

Executive Summary

Clubs are not-for-profit member-owned businesses that provide community, sporting and recreational infrastructure to their members.

Clubs Australia appreciates the opportunity to make a submission to this inquiry.

Clubs in Australia have an established history of providing gambling as an enjoyable recreational activity. The industry strives to be a leader in responsible gambling by promoting evidence-based best practices measures, including by training staff.

Clubs Australia's submission addresses the following areas:

- Responsible gambling and harm minimisation activities undertaken by clubs
- The online gambling environment and regulatory challenges
- The need for stronger protections for Australians from online gambling harm
- Education as a critical component of harm minimisation

Clubs Australia recommends the following:

Recommendation 1: Continue to prohibit online casinos and online gaming machines in the IGA.

Recommendation 2: Establish response timeframes for ACMA to deal with requests to block illegal gambling websites and require ACMA to display information on blocked websites.

Recommendation 3: Introduce the third point of recommendation 17 from the O'Farrell report, which requires the IGA to be amended to include the use of other Commonwealth instruments to disrupt the travel of directors and principals of blocked gambling websites to Australia.

Recommendation 4: Introduce a framework into the IGA under which ACMA can require Australian financial institutions to block transactions between Australian consumers and illegal online gambling providers.

Recommendation 5: Encourage schools to include responsible gambling and the risks of online gambling as part of the school curriculum.

Introduction

Clubs Australia welcomes the opportunity to make a submission to the House of Representatives Standing Committee on Social Policy and Legal Affairs (**the Committee**) Inquiry into online gambling and its impacts on those experiencing gambling harm (**the Inquiry**).

Clubs Australia is the peak body for 6,000 licensed clubs across all states and territories that employ 140,000 people.

Clubs in Australia are not-for-profit community organisations that provide hospitality, entertainment and community infrastructure for members and the local area. Clubs contribute to their communities through employment and training, financial and in-kind social contributions to other organisations and by providing a diverse and affordable range of services, facilities and goods. Clubs are trusted community safe havens, particularly in times of uncertainty and crisis. As local community organisations, clubs are highly responsive in addressing the needs of their members, guests and the broader community. Clubs have an established history as responsible providers of gambling services.

The heavily regulated gambling facilities operated by clubs compete against unregulated offshore illegal online gaming. These illegal online services pay no Australian taxes, do not employ Australians and feature little to no harm minimisation and consumer protection measures. The proliferation of these services adversely impacts the Australian gaming industry, at-risk problem gamblers, consumers and governments.

When conducted responsibly, gambling is an enjoyable recreational pursuit for millions of Australians and provides significant social and economic benefits to the community. The online setting is incapable of providing the protected, considerate and human-focused responsible gambling environment offered by the club sector.

The club industry has collaborated with state and territory governments for many years to implement proven, cost-effective harm minimisation policies, which have resulted in Australia becoming a global leader in gambling harm minimisation with low problem gambling prevalence rates.¹

In 2016, the *Interactive Gambling Act 2001 (IGA)* was amended to strengthen the enforcement powers of the Australian Consumer and Media Authority (**ACMA**). These reforms have empowered ACMA to block illegal gambling services, thereby protecting at-risk gamblers and consumers. This submission sets out further opportunities to strengthen these powers.

Clubs Australia remains committed to working constructively with all levels of government to find effective ways to reduce the rate of problem gambling further.

Responsible Gambling and Harm Minimisation

As the peak industry body, Clubs Australia dedicates considerable resources to support clubs to comply with responsible gambling and harm minimisation regulations, to diminish the impact of gambling on problem gamblers.

¹ Thomas, A. C., Merkouris, S. S., Rodda, S. N., & Dowling, N. A. (2022). Gambling Research Summary 20-21. NSW Government's Responsible Gambling Fund: Sydney, Australia

Organisations that offer gaming services must adhere to significant, but appropriate, regulatory conditions, and also meet community expectations.

The Multi-Venue Self-Exclusion system (**MVSE**) run by ClubsNSW already operates across the vast majority of clubs and hotels in NSW and NT. MVSE has operated since 2011.

The University of Sydney research shows that participation in MVSE leads to positive outcomes for the majority of participants including **reduced gambling** (74.4%), **improved financial situation** (74.5%), and **improved relationships** (70.2%).²

ClubsNSW also funded the development of enhanced Responsible Conduct of Gaming (**RCG**) training courses by the University of Sydney Gambling Treatment and Research Clinic, which have been endorsed by the NSW Office of Responsible Gambling (**ORG**). Through ClubsNSW's ClubSAFE memberships, clubs in NSW can access enhanced RCG training for staff ensuring a higher level of responsible gambling practice.

Online gambling environment

The 2017 Review of Offshore Wagering (**the Review**) found that the rate of online problem gambling in Australia is three times higher than all other gambling platforms.

The proliferation of online gambling services that lack adequate consumer protection and harm minimisation measures threatens to reverse the significant gains made by land-based gambling providers to promote a culture of responsible gambling.

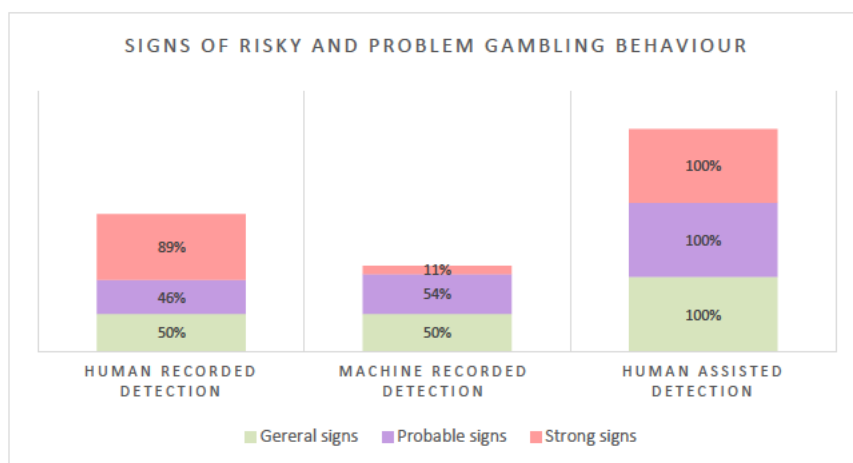
Research comparing both online and land-based forms of gambling consistently identify higher rates of problem and at-risk gambling among online gamblers compared with venue-only gamblers.³

The ORG developed a research-based guide of 'Signs of risky and problem gambling behaviour'.⁴ This guide indicates only 11% of strong signs of risky and problem gambling behaviours are detectable by machines alone. Graph 1 below shows that around 40% of these signs are detectable by technology yet 100% of the behaviours are detectable by human observation either independently or with the assistance of technology.

² Multi-Venue Self-Exclusion for Gambling Disorders: A Retrospective Process Investigation;
<http://jgi.camh.net/index.php/jgi/article/view/4012/4250>

³ Research ACMA, *Online gambling in Australia: findings from the 2021 ACMA annual consumer survey*, February 2022.

⁴ P Delfabbro, A Thomas, and A Armstrong, *Observable indicators and behaviors for the identification of problem gamblers in venue environments*, 2016, [Observable indicators and behaviors for the identification of problem gamblers in venue environments - PMC \(nih.gov\)](#)



Graph 1: Methods of detection for signs of risky and problem gambling behaviour

Online gambling relies on technological coding and artificial intelligence to implement responsible gambling and harm minimisation protection methods.

As demonstrated by the graph, no matter how much technology improves, technological measures alone are incapable of delivering the level of harm minimisation offered by humans in physical settings.

Key gambling harm minimisation practices include observing players for indicators of problem gambling, particularly behavioural signs. The online environment provides access to gambling in an environment that does not have human oversight to ensure responsible gambling practices are upheld and player welfare is prioritised.

Clubs Australia supports the continued prohibition of online casinos and online gaming services.

Jurisdictions that have legalised online gambling consistently report significant gambling harm.⁵ Research shows that online gamblers are more likely to experience gambling issues and are more intensely involved in gambling than patrons of land-based gaming providers such as clubs.⁶ Expanding online gaming regulation will significantly increase the number of gaming machines available to Australians by essentially placing a gaming machine in every Australian's hand through smart devices. This would cause irrefutable harm to Australian consumers, problem and at-risk gamblers.

Moreover, the borderless nature of the internet presents challenges when establishing any regulatory framework within a specific jurisdictional boundary.

For example, in 2017 the Canadian Supreme Court ordered Google to globally de-list the websites of an unlawful distributor.⁷ The case raised issues around whether the court had jurisdiction to grant an

⁵ Examples include: N Lyndon, *UK Gambling Commission Fines GGPoker for Marketing to Self-Excluding Gamblers*, 12 October 2022, Gambling Industry News; N Narayan, *UKGG Imposes £2.9M Fine on Betfred's Parent Company*, 29 September 2022, European Gaming; C Porter, *William Hill US fined \$100,000 by Nevada Gaming Commission for duplicate bets*, 27 September 2022, SBC Americas; S Pavlof, *Swedish Regulator Slaps ATG with SEK 2M Fine Over Self-Exclusion Failure*, 30 August 2022, Gambling News; UK Gambling Commission, *Online gambling business Spreadex Limited to pay £1.36 million*, 25 August 2022; UK Gambling Commission, *Entain to pay £17 million for regulatory failures*, 17 August 2022; UK Gambling Commission, *Online operator LeoVegas fined £1.32 million*, 3 August 2022

⁶ Gainsbury, S. (2014). *Interactive gambling* (AGRC Discussion Paper No. 3). Melbourne: Australian Gambling Research Centre

⁷ *Google Inc. v. Equustek Solutions Inc.*, 2017 SCC 34, [2017] 1 S.C.R. 824

injunction with extraterritorial effect. The Supreme Court of British Columbia upheld the worldwide interlocutory injunction against Google. Rather than complying with the order, and after exhausting all appeals in Canada, Google referred the case to the US District Court in Northern California where the order was overturned. This case demonstrated that the reach of any executive or judicial powers is limited.

Recommendation 1: Continue to prohibit online casinos and online gaming machines in the IGA

Strengthening ACMA's enforcement powers

The 2016 amendments to the IGA empowered ACMA, on its own initiative, or in response to a complaint, to investigate contraventions of the IGA. Authority is given to ACMA under s 313 of the *Telecommunications Act 1997* (Cth) to ask internet service providers (ISPs) to block access to illegal gambling websites. ACMA must notify ISPs of prohibited internet gambling content so it can be dealt with in accordance with procedures specified in the industry code.

ACMA sets out target timeframes to respond to complaints. For example, broadcasting complaints are acknowledged within 2 business days and the investigation is finalised within 3 months from the commencement of the investigation.⁸ ClubsNSW submits that the IGA should include timeframes for ACMA to block illegal gambling websites and that, if necessary, ACMA should be resourced to carry out this duty.

Clubs Australia suggests the following timeframes:

- Complaint acknowledged within 2 working days;
- Complaint investigated and ISP notified within 15 working days; and
- Website access is blocked within 10 working days of ISP notification.

The IGA should also require ACMA to place a takedown notice on blocked websites that informs people trying to access the site of the risk associated with illegal offshore gambling websites and directs visitors to gambling harm minimisation and counselling services, such as GambleAware.

ACMA in connection with the relevant enforcement and prosecution bodies should be empowered to enforce the prohibition of online gambling by disrupting the travel of directors and principals of blocked websites to Australia. Arrests of principals and directors of blocked online gambling websites act as a strong deterrent for offshore operators providing services to Australian customers.⁹ A notification should be sent to the domain registration contact and placed within the website's takedown notice that a Commonwealth crime under the IGA has been committed and criminal prosecution, including deportation or detention, may ensue.

⁸ <https://www.acma.gov.au/client-service-charter#response-times>

⁹ Hon. Barry O'Farrell, *Review of Illegal Offshore Wagering: Report to the Ministers for Social Services and the Minister for Communication and the Arts by Lead Reviewer*, 18 December 2015.

Recommendation 2: Establish response timeframes for ACMA to deal with requests to block illegal gambling websites and require ACMA to display information on blocked websites.

Recommendation 3: Introduce the third point of recommendation 17 from the O'Farrell report, which requires the IGA to be amended to include the use of other Commonwealth instruments to disrupt the travel of directors and principals of blocked gambling websites to Australia.

Payments to online gambling providers

Since its introduction, ACMA has blocked access to 610 illegal gambling websites. While website blocking is not completely effective against illegal online gambling services, it does disrupt the operations of these services.

Website blocks can be readily evaded using a virtual private network (**VPN**) available to Australian consumers. VPNs allow Australian internet users to access content hidden from Australian networks.

Currently, most financial institutions have developed technology solutions including tools to track and cap spending and to initiate customer-directed blocks for gambling-related transactions. For example, ANZ will prevent customers from using funds for these purposes once close to the credit limit, not all transactions are blocked. Customers also have the ability to block transactions to land-based gambling venues. Therefore, creating a blocking scheme for financial transactions including illegal online gambling providers will strengthen the role of banks in mitigating gambling-related harm and protect consumers against unscrupulous providers.

Recommendation 4: Introduce a framework into the IGA under which ACMA can require Australian financial institutions to block transactions between Australian consumers and illegal online gambling providers.

Education

Clubs Australia supports the Association of Heads of Independent Schools of Australia's recommendation that information and resource offerings on the Australian Government's Student Wellbeing Hub and on the website of the Office of the eSafety Commissioner be expanded to help promote awareness of and responses to gambling as an issue affecting young Australians.

Clubs Australia supports the Australian education system including education on responsible gambling and the risks of online gambling.

Local clubs have recognised the importance of Life Education programs, providing significant support for more than a decade.¹⁰ Life Education empowers children and young people to make safer,

¹⁰ <https://lifeed.org.au/news/local-clubs-councils-provide-unwavering-support/>

healthier and happier choices. The Life Education program can be a vehicle for education relating to responsible gambling and the risks of online gambling through the important curriculum subjects integrated into its program which also covers; a healthy lifestyle and online safety education including strategies for recognising, reacting and reporting unsafe situations, cyberbullying, decision making and more.

ClubsNSW has recently worked with ACMA to distribute digital posters to member clubs that raise consumer awareness about the risks of using illegal online gambling services. ACMA conducted a trial earlier this year of in-venue advertising in licensed clubs in Queensland, South Australia and Tasmania. This included digital posters, coasters and take-away cards. The campaign has stimulated discussion among customers.

Recommendation 5: Schools should include responsible gambling and the risks of online gambling as part of school curriculum.

Clubs Australia appreciates the opportunity to provide a submission. [REDACTED]
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