

Submission to *Inquiry into interactive and online gambling and gambling advertising*

While Telstra does not offer services of the kind permitted under the *Interactive Gambling Act* ('IGA'), Telstra welcomes the opportunity to make a submission to the *Inquiry into interactive and online gambling and gambling advertising*.

As a major Australian telecommunications company offering a wide range of internet access and content services, Telstra has a strong interest in ensuring that people have a positive experience in the digital world. To this end, we have taken a leadership role on a range of cyber-safety initiatives and have worked with industry, government, community, non-government organisations and internet users to address the range of evolving online risks and to develop measures that promote online safety. Telstra has a similar interest, and takes a similar approach, to the issues raised by this review.

General Observations

As a long time participant in the kind of rapidly evolving, online environment in which this review takes place, Telstra offers a number of general observations about the issues raised by the Terms of Reference.

The Importance of Evidence Based Policy Making

As for any other area of policy, Telstra emphasises the importance of taking an evidence based approach to addressing the issues raised by the Terms of Reference. In particular, consistent with the principles of good regulatory process outlined in the Australian Government's *Office of Best Practice Regulation Handbook*¹ Telstra submits that the issues raised by the Terms of Reference should be considered using a process that:

- Defines the scope of the policy 'problem' on the basis of empirical evidence;
- Identifies a range of possible mechanisms for responding to the problem (including taking no action) and considers the costs (including compliance costs) and benefits (including the extent to which a mechanism is expected to be successful in 'solving' the defined problem) of each mechanism;
- Selects the mechanism that delivers the greatest net benefit taking into account the costs and the benefits.

¹ Department of Finance and Deregulation, *Office of Best Practice Regulation Handbook* (2010).

In the context of the IGA, Telstra notes that as a growing, but still relatively small segment of the Australian gambling industry², there is currently little reliable evidence specific to the prevalence and impact of permitted forms of internet gambling in Australia³. In light of this, Telstra submits that policy makers should exercise caution pending the active collection of further evidence of the impact of internet gambling in Australia.

The Importance of a Nationally Consistent Approach

It has been noted many times that the internet does not respect jurisdictional boundaries. In this context, most markets for products provided using the internet (including a number of online wagering services) effectively transcend national and state borders⁴.

In this context, Telstra emphasises the importance of seeking a nationally consistent approach to addressing the issues raised by this review (particularly the relationship between the IGA and the regulation of 'off-line' gambling). To this end, Telstra supports the coordinated approach being pursued by Australian Governments through the COAG Select Council on Gambling Reform process.

Online Advertising

In addition to these general observations, Telstra is also able to offer a number of specific comments in its capacity as a provider of online advertising services. Australian internet wagering companies currently acquire a small volume of online advertising space on Telstra's online, mobile and IPTV content services. This advertising is principally linked to Telstra's online sports content, principally the NRL, AFL, V8 Super Cars and Horse Racing.

Telstra notes that the advertising of online wagering can provide a range of benefits to consumers and the community. As has been recognised by the Productivity Commission⁵, advertising can:

- inform consumers about the relative characteristics of gambling products;
- promote competition, and therefore efficiency, by informing consumers of the existence of multiple suppliers of these products (particularly new entrants); and

² Given the very small number of people participating in online wagering, accurate and up to date figures of the prevalence of this form of gambling are difficult to find. However to give a broad range of the size of the issue, a 2009 Report by the Allen Consulting Group commissioned by the Commonwealth Department of Families, Housing, Communities Services and Indigenous Affairs estimated the participation rate for internet gambling to be less than 3% of the Australian population – see Allen Consulting, June 2009, *“Review of current and future trends in interactive gambling activity and regulation”*, at 15.

³ Productivity Commission, 2010, *“Gambling”*, Report no. 50, Canberra at 15.11 to 15.15.

⁴ This was also recognised in Allen Consulting, June 2009, *“Review of current and future trends in interactive gambling activity and regulation”*, at 5.

⁵ Productivity Commission, 2010, *“Gambling”*, Report no. 50, Canberra at K.1.

- develop 'brand' recognition with associated incentives for providers to maintain the quality of their service in order to protect this brand value.

Telstra notes that advertising forms a part of the revenue streams that fund the acquisition of rights to broadcast sporting events, funding that is often used by the relevant sporting bodies to fund the development of their sporting codes (as was the case in the recent AFL deal).

Telstra also recognises concerns raised by a number of parties that the advertising of online wagering services in certain circumstances can contribute to problem gambling by vulnerable individuals.

Given the benefits of online advertising of this kind outlined above, and the costs that regulatory interventions to ban or limit this kind of advertising would impose on industry, Telstra submits that an explicit, evidence based cost-benefit analysis should be undertaken before such interventions are introduced.

As indicated earlier, Telstra believes that further research is required to acquire the evidenced needed to test recently expressed concerns and to identify any specific harms that may be created as a result of various forms of online advertising of internet wagering services.

Online Advertising and the Internet Streaming of Third Party Originated Content

Telstra understands that this review will examine the appropriateness of gambling advertising during sports broadcasts and references to betting odds in broadcasts.

In addition to offering paid advertising services of the kind discussed above, Telstra may also indirectly transmit advertising for internet wagering services from time to time when this material is included in internet streams of sports coverage originated by third party broadcasters. This streaming can be seen as being analogous to the retransmission in the broadcasting context as Telstra has no involvement in the inclusion of this material in these broadcasts, nor does it derive any income from it.

Telstra submits that any regulatory interventions proposed to apply to in program advertising of gambling advertising by this review should be limited to the parties directly benefiting from the advertising arrangement. Telstra further submits that any regulatory interventions on in-program advertising content include explicit exemptions for 'retransmission' style internet streaming of the kind discussed above.

In practice, targeting advertising restrictions to the parties directly benefiting from the arrangements would govern the vast bulk of this material. However, providing explicit exemptions for 'retransmission' style streaming would allow Australian providers to continue to offer Australian consumers content sourced

from international jurisdictions that may permit this kind of advertising (eg the United Kingdom).

Online video content distribution is becoming increasingly fragmented and internationalised. International content providers, including a number of sporting bodies, are increasingly offering Australian consumers direct access to their content online. Local content creators, aggregators and distributors frequently compete with internationally based providers. In this context, were Australia to impose regulatory restrictions on in program content, this would put Australian based content providers within the jurisdictional reach at a competitive disadvantage to international providers who would be unlikely to comply with this restriction. Given the tight profit margins of online content services (particularly relative to broadcast media) and the costs of producing an Australian specific feed for such content, the effect of such in program restrictions would be likely to prevent Australian based providers from offering this content altogether.

Given the proliferation in the number of direct providers of online video content, enforcement action by Australian authorities against providers offering their services in Australia is unlikely to be administratively effective in the long term, making the net impact of such an intervention on the content viewed by Australian consumers highly questionable.

Telstra thanks the Committee for the opportunity to lodge a submission to this review.