

SUBMISSION

to the

SENATE STANDING COMMITTEE ON ENVIRONMENT, COMMUNICATIONS,
INFORMATION TECHNOLOGY AND THE ARTS LEGISLATION COMMITTEE

INQUIRY

into the

INTERACTIVE GAMBLING BILL 2001

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Introduction

The Senate has referred the Interactive Gambling Bill 2001 to the Standing Committee on Environment, Communications, Information Technology and the Arts.

This bill would regulate interactive gambling services by:

- (a) prohibiting Australian-based interactive gambling services from being provided to customers in Australia; and
- (b) establishing a complaints-based system to deal with Internet gambling services where the relevant content (prohibited Internet gambling content) is available for access by customers in Australia.

A person may complain to the Australian Broadcasting Authority (ABA) about prohibited Internet gambling content.

If prohibited Internet gambling content is hosted in Australia and the ABA considers that the complaint should be referred to an Australian police force, the ABA must refer the complaint to a member of an Australian police force. If prohibited Internet gambling content is hosted outside Australia, the ABA can refer the matter to the police, or to Internet service providers (ISPs) so the ISPs can deal with the content according to procedures specified in an industry code or standard (eg in the provision of regularly updated Internet filtering software to subscribers).

ISPs representative bodies may develop an industry code: if that code does not exist or is deficient, the ABA has a reserve power to impose an industry standard.

Legislation welcomed

Festival of Light (SA), a community group promoting family values, welcomes the introduction of this legislation. Our organisation was involved in the South Australian debate over the introduction of poker machines in the early 1990s. In 1991 we argued strongly that poker machines were so highly addictive that they should remain prohibited, lest the degree of problem gambling increase markedly, with a strongly negative impact on marriages and families.

Our argument, and similar arguments by other groups, were heard, but (narrowly) rejected by the SA Parliament. The pokie proponents argued that very strict controls would be put in place, and that fears of a negative impact were groundless.

Yet ten years later in 2001, our fears have been realised in full. Since the introduction of poker machines to in July 1994, South Australia has experienced an enormous increase in problem gamblers and related social ills. The Productivity Commission found that South Australia now has a higher ratio of gamblers with “severe problems” than any other State.¹ In contrast, Professor Jan McMillan, executive director of the Australian Institute for Gambling Research, said that Western Australia has comparatively fewer problem gamblers because of its ban on electronic gaming machines.² SA Premier John Olsen said last year that, in hindsight, it would have been better for the State if poker machines had never been introduced. However he says it is too late to turn back the clock, and is trying to bring in a cap on the number of gaming machines.³

However the push to extend the availability of particularly harmful types of gambling continues. Thus it is gratifying to be able to write a submission in support of the legislation now before the Commonwealth Parliament which would prohibit online and other interactive gambling.

We have always recognised that controlling the Internet, a new medium, would be a formidable challenge. However it is a challenge that must be faced, because interactive gambling, being highly addictive and able to be practised in the privacy of the home for 24 hours a day, has the potential to cause very significant harm to Australian families and businesses. We believe that “where there’s a will, there’s a way”. Even though our present capability to remove harmful online content such as child pornography and illegal gaming may be imperfect, future research is likely to uncover new and better ways of doing it. The current shortcomings in this area are no excuse for governments failing to take any action at all.

It is the duty of government to do its best to protect its citizens from preventable harms, and we believe that the majority of Australians will support this legislation. There is broad community concern about gambling - research by the Productivity Commission found that while most Australians gamble, around 70 per cent of Australians, including a substantial majority of regular gamblers, consider that gambling does more harm than good to the community.⁴

A significant proportion of the submissions made to the Senate Select Committee on Information Technologies inquiry into Internet gambling expressed concern about the potential for interactive gambling to exacerbate problem gambling in Australia. Moreover, a telephone survey commissioned by the Commonwealth Department of Family and Community Services found that 67 per cent of respondents supported a ban on Internet gambling in Australia, while only 19 per cent were opposed - even 60 per cent of frequent gamblers supported a ban. Moreover, when those interviewed were asked, if a ban were in place, whether they would gamble on an illegal online site, only one per cent agreed. Some 20 per cent said they would report the site to the authorities.⁵ It is clear that the Interactive Gambling Bill 2001 would have wide community support.

This submission will refer mainly to Internet gambling, which is already present in Australia - but our comments should be taken to apply equally to other forms of high-tech interactive home gambling.

Australians are already the world's biggest gambling losers

Australians lose far more through gambling than any other nation - currently over \$11 billion per year, an increase of \$4 billion in just four years, and \$800 for every adult; twice as much per capita as our nearest rival, the US. The majority of this loss (\$6 billion) was caused by just one form of gambling - poker machines.⁶ A couple of decades ago, these machines were mainly confined to NSW clubs. Now they are readily accessible in both clubs and pubs in all States and Territories except Western Australia. The draft report on *Australia's Gambling Industries* by the Productivity Commission, released on 19/7/99, has provided objective evidence of these losses and subsequent harm to individuals, families and the community. The report showed that South Australia's percentage of problem gamblers is second only to NSW, where gaming machines have been available in pubs and clubs for longer than in any other State.⁷ In contrast, Western Australia, which does not allow gaming machines in pubs or clubs, has half the rate of problem gambling in SA.

Productivity Commission pulled its punches

In 1998, Festival of Light contributed to the inquiry of the Productivity Commission (PC), with both written and oral submissions. While we welcomed the PC report and its documentation of the serious nature of Australia's gambling problems, we believe the PC "pulled its punches". Many of its recommendations were helpful, but fall short of what is needed to redress the harm to society caused by pokies in particular, and the potential harm from the newest forms of gambling - interactive gambling via digital television and on the Internet. The PC thought banning internet gambling would be too hard - but if it is possible to "regulate" (ie ban certain practices - as recommended by the PC), then it must also be possible to ban the whole practice. Given the proven harm, we believe full prohibition is worth aiming for.

Factors in gambling addiction

The reason why poker machines, far more than lotteries, horse and sport betting and other forms of gambling, have had such a negative impact on the community is their highly addictive design features. Flinders Medical Centre psychologist Dr Malcolm Battersby said: "I call it (the poker machine) an addiction machine because it is derived from the basic psychology of intermittent reward. If you wanted to design a machine that gets people to put money into it, this is what you do. Then you put pretty colours on it and add music and bells."⁸

Advertiser journalist Penny DeBelle said that Australia's largest pokie manufacturer, Aristocrat, which controls the Adelaide market, has 40 people including psychologists working full time on game design.

Sweethearts 2, one of the newer machines, is smothered in cupids and pink hearts and is obviously pitched at women.⁹ Indeed, the advent of pokies in pubs in recent years has led to an explosion in women problem gamblers - formerly a preserve of men.¹⁰

With accessible poker machines already proven to act like an addictive, harmful drug on vulnerable sections of the community, online gambling has the potential to become an even greater problem. Online sites, designed on the basis of intermittent reward and repeated reinforcement, just like electronic gaming machines - but readily accessible in the home 24 hours a day - pose an even bigger threat to the community than hotel pokies. Adelaide gambling counsellor Vin Glenn, talking about interactive TV and Internet gambling at a 1998 seminar, said: "If you think pokies are bad news, you ain't seen nothin' yet!"

Gambling's net loss to the community

The Productivity Commission attempted to calculate the **net impact of gambling** in monetary terms by estimating the monetary benefit to the consumer (in terms of entertainment provided) compared with the money losses - directly, and indirectly to society through crime, marriage and mental health breakdown, job losses, suicide, etc. We believe the PC placed too much weight on the alleged "entertainment value" and ignored the large but hard-to-determine cost to society, not only through divorce and productivity loss, but also through such things as changing the prevailing mores to encourage the false belief that you can get something for nothing, or that it is OK to seek to get rich at others' expense. There are many alternative, less harmful entertainment options available to Australians. We argued that a fairer analysis of the cost-benefit of gaming machine and interactive gambling in particular would produce a net loss instead of the "possible gain" calculated by the PC.

US Congress heading for an online gambling ban

A US federal gambling inquiry - the National Gambling Impact Study Commission (NGISC) - has recommended that online gambling be prohibited. Washington DC correspondent for *The Australian*, Cameron Forbes, noted: "The US gambling industry and its enemies have declared themselves winners after a two-year, \$US5 million (\$A7.6 million) national impact study.

"...the James commission has found that gambling is good - and bad.

"... the commission's major concerns are what it calls convenience gambling in neighbourhood outlets, the proliferation of State-run lotteries that act as regressive taxes on the poor and gambling on the Internet.

"... In the executive summary of the report, members declare that they unanimously endorse total prohibition of gambling on the Internet..."¹¹

The NOIE Report of the investigation into the feasibility and consequences of banning interactive gambling noted:

"The NGISC found that over 5.4 million Americans were 'pathological gamblers,' with a further 15 million at risk of pathological gambling. The report directly linked gambling problems to increased accessibility, and expressed concern about the potential for highly accessible Internet gambling to create serious harm. For this reason, the report recommended that governments examine options for prohibiting interactive gambling.

"Senator John Kyl was the first Congressman to introduce legislation to ban interactive gambling. The Internet Gambling Prohibition Act of 1999 (S.692) seeks to prohibit various forms of interactive gambling. Senate consideration of this Bill has resulted in a number of amendments broadening the range of exemptions provided for in the draft legislation. The Senate is still considering this bill. Representative Bob Goodlatte introduced the Internet Gambling Prohibition Act of 1999 (HR.3125) as companion legislation to Senator Kyl's Bill. On 17 July 2000, the Bill failed to obtain the two-thirds majority required. A motion to reconsider the legislation at a later stage was passed. On 10 May 2000, Representative James Leach introduced the Internet Gambling Funding Act of 2000 (HR.4419; later called the Unlawful Internet Gambling Funding Prohibition Act of 2000). This Bill seeks to prevent the

use of certain bank instruments for Internet gambling. It was referred to the House Banking and Financial Services Committee and the House Committee on the Judiciary, and is awaiting further consideration by the House of Representatives.

“On 8 August 2000, Representative John Conyers introduced into the House the Comprehensive Internet Gambling Prohibition Act of 2000 (H.R.5020). This Bill is broader in its coverage of interactive gambling than either the Kyl or Goodlatte Bills. The Senate referred this Bill to the House Committee on Crime, which is yet to report.”

While the US Congress has yet to fully endorse the Kyl/Goodlatte or Conyers bills, it has made important moves in the right direction. Other nations including Britain, NZ and Canada have acknowledged the serious problems related to online gambling, and as the NOIE report notes, “There is broad international recognition that gambling is harmful and that problem gambling is a serious issue.”¹²

Australia’s federal parliament could lead the world on this important issue, by passing the Interactive Gambling Bill 2001.

Internet gambling likely to soar without curbs

The Internet is a network which connects groups of smaller computers used by millions of individuals and organisations around the world, making possible the exchange of information and ideas in a manner not possible via traditional electronic and print media. Internet gambling is a form of interactive gambling which enables gamblers to place bets directly from a computer terminal in their own home or office with Australian or overseas gambling sites, at any time of the day or night. Last year’s survey by the Commonwealth Department of Family and Community Services found that 51 per cent of Australians accessed the Internet last year.¹³ There is currently relatively low interest in Internet gambling, however - since there is widespread distrust about the security of making financial transactions over the Internet.¹⁴ However as such transactions become more reliable and frequent, interest in online gambling is likely to soar - unless legislation is passed to curb its spread.

The NOIE Report points out:

“The Australian Bureau of Statistics has found that by August 2000, 2.4 million households, or 34 per cent, had access to the Internet. This is projected to rise to over 45 per cent by August 2001. In the twelve months to August 2000, 48 per cent of adults in Australia, or 6.6 million adults, accessed the Internet. Just under a third accessed the Internet from home. This huge increase in connectivity and use raises concerns about Australians’ access to gambling services on the Internet.

“However, gambling on the Internet is not the only concern. Within the next year, new interactive broadcasting, datacasting, and telecommunications services such as wireless application protocol (WAP) services could provide new platforms for gambling. Australians are also increasingly comfortable with conducting electronic transactions online. In the twelve months to August 2000, 780 000 Australian adults purchased goods or services on the Internet.

“These two factors underlie Government and community concern about the potential for interactive gambling to exacerbate the negative social impacts of excessive gambling. Access to interactive services over various communications platforms potentially enables casino or bookmaker services to reach every Australian home. This gives users at least theoretical access to gambling 24 hours a day. The Productivity Commission has described this as a ‘quantum leap’ in accessibility, which could contribute to an associated growth in problem gambling.

“Of particular concern is the presence of gambling in the home. Households with children have been early adopters of new interactive technology such as the Internet. (The) Table ... illustrates the high level of uptake of the Internet in households with children:

	Nov 1998	Nov 1999
Couples with children	27%	39%
Single parent families	15%	19%
Couples with no children	15%	23%
Single person	9%	10%
Other	22%	25%

“While parents may take reasonable precautions to prevent their children from accessing gambling within the home, it is possible that parental gambling within the home may encourage children to learn and rehearse gambling activities and behaviours. An increase in gambling from the home could result in younger people taking up gambling and a corresponding increase in younger problem gamblers.

“New interactive technology gives developers the ability to include highly attractive, rich multimedia content in game and site development. Internet gambling sites already offer sophisticated graphics, music, virtual casino walk-throughs and live, streamed broadcasts of events such as horse racing. Improvements in bandwidth, accessibility and processor technology will give developers new opportunities to create new gambling products. As early adopters of digital technology, young people may be particularly attracted to using high-tech gambling products. This may create a new population of gamblers and, possibly, problem gamblers. Although technology offers new opportunities for verifying the identity and age of a gambler, the Government is concerned that savvy users—particularly younger, computer-literate users—may still find ways around these measures and access gambling from the home. The growth and impact of the EGM (electronic gaming machine) market in Australia is an example of how new gambling products can attract new gambling populations, and create new problem gambling.”¹⁵

‘Free’ online gambling

Two distinct types of gambling are available on the Internet - virtual online gambling and gambling on a separate physical event. Virtual online gambling includes software-generated games such as slot machines, blackjack, roulette and baccarat. The outcome is determined by a random number generator on the operator’s server. The games are played “on site”, using the gambling provider’s server, or by downloading software which communicates results to the host. Generally the software gives the gambler the option of playing “for fun” (not for real money) or playing “online” (for real money).¹⁶

While children are theoretically not permitted to play for real money - since they must usually provide a credit card number - the cyber casinos encourage in children the desire to gamble, and teach them how to do it. We submit that there is no justification for “cyber casinos” or online gambling in any form.

Recommendation 1: The Interactive Gambling Bill 2001 should be amended to ensure that so-called “free” online gambling (“fun games”) are not permitted.

Control of interactive gambling through banking institutions

The Interactive Gambling Bill 2001 does not include the control of interactive gambling through overseas sites by requiring banks and credit institutions to refuse to honour credit card transactions involving illegal gambling sites. We note from the NOIE Report that spokesmen for Australian banks have rejected such a proposal, saying that illegal sites would find ways around the ban, such as the use of cash or cheques.¹⁷ It has also been suggested that “entertainment” establishments could hide gambling payments under such descriptions as “entertainment”, “miscellaneous”, or even “food and accommodation”, thus evading any ban.

While it is natural that banks would not want the extra trouble of helping to police illegal gambling, we nevertheless believe that a ban on credit card payments to or from illegal online gambling sites would provide one of the most effective curbs on this activity. One of the reasons problem gambling linked with

gaming machines has risen so steeply in Australia is the provision of eftpos machines at gambling venues, facilitating the provision of credit. If credit card use were not an option, interactive gamblers would have to go to much more trouble to obtain cash and post it overseas, resulting in an automatic brake on their gambling and providing an opportunity for family members or outsiders to become aware of the problem before too much damage is done. A ban on the honouring of credit card transactions for this activity would also solve the problem of children misusing parental cards in order to gamble illegally.

Recommendation 2: The Interactive Gambling Bill 2001 should be amended to compel banks to require credit card transactions to clearly identify all gambling transactions, with regular random audits and large penalties for non-compliance. The bill should be further amended to require banks to dishonour all credit card transactions involving illegal interactive gambling.

Special problems with children and interactive gambling

One reason why we have always believed that interactive gambling should be prohibited rather than merely “regulated”, is the danger to children.

As stated earlier, all online gambling sites have “free games” available to those, including minors, who are not playing for money. These games could artificially boost the chances of winning and entice both adults and children into the gambling fantasy world - they are a form of gambling advertising.

Two speakers at a National Association for Gambling Studies conference held in Adelaide in November 1998 expressed concern that Australia’s gambling problems would worsen as the younger generation are exposed to high-tech gambling on the Internet.¹⁸

Adelaide gambling counsellor Mr Vin Glenn said: “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.”

UK researcher Dr Mark Griffiths, who has studied gambling for 11 years, said that advances in technology and the new forms of betting such as Internet and spread betting had made the problem worse. His studies showed that up to 90% of adolescents had, at some stage, gambled (mainly pokies, scratch tickets and lottery) and about 6% had a gambling problem.

“The children of today are the gamblers of tomorrow,” Dr Griffiths said. “Anywhere you can quickly chase your losses are the worst form of gambling for them - the most addictive form of gambling.”¹⁹

Why exemptions?

The evidence above is part of the reason why we welcome the Interactive Gambling Bill, which if passed would be a significant step in protecting Australian children from being enticed into becoming a generation of gambling addicts. However there are some worrying aspects of the bill.

We note that clause 10 of the bill would allow some interactive gambling services to be exempt from the provisions of the Act. This provision rings alarm bells. Why should any interactive gambling service be exempt? They are all likely to cause harm.

Recommendation 3: Clause 10 should be deleted.

Monitoring of illegal interactive gambling sites

We note that the bill relies on complaints from to the Australian Broadcasting Authority from members of the public. Although clause 21 allows the ABA to investigate matters on its own initiative, it is not clear to what extent the ABA would do its own Internet monitoring. We believe that independent monitoring by the ABA, rather than total reliance on policing by public complaint, is highly desirable.

Recommendation 4: Clause 21 should be amended to require the ABA to monitor illegal interactive gambling sites independently, in addition to using information supplied by members of the public via the complaints system.

More flexible complaint mechanisms

Since complaints from members of the public form a key component of the enforcement of this legislation, the mechanism for complaints should be as simple and straightforward as possible. A complaint form should be easily accessible from the ABA website. In addition, for the benefit of the significant percentage of Australians who find writing and filling in forms very difficult, there should be a well-advertised free ABA phone hotline with a recorded message prompting the provision of required information about the complaint.

Recommendation 5: The bill should be amended to require the ABA to include a complaint form on its website and make available a free phone hotline with a recorded message for placing voice-mail complaints.

Conclusion

We welcome the introduction of the Interactive Gambling Bill 2001, and make the following recommendations for amendments:

Recommendation 1: The Interactive Gambling Bill 2001 should be amended to ensure that so-called “free” online gambling (“fun games”) are not permitted.

Recommendation 2: The Interactive Gambling Bill 2001 should be amended to compel banks to require credit card transactions to clearly identify all gambling transactions, with regular random audits and large penalties for non-compliance. The bill should be further amended to require banks to dishonour all credit card transactions involving illegal interactive gambling.

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