
Interactive Gambling (Moratorium) Bill 2000
Report of the Senate Environment, Communications, Information Technology
and the Arts Legislation Committee

Australian Democrats
Dissenting Report

Senator Stott Despoja

- 1.1 The Australian Democrats do not support the recommendation of this Report of the Senate Environment, Communications, Information Technology and the Arts Legislation Committee to proceed with a retrospective 12 month moratorium on Australian interactive gambling licences and services as proposed in the Interactive Gambling (Moratorium) Bill 2000.
- 1.2 The Australian Democrats maintain the issues of technical feasibility of banning interactive gambling and the effective protection of Australians from problem gambling should be the primary considerations and criteria for assessing the appropriateness of the proposed moratorium.
2. *Banning Interactive Gambling*
- 2.1 The Explanatory Memorandum indicates that the main objective of the Bill is to limit the expansion of interactive gambling in Australia over the next 12 months. This will assist in minimising the level of problem gambling on the Internet, thereby providing the Government with some breathing space to consider in more detail the feasibility and consequences of banning Internet gambling.
- 2.2 The Majority report postulates that, as Australian gamblers will have access to a local interactive industry fixed for 12 months at 19 May 2000, levels of uptake of interactive gambling services and therefore problem gambling generated by interactive gambling could plateau simultaneously.¹
- 2.3 It is unsound to assume a direct relationship between the number of online gambling sites and the level of activity or number of users on these sites. It could be argued that the media coverage surrounding the uncertain retrospective moratorium and the general increasing usage of the Internet by Australians has led to a greater awareness of interactive gaming services and ability to access domestic and overseas sites.
- 2.4 Therefore, assuming that there is a relationship in turn between interactive gambling and problem gambling, the risk of problem gambling could increase from May 19 2000 to May 19 2001 independent of the proposed moratorium.

¹ Chair's Report at 1.12

3. *International developments*

- 3.1 The Chair's report recognises that the expansion of the offshore industry in 'reputable jurisdictions' will be limited over the next 12 months.² Such limitations will significantly reduce the level of choice for online gamblers and will reduce the standard of gambling service and protection available to Australian online gamblers.

The Australian Democrats conclude that a moratorium to investigate the feasibility of a ban on interactive gambling services will not necessarily stem or decrease problem gambling in Australia.

4. *State Cooperation*

- 4.1 It has been suggested and noted in the Chair's Report that States and Territories are differing in their approach to addressing problem gambling. This assertion is in contradiction to evidence that approximately 95% of State and Territory licensing requirements for online gambling services is corresponding.
- 4.2 The Explanatory Memorandum of the Bill suggests that there is currently a significant disparity between the State and Territory responses to problem gambling on the Internet. The Explanatory Memorandum cites the differing responses of jurisdictions to the May 19 announcement as evidence of this, contrasting jurisdictions which supported the proposal with those which continued to issue new interactive gambling licences.³
- 4.3 The Australian Democrats recognise that there has been different *responses* by the States and Territories to the Government's non-consultative announcement of a twelve month retrospective moratorium on interactive licences and services at the May meeting of the Ministerial Council for Corporations.
- 4.4 The Australian Democrats also recognise that the States and Territories were acting in response to a regulatory issue of the interactive gambling industry not 'problem gambling on the Internet' as stated at 1.18 of the Chair's report.
- 4.5 The Australian Democrats express concern regarding the lack of definition between interactive gambling and problem online gambling and the interchangeable use of these two terms in turn in the Explanatory Memorandum of the Bill and the Chair's Report. It must be acknowledged that not all online gambling is problematic or pathological gambling.

² Chairs Report at 1.13

³ Explanatory Memorandum, Interactive Gambling (Moratorium) Bill 2000 at page 5.

5. *Harm Minimisation*

5.1 The Australian Democrats support the assertion of the Chair's report that "Internet technology allows for the implementation of (harm minimisation)...regulatory measures and that governments should make them a part of licensing arrangements".⁴

5.2 The Australian Democrats maintain and strongly endorse the recognition in the Chair's report of the strength of Internet technologies to provide new and greater means of player protection,⁵ and the evidence Mr Coroneos of the Internet Industry Association, submitted to the Committee highlighting:
 ...the strengths of the Internet. Do not look at the issue as simply access to poker machines 24 hours a day; look at the extent to which the medium itself can provide {harm minimisation policies}. Structure in your licence requirements to stipulate who may access your service and upon what conditions and deal with it that way. We think that way you address the social policy concerns, which we also share, but you do not do it in a way that has these unintended and adverse impacts on the rest of the Internet industry.⁶

6. *Intellectual property*

6.1 Software requirements for the Australian online gambling industry place it at the forefront of online research and development in areas including:

- Artificial intelligence
- Security
- 3-D modelling and financial transaction processing.⁷

6.2 The Australian Democrats recognise the world standard expertise and potential intellectual property products stemming from such valuable research and development.

6.3 A moratorium and/or ban of interactive gambling services in Australia would at the very least hinder and may prevent business support of this highly profitable technology and Australia's capacity to develop and maintain intellectual property in this area.

7. *State competitiveness*

7.1 It has been suggested that the competitive relationship between the States and Territories regarding gambling revenue tax bases would undermine a national cooperative regulatory framework.

7.2 The State and Territory competition for market share can instead be harnessed as a tool to promote a stringent world's best practice regulatory system. States and Territories are in competition for domestic online gamblers and similarly for patronage from overseas markets. The potential revenue from overseas markets is greater and provides greater potential for cooperative industry growth based on strong regulatory practice than differentiation between States and Territories at a domestic level.

⁴ Chairs Report at 1.22

⁵ Chairs Report at 1.22

⁶ *Official Committee Hansard*, Canberra 25 August 2000 at page 26.

⁷ Australian Casino Association, Submission to the National Office of the Information Economy Interactive Gambling Moratorium Bill - Study, August 2000.

- 7.3 It is recognised that a national certification is a greater market advantage than individual standards from Australian States and Territories. Overseas markets will more readily identify with one benchmark Australian standard rather than differing competing State and Territory standards.
- 7.4 The Australian Democrats maintain that the market advantage of a highly rigorous national standard for all Australian online gambling service providers is a highly attractive incentive for States and Territories to pursue a national cooperative stringent regulatory system. The potential of such a market share is greater than that provided by lowest common denominator practice.
- 7.5 If Australian States and Territories were to ignore consumer demand for secure player protected services and to pursue the lowest common denominator online gambling licensing and service provision, or even continue current standards of practice, overseas jurisdictions will always be able to provide a less regulated option.
- 7.6 The Provision of a high nationally consistent regulatory starting point in conjunction with a national education campaign on the standards and harm minimisation strategies (consistent with the harm minimisation recommendations of the Senate Select Committee on Information Technologies in *NetBets*⁸) creates a competitive pressure for domestic online gambling services. Service providers will be compelled to provide domestic and international online gamblers with a service that not only meets the worlds best practice Australian Standard, but exceeds that provided by other States and Territories and services providers within these jurisdictions.

The Australian Democrats recommend promotion of a cooperative regulatory framework between the States and Territories which stipulates a high regulatory starting in conjunction with a national education campaign.

8. *The real issue: problem gambling*
- 8.1 The Australian Democrats recognise the wide community concern and hurt that problem gambling creates.
- 8.2 Problem gambling is a wide reaching issue which is further reaching than the issue of Internet gambling. The Australian Democrats recognise that an Australian Research Council funded national survey of gambling related problems in Australia estimated a 1.3% prevalence of ‘probably pathological gambling’ domestically, which translates to 15.6% of regular once a week or more video gaming machine players and 17% of regular betting players.⁹
- 8.3 Demographic risk factors of problem gambling include:
- Male
 - Under 30 years of age

⁸ Senate Select Committee on Information Technologies, *Netbets: A review of Online gambling in Australia*, March 2000 Chapter 3.
Dickerson Mark, Problem Gambling in Australia, Australian Institutes for Gambling Research, University of Western Sydney, <http://137.154.93.11/aigr/abstract3.htm>

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- Predominantly TAB, on-course betting and video gaming machine useage.¹⁰
- 8.4 It is currently estimated that 2 300 Australians currently utilise the Internet to gamble,¹¹ despite 2.3 million Australian households having access to the Internet in May 2000.¹²
- 8.5 The Australian Democrats, therefore, do not support the Chair's Report claim that a moratorium on Australian online licence and services will provide an opportunity to carry out timely analysis and consideration of problem gambling.¹³
- 8.6 Problem gambling is a highly complex and multifaceted social phenomenon which cannot begin to be addressed by an interim moratorium on interactive gambling.
- 8.7 The Australian Democrats strongly support the use of gambling revenue to research and address the issue of problem gambling in Australia and independent projective research of the impact to which Internet gambling may have on the phenomenon.

The Australian Democrats maintain that a multifaceted harm minimisation regulatory strategy is the most effective strategy against problem gambling in Australia.

¹⁰

Ibid.

¹¹

WWWagering & Gaming Consultants, Submission 3, p.3.

¹²

Australian Bureau of Statistics, Use of the Internet by Householders, 25 August 2000 at page3.

¹³

Chairs report at 1.24.

Recommendations

The Australian Democrats therefore maintain:

- **support for a multi-faceted harm minimisation report as recommended in *Netbets*.¹⁴**
- **that a ban on interactive gambling services will not necessarily protect Australians from problem gambling.**

The Australian Democrats recommend:

- **A three month non-retrospective moratorium on the issuing of Australian interactive gambling licences for the express purpose of facilitating the States and Territories in establishing a national regulatory system stipulating a strong world's best practice minimum standard for all Australian licensed online gambling services.**
- **The licensing standards of the national regulatory system be effective from the end of the three month period.**
- **The national regulatory system will apply to operations where:**
 - **all services provided in the course of carrying on a business in Australia;**
 - **the central management and control of the service is in Australia;**
 - **or the service is provided thorough an agent in Australia (in keeping with definitions under Interactive Gambling (Moratorium) Bill 2000).**
- **The moratorium applied to both wagering and gaming services.**

The Australian Democrats recognise the distinctions between wagering and gaming, however, support a moratorium to both services to allow establishment of a national regulatory standard which can be interchangeably applied and recognised by domestic and international Internet gamblers.
- **The moratorium apply to issuing of all new interactive gambling licences from the commencement of the moratorium and existing licences upon renewal.**

The Australian Democrats recognise that a moratorium on all new licences and services in Australia will not stem the ability of Australians to gamble online and approach the issue of interactive gambling from a position of effective address for problem gambling.

The Democrats, therefore, consider a halt to Internet gaming licences necessary to establish a standard cooperative national regulatory regime.

All Australian interactive gambling services will not be curtailed under the Governments Interactive Gambling (Moratorium) Bill 2000 and will provide an artificial market advantage to established Australian Internet gambling operators for the period of the moratorium and post-moratorium.

¹⁴

Senate Select Committee on Information Technologies, *op.cit.*

Australian operators which currently hold a licence and are under operation, or have been granted a State or Territory licence will be able to continue operation through the Democrats proposed licence moratorium. However, this will not provide a 'free for all' for Internet gaming services.

The cost of adhering to the established national standard for operation in domestic and international jurisdictions will provide a significant incentive for operators to establish operations in the interim in line with world's best practice and harm minimisation processes as recommended in *NetBets*.

The Australian Democrats have been advised that many currently licensed Australian interactive gambling operators are willing to adopt the National Standards before the requirement to upon licence reapplication. Even without this cooperation and recognition of the competitive advantage the standards will provide, all Australian online gaming services would be operating under the Australian standard within a twelve-month time period with licence renewal processes.

- **The National Regulatory Standards be developed and implemented with harm minimisation and player protection measures as the primary focus.**
- **A public education campaign be a core component of the National Regulatory System for Interactive Gambling highlighting the requirements for online gambling operators in Australian and harm minimisation.**

The Australian Democrats recommend that an appropriate percentage of revenue from Interactive Gambling be allocated to a centralised fund for the establishment and maintenance of the public education arm of the system.

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