

Chapter 5

Interactive Gambling Amendment (Virtual Credits) Bill 2013

5.1 On 16 May 2013 the Interactive Gambling Amendment (Virtual Credits) Bill 2013 was introduced into the Senate.¹ Pursuant to the resolution of appointment of the Joint Select Committee on Gambling Reform the bill was referred to the committee for inquiry and report.² The bill was sponsored by Senator Nick Xenophon.

Conduct of the inquiry

5.2 The committee advertised the inquiry on the committee's website. The committee also wrote to a number of organisations and individuals inviting submissions by 31 May 2013. The committee received six submissions which are listed in Appendix 1. The committee agreed that, based on these submissions, a public hearing was not required.

Acknowledgement

5.3 The committee thanks those organisations and individuals who made submissions.

Purpose of the bill

5.4 The bill seeks to amend the *Interactive Gambling Act 2001* (IGA) to alter the definition of 'gambling service' to cover activities where virtual items, purchased using real money, are then used for gambling. Currently there is no way to cash out any winnings as such games are not considered to be a 'gambling service' under the IGA.³

Key provisions of the bill

5.5 Schedule 1 of the bill amends paragraph 4 (e)(i) of the IGA to alter the definition of 'gambling service' to clarify that 'items of value' include virtual items (credits, coins, tokens, objects or any similar thing) that are purchased within, or in relation to, a game.⁴

1 *Journals of the Senate*, No. 146—16 May 2013, p. 3958.

2 The resolution of appointment for the Joint Select Committee on Gambling Reform directs the committee to inquire into and report on 'any gambling-related legislation that has been tabled in either House, either as a first reading or exposure draft'. *Journals of the Senate*, No. 3—30 September 2010, pp 141–142.

3 *Explanatory Memorandum*, p. 2.

4 *Explanatory Memorandum*, p. 2.

Background

Increasing popularity of apps

5.6 The use of mobile applications or apps⁵ has increased significantly in recent years. A recent paper by the Australian Communications and Media Authority (ACMA) reported that the number of adult smartphone users who downloaded additional apps increased from 2.41 million in June 2011 to 4.45 million in June 2012, which is an increase of 85 per cent.⁶

5.7 The average number of apps downloaded in the last three months⁷ was eight free and four paid apps. Apple has reported that its customers have downloaded over 50 billion apps, 20 billion of these in 2012. Popular categories of apps for mobile phones and tablets include: social networking and messaging; games; photo-taking editing and sharing; navigation and location tracking; and banking and financial management. The most popular apps are Facebook, games, weather, maps and directions and email. In March 2013 the top free apps downloaded in Australia via the Apple App store were: 4 Pics 1 Word;⁸ Candy Crush Saga;⁹ Snapchat;¹⁰ What's the Pic?;¹¹ and Google maps.¹² The top paid apps were: WhatsApp Messenger;¹³ Temple Run: Oz;¹⁴ AFL Supercoach Season 2013;¹⁵ Sonic Dash;¹⁶ and Minecraft—Pocket Edition.^{17,18}

5 Apps are software programs that may be installed on smartphones and a growing selection of other devices including tablets, home entertainment devices, laptops or desktop computers. See Australian Communications and Media Authority, *Mobile apps, Emerging issues in media and communications, Occasional paper 1*, May 2013, p. 5.

6 Australian Communications and Media Authority, *Mobile apps, Emerging issues in media and communications, Occasional paper 1*, May 2013, p. 5.

7 To February 2013 by online Australians who had ever down loaded an app.

8 Game.

9 Game.

10 Photos and Video.

11 Game.

12 Navigation.

13 Social Networking.

14 Game.

15 Sports.

16 Game.

17 Game.

18 Australian Communications and Media Authority, *Mobile apps, Emerging issues in media and communications, Occasional paper 1*, May 2013, pp 7–9.

5.8 Apps can be down loaded as free¹⁹ or premium²⁰ versions. Once a free or premium app has been downloaded, an ‘in-app’ purchase or payment may be required to access specific features or associated content.²¹

New business model

5.9 Most apps continue to be free or relatively low priced.²² The apps market has enabled new business models which exploit the functionality. Free-to-play or Freemium²³ games are examples of a new business model developed in the games industry. Games are provided to the customer for free with revenue for the developer obtained from sources such as in game advertising or in-app purchases. A popular type of in-app purchase is virtual currency used within free or paid games. The Game Developers' Association of Australia (GDAA) listed the key benefits for consumers from in-app purchases:

- customers can enjoy games for free or by spending amounts relative to their own financial circumstances and interest in a particular game;
- customers are able to sample games;
- developers can continue to enhance games by providing more content driven by in-app purchases;
- developers can provide content to a broader market from those who are happy with the basic game experience and prefer not to spend money to those who want a more in-depth experience and are willing to pay for it; and
- in-app purchases have been used to prevent or reduce copyright infringement of games on mobile devices.²⁴

5.10 The Australian Interactive Media Industry Association Digital Policy Group (Digital Policy Group)²⁵ reported that the business model is common as it is so popular.

19 No upfront costs.

20 Upfront cost.

21 Commonwealth Consumer Affairs Advisory Council, inquiry into 'app' purchases by Australian consumers on mobile and handheld devices, Issues paper, available from <http://issues.ccaac.gov.au/2012/12/12/app-purchases-by-australian-consumers-on-mobile-and-handheld-devices/#8> (accessed 4 June 2013).

22 Australian Communications and Media Authority, *Mobile apps, Emerging issues in media and communications, Occasional paper 1*, May 2013, p. 11.

23 Freemium refers to a marketing concept where the download of the app is free but subscriptions or other purchasing of specific items may be required to unlock the full features of the app. See Commonwealth Consumer Affairs Advisory council, Issues Paper, *App purchases by Australian consumers on mobile and handheld devices*, December 2012, p. 7.

24 GDAA, *Submission 1*, p. 4.

25 The Digital Policy Group is a special interest group of AIMIA which represents 460 digital players in the Australian digital industry. The founding members include eBay, Facebook, Google and Yahoo!7. See AIMA Digital Policy Group, *Submission 2*, p. 1.

The in-game purchase model is very similar to consumers spending money on a movie, an amusement park ride or an arcade game. A player makes a purchase because it enhances their entertainment experience, not because they can earn or win something of real world value.²⁶

5.11 The International Social Games Coalition²⁷ (ISGC) pointed to a recent study by PwC which indicated that the Australian tech sector had the potential to be worth \$109 billion (or 4 per cent of GDP) and to create more than 540,000 high-value jobs.²⁸

5.12 The Digital Policy Group and the ISGC highlighted that one of the leading Australian games developers is Half-Brick Studios, and its Fruit Ninja game is one of the most successful games ever developed.²⁹ The AIMIA expressed concern that the bill would affect the growth prospects of Australian innovators like Half-Brick.³⁰

5.13 Issues raised with the committee are discussed in Chapter 6.

26 Australian Interactive Media Industry Association Digital Policy Group, *Submission 2*, p. 3.

27 Members include: Zynga, Rocketplay, Plumbee, Playtika, PlayStudios, IGT, Gamesys, and Aristocrat. See International Social Games Coalition, *Submission 3*, p. 3.

28 International Social Games Coalition, *Submission 3*, p. 3.

29 Australian Interactive Media Industry Association Digital Policy Group, *Submission 2*, pp 3–4; International Social Games Coalition, *Submission 3*, p. 3.

30 Australian Interactive Media Industry Association Digital Policy Group, *Submission 2*, pp 3–4.