Gambling Studies*, 12(1), 111-127; Delfabbro, P. (2012). *Australasian gambling review* (5th ed.). Adelaide: Independent Gambling Authority.; Williams, R., West, B., & Simpson, R. (2012). *Prevention of problem gambling: A comprehensive review of the evidence and identified best practices*. Ontario: Ontario Problem Gambling Research Centre; Deans E. G., Thomas S. L., Daude M. & Derevensky J. (2017), 'The influence of marketing on the sports betting attitudes and consumption behaviours of young men: implications for harm reduction and prevention strategies', *Harm Reduction Journal* 14, 5; and Deans E. G., Thomas S. L., Daude M., Derevensky J. (2016), 'The role of peer influences on the normalisation of sports wagering: A qualitative study of Australian men', *Addiction Research and Theory* 25(2), 103-113.

³ Binde, P. (2009). Exploring the impact of gambling advertising: An interview study of problem gamblers. *International Journal of Mental Health and Addiction*, 7(4), 541-554;

⁴ M. Hume and G. Mort, 'Fun, Friend, or Foe: Youth Perceptions and Definitions of Online Gambling', *Social Marketing Quarterly*, 17, 1, (2011), 109-133.

behaviour, including problematic gambling.⁵ Another study has shown that problem and pathological gambling in adolescence (and early adulthood) is fourfold higher when compared to adulthood.⁶

The Victorian Responsible Gambling Foundation reported that half of all adolescents have high levels of exposure to sports betting marketing.⁷ Further they reported:⁸

- About one in five children can identify three or more sports betting brands;
- Over two-thirds of children aged 8 to 16 can recall the name of at least one sports betting brand;
- Around one in ten young people gamble online in a year;
- 60% of teenagers who had gambled illegally had done so online;
- 15% of Australian adolescents had engaged with betting operators on social media;
- A 2015 study found that 42% of adolescents had seen promotions of gambling on social media and around one in ten reported that social media promotions had increased how much they gambled;
- About one young person in every 25 has a problem with gambling; and
- One in five adults with gambling problems started gambling before they were 18.

Three independent studies from between 2009 and 2011 found that between 20% and 25% of teenagers aged 12 to 18 had placed bets on sporting events.⁹ In some of these cases an adult may have placed the bet on the event on behalf of the teenager.

Children are being provided a distorted view about gambling when viewing live broadcasts as they do not have the capacity to understand the associated risks. Broadcasting of gambling advertising can entice children to participate in the gambling experience, even without financial outlay. Researchers argue that gambling is portrayed inaccurately in the media to the extent that it normalises gambling and fails to highlight the potential effects of harmful gambling. Since the results are not broadcast in the same manner – children are not necessarily seeing the balanced reinforcement of the gambler not always winning.¹⁰

An adolescent with a gambling problem is more likely to have depression or think about suicide, and to have lower self-esteem, than a young person without a gambling problem.¹¹ They are also more likely to engage in risky or anti-social behaviour, such as alcohol and drug use, theft and graffiti.¹²

⁵ Fried, B., Teichman, M., & Rahav, G. (2010). Adolescent gambling: Temperament, sense of coherence and exposure to advertising. *Addiction Research and Theory*, 18, 586-598

⁶ M. Hume and G. Mort, 'Fun, Friend, or Foe: Youth Perceptions and Definitions of Online Gambling', *Social Marketing Quarterly*, 17, 1, (2011), 116.

⁷ Victorian Responsible Gambling Foundation, 'Gen Bet: Has Gambling Gatecrashed our Teens?', March 2017, 2.

⁸ Victorian Responsible Gambling Foundation, 'Gen Bet: Has Gambling Gatecrashed our Teens?', March 2017, 2-3, 6.

⁹ Victorian Responsible Gambling Foundation, 'Gen Bet: Has Gambling Gatecrashed our Teens?', March 2017, 9.

¹⁰ Derevensky, J., Sklar, A., Gupta, R., & Messerlian, C. (2010). An empirical study examining the impact of gambling advertisements on adolescent gambling attitudes and behaviours. *International Journal of Mental Health and Addiction*, 8(1), 21-34; Hing, N., Vitartas, P., & Lamont, M. (2013). Gambling sponsorship of sport: An exploratory study of links with gambling attitudes and intentions. *International Gambling Studies*, 13(3), 281-301; Hing, N., Vitartas, P., Lamont, M., & Fink, E. (2014b). Adolescent exposure to gambling promotions during televised sport: An exploratory study of links with gambling intentions. *International Gambling Studies*, 14(3), 374-393

¹¹ K.K. Hardoon, and J.L. Derevensky, 'Child and adolescent gambling behaviour: current knowledge', *Clinical Child Psychology and Psychiatry*, 7(2), (2002), 263-281.

¹² N. Purdie, G. Matters, K. Hillman, M. Murphy, C. Ozlins and P. Millwood, 'Gambling and young people in Australia', Gambling Research Australia, 2011.

In an Australian qualitative study (from a sample of 175 respondents aged 10-30) it was found the potential hazards and dangers of online gambling are overlooked, ignored and or naively underestimated by youth who gamble. The majority of this youth cohort clearly defines gambling as a game, as fun, and as social. Early game playing that offers reward and satisfaction is viewed as contributing to the gambling culture and the gratification cycle witnessed with excessive gamblers. Potential addiction, financial loss and negative social impacts are overlooked, unknown, or ignored in this group.¹³

The current amendments to the Codes of the broadcasting bodies will have limited impact in protecting children from gambling advertising. This is because many children will still be exposed to gambling promotions and advertising after 8:30pm, when the restriction on gambling advertisements will be relaxed. Many sports in Australia, especially AFL, the rugby codes, and cricket, do not finish until well after 10pm. For example, it is estimated 39,000 minors typically watch each live sports broadcast in Australia, and around 50,000 minors watch a Friday night NRL game. Further, AFL is one of the three most watched television programs by children under 14 years, with some televised sports attracting a larger audience of children than do dedicated children's programs.¹⁴

Comments on the Bill

The submitting organisations support that the Bill defines 'gambling promotional content' in a manner that is intended to include in-program promotions, program sponsorship announcements and spot advertisements.

Rather than compliance and enforcement being complaint driven (Explanatory Memorandum p.4) it would be better if gambling businesses were required to submit proposed gambling advertising material and plans to ACMA prior to the advertising taking place, so that ACMA can ensure compliance before the advertising takes place. This would avoid gambling businesses and media providers running advertising in breach of requirements and hoping that no complaint is made or getting to run the advertising and factoring any penalty after the advertising has been run as simply a business cost. Pre-vetting means that breaches of restrictions on advertising are prevented, while an enforcement regime based on complaints permits the breaches to happen and the providers of the advertising to benefit from the advertising. In the latter regime the penalties need to be sufficient to act as a deterrent to those that would otherwise wilfully breach the requirements.

The submitting organisations specifically support subsection 125A(10) so that any material broadcast in an unscheduled break in play during a sporting event is taken to be part of the live coverage for a sporting event, so that gambling advertising restrictions will apply to the material broadcast in an unscheduled break.

The submitting organisations also welcome that subsection 125A(20) will capture the Olympics, Commonwealth Games and similar events as sporting events for the purposes of applying the gambling advertising restrictions.

The submitting organisations strongly support the definition of "gambling promotional content" including "sponsorship" "that relates to a gambling service" in subsection 125A(25). This is important as this is one of the loopholes that ASTRA are proposing to allow them to continue to advertise gambling. "The official sponsors of the competition, event, match or team" are planned to be excluded from the gambling advertising restrictions, despite the fact

¹³ M. Hume and G. Mort, 'Fun, Friend, or Foe: Youth Perceptions and Definitions of Online Gambling', *Social Marketing Quarterly*, 17, 1, (2011), 129.

¹⁴ ORC International, 'Marketing of Sports Betting and Racing: A study commissioned by Gambling Research Australia', May 2015, page 44

that such promotion continues to link sport and gambling in the minds of children exposed to such gambling promotion.

The submitting organisations are concerned that in Part 3 subsections 15(5) and 15(6) the grounds for granting an online content service an exemption from the gambling promotion restrictions appear to be primarily about the economic benefits to the online content service. The submitting organisations would prefer these not be grounds to consider the exemption, and would prefer exemptions not be granted. At the very least, the ACMA should also be required to consider the likelihood the exemption will result in gambling related harm and the number of children likely to be exposed to the gambling promotion as a result of the exemption.

In Part 3 under Division 2, section 21 the submitting organisations would prefer to see the restriction on gambling advertising and promotion applying to the period from when the broadcast of the sporting event starts and ends, rather than only five minutes before the event starts and five minutes after it ends. For example, a television broadcast of a sporting event might start 30 minutes before the event itself starts, with pre-game entertainment or footage of the players warming up. This would mean there would be 25 minutes before the sporting event on which there could be saturation gambling advertising.

Loopholes in the proposed Code Amendments of Broadcasters and Narrowcasters

The bodies covering broadcasters and narrowcasters, Free TV Australia, Commercial Radio Australia and ASTRA, have proposed amendments to their codes, Commercial Television Industry Code of Practice, Commercial Radio Code of Practice and Subscription Television Broadcasting and Narrowcasting Codes of Practice, around gambling advertising. These amendments contain a number of loopholes that are, in our view, inconsistent with the Commonwealth Government's announced reforms to restrict gambling advertising and promotion.

The amendments proposed for all three Codes would provide an exemption for gambling advertising for long form live sporting events, despite the fact there are a significant amount of children watching these events for long periods of time between 5:00 am and 8:30 pm, and that there is no apparent rationale for such an exemption other than the desire of the revenue from such advertising to the broadcasters and narrowcasters.

These exemptions would mean children would be exposed to gambling advertising during sports such as cricket and sporting tournaments such as the Olympics and the Commonwealth Games. While such promotions only occur once during most long form sporting events, this combined with gambling advertisements within the field of play can lead to a saturation of gambling advertisements over a long period of time.

To use Rugby 7's, Rugby 10's and Rugby League 9's as an example, broadcasts for a tournament can be televised between 10am-8:30pm for full day's play on the east coast (or in Auckland for Rugby League 9's). This means that children may be exposed to the promotion of gambling during the telecast of the tournaments, as well as exposed to gambling advertisements on billboards within the field of play. Children could watch a promotion of gambling and also be exposed to gambling advertising within the field of play for lengthy periods of time.

This form of product saturation is best highlighted by a cricket match in 2014 after the tragic death of Philip Hughes. Memorials and tributes had been set up at the ground in his honour. One of these involved bats and caps lined up just behind the boundary rope. The camera repeatedly returned to this memorial during the match broadcast, frequently zooming in for

close-ups, during which surrounding advertising for Bet365 (and the Commonwealth Bank) could clearly be seen.¹⁵

This exposure of gambling advertising to children during long form sporting events is particularly concerning given the amount of children who watch major tournaments such as the Olympics and the rugby tournaments. For example the NRL Auckland Nines were three out of the top five pay TV programs for month of February, rating between 181,000 – 200,000 people per telecast.¹⁶ It is estimated that around 1.4 million people participated in rugby league in 2015.¹⁷ Given that research has shown that adolescents are just as likely as adults to have watched professional sporting events in the last 12 months (84%),¹⁸ as well as what we know about the prevalence of children watching AFL and rugby league matches, it is not unreasonable to conclude that a large number of children would watch rugby tournaments such as the Auckland Nines and thus be exposed to gambling advertisements for long periods of the day.

In 2017, Cricket Australia reported Test cricket attracted an average television audience of 985,514, including the high for a session of cricket over the summer of 2.189 million who watched the final session of the fourth day of the day-night Adelaide Test.¹⁹ It is estimated that around 957,000 children ages 5-18 play cricket in Australia. Again, it is not unreasonable to conclude that a large number of children would watch cricket and thus be exposed to gambling advertisements for long periods of the day if the Codes allow for exemptions for gambling advertising during long form sports.

The proposed amendments for each of the Codes also want to tie the gambling advertising restrictions to Australian Eastern Standard Time (AEST) or Australian Eastern Daylight Time (AEDT) which means children in central and western Australia will be exposed to gambling advertising before 8:30 pm, which is not in keeping with what the Commonwealth Government stated would be the outcome in terms of restricting gambling advertising. The central and western states of Australia account for 19.29% of Australia's population.

Commercial Radio Australia plans to exempt all long term advertising contracts with gambling businesses entered into before 30 March 2018 which will represent a massive opportunity for gambling businesses to enter into contracts and avoid the new restrictions on gambling advertising.

ASTRA plans to completely exempt beIN SPORTS 1-3, ESPN, ESPN 2, Eurosport and EPL club team channels from gambling advertising restrictions on the basis these channels have small audiences. The Government announcement was that children would be protected from exposure to gambling advertising. This was not qualified to say that media outlets where a smaller number of children might be watching would be exempted. The data in the ASTRA consultation paper itself demonstrates that over 10% of the audience watching the channels

¹⁵ See ORC International, 'Marketing of Sports Betting and Racing: A study commissioned by Gambling Research Australia', May 2015, page 84

¹⁶ OzTam data as quote in the article 'Glenn Dyer's TV ratings: a trashy start to the ratings season'. <https://www.crikey.com.au/2015/02/02/glenn-dyers-tv-ratings-a-trashy-start-to-the-ratings-season/> (accessed 18 December 2017)

¹⁷ National Rugby League, Annual Report, <https://www.nrl.com/siteassets/documents/nrl-annual-report-2015.pdf> (accessed 18 December 2017), page 90

¹⁸ Sproston, K. Hanley, C. Brook, K. Hing, N. and Gainsbury, S. (2015) Marketing of sports betting and racing. Gambling Research Australia. p143 as quote in the Victorian Responsible Gambling Foundations response to the Discussion Paper on the proposed AANA Wagering Advertising & Marketing Communication Code, Dec 2015, page 6.

¹⁹ Cricket Australia, 'Crowd numbers hit all-time high', 31 March 2017, <https://www.cricket.com.au/news/cricket-australia-crowd-attendance-television-audience-ratings-tests-bbl-wbbl/2017-03-31> (accessed 8 December 2017).

to be exempted are children. Further, ASTRA's logic is undermined by the fact that existing gambling advertising restrictions in the Code currently apply to these channels and will continue to do so. So that begs the question, if these channels were already subject to the existing gambling advertising restrictions, what possible reason is there not to continue to apply consistent gambling advertising restrictions across all channels?

The amendments for all three Codes seek to exempt advertising and promotions for "fantasy sports" and "sports tipping competitions" from the definitions of "Betting Advertising" and "Betting Advertisement". Many of the fantasy sports are connected with the same multinational corporations that provide other forms of sports wagering allowing them the opportunity to do brand cross promotion on the websites where the fantasy sports are located and to which advertisements on subscription television will drive them. Further, recent work by Dylan Pickering at the University of Sydney found that 9.8% of people gambling on daily fantasy sports reported decreased productivity and 6.5% reported that it put a strain on their relationships. Thus, fantasy sport is not without potential harms. There are an estimated 1.65 million Australians who participate in daily fantasy sports.²⁰

Free TV Australia plans to go further with the watering down of gambling advertising restrictions, looking to also exempt advertising and promotions for "betting on the outcome of lotteries" from the proposed restrictions.

ASTRA also plans to exempt Subscription Narrowcasting Services from the gambling advertising restrictions in hotels and short term accommodation, which are places where children may be present.

²⁰ Dylan Pickering, 'What the rise of daily fantasy sports will mean for problem gambling', The Conversation, 5 July 2017, <https://theconversation.com/what-the-rise-of-daily-fantasy-sports-will-mean-for-problem-gambling-79998>