



AUSTRALIAN INTERNET BOOKMAKERS ASSOCIATION

Locked Bag 5001
Alexandria
NSW 2015

Ph: 0418 718 563

Community Affairs Reference Committee
Senate of Australia
PO Box 6100
Parliament House
Canberra ACT 2600

Sent by email to: community.affairs.sen@aph.gov.au

The Prevalence of Interactive and Online Gambling in Australia

This submission has been prepared on behalf of the Australian Internet Bookmakers Association. The Association represents Australia's major online sports-bookmakers.

The principal issue for consideration by the Committee is "the prevalence of interactive and online gambling in Australia and the adequacy of the *Interactive Gambling Act 2001* to effectively deal with its social and economic impacts." The Terms of Reference then canvass specific topics.

As a preliminary comment, it is helpful to underline that the terms "internet gambling" or "interactive gambling" are very broad and encompass all gambling delivered by way of the internet (and similarly, other interactive technology). The terms must be used with care, as they embrace different *forms* of gambling that have different characteristics, appeal to different segments of the market, and, in the context of problem gambling, present different risk profiles. For example, it picks up internet *gaming* – which includes simulated casino games and interactive poker – but it also includes internet *wagering* or betting on sports, racing and other future events, where the internet is used merely a communication channel.

Recognition that there is a different risk profile for each form of gambling was the basis for the exemptions granted to wagering and lotteries by the IGA.

It is noted that the principal issue raised under the terms of reference refers to interactive *gambling* (ie, both gaming and wagering) yet the specific issues for consideration are all *wagering* specific. Given the limited reach of the IGA over wagering, it is not clear how the two themes are connected.

The Risks of Interactive Gambling

Gambling is a pleasurable activity for most Australians, but for some it can pose serious problems. As a result, it is a highly regulated activity and gambling policy is shaped by the principle, first articulated by the Productivity Commission, that, *"The overall policy for gambling needs to be directed at reducing costs of problem gambling and promoting harm minimisation and prevention, while retaining the benefits to recreational gamblers."*

In assessing the risks associated with interactive gambling, the Committee has the benefit of the recently released Productivity Commission's 2010 Report on Australia's Gambling Industries. The Commission has comprehensively reviewed the national and international studies and reviews that have been conducted in this area

The concern is that the provision of online gambling exposes a new population group to the risks of problem gambling. However, what is the extent of the problem and risk that is posed? The Commission concluded that

"It is not clear that online gaming is more harmful than other forms of gambling. There are a number of features of online gaming that ameliorate its inherent risks to some extent."

and

"While the risks associated with online gambling are likely to be overstated, the relatively high prevalence of problem gamblers is still a cause for concern. At the very least, it indicates that the Internet is very attractive to this group and, though the evidence is weak, gambling online may exacerbate already hazardous behaviour. In any case it is clear that careful regulation of the industry is warranted." (PC 2010, Para 15.15)

Terms of Reference:

- (a) the recent growth in interactive sports betting and the changes in online wagering due to new technologies;
- (b) the development of new technologies, including mobile phones and interactive television, that increase the risk and incidence of problem gambling

The growth of online gambling is not an issue requiring a deal of discussion. The take-up of online gambling by Australians has been - as repeatedly predicted - steady and growing.

How large is it? The sports-betting market is steadily growing, aided by the growth of televised sport, with a current annual value of about \$300 million. The interactive market for race-betting is also growing, although racing's share of the overall gambling dollar continues to fall.

The better indicator - and one that is crucially relevant when considering the effectiveness of the IGA - is that the take-up of online gaming products by Australians was found by the Productivity Commission to amount to an expenditure of \$790 million in 2008. In other words, the market for online gaming products - supposedly unlawful to supply to Australians - *is more than twice the size of the lawful sports betting market.*

The Commission observed that most surveys of participation find that between 0.1 and 1% of Australians play casino type games online but, using active player accounts as the metric, the estimates suggest that in 2008, around 700,000 Australians played online casino-type games - some 4% of the adult population. (Report, para 15.16.) This was similar to the prevalence rates in the United States (4%) and United Kingdom (3%). Importantly, the Commission observed this is “not consistent with the strong effectiveness of the current regulatory regime”, as the participation rate in online gaming in Australia is similar to UK (where no ban exists) and the US (where a ban exists).

Though reference is made to “online” gambling, the convergence of new technologies means that “internet gambling” cannot be seen in isolation, particularly as there is ever increasing multimedia integration between the Internet and mobile phones and interactive television.

There is an acknowledged risk of problem gambling associated with interactive technology – as there is with all forms of gambling - but the risks are broadly commensurate with the risks posed by off-line gambling. The risk profile varies with the activity (gaming or wagering).

The interactive nature of the technology raises concerns but the technology can also be used to ameliorate the risks.

What is the appropriate policy response? How effective is the IGA?

Terms of Reference:

The prevalence of interactive and online gambling in Australia and the adequacy of the Interactive Gambling Act 2001 to effectively deal with its social and economic impacts.

The stated objective of the *Interactive Gambling Act* (IGA) was to address community concerns about the availability and accessibility of interactive gambling in Australia. Its aim was to ensure new interactive gambling services did not exacerbate the level of problem gambling in Australia.

In recognition that there is a different risk profile for each form of gambling, the IGA made a distinction between gaming and wagering. For wagering, the internet is merely a communication channel. As there is neither any prompt to remove the exemption for wagering nor new evidence of harm, the principal focus of the following comments is the IGA and access to online gaming products.

The IGA makes it an offence to provide interactive gaming services to customers physically located in Australia. It also makes it an offence to advertise interactive gaming services in Australia.

The first question is whether – as a matter of policy - this prohibition is soundly based.

The Productivity Commission’s 2010 Report is the latest in a long line of review and reports that have considered the issue of online gaming. It, like its 1999 predecessor, recommended appropriate regulation over prohibition.

Indeed, a previous Senate Committee (Senate Select Committee on Information Technology (2000)), also favoured a managed liberalisation over a prohibition, and detailed a number of regulatory features designed to minimise the harm associated with gambling. These represented *“significant improvements over the harm minimisation features available even today with venue-based gambling facilities.”* (Report p 15.4)

Furthermore, no academics working in this area find prohibition to be the appropriate policy response. (P 15.20)

In short, the IGA represents the wrong policy choice for Australia. Prohibition may be more sustainable if the equivalent form of off-line gambling was banned; instead, the policy allows the activity to continue off-line (and yet we struggle to apply responsible gambling measures to off-line gambling) but stops the use of new technology (which can deliver responsible gambling measures) to provide exactly the same activity.

On a practical level, has the prohibition in the IGA worked? More importantly, will it work in the future? What is its real impact on problem gambling?

On this measure, the Act has been worse than useless. The problem is that the Act is unenforceable internationally, and so operators outside of Australia have ignored it. Registration is open and encouraged from Australians by almost all offshore providers. From the perspective of the Australian punter, he or she may gamble on the internet with any of the major global gambling providers. Practically, the only gambling providers bound by it are Australian providers.

The Commission’s view is telling:-

“In effect therefore, the IGA has ensured that domestic consumption of online gaming services will be exclusively provided by offshore companies. This has had a number of adverse impacts. Problem gamblers ... have been offered minimal protection. Recreational gamblers who would prefer to gamble on Australian sites have been subject to a greater risk of being ripped off ...” (P 15.18)

and

“The potential harm of online gaming indicates appropriate regulation of the industry is needed to protect consumers. However, the current prohibition perversely amounts to discriminatory regulation, ensuring that the Australian online gaming market is exclusively catered to by offshore providers, who operate under a variety of regulatory regimes. This provides inadequate protection to both recreational online gamblers, as well as online gamblers who are at risk of developing problem.” 15.20

“From the point of view of consumers, the IGA completely deregulated the online gaming industry. In essence, the legislation attempts to dissuade people from gambling online by making it more dangerous.” 15.19

Prohibition was the wrong choice.

The Commission identified the two basic policy alternatives with the IGA.

- (1) the IGA could be strengthened so that it becomes effective;
- (2) the IGA could be amended to realise the benefits of online gaming, while minimising its potential harms. (P 15.21)

The options for strengthening the prohibition are unwieldy, imprecise and ineffective. The usual steps that are put forward are:

- filtering or ISP blocking,
- payment blocking,
- criminalising play by Australians or
- restrictions on advertising.

ISP Blocking

It appears it is not feasible to block access to these sites. Though technically possible, it comes with enormous cost and degradation of general Internet performance. As the Commission noted, methods to avoid its restrictions such as use of a proxy server, are readily available. (Anecdotally, the cost of a proxy filter would add about \$5 a month to the consumer.) Furthermore, these avoidance measures are readily available *“on the same medium that online gambling takes place - the Internet. The filter would represent a relatively low obstacle to play.”* (P 15.21)

Payment Blocking

Those countries that have looked at blocking payments related to Internet gambling have found it difficult to implement - in particular the ability to distinguish between legal and illegal gambling. It is also ineffective. There are now too many alternative payment mechanisms for restrictions on bank transfers or credit card usage to work.

Criminalising Play

Another option is to criminalise play by Australians. (It is noted that, contrary to views of some, this is NOT an illegal activity by Australians). This would be a symptom of policy failure – most Australians gamble. The Commission's objective conclusion was that *“the costs including criminalising play with offshore sites by Australians do not justify the benefits. Rather the Commission argues for continued legal supply, but with more stringent consumer safety requirements.”*

“Australian consumption of online gaming has grown and will continue to do so, making the prohibition less effective over time.” (P 15.18)

As noted above, the Productivity Commission's latest Report follows a long series of reviews, both national and international, that recommend regulation ahead of prohibition. *“While the Internet has the potential to increase the risks of gambling, it also has the capacity to deliver a harm minimisation technology is much more easily and effectively than most forms of venue-based gambling. Similarly, the internet can be used to extend ... counselling services for those seeking help. Were online gaming to be liberalised, regulations could require the industry to offer any number of the [responsible gambling] features...”*

Any reasonable observer must agree that the Interactive Gambling Act – whatever its past merits - is now totally ineffective. We cannot keep the status quo. The Act is so flawed that it is – in the Commission's words – *“a currently deregulated industry”*. (page 15.29)

The sensible response is to regulate online gaming. Australians would then at least have the option of playing with Australian sites under Australian responsible gambling controls.

"Managed liberalisation of online gaming would better protect Australians from the risks of online problem gambling, while still allowing recreational gamblers the freedom to choose an enjoyable medium." (P. 15.29)

Advertising Restrictions

The experience with poker in Australia underlines the flaws in the current advertising restrictions.

Local advertising by foreign gambling sites has flourished – often under the guise of (lawful) "play-for-free" site. These are usually designated as ".net" sites (the URL suffix), to distinguish them from the ".com" sites which allow play for "real money".

- Sponsorship arrangements provide the opportunity for major operators to sell their "name" to potential players. Sponsorship allows access to Australian amateur players, branding of events, marketing on a website, and inclusion in marketing campaigns. One poker provider also has its logos displayed on the uniform of an NRL team.
- The sites have an enormous marketing budget. For example, in the first two months of 2009, a poker site outspent every online operator in the country (including the TABs) on advertising. Advertisements are carried in all media - full-page advertisements in metropolitan newspapers, major radio stations, and television. Billboard advertising has been posted in train stations in the major cities. The promotion of the (legal) "free play" (play for points) sites is everywhere.

Often, a "free play" site will carry a link to the "real money" site. The home pages of both sites are often virtually identical. Another method of converting players from "points" to "real money" is by means of a "conversion email" sent to the registered players of the ".net" site.

The United Kingdom offers a useful illustration of how the advertising of ".net" sites has been regarded elsewhere. The UK Advertising Standards Authority on 25 May 2005 delivered its adjudication on a complaint that the advertising of party poker.net infringed advertising restrictions. The ASA said

"We believed the advertising for www.partypoker.net indirectly publicised www.partypoker.com primarily because of the similarity in the website names. It is easy to overlook the suffix when looking at the website address and viewers may decide to search online to find it. If so, viewers searching for the poker school website using the word partypoker on a search engine could easily be directed to the online gaming site; indeed when we entered "party poker" into the popular search engines Yahoo and Google we found that the gaming website www.partypoker.com was listed prominently and repeatedly but the poker school website www.partypoker.net was not listed in the first 30 results on Yahoo and was number 20 on the list for Google.

... we believed there was likely to be a general level of awareness among viewers of the [TV] channel that www.partypoker.com was an online gaming website. Both websites had almost identical website names and logos were very similar so it was likely that viewers would connect the two.

We therefore believe that a significant effect of the television advertisements for the poker school website was to publicise the unacceptable gaming website."

The ASA went on to observe that *"it is unlikely that any advertisement for the poker school website would be acceptable if the name is the same as a gaming company."*¹

This sensible conclusion of the UK ASA is starkly different to the approach taken in Australia.

It is ironic that one of the arguments raised in support of the IGA was that it would not allow Australian operators to stimulate demand for online gambling that otherwise would not be there. Instead, the demand has been stimulated by operators from offshore. Overall, it is difficult to see many positive outcomes in the way the IGA deals with the social impacts of interactive gambling.

When concern about problem gambling is the principal rationale for the IGA, the conclusion must be that the IGA offers the poorest possible response for achieving this objective. Once the player decides to ignore the ban, the Act becomes totally ineffective and offers no alternative forms of support for problem gambling. It leaves Australian online gamblers to their fate. This Association is of the view that regulation is far preferable to prohibition in tackling problem gambling. It seems more sensible to allow Australian players to play on Australian sites under Australian control and offering Australian responsible gambling strategies.

If the principal concern is said to be the welfare of problem gamblers it is difficult to see the merit in a scheme that encourages Australians to gamble offshore on sites offering a lesser player protection controls than our own. Australian governments and its citizens will bear the social costs of this activity. If access is the main "negative" of Internet gambling but little can effectively be done to restrict access to Internet gambling, then it is time to exploit the "positives" offered by the new technology.

This leads to a discussion of the conditions for any licensing scheme – and the key question of the responsible gambling controls and player protection measures that could be deployed.

The Internet and Responsible Gambling

The Internet platform offers a number of advantages in the delivery of responsible gambling strategies.

It is helpful to briefly outline three categories of controls. The first is what is there now. The second are those put forward by the Commission, or that are under consideration/ development already. The third category is put forward for discussion and describes possible means of moderating demand in a regulated environment.

(1) What Applies Now

The Australian Internet gambling industry is subject to a range of stringent regulatory controls to ensure responsible gambling.

¹ Advertising Standards Authority, Broadcast Advertising Adjudications, 25 May 2005, page 12-13

Access by children

A concern that is regularly raised with internet gambling is access by children, especially given their take-up of new technology. This concern is misplaced.

Online gambling can only be conducted by an account-holder. All Australian Internet gambling agencies are obliged to obtain and verify the identity of the account holder. Previously, this obligation was imposed by way of licence conditions set by the relevant State or Territory. No payments could be made from a betting account unless copies of identity documents (e.g. driver's licence, passport etc) were sighted.

These State-based obligations have been overtaken by the requirements of the Federal *Anti-Money Laundering and Counter Terrorist Financing Act 2006*. Under the AML laws, internet gambling providers are required to verify a player's ID within 90 days of the account being opened or must freeze the account (again, payments to the player may not be made unless evidence of ID has been obtained.)

Consequently, should an underage person seek to gamble (for example, using an adult's credit card) they will not receive anything until their name address and date of birth has been verified, and that attempt will be detected.

This obligation is in place regardless of whether the punter is betting \$5 or \$5000. This may be compared with the situation for clubs and pubs, casinos and racecourses, where anonymous gambling is the norm.

Access to betting history

One of the concerns with gaming is that gamblers can lose track of the extent of their gambling. Unlike poker machine play in pubs and clubs, clients betting with Australian online providers are able to immediately access their betting history online.

At the press of a button, they can see all of the bets they have placed over the last, say six months or longer. (This also reduces the likelihood of children accessing their parents' accounts as the parent will be able to regularly check his or her account history.)

Problem gambling exclusions

Internet providers offer effective temporary or permanent exclusion to clients who feel they may be developing a problem. This is effective and enforceable. Internet gambling providers are able to block access to the players' accounts. Without an account the player cannot bet at all. The technology allows internet gambling providers to offer almost total compliance with this requirement.

This is contrasted with the difficulties that are evident in poker machine venues. Clubs and pubs must identify a person from a photograph or similar, before barring the problem gambler. This results in relatively poor compliance rates.

Access to Information

All Australian sites provide bettors with access online checklists to help determine if they are developing a problem. The sites also provide links to counselling websites. (Again, these are features that are strikingly absent from gaming machines in clubs and pubs.)

Codes of Conduct

Compliance with Codes of Conduct is mandatory². The Codes apply to all gambling providers and deal with such things as the requirement for appropriate staff training and skills development, advertising and promotions, as well as exclusions and counselling.

Exclusions by Family Members and Others

Recently, there has been a call for a facility to allow family members and others to seek exclusion of problem gamblers from venues. There is merit in the proposal but it appropriate to note that the Northern Territory already provides for such an approach.³

This Association supports the proposal to streamline such a process and to expand the grounds upon which relief may be sought.

Pre-Commitment on Levels of Gambling Expenditure

All major Australian Internet operators have moved, or are in the process of moving, towards the adoption of this facility. This facility would provide players with the option of setting:-

- deposit limits; and/or
- loss limits

as they see appropriate. These limits could not be changed for a certain specified period.

(2) Proposed New Measures

This Association would recommend consideration be given to enhanced responsible gambling measures. These are:

the establishment of a dedicated Australian online advice and counselling service.

This would be a resource for all Australian gambling operators and not exclusively for the use of online operators. This site would represent world's best

² For the NT Code of Conduct, please see http://www.nt.gov.au/justice/licenreg/sports_betting.shtml. This Code is mandated by way of licence conditions.

³ See section 86 of the *Racing and Betting Act*, which provides:

86 Orders forbidding impoverished persons to bet

(1) Upon complaint in writing made to a Court that a person, by excessive betting, has impoverished or is likely to impoverish himself to such a degree as to expose to want, or endanger the welfare of, himself or his family, the Court shall issue a summons calling on that person to appear at a time and place in the summons, and to show cause why an order should not be made forbidding that person to bet with a bookmaker.

practice in terms of providing information and advice about detecting and recognising problem gambling.

Consistent with the findings of the prevalence studies, it is proposed that online counsellors be available to further assist and case-manage any persons who feel they are at risk of developing a problem.

It would be mandatory for all Australian Internet gambling providers to provide a link to the site.

Nation-wide exclusions.

Currently a person who feels they are developing a gambling problem may seek exclusion from a site. However this has to be done on a site-by-site basis, requiring applications to be made to all operators with whom the person has a gambling account.

It is proposed consideration be given to a means of implementing a national exclusion process whereby exclusion for problem gambling from one site would see the exclusion extended to all. Apart from the need to craft a mechanism that complies with privacy obligations, it is necessary to be mindful that exclusion would not extend to international sites and that a problem gambler could readily avoid exclusion by gambling offshore.

It may be that this is a strategy best managed in consultation with the gambling counsellor and the online gambling counselling service.

Automated Interventions

The Commission flagged the possibility of automated monitoring of players behaviour and targeted interventions (page 15.22). *"Many of the above interventions could be automated, so that it is the technology, not the online staff, that intervenes."* (P 15.23)

While this is an area that needs discussion, for example, operators would like to understand the practical aspects of the intervention strategies – the members of this Association are supportive of the general approach set out by the Commission.

(3) Other Options – How to Manage a Transition?

Two key objections are raised to any proposal to change to positively regulate online gaming in Australia. One is allowing access to gambling in the home, and the second is about the risk of normalising online gambling in the community.

The objection to "access" ignores the fact that online gaming is already here - all forms of online gambling are available to all Australians. The objection that any change to the IGA will see a "casino in every lounge room" or "you can lose your house without leaving it", skip over the fact that this is precisely what can and does occur now. Australians play effectively unhindered on overseas sites.

The objection to any change to the IGA that has the most substance is the risk of normalising online gambling in the community.

One of the claimed merits of the IGA was that it dampened or slowed consumers take up of the higher-risk gaming products. What happens if it is repealed? We suggest there is scope for moderating adverse social impacts. The concern that often arises with allowing licensing is that every billboard, every television show, will be peppered with advertisements for internet casinos.

The Commission has identified and quantified the enormous appetite for online gaming products that has emerged *without* lawful advertising. We suggest this could well be an area where appropriate advertising controls could help moderate any excessive stimulation of the online gaming market. This is not a call for an advertising ban – that would defeat the objective of letting players know there is an Australian alternative. Instead, advertising should be allowed on the Internet and, for example, in gambling specific magazines, but it may well be desirable that restrictions for on-the-ground or broadcast advertising are developed.

A corollary of this is that Australia must better enforce advertising restrictions on offshore gaming companies, especially the Trojan horse method that is used now, whereby supposedly lawful advertising of a free play site invariably leads to connection with the “play for real money” sites. In this regard we recommend that Australia follow a similar practice to that adopted by the advertising standards authorities in the United Kingdom.

Conclusion

A licensing scheme should be implemented as quickly as possible. It is noted that Private Member's Bills have been introduced in relation to other gambling forms, to encourage the Federal Government to address particular issues with urgency. We suggest that the area of online gaming is one where delay would be inexcusable.

The illegal online gaming market for Australia is *more than twice the size of the lawful sports betting market*. This is an enormous hole in our harm minimisation fence - a situation where there is effectively no or only limited player protection measures in place.

It is suggested that any reasonable assessment of the Productivity Commission's Report would identify this as one of the priority areas for legislative reform. This needs a speedy response.

The emerging business model for online gambling is for each site to offer a full suite of products to its registered players. Accordingly a person registering to play with an online poker site may be expected to be “cross sold” casino and other gaming products by the same provider or by a related affiliate provider.

For the same reasons that reforms are needed with respect to poker, similar reforms must also be made for other forms of gaming. It is difficult to see the merit in a legislative scheme that is unenforceable to the extent that Australians may gamble freely offshore on sites offering a lesser level of player protection and control than our own.

This Association recommends that the *Interactive Gambling Act* be amended to allow the provision of online gaming services to Australians by Australian operators.

The IGA and “in-run” betting

The final reform that should be made to the IGA is to amend the current restriction on Australians being offered in the run betting services online.

When the IGA was passed, it was amended to exclude interactive *wagering* but did not allow a complete exclusion. "Betting in the run" by way of interactive technology was also banned. This response poorly distinguishes between "betting in the run" and "micro-event wagering".

"Betting in the run" refers to betting on approved bet types (eg, who will win) after the event has commenced. "Micro-event wagering" is the much publicised notion of whether the next ball bowled in a cricket match will be a Googly, or whether a tennis player will serve an ace on the next point.

Although the restrictions were imposed in 2001 in the light of concerns with "micro-event wagering", "betting in the run" was caught up in the process. The amendment allowed "betting in the run" by Australians with Australian betting providers only when it was undertaken by means of the telephone. The internet could not be used.

It is proposed this anomaly be corrected. It is helpful to examine this issue from several perspectives.

(1) Approved Bet Types

It is important to distinguish between the bet type and the communication channel. This amendment would cure an anomaly in the *method* of placing a bet, and not change the *kind* of bet that can be made.

Australian wagering operators are only permitted to offer bet types that have been approved by the State or Territory gambling regulator. It should be noted that the "micro-event wagering" bet types are not, and would not be approved, by State and Territory gambling regulators. This may be independently verified with them.

In addition, it is a term of integrity agreements entered into between racing or sports authorities and Australian wagering providers, that the particular sport or racing code must also approve the bet type offered. These requirements for separate and independent approval of bet types provide an adequate check on the probity of "betting in the run".

That being said, the IGA itself *permits* the bet type (which is where any concerns should arise) but only restricts the *method* of placing a bet.

(2) Technology

The present exemption allows the bet type but restricts the technology able to be used to deliver it. An Australian punter is able to bet "in the run" with an Australian betting provider if he or she uses 19th Century technology – the telephone - but is able to bet with anyone else in the world using 21st Century technology – the internet.

Restricting "in the run" betting on a technological basis is not sound. The artificiality is becoming more apparent as new generations of telephones blur the distinction between "telephones" and other forms of interactive communication.

Australian providers compete in a global market. They offer “in the run” betting by way of the internet to all clients other than Australians; Australian punters are required to telephone their bets. This leads to added costs and a loss of business efficiency for Australian providers.

(3) foreign competition

From the perspective of the Australian punter, he or she may “bet in the run” by means of the internet (or any other interactive technology) with any of the major global betting providers, except local providers. Australian providers are at an obvious disadvantage.

The anomaly therefore encourages local punters to bet with offshore providers, which serves no sensible policy purpose.

(4) responsible gambling

The IGA was prompted by concerns about problem gambling. As noted above, it is suggested misplaced concerns about “micro-event betting” influenced the legislative response. The Act recognises that the bet type is permissible, but artificially restricts the method of delivery.

Removing the anomaly would not exacerbate the risk of problem gambling as Australian consumers already have access to these services, either by telephone (Australia) or by the internet (all other global operators).

It is recommended that the anomaly be removed.

Terms of Reference:

(c) The relative regulatory frameworks for online and non-online gambling

Although this Association supports the principle that all gambling providers should broadly be subject to similar responsible gambling controls, this must also be balanced with the realities of the particular gambling type. As described above, technology offers a suite of options for improved practice, and it would be nonsense to deny the community those benefits on the basis of some form of “relativity”.

Two aspects are often raised (by other sections of the gambling industry) as showing some supposed defect in treatment. These are credit betting, and the offering of inducements such as “free bets”. The latter will be discussed in the next section.

In relation to credit, there is a need to distinguish between credit betting and the funding of a betting account by means of a credit card

Credit Cards

A consistent theme of gambling regulation has been to prohibit the use of credit cards for gambling. Community and counselling bodies have regularly argued against its use. Improper credit card use is a major problem in its own right. In the case of online gambling, the concern is that the dangers of credit card misuse coupled with online gambling could exacerbate both problems. Why allow credit cards for internet gambling?

In the case of Internet gambling and e-commerce, credit cards remain the principal form of payment. Almost every commercial site on the Internet allows for credit card payments either online or by telephone.

Any ban on credit card usage would impact disproportionately on the benefits to recreational gamblers who constitute by far the vast bulk of online gamblers.

It is also way too late for such a proposition to have any effect. A review of the major gambling sites will show that credit cards are but one of a number of forms of deposits that are accepted. Importantly Internet gambling and e-commerce generally is now serviced by specialist online payment systems and online payment mechanisms such as PayPal (well-known to users of Ebay), Neteller⁴ or Moneybookers⁵. These facilities enable consumers to create an account funded by a credit card, which may be used in any of the thousands of sites that accept that form of e-currency.

Accordingly, a ban on the direct deposit by way of a credit card could be easily circumvented by the two-step process of funding the E-wallet by means of a credit card and then depositing funds with the gambling provider by means of on the e-wallet.

The Productivity Commission also found that *"As online gamblers can instantaneously transferred funds from their credit accounts into their debit accounts, it is questionable whether a ban on credit would meaningfully in the problem gamblers access to credit. (Page 15.27)*

The simple fact is that technology⁶ has overtaken the capacity to restrict the use of credit cards even if that was desirable.

It must also be remembered that while credit cards pose an acknowledged risk for problem gamblers, they also provide important fraud, anti-money-laundering and other controls.⁷ The Commission also observed it would undermine the provision of various harm minimisation measures. (Page 15.27)

⁴ See www.neteller.com.

⁵ See www.moneybookers.com. It boasts 7 million members and services some 35,000 sites around the world.

⁶ The above discussion also applies to "smart cards", Stored Value cards and other payment methods that facilitate e-commerce.

⁷ Online gambling is sometimes perceived as being especially attractive and susceptible to money laundering. The concerns arise because the perceived anonymity of both the gambling transactions and the payment methods. But on examination, regulated online gambling sites are not especially attractive or susceptible to money laundering.

Australian sites are highly regulated. The account holders' identities are known, the financial transactions between the bettors and providers are recorded in electronic format, and all of the betting is recorded. This information, combined with IP address records and other data, provides an exceptional audit trail. These records are available to Australian and international regulatory authorities.

These controls make online gambling less attractive to money laundering than the anonymous, cash transactions that may be made with other gambling providers.

The Commission concluded that "Other than for online gambling, restrictions prohibiting the use of credit cards for gambling are justified. (Finding 13.3, page 13.42)

"Although such differences might adversely affect the competitiveness of the different gambling providers, they might also be justified. There is no other way of paying for online gambling other than through the use of credit cards or an accepted electronic payment facility: indeed, the use of credit cards for online payment for goods and services is a typical commercial practice."

Credit Betting

Credit betting is more problematic.

Credit betting with bookmakers has a very long history and is provided for in the legislation of several States.⁸

The genesis of credit betting is betting on a racecourse. To avoid the inconvenience and risks associated with handling large amounts of cash on course, bookmakers would allow certain clients to "bet on the nod", or on credit, on the understanding that they would settle up at a later time.

The facility is also used by larger professional gamblers who seek to arbitrage differences in prices between various operators. In this case, the punter will outlay large sums for a more probable small win. Although the profile varies from company to company, credit betting is a facility offered to larger clients and professional gamblers. It is only offered to a select number of clients.

The practice of credit betting is limited to wagering, and the extent and terms of any "trading account" that an operator allows a client to use, is agreed between the two of them. Any commercial default is borne by the operator.

To what extent is credit betting associated with, or exacerbating, problem gambling?

Community groups have had a long-standing position that people placing bets should not be obtaining credit from the person they are betting with. They suggest there is a fundamental conflict of interest in a credit provider having a commercial interest in

⁸ See for example, Section 76ZZAA of the *Tasmanian Gaming Control Act 1993* which deals with "Trading accounts".

A wagering provider (wagering or sports, and betting exchanges) "may operate a trading account in respect of a player or other person if the provider –

- (a) is the holder of an authority to operate trading accounts; and
- (b) considers that –
 - (i) the player or other person is suitable to have access to a trading account; and
 - (ii) it is otherwise appropriate to operate the trading account; and
- (c) operates the trading account in accordance with the conditions to which the authority to operate trading accounts is subject."

See also Rules made under the *Race and Sports Bookmaking Act 2001* of the ACT which revised Rules first developed under the *Bookmakers Act*.

both the lending and the gambling services purchased. Likewise the Commission said "there is a primary facie case for having credit restricted". (Page 13.40.)

Previous reviews of rules regarding credit betting by bookmakers have recognised that credit betting is limited to a select group of punters, with good practice seeing the bookmakers verifying the clients' creditworthiness, and the application of the Consumer Credit Code into bookmakers credit arrangements. Although there have been instances of bankruptcies where the outstanding debts included debts owed to bookmakers, there is no available evidence to show that the rate of problem gambling increases with credit betting.

This is consistent with the finding of the Commission that while this practice warrants, at a minimum, strict regulation and monitoring of credit betting, *"it is not clear that, in practice, the problems associated with credit betting are sufficient to justify its complete prohibition."*

"The challenge for policy is to ensure that credit is directed towards those with a lower risk profile (such as professional punters), and that wagering providers who offer credit to retain strong incentives for due diligence." (Page 16.55)

Although the Commission considered the evidence of harm is not great enough to justify immediate prohibition, it recommended further research. *"... [R]esearch should determine whether credit betting is prohibited. In the interim, steps should be taken to limit the growth of credit betting, such as a ban on advertising. In general, the Commission considers that the provision of credit betting should be subject to regulation that limits the practice to big bettors."* (Page 16.57. See also Recommendation 16.3.)

This Association supports the Commission's proposal that this area be the subject of further research, but we would recommend the research occur before any changes are made to current practice.

In summary, the relative regulatory frameworks for online and non-online gambling are broadly appropriate and – the IGA aside - show no glaring deficiencies. Although gambling regulation is an area where improvements in practice must always be sought, there is no major dislocation between the regulation of on-line and off-line gambling.

Terms of Reference:

(d) Inducements to bet on sporting events online

Recently, some Australian operators have been criticised for offering modest "signup bonuses" to those who open new accounts - the "\$100 free bet" offer. This has been labelled an improper inducement to gamble.

It is important that offers such as this are seen in perspective.

"Cash-back" offers and giveaways are a standard (and unremarkable) feature of the marketing of all businesses. In the case of gambling sites, the "free bet" or other "bonus" offers are a practical way of appealing to the market.

Again, this is not a new concept, with “free bets” and bonuses having become so prevalent in the global internet gambling industry, they are now the subject of specialist websites and services that compare the bonuses on offer.

As this is global practice, with various forms of bonuses being offered by all major operators, a ban on Australian operators matching these modest offers would have the effect of making the Australian industry less competitive in the global market but at the same time make overseas operators more attractive to Australian punters.

It also important the \$100 free bet offer should be seen in perspective, by comparing to the promotions offered by other gambling establishments. For example one Australian casino conducted a promotion offering the chance to win \$50,000 a year for the next 20 years. This offer was heavily promoted in the media including radio and television, without adverse comment. In the light of this, a \$100 free bet offer seems very modest.

Overall, this seems to be a controversy with more heat than light. As the Commission found, *“While the overall costs of these restrictions consumers are unlikely to be high, it is not clear why customers attracted by inducements such as free bets are more likely to develop gambling problems than customers attracted by other advertising strategies. Moreover, a large number of customers accessing free bet promotions are likely to be simply shifting from one wagering provider to another. Indeed, as opening an Internet or phone betting account with a corporate bookmaker involves some degree of effort, it is clear that inducements are partly directed at overcoming “switching costs” between providers (a practice common in a number of other industries such as telecommunications, health insurance etc). As the wagering market is largely dominated by TABs, the prohibition on inducements risks advantaging incumbents with a significant degree of market power, at the expense of greater competition.”*

The Commission recommended a nationally consistent approach regardless of whether that involves banning or permitting free bets. However, whichever path is chosen *“should be based on evidence and should balance the realistic risk of problem gambling against the possibility of unduly advanced to advantaging incumbent wagering operations.”* (see page 16.58 and Finding 16.5)

The Association supports evidence-based decisions on these restrictions.

Terms of Reference:

**(e) the impact of betting exchanges, including to bet on losing outcomes;
(f) appropriate regulation, including codes of disclosure, for persons betting on events over which they have some participation or special knowledge, including match fixing of sporting events**

It is unnecessary to discuss bet exchanges in detail. The concern about “betting to lose” was raised when bet exchanges first appeared, and despite subsequent independent reviews especially by UK authorities, there has been no detected increase in the level of threat of the integrity of sport. Indeed, Betfair has been the source of information querying suspicious betting patterns.

In theory, any “bet to win” implies there is someone accepting a “bet to lose”.

Instead, attention should be given to the levels of protection for Australian sport.

It is important to acknowledge the risks and the severe damage that could be done to the confidence in sport should match fixing be found to have occurred in Australia. It is helpful to look at the potential areas of risk, understand what we do now, but also to ask: what could we do better?

The UK Gambling Commission released a position paper in March 2009 entitled "Betting Integrity" following on from earlier work on this topic.

The Commission's work has focused on six main areas:

- relationships with sports governing bodies and betting operators
- a sports governing body's rules - a need for clear well-publicised rules on who can bet on what, and effective sanctions for those for breaking the rules.
- information sharing - requiring betting operators to share information on suspicious transactions with the Gambling Commission and sports governing bodies.
- specific terms and conditions – including a provision that the person placing or accepting the bet confirms both that they are not legally or contractually prohibited by any professional or employment requirements, and that they do not know the outcome of the event on which they are betting. An individual misrepresenting their position would not only render the contract unenforceable it would also engage the Commission and sports governing body's enforcement and sanctioning powers
- investigation and prosecution
- in-run betting. In relation to in-run betting, the Commission noted that while in-run betting theoretically gave more scope for event rigging or use of inside information, the evidence had not been provided to indicate that in practice it has seen any significant increase. As the main ways of deterring or combating lack of integrity are the same for in-run betting on anti-post betting, the Commission deals with it as part of its wider integrity program.

In February 2010, the Sports Betting Integrity Panel formed by the UK Minister for Sport issued its Report. Its recommended solutions include three key elements:

- the adoption of robust rules and disciplinary procedures,
- the implementation of comprehensive education program for all participants, and
- the creation of an integrity unit which has the capability to gather and analyse intelligence.

These were broadly accepted by the UK Government in February 2010.

If this provides a crude "checklist" for Australia, it will be seen that Australia has already implemented almost all of these recommendations.

Bookmakers are usually the victims in any instance of match fixing; it's the betting operator that is liable to pay out the thousands if not millions of dollars. Accordingly bookmakers have perhaps an even greater interest in ensuring that all sporting events are decided on their merits. Therefore, Australian online bookmakers have voluntarily entered into Integrity Agreements with the major Australian sports. These have been in place for some 2 to 3 years now.

From an integrity perspective the key features are:

- the regular audits of the operators' databases to ensure that the players, officials and others are not betting on their own sports;
- early advice about suspicious betting patterns;

- agreements about the exchange information in the course of investigations; and
- consultation on betting types, specifically with the intention of protecting the integrity and reputation sport.

The Agreements also provide for payment to the sports of a share of revenue.

These simple but effective agreements were negotiated directly between the sports and sports bookmakers.

Two aspects are worthy of note. The agreements require consultation between the sport and the betting provider on the propriety of any particular bet type before its introduction. This is particularly important because of one of the main areas of concern is around the integrity of bet types that can be influenced by one person and yet not affect the overall outcome of the game.

Another of the features of the agreements is the provision of information regarding suspicious betting patterns.

Bookmakers and bet exchanges are at the front line in being able to detect and alert the sports and gambling regulators about possible match fixing. Bookmakers are already part of an alert system deployed by the International Cricket Council whereby any concerns are relayed to its Investigative Unit located in London. Likewise, FIFA entered arrangements with betting providers to provide an early warning system of anything untoward in relation to betting on the World Cup, as did the IOC in relation to betting on the Olympics. Australian online operators are already part of a global integrity network.

But looking at Australia, the question arises of what happens if we do detect suspicious betting patterns. What happens afterwards?

In the case of cricket and the AFL, they have developed specialist integrity units which have a high level of forensic and investigative skills - in the case of cricket the Unit is staffed by former senior police officers - who are able to receive and respond appropriately to suspicions arising from the betting pattern.

However that is not the case for most other sports and, although the State and Territory gambling regulators have a degree of expertise in this area, it is suggested the missing link in the sports betting integrity chain is a dedicated Sports Integrity Investigation Unit.

This would help close the regulatory circle for the protection of sports. Australia has the licensing checks and monitoring of betting operators, it has the protocols for the exchange of information, it has the monitoring and reporting of suspect transactions but what is needed is a single national body that has the necessary skills-base to be able to effectively investigate and prosecute on any instances of match fixing.

It is suggested such a body need not be large, but it must be staffed by personnel with the appropriate forensic and investigative skills. Its function would be to act as the principal point of contact for both sports and betting providers, the community and other stakeholders with regard to any concerns about improper practice. It could also develop an education and "best practice" advice function, to keep providers and sports alive to new developments.

Whilst this unit is well within the capacity of sports bodies to set up themselves, it is suggested that consideration be given to establishing this as an independent

government body. By virtue of being a government agency, it is better able to establish government-to-government connections with relevant international agencies.

Secondly it may well be desirable that this unit be vested with particular powers of investigation. For example, an issue of some concern was a proposal that the AFL players permit the AFL to review their telephone records. This is a very intrusive control. Instead, this is the kind of investigative power that could be vested in the sports integrity unit as part of its enabling legislation, as this is the kind of power that is more appropriately given to a form of law enforcement agency than a sports administration body.

It must be recognised that there is always residual risk. If an offshore criminal gang is looking to fix the results of an Australian sporting event, it can do regardless of whether Australian betting operators are fielding on the result, or whether it places bets with them.

Betting providers are more than willing to do all we can do address issue and help the active management of the risks by the sporting bodies.

Thank you for considering these comments. If you would like any further information or explanation on matter raised above, please do not hesitate to contact me.

Kind regards

Tony Clark
Executive Officer
24 August 2010