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27 April 2001

The Secretary
Senate ECITA Legislation Committee
S1.57
Parliament House
CANBERRA ACT 2600

Dear Ms Griffiths,

INTERACTIVE GAMBLING BILL 2001

Thank you for inviting Centrebet to provide a submission to the Senate ECITA Legislative Committee on issues related to the Interactive Gambling Bill 2001 ("Bill").

We wish to make the following comments –

Summary

- The Bill is based on an illogical premise that increased accessibility leads to an increase in problem gamblers, and the internet increases accessibility. The integrity and justification for the legislation is dependent upon these, and accordingly **we argue that the Bill in its entirety is unnecessary. The existing regulatory regime, enhanced by the AUSMODEL changes, are more than adequate as a regulatory framework.**
- This is particularly so in relation to sports wagering, where the mere availability of a web site does not mean the site is "accessible" for gamblers, especially for a problem gambler. **We strongly advocate the removal of sports wagering from the Bill.**

Excluding Australians as players on Australian gambling sites is inconsistent and illogical. The penal sanctions in section 15 of the Bill to prevent persons resident in Australia from accessing Australian web sites are harsh. The definition of what constitutes "reasonable diligence" is not defined and subjective. **Section 15 is likely to encourage all internet gambling providers to relocate offshore,** with a resultant loss of employment and exports.

- Australian internet users are likely to switch to using offshore sites if the Bill is enacted. **Over 25 offshore sites, including Ladbrokes and William Hill, already offer betting on Australian sport.** Many more offshore sites will follow if Australian operators are not able to compete effectively online for Australian clients.
- Australia potentially bears an economic and social cost due to the Bill. Job losses and reduced economic activity, some of it in rural Australia, will follow from the decline of online operators. Australians face greater social problems if they gamble with offshore sites that have low probity or problem gambling standards.
- Australians who switch from the internet to land-based outlets in Australia potentially increase the incidence of alcoholism and problem gambling through increased accessibility to gaming machines in clubs and hotels, which defeats the intent of the legislation. **Continuing regulation of Australian internet providers by States and Territories reduces the potential for social harm, including problem gambling.**
- Treating telephone and internet bets differently is inconsistent with the principles of the Electronic Transactions Act 1999, which is based on functional equivalence and technology neutrality. **There is no logic in this aspect of the Bill. We advocate treating telephone and internet betting in the same manner by allowing bets in either mode from Australians and players located overseas.**

Problem Gambling

The Government justifies the need for this legislation on the premise that internet gambling will lead to an increase in problem gambling, through greater accessibility. This premise may apply to land-based outlets but does not apply to Australia's regulated internet gambling service providers ("IGSP"). **The Bill is not necessary in our view.** The existing regulatory regime addresses problem gambling issues adequately.

In cyberspace, each client's gambling pattern is recorded and accessible to customers, making their gambling habits visible. Recognising gambling patterns is the starting point for addressing problem gambling issues. Where round-the-clock gambling is possible, such as on internet casino gaming sites, further controls are

possible. Lasseters Online site provides an example of the controls that can and do exist to minimise social harm.

Sports Wagering

The premise that the internet increases accessibility and therefore problem gambling is wrong on the following counts in relation to sports wagering. Accessibility to betting opportunities, as distinct from the internet, is restricted in the following ways:

- The lag between the time a bet is placed and resulted, which is in almost all cases the length of time an event takes to complete. This is a minimum of 90 minutes and can be up to eight months. Problem gamblers seek more immediate rewards for their gamble.
- The irregularity of betting opportunities. On a typical day there are long gaps between the completion of sporting events, sometimes running to many hours. Problem gamblers are more likely to choose gambling options that are continuously available.
- The need for skill to select winners in particular sports. A knowledge of a sport and an ability to pick the winners confine sports betting to sports fans wishing to place a bet. Problem gamblers are more likely to choose betting options based on luck rather than skill.

Accordingly, problem gamblers avoid sports wagering.

There is virtually no evidence of problem gambling increasing from internet use in Centrebet's experience - indeed in Centrebet's experience there has been only very slight evidence of the possibility of problem gambling in almost five years of internet sports betting operations. Centrebet has been operating on the internet longer than any other Australian gambling operator.

If you accept the argument that sports betting does not create problem gambling, as we contend, there is absolutely no justification to include sports wagering within the Bill.

Identifying Australian-based players

The Explanatory Memorandum intimates Australian IGSPs' should track the location of customers placing an internet bet to ensure they are not physically located in Australia if s.15(3) of the Bill is to be relied upon to avoid a prosecution. Section 15 of the Bill provides for penal sanctions if a breach is proven and a fine of up to \$1.1 million for each day the contravention continues.

There are three serious deficiencies in this area of the Bill, in our view.

The first area of deficiency is the harshness, inconsistency and discriminatory nature of the penalty. **A person located in Australia can place a bet by telephone, but the same bet by the internet is illegal and potentially results in fines that are quite unrelated to the offence.** The fines are harsh and potentially crippling for small and medium sized businesses.

Penalising the use of the internet rather than the telephone is inconsistent with other actions the customer might undertake using the internet that remain legal, such as comparing prices or checking start times. It is also inconsistent with broader macro-economic objectives related to "clever country" ideals of efficiency, technological advancement etc.

The penalty is also discriminatory against Australians, as an internet bet placed by a person based overseas is legal whereas it is illegal for an Australian resident.

The second area of deficiency is the practical difficulty of determining "with reasonable diligence" whether a person is resident in Australia when placing an internet bet. The Explanatory Memorandum refers to an article originally from the New York Times suggesting that geolocation software programmes exist to assist in this process. The problem with this technology, which Centrebet already uses to determine the location of new client sign-ups (as we exclude USA citizens from becoming customers), is the cost, time taken to complete the search but most important the inability to rely upon the software for 100% accuracy.

Our understanding is that clients could fairly easily avoid the technology by the use of an anonymous or offshore proxy server, dialing into an overseas ISP from Australia, the distortion of telco proxy servers offshore and other avoidance techniques.

The third deficiency is that the onus of proof is on Centrebet to prove that it has undertaken reasonable diligence to prevent such an occurrence, and the Bill does not propose what actions might constitute "reasonable diligence" in particular circumstances.

Centrebet could face a court action against a potentially litigious Australian customer who may have deliberately avoided detection from software programs. The onus of proof is on Centrebet under a test of "reasonable diligence" that is ill-defined and constantly changing.

Centrebet could not sustain such risks for long and would be forced to consider relocating its entire business to another country that was more supportive of internet gambling businesses if the Bill became law.

Impact on regional Australia

Centrebet is one of Alice Springs largest employers. We employ about 50 staff full-time and 40 part-time, and contribute in excess of \$7m annually into the Northern Territory economy. Internet businesses such as Centrebet create growth

opportunities in rural and regional Australia, bringing highly skilled staff to towns like Alice Springs and with it the demand for state-of-the-art technology and systems.

Rather than jeopardise businesses like Centrebet (which was named in April 2000 as one of Australia's 50 most important exporters by the *Overseas Trading* magazine) the Government should be supporting its job creation and export capabilities.

Offshore sites

The Bill will not prevent Australians, even potentially under-age Australians, from betting via offshore sites, where regulations and controls are often inferior to those in Australia.

Australians who might otherwise not have a gambling problem by betting with an Australian site might develop a problem by using an unregulated overseas site where problem gambling and fiduciary controls may be poor. Australian governments and its citizens will bear the social costs, not overseas governments.

Senator Richard Alston has argued that Australians are unlikely to gamble with "mafia.com" overseas. This is a specious argument because most customers are unlikely to know or care about regulatory or probity issues governing overseas sites, or if they do care there are enough bona fide operators to choose a reputable one.

Appendix 1 lists 25 overseas web sites that offered betting on Australian sports on 22 April, including TAB NZ, Ladbrokes, William Hill and Victor Chandler. These are far from "mafia.com" businesses. If the Bill becomes law, many more overseas operators, reputable and disreputable, will join them.

Centrebet is in no doubt that the correct policy should be to support licenced and regulated Australian operators to continue to offer betting options to Australians and international customers. They will minimise problem gambling issues, for both Australian and overseas customers, provide tax revenues to Australian governments and provide reassurance to customers around the world about betting with Australian operators.

Regulation not prohibition

Gambling itself is not inherently bad – indeed the Productivity Commission in its 1999 report attributed a likely net positive benefit from gambling overall and recommended a policy of "managed liberalisation".

The Australian States and Territories have created a legislative environment for the internet that leads the world. The AUSMODEL recommendations, if implemented, would further improve the legislative environment and address problem gambling by appropriate regulation, rather than prohibition.

There is no need for the Bill. It runs contrary to the direction the UK, USA and most technologically aware countries are heading, which is towards regulation, and will result in the demise of reputable and export-focussed Australian operators.

Telephone vs Internet

There is no rationale to the distinction made between placing a bet by telephone and by the internet.

In effect, the Bill bans the internet rather than the content which the Government purports to be the problem. This is an illogical position, in our view, which creates a great deal of uncertainty for IGSPs, players and the general public, and makes Australia a laughing stock in the eyes of the world. **The Government should regulate the content rather than the medium by which information is transmitted.**

The Bill contravenes the principles of other Government legislation, in particular the **Electronic Transactions Act 1999** ("Act"). The Act is based on the principles of functional equivalence and technology neutrality, which its Explanatory Memorandum defines as –

- **"functional equivalence** means that transactions conducted using paper documents and transactions conducted using electronic communications should be treated equally by the law and not given an advantage or disadvantage against each other"; and
- **"technology neutrality** means that the law should not discriminate between different forms of technology - for example, by specifying technical requirements for the use of electronic communications that are based upon an understanding of the operation of a particular form of electronic communication technology."

By making artificial distinctions in the Bill between the different methods by which customers access the same gambling service, the Government would be disregarding the principles that formed the basis of the Electronic Transactions Act 1999 which was enacted to establish a regulatory regime for the use of electronic communications in transactions.

Social Impacts

The Government argues that its legislation will have limited social impact. We question whether this assumption is correct.

Many of our Australian customers are likely to switch to overseas internet operators because the internet is so convenient. The Government should anticipate an increase in citizens who lose money to unregulated or unscrupulous offshore operators, or develop into problem gamblers, which will create costs in direct and indirect ways to the community.

If Australians do switch to land-based outlets, the incidence of problem gambling and alcoholism is likely to increase as patronage of pubs and clubs increases. As the Government itself contends, accessibility to gaming machines is likely to increase problem gambling. **Any benefit from higher marginal tax rates will arguably be offset by increased social problems, defeating the very purpose of the Bill.**

Thank you for the opportunity for presenting our views on the Interactive Gambling Bill 2001. We would appreciate an opportunity to answer any questions should a public hearing be held by the Committee.

Yours sincerely

Piers Morgan
General Manager
Centrebet

INTERNET SPORTS BETTING SITES THAT OFFER BETTING ON AUSTRALIAN SPORT

bluesq.com
easybets.com
dialabet.com
gamebookers.com
tab.co.nz
bettingshop.vu
sportfanatik.com
sportingbet.com
victorchandler.com
willhill.com
vabet.com
betinternet.com
ukbetting.com
thegreek.com
direcbet.com
atlanticsportsbet.com
surreysports.com
sportingodds.com.uk
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