

CHAPTER 2

ONLINE GAMBLING IN AUSTRALIA

We are a gambling nation. We will bet on anything... We cannot watch two people playing any sport without saying 'I bet he misses'.¹

Introduction

2.1 In this Chapter, the Committee considers the scope and nature of online gambling in Australia. It finds that online gambling is in its infancy, but is developing rapidly into an established industry that brings together e-commerce and interactive entertainment. The major challenge in its development has been to adapt a new technology to facilitate existing and new gambling activities, whilst ensuring a safe and reliable gambling environment for consumers.

2.2 The Committee has discussed three major issues in this Chapter:

- What is online gambling?
- Who are the online gambling operators in Australia?
- Under what regulatory schemes do they operate?

What is online gambling?

2.3 Online gambling is where gambling activities are provided through the Internet. It has two major categories – one which involves computer generated games and events, and another which involves events that occur independently. The Productivity Commission commented on the categories:

1. Virtual online gambling, which includes software-generated games such as slot machines, black-jack and roulette – the games are not played physically in a gaming room and the outcome of the event is determined by a random number generator on the operator's server; and
2. Placing a bet on a wide range of sporting events, such as horse and car racing, football and tennis - which take place on a real racetrack or playing field. Unlike virtual gaming, this form of gambling has no entertainment value of its own - it is not a new gambling product, but a new means of placing a bet.²

1 Professor Jan McMillen, *Official Committee Hansard*, Sydney, 15 October 1999, p. 80.

2 Productivity Commission 1999, *Australia's Gambling Industries*, Report No. 10, AusInfo, Canberra, Vol. 2, p. 18.5.

2.4 Computer software allows conventional gambling activities to be replicated in the virtual world. Consequently, as a minimum, the gambling activities listed below, which represent traditional gambling activities, will be made available on the Internet:

- poker or gaming machines;
- racing – on-course and off-course bookmaking on various forms of racing;
- lotteries;
- lotto and pools;
- instant scratch tickets;
- keno;
- casinos - offering a number of activities;
- bingo; and
- sports betting - on many different sports.³

2.5 It is likely that online gambling will eventually extend to other types of gambling activities, such as betting on the outcome of video games and mini-outcomes in sporting events. Further, the nature of existing gambling activities will change considerably. The jackpots for lotteries may increase, as tickets may be purchased by an international, as opposed to a domestic, population. The graphics for poker machines may be updated more regularly, as computer software is more amenable to change than land-based poker machines. More information about local and overseas-based horse races will be available online, meaning that traditional form guides may become obsolete.

2.6 Products are already being developed in Australia to provide home television gambling, such as a hand-held device which allows a player to select a racing field, access tips, place bets, watch the event live and check account balances.⁴

2.7 The Queensland Government advised that in the future, the range of potential products available could include:

- networked computer games played competitively for money or prizes;
- interactive TV quiz or game shows where viewers can bet on themselves against contestants;

3 Productivity Commission 1999, *Australia's Gambling Industries*, Report No. 10, AusInfo, Canberra, Vol. 1, pp. 10, 2.5.

4 Productivity Commission 1999, *Australia's Gambling Industries*, Report No. 10, AusInfo, Canberra, Vol. 2, p. 18.12.

- current gambling products offered on TV or computer on a ‘click here’ to enter basis; and
- gambling using telephone handset number buttons to bet interactively with a remote computer.⁵

2.8 The Internet has the potential to bring unlimited forms of gambling activity. Any event that has an outcome could constitute an online gambling activity. This broad scope is reflected in the definition of ‘interactive [online] gambling’ under the Queensland *Interactive Gambling (Player Protection) Act 1998*, which provides that:

An interactive game is a game in which:

- (a) a prize consisting of money or something else of value is offered or can be won under the rules of the game; and
- (b) a player:
 - (i) enters the game or takes any step in the game by means of a telecommunications device; and
 - (ii) gives, or undertakes to give, a monetary payment or other valuable consideration to enter, in the course of, or for, the game; and
- (c) the winner of a prize is decided:
 - (i) wholly or partly by chance; or
 - (ii) by a competition or other activity in which the outcome is wholly or partly dependent on the player’s skill.⁶

2.9 The main elements are that the game has rules, an outcome, and the Internet is used to either place a bet on the game, or to participate in it. Most games have the potential to meet these criteria. Consequently, the various games covered by this definition, and therefore the scope of online gambling, is virtually limitless.

Who are the online gambling operators in Australia?

2.10 Currently, there are at least 14 licensed online gambling operators in Australia:

5 Queensland Government, Submission 64, p. 3.

6 *Interactive Gambling (Player Protection) Act 1998*, Queensland, section 6(1).

Table 2.1

Online Gambling Operators in Australia⁷

Operator	Licence	Type of gambling	Date started / licensed
Canbet	ACT	Racing and sports wagering	November 1998
Capital Sports	ACT	Racing and sports wagering	1996
Centrebet	NT	Sports wagering	1992, Internet approval 1996
City Index	ACT	Racing and sports wagering	1996
Davidson Sports Betting	NSW	Racing and sports wagering	1 June 1999
GOCORP Limited	Qld	Casino gaming	June 1999 (not yet operating)
International All Sports	NT	Racing and sports wagering	1997, Internet approval 1998
Lasseters Casino	NT	Casino gaming	12 April 1999
Megasports (ACT)	ACT	Racing and sports wagering	February 1999
Network Gaming	Tas	Casino gaming	1999 (not yet operating)
OzBet (WA TAB)	WA	Racing and sports wagering	July 1997
Sports Odds	NSW	Racing and sports wagering	1 June 1999
NetTAB (NSW TAB)	NSW	Racing and sports wagering	1998
TAB Qld	Qld	Racing wagering	1999

Source: Various State and Territory gaming and wagering regulators/authorities

2.11 The Committee is also aware that:

- the NSW Government issued interactive wagering licences to two NSW bookmakers in July 1999;⁸
- the Tasmanian Gaming Commission has received five licence applications for Internet Gambling sites in that state;⁹

7 ACIL Consulting, Submission 35, p. 245.

8 TAB Ltd, Submission 24, p. 124.

- Sportsbet Australia received its sports-bookmaking licence from the Northern Territory Government in August 1999, but is still in the process of developing its Internet system which will require formal approval;
- there are other licence applications awaiting approval.

Numbers of Internet gamblers

2.12 The Productivity Commission's *National Gambling Survey* at Table 2.2 indicates that in 1998-99 nearly 90 000 Australians gambled on the Internet (including casino games, sports betting and racing) – about 0.6 per cent of Australian adults. Surveys of Internet gambling patterns in Victoria, commissioned by the Victorian Gaming and Casino Authority in 1999, suggest an even smaller proportion at 0.1 per cent.¹⁰

Table 2.2

Internet gamblers in Australia 1998-99¹¹

	Casino games	Bet on the races	Sports betting	All Internet gambling ^a
Number playing in last 12 months	58 266	17 738	16 881	89 787
Proportion of Australian adults (%)	0.41	0.12	0.12	0.64 ^b

^a This is less than the sum of the three types of Internet gambling because some Internet gamblers gambled on more than one form. ^b The unweighted proportion is 0.7 with a 95 per cent confidence interval of 0.4 to 1.0 per cent. The Commission also estimated the share of Internet gamblers who were problem gamblers (based on SOGS 5+). This was 13.3 per cent, 0 per cent and 0 per cent for casino games, betting on the races and sports betting respectively. However, the standard errors associated with these estimates are very high, and it is not possible to be certain that levels of problem gambling among Internet gamblers are statistically significantly different to other gambling forms.

Source: *PC National Gambling Survey*

2.13 To better understand the operations of an online gambling site, the Committee visited the premises of Lasseters Online and Centrebet in Alice Springs. The Committee also heard evidence about the operations of Canbet Pty Ltd and the New South Wales TAB Ltd's Internet wagering operation, NetTAB.

Lasseters Online

2.14 Lasseters Online has been operating since April 1999 and has already attracted significant interest. It is the world's first regulated online casino, operating under legislation and regulations set by the Northern Territory Government, and the

9 'Tassie on roll for Net Gaming,' *The Hobart Mercury*, 16 February 2000, p. 7.

10 Productivity Commission 1999, *Australia's Gambling Industries*, Report No. 10, AusInfo, Canberra, Vol. 2, p. 18.7.

11 Productivity Commission 1999, *Australia's Gambling Industries*, Report No. 10, AusInfo, Canberra, Vol. 2, p. 18.9.

first in the world to be operated by a land-based casino, Lasseters Casino Pty Ltd. It was fully developed in Australia at a cost of over \$5 million in two years. The system includes controls that relate to registration, financial transactions, operation and security and support services.¹²

2.15 There are 11 games offered – roulette, sic-bo (three dice are shaken inside a covered container and bets are placed on which numbers will be face up on the dice), joker-poker, black-jack and 7 variations of slot machines.

2.16 To register with Lasseters Online, players are required to complete an extensive process involving passwords, identification numbers, a form of challenge questions and validation codes to verify their identity each time they play. Players:

- must be over 18 years of age;
- have the option of playing for points or cash;
- can set their own bet limits (to a maximum of \$500 per month). In time a player may apply to Lasseters Online to increase this limit but must have achieved a trusted status with the operator before it will be approved;
- can only wager with the funds available from their playing account;
- transactions are recorded and can be tracked through a comprehensive audit trail;
- have the option to exclude themselves from playing for a ‘cooling off’ period;
- can restrict child access by downloading child screening software; and
- can access community counselling services.¹³

2.17 Further, when a player elects to cash in their account, a non-negotiable cheque is sent to their residential address, and is payable in their name only.

2.18 Registration and control procedures are similar for the other regulated Australian online gambling sites, although there are some differences and inconsistencies, which are discussed later in this Chapter.

2.19 Mr Peter Bridge, Chief Executive Officer, Lasseters Casino Pty Ltd, commented on the rapid growth of Lasseters Online:

Essentially, our submission [to the Committee] was lodged at the end of July. Lasseters Online has trebled since then ... It has proved to be an excellent business venture for our company and a highly sought after competitive export service. As of 1 November 1999, Lasseters Online has attracted almost 16 000 players. Over 14 million games have been played

12 Lasseters Casino Pty Ltd, Submission 29, p. 162.

13 Lasseters Casino Pty Ltd, Submission 29, pp. 162-65.

and over A\$18 million reported in turnover. These statistics are continuing to grow by more than 75 per cent per month.¹⁴

2.20 Mr Bridge advised the Committee that 86 per cent of Lasseters Online players are international, representing 161 different countries. The remainder are based in Australia within the Northern Territory licence area:

For a small casino in the centre of Australia, there is no way we would have attracted the range of clientele within a seven-month period without access to the Internet. For example, the number of players registered on our site is now greater than the number of adults on the Alice Springs electoral roll. We also believe the credibility we have gained by being fully regulated by the Northern Territory government has been a factor in our success. Quite simply, the Internet has opened an enormous potential [export] market for us. It is a market serviced by a highly competitive global industry.¹⁵

Proof of the ability of this industry to grow without regulation is illustrated by reports which estimate that between 1997 and 1998 the number of people gaming online more than doubled from 6.9 million to 14.5 million. At the same time (1997 to 1998), the revenues were estimated to rise from \$300 million to \$651 million. We believe that regulation of the industry is essential in order for the rights and interests of consumers to be protected. For this reason, we have supported the need for the federal involvement to establish benchmarks for Australian regulators of online gaming.¹⁶

2.21 Mr David Ohlson, Lasseters Online Executive Manager, Special Projects, provided some background on the profile of players using the site:

Our players are more likely to be male, aged in their late thirties, play less than 15 times per month, and wager on average less than \$4 on each game that they play. Our players prove that the Internet is not just the domain of the young. Young adults aged between 18 and 24 years account for only 11.2 per cent of all players. Interestingly, we have 221 players over the age of 70, with the oldest being John from Bouvet Island, who is 96 years of age.

The reasons why people play are many and varied but all relate to seeking a source of home based entertainment. They range from the British ex-pat engineer living on mining sites in Thailand to the woman who is allergic to cigarette smoke, which prevents her from visiting traditional gaming outlets. We have even had a disabled American gentleman who has not been able to physically access casinos.

We acknowledge that problem gambling and the potential for online access by children are concerns within the community and this committee, and we

14 *Official Committee Hansard*, Alice Springs, 10 November 1999, p. 172.

15 *Official Committee Hansard*, Alice Springs, 10 November 1999, pp. 172-73.

16 *Official Committee Hansard*, Alice Springs, 10 November 1999, p. 173.

share these concerns. For this reason, we have taken a responsible approach to establishing extensive registration procedures. Financial and operational controls within our system, which are designed to prevent access by minors, secure the privacy of information and limit the amount that players can deposit and therefore lose.¹⁷

Centrebet

2.22 Centrebet, based in Alice Springs, was founded in 1992 by an Alice Springs bookmaker, who sold the business to Jupiters Limited in November 1998. Centrebet has one of the three sports betting licences in the Northern Territory and last financial year had a turnover in excess of \$100 million. In July 1996, Centrebet launched its web site. Prior to that, all bets were taken either by telephone or facsimile.¹⁸ Since that time there has been a rapid growth of business (according to the Productivity Commission, it is ranked in the world's top five Internet sites receiving 20 000 to 100 000 hits daily and in 1997 its Internet sales accounted for 50 per cent of Australia's e-commerce).

2.23 A racing section was started in 1997 taking bets on major metropolitan and some provincial meetings in NSW, Vic, Qld and SA.¹⁹ Other sports offered include: Australian Rules football, baseball, basketball, boxing, cricket, golf, Olympic and Commonwealth games, tennis and ice hockey. All wagers are based on fixed odds. Clients must have a betting account before a bet will be accepted and provide proof that they are over 18 years of age (passport or driver's licence).²⁰

2.24 Centrebet accepts two types of fixed odds wager:

- single – where you wager on one match, competition, winner or margin; and
- multiple – (also known as multi, parlay, all-up and accumulator) where you select a series of two or more single wagers and combine them to increase your return. Different types of single wager as well as different sports can be combined together in your multiple.²¹

2.25 Mr Piers Morgan, General Manager, Gaming and Wagering Development, Jupiters Ltd, advised the Committee of Centrebet's markets:

Centrebet's major markets a year ago were Australia, USA and northern Europe. In late 1997 Centrebet launched a Danish web site and during 1998 launched web sites in Norwegian, Swedish and Finnish. Following Jupiter's

17 *Official Committee Hansard*, Alice Springs, 10 November 1999, pp. 174.

18 *Official Committee Hansard*, Alice Springs, 10 November 1999, p. 192.

19 *Official Committee Hansard*, Alice Springs, 10 November 1999, p. 192.

20 Productivity Commission 1999, *Australia's Gambling Industries*, Report No. 10, AusInfo, Canberra, Vol. 2, p. 18.8.

21 Centrebet Pty Ltd, Brochure, dated June 1999.

acquisition of Centrebet, the USA clientele were informed that Centrebet would no longer accept bets from them due to our concerns regarding the uncertainty of USA legislation regulating Internet gaming and its applicability to offshore operators and their major shareholders. Notwithstanding the loss of a major growth market, Centrebet continues to experience significant growth in the number of new clients and volume of business. Today Centrebet has in excess of 30 000 clients from over 80 countries. Bets are taken on all major Australian and international sports, on some country-specific sports and on non-sporting events, such as certain Australian elections.²²

2.26 One of the driving factors in targeting Scandinavian countries was the level and speed of Internet take-up in those countries.

2.27 Mr Morgan said that the web site operates in four languages, and bank account facilities exist in six foreign currencies. Centrebet employs 35 permanent and 25 casual employees, in a 24-hour, seven-day-a-week operation. He added:

The difficulties of recruiting skilled staff in Alice Springs and accessing all the services required for a rapidly growing international business should not be underestimated. The advantages of operating in the Northern Territory, which include a competitive wagering tax rate for sports betting and business orientated regulators ... are required to offset the disadvantages of remaining in Alice Springs.²³

2.28 Mr Morgan believes that Centrebet's future growth will mainly come from offshore markets as the potential for growth is 'significantly greater than the highly restricted and uncompetitive domestic market'.²⁴ This was confirmed by Mr Michael Miller, Business Development Manager, Centrebet:

In terms of geography we expect to recruit somewhere between three per cent and five per cent of our future new clients from within Australia and the remaining 95 per cent to 97 per cent from offshore. In terms of growth rate, our business is restricted at the moment only by the capacity of our hardware and software, but we would expect to grow at a rate well in excess of 150 per cent to 200 per cent per annum over the next two to five years. It is a bit hard to look beyond that.²⁵

Canbet

2.29 Canbet Pty Ltd is a private company incorporated in the ACT and has been operating as a licensed bookmaker since 1996. Turnover then was \$14.2 million, in 1998-99 the turnover was \$47 million. Mr James Colquhoun, Chairman, Canbet,

22 *Official Committee Hansard*, Alice Springs, 10 November 1999, pp. 192-93.

23 *Official Committee Hansard*, Alice Springs, 10 November 1999, p. 193.

24 *Official Committee Hansard*, Alice Springs, 10 November 1999, p. 193.

25 *Official Committee Hansard*, Alice Springs, 10 November 1999, p. 194.

predicts that next year, turnover will be in excess of \$80 million. 98 per cent of their market is from Americans who mainly bet on American football, baseball and basketball – professional and college – and ice hockey.²⁶

2.30 In order to open an account, a form is completed by the customer which contains compulsory and discretionary questions:

As to the process of opening an account, 75 per cent of accounts are opened by people using a credit card, so we receive an Internet message to say, 'I want to open an account. I want to deposit \$US500.' We then take that \$US500, do a conversion to Australian dollars and then ring it through to the credit card company and obtain authorisation, so as to make sure it is a valid card. It is a bit like if you go and buy a dress; it is no different. So, having obtained the authorisation, the account is opened and we send an email back—because the person is operating over the Internet—to say, 'Your account has been opened.'

The rules that are on the Web site...say that we reserve the right, which we do in nearly all cases, to ask for a photocopied copy of the credit card—back and front—with an ID, which is either a passport or a driver's licence. In the United States they have the same format of driver's licence pretty well as we have in which there is a photo—in which we are not particularly interested—and the name and age. So what we are linking is that the credit card that is used is in the same name as that in which the account has been opened, which is in the same name as the ID. Of course, if the age given on the identification shows a person is under the age of 18, we do not pay out. That is made clear in the rules right from the beginning.

I think there are levels of protections in there that make it reasonably effective that 18-year-olds do not collect wins from us. If they lose the money and if eventually there is a chargeback because dad said it was not his original deposit, it is our cost.²⁷

2.31 When asked how placing a bet with Canbet differed from placing a bet down at the local TAB, Mr Colquhoun said that Canbet offered fixed odds:

To bet with us on a straight football match such as the San Diego Chargers playing the Washington Redskins, they have to bet \$110 to win \$100. So it is 11 to 10 on. Those odds always remain constant. The only thing that changes is the point spread ... the margin of start one team gets.²⁸

2.32 Profit margins for sports bookmakers are not great. The net return on horse and greyhound racing is about 5.5 per cent and on other sports about 4 per cent. Unlike tote betting systems where the return going back to the punter is fixed, the

26 Canbet Pty Ltd, Submission 34, p. 216; *Official Committee Hansard*, Canberra, 1 October 1999, pp. 5-9.

27 *Official Committee Hansard*, Canberra, 1 October 1999, pp. 3-4.

28 *Official Committee Hansard*, Canberra, 1 October 1999, p. 6.

bookmaker is constantly at risk to the 'smart' punter since the odds are fixed when the bet is placed before the event takes place. While the Internet has allowed the bookmaker to take bets electronically, it has also enabled the punter to obtain much information on the performance of teams and the odds available, making the contest between the punter and bookmaker 'very sharp'. In Canbet's experience some 30 per cent of the value of all bets comes from highly professional punters who have the ability to substantially reduce the overall profit margin.²⁹

2.33 As a result, Canbet does not include horse racing in the sports that it offers, because 'it is just too hard. You cannot win'.³⁰

NetTAB

2.34 NetTAB, the NSW TAB's Internet betting operation, accepts bets on horse and greyhound racing and 24 other sports, ranging from the major codes of football, basketball, hockey, boxing and cricket, to camel racing, lawn bowls, surfing and yacht racing.³¹ It was launched in June 1997 as an extension of its telephone betting operation.

2.35 Mr Warren Wilson, Managing Director, TAB Ltd, advised that after two full years of NetTAB operations there were 10 000 NetTAB account holders who form a part of the 150 000 telephone account holders. During 1998-99 some 2.1 million bets were placed with sales totalling approximately \$20.6 million.³²

2.36 The Committee was advised by Mr Warren Wilson of the security measures used to protect customers and to prevent minors taking part in betting activities:

All NetTAB transactions are encrypted via use of high level digital encryption certificates. Customers can only transact with TAB Ltd via the use of an account. To establish such an account, the customer must provide identification documentation totalling 100 points, which is the 100-point system under the banking regulations. No account may be opened by a person under the age of 18. Following the establishment of an account, bets may be placed against cleared funds deposited by the customer. No credit betting is allowed. TAB's NetTAB system will only accept bets from an individually certified personal computer and customers must enter account numbers and confidential PIN numbers to activate their account. All winnings are credited to the same account and may only be accessed by the identified account holder.³³

29 Canbet Pty Ltd, Submission 34, pp. 216-17.

30 *Official Committee Hansard*, Canberra, 1 October 1999, p. 6.

31 TAB Limited, Additional Information 24A, dated 22 October 1999.

32 TAB Limited, Submission 24, p. 120; *Official Committee Hansard*, Sydney, 15 October 1999, p. 113.

33 *Official Committee Hansard*, Sydney, 15 October 1999, pp. 113-14.

2.37 Even though the operations of NetTAB contribute only one per cent of TAB's overall wagering business, growth is expected to continue. However, it is the TAB's view that a significant percentage of this growth is 'likely to represent transferred investments from existing TAB customers who have elected to shift their betting from pre-existing sales channels, in particular telephone betting'.³⁴

Under what regulatory schemes do they operate?

The power to regulate – gambling in general

2.38 Historically, the Commonwealth Government has been excluded from the regulation of gambling in Australia because, under the Commonwealth Constitution, it does not have the requisite powers. Consequently, regulation has been the responsibility of States and Territories, which derive the requisite powers from their respective Constitutions. For example, the Victorian Constitution gives the Parliament of that State the power to 'make laws in and for Victoria in all cases whatsoever'.³⁵ This power allows the Victorian Parliament to legislate with respect to a broad range of issues, including gambling.

2.39 The Queensland Government described the roles of the States and Territories in regulating gambling in Australia:

Jurisdictions have been regulating gambling from colonial times. Each State has a lengthy history of prohibiting or permitting gaming in accordance with the public policy of the State concerned. For example, Queensland legalised wagering on horse racing events in 1962 in order to stamp out the widespread illegal starting price (SP) bookmaking, while Western Australia continues to prevent gaming machines being located outside casinos.

Given the length of time in which States have been regulating gaming, they have developed and refined a regulatory framework which is internationally recognised for its ability to ensure the integrity and probity of gaming. In addition, the changing nature of gaming and technology over the past 10 years, in particular, has required regulators to develop expertise in evaluating technology used in the provision of gambling. This is evidenced by the presence of in-house testing laboratories, as in Queensland, or through outsourcing and liaising with specialist evaluation terms.

Regulation of gaming in the States also requires a high degree of skill in managing various agreements with operators which have either a monopoly market position or are able to operate exclusively in a market for a specified period of time. Each State needs to manage those exclusivities in order to prevent creating a situation in which the State is successfully sued for breach of exclusivity. Such management is increasingly important given the

34 TAB Limited, Submission 24, p. 128.

35 *Constitution Act 1975* (Victoria), s. 16.

advent of interactive gambling which impinges on all forms of existing venue-based gaming.³⁶

2.40 The effective regulation of gambling, including online gambling, requires a high level of expertise across a range of areas, including economic and social policy. States and Territories have successfully developed this expertise over a number of years.

The power to regulate – online gambling

2.41 Online gambling by its nature utilises telecommunications technology. The Commonwealth Parliament has power to legislate with respect to ‘postal, telegraphic, telephonic, and other like services’.³⁷ This power would allow the Commonwealth to specify the way that telecommunications could be used for specific purposes, such as gambling. It would not, however, provide the Commonwealth with the type of overarching legislative powers that States and Territories have relied upon to effectively regulate the many and various aspects of gambling.

2.42 It could be argued that the Commonwealth Government’s limited powers are insufficient to intervene in gambling regulation, which requires the exercise of a broad range of powers. However, it could play an important and valuable lead role if it did so cooperatively with the State and Territory Governments.

The value of regulation

2.43 Regulation of online gambling is a valuable marketing tool. A consumer will choose to gamble with an online gambling operator if they feel confident that their winnings will be paid and their personal details protected. Therefore a strict regulatory scheme that ensures probity and protects consumers will have a strong appeal. To this end, Australia is already a well-regarded regulator of gambling activities. Given that hundreds of online gambling sites are in operation, the competitive advantage that an Australian licence offers is highly sought after.

2.44 Mr Peter Bridge, Chief Executive Officer, Lasseters Casino Pty Ltd, commented on the value of Australian regulation:

... Australia has a great reputation, and we would like to build on the reputation of Australia as a well-regulated and professionally run gaming country. The credibility that comes from the word of Australia is important to us.³⁸

2.45 Mr Paul Crossin, Member, Australian Hotels Association, commented on the importance his organisation places on the market value of the regulation of Internet casinos:

36 Queensland Government, Submission 64, p. 691.

37 Section 51(v), Commonwealth *Constitution Act 1900*.

38 *Official Committee Hansard*, Alice Springs, 10 November 1999, p. 180.

[Online gaming] has potential that we would like to exploit in a responsible manner. We believe a major factor in targeting that market is to turn around and project ourselves as being an Australian regulated site, with all the positives that come from that regarding safety, trust, et cetera. We need to be able to do that in a way which justifies the tax that we pay in Australia, to ensure that the social costs of it are addressed, against the competitors who do not have the security requirements and regulatory controls over them and therefore operate at a lower cost and pay taxes of five per cent or less. The difference between their position and ours what makes us competitive is the government regulated environment. We believe that is a very important factor if this industry is to be successful for Australia.³⁹

2.46 Mr Derk Swieringa, General Manager, Canbet Pty Ltd, provided a brief case study of the value of regulation by the Australian Capital Territory Government:

We recently had a disputed phone bet. Because it needed to be referred to the regulatory body, it took us three days to resolve it. The bettor was very cranky about it and immediately got on the chat message system of Bettors World and started bagging us. We were not very happy about that. But, as other people kept coming in and commenting, the whole argument swung over a day to 'well, isn't it good that there are government officials who are determining this?' In the end I suppose we would rather that it had not happened but it turned out to be a reasonable result for us because it came back to the word trustworthy.⁴⁰

2.47 Mr James Colquhoun, Chairman, Canbet Pty Ltd, made a similar point:

Generally speaking, in America, Australia is considered to be very well regarded. That is what we use as a selling point.⁴¹

2.48 Mr Sebastian Sinclair, a gaming analyst with Christiansen Cummings & Associates Inc (USA), has stated in his recent publication on interactive gambling, that trust and brand presence are critical to the success of online gambling operators:

Develop Trust: Lack of trust and security issues will continue to be the leading inhibitors of online gambling. Customers need assurance and compelling value propositions to overcome those concerns.

Brand, brand, brand: Internet gamblers will gravitate to recognised and trusted brand names. Traditional gambling or non-gambling businesses with an established brand have a key advantage when they go online.⁴²

39 *Official Committee Hansard*, Canberra, 1 October 1999, p. 17.

40 *Official Committee Hansard*, Canberra, 1 October 1999, p. 32 and 33.

41 *Official Committee Hansard*, Canberra, 1 October 1999, p. 12.

42 Sebastian Sinclair, *Exploring the Direction and Future of Interactive Gambling*, Executive Summary, http://www.rivercitygroup.com/brochure/wagering_execsummary.html, as at 1 November 1999.

2.49 Many overseas-based online casinos operate in environments where there is a low level of government regulation of online gambling activities. Consequently, consumer confidence in these online casinos is diminished. At least one of these casinos has constructed an association with Australia, and therefore its government regulation, by displaying images from Australia and calling itself 'Casino Australia'.⁴³ The Committee believes that this is an attempt to take advantage of the marketing power of an Australian online gambling licence.

2.50 Table 2.3 below shows that online gambling proprietors are able to create associations with various countries and their governments by using specific names and domain servers. For example, a US owned online gambling operation can be licensed in the Netherlands Antilles, yet appear to be an Australian operation.

43 The site can be found at <http://www.casinoaustralia.com/>, as at 1 November 1999.

Table 2.3

Traces on some typical Internet gambling sites⁴⁴

Name	Internet address	Licensed	Ultimate owner	Domain server/s location
Casino Australia	www.casinoaustralia.com	Netherlands Antilles	US	Canada, US
Casinos Australasia	www.casinosaustralasia.com	Vanuatu	UK	Australia
Australian Casino	www.australiancasino.com	?	US	US
Oz Gaming	www.ozgaming.com	Costa Rica	?	US
Kenny Rogers Casino	www.kennyrogers.com	Netherlands Antilles	US	US
Plus Lotto	www.pluslotto.com	Liechtenstein	Liechtenstein	Liechtenstein
Aces Casino	www.acescasino.com	Venezuela	US	US
Action Sports Wagering	www.actionSPORTSwagering.com	Netherlands Antilles	?	Puerto Rico
Avalon Casino	www.avaloncasinos.com	Commonwealth of Dominica	US?	US
Cyberbetz	www.cyberbetz.com	Commonwealth of Dominica	US	Canada
Festival Casino	www.fecasino.com	Commonwealth of Dominica	Canada	Canada
Golden Jackpot	www.goldenjackpot.com	Venezuela	Germany(?)	Germany
Twinkling Casino	www.twinklingcasino.com	Antigua	Canada(?)	Canada
Lasseters Casino	www.lasseters.com.au	Australia	Australia	Australia
Centrebet	www.centrebet.com.au	Australia	Australia	Australia
Mega-Sports	www.megasports.com.au	Australia	US	US

2.51 Lasseters Casino Pty Ltd referred to the proliferation of online casinos implying a connection with Australia:

Some international sites are now also imitating Australian casinos through the use of Australian names and graphic images to provide players with the false impression of being Australian owned, operated and regulated.

These sites include Casino Australia (www.casinoaustralia.com) operated through a server in Canada by Kenny Rogers Casinos and licensed in the Netherlands Antilles.

44 Productivity Commission 1999, *Australia's Gambling Industries*, Report No. 10, AusInfo, Canberra, Vol. 2, p. 18.6.

Of greater concern is the recent discovery of a site called Star Online Casino (www.star.activ.com.au) which has a server in Sydney but is owned by Planet Antigua Inc. Many players could be easily misled to assume this site is operated by Star Casino because of its name and location.⁴⁵

2.52 Mr Tony Clark, Acting Director, Northern Territory Department of Industries and Business, commented on the need for a high standard of regulation:

In respect of regulation giving some confidence and security to players, we utterly endorse that; we take it very seriously. It also inspires government regulators because, perhaps, our reputation is just as much on the line as the operator in the event of any default.⁴⁶

2.53 Lasseters Casino Pty Ltd summarised some of the differences between on the controls applied to land based casinos, regulated and unregulated online gaming sites:

Table 2.4

Comparison of Regulatory Controls – Land Based Casinos, Regulated Online Casinos and Unregulated Online Casinos⁴⁷

Issue	Land Based Casinos	Unregulated Online Casinos	Regulated Online Casinos
Control amount of losses	No	No	Yes
Identify verification to protect against underage access	No	No	Yes
Set maximum wager limits per day, week or month	No	No	Yes
Set a low maximum wager amount for games	No	No	Yes
Provide advice for problem gamblers	Yes	No	Yes
Provide a method for players to exclude themselves from gaming for either a short time or permanently	Yes	No	Yes
Provide a complete audit trail of all transactions between the player and the casino	No	No	Yes
Establish monitoring systems to prevent money laundering	Yes	No	Yes
Probity checks for gaming operators and their staff and licensing of operators	Yes	No	Yes

45 Lasseters Casino Pty Ltd, Submission 29, p. 171.

46 *Official Committee Hansard*, Alice Springs, 10 November 1999, p. 157.

47 Lasseters Online, Submission 29, p. 173.

2.54 It is clear from evidence provided to the Committee that a high standard of regulation is desirable to the online gambling industry, government regulators and the consumer.

Regulation in Australia

2.55 In Australia, several State and Territory Governments have enacted legislation that permits and regulates online gambling.⁴⁸ On 23 May 1997, Gaming Ministers from all Australian States and Territories released the 'Draft Regulatory Control Model for New Forms of Interactive Home Gambling' (the Draft Regulatory Control Model).⁴⁹ The proposed regulatory scheme covers 'all gambling products, including games of skill in which players participate using telecommunications'.⁵⁰ The Committee discusses this side to online gambling under the heading 'online gaming'.

2.56 The Draft Regulatory Control Model does not deal with 'telecommunications enabled products currently offered by TABs under the relevant enabling legislation (where players place bets by telephone, Internet or direct link to the TAB)'.⁵¹ In practice, this has been construed to mean all products offered under wagering law. The regulation of this aspect of online gambling has been monitored and developed by the Officers' Working Party on Interactive Wagering. The Committee discusses this side to online gambling under the heading 'interactive wagering'.

Online gaming

2.57 The regulation of online gaming in Australia is based on the Draft Regulatory Control Model. Gaming Ministers from each State and Territory agreed to a set of policy principles that are reflected in the Draft Regulatory Control Model. Part of the agreement states that the Draft Regulatory Control Model forms the basis for the respective legislation that the States and Territories will and have enacted for the regulation of interactive gambling.

2.58 The Draft Regulatory Control Model represents an exercise in building consensus for the regulation of online gaming in Australia. It must be noted, however, that the model is only in draft form. At best, it provides an indication of the direction for regulation of online gaming in Australia. Each jurisdiction has or will enable its own legislation which provides the final details for regulation.

48 State and Territories that have enacted online gaming legislation are: Queensland, Tasmania, the Northern Territory and the Australian Capital Territory.

49 A copy of which is available at <http://www.qogr.qld.gov.au/inthogam.shtml>, as at 13 October 1999

50 *Draft Regulatory Control Model for New Forms of Interactive Home Gambling*, 23 May 1997, <http://www.qogr.qld.gov.au/inthogam.shtml>, as at 13 October 1999

51 *Draft Regulatory Control Model for New Forms of Interactive Home Gambling*, 23 May 1997, <http://www.qogr.qld.gov.au/inthogam.shtml>, as at 13 October 1999, p. 1.

The importance of a cooperative approach

2.59 Consensus is important because a cooperative approach to the regulation of online gaming will ensure a high standard of regulation:

A cooperative approach by all State and Territory Governments is the only effective means of regulating interactive home gambling products ... A non-cooperative approach is likely to result in individual States and Territories maintaining barriers to interstate products. ... In the long term a non-cooperative approach can only result in the ineffective regulation of interactive home gambling products and erosion of the gambling taxation revenue of all States and Territories.⁵²

2.60 Mr Richard Mulcahy, National Executive Director, Australian Hotels Association, stated the need for a cooperative model in his evidence to the Committee:

The issue of effectively regulating this emerging sector is a difficult and complex one. The range of issues, such as online gambling legitimacy, computer fraud and hacker operations, accessibility by children and invasion of privacy have been identified by experts in this sector as areas that will require major policy responses. Given the global nature of this industry, the hotel sector believes that there is a need for government to ensure there is a coordinated and national framework of regulation and taxation regimes.⁵³

2.61 Similarly, Professor Jan McMillen, Executive Director, Australian Institute for Gambling Research, highlighted the need for a cooperative approach:

I strongly urge the committee to consider a cooperative national approach, both with industry and governments. We need an industry body that is prepared to represent industry standards and, if possible, to enforce them; and we need cooperation between State Governments and the Commonwealth Government to develop a coherent national approach to this.⁵⁴

2.62 Therefore, there is a strong argument for a consistent model for regulation between the States and Territories in Australia. A non-cooperative approach will result in 'ineffective regulation' which in turn may diminish player protections.

2.63 The Draft Regulatory Control Model states that the objects of the legislation should include:

... facilitating the offering of interactive home gambling products, protect the rights of players, enable free access to the National market and to promote competition and quality of services to players. The legislation will

52 *Draft Regulatory Control Model for New Forms of Interactive Home Gambling*, 23 May 1997, <http://www.qogr.qld.gov.au/inthogam.shtml>, as at 13 October 1999, p. 2.

53 *Official Committee Hansard*, Canberra, 1 October 1999, p. 16.

54 *Official Committee Hansard*, Sydney, 15 October 1999, p. 73.

seek to ensure the integrity of industry participants, honest conduct of interactive home gaming, minimize the ... harm caused by problem gambling and the proper accounting of taxes.⁵⁵

A standardised model for regulation

2.64 In order to achieve these objectives, the Draft Regulatory Control Model refers to a number of areas that must be addressed. In summary these are as follows:

- licensing
- technical operations
- audit and inspection
- advertising
- credit gambling
- player protection
- money laundering
- privacy
- taxation sharing arrangement.

2.65 Each of these issues is discussed below. The discussion traces the policy and measures taken under each heading, and their implementation by way of legislation.

Licensing

2.66 Licensing schemes provide a system to assess the suitability of a potential online gaming operator. The standards applied are those that currently apply to members of the gaming industry such as casino operators and gaming machine operators. Therefore, consideration is given to the applicant's character, financial history and other issues that deal with probity:

The objective of the licensing scheme is to protect the public interest through ensuring high standards of honesty and operational ability of the gambling service provider and checks on any other party that are in a position to directly or indirectly benefit financially from the conduct of the gambling service.⁵⁶

55 *Draft Regulatory Control Model for New Forms of Interactive Home Gambling*, 23 May 1997, <http://www.qogr.qld.gov.au/inthogam.shtml>, as at 13 October 1999, p. 3.

56 *Draft Regulatory Control Model for New Forms of Interactive Home Gambling*, 23 May 1997, <http://www.qogr.qld.gov.au/inthogam.shtml>, as at 13 October 1999, p. 8.

2.67 Under the Queensland *Interactive Gambling (Player Protection) Act 1998*, the licensing process seeks, among other things, information on the applicant's commercial operations and management expertise.⁵⁷

2.68 Applicants must also demonstrate the knowledge and expertise to operate an interactive gaming business. The applicant must therefore detail the business experience of the organisation and of the key personnel employed by them.⁵⁸

2.69 Similarly, the Northern Territory *Gaming Control (Internet Gaming) Regulations 1998* inquire into the applicant's character, financial background and their qualifications for operating an online gaming business.⁵⁹

Technical operations

2.70 Each online gaming operator must have a 'control system' that is approved by the government regulator. Section 6 of the Northern Territory *Gaming Control (Internet Gaming) Regulations 1998* gives the following definition:

A control system is a system of controls containing all the rules, terms and conditions and other matters displayed to a player and all internal controls, whether computerised or otherwise, for the proper conduct of Internet games.⁶⁰

2.71 In order for an applicant to obtain a licence to operate an online gaming business, the applicant's control system must be approved by the government regulator. The regulator will examine the various components of the control system and assess their suitability.⁶¹

2.72 The regulation of operational aspects of online gaming, for example, of whether a computer-generated game of black-jack offers fair odds to the player, is similar to the regulation of electronic gaming machines.

2.73 A game will only be approved if it has a statistical return to the player of at least an advertised minimum. If this is not the case, then the game rules must allow players to make a reasonable calculation on the player return or the game rules make

57 *Applying for an Interactive Gambling Licence*, http://www.qogr.qld.gov.au/App_IG.html, as at 13 October 1999, p. 11.

58 *Applying for an Interactive Gambling Licence*, http://www.qogr.qld.gov.au/App_IG.html, as at 13 October 1999, p. 13.

59 *Gaming Control (Internet Gaming) Regulations 1998*, Northern Territory, Part 4.

60 *Gaming Control (Internet Gaming) Regulations 1998*, Northern Territory, section 6(1).

61 The details of the control systems that are examined and assessed are described at section 6, *Gaming Control (Internet Gaming) Regulations 1998*, Northern Territory.

the house advantage clear to the player.⁶² The Draft Regulatory Control Model explains this requirement by way of an example:

Simulated spinning reel gaming machine type games will be required to have a player return minimum declared to the player such as 85% or 87% as the player is not given enough information from rules to even estimate the house advantage. A simulated casino table game such as roulette will not be required to declare minimum player return provided the house advantage can be calculated from the rules available to the player. An electronic raffle such as a dial in phone competition that does not have a set number of entries for each draw would also be required to declare a minimum player return.⁶³

2.74 A major aspect of the technical operations is to ensure that they are secure from any external attacks, such as computer hackers. Mr Stephen Toneguzzo, Managing Director and Principal Consultant, Global Gaming Services Pty Ltd, commented on the challenges posed by external threats in designing a security system for Lasseters Online Casino:

When we went into audit, there was not any technological requirements that we could audit against, so it was world breaking stuff. In conjunction with the government, we sat down and identified the risks to the government, to the operator, to the players and to the consumers and we asked, 'How do we mitigate those risks?' We looked at existing legislation requirements in terms of gaming machines, gaming systems and the broader e-commerce. We also looked at the Department of Defence and some of their IT security policies. We collectively applied those to the Lasseter's site.⁶⁴

Audit and inspection

2.75 The powers for audit and inspection of online gaming operators are similar to those that apply to casino and gaming machine operations. The powers include the right of entry into licensed premises and other places where records and equipment relating to the online gaming operation is kept. The Draft Regulatory Control Model states that the powers include:

... the ability for regulators to test, evaluate and audit systems and procedures at the service provider's premises by inspecting records, examining equipment and software in use and observing and questioning licensed persons. Regulators will also be empowered to test the service provider's operational probity by registering transactions remotely and then gaining access to the service provider's data base to ensure that each transaction is properly recorded. Auditors and inspectors will have the

62 *Draft Regulatory Control Model for New Forms of Interactive Home Gambling*, 23 May 1997, <http://www.qogr.qld.gov.au/inthogam.shtml>, as at 13 October 1999, p. 10.

63 *Draft Regulatory Control Model for New Forms of Interactive Home Gambling*, 23 May 1997, <http://www.qogr.qld.gov.au/inthogam.shtml>, as at 13 October 1999, p. 10.

64 *Official Committee Hansard*, Sydney, 15 October 1999, p. 100.

power to seize equipment for evidentiary purposes and a general power to investigate complaints.⁶⁵

2.76 Both the Northern Territory *Gaming Control (Internet Gaming) Regulations 1998* and the Queensland *Interactive Gambling (Player Protection) Act 1998* contain provisions to do with auditing that are consistent with the Draft Regulatory Control Model.⁶⁶

Advertising

2.77 The Draft Regulatory Control Model recognises that online gambling necessitates careful consideration of acceptable advertising practices.⁶⁷ This is because unlike physical gaming sites, a consumer does not have to make a conscious decision to enter a gambling environment. For example, they simply have to click on an icon that may not be located on a gambling related site. Consequently, special consideration needs to be given to the appropriate level of impulse directed marketing.

2.78 The Draft Regulatory Control Model states that a code of conduct for advertising should be instituted for all participating jurisdictions. Legislation regulating online gambling in each participating jurisdiction should state that a breach of the code is grounds to reconsider the licence of the relevant online gambling operator.⁶⁸

2.79 Division 15 of the Queensland *Interactive Gambling (Player Protection) Act 1998* regulates advertising by online gaming operators. The principal provision is section 165:

A person who advertises an authorised game must take reasonable steps to ensure the advertisement –

- (a) is not indecent or offensive; and
- (b) is based on fact; and
- (c) is not false, deceptive or misleading in any material particular.

2.80 A breach of any of the provisions in Division 15 is punishable by way of a fine. Contrary to the Draft Regulatory Control Model there is no clear threat to the

65 *Draft Regulatory Control Model for New Forms of Interactive Home Gambling*, 23 May 1997, <http://www.qogr.qld.gov.au/inthogam.shtml>, as at 13 October 1999, p. 10.

66 *Interactive Gambling (Player Protection) Act 1998*, Queensland, sections 156-148; *Gaming Control (Internet Gaming) Regulations 1998*, Northern Territory, sections 40-42.

67 *Draft Regulatory Control Model for New Forms of Interactive Home Gambling*, 23 May 1997, <http://www.qogr.qld.gov.au/inthogam.shtml>, as at 13 October 1999, p. 12.

68 *Draft Regulatory Control Model for New Forms of Interactive Home Gambling*, 23 May 1997, <http://www.qogr.qld.gov.au/inthogam.shtml>, as at 13 October 1999, p. 12.

online gaming operator's licence. However, any breach of the *Interactive Gambling (Player Protection) Act 1998* could bring an action against the operator's licence.

2.81 The Northern Territory *Gaming Control (Internet Gaming) Regulations 1998* does not specifically deal with restrictions to advertising online gaming.

Credit gambling

2.82 An online gambler will be able to deposit into their online gambling account an amount of money by way of a direct transfer of funds. If they have a credit card that provides them with a \$10 000 credit balance, they will be able to deposit this amount into their online gambling account.

2.83 Under the Draft Regulatory Control Model online gambling operators are prohibited from providing credit for gambling by becoming a financial institution as well as a gambling service provider.⁶⁹ The Queensland *Interactive Gambling (Player Protection) Act 1998* and the Northern Territory *Gaming Control (Internet Gaming) Regulations 1998* each specify that a licensed online gaming operator must not act as a credit provider to their customers.

Player protection

2.84 Under the Draft Regulatory Control Model, online gambling operators are required to allow consumers to set maximum bet levels or a maximum total number of bets for a particular period. If the consumer elects to impose one of these limits the online gambling operator will be responsible for not accepting a bet that would breach the limit. Once established, the consumer may alter the limit only after giving seven days notice.

2.85 A range of player protection measures are described in the Draft Regulatory Control Model:

Persons will be allowed to self exclude themselves from being registered as a player or from setting up an account with a service provider. This will be achieved by the person giving notice to the regulatory body in the State or Territory where the person is resident. Proof of identity will be required but no fee payable. That regulatory body will circulate the notice to all other regulators which in turn will give notice to the service providers it has licensed. The service provider must close any account and deactivate any registration of the person. A person will be allowed to withdraw the exclusion on seven days notice. Proof of identity will be required along with a fee calculated to reimburse costs of all regulatory bodies for both imposing and removing exclusion.⁷⁰

69 *Draft Regulatory Control Model for New Forms of Interactive Home Gambling*, 23 May 1997, <http://www.qogr.qld.gov.au/inthogam.shtml>, as at 13 October 1999, p. 15.

70 *Draft Regulatory Control Model for New Forms of Interactive Home Gambling*, 23 May 1997, <http://www.qogr.qld.gov.au/inthogam.shtml>, as at 13 October 1999, p. 15.

2.86 Mr Desmond McKee, Manager Taxation Services, Department of the Treasury, Australian Capital Territory, commented on the player protections that could be implemented for online gaming:

A player who registers with a provider is given the opportunity of being able to put in their bet limits. We are not talking about minors here; this is just a normal player. They can put in bet limits either per game, per bet or per session over a period of time, such as a month. There are to be warning signs about gambling. There is also information to deal with people who might feel that they have a problem for example, hot linking to a counselling service, which is just a click of a button. It is largely to make people aware of what they are doing, and for the service provider not to ignore the likelihood that their clients could have a problem with gambling.

There are various reports that the regulator can obtain from the providers' data, and one of the reports is significant transactions. You can set a limit. For example, you might think a \$1 000 bet or a \$500 bet is a significant transaction, and you would get a report on those sorts of things. You could also match that with player account numbers and things of that nature. So there are those processes.⁷¹

2.87 The Northern Territory and Queensland Governments have each instituted schemes that reflect the Draft Regulatory Control Model in this respect. The various aspects to player protection and how they are dealt with by the Queensland and Northern Territory Governments, are discussed below.

- *Exclusion from an online gaming service*

2.88 Under the Northern Territory *Gaming Control (Internet Gaming) Regulations 1998* provision is made for a consumer to exclude themselves from an online gaming Internet site.⁷² Once a consumer has been excluded from the site, a limitation is placed on their ability to re-register as a player. That is, the online gaming operator can re-register only with the approval of the Director of Gaming.⁷³

2.89 Under the Northern Territory scheme, the exclusion applies only for the relevant online gaming operator. The consumer will have to make a separate application to be excluded from the Internet site of another online gambling operator operating in that or another jurisdiction.

2.90 In contrast, Queensland's *Interactive Gambling (Player Protection) Act 1998* also allows for a consumer to exclude themselves from an online gambling service, but goes further in allowing a third party exclusion and by instituting a blanket prohibition in that jurisdiction.

71 *Official Committee Hansard*, Canberra, 1 October 1999, p. 49.

72 *Gaming Control (Internet Gaming) Regulations 1998*, Northern Territory, section 58.

73 *Gaming Control (Internet Gaming) Regulations 1998*, Northern Territory, section 58.

2.91 The third party making the application for an exclusion must be ‘a person who satisfies the chief executive of a close personal interest in the welfare of the person against whom the prohibition is sought’.⁷⁴

2.92 The process for the exclusion includes notifying all parties affected by the application for exclusion, and requiring written notice to be sent to all persons which contains reasons for proceeding with the exclusion.⁷⁵ Notice is also sent to ‘all authorised providers’ – in other words, all online gambling operators licensed by the Queensland Government.⁷⁶ Once this has been done, the consumer is prohibited from gambling with any online gaming operators (that is, ‘authorised providers’) located in Queensland.

- *Betting limits*

2.93 Both regulatory schemes allow consumers to place a limit on the amount that they can bet for a specified period. Under the Northern Territory *Gaming Control (Internet Gaming) Regulations 1998*, once a consumer places a limit on the amount that they can bet, they may revoke the limit by providing notice to the online gaming operator. If the limit is to be increased, it will take effect seven days after the notice was sent. If it is to be decreased, it will take effect immediately.⁷⁷ The Queensland *Interactive Gambling (Player Protection) Act 1998* does not differ from the Northern Territory scheme in this regard.⁷⁸

- *Prohibiting access by minors*

2.94 Both regulatory schemes prohibit minors from gambling with an online gambling operator. The Northern Territory *Gaming Control (Internet Gaming) Regulations 1998* state that an online gaming operator must not permit a player to gamble on his or her site if the operator suspects, ‘or ought, in all circumstances, reasonably be expected to suspect’ that the player is a minor.⁷⁹ However, in cases where a minor is found to have accessed an online gaming site, the operator may not be liable if the operator can show that ‘he or she had no reason to believe, and did not believe, that the person to whom the charge relates was a minor’.⁸⁰

2.95 The Northern Territory scheme also provides that:

An Internet gaming licensee must ensure that a person has electronic access, at the licensee’s Internet site, to computer software that will enable the

74 *Interactive Gambling (Player Protection) Act 1998*, Queensland, section 137.

75 *Interactive Gambling (Player Protection) Act 1998*, Queensland, section 137.

76 *Interactive Gambling (Player Protection) Act 1998*, Queensland, section 137.

77 *Gaming Control (Internet Gaming) Regulations 1998*, Northern Territory, section 57.

78 *Interactive Gambling (Player Protection) Act 1998*, Queensland, section 136.

79 *Gaming Control (Internet Gaming) Regulations 1998*, Northern Territory, section 60.

80 *Gaming Control (Internet Gaming) Regulations 1998*, Northern Territory, section 60.

person to restrict or prevent access to the site from the person's computer by a minor.⁸¹

2.96 The software referred to above is filtering software. For example, commercial products such as 'Net Nanny' and 'Cyberpatrol'. Features like this will also help to prevent access to the online gaming site by children in the home.

2.97 The Queensland *Interactive Gambling (Player Protection) Act 1998* is similar to the Northern Territory scheme but does not require an online gaming operator to make available computer software to assist with preventing access by minors.⁸² However, as part of the licensing scheme, the Queensland Government requires licensees to make available this type of filtering software.

Money laundering

2.98 Gambling on the Internet may provide a means for money laundering. Internet gambling provides anonymity, remote access, and encrypted data. To launder money, a person need only deposit money into an offshore account, use those funds to gamble, lose a small percentage of the original funds, then cash out the remaining funds. Through the dual protection of anonymity and encryption, much of this activity can take place undetected.⁸³

2.99 Under Australian regulation, the strict requirement for player identification diminishes the prospect for money laundering, which requires a degree of anonymity.

2.100 Further, in addition to reporting requirements under the *Financial Transaction Reports Act 1988*, online gambling operators will be required to report defined transactions to the Australian Transaction Reports and Analysis Centre (AUSTRAC). The nature of the defined transactions will be established in consultation with AUSTRAC.⁸⁴ This will assist to identify transactions that bear the characteristics of money laundering activity.

Privacy

2.101 Under the Draft Regulatory Control model, online gambling operators will be required to abide by the Information Privacy Principles set out in section 14 of the *Privacy Act 1988* and with the *OECD Guidelines on the Protection of Privacy and*

81 *Gaming Control (Internet Gaming) Regulations 1998*, Northern Territory, section 61.

82 *Interactive Gambling (Player Protection) Act 1998*, Queensland, section 179.

83 *National Gambling Impact Study Commission Final Report*, <http://www.ngisc.gov/>, as at August 3 1999, pp. 5-6.

84 *Draft Regulatory Control Model for New Forms of Interactive Home Gambling*, 23 May 1997, <http://www.qogr.qld.gov.au/inthogam.shtml>, as at 13 October 1999, p. 15.

Transborder Data Flow of Personal Data. Failure to meet this standard will provide a ground for action against the online gambling operator's licence.⁸⁵

2.102 Neither the Queensland *Interactive Gambling (Player Protection) Act 1998* or the Northern Territory *Gaming Control (Internet Gaming) Regulations 1998* specifically refer to the Information Privacy Principles or the *OECD Guidelines*. Under each of the legislative regimes, however, there are restrictions on the publication of information that may identify a player. In this respect the Queensland and Northern Territory models mirror each other. They provide that an online gaming operator must not:

- disclose information about the name, or other identifying particulars, of a player; or
- use information about a player for a purpose other than the purpose for which the information was given.⁸⁶

2.103 There are some cases however where the personal identity information may be released. Disclosure is permitted where it:

- is authorised by the player, or
- reasonably necessary for the conduct of internet games, or
- required for the administration or enforcement of the [Act or regulations], or
- otherwise required by law.⁸⁷

2.104 Mr Stephen Toneguzzo, Managing Director and Principal Consultant, Global Gaming Services Pty Ltd, commented on the technical aspects of protecting consumer details that apply to Lasseters Online:

In terms of player privacy, we have insisted that player information, credit card details, et cetera be encrypted in a database, that the database be securely stored in an operating environment, that the operating environment be behind various levels of firewalls and security and that the defence is in depth. Many different strategies are applied to that site. The people that are involved in that site undergo probity checks and the Northern Territory itself has legislation in place to ensure the protection of players.⁸⁸

85 *Draft Regulatory Control Model for New Forms of Interactive Home Gambling*, 23 May 1997, <http://www.qogr.qld.gov.au/inthogam.shtml>, as at 13 October 1999, p. 13.

86 *Gaming Control (Internet Gaming) Regulations 1998*, Northern Territory, section 70; *Interactive Gambling (Player Protection) Act 1998*, Queensland, section 184.

87 *Gaming Control (Internet Gaming) Regulations 1998*, Northern Territory, section 70; *Interactive Gambling (Player Protection) Act 1998*, Queensland, section 184.

88 *Official Committee Hansard*, Sydney, 15 October 1999, p. 100.

Taxation sharing arrangement

2.105 The Draft Regulatory Control Model proposes a taxation sharing arrangement for participating jurisdictions:

Taxation will be applied on the basis of the location of residence of the player and will be remitted to the player's jurisdiction. Where a player, who is not resident in a participating jurisdiction, accesses the product, tax will be retained by the jurisdiction in which the service provider is located.⁸⁹

2.106 The taxation sharing arrangement can be explained by way of an example. If a Queensland-based online gaming operator acquires 5 percent of its turnover from Victorian players, then 5 per cent of the gross profit is taxed by the Victorian Government (that is, as long as both states are participating jurisdictions).

2.107 The Northern Territory is not a participating jurisdiction. Therefore, it is not part of any taxation sharing arrangement.

2.108 The Queensland *Interactive Gambling (Player Protection) Act 1998* provides for the remittance of taxation to a participating jurisdiction:

From time to time (as contemplated in the intergovernmental agreement), the Minister must remit to a participating regulator a proportion of the interactive gambling tax collected or recovered from licensed providers.⁹⁰

2.109 The amount that is remitted reflects the contribution of players in the participating jurisdiction to the total gambling turnover of the online gaming operator.⁹¹ The current level of taxation in different States and Territories is inconsistent.

Interactive wagering

2.110 The development of interactive wagering differs considerably to online gaming. New legislation for the regulation of online gaming was drafted. This is because online gaming is a new phenomenon and there were no existing regulatory frameworks or legislative schemes that could be suitably adapted to it.

2.111 In contrast, the regulation of interactive wagering is based on previously existing legislation which has either been only slightly amended or not amended at all. This is because interactive wagering has not introduced a new type of wagering activity. Rather, the Internet is used to facilitate existing forms of wagering activity. Consequently, the amendments have mainly dealt with applying the same type of regulation to the Internet that applies to telephone and physical wagering.

89 *Draft Regulatory Control Model for New Forms of Interactive Home Gambling*, <http://www.qogr.qld.gov.au/inthogam.shtml>, as at 20 October 1999, p. 4.

90 *Interactive Gambling (Player Protection) Act 1998*, Queensland, section 115(1).

91 *Interactive Gambling (Player Protection) Act 1998*, Queensland, section 115(2).

2.112 Mr Brian Gordon, Manager Racing, Department of the Treasury and Infrastructure, Australian Capital Territory, commented on the nature and development of the regulatory scheme for interactive wagering:

The ACT has two pieces of legislation which essentially cover online gambling. The first piece of legislation is our *Bookmakers Act 1985*. That act was amended in 1994 to specifically allow for sports betting. Over the last number of years, as a result of discussions between State and Territory Governments through the interactive wagering working party, the ACT has strengthened the sports betting regulatory regime to incorporate online betting.⁹²

2.113 Although there is an existing framework for the regulation of wagering in Australia, in which jurisdictions have developed their own models of regulation, States and Territories have proposed a joint model for the regulation of interactive wagering:

There is also a regulatory model for interactive wagering which all the States and Territories are essentially in agreement with. That arrangement has formed the basis of the ACT's regime. The Northern Territory and a number of other jurisdictions are moving that way as well. There is national consensus on the wagering front, which is not necessarily shared by the gaming front.⁹³

2.114 In accordance with a resolution of the November 1996 meeting on the Conference of Australian Racing Ministers, the Officers' Working Party on Interactive Wagering published its first of three reports on 24 September 1997.

2.115 One of the tasks of the working party was to examine the need for the development of a national strategy with regard to all forms of interactive wagering. The Working Party concluded that the principles of the Draft Regulatory Control Model were limited in their application to interactive wagering.

2.116 A bookmaker, in obtaining their bookmaking licence, will have to satisfy the various licensing requirements established in Australia over the past century. Each State and Territory has its own legislation dealing with the regulation and licensing of bookmakers.

2.117 If a bookmaker is to take their services to the Internet, additional licensing requirements are applied. These deal with those parts of the bookmaking business that are specific to Internet operations. In essence, the regulatory scheme for interactive wagering builds on the existing regulatory scheme for traditional forms of wagering. In this regard, the probity and suitability of the bookmaker has already been assessed.

92 *Official Committee Hansard*, Canberra, 1 October 1999, pp. 46-47.

93 *Official Committee Hansard*, Canberra, 1 October 1999, p. 50.

2.118 Mr Brian Gordon commented on the way that the regulatory scheme for interactive wagering built onto an existing scheme:

We had regulatory arrangements in place where all telephone betting transactions were recorded, and the punter and the bookmaker had appropriate protections in place. The next stage was, instead of a punter picking up a telephone and talking to the bookmaker, he used his computer to talk to the bookmaker's computer. But the betting transaction was essentially the same. The regulatory framework was broadened to cover that telecommunications activity, but we are still maintaining the regulatory onus on the service provider, not the medium through which they transact the activity.⁹⁴

2.119 The Australian Capital Territory, Determination No. 254 of 1998 under section 39C(1) of the *Bookmakers Act 1985*, specifies these additional requirements for interactive wagering.⁹⁵ The Explanatory Statement for the Determination states that:

... systems utilised by bookmakers must comply with the agreed national standards and ... an independent audit must be provided to confirm that the security and integrity of the systems are assured and that the systems meet the minimum national standards.⁹⁶

A national cooperative model

2.120 The minimum national standards are set out in the Second Report of the Officers' Working Party on Interactive Wagering, which was presented to the Conference of Australian Racing Ministers on 9 October 1998. These were endorsed by all Ministers who were at the Conference. The Second Report states that the standards are designed to achieve 'an appropriate balance between the integrity of the operation of a sports bookmaker wagering software/system, and the cost of the operator of developing and maintaining such a system'.⁹⁷

2.121 The minimum national standards are split into two categories – system requirements and reporting requirements. There are twenty system requirements. These include:

- Internal controls are implemented to ensure that communications between customer and operator meet acceptable commercial standards of privacy and financial.

94 *Official Committee Hansard*, Canberra, 1 October 1999, p. 48.

95 *Determination of Rules for Sports Betting*, No. 254 of 1998, sec 39C(1) of the *Bookmakers Act 1985* (Australian Capital Territory).

96 Explanatory Statement for the *Determination of Rules for Sports Betting*, No. 254 of 1998, section 39C(1) of the *Bookmakers Act 1985* (Australian Capital Territory).

97 *Second Report of the Officers' Working Party on Interactive Wagering*, presented to the Conference of Australian Racing Ministers on 9 October 1998, p. 49.

- System incorporates mechanism relating to security over customers' account funds. Viz minimum: PIN/password, restricted access to relevant system "level" by staff operator.
- The system must either (1) display online the rules and procedures for dispute resolution, or (2) provide an online link to such information (eg at the regulator's website).
- System includes facility for customer access to record of previous transactions.
- System advises customer that wager has been accepted, transaction complete.
- Access to relevant levels of system is to be available to regulator.⁹⁸

2.122 There are four reporting requirements which include:

- System shall have capacity to provide comprehensive and timely reports to regulator – on both hard and soft copy.
- System shall calculate and report on amount of tax payable and when due and payable.⁹⁹

Distinctions between online gaming and interactive wagering

2.123 Online gaming generates the event on which an amount is gambled. For example, a casino game is generated by computer software. In interactive wagering, the sporting or racing event on which an amount is gambled occurs independently. One of the challenges of regulating online gaming is ensuring that the actual games meet the required standards. This requires a considerable level of auditing and regulation. In contrast, interactive wagering is removed from the sporting or racing event. Consequently, the regulation of interactive wagering does not involve regulation of the event. The Officers' Working Party on Interactive Wagering commented on this aspect of regulation:

A vital distinction between gaming and wagering is that, in the case of the latter, the event upon which the gambling is based is known as a 'third party contingency'. For example, a horse race at Randwick is conducted by the Australian Jockey Club and its integrity is overseen by stewards employed by the New South Wales controlling body for galloping, the Thoroughbred Racing Board. The final outcome of the contingency is determined quite independently of, say, the NSW or Victorian TABs, or licensed bookmakers around Australia fielding on the event.

98 *Second Report of the Officers' Working Party on Interactive Wagering*, presented to the Conference of Australian Racing Ministers on 9 October 1998, Appendix P.

99 *Second Report of the Officers' Working Party on Interactive Wagering*, presented to the Conference of Australian Racing Ministers on 9 October 1998, Appendix P.

By contrast, in the case, for example, of a lottery drawn in NSW the only legal form of gambling on the lottery draw contingency is with the NSW Lotteries Office – the same operator who is responsible for the conduct of the lottery draw itself. The situation is similar with, say, roulette in an Australian casino. It is against this backdrop that the licensing scheme in the [Draft Regulatory Control Model] has been established.¹⁰⁰

2.124 This difference between online gaming and interactive wagering has meant that many features of the Draft Regulatory Control Model do not apply to interactive wagering. Further, issues such as probity of the online bookmaker are dealt with under existing bookmaking legislation.

2.125 The relevance of the Draft Regulatory Control Model to interactive wagering was considered in the first Report of the Officers' Working Party on Interactive Wagering.¹⁰¹ The Working Party stated that the Draft Regulatory Control Model specifically excluded products currently offered by State and Territory TABs and licensed bookmakers, but nonetheless considered whether it could be applied to interactive wagering in Australia.¹⁰² The Working Party commented that the taxation sharing arrangement of the Draft Regulatory Control Model need not apply to interactive wagering:

With respect to the characteristic of remoteness between gambler and operator, wagering in Australian jurisdictions in 1997 can be regarded as rather mature. Parimutuel and fixed odds wagering on racing has been freely and readily available to virtually all Australians for several decades.

... since the 1960s, and basically from the time of introduction of TAB wagering in Australia, telephone betting against pre-established account funds has been a feature. Moreover, it is not uncommon for such accounts to be maintained by a punter outside the State or Territory of the TAB with which the account is held. Additionally ... online bookmakers have been accepting wagers on racing by telephone in all jurisdictions for several years now. Hence, with respect to the act of transacting between punter and operator, the Internet does not, in substance, represent anything new in the context of Australian wagering.¹⁰³

2.126 The regulatory model for interactive wagering has not formally addressed the issue of player exclusions. Mr Derk Swieringa, General Manager, Canbet Pty Ltd,

100 *Report of the Officers' Working Party on Interactive Wagering*, presented to the Conference of Australian Racing Ministers on 10 October 1997, p. 9.

101 *Report of the Officers' Working Party on Interactive Wagering*, presented to the Conference of Australian Racing Ministers on 10 October 1997, pp. 8-12.

102 *Report of the Officers' Working Party on Interactive Wagering*, presented to the Conference of Australian Racing Ministers on 10 October 1997, p. 8.

103 *Report of the Officers' Working Party on Interactive Wagering*, presented to the Conference of Australian Racing Ministers on 10 October 1997, p. 8.

commented that while the Australian Capital Territory Government has not legislated for player exclusions, his company will endeavour to offer the service:

If a person believes they have a problem and they get to a point in their own lives when they say, 'This has got to stop,' they can actually click a button on the Internet that says 'I wish to self exclude'. Then a process comes into place where the whole thing is frozen. The procedure would need to be developed, but we would then close the account. If there were a balance of money in the account, we would send it back to the person and close the account. But they can initiate it. There is usually also a provision of information on gambling counselling services. You just click on that, and that takes you to another Internet site which gives information which they can also follow up.¹⁰⁴

Conclusion

2.127 Australia has established itself as a market leader in the emerging online gambling industry. Locally based operators are experiencing rapid growth mainly due to increasing gambling activity from overseas based gamblers. Currently, Australian-based gamblers comprise a small proportion of the online gambling market.

2.128 The types of gambling activities that the Internet will allow are potentially unlimited. However, currently, most gambling is based on traditional activities such as casino type games and sports betting.

2.129 There is evidence that more operators will enter into the online gambling industry, as Australian governments continue to issue the appropriate licences. Further, technologies are being developed and implemented to expand the types of gambling activities that will become available. Consequently, it is likely that the industry will undergo significant change in the short to medium term.

2.130 State and Territory regulators have shown a clear intention to regulate online gambling through the application of uniform standards. However, as this intention has been put into practice, some significant differences between the legislative frameworks that embody the regulatory models have emerged. The differences contradict the cooperative approach espoused by Australia's Gaming Ministers in May 1997, in the form of the Draft Regulatory Control Model.

2.131 The Committee therefore believes a firmer and clearer national approach is required.

104 *Official Committee Hansard*, Canberra, 1 October 1999, p. 13.