

Senate Standing Committee on Environment and Communications

Answers to Senate Estimates Questions on Notice

Additional Estimates Hearings February 2015

Communications Portfolio

Australian Communications and Media Authority

Question No: 27

Program No. Australian Communications and Media Authority

Hansard Ref: Page 49, 25/02/2015

Topic: Advertising of interactive gambling services

Senator Xenophon asked:

Senator XENOPHON: In the budget estimates I also asked about the enforcement action available to ACMA if advertising breaches occur in relation to the advertising of interactive gambling services on television and radio. Some of them advertise a site that is actually linked to an online gambling site that is prohibited. I was advised that the enforcement action available to ACMA as set out in part 10 of the Broadcasting Services Act can include remedial directions, suspension or cancellation of a licence. Has there been any action in respect of that where some ads, clearly, are either in breach or are encouraging a breach in the context of advertising online gambling sites?

Ms McNeill: I am a little confused by the premise of your question, which might reflect some confusion in some information that we have previously given you. Are you only just talking about broadcasting advertisements?

Senator XENOPHON: I am talking about ads on television and radio.

Ms McNeill: On television and radio. Okay, broadcast advertisements, not advertising on the internet.

Senator XENOPHON: No, broadcast. It is an ad on TV usually late at night or at two in the morning. Those ads, which refer to gambling sites, refer to a free site, but when you click onto that it actually sends you to a paid site, which is in breach of the act. That is the sort of thing I am referring to. Do you want to take that on notice?

Ms McNeill: I will take that on notice. It sounds rather like an investigation that we did some years ago.

Senator XENOPHON: If you could let us know what happened in relation to that. Have there been any prosecutions or fines that ACMA is aware of in relation to contraventions of the Interactive Gambling Act 2001?

Ms McNeill: I am aware that there are investigations underway.

Senator XENOPHON: Any prosecutions?

Ms McNeill: Investigations involving the police.

Senator XENOPHON: I will put some questions on notice. Finally, in respect of that, once the matter is referred to the AFP for investigation, does ACMA request or receive updates on the matter from the AFP?

Ms McNeill: The answer to that question is yes.

Senator XENOPHON: How often do you get responses? Can you tell us how many responses you have had from the AFP over the last 12 months?

Ms McNeill: I will tell you that on notice, if you after a number.

Answer:

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1. In respect of advertising on television and radio, has there been any action in respect of where ads are either in breach or are encouraging a breach in the context of advertising online gambling sites?

The ACMA has only once taken action in respect of advertising on television or radio for online gambling sites concerning the broadcast of prohibited advertisements under the *Interactive Gambling Act 2001*. The ACMA investigations were in 2010 and involved the broadcasts of advertisements of PokerStars.net. The ACMA has not received any further complaints related to the broadcast of television or radio advertisements for interactive gambling services.

Background to the investigations

In March 2010, the then Department of Broadband, Communications and the Digital Economy referred two matters to the ACMA for investigation. The ACMA investigated:

- the Nine Network and its licensees for broadcasting an advertisement for PokerStars.net
- Network Ten and its licensees for broadcasting an advertisement for PokerStars.net
- Network Ten for the broadcast of the program *The Poker Star* on the digital multi-channel One-HD.

In October 2010, the ACMA concluded that the Nine Network licensees and Network Ten licensees had broadcast interactive gambling service advertisements in contravention of section 61DA of the *Interactive Gambling Act 2001* and, as a consequence, had breached the condition of their commercial television licences set out at section 61FD(1) of the *Interactive Gambling Act 2001*. Both networks agreed to measures intended to increase awareness of the IGA, including staff training and education. The networks provided reports of this training to the ACMA in April, July and November 2011.

2. Have there been any prosecutions or fines that ACMA is aware of in relation to contraventions of the *Interactive Gambling Act 2001*?

The ACMA is not aware of any prosecutions or fines issued by the AFP for contraventions of the *Interactive Gambling Act 2001*.

3. Finally, in respect of that, once the matter is referred to the AFP for investigation, does ACMA request or receive updates on the matter from the AFP? How often do you get responses? Can you tell us how many responses you have had from the AFP over the last 12 months?

The ACMA receives advice and regular updates from the AFP about matters referred or notified by the ACMA to the AFP under the *Interactive Gambling Act 2001*. Where necessary, it also engages in meetings, supplies additional information and offers technical assistance, once a matter has been referred to the AFP. The ACMA also participates in tripartite discussions with the AFP and the Department of Communications on IGA matters, with the most recent occurring on 8 December 2014.

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In the last 12 months, 11 matters have been referred or notified to the AFP. The ACMA has received responses to all seven notifications of Australian-hosted content sent by the ACMA to the AFP between 1 March 2014 – 28 February 2015. Over the same period, the ACMA has received three responses and is awaiting a response to its most recent referral sent in February 2015 for the four matters referred to the AFP for overseas-hosted content.