

Labor Senators' additional comments

1.1 Labor Senators welcome this bill as it builds upon the leadership and intervention of the Gillard Labor Government which in 2013 took the step of demanding that Australia's broadcasters amend their broadcasting codes to ensure a reduction in the promotion and advertising of gambling during live sport. The bill also takes into account the response of the broadcast industry and the ACMA.

1.2 Labor Senators note that the bill was introduced almost a year after Labor moved a motion in Parliament calling for stronger restrictions on gambling promotions during coverage of live sports.

1.3 Labor formally called for greater safeguards in February and March 2017 in the context of debate on the Interactive Gambling Amendment Bill 2016. Labor Senators also provided Additional Comments to the Senate Committee Report on the Interactive Gambling Amendment (Sports Betting Reform) Bill 2015 stating that:

Labor's approach on the issue of gambling advertising demonstrates an understanding of, and confidence in, the co-regulatory system of broadcast regulation, as enshrined in the *Broadcasting Services Act 1992*. Labor believes that industry should be afforded the time and flexibility needed to alter business practices and contractual arrangements to address community concerns.¹

1.4 The Labor-lite announcement the Government eventually made is a step in the right direction, however it remains to be seen whether it goes far enough to address community concerns as it continues to permit gambling ads during live sport coverage on broadcast and online platforms in ways which are yet to be confirmed.

1.5 Labor Senators note that, while the Turnbull Government made its policy announcement back in May 2017, the legislation was not available publicly until the bill was introduced in the final sitting week in December 2017 and, at time of writing in February 2018, a raft of question marks still hang over this bill, a number of which were canvassed during the Inquiry process.

1.6 Labor Senators note that the bill has created all kinds of uncertainty for industry and consumers, with exemptions to the online content service provider rules to be considered by the ACMA once the legislation has passed the Parliament.

1.7 Labor Senators appreciate that the bill seeks to introduce a platform-neutral approach to the restriction of gambling promotions during live sports coverage across broadcast, subscription and online platforms to achieve a level playing field and consistency in consumer protection.

1 Senate Environment and Communications Legislation Committee, *Interactive Gambling Amendment (Sports Betting Reform) Bill 2015*, pp. 37–38.

1.8 Labor Senators further note that the consistency in application of the restrictions will be guided by the regulatory policy of the *Broadcasting Services Act 1992* which this bill extends to online content services. This provides that the Parliament intends that different levels of regulatory control apply across the range of services, including broadcasting and online content services, according to the degree of influence that different types of those services are able to exert in shaping community views in Australia. Further, it provides that services be regulated in a manner than enables public interest considerations to be addressed in a way that does not impose unnecessary financial or administrative burden on providers of broadcast and online content services, among other things.

1.9 Labor Senators note the concerns of the Digital Industry Group about inconsistent regulation and will be interested to see how the ACMA balances evidentiary and policy considerations as it considers specific and class exemptions, as permitted under the bill.

1.10 Labor Senators have sympathy with SBS's concerns that the bill proposes to regulate SBS programming contrary to SBS's independence. As SBS submitted to the Inquiry into this bill:

SBS is committed to implementing appropriate restrictions in accordance with [government] policy. However the implementation mechanism set out in the Bill is inappropriate for application to a public broadcaster such as SBS. This is because it would disturb SBS's editorial independence from Government, and is inconsistent with provisions of the SBS Act which safeguard this independence. SBS should not be captured by the regulatory regime set out in the Bill. Instead, implementation of new restrictions should be achieved by establishing one set of rules in the SBS Codes of Practice (SBS Codes) that cover both broadcast and digital platforms.²

1.11 Labor Senators note that, over a year after Labor's call for stronger protections, a host of issues are yet to be understood, worked through and ironed out, in this bill.

1.12 We note that meanwhile, a range of people—parents and gambling experts included—continue to worry about children's level of exposure to gambling ads, especially during live sporting events. Gambling promotions continue to intrude upon our nation's love of sport and cause significant public concern.

1.13 Addressing this issue has not been enough of a priority of the Turnbull Government.

Senator Anne Urquhart
Senator for Tasmania

Senator Anthony Chisholm
Senator for Queensland

2 SBS, *Submission 9*, p. 1.