

GAMBLING ONLINE IN AUSTRALIA

Minority Report by ALP Senators

**SENATE SELECT COMMITTEE
ON INFORMATION TECHNOLOGIES**

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Executive Summary - ALP minority report

- The ALP considers a policy of effective regulation of gambling online to be the most practical way of substantially restricting the harm of gambling, including criminal harm, and maximising the benefits that will flow to consumers, the gambling and IT industries, and Australia.
- Effective regulation involves legalisation of gambling online within a national regulatory framework which addresses harm minimisation and consumer protection issues as well as criminal issues which relate to new criminal opportunities which may arise from gambling online.
- The ALP does not support an outright ban of gambling on the Internet because we do not consider it to be technically feasible or necessary.
- The ALP recommends existing regulatory requirements for land-based casinos, clubs or wagering venues be extended to online casinos and online wagering facilities. Probity, audit and licensing requirements should be equally strict to maintain the level of gambling regulation that presently exists. A practical policy option could be that existing land-based casinos, clubs and wagering venues could qualify for online licenses attaching to existing licences where they comply with any additional online regulatory requirements.
- The ALP opposes a laissez-faire policy approach to the regulation of online gambling, since governmental inaction would result in a proliferation of gambling services the probity of which would be uncertain. This uncertainty could taint Australia's international reputation as a leading gambling regulator, result in the unscrupulous manipulation and swindling of players or foster criminal activities such as money laundering.
- Any regulatory framework, including industry wide codes of practice, must address consumer protection issues characteristic of gambling online, including:
 - mechanisms to exclude those not eligible to gamble under Australian law;
 - problem gambling controls (for example exclusion facilities, expenditure thresholds, the availability of transaction records);
 - privacy protection;

- regulation of propriety in advertising; and
 - software and accounting procedures.
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- The ALP supports a degree of Federal involvement in coordination of the regulatory regime. This will be achieved by a Ministerial Council comprising relevant State and Federal Ministers which will develop a national regulatory framework.
 - The development of an advisory body that comprises representatives of the various parties with a vested interest in the social and economic implications of online gambling is a measure supported by the ALP. The Federal Government also needs to act to address issues that require federal intervention to be effective such as privacy protection, advertising regulation and law enforcement mechanisms.
 - The Federal Government must develop anti-money laundering and anti-taxation evasion measures, and must demonstrate the political will to arm enforcement agencies with the funding and expertise to detect and enforce criminal offences relating to emerging online technologies.
 - The online gambling industry needs to be brought within the *Financial Transaction Reports Act 1988* requiring large or suspicious transactions are reported to AUSTRAC.
 - The Australian Federal Police should be empowered to direct ISP's to takedown foreign or offshore gambling sites engaging in illegal or grossly improper activities. This will minimise, although not eliminate, the harm that these actions can potentially inflict. The Federal Government has a responsibility to ensure that the AFP is adequately resourced to effectively deal with these issues.

Senate Select Committee on Information Technologies

Gambling Online in Australia

1. Introduction

1.1 The existence of technology that brings gambling services into the home, office and any location where a personal computer or television is available, requires careful contemplation by policy makers. Australians continue to embrace rapid growth in the accessibility of technological advances;¹ this fact highlights the urgency of an appropriate governmental response to the potential implications of gambling online.

1.2 Essentially, the Federal Government may pursue any one of three alternative courses of action in response to the domestic online gambling industry. The course of action encouraged by the community groups that gave evidence and presented submissions to the Committee is an outright ban. At the other extreme, the Federal Government could adopt a laissez-faire approach and not regulate the industry at all (although State and Territory Governments have independently evinced an intention to regulate the industry)². The ALP favours a policy of effective regulation of the domestic industry.³ Each of these options is considered in this report.

2. Outright Ban of gambling online

2.1 The foundation of arguments seeking an outright ban of gambling online is the need for public protection from the social impact of problem gambling. This approach

¹ ACIL Consulting Pty Ltd on behalf of Tattersalls & Crown Ltd, Submission 35, p.8; Artson System Pty Ltd, Submission 41, pp.5-6.

² Policy principles contained in the Draft Regulatory Control Model for New Forms of Interactive Home Gambling were agreed to by Gaming Ministers from each State and Territory in May, 1996. Draft model available at <http://www.qogr.qld.gov.au/inthogam.shtml>.

³ Effective regulation involves the legalisation of online gambling within a national regulatory framework addressing harm minimisation, consumer protection and criminal issues.

has been recommended to the Committee by community and church organisations that regularly encounter problem gamblers and see the extent of the negative effects gambling has on their lives.

2.2 Growth in the incidence of problem gambling in recent years is attributable to increased accessibility of land-based gambling forms, particularly electronic gaming machines (EGMs). The premise upon which advocates of an outright ban of gambling online rely is that the incidence of problem gambling increases commensurate with availability of gambling services. Indeed, evidence presented to the Committee relating to the increased availability of EGMs in New South Wales and Victoria and limitation of availability in Western Australia and Tasmania indicates an irrefutable link between EGM availability and the incidence of gambling problems.

2.3 Major Lynette Middleton, Chairman of the Public Questions Board of the Salvation Army, has commented that:

An Australian Bureau of Statistics press release in April of this year indicated a 41 per cent increase in gambling net takings in the three years from 1995 to 1998, and the most significant change was in the pubs, taverns and bar industry where there was a 20 per cent increase in businesses with gambling facilities and a 118 per cent increase in net takings from gambling. This increase in both gambling opportunities and the incidence of problem gambling affirms the research that demonstrates that, where accessibility of gambling is increased, there is also an increase in the number of regular gamblers and the number of problem gamblers.⁴

The issue that presents itself in this context is whether increased accessibility of gambling online and the additional gambling opportunity that it provides will necessarily translate into similarly significant increases in the incidence of problem gambling.

⁴ *Official Committee Hansard*, Sydney, 15/10/99, p.126.

2.4 Gambling in licensed premises and gambling online are fundamentally different, and the ability of regulators to control and monitor online expenditure can substantially limit the incidence of problem gambling online.⁵ Reverend Nile, representing the Christian Democratic Party, remarked that land-based gambling could provide “warning signs in the casinos and on poker machines indicating that gambling counsellors are available. People who are unable to control themselves would be prohibited from entering the casino.”⁶ Reverend Nile went on to state that the danger of gambling via the Internet is that “You cannot do any of that on the Internet. That is the whole problem.”⁷

2.5 The ALP believes that, on the contrary, gambling online provides the technological means to minimise harm to a greater extent than land-based gambling forms.⁸ Regulation of the industry can involve a prohibition of credit betting, imposition of expenditure thresholds and self-exclusion mechanisms, and even require providers to examine unusual spending habits. We consider that such controls can minimise the harm of gambling to a lower level than achievable by an outright ban under which unregulated and overseas sites could proliferate.⁹

2.6 It is considerably more difficult to implement a policy of prohibition than to advocate it, from a technological and economic perspective. An effective ban of Internet gambling would require global cooperation and enforcement strategies, since there are already gambling sites operating internationally. The community interest would not necessarily be best served by a policy of prohibition, as there are several insuperable obstacles that would prevent effective implementation of the policy and distinct advantages of which the community would be deprived.

⁵ See discussion at *Official Committee Hansard*, Sydney, 15/10/99, pp.127-130.

⁶ *Official Committee Hansard*, Sydney, 15/10/99, p.129.

⁷ *Ibid.*

⁸ See further discussion of problem gambling at [4.7] – [4.14].

⁹ Australian Institute of Criminology, Submission 2, pp.3-4.

Enforcement problems

2.7 A prohibition of gambling online in Australia would involve the imposition of criminal liability on anyone who accepts or places a wager online, or on anyone who offers or plays software generated casino games. Enforcement of a ban would be prohibitively expensive and impractical in light of the funding and technical sophistication that would be required for law enforcement agencies to investigate and prosecute crimes.¹⁰

2.8 Accordingly, it has been suggested that prohibition is likely to provide incentive for criminal activity because of the ease of establishing and operating unregulated sites without detection or prosecution.¹¹

2.9 The contentious issue of extra-territorial jurisdiction renders control of unscrupulous overseas operators impossible, and use of blocking technology by ISP's to prevent Internet users from accessing gambling content can quickly be bypassed and is not considered a technically feasible option for implementation of a ban.¹²

Loss of benefits

2.10 Significant benefits to Australian consumers and operators would remain unrealised should the Government adopt a prohibitory policy relating to gambling online. Consumers would lose the benefit of access to gambling facilities whose probity is strictly regulated and which are available from the convenience of one's own home.

¹⁰ Australian Institute of Criminology, Submission 2, p.3.

¹¹ *Ibid.*; ACIL Consulting Pty Ltd on behalf of Tattersalls & Crown Ltd, Submission 35, p.14.

¹² ACIL Consulting Pty Ltd on behalf of Tattersalls & Crown Ltd, Submission 35, p.20; Evidence to the Committee from Mr Farago and Mr Griffiths: Official Committee Hansard, Canberra, 1/10/99, p.41; WWWagering & Gaming Consultants, Submission 31, pp.19-20. Also findings in 1998 CSIRO Report "Blocking Content on the Internet: A Technical Perspective" support this conclusion.

2.11 For those who cannot ordinarily access gambling facilities, who dislike traditional gambling environments, or who prefer to dictate their own playing pace, Internet gambling is an alternative way to enjoy the entertainment of gambling.¹³

2.12 The Internet will offer a greater variety of games that will present the information technology industry with new challenges in the development of increasingly sophisticated equipment. Software and Internet development by Australian companies will create employment and export opportunities.¹⁴

2.13 The export potential of Internet gambling is anticipated to be significant in itself, although presently unascertainable. The value of revenue sourced from the effective taxation of gambling via the Internet is also a significant benefit for government.

2.14 In light of the evidence presented to the Committee, the ALP takes the preliminary view that an outright ban of gambling online is a futile policy approach, which is not technically feasible. The Government has indicated its intention to investigate the viability of a ban¹⁵, and the ALP will thoroughly scrutinise the Government's report on this issue when complete.

3. Laissez-faire

3.1 Inaction by the Government in the regulation of gambling online would, almost undoubtedly, lead to a proliferation of gambling services, the probity of which would be uncertain.

¹³ Artson System Pty Ltd, Submission 41, p.10; Lasseters Casino Pty Ltd, Submission 29, p.19; Australian Hotels Association (NSW), Submission 40, p.5.

¹⁴ Global Gaming Services Pty Ltd, Submission 18, p.6 para 6.3; Access Systems Pty Ltd, Submission 23, p.2; Lasseters Casino Pty Ltd, Submission 29, pp.11-12; WWWagering & Gaming Consultants, Submission 31, pp.6-7.

¹⁵ Prime Minister John Howard, Media Release, 16/12/99.

3.2 The gambling industry overwhelmingly supports industry regulation over a laissez-faire approach which could taint the entire industry's good international reputation; it is the government-regulated environment which makes providers competitive. Without regulation, the competitive advantage derived from being an Australian provider would be lost, taking with it significant taxation revenue. Mr Peter Bridge, Chief Executive Officer of Australia's first online casino, Lasseters Online, has acknowledged the value of Australia's reputation to the industry:

... 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.¹⁶

3.3 An absence of regulation could also have the consequence of leaving the market place open to unscrupulous operators who irresponsibly foster problem gambling by, for example, psychological manipulation. The precise impact of the increased accessibility of gambling services upon problem gambling is, at present, purely speculative, however, it is certain that an unregulated industry has the potential to result in considerably more adverse consequences than one which is regulated.

3.4 Furthermore, there is a danger that unregulated gambling sites will be used as a vehicle for money laundering,¹⁷ thus encouraging undesirable criminal activity. Mr Graham Pinner, Acting Director, Australian Transaction Reports and Analysis Centre commented on this danger:

The risk with these new technologies is that the movement of funds, at least potentially, could occur outside of the traditional financial sector and be conducted by institutions that are unregulated. ... The concern of the international anti-money laundering community is that those technologies

¹⁶ *Official Committee Hansard*, Alice Springs, 10/11/99, p.180.

¹⁷ *Official Committee Hansard*, Canberra, 1/10/99, pp.59-60.

have at least the potential to bypass the controls that are presently in place in the financial sector and other organisations.¹⁸

3.5 Money laundering should be stymied by regulation of gambling sites to bring them within the *Financial Transaction Reports Act 1988*.¹⁹

4. Effective regulation

4.1 An Australian policy of effective regulation is the policy approach favoured by the ALP as the only means to protect consumers, minimise harm and ensure a competitive advantage for Australian providers. A cooperative national approach has received significant support in submissions to the Committee, which have also highlighted the importance of Australia proactively seeking to develop international cooperation to address the issues globally. Australia will be well placed to do so if an effective regulatory regime is implemented ahead of other countries. A table summarising submissions to the Committee by key interest groups in relation to the need for and extent of potential Federal involvement, essential elements of a regulatory framework, restricting access by minors and online problem gambling is attached at Appendix 1.

4.2 There have been divergent opinions presented to the Committee regarding the exact nature of the appropriate cooperative national approach. Representatives of the gambling and information technology industries and experts in the field of gambling regulation agreed that some degree of Federal involvement in regulation was necessitated by the nature of the Internet and existing and imminent communications technologies, and the practical impossibility of State and Territory consensus on issues critical to effective regulation. It is the degree of Commonwealth regulatory intervention required for effective industry regulation that remains to be determined.

¹⁸ *Official Committee Hansard*, Canberra, 1/10/99, p.60.

¹⁹ *Official Committee Hansard*, Canberra, 1/10/99, p.61 and see below para [4.20]ff regarding crime prevention and enforcement.

4.3 It is necessary for the Government to decide whether it will adopt a proactive policy approach and regulate gambling undertaken via the Internet as well as other interactive mediums. It is expected that the technology and infrastructure to access interactive gambling in all households with a television will be in place by early 2001, thus it is pertinent that the Government approaches the issue of gambling in the home taking into account future dissemination media.

Consumer protection issues - crucial elements of regulatory framework

4.4 The States and Territories have already recognised, in the Draft Regulatory Control Model for New Forms of Home Gambling,²⁰ that consumer protection issues are of paramount importance for the effective regulation of the industry. In this Draft National Regulatory Model, the major consumer protection issues identified were:

- Proof of identity/majority;
- Measures to reduce compulsive and problem gambling including voluntary and third party exclusion facilities, and control of credit gambling;
- Regulation of advertising, by providers, of approved products by a Code of Conduct;
- Operational controls over the product including audit procedures similar to those existing for land casinos;
- Probity controls for providers and their staff;
- Privacy issues relating to private details of consumers.

4.5 The Draft National Regulatory Model requires reevaluation in the context of recent technological advances and requires more tightly drafted regulatory provisions. The ALP considers the above consumer protection issues to be crucial to a regulatory framework, although the Draft Model needs to be expanded and updated.

Privacy

²⁰ n.2 pp. 3-4.

4.6 Data encryption is an important tool which can successfully protect the privacy of player details. Provision for the protection of privacy needs to be an element prescribed in industry wide regulatory standards. It should be noted, however, that privacy protection can hinder law enforcement agencies in the detection of criminal activity by preserving anonymity.²¹ This needs to be borne in mind when provision is made for privacy and security of player information, and cooperation with law enforcement agencies should be required.

Problem Gambling

4.7 The incidence of problem gambling is an issue that needs to be addressed in a regulatory model for gambling online. Evidence submitted to the Committee suggested that a new wave of problem gamblers will result from the increased availability, similar to that resulting from the introduction of gaming machines in some States.²² There is evidence a new market is emerging and that younger gamblers with higher personal incomes have been attracted to Internet based gambling.²³ It is anticipated that this socio-demographic profile will change as access to Internet and interactive technologies becomes more widespread.²⁴

4.8 The technology used in the provision of Internet gambling, when properly managed, has the capacity to restrict and monitor playing habits more effectively than traditional gambling forms. It is also argued that the social nature and environments of existing forms appeal to problem gamblers and that these problems might not translate

²¹ National Crime Authority, Submission 65, p.4.

²² Prof Jan McMillen, Executive Director, Australian Institute for Gambling Research, Aristocrat Chair of Gaming, University of Western Sydney Macarthur; Official Committee Hansard, Sydney, 15/10/99, p.80; Access Systems Pty Ltd, Submission 23, pp. 4-5 para [5.1.2].

²³ Prof Jan McMillen, Executive Director, Australian Institute for Gambling Research, Aristocrat Chair of Gaming, University of Western Sydney Macarthur; Official Committee Hansard, Sydney, 15/10/99, p.80; Access Systems Pty Ltd, Submission 23, pp. 4-5 para [5.1.2]; Productivity Commission, Inquiry Report, *Australia's Gambling Industries*, November 1999, (Vol. 2), pp. 18.9-18.10; Commission's findings disputed by Lasseters Casino Pty Ltd, Submission 29, p.19.

²⁴ Productivity Commission, Inquiry Report, *Australia's Gambling Industries*, November 1999, (Vol. 2), p.18.10.

into the home environment.²⁵ Further, higher family scrutiny is an inevitable consequence of gambling at home, and might lead to earlier detection, or even prevention, of problem gambling habits. At the same time, however, it is recognised that this will mean that gambling in front of children will rise, with as yet unascertained implications.²⁶

4.9 The impact of the increased accessibility resulting from the availability of gambling via the Internet is speculative, as there is always a good deal of uncertainty pertaining to the introduction and development of new technologies such as this. It is evident that the extent of problem gambling online will become apparent over time. The ALP considers the implementation of a comprehensive regulatory regime to be the appropriate approach to minimise the potential harm of problem gambling.

4.10 An expenditure threshold is an appropriate means of limiting gambling expenditure to a predetermined 'affordable' level. Mandatory expenditure limits, which can be reduced at the player's request, are an example of measures available which encourage responsible gambling behaviours.

4.11 The Productivity Commission identified a common feature of problem gamblers was an underestimation of their expenditure. Gambling online provides the means to address this issue, in a way that other gambling forms cannot, by enabling access to comprehensive statements of expenditure for individual players.

4.12 The control of credit gambling was agreed to by State and Territory Ministers in the Draft National Regulatory Model, and implementation of this initiative is recommended as an element of a regulatory model with which online operators be required to comply.

²⁵ Mr Alan Pedley, Director, World Wide Wagering and Gaming Consultants Pty Ltd; Official Committee Hansard, Sydney, 15/10/99, p.87.

²⁶ Prof Jan McMillen, Executive Director, Australian Institute for Gambling Research, Aristocrat Chair of Gaming, University of Western Sydney Macarthur; Official Committee Hansard, Sydney, 15/10/99, p.82.

4.13 Any regulatory or licensing scheme should detail the obligations upon service providers to educate and provide information on problem gambling and require compliance with industry wide codes of practice, including the provision of links to counselling and advice services on their site.

Probity of gambling service providers

4.14 Measures to safeguard the probity and fairness of providers of online gambling services is deemed a crucial feature of a regulatory framework in order to guarantee quality levels, which in turn assures that commercial advantages continue to accrue to licensed providers. Thorough assessment of the probity of licensees and their staff, including assurances of their financial viability, is an essential precondition of a licence in this industry.

4.15 Industry wide codes of practice should be developed or broadened in scope to cover the unique issues associated with gambling online. Areas that should be addressed by the Code/s of Practice include:

- Methodologies for software assessment and the evaluation of gambling sites;
- Requirements for random number generators to ensure that they are truly random;
- Regulations to reduce content which may be misleading or deceptive;
- Regulations regarding the provision of relevant rules, statistics and instructions for players;
- Regulations regarding consumer privacy and database management;
- The use of consumer verification and authentication techniques;
- Options to reduce money laundering by credit card fraud; and
- Assessment procedures to ensure the probity of licensees and their staff.

Access by those ineligible to gamble

4.16 The prevention of access to Internet gambling services by those not eligible to gamble under Australian law is an issue which needs to be addressed through the imposition of age verification devices, and the use of complementary

technologies. This includes options which may render minors unable to collect any proceeds of their activities.

Criminal issues

4.17 The potential for gambling online to foster and promote criminal activity is a key area of concern for the ALP. The legal, technical and practical problems that arise in relation to the enforcement of gambling regulation in the online environment need to be addressed to avoid exploitation of criminal opportunities by crooked operators or by players laundering crime proceeds and avoiding taxation.

4.18 Money laundering and tax evasion by the Internet gambling industry is of considerable concern to the National Crime Authority (NCA).²⁷ The NCA commented that:

Identity fraud (including the use of stolen and fake identities) is a growing problem in many traditional fields of criminal behaviour, but it is exacerbated in relation to internet activity and commerce by difficulties in identifying users. It is vital ... that it be possible to confidently identify participants in gambling transactions, and to track the movement of funds.²⁸

4.19 The NCA considers identity authentication to be crucial to the minimisation of criminal opportunities in the online gambling industry, as the potential for identity fraud creates opportunities for both money laundering and tax evasion. Typical anti-money laundering measures which apply to land-based casinos may not be as effective for online gambling operations,²⁹ and therefore require close monitoring to establish their effectiveness.

²⁷ Mr. G. Melick, National Crime Authority, Official Committee Hansard, 16/02/00, Canberra, p.257; National Crime Authority, Submission No. 65, p.1.

²⁸ National Crime Authority, Submission No. 65, pp.5-6.

²⁹ National Crime Authority, Submission No. 65, p.2.

4.19 It is important to have a regulated industry in which operators in Australia are subject to the same AUSTRAC reporting requirements under the *Financial Transaction Reports Act 1988 (FTR Act)* as land-based casinos.³⁰ The characteristics of gambling online which render it vulnerable to promoting criminal activity also need to be addressed.

4.21 It is crucial that State regulatory frameworks adequately address operator probity requirements to filter out unsuitable licensees. Most States have already evinced an intention to impose strict probity, software and auditing requirements on operators.

4.22 Existing criminal legislation, at both State and Federal levels, should be reviewed to take into account the possibilities of criminal offences occurring in the online environment which are not effectively dealt with by existing legislation.

State regulation

4.23 The ALP does not consider the fact that gambling has traditionally been within the exclusive regulatory domain of the States as precluding Federal intervention where necessary for the effective regulation of gambling online. In fact, it is in Australia's interest internationally that our enviable reputation as a gambling regulator be maintained and many submissions and respondents before the Committee have argued that Federal regulation is necessary.³¹

4.24 Uniformity in the regulation of gambling via the Internet is the only effective means of protecting industry and state revenues, whilst at the same time ensuring consumer interests are met. There are difficulties in achieving agreement between

³⁰ National Crime Authority, Submission 65, p.2; AUSTRAC, Submission 26, p.8.

³¹ Including representatives of the gambling industry and community representatives including Reverend Tim Costello, Member, Inter Church Gambling Taskforce (Official Committee Hansard, Melbourne, 11/11/99, pp. 226-227).

States on a cooperative framework for regulation. Even though a taskforce established in 1996 by State and Territory Racing and Gaming Ministers, with the objective of framing legislative regulation of Internet gambling, has been largely successful, at present Tasmania has “declined to commit to the national model”.³² In the Draft Regulatory Control Model for New Forms of Interactive Home Gambling,³³ the States and Territories recognised that uniformity in regulation is the only effective means of protecting their own revenue and constituents.

4.25 Given the nature of the Internet, the issue of taxation rates and collection requires cross-jurisdictional cooperation with respect to the collection of state taxation revenues from gambling activities.

4.26 Coordination at a Federal level is apt to be more effective than individual State regulation considering the international nature of gambling online and the importance of nationwide consistency in regulation. It has been recognised that there are specific policy objectives that can only be fulfilled by the Federal Government. Submissions to the Committee have suggested that these objectives include the control of promotion and advertisement,³⁴ banning of access to illegal or grossly improper offshore gambling sites,³⁵ aspects of consumer protection,³⁶ negotiation and representation in international fora³⁷ and enforcement mechanisms³⁸. The ALP recommends that the Federal Government immediately address these issues.

³² Mr Paul Crossin, Member, Australian Hotels Association; *Official Committee Hansard*, Canberra, 1/10/99, p.30.

³³ Draft model available at <http://www.qogr.qld.gov.au/inthogam.shtml>.

³⁴ ACT Government, Submission 42, p.2.

³⁵ ACT Government, Submission 42, p.2.; Lasseters Casino Pty Ltd, Submission 29, p.28.

³⁶ The Salvation Army, Submission 30, p.4; Uniting Church in Australia, Submission 32, p.1.

³⁷ Inter Church Gambling Taskforce, Submission 59, p.16; Lasseters Casino Pty Ltd Submission 29, p.28; ACT Government, Submission 42, p.2.; Global Gaming Services Pty Ltd, Submission 18, p.15; WWWagering & Gaming Consultants, Submission 31, p.13 para [6.5]; Australian Hotels Association (NSW), Submission 40, p.12.

³⁸ Role for Federal Police in enforcement of State/Territory legislation: Global Gaming Services Pty Ltd, Submission 18, p.15; Australian Institute of Criminology, Submission 2, p.6.

4.27 The ALP believes that Internet gambling should be subject to the same set of regulatory principles as other forms of gambling. This should include State and Territory licensing arrangements within a framework of regulatory guidelines which may include consumer protections peculiar to this medium of gambling services, as identified in this report. A licensing system could also permit Internet licences to attach to land licences, subject to industry wide codes of practice.

4.28 The ALP considers overriding Federal regulatory intervention to be unwarranted, at this stage. The role of the new Ministerial Council³⁹ in the formulation of strict national policy guidelines should continue as long as a cooperative outlook by the States exists.

5. Structure of regulatory institutions

5.1 Any regulatory control body must be separate from the policy making aspects of Internet gambling. The control of legislative standards is critical to their efficacy. Independence of the control body, which may also have a role in enforcement of the standards, is an important feature in this industry.⁴⁰

6. Conclusions

6.1 Governments face a host of fresh regulatory challenges as a result of the existence and imminent availability of technologies which provide access to gambling services through mediums such as the Internet, broadband cable and digital broadcasting. The potential for harm to consumers from the increased accessibility of gambling, including in the home, is a significant risk that needs to be urgently addressed by a comprehensive regulatory framework.

³⁹ Announced by Media Release from the Prime Minister, 16/12/99.

⁴⁰ Uniting Church in Australia, Submission 32, p.1; Productivity Commission, Inquiry Report, *Australia's Gambling Industries*, November 1999, Vol. 2, p.22.25ff.

6.2 The ALP considers a policy of effective regulation of gambling via the Internet to be the most practical and effective way of substantially restricting the harm of gambling, including criminal harm, and maximising the benefits that will flow to consumers, the gambling and IT industries, and Australia.

6.3 The ALP does not support an outright ban of gambling on the Internet because we do not consider it to be technically feasible or necessary.

6.4 The ALP recommends that existing regulatory requirements for land-based casinos, clubs and wagering venues should be extended to online casinos and clubs and online wagering facilities. Probity, audit and licensing requirements should be equally strict to maintain the level of gambling regulation that presently exists.

6.5 Any regulatory framework, including industry wide codes of practice, must address consumer protection issues characteristic of gambling via the Internet, including:

- mechanisms to exclude those not eligible to gamble under Australian law;
- problem gambling controls (for example, exclusion facilities, expenditure thresholds and the availability of transaction records);
- privacy protection; and
- regulation of propriety in advertising.

6.5 Potential export opportunities abound if Australia acts promptly and decisively to establish itself as a, if not the, world leader in the regulation of this emergent industry. Any policy decisions made in light of existing technological capacities need to be reviewed on a regular and ongoing basis to ensure this advantageous position is maintained. The ALP recommends that the Federal Government take an active role in seeking the international recognition that will flow from a strict Australia-wide regulatory regime that takes into account the interests of consumers, industry and the wider community.

SENATOR MARK BISHOP

A.L.P. (W.A.)

SENATOR KATE LUNDY

A.L.P. (A.C.T.)