



## **Joint Select Committee on Gambling Reform**

### ***Inquiry into the Advertising and Promotion of Gambling Services in Sport***

#### **Submission by Commercial Radio Australia**

**27 February 2013**

#### **A. Introduction**

1. Commercial Radio Australia (**CRA**) welcomes the opportunity to comment on the Joint Select Committee on Gambling Reform's inquiry into the advertising and promotion of gambling services in sport ("**Inquiry**").
2. CRA is the peak national industry body for Australian commercial radio stations. CRA has 260 member stations and represents approximately 99% of the commercial radio broadcasting industry in Australia.
3. The commercial radio industry acknowledges and supports the rationale behind the Inquiry and is keen to assist in the development of a culture of responsible gambling, together with a reduction in the number of problem gamblers in Australia.
4. To this end, the commercial radio industry has already addressed one of the key concerns expressed by the Joint Select Committee, the Government and the COAG Select Council on Gambling Reform: the promotion of live odds during sports broadcasts.
5. A new mandatory industry Code prohibiting the promotion of live odds during radio sports broadcasts has been agreed with Government and is likely to be registered by the Australian Communication and Media Authority (**ACMA**) very shortly.

#### **B. Summary**

6. The industry submits that no further reforms are needed in relation to the advertising of gambling services on commercial radio. In brief:
  - The key issue relating to the promotion of live odds during radio sports broadcasts has already been addressed through a new mandatory industry Code.
  - The existing regulatory structure – with the addition of the new mandatory Code prohibiting the promotion of live odds – is working effectively to control the promotion of gambling services in radio sports broadcasts.
  - No gambling related complaints have been received by the commercial radio industry in the last 5 years.

- The commercial radio industry does not provide any children’s programming and hence exerts little influence on vulnerable minors.
- A relatively small proportion of the gambling industry’s advertising spend – 8.9% in 2011/12 – is directed to commercial radio.<sup>1</sup>

### **C. Promotion of live odds on commercial radio**

#### *Development of the live odds Code*

7. The commercial radio industry has been working closely with the Minister of Communications, Senator Stephen Conroy, and the ACMA, to limit the promotion of live odds in radio sport broadcasts.
8. The commercial radio industry started work on a new Code of Practice, prohibiting the promotion of live odds in sport, following the May 2011 decision of the COAG Select Council on Gambling Reform to take action to reduce and control the promotion of live odds in sports broadcasts.
9. The draft Code was published on 8 December 2012, and comments were sought through a 4 week public consultation period, ending in January 2013. The Code is now with the ACMA, awaiting registration.
10. The new Code includes the following restrictions:
  - no promotion of live odds by commentators, including by sideline commentators, during a sports broadcast;
  - no promotion of live odds by anyone during play; and
  - responsible gambling messages should accompany all live odds promotions.

#### *Mandatory nature of the Code*

11. The Code is a significant additional regulation, which addresses many of the concerns voiced by those reviewing the promotion of gambling in sport.
12. The Commercial Radio Codes of Practice are mandatory codes, established under section 123 of the *Broadcasting Services Act 1992 (BSA)*. Under section 123(1) of the BSA, CRA must develop Codes of Practice in consultation with the ACMA.
13. Before a Code comes into force it must be registered by the ACMA. Under s123(4) of the BSA, the ACMA will only register a Code if it is satisfied that the Code provides appropriate community safeguards for the matters covered by the Code.
14. The process under section 123 is followed for all Commercial Radio Codes. Accordingly, none may be developed without extensive consultation with the community and the ACMA. Further, before registering a Code, the ACMA must be satisfied that it provides sufficient safeguards for the community.

#### *Sanctions for breach of the Code*

15. Commercial radio broadcasters take the Codes of Practice extremely seriously. The ACMA has significant powers of enforcement, which can ultimately result in loss of the broadcaster’s licence.
16. If the ACMA finds that a radio broadcasters has breached a Code of Practice, it may impose significant sanctions, including the imposition of an additional licence condition on a broadcaster. If the broadcaster breaches a licence condition, it may lose its broadcasting licence.

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<sup>1</sup> Nielsen Adex survey, which estimates cross industry spend based on advertised rate cards.

17. The ACMA may also accept enforceable undertakings on a number of matters, including an undertaking that a person will either take action, or will refrain from taking action, in order to comply with a registered code of practice. If a person fails to comply with the undertaking, the ACMA can apply to the Federal Court for orders that the person comply with the undertaking, pay to the ACMA any financial benefit that is attributable to the breach, or pay compensation to a person who has suffered damage as a consequence of the breach.

#### **D. Existing Legislative and Regulatory Framework**

18. A stringent legislative framework already governs the advertising of gambling on radio and ensures that such advertisements are responsible and balanced. The Commercial Radio Codes of Practice exist alongside a framework of State and Territory laws, which work well to ensure the responsible advertising of gambling on radio.

19. Examples of state and territory gambling code requirements with which commercial radio stations must comply in the relevant jurisdictions are as follows:

- Advertising must not depict or promote the consumption of alcohol while a person is engaged in the activity of gambling.
- Advertising must not focus exclusively on gambling where there are other activities to promote.
- Advertising should incorporate, where appropriate, positive responsible gambling messages.
- Advertising must not be implicitly or explicitly directed at minors or vulnerable or disadvantaged groups.
- Advertising must not include misleading statements about odds, prizes or chances of winning.
- Poker machine advertising is banned in both New South Wales and Victoria.
- All gambling advertising is restricted in South Australia between 6am and 8.30 am Monday to Friday.
- In Tasmania, gambling advertisements must not be broadcast on radio between 6.00am to 8.00am and 4.00pm to 7.00pm weekdays; and 6.00am to 8.00am and 4.00pm to 7.30pm at weekends.

#### **E. Industry Compliance**

20. Industry compliance with the existing co-regulatory structure is excellent. In the past 5 years no complaints relating to the advertising of gambling services have been received by commercial radio broadcasters.

21. The Advertising Standards Bureau (**ASB**) has confirmed that no complaints relating to gambling services have been upheld in the last 5 years. The ASB has received only 4 complaints relating to radio advertisements placed by gambling service providers during this time. The complaints all related to inappropriate use of language or sexuality and were all dismissed by the ASB.

22. CRA's firmly held view is that further restrictions regarding the advertising of gambling on radio would be inappropriate, given the stringency of the current co-regulatory framework, the high levels of compliance within the commercial radio industry and the new Code prohibiting the promotion of live odds on radio.

**F. Burden on industry**

23. Furthermore, the burden that further restriction or prohibition of gambling advertising would have on commercial radio is disproportionate to any benefit that could be gained by the community, particularly as only a small percentage of gambling advertisements are transmitted by radio.
24. In the financial year 2011-12, the gambling industry spend an estimated \$136m on above the line advertising, only 8.9% of which was on commercial radio. This represents a drop from the previous financial year, 2010-11, during which the gambling industry spent an estimated \$120.5m, 9.4% of which was on metropolitan commercial radio advertising.<sup>2</sup>
25. This suggests that the increased advertising spend by the gambling industry is not attributable to commercial radio station advertising. While the gambling industry's annual advertising spend is increasing, the proportion it is spending on commercial radio advertising is decreasing.
26. Accordingly, it would be both inequitable and ineffective to impose further regulatory burdens on the commercial radio industry, given that it has a small and diminishing share of gambling industry advertising revenue.

CRA would welcome the opportunity to discuss or amplify any of these points with the Joint Select Committee.

Commercial Radio Australia

27 February 2013

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<sup>2</sup> Nielsen Adex survey, which estimates spend based on advertised rate cards.