

**Victorian Responsible Gambling Foundation submission to Free TV Australia
in relation to, *The review of provisions relating to the broadcast of gambling
and betting commercials and the promotion of odds in live sport in the
Commercial television code of practice***

Submitted 15 December 2017

Executive summary

The Foundation welcomes the opportunity to provide feedback on the proposed code revision by Free TV Australia.

The Foundation's notes the intention of the Commonwealth government's reform of advertising and the promotion of gambling during live sport. This being, to create a clear and practical safe zone where parents can be confident children can watch live sport without experiencing messages that normalise gambling as a part of sport.¹

The Foundation supports this reform as a step in reducing the normalising effects of advertising and promotion of sports gambling in all forms of media. The Foundation further notes the mounting body of evidence of gambling advertising's normalising effects on children. This includes giving them recognition of, and positive identification with, gambling brands. Also, providing them with an understanding of odds, of ways to bet, perceptions that gambling is relatively free of risk, and of formation of intentions to bet.

The Foundation notes the Victorian government's position on gambling advertising, which sees further restrictions as necessary. In particular, that any live sport that begins before the relevant 8.30pm restrictive zone should continue to be free from gambling advertising and promotions until 5 minutes after it finishes.² This would allow children to watch the match to its conclusion in the same safe zone they began watching in.

The Foundation is concerned that some of the proposed changes to the code by Free TV Australia are not in accord with the government's intention nor the community sentiment or research evidence that informed it. In particular exemptions being offered on the basis of time zones and in relation to forms of sport.

Foundation recommendations

The Foundation does not accept the position put by Free TV Australia that the time zoned restrictions of 5am to 8.30pm should only apply to the Eastern seaboard, and only the Eastern seaboard excluding Queensland during summer.

¹ <https://www.communications.gov.au/what-we-do/television/broadcast-and-content-reform-package>

² The Hon Marlene Kairouz, Media Release, [Gambling Ad Ban Near Schools, Roads and Public Transport](#), 17 September 2017

By anchoring the restrictions to Australian Eastern Standard Time (AEST) or daylight saving time (AEDST) or wherever the greatest population is, the proposed code is undermining the purpose of the restrictions and denying their importance. In effect, Free TV Australia is saying that only *some* Australian children should be protected by the 8.30pm restriction.

The purpose of the government policy cannot be but to treat all children as equally valuable and to provide for all of them the safe zone it has determined upon.

1. The Foundation recommends that if the licensees cannot deliver this broadcast policy equitably to all Australians at the appointed times, *in the time zone they are watching in*, then the restrictions must be widened to be adequate to protecting all children. Thus the restrictions should be from 5am AEST (or AEDST) to 8.30pm Western Australian Standard Time (WAST).

The Foundation also does not accept the reasoning in Free TV's paper that suggests that long forms of sport are different and should not be treated as 'siren to siren' sports are.

The intentions of the Commonwealth government are clear and the rules of the code should be too. That is, when live sport is being shown, parents will be able to be confident that children will not be exposed to gambling advertising and promotions.

Thus a day broadcasting test cricket or the Australian open, or the Olympics, is a live sport event until there is a substantial break that has programming unrelated to the live sport. This is a common sense view that constitutes a reasonable expectation of what government policy will provide.

2. At all times, the live sport broadcast of all sport in any form should abide by the restrictions relating to no advertising before, after or during the broadcast, between 5am and 8.30pm. This will be a clear and practical measure supporting the provision of a safe zone for children to watch sport without it being linked to gambling.
3. The Foundation further recommends that the code be comprehensive in its definition, covering off all forms of gambling promotions and advertising, including sponsorships, brand promotions and merchandising.
4. With regard to sports tipping and fantasy competitions, the Foundation recommends distinguishing between those promoted by bookmakers (acting as a form of marketing and often with large cash prizes) and more innocuous games presented purely for entertainment value and in no way associated with gambling or the gambling industry. Only the latter are acceptable. The proposed code currently does not do this but it should.
5. With regard to the start and finishing time restrictions of 5 minutes before and after, the Foundation recommends it should be the five minutes before the cross to the ground or event venue and for five minutes after all the players have left the ground, playing area. This accords realistically with when the attention of the audience, particularly children, is likely to be engaged with the event as a live event.
6. With regard to delayed transmission of events, it is recommended that for any transmission

of a full or a substantial part of sporting event, within the 24 hours after it has occurred, the restrictions will still apply. For example, a delayed re-broadcast of an Olympic event that occurred overnight, at 8.00am, would be captured by the restrictions.

Overall, the government's intention could not be more clear, no gambling advertising during live sport between 5am and 8.30pm. This should be applied in a blanket manner, in order to provide a safe zone where all Australian children can watch live sport without advertising and promotions intruding. The intention is to make this a safe zone where parents can be confident children will not be exposed to messages that give them the impression that gambling is a part of participation in watching or following sport.

The revised code should clearly state and make good this intention in its rules. In the current proposed version it falls short.

About the Foundation

The [Victorian Responsible Gambling Foundation](#) is a statutory authority established in 2012 with the bipartisan support of the Victorian Parliament.

Taking a public health approach, the Foundation strives to meet its mandate by acting across four key areas:

- 1) increasing community awareness about the risks of gambling and the help available, through public campaigns and community education
- 2) providing information and advice to the community on the Victorian gambling environment to promote discussion and participation in decisions about gambling
- 3) conducting research to better understand the impact and address the negative consequences of gambling in our communities.
- 4) providing effective and accessible Gambler's Help counselling services

The foundation is firmly focused on identifying, understanding and ameliorating the impact of gambling harm.

Introduction

The Foundation welcomes the opportunity to provide feedback on the proposed code revision for free-to-air TV, intended to accommodate the Commonwealth government's policy of banning gambling advertising and promotions between 5am and 8.30pm for five minutes before or after live sport.

The government's policy is based on evidence and the widespread community concern that constant gambling advertising is forming views among children that gambling is a normal part of participating in watching sport.³ The government has stated that the policy is being made to provide children with

³ See for example, Thomas SL, Randle M, Bestman A, Pitt H, Bowe SJ, Cowlshaw S. 2017, 'Public attitudes towards gambling product harm and harm reduction strategies: An online study of 16-88 year olds in Victoria, Victorian Responsible Gambling Foundation 15/12/17

a 'clear and practical safe zone' where they can watch sport.⁴ We note Free TV Australia's acting CEO committed to meeting community expectations in this matter.⁵

The Foundation shares the government's concerns regarding the normalisation of gambling in relation to sport, particularly in relation to the way children are being encouraged by gambling advertising and promotions to view sport. This normalisation is occurring at a time where children, especially of primary school age, have limited comprehension and reference points.⁶ Further, in the case of all sports except horse and dog racing it runs counter to traditional Australian engagement with sports.

Traditionally, Australian's have engaged as fans of sport, supporting teams or players and appreciating the skills and efforts of those playing. In relation to children, Australia has a strong culture of using sport to model behaviours and teach lessons about effort, co-operation, and fair play. In contrast, gambling on sport prioritises seeing it as a series of opportunities to make bets that will have outcomes of win or loss for the individual making the bets. This is a very different framing of the values and perceptions of what it means to watch sport.

The Foundation in its own prevention program, '[love the game](#)', emphasises the former values and works with sporting organisations to continue those values and shield children from exposure to promotions of a culture of gambling on sport.

The Foundation views the introduction of a ban on advertising and promotions during live sport as an important step in protecting children from the socialisation effects of widespread promotions and advertising of gambling that saturate all the media environment. A socialisation that changes the meaning of sport and encourages false ideas about both the normality of gambling and the risks associated with gambling.

The Foundation notes the policy position held by the Victorian state government, that the restrictions would work better and provide more safety, if any match that began before 8.30pm was required to be free from gambling advertising and promotions until its conclusion.⁷ This would allow children to watch games to their conclusion. It is a practical reality that many children, particularly

Australia'. *Harm Reduction Journal*. (49):1-11; Sproston, K. Hanley, C. Brook, K. Hing, N. and Gainsbury, S. 2015, [Marketing of sports betting and racing](#). Gambling Research Australia. p145ff. See also, [Communications Legislation Amendment \(Online content and Services and other Measures\) Bill](#), Regulatory Impact Statement pp.5-9

⁴ Department of Communications and the Arts, [Fact Sheet: Broadcasting – moving to more efficient broadcasting fees \(PDF, 422KB\)](#) October 2017; Dept of Communications and the Arts Broadcast and Content Reform package at <https://www.communications.gov.au/what-we-do/television/broadcast-and-content-reform-package>; Media release, Senator the Hon Mitch Fifield, [Major Reforms to Support Australian Broadcasters](#) 6 May 2017

⁵ Media Release, *Free Tv Consultation Begins On Provisions To Ban Gambling Advertising In Live Sport*, 17 November 2017

⁶ For discussion see, Jeffrey E. Brand, *Television Advertising to Children: A review of contemporary research on the influence of television advertising directed to children*, ACMA, May 2007

⁷ The Hon Marlene Kairouz, Media Release, [Gambling Ad Ban Near Schools, Roads and Public Transport](#), 17 September 2017

adolescents, will stay up to watch the end of a game. It is logical that, if the purpose of the policy is to provide parents with the assurance their children can watch live sports free from exposure to gambling, applying the restrictions to the entirety of matches that begin before 8.30pm will provide a better outcome.

Evidence supporting reform

The Foundation notes that there is strong evidence that children as young as eight are absorbing in a positive manner messages from gambling advertising, including recognition of brands and perceptions that gambling can be risk free because you will be offered your money back. Older children, in late primary school and early high school, are also absorbing notions of how to bet and what to bet on. The applicability and importance of odds is also becoming part of children's views of how one should see sport.⁸

Standard Media Index reports that, Australia wide the gambling industry spent \$234 million on all advertising in 2016. This expenditure has been steadily increasing throughout the decade, it is up from around \$90 million in 2011⁹. Gambling advertising is highly prevalent in broadcast media and currently occurs even in children's television viewing times if news or sport is being broadcast. Further, it is not surprising that the effects of advertising are strong on those children who like to watch sport, since live sport and programs about sport are where the advertising is concentrated.¹⁰ Moreover, adolescents may have higher exposure to gambling advertising than adults.¹¹

This mass advertising of sport is a relatively new phenomenon, so definitive evidence of the impact this advertising on children will have on their adult gambling is not yet there. However, research has found that many young adult gamblers do now regard gambling as major part of how they are watching and regarding sport.¹²

⁸ Hannah Pitt, Samantha L. Thomas, Amy Bestman, Mike Daube, Jeffrey Derevensky, 2017 What do children observe and learn from televised sports betting advertisements? A qualitative study among Australian children, *Australian and New Zealand Journal of Public Health* [online](#); Pitt H, Thomas SL, Bestman A, Stoneham M, Daube, M. 2016, "It's just everywhere!" Children and parents discuss the marketing of sports wagering in Australia. *Australia and NZ Journal of Public Health* 40(5):480-6; Thomas S, Pitt H, Bestman A, Randle M, Stoneham, M, Daube M. 2016, *Child and Parent Recall of Gambling Sponsorship In Australia*. Melbourne: Victorian Responsible Gambling Foundation; Hing N, Vitartas P, Lamont M, Fink E. 2014, 'Adolescent exposure to gambling promotions during televised sport: An exploratory study of links with gambling intentions'. *International Gambling Studies*. 14(3):374-93; Derevensky J, Sklar A, Gupta R, Messerlian C. 2010, 'An empirical study examining the impact of gambling advertisements on adolescent gambling attitudes and behaviors'. *International Journal of Mental Health and Addiction*. 8(1):21-34.

⁹ Figures from Standard Media Index. Note, they do not include sporting sponsorships or program branded content

¹⁰ Pitt 2017

¹¹ Sproston 2015 pp143-7;

¹² Deans EG, Thomas SL, Daube 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; Deans EG, Thomas SL, Daube 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*. 2016;25(2):103-13

Moreover, betting on sports is the form of gambling that is growing fast in Victoria and elsewhere.¹³ In terms of experience of harm from gambling on sports, Foundation analysis of Victorian findings indicates that, around 37 per cent of those gambling on sport experience some form of harm.

On the proposed code changes by Free TV Australia

Proposed exemptions - rejected

The Foundation is dismayed to see the proposed code is not in accord with the stated intention of the government in banning advertising and promotions of gambling within five minutes of play starting and five minutes of ending between the hours of 5am and 8.30pm.

Instead the proposed code contains exemptions to this clearly stated intention.

In particular, we note the proposed code wants to make the following exceptions

- a) Applying differently for different time zones, effectively wanting the ban to only apply in full to those states in AEST or AEDST¹⁴
- b) During so-called long form games of sport, where a limited number of gambling adds should be allowed.¹⁵

In both cases the effect is to undermine or negate the intent and spirit of the government's policy and to disregard community sentiment. Instead, under the code changes proposed by Free TV Australia, the 'safe zone' for children shall only exist for some children during some types of sport.

In relation to (a) the only reason given is a vague reference to technical issues that impact on being able to meet the requirements of the ban in states with different time zones receiving a national feed. It is not clear if this is a problem because it would impose costs or because it is an impossibility.¹⁶

Regardless of which is the case, the exemption amounts to Free TV Australia claiming the right to discriminate against Australian children not living in Eastern seaboard states (and also those in Queensland during the summer.)

The government, acting on evidence and in accord with community demands, has declared a ban during these time periods as policy for the public good of children. It has not said for "some children". The effect of the proposed exemption is to say that the 8.30pm cut-off is effectively flexible. It does not matter if some children are being exposed to gambling advertising from 8pm

¹³ [Australian Gambling Statistics](#) 33rd edition, Hare S. 2015, [Study of Gambling and Health in Victoria](#), Victorian Responsible Gambling Foundation

¹⁴ See Free TV consultation paper Part B clauses XVI and XVII and Part C Clauses XVI to XVIII

¹⁵ See Free TV consultation paper Part B clauses I to VIII, Part C Clause III

¹⁶ If the claim is based on costs the government would be entitled to remind the broadcasters that the introduction of these restrictions were already balanced with a number of other reforms beneficial to broadcaster's bottom lines.

(SA), 7.30pm (Qld in summer) or as early as 5.30pm (WA in summer).

The Foundation would note that, on the basis of evidence the 8.30pm cut off is very conservative. Many children will still be watching sport past this time, especially on weekends. The Foundation would have preferred that if advertising were to take place at the starting time would be 9.00pm. This is when there would be a much higher likelihood that parents were watching with children and were in a position to provide critical commentary to accompany the promotions or mute them out in some way.¹⁷

The Victorian government's position is that the restrictions do not go far enough. The Minister has expressed the recommendation that once a live sporting event has begun, within the times of 5am to 8.30pm, it should remain free from gambling promotions until it concludes.¹⁸

For the Free TV codes to move the time back to as early as 5.30pm to suit their own purposes is not acceptable. If the national broadcasters lack the ability to properly provide for matters related to their licence in accord with the needs of particular parts of Australia they should adjust the rule so that all children benefit from the government policy.

The Foundation therefore recommends that the ban needs to apply from 5am EST or EDST to 8.30pm WAST.

In relation to (b) we find the clauses around 'long form sports' unclear and difficult to understand. What they appear to imply is, that because long form sports exist, ie are not siren to siren sports, then they have exemptions for the promotion of gambling inside the times of 5am to 8.30pm.

If this was not the intention, than the intention needs to be made much clearer.

In general, and in accord with the government's expressed policy wish of a creating a safe and practical zone where families can watch live sport, the nature of the sport should offer no exemption to the general ban. Clear and practical policy for Australian parents and their children should mean that parents can be confident that, at any time between 5am and 8.30pm when their children are watching live sport, they can be assured the children will not subjected to promotions and messages about gambling.

The notion that because long form sports might have different break formats or be continuous is a red herring. In fact, the long form of a sport effectively takes the entire broadcast into the live event territory. For example a day of tennis or test cricket is a continuous live experience for those watching. Children in fact are more likely to continue watching, not seeing a break as a break, while adults will leave the room.¹⁹

The Foundation therefore recommends that the code should guarantee what the government means

¹⁷ Victorian Responsible Gambling Foundation, 2015, [Submission to the Review of the Impact of Illegal Offshore Wagering](#) pp.8-9

¹⁸ The Hon Marlene Kairouz, Media Release, [Gambling Ad Ban Near Schools, Roads and Public Transport](#), 17 September 2017

¹⁹ See for example, Sproston 2015 p.47

by a clear and practical safe zone. That is, it will be clear that there will be no gambling advertising or promotions of gambling during periods where live sport is being broadcast. In the case of long form this includes the duration of the day or night's play (inside the restriction to 8.30pm).

Being practical, a day of test cricket, or the Australian open day session, is all live play from the point of view of children and parents. A long break of 30 minutes or more before the night session begins, where for example a program unrelated to the sport, eg. the news, is on, would count as a real break where the restriction need not apply. However, a lunch break in the cricket, featuring highlights from the match and commentary about the match, co-joined with a cricket show precisely likely to engage younger viewers over the break, would run completely counter to the spirit and intent of the policy if during this break the broadcaster ran gambling commercials, promotions, brand placements and so forth.

Other matters

Restrictions on gambling advertising should be comprehensive

The Foundation notes that the Commonwealth government has set out its intent to curtail gambling advertising and promotions via a restriction on them before, after and during live sport between 5am and 8.30pm.

The Free TV Australia paper defines these advertising and promotions as including:

“distinct promotional reference for a gambling or betting organisation and includes any writing, still or moving pictures, signs, symbols or other visual images or any audible message/s (or any combination of those things) that provides generic information about the organisation's brand, business or services.”

The Foundation recommends that it be made even more explicit that these restrictions cover all forms of gambling advertising and promotions. This means it would include:

- 1) Commercials
- 2) Sponsorships and any form of brand representations and references
- 3) Any signage or pull outs that put in place on the screen by the licensee that referred to gambling campaigns or brands or storylines
- 4) Any advertisements that are linked or reference brands or brand storylines
- 5) References to odds or companies in the commentary
- 6) Appearances by figures identified as celebrities linked to brands or wearing brand sponsored clothing while uniquely appearing as guests on the licensee's broadcast. An exception would be made for crosses to live to ground interviews where the team uniform may contain branding.
- 7) Other products, such as fantasy competitions, that are sponsored by or include gambling

company brands and logos

The Foundation accepts the exemptions to this rule offered by the Free TV Australia formulation,

“a commercial relating to entertainment or dining facilities at places where betting or gambling take place, or a tourism commercial which incidentally depicts betting or gambling, provided in each case that the contents do not draw attention to betting or gambling in a manner calculated to directly promote their use.”

though it notes the phrase “manner calculated to directly promote” might be ambiguous in some circumstances. This is why we recommend expressly adopting point 4 above. If the name of the place is in fact a brand name for a gambling company that the advertising or promotion would be ruled out.

Fantasy sports and sports tipping competitions should not be conduits to gambling companies or culture

The Foundation would first note that there are tipping competitions being offered by sports betting companies that are offering up to \$100,000 in prizes. These do not necessarily fall into the category of being a “light hearted and fun element of commercial free-to-air television content”.

Moreover, competitions that are run by licensed bookmakers, propagate their brand and are clearly part of strategy to grow their market share. In addition they further encourage the belief that skill and knowledge can allow large winnings. In this sense, they are no more suitable for children than more overt advertising for gambling.

Likewise fantasy sports competitions conducted by bookmakers also are about branding and growing market share and should not be promoted during the restricted times.

The Foundation recommends that any fantasy sports or tipping competitions run by gambling companies that offer large prizes or promote gambling brands or links to gambling brands and sites should be included in the restrictions on gambling advertising.

When the five minutes starts?

The proposed code suggests the five minute restriction should begin from the first action of the game, eg. the blowing of the umpires whistle in Australian rules. The Foundation recommends as more practical, realistic and protective, that the restriction should be five minutes before the players enter the field of play. The appearance of the players is the most obvious point where the audience’s attention begins, perhaps even more so for younger children since the players/teams are a major point of identification.

Delayed broadcasts

The proposed code states that first run transmission of delayed programming will not be covered by the restrictions. The Foundation recommends that any transmission of a whole or substantial part of a broadcast, (a quarter of football, a replay of the half or all of the Superbowl) should have the restrictions applied to it for 24 hours after the event.

This is because many people, including children, will watch as “live” events that were on late or in the early hours of the morning.

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