

Inquiry into the Interactive Gambling Amendment (Credit and Other Measures) Bill 2023

Submission to the Environment and Communications Legislation Committee

September 2023

Introduction

On 14 September 2023 the Senate referred the Interactive Gambling Amendment (Credit and Other Measures) Bill 2023 (the Bill) to the Environment and Communications Legislation Committee (the Committee) for inquiry and report by 12 October 2023.

As stated in the proposal to refer the Bill, the inquiry will “explore the scope and impact of the Bill and the potential to include other harmful interactive wagering services like, for example, lotteries.”¹ The Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the department) welcomes the opportunity to provide this submission to the Committee’s inquiry, which also includes input from the Department of Social Services in relation to harm minimisation.

The Bill, introduced by Minister Rowland on 13 September 2023, implements the Government’s commitment to ban the use of credit cards for online wagering.

On 28 April 2023, the Minister for Communications, the Hon Michelle Rowland MP, and the Minister for Social Services, the Hon Amanda Rishworth MP, [announced that the Government will legislate to ban the use of credit cards for online wagering](#) through amendments to the *Interactive Gambling Act 2001* (the IGA).

This followed consideration of the final report from the [Parliamentary Joint Committee on Corporations and Financial Services inquiry into the Regulation of the use of financial services such as credit cards and digital wallets for online gambling in Australia](#) (PJC Inquiry), which recommended that the Government ban the use of credit cards for online wagering, but not for lotteries.

The [Government’s response](#), tabled on 9 May 2023, supported Recommendations 2 and 3 from the PJC Inquiry and committed to legislating to prohibit the use of credit card payments for online gambling.

As set out by Minister Rowland in the Second Reading Speech for the Bill:

A ban on the use of credit cards and credit related products for online wagering will have the immediate and effective impact of stopping people from gambling with money they do not have.

This is consistent with existing credit betting provisions in the IGA and implemented by state and territory governments.

States and territories prohibited the use of credit cards for land-based gambling, including at casinos, racetracks and poker machine venues, in the early 2000s. The only exception was the

¹ Appendix 3 of the Selection of Bills Committee Report No.11 of 2023

purchase of lottery tickets at a newsagent or lotto venue, which may still be lawfully purchased with a credit card from these venues.

In 2015 the Review of Illegal Offshore Wagering chaired by Barry O’Farrell focused on online wagering in racing and sporting events, given it is the fastest growing gambling sector in Australia, which “raises concerns about the harmful impacts on our community, especially on the largely young male audience to whom these interactive products are marketed.”² It did not express concerns about lotteries, despite being the most popular form of gambling in Australia in 2010-11, followed by instant scratch tickets.³

Since 2018, wagering providers have been prohibited from offering lines of credit for online wagering under section 15C of the IGA. These measures were introduced as part of the [National Consumer Protection Framework for Online Wagering](#) and enacted by the *Interactive Gambling Amendment Act 2017*. At the time, an exemption was made in Part 2B of the IGA so that consumers could place online bets using credit cards. The Bill would remove that exemption and extend the prohibition on credit under section 15C to credit cards, payments linked to credit cards (i.e. Apple Pay and Google Pay) and digital currency, including cryptocurrency.

Background - harm minimisation

Australia has the highest gambling losses per capita, with \$25 billion in losses in 2018-19. Online gambling is growing in Australia due to the ease of fast access through mobile devices, increased proliferation of online gambling applications and changes in consumer behaviour.⁴

For online gambling, in less than 10 years, participation more than doubled from 8 per cent in 2010-11 to 17.5 per cent in 2019, equating to approximately 3.5 million Australian adults. In 2019, 3.9 per cent of online gamblers met the criteria for ‘problem gambling’, which increased from 2.7 per cent in 2010–11. A further 9.4 per cent of online gamblers were classified as moderate-risk gamblers and 16.8 per cent were classified as low-risk gamblers.⁵ This equates to around 30 per cent of Australian online gamblers (around 1 million people) at risk of, or experiencing, a degree of gambling harm.

There is a high correlation between credit card use and gambling harm. It is estimated that around 15-20% of online wagering is currently done with credit cards and this cohort is more susceptible and vulnerable to greater harms that arise from gambling.⁶ Access to credit for online wagering, combined with ease of gambling using a digital device can result in large amounts of debt accumulated in a short period of time. Research by the Gambling Treatment and Research Clinic (University of Sydney), suggested that 54 per cent of surveyed participants who reported using their

² Review of Illegal Offshore Wagering Report to the Ministers for Social Services and the Minister for Communication and the Arts by Lead Reviewer, the Hon. Barry O’Farrell, 18 December 2015, https://www.dss.gov.au/sites/default/files/documents/04_2016/review_of_illegal_offshore_wagering_18_december_2015.pdf, p.16.

³ *ibid*, p.36.

⁴ Australian Gambling Research Centre for the Australian Institute of Family Studies: Gambling in Australia: <https://www.aihw.gov.au/reports/australias-welfare/gambling>, 16 September 2021, and Queensland Government Statistician's Office, Queensland Treasury, Australian Gambling Statistics: <https://www.qgso.qld.gov.au/issues/2646/australian-gambling-statistics-36th-edn-1993-94-2018-19.pdf>, 36th edition, 2021.

⁵ Hing, N. et al, The second national study of interactive gambling in Australia (2019-20), Gambling Research Australia, (Melbourne, 2021).

⁶ Evidence presented in the 2001 PJC Inquiry

credit card for online gambling met criteria for problem gambling, and a further 19 per cent met criteria for moderate risk gambling.⁷

Gambling-related harms affect not only the people directly involved, but also their families, peers and the wider community. Low-risk gamblers affect up to one other person, moderate risk gamblers affect up to 3 others, and high-risk gamblers affect up to 6 others.⁸ The social costs of gambling – including adverse financial impacts, emotional and psychological costs, relationship and family impacts, and productivity loss and work impacts – have been estimated at around \$7 billion in Victoria alone in 2017.⁹

Scope of the Bill

Consistent with the recommendations of the PJC Inquiry and the 2021 Australian Communications and Media Authority's Report on the review of Part 2B of the Interactive Gambling Act 2001 – Credit betting prohibitions, the Bill proposes to amend the IGA to:

- prohibit the use of credit cards, credit related products (such as digital wallets) and digital currency (such as cryptocurrency) for online wagering;
- create new criminal offence and civil penalty provisions related to the ban; and
- expand the Australian Communications and Media Authority's compliance and enforcement powers by providing it with the ability to receive enforceable undertakings and issue remedial directions in respect of the ban and other civil penalty provisions under the IGA.

The Bill does not propose to capture:

- lottery services (profit and not-for-profit lotteries);
- debit cards (such as Debit Visa Card and Debit Mastercard); and
- 'prohibited interactive gambling services' and 'unlicensed interactive gambling services' as these services are already illegal under sections 5 and 15AA of the IGA respectively.

Clause 4 of the Bill provides for a statutory review to be completed within 2 years after commencement.

Methods of payment

The proposed subsection 15C(4A) of the Bill, lists the methods of payment that wagering providers would be prohibited from accepting under section 15C of the IGA. These are:

- credit cards (paragraph 15C(4A)(a));
- an account, service or facility in which payment is made from a credit card linked to the account, service or facility (paragraph 15C(4A)(b));
- digital currency (paragraph 15C(4A)(c)); and
- a method of a kind determined by the Minister by legislative instrument for the purposes of this paragraph (paragraph 15C(4A)(d)).

Paragraph 15C(4A)(d) of the Bill would empower the Minister for Communications to make (disallowable) legislative instruments to extend the ban to new types of payment products, in

⁷ Debt stress mediates the relationship between problem gambling and comorbid mental health problems, the University of Sydney, 2019

⁸ Goodwin BC, Browne M, Rockloff M & Rose J. A typical problem gambler affects six others. *Journal of Gambling Studies* 17(2):276–89, (2017).

⁹ Browne M, Greer N, Armstrong T, Doran C, Kinchin I, Langham E & Rockloff M. The social cost of gambling to Victoria. Melbourne: Victorian Responsible Gambling Foundation, (2017).

addition to those listed in subsection 15C(4A). This provision is intended to ensure that the legislation can respond to technological changes that may be introduced to the market over time, that may be used to circumvent the prohibition.¹⁰

Lottery services

The exclusion for lottery services is made on the basis that lotteries have been found to present a lower-risk of gambling harm than other forms of online gambling.

The PJC Inquiry examined the extent of consumer detriment in using credit cards for online gambling, existing consumer protections and regulatory approaches implemented in other jurisdictions to restrict the use of credit cards for gambling. The PJC Inquiry received submissions from responsible gambling advocates, financial counsellors and academics that gambling with credit can lead to significant and life changing consequences such as extreme financial hardship, loss of employment, bankruptcy, and broader societal harms including the breakdown of relationships, mental illness and homelessness.¹¹

The PJC Inquiry concluded that the current exemption under the IGA that permits credit cards to be used for online wagering is a “glaring omission in the current regulatory system”.¹²

The PJC Inquiry final report, published in November 2023, made 3 recommendations, including:

- Recommendation 2 – The committee recommends that the Australian Government develop and implement legislation to ban online gambling service providers of wagering, gaming and other gambling services (but not lotteries) from accepting payment by credit cards, including via digital wallets.
- Recommendation 3 – The committee recommends that the Australian Government ensure that, in designing and implementing recommendation 2, these measures have no adverse consequences for lotteries, including the activities of not-for-profits, charities and newsagents.

Citing research by the Australian Institute of Family Studies in 2017 and the 2010 gambling inquiry report by the Productivity Commission,¹³ the PJC Inquiry noted clearly that based on evidence provided by not-for-profit and charitable organisations and Tabcorp, lotteries present less risk of harm than other forms of gambling, as they have delayed outcomes and are not frequently drawn.¹⁴

*The committee acknowledges gambling is a legitimate form of entertainment for many Australians. The committee considers that both for-profit and not-for-profit lotteries (as defined under the Interactive Gambling Act) lead to relatively lower harm than other forms of online gambling, and therefore should be exempt from any ban.*¹⁵

The Australian Lottery and Newsagents Association estimated in its submission to the PJC Inquiry that approximately 40% of retail lottery customers use a credit card as payment for convenience, often bundled with other everyday consumer products, such as magazines, newspapers and greeting

¹⁰ Explanatory Memorandum, p.16.

¹¹ Report of the Parliamentary Joint Committee on Corporations and Financial Services inquiry into the Regulation of the use of financial services such as credit cards and digital wallets for online gambling in Australia, November 2021, pp.13-15.

¹² Ibid p.34.

¹³ Ibid, p.12, 18 and 19.

¹⁴ Ibid, p.18.

¹⁵ Ibid, p.41.

cards, and asked to be excluded from any ban.¹⁶ Not-for-profits and charitable organisations also told the PJC Inquiry that up to 90% of electronic charitable lotteries are purchased using a credit card, and called on the Joint Committee to recommend that lotteries be excluded from any ban to protect their fundraising activities,¹⁷ citing lower levels of harm as their reasoning.¹⁸

The findings of the PJC Inquiry are consistent with findings from consultation undertaken by the department in early 2023, during the course of development of the Bill.

The department undertook targeted consultation on the exposure draft Bill in August 2023 with banking and payment stakeholders, wagering and lottery providers, harm reduction advocates and academics, and Commonwealth, state and territory officials.

Stakeholders broadly supported the Bill, although the Alliance for Gambling Reform submission to the department objected to lotteries being excluded from the credit card ban. The Alliance recommended that the ban on the use of credit cards for online wagering should apply to online purchases of lottery tickets, but conceded that for in-person purchases, credit cards could remain exempt, noting the impacts to local newsagent businesses.¹⁹

The Lottery Corporation and the Australian Lottery and Newsagents Association advised the department that newsagents receive a commission from online sales of government lotteries through retailer remuneration and store syndicate schemes, and a ban on credit cards for lottery purchases may have the unintended consequence of impacting local newsagent businesses.

In view of the lower-risk of gambling harm lotteries represent, and the implications for the fundraising activities of charitable organisations if lotteries were to be included in the credit card ban, the department recommended that any credit card ban exclude lotteries, consistent with the recommendations of the PJC Inquiry.

The department also noted that in its June 2023 report, the House of Representatives Standing Committee on Social Policy and Legal Affairs' inquiry into online gambling and its impacts on those experiencing gambling harm also cited evidence that lotteries have a lower-risk than other forms of online gambling, and similarly recommended that lotteries should be exempt from further advertising restrictions.²⁰

Conclusion

In conclusion, the department thanks the Committee for the opportunity to provide this submission.

¹⁶ Ibid, p.8, and 18-19.

¹⁷ Ibid, p.8.

¹⁸ Submission 22 to the PJC Inquiry by Not-for-profit and charitable organisations, by Corrs Chambers Westgarth, 3 September 2021.

¹⁹ Legislating to ban the use of credit cards for online wagering, The Alliance for Gambling Reform's response to the Consultation Paper - exposure draft of the Interactive Gambling Amendment (Credit Card and Other Measures) Bill 2023, August 2023, p.2.

²⁰ Standing Committee on Social Policy and Legal Affairs Inquiry into online gambling and its impacts on those experiencing gambling harm, report: 'You win some, you lose more' June 2023, p.127.

