



Interactive Gambling Amendment (Sports Betting Reform) Bill 2015

Uniting Communities Advocacy and Communications Unit Submission

Uniting Communities is a non-government community service organisation, working with South Australians across metropolitan and regional South Australia through more than 90 community service programs, including advocacy for structural and policy change. The Uniting Communities Advocacy and Communications Unit holds concern about the deeply harmful and unfair impacts of gambling and its normalisation in Australian culture.

The Uniting Communities Advocacy and Communications Unit welcomes this opportunity to make a submission to the inquiry and review of the Interactive Gambling Amendment (Sports Betting Reform) Bill 2015, to be reported on the 12th May 2016.

Section 1: Introduction

Uniting Communities wishes to see Australian communities protected from the risks and devastating effects of problem and pathological gambling. Within this aim, Uniting Communities has argued for reform in the management of poker machines and other electronic gaming machines (EGM). Uniting Communities has also been aware of the growing online gambling market, and the increasing rate of Australian families affected by the interactive gambling and sports betting industry. Responsibility for the most financially vulnerable in our community is the joint task of community organisations like ours, local, State and Federal governments and the gambling industry itself.

Numerous organisational reports have been released outlining the risks of interactive sports betting and, in some cases, highly unethical practices of interactive sports betting vendors. Such reports have been given greater focus in Australia by recent media reporting of potential corruption in Tennis and from an episode of 4 Corners on ABC TV, dealing with this on 1st February 2016. These reports, along with three government inquiries into sports betting and its place within Australian sport have provided a number of recommendations in regards to possible regulatory frameworks and approaches that ensure consumer and community protection. Senator Xenophon's Interactive Gambling Amendment (Sports Betting Reform) Bill 2015 recognises a great number of these recommendations, and Uniting Communities wishes to write this submission in support of the Bill, focusing on three key proposed amendments:

- *Enable the Federal Circuit Court of Australia to grant injunctions for the purposes of transaction blocking*
- *Provide for the compliance and enforcement of the new offences and civil penalty provisions*
- *Provide for the appointment of the Interactive Gambling Regulator and provide for the functions of the position*

In the preparation of this submission, Uniting Communities has utilised a number of industry professionals in the financial counselling, banking and legal sectors to gain a picture of the practicalities of the proposed amendments. Uniting Communities has also spent significant time reviewing current Australian sports betting literature and keeping abreast with recent developments in interactive sports betting practices. Uniting Communities presents this submission by first outlining some key contextual information regarding online gambling and the evolution of sports betting in Australia. The submission will explicitly address the abovementioned proposed amendments. Finally, the submission will outline some defined recommendations and conclusions for this Inquiry.

Section 2: Context

We understand the central amendments proposed by Senator Xenophon in the *Interactive Gambling Amendment (Sports Betting Reform) Bill 2015* to:

- 1) *Require gambling services to provide prescribed training to certain employees;*
- 2) *Enable the Federal Circuit Court of Australia to grant injunctions for the purposes of transaction blocking;*
- 3) *Place restrictions on the conduct of restricted wagering services in relation to sports betting and provide for offences and civil penalties if they are contravened;*
- 4) *Place restrictions on the broadcasting of restricted wagering service advertisements and provide for offences and civil penalties if they are contravened;*
- 5) *Provide for the compliance and enforcement of the new offences and civil penalty provisions;*
- 6) *Provide for the appointment of the Interactive Gambling Regulator and provide for the functions of the position; and*
- 7) *Require the Interactive Gambling Regulator to keep a register of individuals who wish to self-exclude from restricted wagering services and provide for the administration of and the protection of information in the register; and*
- 8) *Privacy Act 1988 to provide that Australian Privacy Principle 7 (direct marketing) does not apply to the extent that restricted wagering services provisions of the Interactive Gambling Act 2001 apply.*

We address three key amendments at length in Section 3 of this submission, but first we offer contextual comments regarding the harm of gambling in the online environment, global interactive gambling market and the contemporary state of interactive sports betting in Australia.

For the purpose of this submission, Uniting Communities will utilise the definition of a 'restricted wagering service' outlined in the *Interactive Gambling Amendment (Sports Betting Reform) Bill 2015* as a service that:

(a) is provided to customers using any of the following:

- (i) an internet carriage service;
- (ii) any other listed carriage service;
- (iii) a broadcasting service;
- (iv) any other content service;
- (v) a datacasting service; and

(b) relates to the placing, making, receiving or acceptance of bets 23 on, or on a series of, any or all of the following:

- (i) a horse race;
- (ii) a harness race;
- (iii) a greyhound race;
- (iv) a sporting event

Interactive Gambling and Harm

Uniting Communities is concerned about the adverse impact that gambling has on individuals with gambling problems, their families and friends as well as the community. The harms associated with problem gambling extend well beyond the devastating impacts on the individuals most directly affected.

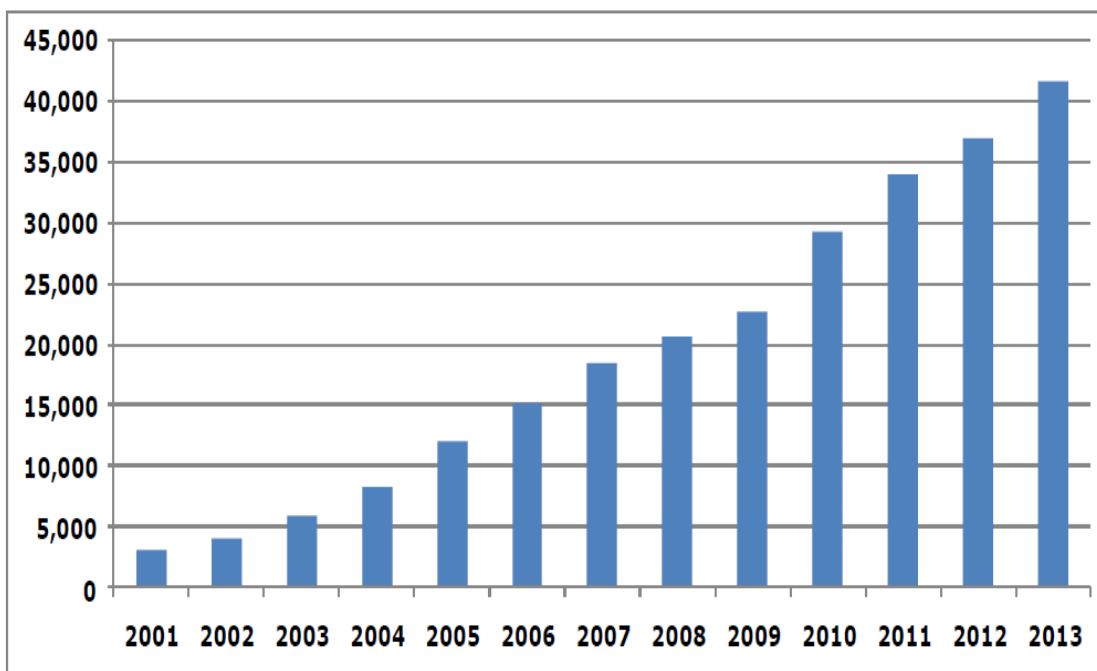
The Australian Productivity Commission concluded in their very thorough 2010 report¹:

“Based on available survey data, there are between 80 000 and 160 000 Australian adults suffering significant problems from their gambling (0.5 to 1.0 per cent of adults), with a further 230 000 to 350 000 experiencing moderate risks that may make them vulnerable to problem gambling (1.4 to 2.1 per cent of adults).

The significant social cost of problem gambling — estimated to be at least \$4.7 billion a year — means that even policy measures with modest efficacy in reducing harm will often be worthwhile.”

Meanwhile it is clear that levels of on-line gambling are also growing significantly as shown in figure 1.

Figure 1. Global Internet Gambling Expenditure \$USm (‘Legal’ on-line gambling only)



Source, from Dr Sally Gainsbury² presentation to Victorian Responsible gambling Awareness Week Forum 23 May 2011: “emerging trends in on-line sports betting in Australia”, <http://www.slideshare.net/problemgambling/7-rgaw-sally-gainsbury>

¹ Productivity Commission 2010, *Gambling*, Report no. 50, Canberra.

² From presentation “emerging trends in on-line sports betting in Australia”, presentation by Dr Sally Gainsbury to Victorian Responsible gambling Awareness Week Forum 23 May 2011 <http://www.slideshare.net/problemgambling/7-rgaw-sally-gainsbury>

In considering harm associated with on-line gambling we refer to Williams, Wood and Parke who we regard as world leaders in rigorous, academic gambling related research and commentary. They state:

“Research has found that the prevalence of problem gambling is three to four times higher among Internet gamblers compared to non-Internet gamblers (Griffiths and Barnes, 2008; Ladd and Petry, 2002; Wood and Williams, 2007, 2009)”³

The authors explain this statement by saying:

“...the nature of on-line gambling makes it somewhat more problematic than most other forms of gambling. This is due to its greater convenience, 24-hour access, ability to play when intoxicated, lack of player protection features, the solitary nature of the play, the fact that gamblers are playing with ‘electronic’ cash, the ability to play multiple sites/games simultaneously, and because it is more difficult for Internet problem gamblers to curb their behaviour (i.e., it is much easier to avoid land based casinos, racetracks, and bingo halls than it is to avoid computers or the Internet) (Griffiths, 1999, 2003; Griffiths and Parke, 2002; King, 1999; King and Barak, 1999; Schull, 2005; Wood, Williams, and Lawton, 2007).”

They also observe that

“The prevalence of on-line gambling in each country roughly parallels its legal availability (Wood and Williams, 2009). For example, the UK has one the world’s most liberal Internet gambling laws as well as the world’s highest known rate (past year) of Internet gambling (14 percent in 2010, NCSR, 2011). Furthermore, there is good evidence of increased Internet gambling participation subsequent to legalization or liberalization.”

With Australia already having a high prevalence of gambling harm and with evidence that on-line gambling harm rates are higher than for existing terrestrial gambling forms, there is reason for Australian policy makers to be concerned about the potential for significant, increased gambling harm from on-line gambling, including illegal on-line gambling.

It is important to note the human cost of the unregulated nature of online gambling and the interactive sports betting industry. Financial Counselling Australia presented a report into practices utilised by restricted wagering services and the devastating effect these practices had on problem gamblers. The below text details two case studies presented in this report:

³ Williams, R.J., Wood, R.T., & Parke, J. (2012). Policy options for Internet gambling. In *Handbook of Internet Gambling* by Williams, R.J., Wood, R.T., & Parke, J (eds). Routledge: London. Pp 349-363.

*'Peter, a forty-something male, received a redundancy payment of approximately \$60,000. Sitting at home with no work he became depressed. There was also a death in the family. At that time, Peter started gambling online with two different online sports betting companies and lost his entire redundancy payout within two months. He also took out payday loans and pawned most of the household goods in this time. When he came to see a financial counsellor, his family had no money for food or bills. He was not eligible for Newstart Allowance as the retrenchment payout is counted as income. Peter appeared depressed and deeply affected. His family had no income, and their savings were long gone. He has a wife and child.'*⁴

*'Pete, a young adult living at home, used his parents' credit card one weekend and lost a few thousand dollars through online sports betting. He knew his parents would find out when they checked their account. He committed suicide, leaving an explanatory note apologising and explaining his shame. The parents met with the financial counsellor to work out how they could re-pay the credit card debt.'*⁵

Any discussion regarding regulation of the interactive gambling industry and the practices of restricted wagering services must be conducted with an understanding of increasing human suffering as a result of unregulated contact with a high-risk industry.

⁴ Financial Counselling Australia (2015a), *Duds, Mugs and the A-List: The impact of uncontrolled sports betting*, accessed 20/01/2016 < <http://www.financialcounsellingaustralia.org.au/getattachment/Corporate/Home/FINAL-PDF-Duds,-Mugs-and-the-A-List-The-Impact-of-Uncontrolled-Sports-Betting-low-res.pdf> >

⁵ ibid

On-line Gambling – A Growing Global Issue

Again we take a ‘beyond Australia’ focus to show that the basis for interactive gambling in the online environment is growing as internet access and smart phone ownership both reach very high levels of penetration, globally. The high levels of smart phone ownership by young adults is instructive as these are the people most attracted to interactive gambling. Australia has very high levels of internet and smart phone penetration and so is not immune from the global push by interactive gambling providers – of various shades of grey – from the dark web to more legal providers.

The dark web, often confused with the deep web, is the major venue for illegal or prohibited online information sharing and transactions⁶. The deep web refers to any site, database, webmail or intranet service that cannot be accessed by the general public through search engines such as Google, Yahoo or Bing⁷. It is estimated that 90% of global internet activity exists in the deep web, though mostly for mundane and practical purposes as any password protected site is considered deep web, including internet banking, corporate intranets and university e-libraries⁸. That said, the dark web exists within the deep web and refers to sites that operate specific encryption technology to protect the identity of the site administrator and the user⁹. The user must also use matching encryption software on their personal computer device to ensure that their location and identity is protected¹⁰. Therefore, illegal internet services and practices generally utilise dark web strategies to protect identity and avoid prosecution.

With dark web options so easily accessible to service providers and the average gambling consumer, the risk of illegal interactive gambling services continues to prevail. That said, this particular submission is predominantly interested in the regulation of legal, licensed interactive sports betting service providers in Australia and, in particular, their use of technology to reach increasing numbers of potential users. The table below provides a brief summary of international smartphone penetration data, highlighting a younger consumer base for technologically-available sports betting, as is true in Australia.

⁶ Egan, M (2015), ‘What is the Dark Web? How to access the Dark Web. What’s the difference between the Dark Web and the Deep Web?’, *PC Advisor*, viewed 12/02/2016 < <http://www.pcadvisor.co.uk/how-to/internet/what-is-dark-web-how-access-dark-web-deep-joc-3593569/> >

⁷ *ibid*

⁸ *ibid*

⁹ *ibid*

¹⁰ *ibid*

Table 1: Selected Age Break Tables for Cell Phone and Smartphone ownership

Cell Phone Ownership by Age <i>% who own a cell phone</i>				Smartphone Ownership by Age <i>% who own a smartphone</i>					
	18-29	30-49	50+	Oldest-youngest gap		18-29	30-49	50+	Oldest-youngest gap
	%	%	%			%	%	%	
Philippines	83	77	46	-37	China	69	34	7	-62
Mexico	75	72	38	-37	Lebanon	62	55	14	-48
Indonesia	90	79	55	-35	Jordan	53	35	10	-43
Bolivia	89	86	62	-27	Russia	46	25	7	-39
Malaysia	98	94	72	-26	Malaysia	49	30	11	-38
Argentina	92	92	66	-26	Argentina	50	37	16	-34
Turkey	98	86	75	-23	Venezuela	45	33	11	-34
Brazil	87	87	64	-23	Chile	55	41	22	-33
El Salvador	86	82	66	-20	Turkey	35	13	3	-32
Senegal	86	84	67	-19	Mexico	31	23	7	-24
Tunisia	94	90	76	-18	Nigeria	24	19	1	-23
Nigeria	82	80	64	-18	Tunisia	25	8	3	-22
Pakistan	58	51	40	-18	Brazil	25	17	4	-21
Chile	96	96	81	-15	Ghana	27	8	7	-20
China	99	97	86	-13	S. Africa	34	41	17	-17
S. Africa	94	94	81	-13	Egypt	32	20	15	-17
Lebanon	90	91	77	-13	Bolivia	21	7	4	-17
Ghana	88	76	75	-13	Philippines	24	18	9	-15
Venezuela	88	90	77	-11	Indonesia	18	9	3	-15
Russia	98	98	88	-10	El Salvador	15	12	4	-11
Egypt	92	86	82	-10	Senegal	14	14	7	-7
Uganda	59	62	51	-8	Uganda	7	2	1	-6
Jordan	95	95	92	-3	Pakistan	5	2	1	-4

Based on total sample. Kenya not shown due to insufficient sample size. **Bolded figures** represent significant differences between 18-29 year-olds and 50+.

Source: Spring 2013 Global Attitudes survey. Q67.

PEW RESEARCH CENTER

Based on total sample. Kenya not shown due to insufficient sample size. **Bolded figures** represent significant differences between 18-29 year-olds and 50+.

Source: Spring 2013 Global Attitudes survey. Q68.

PEW RESEARCH CENTER

Table 1 above shows selected ages for the average cell phone ownership compared to smartphone ownership and the gap between older and younger users, keeping in mind gambling apps can only be downloaded to a smartphone or selected devices; and there are notable differences between the two. Combining the newest technology and connectivity with GPS data, gambling companies are now able to determine when customer are near a race-track or sporting venue. This vital information allows gambling companies to offer tailored inducements to known gamblers including problem gamblers, in an effort to encourage them to divert and place a bet. This concept is already in place and being used on targeted people, with dire consequences. For instance, Indonesia has one of the most rapidly emerging digital economies in the world, as its large population is making a mass switch to new technology. The country’s urban areas are growing epicentres of mobile gambling hubs¹¹. The point here is gambling revenue, the driver behind these company strategies and the ever increasing need for on-line gambling because international industry, focuses on the behaviour and trends for relevant economies.

¹¹ Euro-monitor 2015, 'Technology, Communications and Media: Indonesia', accessed 16 September 2015 <<http://www.euromonitor.com/technology-communications-and-media-indonesia/report>>

Australia and Sports Betting – A Complex and Changing Relationship

The relationship between Australia and the mass popularity of the sports betting industry is fairly new. While placing a bet through the local TAB on horse or dog racing has been legal and utilised by the Australian public for a long time, sports betting as we know it today is barely eight years old. A grade 3 student if you will. The 2008 High Court decision, wherein James-Packer owned Betfair won the Court's support to allow licensed sports betting agencies (both land-based and online) to advertise and offer services across State-lines, was the birth of modern sports betting in Australia. Now, with the click of a button or the swipe of a screen, the average Australian can bet on a sports match or event anywhere in the country and, in some cases, the world. In just eight years, the sports betting industry turnover for 2013/14 totalling \$5.74AUD billion¹².

Perhaps one of the core reasons for significant growth in the sports betting industry in such a short period of time is the long-held place of sport in Australian national identity. Colonised Australia has been obsessed with sport since the very beginning. Reports on pre-Federation behaviour in the 19th Century suggest that 'sport is central to the business of being Australian'¹³. A journalist in 1882 believed that Australia was the 'most sports-obsessed nation in the world'¹⁴. Sport has played a significant role in Australian international relations, particularly with the Motherland, England. One study suggested that the fierce competition between Australia and England represents the continued struggle of the former to create a national identity separate from the latter¹⁴. Another recent study suggests that the Melbourne Cup presents parallels to a spiritual and religious pilgrimage, in which its participants postpone their regular lives and take part in nation-wide rituals to celebrate a momentous occasion¹⁵. It is noted again and again that sport plays an important role in the development of a wider Australian identity, as well as the reinforcement of individual and communal self-definition.

Sport is also considered an important component of positive and meaningful shared experiences for families and communities in Australia. Children and families enjoy sporting events together and many government initiatives highlight the goal of keeping children well engaged in sport as consumers and as participants. In 2009/10, 7.6 million Australians attended a live sporting event, and a study into sports betting suggests that young men and children make up a significant amount of sporting event consumers¹⁶. That said, the demographics of Australian sports consumers are changing. As early as

¹² The State of Queensland (Queensland Treasury) (2015), *Australian Gambling Statistics 1988-89 to 2013-14 31st Edition*, Queensland Government Statistician's Office, QLD

¹³ Duinen, J (2015), 'Bodyline, the British World and the Evolution of an Australian National Identity', *The International Journal of the History of Sport*, vol. 32, no. 2, pp. 250-264

¹⁴ Horton, P (2012), 'Tumultuous Text: The Imagining of Australia Through Literature, Sport and Nationalism from Colonies to Federation', *The International Journal of the History of Sport*, vol. 29, no. 12, pp. 1669-1686

¹⁵ Cusack, C. M & Digance, J (2009), 'The Melbourne Cup: Australian identity and secular pilgrimage', *Sport in Society*, vol. 12, no. 7, pp. 876-889

¹⁶ Hajkowicz, S, Cook, H, Wilhelmseder, L & Boughen, N (2013), *The future of Australian Sport: Megatrends shaping the sports sector over the coming decades*, A Consultancy Report for the Australian Sports Commission, CSIRO, Australia

2003, reports found that the traditional Australian sporting consumer was older, genuinely interested in the sport, expressive of their enjoyment of the sport, and usually a 'die-hard' fan of a specific team and code¹⁷. This same report noted a shift in consumer demographics to a younger, corporate, submissive and less loyal individual who enjoyed the experience of the event, as opposed to the performance of a team¹⁸.

Further supporting the idea that sporting consumer demographics are changing, the Australian sport industry is now attracting an increasingly technologically-connected consumer. One consultant found that 48% of the 11.9 million Australian tweets regarding television in the first half of 2015 were focussed on televised sporting events¹⁹. Similarly, 58% of surveyed consumers suggested that televised sport was their favourite topic of online article consumption²⁰. It was also found that in the month of July 2015, 12.5 million Australians accessed internet on their smartphones, with 39% of these reporting that they viewed sporting content. Similarly, one major sporting website reported 8 million visitors in the month of July 2015²¹.

The inclusion of sports betting sponsorship, advertising and opportunities into a central part of Australian culture, attended or watch by individuals, families and entire communities, has served to ensure that sports betting agencies reach a maximum number of potential customers. The shifting demographics of sporting consumers also allows for the technologically developing sports betting industry. High rates of embedded sports betting messages in sporting events/industries has also led to sports betting being conceptualised as an intrinsic part of the sporting experience. Further, a number of studies contend that sports betting advertisement techniques in recent years are increasingly purporting a narrative in which betting is a sport in its own right, based on knowledge and skill^{22 23}.

This likening of sports betting to sporting activities themselves insidiously promotes sports betting as a means of gaining the status and admiration afforded to a professional sportsperson. Therefore, while sporting events began as a key community-building social activity, the relatively unregulated introduction of the current interactive sports betting industry has slowly transformed how Australians engage with their sport and with each other.

¹⁷ Stewart, B, Smith, A. C. T & Nicholson, M (2003), 'Sport Consumer Typologies: A Critical Review', *Sport Marketing Quarterly*, vol. 12, no. 4, pp. 206-216

¹⁸ *ibid*

¹⁹ Perry, M (2015), 'The rules for marketers engaging with Australian sports fans', *Mumbrella*, viewed 21/01/2016 < <http://mumbrella.com.au/the-rules-for-marketers-engaging-with-australian-sports-fans-317429> >

²⁰ *ibid*

²¹ *ibid*

²² Gordon, R & Chapman, M (2014), *Brand Community and Sports Betting in Australia*, Victorian Responsible Gambling Foundation, Melbourne, VIC < https://www.responsiblegambling.vic.gov.au/data/assets/pdf_file/0012/18003/Research-report-Brand-community-and-sports-betting-in-Australia.pdf >

²³ Hing, N (2014), *Sports Betting and Advertising (AGRC Discussion Paper No. 4)*, Australian Gambling Research Centre, Melbourne, VIC < <https://aifs.gov.au/agrc/publications/sports-betting-and-advertising/introduction> >

The Australian Interactive Sports Betting Industry – Just How Big Is It?

Sports betting is legal and practiced in all states and territories of Australia, though interactive gambling licenses are only accessible through the Northern Territory²⁴. With this in mind, all restricted wagering services in Australia are currently licensed through the Northern Territory, and permitted to operate across state lines by the 2008 High Court decision. The wider gambling industry continues to see staggering rates of turnover, with a reported \$180.36 billion in 2013/14²⁵. Of this figure, \$5.74 billion turnover was reported for the sports betting industry²⁶. A number of reports suggest that 50% of all sports betting now occurs online or through the use of smartphone applications, so the current turnover of the interactive sports betting industry in Australia is significant^{27 28}. The Australian Wagering Council also reports annual taxation revenue produced for state governments by the interactive sports betting industry as approximately \$100 million²⁹.

13% of Australian adults report that they currently gamble on sport and 52% of participants in a study regarding sports betting advertising suggested that their sports betting exposure led them to consider other forms of gambling^{30 31}. The growth in the interactive sports betting industry is understandable, given the increasingly technologically-active sports consumer. The Australian Wagering Council suggests that the shift from land-based to online and interactive sports betting is similar to the technological shift in other consumer industries, such as retail book and clothing sales³². The convenience of sports betting through smartphone and interactive methods is also noted as a reason for the increase in the interactive sports betting industry³³. In catering to this technologically-connected consumer, interactive wagering services have increased their advertising rates significantly. Between 2010 and 2012, the value of sports betting advertisement quadrupled, and has since doubled again between 2012 and 2014^{34 35}. A 2012 study found that 528 individual sports betting advertisements were collectively played approximately 20,000 times on free-to-air television and this figure increased significantly on Pay TV channels³⁶. Another study found that six major restricted wagering services in Australia spent between \$10-40 million each per year on sports betting advertising.

²⁴ The State of Queensland (Queensland Treasury), 2015

²⁵ *ibid*

²⁶ *ibid*

²⁷ Australian Wagering Council (AWC) (2016), *Key Industry Facts and Statistics*, accessed 20/01/2016 < <http://australianwageringcouncil.com/policy-representation/industry-statistics> >

²⁸ Hing, N, 2014

²⁹ Australian Wagering Council (AWC), 2016

³⁰ Hing, N, 2014

³¹ Sproston, K, Hanley, C, Brook, K, Hing, N & Gainsbury, S (2015), *Marketing of sports betting and racing*, Gambling Research Australia, Melbourne, VIC

³² Australian Wagering Council (AWC), 2016

³³ Hing, N, 2014

³⁴ *ibid*

³⁵ O'Brien, N & Williams, P (2015), 'Sports betting companies spend big on ads but the regulator is watching', *The Sydney Morning Herald*, 27 September, Sydney, NSW < <http://www.smh.com.au/nsw/sports-betting-companies-spending-more-than-ever-on-marketing-20150925-qiv6xa.html> >

³⁶ Hing, N, 2014

With such broad exposure to interactive gambling opportunities prior to, during and after sporting matches, it is little wonder that the interactive sports betting industry continues to grow at such a significant rate. This exposure, combined with the ease in which Australians can now place sports bets via smartphone or the internet, creates an industry that shows no signs of slowing.

Gambling and Sport – What Is Everyone Worried About?

The rapidly growing interactive sports betting industry has attracted community concern, mostly due to the seemingly impossible task of regulating or managing the online environment. Financial Counselling Australia released a report into the practices of restricted wagering services in 2015, suggesting that the industry was without effective regulatory measures, resulting in significant suffering for vulnerable gamblers³⁷. In a radio interview, a financial counsellor estimated a growth in clients with sports betting related issues from 10% to 30% in 3-4 years³⁸. Other reports also highlight a growing concern that restricted wagering services are targeting vulnerable gamblers and young people who are financially at risk. Financial Counselling Australia called for an end to the practice of these services advertising on payday lending sites that provide crisis funds to low-income individuals³⁹. Last month, popular youth radio station Triple J expressed outrage upon discovering that one Australian service, Sportsbet, were running a wager on the highly popular Triple J Hottest 100 competition⁴⁰. Triple J released a strong statement dissuading listeners from participating in the advertised wager and condemning Sportsbet for targeting young and financially vulnerable consumers⁴¹. Sportsbet refuted these claims, stating that the advertisement would not have appeared on social media accounts of listeners under the age of 18 and confirming that they would continue with the advertised wager, despite Triple J's contact and concern⁴².

Sports betting is currently a hot topic in Australia and throughout the international sporting community. There has been concerns regarding the integrity of sporting events that are so heavily integrated with sports betting vendors. Match-fixing and corruption have occurred in Australian sport in the past, with a few recent cases involving the imprisonment of an NRL player and the ban of two

³⁷ Financial Counselling Australia, 2015a

³⁸ 'Odds on you lose' (2015), *Background Briefing*, radio program transcript, ABC RN, Sydney, 16 August, accessed 21/01/2016 < <http://www.abc.net.au/radionational/programs/backgroundbriefing/odds-on-you-lose-the-new-cohort-of-problem-gamblers/6689598#transcript> >

³⁹ Financial Counselling Australia, 2015a

⁴⁰ triple j Hack (2016), 'Betting on the Hottest 100 – gambling companies target triple j listeners', Australian Broadcasting Corporation, Sydney, NSW < <http://www.abc.net.au/triplej/programs/hack/hottest-100/7102014> >

⁴¹ *ibid*

⁴² *ibid*

test cricketers^{43 44 45}. In early 2016, an investigative report was released alleging a match-fixing ring operational in international tennis, including a top 50 player⁴⁶. In response, a number of professional tennis players including World No. 1, Novak Djokovic, admitted to being approached and refusing match-fixing offers in the past⁴⁷. Betting on an Australian Open match was suspended in late January after suspicious bets were made, further enforcing the widespread concern that sporting integrity is at risk whenever wagers are made⁴⁸. As recently as Wednesday 10th of February, the Tennis Integrity Unit reported the investigation of tennis umpires and the 2015 bans of two for accessing sports betting accounts regularly and attempting to manipulate scoring⁴⁹. While the relevant peak tennis bodies have now commissioned an independent report into anti-corruption measures, sports betting continues to be a growing concern for Australian sports fans in relation to the integrity of sport and links between sporting events and black market gambling syndicates^{50 51 52}.

Another cause for concern in regards to the interactive sports betting industry is the provision of credit, 'free bets' and other incentives or inducements. Financial Counselling Australia reported a number of cases in which vulnerable gamblers were continually provided with gambling credit in order to promote continued wagering, regardless of the level of debt the gambler was experiencing⁵³. Similarly, a number of recovering gambling addicts recounted experiences of receiving credit and 'free bets', despite their mounting debt⁵⁴. Gamblers also report receiving credit in order to aid them in addressing their increasing level of debt, though financial counsellors state that this is an unethical practice on the restricted wagering service's behalf, as it only serves to increase the dependence of the vulnerable individual on the service^{55 56}. One gambler reported placing a wager of \$80,000 on the outcome of a Wimbledon match without any check or confirmation from the restricted wagering service regarding his ability to pay that amount⁵⁷. Along with the provision of credit and the lack of

⁴³ 'Riding the sports betting boom' (2011), *Background Briefing*, radio program transcript, ABC RN, Sydney, 27 November, accessed 21/01/2016 < <http://www.abc.net.au/radionational/programs/backgroundbriefing/riding-the-sports-betting-boom/3686366#transcript> >

⁴⁴ '20-year ban for T20 'fix'', 2016, *The Advertiser*, 27 January, p. 69

⁴⁵ 'Australian women's cricketer Piepa Cleary banned for betting on Test match', 2016, *Australian Broadcasting Corporation*, 4 February 2016, viewed 05/02/2016 < <http://www.abc.net.au/news/2016-02-04/australian-womens-cricketer-banned-for-betting-on-match/7140620> >

⁴⁶ 'Tennis match-fixing scandal: How it unfolded', 2016, *Australian Broadcasting Corporation*, 27 January, viewed 27/01/2016 < <http://www.abc.net.au/news/2016-01-27/tennis-match-fixing-scandal-how-it-unfolded/7116900> >

⁴⁷ *ibid*

⁴⁸ *ibid*

⁴⁹ 'Tennis match-fixing: International Tennis Federation banned two umpires in 2015, four more under investigation', 2016, *Australian Broadcasting Corporation*, 10 February 2016, viewed 12/02/2016 < <http://www.abc.net.au/news/2016-02-10/tennis-match-fixing-itf-banned-two-umpires-in-2015/7154336?section=sport> >

⁵⁰ Besser, L, Stevens, J & Tozer, J (2016), 'Malaysian black market bookmaker, Crown Casino high roller linked to match-fixing', *ABC News*, Melbourne VIC, viewed 01/02/2016 < <http://www.abc.net.au/news/2016-02-01/organised-crime-black-market-bookmakers-linked-to-match-fixing/7127246> >

⁵¹ McGuire, M (2016), 'Sports must take a stand to regain the self-respect they have given away to (gambling) companies', *The Advertiser*, 27 January, p. 22

⁵² 'Tennis match-fixing: International Tennis Federation banned two umpires in 2015, four more under investigation', 2016

⁵³ Financial Counselling Australia, 2015a

⁵⁴ 'Odds on you lose', 2015

⁵⁵ Financial Counselling Australia, 2015a

⁵⁶ 'Odds on you lose', 2015

⁵⁷ 'Riding the sports betting boom', 2011

responsible checking measures, problem gamblers reported patterns of incentives and inducements provided by these services, including free tickets to sporting matches and corporate boxes^{58 59}. A number of reports suggest that skilled gamblers who begin to win consistently through restricted wagering services are quickly banned from sites, while gamblers who consistently lose and face increasing debt are incentivised and prompted to continue wagering^{60 61 62}.

Lastly, concern in the Australian community regarding the high rate of sports betting advertisement during sporting events. The embedded nature of sports betting advertising is another key component to the mass growth of the interactive sports betting industry. Embedded advertising simply refers to advertising that is inserted into an event or entity in a way that creates an unavoidable link between the two⁶³. Embedded advertising now includes boundary advertising during matches to ensure all television consumers are regularly exposed to interactive gambling vendor logos for the duration of the sporting event^{64 65}. Similarly, sporting teams are increasingly monopolising on sponsorship deals with sports betting companies, meaning sporting consumers are exposed regularly to restricted wagering service logos on team jerseys, banners and merchandise^{66 67}.

Perhaps the most pervasive of embedded advertising utilised by restricted wagering services is the inclusion of wagering or 'market' updates prior to or during sporting matches⁶⁸. As recently as January 2016, this practice was strongly utilised by William Hill, as the 'wagering partner' of the Australian Open. Prior to each match, William Hill was given a time slot to discuss the upcoming match, players, odds and verbally encourage consumers to download the William Hill smartphone application for ease of betting. William Hill also utilised another embedded marketing technique by creating special offers specific to the Australian Open event in the form of the Chase the Ace offer that provided cash bonuses per ace shot for those who bet on head-to-head matches⁶⁹.

A number of studies pose questions about the affect this continual advertising saturation will have, particularly on young children who are increasingly exposed to betting and wagering as a normalised activity undertaken during the consumption of sport^{70 71}. Young men and children are repetitively

⁵⁸ Financial Counselling Australia, 2015a

⁵⁹ 'Odds on you lose', 2015

⁶⁰ Financial Counselling Australia, 2015a

⁶¹ 'Odds on you lose', 2015

⁶² 'Riding the sports betting boom', 2011

⁶³ Sproston, K, Hanley, C, Brook, K, Hing, N & Gainsbury, S, 2015

⁶⁴ *ibid*

⁶⁵ Gordon, R & Chapman, M, 2014

⁶⁶ Gordon, R & Chapman, M, 2014

⁶⁷ Deloitte Touche Tohmatsu (2012), *Optimal Product Fee Models for Australian Sporting Bodies*, accessed 20/01/2016 <http://australianwageringcouncil.com/assets/docs/Deloitte_-_Optimal_Product_Fees_Report.pdf>

⁶⁸ Gordon, R & Chapman, M, 2014

⁶⁹ William Hill (2016), *Australian Open 2016 Chase the Ace Offer – William-Hill.com.au*, Big Bonus Bets, viewed 01/02/2016 <<http://www.bigbonusbets.com.au/australian-open-2016-chase-the-aces-offer-williamhill-com-au/>>

⁷⁰ Hing, N, 2014

⁷¹ Sproston, K, Hanley, C, Brook, K, Hing, N & Gainsbury, S, 2015

marked as vulnerable cohorts for interactive sports betting advertising due to their continued exposure and engagement with the sporting industry^{72 73 74 75 76}. A number of key community and political figures speak of growing concern that the ongoing saturation of children and young people with sports betting messages is creating a catalyst for long term gambling issues once legally allowed to take a punt^{77 78 79}.

It is within the context of this rapidly growing and relatively unregulated industry that the following submission seeks to raise key questions held by Uniting Communities in regards to interactive sports betting. Uniting Communities believes that all gamblers in Australia are consumers of a potentially harmful product, and as such, both the interactive sports betting industry and the wider gambling industry must be held accountable for the fair, ethical and protective treatment of consumers.

⁷² Financial Counselling Australia, 2015a

⁷³ Gordon, R & Chapman, M, 2014

⁷⁴ Hing, N, 2014

⁷⁵ Palmer, C, 2014

⁷⁶ Sproston, K, Hanley, C, Brook, K, Hing, N & Gainsbury, S, 2015

⁷⁷ 'Fair Game', 2015

⁷⁸ 'Odds on you lose', 2015

⁷⁹ 'Riding the sports betting boom', 2011

Section 3: Responses to Proposed Amendments

While Uniting Communities strongly supports the regulatory measures proposed by each of the eight key amendments, the following three amendments are of particular interest.

Enabling of the Federal Circuit Court of Australia to grant injunctions for the purposes of transaction blocking

One of the key proposed amendments in the Bill is the use of the Federal Circuit Court of Australia to grant injunctions against non-compliant restricted wagering services in the form of transaction blocking⁸⁰. The amendment suggests that should non-compliant and illegal practices be discovered in a restricted wagering service, the Federal Circuit Court could grant an injunction that prevents authorized deposit-taking institutions (ADIs) from performing consumer transactions with the service⁸¹. Under the current proposed amendment, the Federal Circuit Court must take into account public interest and whether transaction blocking would be a 'proportionate response' to the practices at hand, and as such, the granting of an injunction would be a subjective process⁸². Similarly, the amendment requires ADIs to take 'reasonable steps' to block transactions under an injunction, a term that is subjective and implicit in meaning⁸³. As such, it is somewhat unclear as to how transaction blocking would work in the case of licensed restricted wagering services in Australia.

Uniting Communities supports the use of transaction blocking as a key management strategy for illegal off-shore interactive gambling services, as ADIs would act as a barrier between Australian consumers and these services that are so often linked with black market gambling syndicates. That said, there are difficulties in the transaction blocking method in the management of potentially illegal practices by licensed restricted wagering services. Should a restricted wagering service in Australia contravene the Act and offer illegal betting options, such as micro-betting, ADIs would face difficulties in differentiating between the legal gambling-related transactions with the service and the illegal gambling-related transactions. This is heightened by the common use of betting accounts, whereby consumers transfer a lump sum from their ADI accounts into the betting account and then proceed with their gambling activities. There would be no way in which an ADI could control or block the use, legal or illegal, of that lump sum once it has been transferred. As such, Uniting Communities suggests that the institution of an Interactive Gambling Regulator (IGR) is extremely necessary for the proposal

⁸⁰ *Interactive Gambling Amendment (Sports Betting Reform) Bill 2015* (Cwlth), viewed 21/01/2016 <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=ld%3A%22legislation%2Fbills%2Fs1025_first-senate%2F0000%22;rec=0>

⁸¹ *ibid*

⁸² *ibid*

⁸³ *ibid*

of transaction blocking to proceed. The IGR would further consult with ADIs and the Federal Circuit Court to develop a model of practice in regards to transaction blocking that could effectively manage gambling-related transactions.

With this in mind, consultation with a financial industry member led to the suggestion of restrictions in the use of credit cards for gambling-related transactions. At present, the banking industry suggests that default on credit card debt in relation to restricted wagering services is not recognized as a major issue. Uniting Communities proposes that while this may not be seen as an issue from a financial industry perspective, a consumer protection lens would highlight that the use of credit in gambling-related transactions is a dangerous practice, particularly for vulnerable cohorts of the community. Anecdotal data suggests that credit card use is common amongst restricted wagering service consumers, and can result in crippling debt⁸⁴. Particularly amongst young men, listed as an extremely vulnerable cohort for problem gambling, the use of money that does not actually belong to the consumer is risky^{85 86}. While ADIs might find a low rate of credit card debt default, repaying large sums of debt with interest can be crippling in the financial life and growth of vulnerable gamblers⁸⁷.

As such, there is a benefit in considering the restriction of gambling-related transactions to debit and saving accounts, whereby individual consumers of restricted wagering services can only spend funds accessible to them^{88 89}. A number of problem gamblers reflect on the electronic nature of restricted wagering services, suggesting that wagers feel less like a loss of money, but rather a transaction of a number. One gambler suggested that:

*'if somebody had put down \$40,000 essentially in a briefcase and gave it to me, it's tangible, and that's the big difference with online betting is it's just numbers and you don't see the money that's going through and you don't feel it'*⁹⁰

While ADIs may lose out on transaction fees and interest on credit card debt, consumers are protected from amassing significant debt in a manner that is not immediately noticeable.

There is a significant argument to suggest that restricting the use of credit cards in gambling-related transactions does pose questions about the right of each individual to consume in the manner of their choosing. This is valid, and Uniting Communities recognizes that complete restriction of credit card use in gambling-related transactions may be excessive. As such, Uniting Communities proposes other consumer protection measures in relation to the use of credit cards. These include the implementation of daily floor limits for all gambling-related transactions that are lower than usual credit card floor limits, and a public awareness campaign regarding the consumer's ability to request altered floor limits on their credit cards if they feel concerned about their gambling expenditure.

⁸⁴ Financial Counselling Australia, 2015a

⁸⁵ Sproston, K, Hanley, C, Brook, K, Hing, N & Gainsbury, S, 2015

⁸⁶ Palmer, C (2014), *Sports betting research*, University of Tasmania, Hobart, TAS
<http://www.dhhs.tas.gov.au/data/assets/pdf_file/0005/170771/Sports_Betting_Research_Report.pdf>

⁸⁷ Financial Counselling Australia, 2015a

⁸⁸ 'Odds on you lose', 2015

⁸⁹ 'Riding the sports betting boom', 2011

⁹⁰ 'Odds on you lose', 2015

Similarly, the creation of a National Self-Exclusion Register could also include an option for self-identified, registered problem gamblers to have a complete ban placed on their credit cards for gambling-related transactions.

Allowance for the compliance and enforcement of the new offences and civil penalty provisions

The *Interactive Gambling Amendment (Sports Betting Reform) Bill 2015* proposes a number of new offences related to the practices of restricted wagering services, combined with increased levels of civil penalty⁹¹. The new offences relate to practices such as micro-betting, the provision of credit and inducements and verification of consumer identity in the creation of a betting account⁹². The Bill also proposes that restricted wagering services must provide training for staff in regards to problem gambling and must comply with stricter advertising requirements⁹³. The penalties for non-compliance with the Act are presented in the form of penalty units, resulting in financial penalties that are to be calculated on a daily basis for the duration of the non-compliant practice⁹⁴. These financial penalties range from 120-2000 penalty units, a monetary value of \$21, 600-360, 000 per day⁹⁵. The goal of these penalties is to encourage compliance to the Act and deter unethical and illegal practices by these services in order to protect individual consumers and their communities.

At present, the Bill proposes a relatively straightforward process of enforcement, represented in the following hypothetical example:

- 1) Interactive Sports Betting Company: contravenes 61GA of the Bill by providing credit
- 2) Interactive Gambling Regulator/member of public: notices and reports this practice
- 3) International Gambling Regulator: reviews the information and decides whether an enforcement action is required.
- 4) Infringement Officer: the IGR utilises the IO to deliver an infringement notice to company
- 5) Interactive Sports Betting Company: receives notice and pays penalty units/fine
- 6) International Gambling Regulator: receives penalty units/fine

While the significant increase in financial penalty units attached to offences under the Bill are welcomed by Uniting Communities, there remains concern at the prohibitive value of financial penalties in a multibillion dollar industry. Anecdotal reports suggest that fines placed upon restricted wagering services for non-compliant practices are considered within the industry as the 'cost of doing

⁹¹ *Interactive Gambling Amendment (Sports Betting Reform) Bill 2015* (Cwlth)

⁹² *ibid*

⁹³ *ibid*

⁹⁴ *ibid*

⁹⁵ *ibid*

business⁹⁶. William Hill, an international wagering service based in the UK, reported a net revenue of \$3.25 billion in 2014⁹⁷. Within this sum, the Australian element of William Hill operations reportedly generated \$290 million in 2014, a mere 8% of their international revenue⁹⁸. Should William Hill provide credit to consumers in conflict with the Act for an entire financial year, the financial penalty under the proposed amendments would total \$32.8 million. While a significant sum, this penalty would only amount to 8.8% of generated revenue^{99 100}. There is also evidence that penalty units are not significant indicators of deterrence in criminal matters, with a study into family violence reflecting that financial penalties proved ineffective in deterring criminal behaviour¹⁰¹. As such, Uniting Communities feels that a more comprehensive model of compliance and enforcement is required to adequately address unethical and illegal practices amongst restricted wagering services.

The ACCC is a major national regulatory body currently operational in Australia, responsible for the compliance of industry to the *Competition and Consumer Act 2010*, and clearly outlines five major methods of enforcement in their 'Compliance and enforcement policy'¹⁰². These methods begin to form a model from which the IGR can define a compliance and enforcement process for restricted wagering services. The ACCC suggests that first (and ideal) resolution to industry non-compliance is the use of education, advice and liaison in a manner that persuades companies to adapt their business practices to comply with the Act and with ethical treatment of consumer¹⁰³. From this resolution, the ACCC aims to work closely with industry members who are genuinely interested in compliance to develop voluntary self-regulation codes and schemes¹⁰⁴. Should voluntary compliance not be forthcoming, the ACCC recognises a second resolution in an administrative resolution, whereby the non-compliant service enters an agreement to cease non-compliant conduct and compensate affected parties with strict terms and conditions¹⁰⁵. Infringement notices serve as a third step in attempted resolution, whereby the ACCC feels that an explicit sanction is required for the non-compliant practice, though this is not yet considered a legal intervention¹⁰⁶.

Repetitive non-compliance is further addressed by the use of court enforceable undertakings, whereby an agreement between the ACCC and the non-compliant service that requires termination of non-compliant practices, compensation for affected parties and continued monitoring and

⁹⁶ O'Brien, N & Williams, P, 2015

⁹⁷ William Hill PLC (2015), *Annual Report and Accounts 2014: Towards a More Diversified Gambling Business*, William Hill, UK, viewed 03/02/2016 < <http://files.williamhillplc.com/media/1832/2014-final-results-accounts.pdf> >

⁹⁸ *ibid*

⁹⁹ William Hill PLC, 2015

¹⁰⁰ *Interactive Gambling Amendment (Sports Betting Reform) Bill 2015* (Cwlth)

¹⁰¹ NSW Law Reform Commission (2010), *Family Violence – A National Legal Response*, Commonwealth of Australia, Sydney NSW < http://www.alrc.gov.au/sites/default/files/pdfs/publications/ALRC114_WholeReport.pdf >

¹⁰² Australian Competition and Consumer Commission (ACCC) (2016a), 'Compliance and enforcement policy', ACCC, Canberra, ACT, viewed 02/02/2016 < <https://www.accc.gov.au/about-us/australian-competition-consumer-commission/compliance-enforcement-policy#accc-jurisdiction-and-available-enforcement-options> >

¹⁰³ *ibid*

¹⁰⁴ *ibid*

¹⁰⁵ *ibid*

¹⁰⁶ *ibid*

evaluation of trade practices¹⁰⁷. The final step in the enforcement process is court proceedings, whereby non-compliant services are held legally accountable for their non-compliant practices and contravention of the Act and enforceable undertaking agreement¹⁰⁸. This gradual process of enforcement and penalty for repetitive non-compliance would be an easily applicable model of enforcement and compliance for the IGR, as it seeks to monitor, investigate and enforce restricted wagering service practices compliant with the Act.

The ACCC model of compliance and enforcement comprehensively attempts to ensure industry compliance through the utilisation of a number of different tactics. These approaches could form an effective model of compliance and enforcement to be carried out by the IGR in the restricted wagering service industry. Should these services be found non-compliant with the Act, the abovementioned financial penalties would be enforced through an infringement notice. If non-compliant practices continue on the part of the restricted wagering service, an explicit sanction can be taken by the IGR against the service, followed by an enforceable undertaking agreement between the IGR and the service. Any contravention of this agreement may then be taken through proceedings and the license of the restricted wagering service in question may be temporarily or permanently revoked. This ensures that restricted wagering services are given ample opportunities to amend illegal and unethical practices, and services that maintain ongoing non-compliance are penalised in a more serious manner.

Appointment of the Interactive Gambling Regulator

Interactive Sports Betting – Who is In Control?

One of the key proposed amendments in the Bill is the appointment of a national Interactive Gambling Regulator (IGR). Adding to the complexity of managing an industry in its infancy is the provincial, State-based approach to gambling regulation in Australia. Under the current legislative framework, each State and Territory is responsible for the management of regulatory and licensing bodies in regards to the gambling industry. While interactive sports betting vendors operate nationally, interactive licenses and are only provided and supervised through the Northern Territory. The recent repeal of the *Northern Territory Licensing Commission Act* in 2014 has resulted in the institution of the *Licensing (Director-General) Act* as of January 1st 2015¹⁰⁹.

At present, interactive sports betting vendors undergo an application process for a license, including a review of character, financial background, financial resources, capacity to conduct business, repute

¹⁰⁷ ibid

¹⁰⁸ ibid

¹⁰⁹ Department of Business (2015a), 'Gambling and licensing reforms', *Northern Territory Government*, viewed 02/02/2016 < <http://www.dob.nt.gov.au/gambling-licensing/reforms/Pages/default.aspx> >

of management associates and repute of owner associates¹¹⁰. The application is investigated by the Director-General's office and the applicant must provide further information regarding their proposed systems and management¹¹¹. Should this be satisfactory to the Director-General, an agreement will be made between the applicant and the office and a license granted¹¹². Once licensed, there is very little information available to the public regarding the process of penalising illegal or unethical practise, other than a gambling complaint form available through the NT Department of Business website¹¹³.

A number of national bodies play a role in addressing the illegal practices of gambling companies, though none offer services specific to interactive sports betting vendors. In the original *Interactive Gambling Act 2001*, the Australian Communications and Media Authority (ACMA) was listed as the peak body for consumer complaints regarding the practices of interactive gambling vendors¹¹⁴. The ACMA acts as an intermediary between the consumer and the Australian Federal Police (AFP), receiving and reviewing complaints before deciding whether to refer the complaint to the AFP for investigation¹¹⁵. In conjunction with the ACMA, the Australian Transaction Reports and Analysis Centre (AUSTRAC) also plays a role in the monitoring of illegal interactive gambling activities¹¹⁶. AUSTRAC operates as a regulatory and management body in regards to financial security, combatting illegal money laundering schemes, crime syndicates and the funding of international terrorism¹¹⁷. As such, AUSTRAC has had a successful role in the monitoring of illegal interactive gambling on an international scale¹¹⁸.

Lastly, the Australian Competition and Consumer Commission (ACCC) also plays a small part in the management of interactive gambling concerns in Australia. The ACCC works to protect fair trade and consumer rights through the enforcement of corporate compliance to the *Competition and Consumer Act 2010*¹¹⁹. The ACCC has released public awareness information in regards to concerning or risky practices used by both licensed and unlicensed interactive sports betting vendors and has also engaged in a number of compliance and enforcement processes for land-based gambling providers¹²⁰

¹¹⁰ Department of Business (2015c), 'Guidelines to applicants', *Northern Territory Government*, viewed 02/02/2016 < <http://www.dob.nt.gov.au/gambling-licensing/gambling/online-gaming/Pages/guidelines-to-applicants.aspx> >

¹¹¹ *ibid*

¹¹² *ibid*

¹¹³ Department of Business (2015b), 'Gambling dispute form', *Northern Territory Government*, viewed 02/02/2016 < <http://www.dob.nt.gov.au/gambling-licensing/gambling/Pages/gambling-disputes.aspx> >

¹¹⁴ *Interactive Gambling Act 2001* (Cwlth), viewed 02/02/2016 < <https://www.comlaw.gov.au/Details/C2015C00101> >

¹¹⁵ Australian Communications and Media Authority (ACMA) (2016), 'Interactive Gambling Act 2001', *ACMA*, viewed 02/02/2016 < <http://www.acma.gov.au/sitecore/content/Home/Industry/Internet/Internet-content/Internet-gambling-complaints/interactive-gambling-act-2001> >

¹¹⁶ Australian Transaction Reports and Analysis Centre (AUSTRAC) (2016), 'Gambling services', *Commonwealth of Australia*, viewed 02/02/2016 < <http://www.austrac.gov.au/industry/gambling-services> >

¹¹⁷ AUSTRAC, 2016

¹¹⁸ *ibid*

¹¹⁹ Australian Competition and Consumer Commission (ACCC), 2016a

¹²⁰ SCAMwatch (2009), 'Sports investment schemes – it's just gambling', *Australian Competition and Consumer Commission*, viewed 02/02/2016 < <http://www.scamwatch.gov.au/news/sports-investment-schemes%E2%80%94it%E2%80%99s-just-gambling> >

¹²¹. While a number of State-level and national bodies already exist that address elements of interactive gambling practice, the lack of consistency or centralised management creates an environment in which the average industry consumer would find registering complaints extremely difficult. Similarly, the disjointed nature of regulation for a nation-wide industry managed through one Territory poses concerns for the protection of consumers.

A National Regulator: Why?

The International Association of Gaming Regulators (IAGR), a peak collaborative body for gambling regulatory bodies internationally, lists 10 separate regulatory authorities in Australia, including two for both South Australia and New South Wales¹²². This multifarious regulatory system provides ample opportunities for the rapidly growing interactive sports betting industry to operate Australian-wide without an overarching legislative regulatory body, and disempowers individual consumers who may wish to voice concern of complaint regarding the legality of vendor practices. Each current gambling regulatory body in Australia aims to minimise illegal gambling practices, though the various other responsibilities of these bodies result in minimal access to a nationally representative complaints body through which consumers can address illegal, unethical and concerning practices of interactive sports betting vendors. The institution of an Interactive Gambling Regulator (IGR), in conjunction with an Interactive Gambling Ombudsman (IGO) would ensure that interactive sports betting vendors are held to compliance and consumers are protected.

The possibility of an Interactive Gambling Ombudsman (IGO) is also worth consideration. Ombudsmen are generally industry-sponsored bodies that safeguard individual consumers and communities in their interactions with specific industries¹²³. Current industry ombudsmen in Australia operate on both state and national levels, and deal with customer complaints and concerns regarding industry practices¹²⁴. A number of key national ombudsman services include the Credit Ombudsman Service Limited (COSL), Financial Ombudsman Service (FOS), Superannuation Complaints Tribunal and the Telecommunications Industry Ombudsman (TIO)^{125 126 127}. The institution of an Interactive Gambling

Ombudsman could be useful in the management of individual consumer and community service complaints regarding practices of restricted wagering services in Australia. The IGO would collaborate with the IGR in the reception, processing and review of consumer complaints to be further

¹²¹ Australian Competition and Consumer Commission (ACCC), 2016a

¹²² International Association of Gaming Regulators (IAGR) (2015), *Gaming Regulators*, viewed 27/01/2016 < <http://iaagr.org/members/> >

¹²³ Commonwealth Ombudsman (2016), 'About Us', *Commonwealth Ombudsman*, Canberra ACT, viewed 03/02/2016 < <http://www.ombudsman.gov.au/pages/contact-us/> >

¹²⁴ Commonwealth Ombudsman, 2016

¹²⁵ *ibid*

¹²⁶ Australian Competition and Consumer Commission (ACCC) (2016b), 'Industry ombudsmen and dispute resolution', ACCC, Canberra, ACT, viewed 03/02/2016 < <https://www.accc.gov.au/contact-us/other-helpful-agencies/industry-ombudsmen-dispute-resolution> >

¹²⁷ Telecommunications Industry Ombudsman (TIO) (2016), 'About Us', *TIO*, Melbourne VIC, viewed 03/02/2016 < <https://www.tio.com.au/about-us> >

investigated and potentially penalised by the IGR. While the IGR holds a great many responsibilities in the regards to the enforcement of industry compliance, the IGO would act as a representative body solely for industry consumers.

The Interactive Gambling Regulator – Roles and Responsibilities

Following the abovementioned ACCC model for corporate enforcement and compliance, the IGR would be responsible for both the monitoring of restricted wagering service compliance with the Bill and the representation and protection of individual consumers. As such, the IGR would be required to perform a number of roles:

- 1) **Licensing:** Any interactive gambling license should be completely provisional on compliance with the Act. The IGR would be responsible for receiving and reviewing license applications, as well as enforcing compliance with the Act and with licensing requirements. This centralised body will mean that repetitive non-compliance with the Act or licensing requirements can be penalised consistently.
- 2) **Monitoring of restricted wagering service practices:** The IGR would be responsible for the compliance of licensed restricted wagering services to the Act. As such, a component of the IGR role would be the institution of regular monitoring processes, such as annual or bi-annual reviews of service practices. The IGR would also be responsible for receiving and investigating consumer and community service complaints and concerns regarding the practices of restricted wagering services.
- 3) **Enforcement of civil penalties in Bill:** Within the process of investigation, the IGR would be required to refer any illegal services to the relevant law enforcement authorities, currently understood to be the Australian Federal Police (AFP). The IGR is responsible for enforcing compliance of restricted wagering services to the Act, and the enforcement of civil penalties outlined in the Act. As such, the IGR must investigate practices and deliver infringement notices when applicable.
- 4) **Developing codes of practice in liaison with national and international regulatory bodies:** The IGR will be the peak regulatory body for interactive gambling in Australia. As such, the IGR is the industry body responsible for developing codes of practice for restricted wagering services to ensure legal and ethical treatment of consumers. The IGR would consult with and utilise the knowledge and practices of national and international regulatory bodies in gambling and other consumer industries to develop clear and applicable codes of practice. These bodies would include: the ACCC, the Australian Securities and Investments Commission (ASIC), Australian Prudential Regulation Authority (APRA), New Zealand Gambling Commission and United Kingdom Gambling Commission.
- 5) **Creation and maintenance of National Self-Exclusion Register:** The National Self-Exclusion Register is a forum through which self-identified problem gamblers can seek support in

restricting their access to interactive gambling services. At present, problem gamblers can 'self-exclude' from individual services, but can subsequently access another service. The Register allows a complete self-ban from all interactive gambling services in Australia. The IGR would create an operational Register and maintain its privacy. The IGR would release a public awareness campaign regarding the Register to ensure that Australian communities are informed about this option for addressing problem gambling behaviours. The IGR would also be required to explicitly define a code of practice for the Register, including the process through which problem gamblers can register and unregister.

- 6) Execution of public awareness and education campaigns:** As outlined in the ACCC model of enforcement and compliance, education and public awareness about industry practices and risks is a key responsibility of a national regulator. The IGR would liaise with key community services committed to raising awareness regarding problem gambling (Australian Gambling Research Centre; Financial Counselling Australia; Relationships Australia; Responsible Gambling Advocacy Centre) to release regular public awareness campaigns about problem gambling and the risks of sports betting.

- 7) Commitment to ongoing research regarding best practice and consumer protection within the interactive gambling industry:** The IGR would liaise with key community services committed to research and treatment development in regards to problem gambling, commissioning regular reports into the practices of restricted wagering services and concerning consumer trends. This ongoing research would contribute to the wider community of professionals seeking to find best practice interventions for problem gamblers.

The Interactive Gambling Regulator – Key Partnerships

In order for the IGR to effectively monitor and enforce industry compliance with the Act, a number of key partnerships are required. The IGR must develop working relationships with state and national law enforcement authorities, such as the AFP, in order to refer cases of illegal off-shore interactive gambling services for further prosecution. Similarly, the IGR would need to develop an explicit understanding of transaction blocking in consultation with ADIs and the Federal Circuit Court, and the procedure through which this practice could be implemented. Lastly, the IGR would benefit from liaising with major Australian sporting bodies, such as the AFL, NRL, Tennis Australia and Cricket Australia. It is impossible to address concerns regarding sports betting without consulting these peak sporting bodies to ascertain their current practices in regards to restricted wagering services and gain their compliance with any such reforms.

Section 4: Recommendations

1. The priority recommendation is for establishment of a national Interactive Gambling regulator (IGR), responsible for the licensing, monitoring and enforcement of compliance of restricted wagering services to the Act. The IGR must form close relationships with a number of key enforcement agencies on State, Federal and international levels in order to regulate illegal and unethical practices in the interactive sports betting industry.
2. Transferral of licensing processes for restricted wagering services to the IGR to aid in the monitoring, compliance and enforcement of restricted wagering services to the Act, particularly in relation to the abovementioned licensing penalties enforceable when repetitive non-compliance is present.
3. The compilation of a clear compliance and enforcement process to be enacted by the Interactive Gambling Regulator (IGR). The process would proceed on the basis of continuing non-compliance – first, the restricted wagering service would be served with an infringement notice and required to pay the relevant financial penalty units to the offence. Should non-compliance continue on the same or alternative offences by the same service, an enforceable undertaking agreement would be put in place between the IGR and the service. Any contravention of the enforceable undertaking agreement would result in the revocation of the service’s license (see more below).
4. Acknowledging the lack of prohibitive value present in financial penalties for an industry with almost limitless financial resource, a procedure should be instituted allowing for licensing penalties in cases of repetitive non-compliance with the Act. The IGR would have the power to temporarily or permanently revoke the license of a restricted wagering service should they repetitively fail to comply with the Act (to be defined by the IGR).
5. The IGR would liaise with industry regulators on national and international levels in the development of codes of practice for the interactive sports betting industry.
6. Included in the role and responsibility of the IGR is the creation and maintenance of a National Self-Exclusion Register, through which self-identified problem gamblers can register to be constrained from any and all restricted wagering services. These services are required to consult the Register before creating any new accounts.
7. Another component of the IGR role is the regular release of public awareness information about the interactive sports betting industry. In partnership with key community services seeking to address problem gambling (Financial Counselling Australia; Australian Gambling Research Centre), the IGR should commission an annual report into restricted wagering service practice and consumer practice. The IGR would also commission a regular (annual, bi-annual) public awareness campaign about problem gambling and sports betting.

8. The institution of an Interactive Gambling Ombudsman (IGO), solely responsible for the representation of restricted wagering service consumers. The IGO would receive direct consumer complaints, as well as reports from community support services, involving concerns regarding the corporate behaviour of restricted wagering services.
9. The IGR and IGO would work in close consultation to investigate consumer complaints and concerns, with their roles involving the compliance and enforcement of restricted wagering services to the Act and the representation of consumer rights respectively.
10. Explicit inclusion of smartphone applications in the definition of a restricted wagering service. Rapidly growing trends are seeing restricted wagering services increasingly offering betting accounts on smartphones, and any technologically-relevant legislation should include explicit reference to smartphone applications and their place in restrict wagering service provision.
11. More extensive consultation with ADIs regarding the process of transaction blocking and the difficulties this presents in regards to ADI ability to differentiate between illegal and legal transactions with licensed (and therefore legal) restricted wagering services.

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