



Australian Government
**Australian Institute of
Family Studies**



Stephen Palethorpe
Secretary, Senate Standing Committee on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600
Email: ec.sen@aph.gov.au

Dear Mr Palethorpe

Re. Interactive Gambling Amendment (Credit Card and Other Measures) Bill 2023.

The Australian Gambling Research Centre (AGRC) at the Australian Institute of Family Studies (AIFS) welcomes the opportunity to provide a submission to the Environment and Communications Legislation Committee inquiry into the Interactive Gambling Amendment (Credit Card and Other Measures) Bill 2023.

The AGRC was established under the Commonwealth Gambling Measures Act 2012. Our gambling research program reflects the Act, embodies a national perspective and has a strong family focus. Gambling is a major public policy issue in Australia, affecting the health and wellbeing of many individuals and families in a range of ways [AIHW & AGRC, 2021]. Recent estimates suggest that Australians lose around \$25 billion on legal forms of gambling every year, representing the largest per capita losses in the world [QGSO, 2021].

Thank you for the opportunity to submit comments on these important gambling reforms. Upon request, we would be pleased to clarify or expand upon any aspect of our submission or our related research. Please do not hesitate to contact Dr Brian Vandenberg, Research Fellow, AGRC

Yours sincerely,

Rae Kaspiew
Acting Director
Australian Institute of Family Studies

September 22, 2023



Submission by the Australian Gambling Research Centre, Australian Institute of Family Studies

Interactive Gambling Amendment (Credit Card and Other Measures) Bill 2023

Introduction

The Australian Gambling Research Centre (AGRC) supports the continued strengthening of nationally consistent, evidence-based consumer protections and a robust legislative framework to reduce the risk of harm from gambling in the Australian community. We welcome the proposed legislative ban on the use of credit cards for online wagering, and the proposed expanded enforcement powers of the Australian Media and Communications Authority (ACMA), as outlined in the Interactive Gambling Act 2001 (IGA) (Credit Card and Other Measures) Bill 2023. Our comments below are provided to the inquiry into this Bill by the Senate Standing Committee on Environment and Communications.

Summary

- A major policy inconsistency exists in Australia whereby credit cards cannot be used for land-based gambling (e.g. electronic gambling machines) but can be used for gambling online.
- Research shows gambling online with credit cards increases the risk of experiencing harm.
- Recent Australian surveys have found significantly higher rates of credit card use in at-risk online wagerers.
- While a small number of Australian banks have blocked customers from using credit cards for online wagering, a national legislative ban will provide comprehensive protection.
- A legislative ban will complement other measures already in place under the National Consumer Protection Framework for online wagering in Australia (e.g. bans on wagering services offering lines of credit, bans on wagering services promoting payday loans).
- A ban will also bring Australia into line with other countries where the use of credit cards for online wagering is now banned (e.g. United Kingdom, New Zealand, Singapore).
- We support the proposed implementation and enforcement of the ban within 6 months of it becoming law.
- We support the proposed review of the ban two years after it becoming law.
- We suggest any exemptions from the ban for specific types of gambling (e.g. lotteries) be closely monitored and regularly reviewed to ensure there are no unintended adverse consequences.

Background

There are growing concerns among Australian governments, expert groups, service providers, and communities about the harmful impacts of online gambling in Australia. Our own recent survey of community attitudes towards online wagering found that most Australians believed that there were '*too many opportunities for gambling nowadays*' (77%), that gambling is '*dangerous for family life*' (68%) and gambling '*should be discouraged*' (59%) [AGRC, 2023]. A large proportion also indicated that governments should play the biggest role in online gambling policies.

Recent estimates suggest that 7.2% of Australian adults (or 1.3 million people) are at some risk of, or are already experiencing, gambling problems or harm [AIFS & AIHW, 2021]. Gambling harm is any negative consequence experienced by an individual or members of their social network because of participation in gambling. This can be experienced on a spectrum, ranging from minor negative experiences to crises, and is not always proportionate to the amount of gambling participation. Gambling harms can include:

- relationship harm (e.g. conflict within relationships, neglect of responsibilities)
- health harm (e.g. stress, depression, reduced sleep)
- emotional/psychological harm (e.g. feelings of regret, worthlessness, failure)
- financial harm (e.g. credit card debt, reduced spending on essentials)
- work/study harm (e.g. reduced performance due to tiredness, absenteeism) [Langham et al., 2015; VRGF, 2016; Murray-Boyle et al., 2021].

Online gambling is a rapidly expanding and sophisticated market of products and services, operating within a complex regulatory environment. The Commonwealth government commissioned an independent review of online gambling in 2015 (the O'Farrell review) which found it was the fastest growing gambling mode in Australia, with more than \$1.4 billion gambled online each year [Department of Social Services, 2015]. Importantly, the O'Farrell review reported that the rate of online problem gambling in Australia was three times higher than all other gambling modes.

Of concern is the risk of experiencing substantial harm in a relatively short period of time when gambling online because of the attributes of these products and the nature of the modality. For example, online gambling products have a high level of accessibility (i.e. not constrained by opening days/times or a user's location), have a highly immersive interface, facilitate uninterrupted gambling across multiple events/sports, and enable simplified and high speed (i.e. frictionless) spending [Australian Government, 2016].

While there are several emerging technologies, payment options and products that are of concern, research shows using a credit card for online gambling can have especially harmful consequences [FCA, 2021]. Credit cards cannot be used within Australia to gamble in licensed gambling venues or casinos, and cash advances from ATMs in these venues are also prohibited. However, credit cards can be used for online gambling transactions in Australia. This represents a major inconsistency in consumer protections for Australians who gamble online and puts Australia behind countries that have banned credit cards for online gambling. This includes New Zealand, Singapore, and the UK which have prohibited credit card use for online gambling. An interim evaluation of the UK credit card ban indicates that it is popular among consumers and has not resulted in harmful unintended consequences

[Gambling Commission, 2021]. Further, bank data shows no spike in money transfers in the three months after the ban, nor a spike in ATM withdrawals from credit cards around the time of the ban.

There is a strong link between credit card use and harm from online wagering in Australia [FCA, 2021]. Because credit card transactions for online gambling are treated as cash advances, the accumulated debt typically attracts very high interest rates. In our research for the baseline evaluation of the NCPF, we found that many participants have experienced high rates of financial harm from online wagering such as reductions in available spending money (23.5%), reductions in savings (21.5%), and increased credit card debt (7.7%) [Jenkinson et al., 2019]. Other Australian research shows that where credit cards are directly linked to betting accounts, this enables frictionless (almost instantaneous) deposits and bets to be made, which can facilitate impulse betting and chasing losses [Hing et al., 2021]. Unpublished findings from our 2022 survey of Australian adults who regularly gamble online found more than one-in-four (26.7%) used a credit card/s for online wagering [AGRC, unpublished]. Most notably, there was a significantly higher rate of credit card use in at-risk online wagerers (28.9%) compared to not at-risk online wagerers (21.9%).

Inquiries have been conducted into the use of credit cards for online gambling in Australia (e.g., by the Senate Environment and Communications Legislation Committee and Parliamentary Joint Committee on Corporations and Financial Services), but there remains no national legislative ban. Despite this, some financial institutions have voluntarily implemented blocking systems that prevent online gambling with their issued credit cards. Others have added features enabling customers to pre-set credit card spending limits on online gambling [ABA, 2020]. The banks have done this by identifying credit card payments to businesses that hold the merchant category code for gambling. However, blocks and pre-set spending limits on gambling with credit cards are not universal practices across the retail banking sector, and hence a legislative ban on credit card use for online wagering will provide nationally consistent and comprehensive protection for consumers.

Comments on the Bill

Scope of the Bill

In our view, the draft Bill provides reasonably sufficient scope and provisions to establish a nationally consistent ban on the use of credit cards for gambling through interactive (i.e. online) wagering services licenced in Australia. We support the onus of responsibility for compliance being placed on interactive wagering service providers (rather than consumers), including any person who accepts, facilitates or promotes credit card payments for interactive wagering services. We support the broad scope of the proposed law to capture credit cards, payments linked to a credit card, including e-wallets and digital wallets, and digital currency (cryptocurrency). We also support the provision allowing the Minister from time-to-time to determine other payment methods that should be captured under the law, which will assist in 'future proofing' the law as innovations and technological advances occur in the gambling and financial service sectors.

In our view, the proposed credit card ban will complement other nationally consistent consumer protections established under the National Consumer Protection Framework (NCPF) [Australian Government, 2022]. In particular, two key measures introduced under the NCPF that prohibit lines of credit being offered to customers (measure #1) and discourage the promotion and use of small amount

credit contracts (payday loans) for online wagering (measure #2) will be bolstered by the proposed ban on using credit cards for online wagering.

Penalties for breaches of the ban

We support the provision for new criminal offences and civil penalties to be established for breaches of the proposed law, and that the ACMA's powers be expanded to enforce the new law. On this point, we suggest consideration be given to increasing the capacity of the ACMA to effectively undertake and report on its expanded enforcement powers.

Given interactive gambling operators licensed in Australia, and those operating offshore, are highly profitable, we support penalties for breaches of the new law at levels that will act as effective deterrents. The proposed penalties for a new criminal offence (500 penalty units = A\$156,500) and a new civil penalty provision (750 penalty units = A\$234,750) appear to be modest in comparison to the revenue and profits of most operators and their parent companies, and also in comparison to penalties in other jurisdictions where gambling online with a credit card is banned. For example, the penalty in the UK for breaching the credit card ban is 'level 5 on the standard scale' (i.e. an unlimited amount). Consequently, we suggest the penalties for breaching the new Australian law be reviewed over time, to ensure they continue to act as effective deterrents.

We support the provision of remedial directions to be within scope of the new law, as this will potentially require gambling operators who breach the new law to compensate individuals who experience harm as a result of gambling with credit, as prohibited under the new law.

Digital currency

We suggest that further careful consideration be given to ensuring that payments made by digital currency are captured by the ban. We suggest some consultation with relevant experts to get their input and advice on this matter (e.g. Australian Treasury, AUSTRAC, Sport Integrity Australia), given the adopted definition of 'digital currency' may prove to be an important factor in the reach and effectiveness of the new law.

Implementation period

We consider the proposed 6-month transitional period to be generous, and we recommend not extending this further. The Government announced its intention to legislate a ban on credit cards for online wagering on 28 April 2023, which effectively started a lengthy transition period for stakeholders (e.g. banks, wagering providers) to prepare for and implement changes necessary to comply with the proposed ban.

Expansion of the ACMA's powers

We support the expansion of the ACMA's administrative powers as proposed in the Bill. We believe expanded enforcement mechanisms will better align the ACMA's enforcement powers under the IGA with its other existing powers (e.g. under the Broadcasting Services Act 1992) and ensure that the ACMA will have the option to secure behavioural commitments/obligations without necessitating the need for costly court litigation for minor or less significant non-compliance.

Possible unintended consequences

Displacement to land-based gambling

The proposed ban on the use of credit cards for interactive wagering services in Australia will introduce much needed consistency with the existing nation-wide ban on using credit cards for land-based gambling (e.g. electronic gambling machines, casinos), which sits under state/territory laws. Given the new Commonwealth law will effectively mean both online and land-based gambling with a credit card is banned in Australia, we do not foresee any significant displacement from online gambling to land-based gambling participation or expenditure as a consequence of new laws proposed in the Bill. Indeed, the proposed ban is expected to address a current distortion between online and land-based gambling regulatory settings.

Notwithstanding this, we note that the Bill proposes to exclude lottery services from the credit card ban, and we therefore suggest that possible adverse consequences of this exemption for lotteries be monitored and reviewed over time.

Increased off-shore online gambling

While it is unclear whether the credit card ban will impact the activities of illegal offshore online wagering operators, it is reasonable to assume that some of these illegal operators will make renewed attempts to attract customers from Australia by offering off-shore credit based online gambling services. We recognise the important work the ACMA has been undertaking, with its existing powers under the IGA, to disrupt illegal online gambling services. This includes requesting internet service providers to block the websites of services found to be in breach of the IGA. We recommend consideration be given to increasing the ACMA's capacity to expand this important work, which since 2019 has led Australian internet service providers to block more than 820 websites [ACMA, 2023].

We recommend that government support new routine monitoring and surveillance of Australians' participation in illegal offshore gambling, and regularly report the findings to inform the targeting of policy and regulatory responses. At present, there is a relative dearth of reliable information about participation in illegal offshore gambling. Accordingly, we would welcome any boost to research efforts in this area.

Increased use of money from other sources

While banning the use of credit cards for online gambling is likely to reduce harm, it must also be accompanied by some supporting measures (e.g. access to financial counselling, monitoring and surveillance of wagering data) to ensure effectiveness. It will be particularly important to closely monitor for any financial related side-effects of the ban, including whether consumers attempt to use other non credit card forms of borrowed money to gamble online. This was a key focus of the interim evaluation of UK government's ban on credit cards for online gambling [Gambling Commission, 2021]. The UK evaluation also examined if there had been any change in reports of illegal money lending related to gambling, any changes among credit card gamblers in money transfers in the period after the ban commenced, and any change in ATM withdrawals from credit cards after the ban commenced. The interim evaluation of the UK credit card ban found:

- support for the ban among consumers has been largely positive, with qualitative data from consumers supporting the conclusion that the ban helps people to gamble within their means and retain control.

- the proportion of consumers reporting gambling with other forms of borrowed money has remained stable.
- there has been no increase in reports of illegal money lending related to gambling.
- while consumers are aware of ways to legally bypass the ban, far more people who previously gambled with a credit card now gamble with available (not borrowed) funds than other types of borrowed money.
- bank data showed no observed spike for credit card gamblers in money transfers in the three months after the ban.
- there was no spike in ATM withdrawals from credit cards around the time of the ban [Gambling Commission, 2021].

Supporting the harm minimisation principle

We recommend the principle of harm minimisation guide the Government's implementation of the proposed ban on credit cards for online gambling. As part of this, we suggest Government closely monitor consumer participation and behaviour in online and land-based gambling before and after the credit card ban is introduced. Given that a considerable proportion of Australian adults who wager online report using credit cards for their gambling (26.7% according to unpublished AGRC's 2022 survey findings), it is likely the ban will directly impact their ability to wager online in their usual manner. While we anticipate that a large proportion of affected individuals will either cease or reduce their online gambling participation and/or expenditure when the ban begins, or shift to non-credit card payment methods (e.g. debit cards), it is possible that some individuals will find it difficult to do so (e.g. individuals with a gambling behaviour disorder), bringing into play other potential negative impacts for affected individuals and their families.

Therefore, in the lead-up to the credit card ban (and in the period following), we recommend Government implement a public education campaign with increased information provision about the range of free and confidential financial counselling and gambling help services available. In particular, we recommend a boost in the promotion and provision of financial counselling targeted at groups likely to be impacted by the credit card ban, and that access to these services be promoted in a range of media channels to reach them. These measures will support a harm minimisation approach, and also reflect the principle in the NCPF of respecting consumer choice by empowering consumers to make more informed decisions about their gambling.

In the medium to longer term, we also recommend the Government evaluate the impacts of the proposed ban on gambling participation and rates of gambling harm in Australia. This should aim to determine whether the credit card ban is proving effective in offering greater consumer protection in online wagering environments and reducing the harm from gambling experienced by Australians, and whether there have been any unintended adverse consequences.

References

- Australian Banking Association (ABA) (2020) Every Customer Counts Consultation Report - Use of credit cards for gambling transactions, Accessed at: <https://www.ausbanking.org.au/wp-content/uploads/2022/06/Every-Customer-Counts-Consultation-Report-Use-of-Credit-Cards-for-Gambling-Transactions-ABA-2020.pdf>
- Australian Communications and Media Authority (ACMA) (2023) Illegal offshore gambling websites blocked, 23 August 2023. Accessed at: <https://www.acma.gov.au/articles/2023-08/illegal-offshore-gambling-websites-blocked>
- Australian Gambling Research Centre (AGRC) (2023) Gambling participation, experience of harm and community views. Melbourne: Australian Institute of Family Studies. Accessed at: https://aifs.gov.au/sites/default/files/2023-03/2302_1_gambling-in-Australia.pdf
- Australian Government (2016) Government Response to the 2015 Review of the Impact of Illegal Offshore Wagering, Canberra: Department of Social Services, Accessed at: https://www.dss.gov.au/sites/default/files/documents/04_2016/government_response_review_illegal_offshore_wagering.pdf
- Australian Government (2022) National Consumer Protection Framework for Online Wagering in Australia – National Policy Statement, 26 November 2018 (updated 3 May 2022). Accessed at: https://www.dss.gov.au/sites/default/files/documents/05_2022/national-policy-statement-updated-3-may-2022.pdf
- Australian Institute of Health and Welfare (AIHW) & Australian Gambling Research Centre (AGRC) (2020) Gambling in Australia, AIHW: Canberra, Accessed at: <https://www.aihw.gov.au/reports/australias-welfare/gambling>
- Department of Social Services (DSS) (2015) 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 (The O’Farrell Review), Canberra: Commonwealth of Australia.
- Financial Counselling Australia (FCA) (2021) Submission to Inquiry on the Interactive Gambling Amendment (Prohibition on Credit Card Use) Bill 2021, Senate Environment and Communications Legislation Committee, Accessed at: https://www.financialcounsellingaustralia.org.au/fcacontent/uploads/2021/06/Senate_InquirySub_030521.pdf
- Gambling Commission (2021) Prohibition of gambling on credit cards, Birmingham: Gambling Commission, Accessed at: <https://www.gamblingcommission.gov.uk/report/prohibition-of-gambling-on-credit-cards>
- Hing, N., Russell, A. M. T., King, D. L., Rockloff, M., Browne, M., Greer, N., Newall, P., Sproston, K., Chen, L., & Coughlin, S. (2021). NSW Youth Gambling Study 2020. NSW Responsible Gambling Fund.
- Jenkinson, R., Khokhar T., Tajin R., Jatkar U. & Deblaquiere J. (2019) National Consumer Protection Framework for Online Wagering: Baseline study final report. Canberra: Department of Social Services. Accessed at: <https://aifs.gov.au/research/commissioned-reports/national-consumer-protection-framework-online-wagering>

- Langham, E., Thorne, H., Browne, M. et al. (2015). Understanding gambling related harm: a proposed definition, conceptual framework, and taxonomy of harms. *BMC Public Health* 16, 80 (2015). <https://doi.org/10.1186/s12889-016-2747-0>
- Murray Boyle, C., Joshi, A., & Jenkinson, R. (2021). Understanding gambling harm and ways to identify those at risk. *Child Family Community Australia (CFCA) Short Article*. Australian Institute of Family Studies.
- Queensland Government Statistician's Office (QGSO). (2021). Queensland Treasury, Australian Gambling Statistics, 36th edition, 1993–94 to 2018–19. Brisbane: QGSO.
- Victorian Responsible Gambling Foundation (VRGF). (2016). Assessing gambling-related harm in Victoria: The seven dimensions of gambling harm. Melbourne: Victorian Responsible Gambling Foundation.