



**Australian Government**  
**Department of Social Services**

Finn Pratt AO PSM  
Secretary

Chair of the Senate Committee  
Senate Environment and Communications References Committee  
The Senate, Parliament of Australia  
CANBERRA ACT 2600

By email: [ec.sen@aph.gov.au](mailto:ec.sen@aph.gov.au)

Dear Chair

**Inquiry into participation of Australians in online poker**

Thank you for your invitation to provide a written submission to the inquiry into the participation of Australians in online poker.

I am responding to this submission based on the Department's portfolio responsibility for *legal* gambling in Australia, which includes lead responsibility for the Government's response to the 2015 *Review of Illegal Offshore Wagering Report*, and delivery of its core elements.

The Department of Communications and Arts (DoCA) has policy responsibility for matters concerning *illegal* interactive gambling services prohibited under the *Interactive Gambling Act 2001* (Act). This responsibility includes proposed amendments to enhance (among others) its enforcement, which are currently before the Senate.

*The Review of Illegal Offshore Wagering*

On 7 September 2015, the Government commissioned the Hon Barry O'Farrell to conduct the *Review of Illegal Offshore Wagering in Australia* (the Review)<sup>1</sup>. The Review investigated the size and impacts of illegal offshore wagering, and advised on ways to strengthen enforcement of the Act's prohibition of interactive gambling services, such as online poker. It also considered measures for enhancing consumer protections in the provision of legal interactive wagering services in Australia.

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<sup>1</sup> <https://www.dss.gov.au/communities-and-vulnerable-people/programmes-services/gambling/review-of-illegal-offshore-wagering>

The Review found that the online wagering sector is growing rapidly by 15 per cent each year, and that illegal offshore wagering presents many problems and risks, including:

- greater risk for consumers because legal protections are not in place and standard consumer protections are often absent
- the potential for greater sports integrity problems, as relevant betting and transaction information is not available
- less tax revenue for governments, less product and other fees for the racing and sports industries, and fewer jobs for Australians.

The Review noted that Australians lost an estimated \$400 million betting in this illegal industry in 2014, this figure is expected to increase to \$910 million by 2020.

#### Increase in Online Gambling Harm

The Review found that the rate of problem gambling for online gamblers (across all forms of online gambling) is three times higher than the rate of problem gambling across other gambling platforms, including land-based gambling. That is, for online gambling, the rate of problem gambling is said to be 2.7 per cent with 41 per cent of online gamblers considered to be 'at risk' gamblers (low-risk, moderate-risk and problem gamblers), whereas less than 20 per cent of land-based gamblers were considered to be 'at-risk'. This means they experience problems, to varying degrees, such as to their physical and mental health, and financial problems caused by gambling or chasing losses (trying to win back money already lost by gambling) and are also more likely to be betting across other gambling platforms.

The Review also noted that while interactive wagering does not itself increase the prevalence of problem gambling, interactive gambling is more addictive and harmful than land based forms. This is because interactive gambling is increasingly accessible, and combined with other factors such as access to credit, inducements, anonymity and ease of betting large sums of money, has the potential to cause harm.

Gambling harm not only has a significant impact on the individual, but often extends to their family and friends, with the cycle of gambling harm likely to continue through generations.<sup>2</sup> A Report commissioned by the Problem Gambling Treatment and Research Centre, found that children with parents who are problem gamblers are up to ten times more likely to develop problems with gambling themselves than those with non-gambling parents. The Productivity Commission's 2010 Inquiry into Gambling also noted the social costs of problem gambling are estimated to be at least \$4.7 billion a year<sup>3</sup>.

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<sup>2</sup> The Problem Gambling Treatment and Research Centre, 2010, Children at risk of developing problem gambling.

<sup>3</sup> <http://www.pc.gov.au/inquiries/completed/gambling-2009>



### The need for Government action

Despite these risks, the Review found that the protections afforded to consumers under state and territory laws are inconsistent. With over 60 separate pieces of legislation governing the industry, this fragmentation limits the efficacy of protections for consumers while increasing complexity and compliance costs for operators across jurisdictions. High compliance costs reduce the ability for onshore operators to compete with illegal offshore operators, further reducing outcomes for consumers.

Additionally, consumer protections and regulations for online wagering in Australia need to be brought up to date to reflect the rapid growth in the online wagering market and the increase in the number of active online wagering accounts in Australia, recognising that consumer protections for online wagering have unique requirements compared to those needed for other gambling platforms.

The rapid growth of online wagering, its increased availability and accessibility and its potentially harmful impacts signals the need for greater online wagering consumer protections.

### The Government Response to the Review of Illegal Offshore Wagering

In response to the Review findings, on 28 April 2016, the Commonwealth Government released its response (Government Response) to the Review<sup>4</sup>, and accepted in full or in-principle 18 of the 19 recommendations. Its response comprises of the following:

- strengthening the enforcement of the Act to ensure Australians are protected from illegal online wagering operators
- creating a strong National Consumer Protection Framework (National Framework) that is consistent and minimises harm for Australian online wagering punters
- investigating other disruption measures, such as internet service provider blocking, to curb illegal offshore gambling activity.

Implementation is well advanced across all three measures, and is at various stages of proceeding to completion.

The Government is also implementing announced restrictions on gambling advertising<sup>5</sup> being progressed by the Minister for Communications, Senator the Hon Mitch Fifield. Further, the Commonwealth and the states and territories are considering a common national approach to a point of consumption wagering tax for online gambling, being led by the Council on Federal Financial Relations.<sup>6</sup>

Legislating for these policy measures requires the full cooperation and support of states and territories. Currently, states and territories have primary responsibility for the regulation and taxation of all forms of gambling in Australia.

<sup>4</sup> <https://www.dss.gov.au/communities-and-vulnerable-people/programmes-services/gambling/government-response-to-the-2015-review-of-the-impact-of-illegal-offshore-wagering>

<sup>5</sup> <https://www.communications.gov.au/what-we-do/television/broadcast-and-content-reform-package>

<sup>6</sup> <http://sjm.ministers.treasury.gov.au/media-release/020-2017/>

However, while the Commonwealth has clear constitutional powers to legislate for the regulation and taxation of online wagering, these powers are also shared with states and territories. This can create significant complexities in pursuing legislative reform in this space if a collaborative approach is not taken.

### The National Consumer Protection Framework

Most relevantly, the Government has been working with Australian states and territories to establish the National Framework. This will be the largest package ever introduced into Australia by the Government to combat gambling harm, and include measures like a national self-exclusion register and a voluntary opt-out pre-commitment scheme. It will also ensure that a higher level of nationally consistent consumer protections are in place, and improve harm minimisation outcomes for Australian consumers, which will be regularly reviewed and updated over time.

On 27 April 2017, the Commonwealth secured state ministers' in-principle agreement to details for the National Framework, and a set of actions and timelines for implementing them<sup>7</sup>. This will be implemented through a combination of Commonwealth and state legislation or licencing arrangements. Consultation will continue with stakeholders to finalise the National Framework later this year with implementation to occur as soon as possible.

The Government noted the Review's finding that the introduction of a strong National Framework is required before considering any expansion of products in the online gambling market. Interactive gaming services, like online poker, may not expose consumers to a greater risk of harm as other prohibited services. However, in the absence of effective measures for consumer protection, any attempts to further liberalise the onshore online gambling market would be at considerable risk of undermining existing protections.

It is worth noting that putting in place robust protections as a pre-requisite to considering these matters, is consistent with the approach taken in overseas jurisdictions.

The Department released a Council of Australian Governments (COAG) Consultation Regulation Impact Statement (RIS) in May 2017 to seek feedback on reform options for consumer protections for online wagering in Australia. While the consultation period has closed, its contents may assist the Committee and can be found at:

<https://engage.dss.gov.au/illegal-offshore-wagering-consultation-regulation-impact-statement/>

Yours sincerely

Finn Pratt

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<sup>7</sup> <http://www.alantudge.com.au/Media/Articles/tabid/89/articleType/ArticleView/articleId/946/language/en-US/Gambling-Ministers-agree-to-Consumer-Protection-Framework-for-online-wagering.aspx>