

CHAPTER 2

THE NEED FOR A BAN ON INTERNET GAMBLING

Introduction

2.1 The problems associated with gambling are hardly new, and the debate over how to best deal with them has doubtless been argued out many times in Australia and elsewhere. This chapter considers how Australia should respond to the potential of the internet to greatly increase the scale of gambling in Australia and the associated damage caused by problem gamblers.

2.2 Fundamentally, there are always two basic choices: ban or regulate. The bill before the Senate chooses the former. This chapter looks at the arguments both for and against a ban on internet gambling, and then considers the alternatives available for adopting a regulatory approach. However, in doing so, the Committee notes that these issues have already been discussed in considerable detail in the reports and studies referred to in chapter 1. The Committee does not intend to revisit this detailed debate, so what follows is therefore intended to be a brief summary of its main aspects.

Arguments supporting a ban

2.3 The reasons for banning or limiting access to gambling on the internet are well stated by the Minister in the Second Reading Speech and in the Explanatory Memorandum to the bill. There are three key reasons why the internet poses such a significant threat.

2.4 First, as is well recognised, Australian's are among the world's heaviest gamblers, with Australians spending on average twice as much on gambling as people in North America and Europe. The associated problem gambling is significant, with the Productivity Commission finding that 2.1 per cent of the adult population, or 290,000 people, suffer from problem gambling. In practical terms, that amounts to an enormous social cost for both those who are addicted; their families, and society as a whole.¹

2.5 Second, there is a clear link between the extent of opportunities to gamble and the rate of gambling: experience has shown that the more opportunities people have to gamble, the more they do so. The principal example of this is the explosion in the availability and use of the Electronic Gaming Machines (EGMs) or 'pokies', which have been associated with much of the existing problem gambling in Australia. In contrast, it has been noted that Western Australia, which has always significantly limited the spread of EGMs has also been found to have the lowest incidence of problem gambling.²

2.6 The third is the rapid rise in the availability of the internet. The Explanatory Memorandum points to the fact that 35 percent of Australian households are expected to have access to the internet by November 2000.³ When it is considered that each household that

1 Explanatory Memorandum, pp 2-3.

2 Western Australia government, Submission 17, p 1.

3 Explanatory Memorandum, p 3.

has access to the internet, also has access to virtual casinos and poker machines, it becomes apparent that the internet provides, as the Minister notes, a ‘quantum leap in the accessibility to gambling’.⁴

2.7 Putting the three together suggests that the combination of rapidly expanding access to the internet; the addictive qualities of multi-media gaming sites, and Australians’ passion for gambling, combine to form a potentially explosive mix for problem gambling in Australia. As commentators have warned, it is likely the result will be a casino in every lounge room.

2.8 Both the Minister and submissions to the inquiry have also warned of the particular need to protect young people from becoming addicted to internet gambling. The Second Reading speech notes the likelihood that younger people, brought up with the internet and e-commerce, will be more likely than their parents generation to adopt internet gambling. Similarly, the Festival of Light submission quotes Adelaide gambling counsellor Mr Vin Glenn:

You can keep (children) out of the casino or the gaming room but you cannot keep them out of their front room. There’s no safeguard, and (there’s) a real potential to spend money they do not have.⁵

2.9 The Baptist Community Services of South Australia second this view and quote the social commentator Hugh Mackay:

Quite apart from the out-and-out technophobes, many of those who are embracing new technology with unrestrained vigour are quite unsure about the social impact and the true benefits, of what they are doing. And they are particularly nervous about the long-term effects of some of the technology now flooding into their children’s lives.⁶

2.10 Australian community concerns reflect these dangers, with research indicating considerable support for an outright ban on internet gambling rather than attempts to moderate its effects through regulation. The Minister points to a Department of Family and Community Services survey that found that more than two-thirds of those surveyed support a ban on internet gambling.⁷

2.11 Proponents of the ban also addressed the question of whether to adopt a regulatory approach in preference to a ban. In choosing the latter, several submissions pointed to the history of the introduction of poker machines, and the promises of strict controls and harm minimisation that in practice has done little to lessen the impact of gambling. Mrs Phillips, representing the Festival of Light in South Australia, stated:

We warned our government about 10 years ago about the likely effect of introducing poker machines – as did others – but the parliament narrowly decided to go ahead and assured us there would be lots of safeguards and we did not need to

4 Second Reading Speech, p 1.

5 Festival of Light, Submission 13, pp 5, 7.

6 Baptist Community Services, Submission 32, p 2, quoting Hugh Mackay.

7 Second Reading Speech, p 2.

worry. Time has shown that our warnings were correct and the safeguards did not really protect the people at all.⁸

2.12 For all these reasons, it is argued that it is important to act now, before internet gambling has become a problem. As Mr Madden, of the Baptist Community Services, put it:

My concern is not so much about halting what is ... but about not flinging the door wide open to new and added opportunities.⁹

2.13 A similar view was put by Mrs Phillips:

If you believe it is possible to regulate, which means you ban certain practices, then why not ban all of it? I do not see why the distinction should be made. There are lots of other opportunities for people in Australia to gamble in a way that is not so addictive and harmful, so why can't they enjoy those, without people being allowed to have particularly addictive forms that do much more damage?¹⁰

Arguments against a ban

2.14 Submissions have raised various objections to the prohibition option. The first is one of general principle: that in a democratic country, adults should be permitted freedom of choice even if those choices result in some negative consequences to themselves. As Ms Rotermund argued:

it is disgusting that the government or anyone in it believes that they can say what we can do with our time if it doesn't impose on the rights of others.

... As adults, we must take responsibility for our own lives.¹¹

2.15 A second issue points to the fact that, since the vast bulk of Australian gamblers are not problem gamblers, the legislation would have the effect of penalising the freedom of many to address the small number of Australians who have problems with their gambling. According to Centreracing:

The proposed ban is said to protect 100 per cent of 'consumers' when the number of problem gamblers is cited as being 2.1 per cent. The bill will deny the 98 per cent of recreational gamblers the benefits of using Australian sites but will not prevent the 2 per cent of problem gamblers from accessing unregulated overseas internet gambling sites.¹²

2.16 It is accordingly argued that it would be more appropriate to adopt an approach that specifically targets the minority who have an identified problem.

8 Mrs Phillips, *Proof Committee Hansard*, Canberra 4 May 2001, p 33. See also Mr Madden, *Proof Committee Hansard*, Canberra 4 May 2001, p 31.

9 Mr Madden, *Proof Committee Hansard*, Canberra 4 May 2001, p 31.

10 Mrs Phillips, *Proof Committee Hansard*, Canberra 4 May 2001, p 34.

11 Ms Rotermund, Submission 4, p 1.

12 Centreracing, Submission 19, p 3. See also Submission 22, NT government, Submission 19, p 3; and Mr Baxter, Submission 18, p 1.

2.17 The third point is that the proposed prohibition will have a range of commercial costs including a negative effect on the up-take of technology by both Australian businesses and individuals, and loss of jobs. The Northern Territory government argue:

The targeted ban will freeze Australian wagering and lottery providers in using old technology. In the short-term, this will make them unable to compete; in the longer term, they will be unable to survive. ...

Closure of Australian wagering providers will see the loss of several hundred Northern Territory jobs in the area of e-commerce. The development of sustainable e-commerce in regional Australia is difficult but is more so when an activity that is permissible by fax or phone is not able to be conducted using the very communications technology that overcomes the problems of distance.¹³

2.18 This comment by the Northern Territory government introduces the general objection that the proposed prohibition runs counter to the introduction and widespread use of the most efficient technology available, which is an objective of Australian government policy. As Mr Baxter argues in his submission:

The very nature of internet wagering – that is keyboard entry as opposed to an operator voice service – allows service providers to service their customers at a reduced cost. This is surely in line with the Government and Productivity Commission's aim of reducing costs and improving productivity within Australia.¹⁴

2.19 Canbet detail some of the inherent advantages for both businesses and bettors of doing business on the internet:

- As a bookmaker Canbet is able to offer better odds over the internet since the cost of taking the bet on the internet is one tenth of taking it over the phone.
- The bettor can see on his/her screen the odds being offered on all the games and, by moving between bookmaker sites, can find the best odds on offer.
- Bettors can time their wager to get the best odds. Phone bets often involve a delay and maybe an unexpected change of the odds.
- Hearing or speech-impaired bettors may not be able to use the phone.¹⁵

2.20 It also seems likely that the legislation would result in the closure of some businesses. Both Canbet and International All Sports have indicated to the inquiry that they will transfer overseas if the bill, as drafted, becomes law.¹⁶

2.21 Fourth, prohibition as a regulatory approach carries with it several well known costs. Tattersalls point to the findings of the Productivity Commission report:

13 NT government, Submission 22, p 4. See also Tattersalls, Submission 21, p 6.

14 Mr Baxter, Submission 18, p 1.

15 Canbet, Submission 10, p 2.

16 International All Sports, Submission 23, p 4; Canbet, Submission 10, p 2.

It may have the negative impact of driving the activity underground, creating a criminal class out of people who are caught up in illicit consumption, creating large potential profits for illegal suppliers and a web of corruption;

If the activity were illegal, treatment would also be difficult. Information on problem gambling would also be poor, frustrating the development of appropriate care services;¹⁷

2.22 A fifth, and associated point is that by shutting down Australian internet gambling businesses, the bill will have the side-effect of removing the revenue stream to Australian governments, estimated at more than \$1 billion per year,¹⁸ which in turn deprives governments of funds to direct at problem gambling. This argument assumes particular significance if one were to accept the view that the bill will have little effect on problem gambling on the internet, since Australians will simply access overseas sites (this point is discussed in detail in Chapter 4).

2.23 Finally, it is argued that a prohibition on internet gambling takes regulation of problem gambling in the wrong direction, because it does not capitalise on the characteristics of the internet which enable harm minimisation measures to be more effective than is possible for physical gambling venues. As Mr Clark, representing the Northern Territory government, explained during hearings:

there is no gambling product in the world that has the kinds of harm minimisation features that AUS Model would provide. In fact, it is ironic that many of the features that COAG and the Ministerial Council on Gambling would like to see implemented in the physical world are inspired by or easily achievable on the internet technological platform. Even more ironic is that with many of those that we are currently looking at with a view to moving into the physical world we will struggle to replicate what is available on the internet. An excellent example of this is the capacity for a player to set bet limits. It is almost impossible, without a centralised system, for a player to self-impose a bet limit on a gaming machine by simply going to the next gaming machine and off we go again; whereas, with the internet we can put that limit Australia-wide.¹⁹

2.24 The basis for this regulatory advantage is that internet gambling, by reason of the identity checks and log-in procedures, cannot have the degree of anonymity of physical gambling venues. With internet gambling, there is always a significant record of the individual's gambling activity. This point was made by Mr Wilson of TAB Ltd:

Eighty per cent of our customers are anonymous through the pubs, clubs and agencies. If we are going to introduce harm minimisation systems, the only way you can do it is where you know your customer. The only way you know your customer is through their account. Therefore, your best methodology of harm minimisation is by knowing their name and address and being able to monitor their

17 Tattersalls, Submission 21, p 4. See also Mr G Wear, Submission 26, p 1.

18 Tattersalls, Submission 21, p 3.

19 Mr Clark, *Proof Committee Hansard*, Canberra 4 May 2001, p 48.

patterns, et cetera, and being able to promote directly to them harm minimisation strategies.²⁰

2.25 The implication of this argument is that the better approach would be to embrace the characteristics of the internet, and even encourage gambling on the internet in preference to other forms, as a way of addressing problem gambling.

Consideration of alternative strategies

2.26 As might be supposed by the above arguments, the principal alternative put forward by those opposed to a prohibition of internet gambling is the adoption of a thorough regulatory system that permits gambling over the internet but imposes a range of harm minimisation features.

2.27 Supporters of the regulatory approach point to the fact that both the Productivity Commission and the Senate Netbets reports recommended regulation in preference to prohibition. GoCorp has also told the inquiry that international practice has clearly moved towards regulation with more than 50 jurisdictions that have legislated to permit and regulate online gaming.²¹ Adoption of this approach also has the advantage that gambling sites on the internet are likely to be led by regulated best practice rather than unregulated 'lemons'.²²

2.28 Finally, as detailed above, there are various characteristics of the internet that are particularly suited to regulation, that can result in stronger safeguards than are possible for live venues and poker machines.²³

2.29 Such a strict regulatory approach may serve to not only protect players but can become a selling point for the Australian industry who can benefit from their reputation for being well run and professional. As International All Sports note:

The fact that the interactive wagering operations of IAS are subject to stringent rules and regulations within an environment of vigilant probity is a selling point to our clients. It is in the best interests of IAS to maintain its bookmaking and interactive activities under such a system of vigorous checks and balances. The rules we operate under in the Northern Territory are, in fact, our competitive edge.²⁴

2.30 The current focus for the regulatory approach is the Australian Uniform Standards for the Regulation of Interactive Gambling (known as the AUS Model), a draft of which was released on 5 April 2001.

2.31 According to the Australian Casino Association, this model will:

20 Mr Wilson, *Proof Committee Hansard*, Canberra 4 May 2001, p 21. A similar point is made by Mr Morgan, *Proof Committee Hansard*, Canberra 4 May 2001, p 5.

21 GoCorp, Submission 28, p 4.

22 IAS, Submission 23, p 8.

23 Tattersalls, Submission 21, p 3. See also ACT government, Submission 20, p 2; GoCorp, Submission 28, p 3.

24 IAS, Submission 23, p 5.

- set uniform standards for Australian operators;
- ensure that technical and other controls are in place to protect players;
- ensure the system integrity and game fairness of Australian online casino sites;
- promote harm minimisation and responsible gaming; and
- ensure the probity and integrity of industry participants.²⁵

2.32 Similarly, the Committee has received evidence from the wagering industry indicating progress in developing self-regulatory codes. According to Dr Sharman, of the Australian Registered Bookmakers' Advisory Council (ARBAC):

The code we are in the process of introducing has been in development for the last three months. The process of it was formally ratified at ARBAC's annual conference last December and it is being reviewed through our state bodies and through their bookmaking corporations. There are a couple which are outside the ambit of ARBAC and they have participated in this process.²⁶

2.33 Regulatory codes of practice, as are being developed and adopted by both the gaming and wagering industry, incorporate a range of harm minimisation and player protection measures. Lasseters Online provided a list of the types of measures that may be included:

- Players must be aged over 18 years and personal identification is required to authorise registration. Strict registration procedures are thereafter followed each time a player logs into the site.
- Credit gambling is prohibited. Players are unable to operate their account to a negative balance. Only approved funds and accumulated winnings can be used for wagers.
- Players are given the option to pre-set betting limits. Having set a limit, the players are unable to raise it themselves without providing Lasseters Online with seven days notice of their intention.
- Lasseters imposes an initial deposit limit of \$500 per month. The amount players can potentially lose is therefore controlled by this deposit limit.
- There is a minimum bet of one cent on many of the games.
- There is a full audit trail provided of all transactions through online account information.
- Players' winnings are issued by non-negotiable cheque and are posted to the registered gambling account holder's address. Credit card accounts are not used to receive automatic payment from winnings.

25 Australian Casino Association, Submission 12, p 2.

26 Mr Ryan, *Proof Committee Hansard*, Canberra 4 May 2001, p 14.

- Credit cards with unlimited lines of credit are not accepted such as American Express and Diners Club.
- A hotlink is provided to community counsellors, Amity House, who provides advice about gambling problems, information and assistance. Their site also includes a self-test questionnaire to assist players to identify if they are developing a problem. Amity House has also established Internet links to similar services in Canada, USA, Germany and Britain for the use of our international players.
- Through a self-exclusion button, players have the option to exclude themselves from playing for a 'cooling off period'. If they use this button three times they are considered to have a problem and are permanently excluded from registering again.
- Lasseters Online pioneered the use of real time credit card checks ensuring cards are not being used fraudulently for gaming purposes.²⁷

2.34 Tattersalls also gave examples of their player protection measures:

gamblers can set limits on the amount that they gamble, that credit gambling is prohibited, that players are given the option of selecting the duration of a session of play, that the option of having automatic breaks in play of at least five continuous minutes per hour must be available, that strict player verification controls apply, and that players can be excluded from gambling sites.²⁸

2.35 Dr Ashman commented on the content of the bookmakers' code:

We have a system of complaint resolution procedures in which we say that all participants will ensure that they support the code of practice in respect of handling of complaints and cooperate with the relevant authorities in the resolution process, maintain adequate procedures for receiving and responding to both oral and written complaints, respond promptly to all complaints and make every reasonable effort towards their resolution. With regard to harm minimisation we have the provision of customer identification systems to prevent access by minors, offering pre-committed loss limits to clients.²⁹

2.36 According to witnesses to the inquiry, these measures have reasonable success in preventing problem gambling. Since Lasseters Online went live several years ago, 300 players have exercised the option to permanently exclude themselves from the site.³⁰ Mr Farrell from the Federal Group, also points to the success of these types of harm minimisation measures:

I would suggest that in fact internet gambling, under the Australian regulated model, is a deterrent to problem gambling. In a properly regulated environment, problem gambling is controllable. Tasmania recently released a report which was the third study into the extent of problem gambling in Tasmania, from 1994 to the

27 Lasseters Online, Submission 5, p 5. See also GoCorp, Submission 28, pp 3-4.

28 Tattersalls, Submission 21, p 5.

29 Dr Ashman, *Proof Committee Hansard*, Canberra 4 May 2001, p 14.

30 Mrs Pafumi, *Proof Committee Hansard*, Canberra 4 May 2001, p 44.

year 2000. It demonstrated that the percentage of people who are considered to have problem gambling tendencies in Tasmania has not risen in six years. During the same six years, the extent of product that has been made available in that market has probably grown 400 or 500 per cent. We put that down to having a proper model in place for patron care policies and practices and responsible gaming practices.³¹

Smart cards and credit based approaches

2.37 The Committee also notes the submissions which argued for both a re-examination of credit based approaches and the adoption of smart card technology as part of the regulatory approach.

2.38 The Western Australian government and the Festival of Light submissions call for the inclusion of credit based controls to limit access to internet gaming:

... the Commonwealth should further explore avenues to restrict the flow of funds from Australian consumers to interactive gaming services. A key aspect would be the implementation of legislation making it difficult for the banking sector to recover credit card gambling debt. The issue of repudiation by customers of gambling debts would make granting of merchant status to interactive gaming service providers by the banking sector a high-risk undertaking. Without an effective funds transfer system in place international gambling service providers would soon cease to operate in Australia.³²

2.39 Although there are apparent advantages to this approach, the Committee notes that regulation of credit providers was considered in detail by NOIE and discounted on various practical grounds.³³

2.40 The closely linked Fujitsu and Regis Controls submissions³⁴ also drew the Committee's attention to the availability of smart card technology that may be utilised for the purposes of regulating access to internet gaming sites.

2.41 While the Committee appreciates the potential of these systems, a proper analysis of the technical merits of the proposal is beyond the scope of this inquiry, which is limited to an examination of the provisions of the bill referred.

Conclusions and recommendations

2.42 The Committee has carefully considered both sides of this complex debate. Both sides have provided valuable perspectives and there is no perfect solution. As Skycity remark:

31 Mr Farrell, *Proof Committee Hansard*, Canberra 4 May 2001, p 38.

32 Western Australian government, Submission 9, p 2; Festival of Light, Submission 9, p 6.

33 NOIE, *Report of the investigation into the feasibility and consequences of banning interactive gambling*, p 34.

34 Regis Controls, Submission 15 and Fujitsu, Submission 27.

The emergence of e-commerce has created a range of extremely complex and difficult policy issues and has introduced entirely new paradigms to traditional policy frameworks and solutions.³⁵

2.43 The Committee recognises that there are disadvantages to adopting a prohibition approach. At the same time, the social costs associated with problem gambling, and the extent of community concern require the Government to take some active measures to prevent the internet delivering the same addictive gambling services as poker machines.

2.44 On balance, the Committee believes that prevention is the best form of cure. The prohibition proposed by the ban will send a clear message to Australians about the dangers of gambling on the internet. Ultimately therefore, the legislation seeks to learn from the lessons of the past and pre-empt an emerging problem with internet gambling, and so avoid a situation in which gambling on the internet becomes as much as, if not more of, a problem than poker machines.

Recommendation 2.1

The Committee recommends that the Senate adopt the prohibition approach to internet regulation proposed by the Interactive Gambling Bill 2001.

35 Sky City, Submission 9, p 5.