

Submission

on the

Interactive Gambling and Broadcasting Amendment (Online Transactions and Other Measures) Bill 2011

to the

Joint Select Committee on Gambling Reform

PO Box 6100

Parliament House

Canberra ACT 2600

Telephone: 02 6277 3433

Facsimile: 02 6277 5809

Email: gamblingreform@aph.gov.au

Website: www.aph.gov.au/Senate/committee/gamblingreform_ctte

by

FamilyVoice Australia

4th Floor, 68 Grenfell St, Adelaide SA 5000

Telephone: 1300 365 965

Facsimile: 08 8223 5850

Email: office@fava.org.au

Website: www.fava.org.au

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1. Introduction

On 20 June 2011, *the Interactive Gambling and Broadcasting Amendment (Online Transactions and Other Measures) Bill 2011*, on its introduction into the Senate by Senator Nick Xenophon, was referred to the Select Committee on Gambling Reform for inquiry and report.

Submissions on the bill have been invited and are due by 15 July 2011.

2. Prohibitions on specific gambling services

Section 3 of the bill would prohibit corporations from offering specific forms of gambling services including spot betting, exotic betting, in-play betting or any similar form of betting; and betting on losing outcomes.

The bill leaves the detailed definition of these terms to be specified by regulations.

This is a drafting deficiency as it would appear that if no such regulations are made then the terms would have no meaning and the offence could be not be prosecuted.

It would be better for the bill to be amended to provide definitions for these terms while allowing for regulations to add to the definitions. This would be desirable as in a rapidly changing field new problems may emerge which could be suitably addressed by means of regulation rather than requiring the amendment of the statute.

In his second reading speech on the bill Senator Xenophon makes a good case that spot betting and exotic betting, such as betting on which player will receive the first yellow card in a soccer match, creates easier opportunities for corruption as a particular outcome can more readily be achieved by a single player.

In-play betting is likely to induce problem gamblers caught up in the excitement of a match from betting inappropriate amounts on the spur of the moment.

Recommendation 1:

The prohibition on offering specific forms of gambling services including spot betting, exotic betting, in-play betting or any similar form of betting, and betting on losing outcomes should be supported.

The section should be amended to provide definitions of each of the relevant terms while also allowing expansion of the definitions by regulation.

3. Financial transactions for interactive gambling payments

Schedule 1 of the bill would amend the *Interactive Gambling Act 2001* to provide for a customer of a financial transaction provider, who has initiated a payment as consideration for the provision of an interactive gambling service, to cancel the payment at any time before it has been fully processed.

The bill would provide that financial transaction providers would not be liable for cancelled payments.

In his second reading speech Senator Xenophon explains that the expected outcome for this provision would be reluctance on the part of overseas interactive gambling services to accept Australian customers knowing that payments could be cancelled in the event of losses.

The United States has passed legislation, the *Unlawful Internet Gambling Enforcement Act of 2006*, of which section 5363 actually makes it a crime for a financial transaction provider to “knowingly accept” credit, electronic fund transfers (“EFTs”), checks, or other forms of financing as payment “in connection with the participation of another person in unlawful Internet gambling”. Detailed rules have been issued in relation to the enforcement of this law.¹

By comparison the bill takes a modest step towards preventing overseas purveyors of online gambling from preying on Australians.

Recommendation 2:

Schedule 1 of the bill on amendments relating to online transactions should be supported as it stands.

4. Inducements to gamble

Schedule 2 of the bill would amend the *Interactive Gambling Act 2001* to prohibit inducements to gamble.

A game would be defined as an inducement to gamble if “*the game is a game of chance or a game of mixed chance and skill; and the service for the conduct of the game is provided to the customer with the intention of inducing the customer to use a gambling service*”.

In his second reading speech Senator Xenophon gives the examples of a website advertising a free chance to practice your poker skills or offering free credits for online gambling.

This a useful proposal as it aims to reduce inducements to gamble.

Recommendation 3:

Schedule 2 of the bill on amendments relating to inducements to gamble should be supported as it stands.

5. Broadcasting about gambling

Schedule 3 of the bill would amend the *Broadcasting Services Act 1992* to prohibit the broadcasting on television or radio of any advertising of betting venues and online gambling sites during any G classified programs and any sports or sports related programs, as well as to prohibit licensees from broadcasting betting odds from any betting agency with which they have a commercial relationship.

FamilyVoice Australia has already, in its submission on gambling advertising to the Select Committee on Gambling Reform called for a prohibition on gambling advertising during sports events and news programmes. This would be a useful measure to help reduce problem gambling for reasons outlined in that submission.

The prohibition on broadcasting betting odds is also welcome as, while allowing news reporting on sports betting, would limit inducements to gamble from constant offering of odds on television and radio.

This schedule, like section 3 of the bill, leaves the definition of key terms to be determined by regulation. For the reasons given above this approach is undesirable. Definitions of the key terms should be included in the bill.

Recommendation 4:

Schedule 3 should be supported subject to it being amended to provide definitions of each of the relevant terms, while also allowing expansion of the definitions by regulation.

6. Match-fixing

Schedule 4 of the bill would amend the *Criminal Code Act 1995* to make it an offence to obtain a financial advantage in relation to a code of sport by deception.

Given the opportunities for serious fraud provided by online gambling on sporting events this would be a useful development in criminal law.

Recommendation 5:

Schedule 4 of the bill, on amendments about obtaining a financial advantage by deception in relation to a code of sport, should be supported as it stands.

7. Reference

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1. Marconi AL, Davis GA and McQuaid BM, "Facilitating Financial Transactions in the Age of Internet Gambling: Compliance with the Unlawful Internet Gambling Enforcement Act", *The Banking Law Journal*, July/August 2009, 602-624: <http://www.ssd.com/files/Publication/a60370a0-b77e-4006-9ff5-02f2a9f9756e/Presentation/PublicationAttachment/e26accbb-bb46-43b9-af01-0394eb7df6f0/UIGEA%20article.pdf>