



25 June 2021

Committee Secretary
Parliamentary Joint Committee on Corporations and Financial Services
PO Box 6100
Parliament House
Canberra ACT 2600

By email: corporations.joint@aph.gov.au
Also submitted via APH portal

Dear Committee Secretary

Regulation of the use of financial services such as credit cards and digital wallets for online gambling in Australia

COBA appreciates the opportunity to provide a submission on the regulation of the use of financial services such as credit cards and digital wallets for online gambling in Australia.

COBA is the industry association for Australia's customer owned banking institutions (mutual banks, credit unions and building societies). COBA members are an important part of Australia's payments system, providing a wide range of payment products and services to 4.5 million customers.

Collectively, our sector has \$147 billion in assets. Customer owned banking institutions account for around two thirds of the total number of domestic Authorised Deposit-taking Institutions (ADIs) and deliver competition and market leading levels of customer satisfaction in the retail banking market.

COBA notes that this submission covers similar ground to our submission earlier this year to the Senate Standing Committee on Environment and Communication inquiry into the Interactive Gambling Amendment (Prohibition on Credit Card Use) Bill.

Customer owned banking sector and credit cards

COBA members provide their customers with a wide range of credit card and debit card products and, as a sector, we bring a card issuer and cardholder perspective to regulatory policy debates about payment cards. While our sector has around six per cent of the home loan market, our share of credit cards is much smaller at less than two per cent of balances.

While our members provide a diverse range of credit cards, most members generally focus on lower rate or low fee credit cards. Many COBA members also enable customers to access their credit and debit card accounts via mobile wallet applications such as Apple Pay, Google Pay and Android Pay.

As smaller players in a banking market dominated by the four major banks, COBA members rely on outsourcing to obtain efficiencies and economies of scale. This applies to core banking systems, data processing and other services but is particularly important in relation to access to the payments system.

The key providers of payments system access for COBA members are Cuscal, Indue and ASL. These providers' services include participation in the international card schemes (Visa and Mastercard) and

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eftpos, the New Payments Platform (NPP), direct entry, BPAY, ATM networks, digital applications and cheque issuance. Ultimately, any excessive compliance and regulatory costs on these aggregators will be passed onto our sector through increased costs for third party services.

COBA's views on the possible amendments

COBA supports the intention of the possible amendments to require that providers of regulated gambling services to restrict the use of credit cards. Our view is that this is likely to be the most efficient and fairest way to reduce some of the risk of using gambling services and credit cards. Ultimately, those who create the need for regulation should bear the costs of the regulation. In this case, providers of regulated gambling and wagering services have created the impetus for the possible legislative amendment.

The Committee's Terms of Reference propose possible amendments to Clause 15C of the Interactive Gambling Amendment Act 2017:

"At 15C(1)(b)(iii), delete the words "(other than by way of an independently issued credit card)";

At 15C(1)(b)(ii), after "physically present in Australia" insert "or";

After 15C(1)(b)(ii), insert: "(iii) where the service is provided online, the person accepts credit as a form of payment for the service.

After 15C(1)(b)(iii), insert "For the avoidance of doubt, 15C(1)(b)(iii) does not apply to debit payments."

In effect, COBA understands that these amendments will create an offence for a person who provides an online *regulated interactive gambling service that is a wagering service* to accept credit as a form of payment.

The obligation for prohibiting the use of credit cards should be placed on the gambling services operator. These operators are responsible for accepting payments from consumers and should be held accountable for overseeing how payments are facilitated within their business operations.

COBA agrees with the proposition that online and offline gambling should be treated the same with respect to the use of credit cards and supports the possible amendments to align this.

The extent of consumer detriment

The Australian Banking Association's (ABA) 2019 consultation highlighted that state governments introduced bans on the use of credit cards for gambling and cash advances on credit cards in casinos, on racetracks and in gambling areas of licensed venues.¹ At the time of the offline credit card gambling bans in the early 2000s, online gambling in Australia was limited.

Online interactive gambling and wagering has grown significantly in popularity. In 2018, 34 per cent of Australians who gambled indicated that they used the internet to place bets, jumping up from 16 per cent in 2012.² Online interactive gambling and wagering is highly accessible, allowing individuals to gamble in any physical location and at any time of the day, creating a particularly dangerous set of circumstances for those who experience problem gambling.³

¹ https://www.ausbanking.org.au/wp-content/uploads/2020/12/Every-Customer-Counts_Consultation-Report-Use-of-Credit-Cards-for-Gambling-Transactions.pdf

² <http://www.roymorgan.com/findings/7941-gambling-participators-201904120606>

³ https://www.ausbanking.org.au/wp-content/uploads/2020/12/Every-Customer-Counts_Consultation-Report-Use-of-Credit-Cards-for-Gambling-Transactions.pdf

Problem gambling is complex and the result of many different factors including the characteristics of individuals, their family, friends and peers, and social and cultural norms. Aspects of the gambling environment also play a considerable role, including what gambling is offered and in what setting, how it is marketed and availability and access to the means to gamble.⁴

Reducing the risk of harm to consumers

As noted in the explanatory memorandum for the Interactive Gambling Amendment (Prohibition on Credit Card Use) Bill 2020, the Productivity Commission's 2010 inquiry into gambling found that "people who identified as problem gamblers were four times more likely to use credit cards to obtain cash to gamble than those in the still problematic category of low risk gamblers."⁵

COBA understands that removing the ability to use credit cards for online interactive gambling and wagering is likely to reduce the risk of gambling harm associated with gambling using easily accessible credit.

"Research shows that people who experience severe gambling harm are far more likely to gamble more money than they can afford, use credit cards to do so and access credit card funds early. The effect is to accelerate the speed and extent to which a person gambles beyond their means.

There is evidence that being in debt compounds harms created by gambling – it often serves as a driver for people to chase their losses and gamble more, which leads to a vicious cycle of more debt and more harm.

A ban on the use of credit cards for online gambling would significantly reduce the extent of harm to people who are vulnerable to gambling harm. The harms associated with gambling are well known – they can have an impact on social relationships, family relationships, work performance and physical and mental health.

This is in addition to financial stress, loss of creditworthiness, chronic high interest debt, homelessness, crime and suicide."⁶

While the use of credit cards for online interactive gambling can be convenient for some consumers, this is outweighed by the risk of harms to the other consumers.

COBA does not expect that the possible amendments will prohibit consumers from engaging in online interactive gambling should they choose to do so. Rather, it will remove the ability of credit cards to be accepted as payment for these services. The possible amendments include provisions specifically noting that the reforms will not apply to debit cards, which affords individuals the opportunity to continue engaging in online interactive gambling services using other payment methods.

Research from YouGov has shown that 81 per cent of Australian survey respondents believe that there should be restrictions on using credit cards for gambling, with 54 per cent stating their use should be banned altogether.⁷

⁴ <https://responsiblegambling.vic.gov.au/documents/21/using-a-public-health-approach-in-the-prevention-of-gambling-related-harm.pdf>

⁵ Interactive Gambling Amendment (Prohibition on Credit Card Use) Bill 2020, Explanatory Memorandum

⁶ Interactive Gambling Amendment (Prohibition on Credit Card Use) Bill 2020, Explanatory Memorandum

⁷ https://www.ausbanking.org.au/wp-content/uploads/2020/12/Every-Customer-Counts_Consultation-Report-Use-of-Credit-Cards-for-Gambling-Transactions.pdf

In New Zealand, a Department of Internal Affairs (DIA) consultation on online interactive gambling found that 75 per cent of survey respondents supported restrictions on the use of credit cards for online gambling sites.⁸

Regulatory approaches used in other relevant jurisdictions

United Kingdom

The United Kingdom has introduced similar restrictions regarding the use of credit cards for gambling, imposing obligations on the gambling service operators.

In April 2020, the use of credit cards for all forms of gambling, including online gambling, was banned by the UK Gambling Commission. Under the UK regime, responsibility for the prohibition of credit cards lies with the gambling operators.

On the ban, the UK Gambling Commission has said the ban will provide a significant layer of additional protection for vulnerable people and is an important step forward in protecting the 10.5 million people who gamble online from harm.⁹

New Zealand

New Zealand's highly regulated gambling regime only permits online gambling via two registered domestic providers.

It is not illegal for New Zealanders to gamble online via offshore providers, although its increasing popularity has prompted the DIA to consider restrictions.¹⁰ One of the proposals put forward in the consultation considered restrictions on the use of credit cards on offshore gambling sites. This was proposed alongside other measures including tools to restrict access to online gambling, self-exclusion, geo-blocking of websites and prohibitions on New Zealanders from accessing unauthorised online gambling sites.

Feedback from stakeholders highlighted the challenge of banks being responsible for blocking credit card transactions to overseas online gambling sites, noting that it would be ineffective. Feedback suggested that online gambling providers may get around blocks by changing their merchant category codes (MCC), subverting the ability of credit card issuers to effectively identify and block prohibited transactions.

New Zealand's consideration on the regulation of offshore online gambling is still ongoing.

The level of existing voluntary bans by Australian financial institutions

Selected credit card issuers in Australia have chosen to introduce measures that either prohibit gambling on credit cards or allow consumers to self-exclude from transactions to gambling MCCs.

Some issuers proactively monitor gambling exposures and prohibit certain credit cards from being used at specific gambling sites to address the higher risk of fraud, particularly with online interactive gambling. Other issuers place transaction limits or caps on percentage of the total credit card limit being used for gambling purposes.

⁸ [https://www.dia.govt.nz/diawebsite.nsf/Files/Online-Gambling-Consultation/\\$file/Online-Gambling-in-New%20Zealand-Summary-of-Submissions.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Online-Gambling-Consultation/$file/Online-Gambling-in-New%20Zealand-Summary-of-Submissions.pdf)

⁹ <https://www.gamblingcommission.gov.uk/news-action-and-statistics/news/2020/Gambling-on-credit-cards-to-be-banned-from-April-2020.aspx>

¹⁰ [https://www.dia.govt.nz/diawebsite.nsf/Files/Online-Gambling-Consultation/\\$file/Online-Gambling-in-New%20Zealand-Summary-of-Submissions.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Online-Gambling-Consultation/$file/Online-Gambling-in-New%20Zealand-Summary-of-Submissions.pdf)

COBA submission to Parliamentary Joint Committee on Corporations and Financial Services – Regulation on the Use of Financial Services Such as Credit Cards and Digital Wallets for Online Gambling in Australia

Some issuers have voluntarily placed blocks based on gambling MCCs for risk management purposes.

Another option to address the identified issue is placing obligations on card issuers to block gambling MCCs. Financial institutions are already subject to a significant regulatory change program. It would not be fair to impose additional costs on banks to reduce the identified risk given that this issue is a problem with gambling operators allowing their customers to use credit cards as opposed to an issue that arises solely from the use of credit cards.

An alternative option of developing a voluntary code of conduct for credit card issuers is untested and complicated. COBA observes that the development of recent industry codes as the Customer Owned Banking Code of Practice (COBA code) and the Banking Code of Practice (ABA code) were significant and complex multi-year projects. By nature, industry codes are voluntary and this approach may not reduce harm at a system level given that consumers could shift to non-signatories.

In summary, any legislative prohibitions should target gambling operators as the proprietors of the services and the party solely responsible for transacting with consumers. COBA believes this is the most effective route in achieving the policy objective of limiting the harm brought on by gambling using credit cards.

Yours sincerely,

MICHAEL LAWRENCE
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