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Committee Secretary
Senate Standing Committees on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600

Submission in relation to Participation of Australians in Online Poker

Thank you for the opportunity to lodge a submission on the Participation of Australians in online poker.

Betway is a fully compliant, reputable gambling provider, operating, and licensed, in a number of jurisdictions around the world, including the United Kingdom.

It does not currently offer services to Australian consumers, although it may, at some stage in the future, seek a local licence to operate, provided that the compliance and legal framework was suitable.

Given our extensive experience worldwide, and particularly our experience in the UK, we are pleased to outline, for the Committee's consideration, some of our successes in the regulated UK betting and gaming market, which has not only improved consumer protection, but has almost completely eliminated the local impact of the black market.

We do understand that there are some differences between various jurisdictions and that legislating locally is very much a matter for the Australian Parliament. Further, we also recognise we are a stakeholder with a strong interest in assisting your deliberations but as yet do not operate in Australia. As such we respectfully submit in the hope we might be of some assistance. In this submission, we wish to make a number of supported key points:

- In a well-regulated online market regime, there is good scope to allow, and indeed better manage, increasingly popular online gambling products, including poker and others.
- The benefits of betting enable improved oversight, and management, of trends and problem gambling, especially when compared with cash-based betting (which is far harder to monitor).
- Prohibition-like policies will not stop players keen to participate in popular online games. Instead, such policies force these players to participate in unregulated and unscrutinised markets with very limited consumer protection.
- The availability of legal technical tools like VPNs and other bypass technology, severely limits the effectiveness of the internet, and ISP blocking and whilst legitimate offshore licensed operators will use best endeavours not to offer online products which are "banned" in Australia, the same cannot be said for unlicensed, unregulated operators.
- The combined applicability of the National Consumer Protection Framework, currently under consideration by the Government, AND the protections offered by betting, means that Australia can, and should, consider the regulated offering of a range of popular online products, based on the principle that regulated products provide significantly more protection than that provided by illegal operators.
- This position is supported by experienced overseas regulators, such as the UK Gambling Commission, and reinforced by pre-eminent research on the need to regulate and manage online gambling products, and the associated risk of failing to do so.



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Submission to Government on The National Consumer Protection Framework.

Betway recently took the opportunity to provide comments on the Consultation RIS for the National Consumer Protection Framework for online wagering, which also has some relevance for your Committee's consideration.

We recognised that many unregulated providers are not as principled as our company, and other like providers who prefer to operate in strongly regulated online markets. As such, we are concerned that weaknesses in the direction of Australia's gambling policies means, unavoidably, that there is currently a high risk, supported by international evidence, of not only driving online gambling consumers to a thriving international black market, but also relying on technically ineffective internet blocking processes.

International evidence suggests this black market is worth billions of dollars, representing a significant risk in the electronic age and undermining the integrity of domestic, poorly regulated, gambling markets. Regrettably, the black market is attractive for problem gamblers, and it also erodes the public revenue opportunities that regulated domestic gambling markets can provide to manage problem gambling.

Betway's preference is to invest in better regulation, and make a better, broader contribution to community services.

By far the biggest regulatory cost of an ad-hoc, and selective, approach to gambling regulation is the cost to the community which, incorrectly, has been led to believe that "black" markets only exist in regions such as Eastern Europe, Asia and the Caribbean. It is true that is where much of the black market activity resides, but in the global market Australian players can easily access them – especially if the local market does not offer the popular products in a safer, regulated and taxed environment.

The current legislation and related framework is not in the interests of legitimate players, licensed and legitimate providers around the world, and particularly vulnerable gamblers. It only serves to drive online gambling to unregulated "black" markets.

Recent visit by former CEO of the UK Gambling Commission – Jenny Williams

Regardless of whether Betway, as a concerned, legitimate and licensed operator, in a number of strongly regulated markets, ultimately does elect to enter the Australian market, we want to ensure, based on international evidence, that first world nations strive towards the management of gambling in the best possible way. That is why we were very pleased to support the former CEO of the UK Gambling Commission, Jenny Williams during her recent trip to Australia.

Ms Williams shared some of her experiences in the transformation of the UK gambling regime, which resulted in a safer, stronger, and more vibrant regime. During her visit, Ms Williams was grateful for the opportunity to meet with various Members of Parliament and Senators, including Senator David Leyonhjelm.

As we indicated previously, during that visit we took pains to recognise that local legislation is very much a matter for Australia, and both Jenny and Betway appreciated the welcome she received and the interest in her experience as also being relevant to the Australian considerations.

Critical to the context of the Australian Government's current considerations, Ms Williams outlined in her meetings that greater consumer protection could be reached if online wagering operators are brought 'into the tent', rather than prohibiting their products. Speaking of the approach taken in the United Kingdom, based on her extensive experience, Ms Williams emphasised that *"the basic thesis is you do better to have everybody 'in the tent' to monitor them, learn*



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what is happening, get an overview and make sure you improve standards over time as you learn what works and what doesn't".

As a result of evidence like this, Betway recommends the Senate Standing Committees on Environment and Communications considers the benefit of including all operators – in-venue, online, overseas and domestic, in your efforts to protect Australian gamers.

Ms. Williams added: *"If you have a potential black market of people operating, you have no oversight of that market. In the UK we believe adults should be allowed to gamble, but in a protected and safe environment. If you think they shouldn't be allowed to, it's usually hard to stop them".* (The Australian newspaper, 12/2/17).

Ms Williams' thoughts are supported in the Australian context by respected researcher Dr Sally Gainsbury, (then Senior Lecturer at the Centre for Gambling Education and Research, Southern Cross University and now University of Sydney), who suggested that if over 30% of gamblers use both international and domestic online sites, then legislation should seek to include all legitimate operators and legitimate products 'in the tent'.

Manage the issues rather than banning the products

Betway also supported the recent announcement on gambling reform from the Australian Government, which will ban gambling advertising before 8:30pm, as well as during live sporting events. This initiative is consistent with Betway's own responsible marketing policy. Here Betway hopes that this will not only contribute to what Australia might aspire as best practice, but, importantly, how Betway might lead by example as a potential new entry into the current market.

In the UK, Betway voluntarily conforms to the Industry Group for Responsible Gambling's Code for Socially Responsible Advertising and we commend that Code as a potential consideration for Australia's considerations on gambling advertising.

Like the need to manage advertising, other factors, which potentially drive problem gambling, need to be monitored, managed and regulated, by encouraging a viable market and facilitating the participation of legitimate, reliable and regulated operators. This is in contrast to an approach which pretends to manage the real issues through banning products, but which in fact drives players towards the black market. These are the risks of NOT including such products in a well-regulated market.

By definition, given the imminent passage of the Interactive Gambling Amendment Bill, the Australian Parliament has acknowledged that Australia does not currently apply best practice. Nonetheless, Betway is concerned that the exemption of a large proportion of the existing gambling market from much needed reform, combined with the potential implementation of issues within this framework, will result in inconsistent application, and leave a significant number of Australians vulnerable to two key risks:

- Vulnerable and problem gamblers remain hidden as a result of a lack of application of these sorts of reforms to the land-based, anonymous cash gambling industry. Despite suggestions to the contrary, international experience suggests the industry should be brought under the umbrella of a rigorous National Gambling Regulator, with the same sorts of scrutiny and reporting obligations being proposed for online gambling. The carve-outs and special exemptions for selected products, certain providers, and special interest groups, ultimately weaken this framework's intent.
- Not adequately addressing the potential negative social consequences of gambling, by pretending that a regulatory framework can adequately protect individuals, by reliance on simplistic bans and ISP-blocking



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methods that have not only failed in other markets, but also failed on many other consumer fronts. This risk could be mitigated by the application of sophisticated, readily accessible, technologies, which players in the growing popular markets already have access to.

It is also notable that one of the highest participation rates in online poker is in the United States, where online gambling including poker is banned in most jurisdictions. The plain fact is that prohibition does not stop participation, but simply reduces the scrutiny and regulatory protections, leaving players vulnerable to unregulated operators.

The right path forward

We respectfully suggest to the Senate Standing Committees on Environment and Communications to consider that, in the right regulatory environment, , online gambling will offer far more protection to consumers than cash-based gambling can offer to consumers. It is our belief that there is a public and governmental misconception in Australia that cash-based "in venue" can offer adequate protections when limited scope to track cash, and the inability to provide account-based oversight and algorithm tools means, those who require protection have limited protection, by comparison with the account-based betting required of regulated and licensed online providers.

Indeed, while the issues of online and interactive gambling have been managed in jurisdictions like the UK, and which we maintain can also be managed in an inclusive and well-managed Australian market, we would argue that cash-based gambling, and increasingly 24/7 access to ever proliferating poker machines, without the implementation of controls, represents a far greater risk to Australia's social fabric.

In fairness to the Australian Government, we recognise that its regulatory reach on such matters is limited, and that recent attempts to regulate this space have failed. But this only highlights the need to rely on international experience, and grasp the opportunity to implement best practice, and a workable regime. For example, in relation to the National Consumer Protection Framework, officers requested feedback on linkages between payday lending and online gambling. To our knowledge, there are none, and account-based betting would allow better monitoring of unusual trends.

It is proposed that the Senate Standing Committees on Environment and Communications should consider recommending the transitioning of all gambling in Australia from its heavy emphasis on cash transactions to , with the result that:

- Trends can be better monitored and reported;
- Consumers can be provided with better feedback via complete and timely reporting; and
- Systems can implement a range of automated algorithms that detect, warn and ultimately intervene, where there is evidence of problem gambling.

Summary

In summary, based on its extensive experience overseas and its interest in good regulation in all potential markets, Betway does recommend robust reform of Australia's online gambling industry, inclusive of a strong national regulator, and an appropriate National Consumer Protection Framework, which licences and governs legitimate online gambling providers, and allows for the participation, and oversight, of a range of online products including poker and casino. Only a regulated "in the tent" framework can adapt quickly to new products in a dynamic market such as this.

Not surprisingly, we are concerned that prohibition-like policies will only drive players to the unregulated black market. The experience in the UK suggests that, with strong monitoring and controls, regulators actually have many more tools to identify and support strong consumer protection measures.



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These measures cannot be implemented in the black market as they only effectively apply to reputable providers and players themselves can readily access illegal providers. Given the proliferation of legal VPN and other bypass technology, we know that attempts to block Internet access to unregulated and disreputable operators won't work.

As a business that supports best practice, delivering online gambling to regulated jurisdictions around the world, Betway is concerned that the narrow special exemption of certain venue-based online gambling (including in play) has three key flaws. Firstly, it creates a preferred position for a very limited number of providers, thereby limiting competition. Secondly, these same providers have limited experience in global online gambling supply, and the effective implementation of harm minimisation measures. To date they have not had to implement the sorts of regulated controls that exist in the best-regulated markets overseas for account-based betting. Thirdly, it suggests a misunderstanding of the preferences of the types of players who seek such products in-venue in any case. It is far better to not "pick winners" among providers for special exemptions and to have a competitive, strongly regulated market that attracts players to a vibrant, regulated and safe environment – that also contributes revenue to Australia, rather than leaking it to unregulated providers.

Of course, whoever operates in Australia, and how they operate and the regulated products available, are ultimately matters for Australia, and we appreciate this. We hope this input is of assistance and that the Committee recognises that in the global market, players can access the products Australia might otherwise seek to limit. However, they will access them without the protections, the Australian Government has indicated, it would prefer were in place.

The good news is, with a robust regulatory regime rather than prohibition, and with an appropriate National Consumer Protection Framework in place – as anticipated by the O'Farrell review, we suggest these products can be appropriately facilitated and managed and consumers can be better protected.

If it is of assistance in your considerations, both now and in the future, on the Participation of Australians in online poker, Betway remains ready and willing to assist the Committee on how best to manage these sorts of services. Whilst we appreciate that the Committee's hearing will reflect its own considerations, a Betway delegation, including Ms Williams will be travelling to Australia in mid-August. Our Australian representatives are open to contacting the Committee, in the hope that our Delegation can meet with Members of the Committee and to share their experiences and views.

Betway is looking forward to continuing our engagement with Australia, in assisting with forming responsible gambling policies, and meaningful industry reform around Australians use of online products including poker with a view to our possible entry into the Australian market (subject to a strong regulatory regime and a commercially viable market).

Yours sincerely

Richard Akitt
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