

## **Australia Submission**

### **1. About iBusMedia**

iBus Media Limited ("iBus") is the world's largest poker media company. PokerNews (<https://www.pokernews.com/>) is the company's biggest publication and draws a global audience. Articles under the PokerNews brand are published in 31 languages and the company has full or part-time staff in over 30 countries.

iBus is the official online media provider of coverage for the majority of major poker tours and tournaments around the world including the largest annual poker event, the World Series of Poker (WSOP) in Las Vegas, and the largest event hosted each year in Australia; the "Aussie Millions" held at the Crown Casino in Melbourne.

iBus derives its revenues from affiliate marketing, advertising and other content provision for iGaming companies and operators of live poker events.

The company has been successful for 15 years having built a global reputation for reliable poker journalism. At the heart of this success also lies a strong sense of corporate social responsibility and customer service.

This ethos means that iBus only promotes online poker and online gambling providers that operate legally and responsibly in the jurisdictions where they accept players and that foster strong consumer protection and harm minimisation practices.

Due to the approach regarding the types of companies we choose to work with iBus is trusted by players and reputable operators alike. Every year since 2012, PokerNews has been shortlisted as the Best Poker Website by industry experts and has won the award for a record breaking 4 years in a row. Players vote their approval by reading PokerNews' immersive content more than on any other poker media site.

PokerNews staff are in constant contact with the poker community around the world, including in Australia at events such as the Aussie Millions. iBus management and journalists are also constantly monitoring the industry and regulation on a global basis, and have developed considerable expertise in these areas.

Earlier this year, one member of the current staff drafted a new set of iGaming regulations for a small African country which is in the process of introducing its own internet gambling licensing scheme.

The expertise embedded in iBus, and the respect with which the company is regarded by players, industry and regulators are the credentials supporting the contribution the company wants to make in this consultation process.

Due to the significant popularity of poker in Australia, iBus has a great interest in the Australian market and have been watching the environment closely for some time. iBus has been involved with, and contributed to, a number of Australian inquiries in the past conducted by the Australian government, parliament and other Australian regulators, including the Department of Broadband, Communications and the Digital Economy's review of the *Interactive Gambling Act* in 2011-2013 and various reviews and inquiries conducted by the Joint Select Committee on Gambling Reform.

Please find annexed to this submission the previous submissions iBus has made to these inquiries.

## **2. Executive Summary**

We are of the view that the treatment and understanding of online poker in Australia is in a state of flux and the industry is ripe for change. We thank the Senate Committee and commend the Australian government for recognising the need to conduct further investigations as to the impact and position of online poker in Australia.

The amendments proposed in the *Interactive Gambling Amendment Bill* 2016 before the Australian Parliament will have the impact of prohibiting the provision of online poker to customers resident in Australia. In effect, these proposed amendments are likely to produce an Australian environment where Australian online poker players have access to less consumer protection measures than before the amendments are passed, and far less protection than they would have in a nationally regulated environment.

Without a well-established and regulated licensing framework available for reputable operators to provide their services in Australia, Australian consumers will be driven to overseas unregulated sites and operators placing them at higher risk of exposure to harm from problem gambling, organised crime and corrupt and irresponsible operators.

This puts Australia out of step with other advanced nations that have introduced successful regulatory regimes for the licensing and regulation of online poker services and results a situation where Australians will be face with a regulatory regime which, in practice, will result in the worst possible situation for the Australian community of online poker players.

This submission sets out our views as to how online poker should be treated in Australia and in particular, encourage the Australian government to consider carefully the possibility of establishing a stringent regulatory framework to license, monitor, control and enforce Australian laws on online poker operators, in a manner that is consistent with Australian laws and community standards.

## **3. Poker - the game, and how it went “online”**

Before getting into the details surrounding online poker, we feel it is important to explain why poker is different from most other games played at a gambling venue. When playing casino games, betting on sports, betting on horses or playing the lottery, the bettor or player is always risking his or her money against the house or organising entity. If the player loses, the house wins and vice versa. In poker, the participating players play only against each other, with the entity organising the game, (which could be a casino, poker room or online operator) collecting a commission or fee for providing what is necessary for the game to take place.

The peer to peer dynamic of poker results in the game of poker being primarily a game of strategy and skill with a luck component. The skill and strategy component is evidenced by the fact that, in the long run, all players are equally likely to receive the same amount of “good” and “bad” cards and will have to use skills like strategy and mathematics to improve their chances of winning against their opponents (being other players).

Online poker has been around since the very early days of the internet. The World Wide Web was made available to the general public in 1991 and seven years later, in 1998, the first online poker site was born. It is no surprise that the possibility of playing with a community of players from all over the world, via the internet, created a whole new world for poker enthusiasts.

It should be noted that in modern times many “poker based” casino games have emerged. These are games that take some of the mechanics and fundamentals of poker like hand rankings (pair, three of a kind, straight, etc.), drawing cards and others, and use them in games where the player plays against the house. Some of the most popular variants are Caribbean stud poker, three card poker, jacks or better poker and deuces wild poker. These games fall in the same category as roulette, blackjack and other house-banked games (games where the house has a mathematical advantage over the player) and are not peer to peer. These games however, are quite different from the traditional online poker and poker tournaments which are the focus of the Committee's inquiry and discussed in this submission.

#### **4. Poker in Australia**

H2 Gambling Capital ([www.h2gc.com](http://www.h2gc.com)) estimates the Australian online poker market to have been worth AUD 135m in 2016.

Australia also has a thriving offline / land based poker market, evidenced by its popularity in local casinos and pubs as well as by significant poker tournaments. One of the world's landmark poker events is the Aussie Millions, which has been running since 1998 and is the Southern Hemisphere's richest poker tournament.

In an article on the online website [Pokermedia.com.au](http://Pokermedia.com.au), Damian Quayle, the Chief Operating Officer of Gaming at The Star Sydney is quoted as stating:

*"The World Series of Poker is the biggest and the best tournament series in the world, and we couldn't be happier to be bringing the Australian leg of the international circuit back to The Star for the second year running. Last year's circuit event at The Star poker room was the biggest international circuit event we've ever held and we're thrilled to be doing it all again,"*

(Source: <http://www.pokermedia.com.au/news/730-news-world-series-of-poker-circuit-event-returning-in-2017.aspx>)

The WSOP is the longest-running poker tournament in the world, dating back to 1970. In 2016, it attracted 107,833 entrants from 107 countries to the Rio All-Suite Hotel & Casino in Las Vegas, where it awarded more than \$USD221 million in prize money. In 2005, 'Aussie Joe' Joseph Hachem from Melbourne won the main event for \$USD7.5 million. Australians excelled in this year's edition with the country ranking 4<sup>th</sup> (tied with Germany and Israel) in first place finishes, 8<sup>th</sup> in earnings, 9<sup>th</sup> in tournament cashes and 5<sup>th</sup> in player entries.

This demonstrates the popularity of poker not only in Australia, but on a global scale.

#### **5. The regulation of online gambling in Australia**

Globally, one of the fastest forms of gambling is online and interactive gambling. According to the Productivity Commission Inquiry Report into Gambling in 2012, approximately 4.3% of Australia's adult population participated in online casino-type gambling, equating to nearly 700,000 active accounts. In 2013, the Global Betting & Gaming Consultancy (GBGC) reported that approximately 1.4 million active online casino accounts were held by Australians. This growth is driven by several factors, particularly an increasing number of international jurisdictions establishing regulatory frameworks to allow for online gaming and an ease of accessibility to gambling that is facilitated by the internet. It is predicted that the growth and availability of online gambling will continue to increase.

In 2011, there were approximately 2,600 online gambling websites, of which 92% were accessible by Australians. The Australian Gambling Research Centre reported in 2013 that online poker comprises 14% of the global online gambling market. Australia is one of the 15 largest internet gambling providers globally, offering approximately 32 licensed websites. The O'Farrell Report in 2015 estimated that online casino games and poker dominated the online gambling market in 2010, totalling approximately AUD \$790 million in expenditure. The Productivity Commission in their 2012 report confirmed KPMG's estimate that online poker represents approximately 32% of Australia's total expenditure on online gaming.

In 2012, it was estimated that Australian's expenditure in respect of online gambling equated to approximately AUD\$1.5 billion, of which approximately AUD\$922 million amounted to participation in online gambling with prohibited services based overseas and approximately AUD\$574 million with Australian licensed services.

Given the nature of the internet, the prohibition of online poker will not have an impact on the ability of Australians to access online poker. However, a regulated framework will enable Australian participants to play online poker in a safe and regulated environment and allow licensed operators to contribute back to the Australian industry through taxation, licence fees and other supporting investment.

## **6. Recent discussion on regulating online poker in Australia**

Early this year, Australian Senator Leyonhjelm of the Liberal Democratic Party proposed an amendment to the Interactive Gambling Amendment Bill 2016 (Cth) (**IGA Bill**) that sought to exclude online poker from the prohibition on providing an online gaming service to Australians. Similar to the exclusion which exists currently for online wagering the amendment was negated by the Senate; however, there were several important points of discussion agreed to by the Senate.

Senator Leyonhjelm's amendment considered that the IGA Bill required a multi-step process to ensure that a licensed provider of online poker service would not be liable for criminal or civil penalties for a breach of Federal law, that is;

1. legalise online poker services; and
2. introduce a regulatory framework for the licensing of online poker.

Senator Leyonhjelm highlighted that online poker is an entertaining game of chance and considerable skill, and noted that the prohibition of online poker under the IGA Bill causes inconsistency, as it prohibits Australians from engaging in the same game and entertainment that they are otherwise permitted to do face-to-face in a very softly regulated environment in terrestrial venues. Senator Leyonhjelm further queried whether it was relevant to prohibit online poker and blackjack, concluding that there is no evidence to support the idea that online poker causes excessive harm comparable to other services that the IGA Bill seeks to regulate, such as online sports betting.

Senator Xenophon of the Nick Xenophon Team did not support the amendment; however, during the Senate debate he raised important issues in relation to any discussions about the possible regulation of online poker in Australia. Senator Xenophon acknowledged that Senator Leyonhjelm raised an important issue when differentiating between harm caused by online poker and sports betting.

Senator Xenophon noted that in the context of the IGA Bill debate, he understood a dichotomy exists between online poker and sports betting, and considered that online poker could be regulated by implementing small bet limits. While Senator Xenophon did not support the amendment, and noted that there is ambiguity, as to how it would operate and what the betting limits would be, Senator Xenophon stated that the matter of online poker is something that needs to be debated further.

Senator Xenophon was quoted as saying:

*"... whilst I do not want to see any expansion of online gambling, there does seem to be a dichotomy between poker players, who have described to me that they can bet 1c at a time and lose very small amounts of money in the scheme of things, and sports betting. Senator Leyonhjelm has raised an important issue.*

*The paradox may be that if there were very low bet limits, and I am talking very low bet limits as a number of cents compared to dollars or multiples of dollars, the impact would be smaller than sports betting as it currently exists. It is a matter that the Productivity Commission raised in its reports on gambling. I think there will still be an ongoing debate on this, and I understand the point of online poker players who say that there is a dichotomy between a game where \$50 will keep you playing all day compared to being able to lose literally tens of thousands of dollars at a time with sports betting. This is something that will need to be debated. I do not want to be seen to be encouraging an expansion of gambling, but there is an inconsistency in the approach of the government and opposition to sports betting, where you can bet thousands of dollars at a time per game or per sporting event—per horse race—compared to online poker, where there could be some very strict limits as to what could be bet. It is something that needs to be debated further."*

It should be noted that, on its own, implementing low bet limits will not lead to a successful regulated market. Not only do different people have different disposable income with which to play, Australians will simply go to the sites that offer the stakes they want to play at regardless of whether they are regulated or not. As discussed further below, it is far better to offer players the ability to set their own deposit or bet limits which are relevant to them.

This measure is just one of many that should be implemented to encourage responsible gambling among players in Australia and among operators providing services to them in accordance with a focus on harm minimisation and protection of consumers.

## **7. Blanket Prohibition on Online Poker in Australia**

We understand that a law will shortly pass to prohibit operators from being able to offer online poker to Australians. We feel that this is a huge shame, and has the potential to put many Australian poker players at increased risk. Many of the reasons for this are given in the “Benefits of Regulation” section below.

There are many examples worldwide which demonstrate that this type of outright blanket prohibition of a service does not work. Poker is a game loved and enjoyed by thousands of Australians. Many will not simply stop playing, but instead there is a risk that they will be driven to play with unregulated offshore operators. Already, we have seen some offshore operators proactively stating that they will continue to target Australian players.

The nature of the Internet means that a government ban will not prevent unscrupulous operators from continuing to offer their services to Australians. A blanket prohibition will see Australian online poker players turn to fly by night poker providers who are not held to high ethical and legal standards by regulators (including gambling, corporate and financial regulators). Reputable market leading companies who are already regulated strictly under licences granted in other jurisdictions will voluntarily cease to offer their services to Australians despite the Australian market being a big opportunity for them. That is, reputable poker operators who seek to comply with strict licensing standards consistent with the practices applicable to Australian licensed online gambling operators will not be accessible by Australian customers and players will instead be driven to play with unregulated offshore operators, placing Australian players at greater risk with less reputable operators rather than known poker brands who have exited the market in accordance with their obligations under Australian law.

In most cases, these unregulated operators do not have harm minimisation or responsible gambling procedures in place, do not offer consumer protection or complaint services and do not pay a contribution to the Australian government from the profits they receive from Australian customers.

Perhaps the best example of a blanket prohibition structure failing is the case of the United States of America. Even though there are three states (New Jersey, Nevada and Delaware) that have passed legislation to regulate online gambling, the vast majority of the country’s population does not have access to a safe, regulated online gambling market.

The results have hurt the American people the most. Following the US government’s crackdown on online poker in 2011, Lock Poker emerged as an option for players who decided to continue to play. The site continued to thrive and grow for the next four years until players regularly started to experience issues when trying to withdraw funds. In 2015 Lock Poker stopped offering their services to players who are believed to still be owed upwards of \$15M USD. Unfortunately for United States residents, Lock Poker is not the only instance of customers of online poker sites having to pick up the tab for an illegal operator’s mismanagement of player funds and it’s going out of business. The Equity Poker Network and one time third largest poker site in the world, Cereus Poker Network, are two other examples among many.

Today, H2 Gambling Capital estimates that the illegal, US offshore interactive poker market continues to be worth over \$125M USD per year. Information to support this can be found on PokerScout ([www.pokerscout.com](http://www.pokerscout.com)), a site that specializes in tracking player traffic in the online poker space. When analysing their data for the United States, the regulated market accounts for about 14% of the 7-day traffic average. This means that 86% of all US online poker players are playing in sites that provide players with little to no protections and continue to offer their services in spite of the government ban.

H2GC expects that the Australian offshore poker market will continue to be worth close to \$50M AUD in the years following the prohibition, which roughly equates to a third the current size. This means that H2GC expects that one in three Australians who currently plays online poker to continue to do so on sites that offer far fewer protections than the ones they have access to today.

## **8. Benefits of a Regulated Online Poker Framework**

iBus is a strong supporter of sensible regulation for online poker, believing it to be by far the most effective way to ensure Australian players are protected.

It is our view that, rather than an outright blanket prohibition on online poker services in Australia, the Australian government should consider allowing the operation of a stringent regulatory framework for the licensing of legitimate online poker operators in Australia. It is only through an established regulatory framework with clear expectations, standards and obligations that important matters, such as harm minimisation, protecting and helping vulnerable players and raising tax revenues responsibly, will be achieved.

The primary benefits can be summarised as follows:

### **(a) Responsible Gambling**

The overwhelming majority of poker players enjoy the game, play responsibly and only with what they can afford. In her submission on the interim report of the DBCDE's Review of the *Interactive Gambling Act*, Dr Sally Gainsbury stated that "*due to the fixed costs of tournament poker, this type of online poker appears to have relatively low likelihood of leading to gambling problems*"<sup>1</sup>.

However, we understand that a very small number of players may experience some problems and can be vulnerable.

It is therefore vital that these players can access the help and support that they need. Unregulated and unlicensed sites are not bound by rules and regulations around problem gambling and harm minimisation. By continuing to operate in a market where it is clearly illegal to do so, such sites are clearly demonstrating their lack of integrity and responsibility. There is therefore very little evidence to suggest that such operators will proactively help players when they have a problem.

Vulnerable players, when denied access to locally licensed fully regulated online poker operators, risk developing far worse problems if they are driven to play on unlicensed sites.

We recognise that no licensing or regulatory market will ever fully eradicate the issue of problem gambling. However, in a sensible and practical regulatory environment, licensed operators can be bound by law, regulation and licensing obligations to provide harm minimisation measures, and put checks and balances in place in respect of the offering and promotion of their services to ensure that problem gaming is kept to a minimum and for those vulnerable players to seek and receive appropriate help and support.

These regulations and licensing obligations encourage more responsible online poker operators who are expected to meet standards and requirements controlled and specified by government and independent regulators in accordance with community expectations and standards.

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<sup>1</sup> Dr Sally Gainsbury, Submission to the DBCDE on the interim report of Review of the Interactive Gambling Act, p. 4

We understand that, in Australia currently, the Department of Social Services is considering the development of a National Consumer Protection Framework to focus on harm minimisation and protecting consumers in respect of the online wagering industry. We consider that many of these harm minimisation measures can also be applied to a regulated and licensed online poker service industry and in fact, similar measures are already in place in regulated online poker markets in other jurisdictions.

In our view, it is important that Australian online poker players participate in online poker subject to appropriate Australian harm minimisation standards and that those protections are readily available to them. This can only be done through an Australian licensed online framework. When all the online poker in Australia is provided by unlicensed offshore operators, there is no opportunity to enforce responsible gaming policies. The operators that continue to offer their services to Australians once the law becomes effective, will have neither a financial incentive nor a regulatory requirement to implement any responsible gaming policies whatsoever, leaving those that are vulnerable at much higher risk.

Some of the harm minimisation measures which are being discussed in relation to the National Consumer Protection Framework which may also be relevant in relation to the regulation of online poker include:

Harm minimisation measure	How the measure may be implemented	Examples from overseas regulated online poker markets
1. National self-exclusion register	<ul style="list-style-type: none"> <li>• <b>National self-exclusion register</b> – the Department of Social Services, through the Illegal Offshore Gambling Taskforce is conducting currently a consultation into establishing a national self-exclusion register where online wagering operators would be required to provide players with options to exclude themselves from playing (across all licensed sites).</li> </ul> <p>Once this centralised national register is in place, it could be extended to also serve as the centralised register for individuals who wish to self-exclude from online poker services. As part of their licence conditions, if a licensing framework is put in place for online poker, licensed operators could be obliged to check this list when a player tries to register or login to their account.</p> <p>This ensures that a problem player is not excluded at just one site, but all sites. As a side note, this is one reason why it is important that regulation is sensible and attracts reputable operators.</p> <ul style="list-style-type: none"> <li>• <b>Varied timed exclusions</b> – in addition to the national self-exclusion register, the online nature of online poker services means that it would also be possible to offer not only permanent exclusions but exclusions for varying periods of time. Examples could include a 12-hour block to ensure that when players return from a night out they don't start playing whilst under the influence of alcohol.</li> <li>• <b>Device, IP address and payment method tracking</b> – technology allows for much more robust tracking in order to protect vulnerable customers. Once a customer decides to self-exclude, operators will have a wealth of data and tools to prevent that player from relapsing.</li> </ul> <p>For example, if a player requests to have an account closed due to gambling problems and later on tries to create a new account, operators will know that the computer that is being used to create the new account is linked to an account belonging to a customer who has decided to self-exclude. This will allow them to prevent that account from being opened in the first place.</p> <p>Licensed online poker operators could be requested to have this type of detection in place.</p>	<p>In Denmark, the Danish Gambling Authority administers the Register of Voluntary Excluded Players (<b>ROFUS</b>). Under the ROFUS system, players can directly register themselves to be self-excluded. Once they have self-registered, the relevant player cannot cancel the registration.</p> <p>Through registration on ROFUS, a player is excluded from all products with stakes which are offered by all gambling providers granted a licence by the Danish Gambling Authority.</p> <p>Critically, the ROFUS system covers both online and land-based gambling (save for some limited exceptions for charitable lotteries), including for example, gambling in casino venues.</p> <p>Very similar systems exist in other regulated markets. For example a very valuable element of regulations in territories such as Spain, Portugal, Belgium and New Jersey includes a requirement for every licensed operator to check a central blacklist of excluded players upon (a) registration and (b) every subsequent login to their account.</p> <ul style="list-style-type: none"> <li>• A similar centralised register known as GAMSTOP, is being set up in the UK. It will work the same as other registers but the difference is that in UK, it is being set up by the licensed operators, as per the regulator's mandate. This is a good example of regulators being able to delegate certain tasks and force investment from operators into RG measures.</li> </ul>



<p>2. Voluntary opt-out pre-commitment scheme</p>	<p>The Illegal Offshore Gambling Taskforce is conducting currently a consultation into implementing a voluntary opt-out pre-commitment scheme where online wagering operators would be required to offer customers to ability to set deposit limits in their betting player accounts.</p> <p>This functionality can be extended to online poker. However, only in a regulated market can licensed online poker operators be required to offer the same harm minimisation measure which allows online poker operators to set a variety of limits to manage their play and funds. Examples include simple deposit limits, i.e. limiting the amount they can take deposit into a poker account to A\$100 a month. Additionally, a player could limit their stakes in a particular variant of poker because they know they are not as skilled as other types, or indeed limit the amount of time that they can play for.</p> <p>Players can also opt-out from all marketing communications related to online gambling in order to not be tempted by specific promotions or activities. Here again, it is important that only reputable operators are licensed so that these “no contact” lists are respected.</p>	<p>Currently, leading poker operators in other jurisdictions offer a wide variety of limits to players.</p> <p>Almost all regulatory frameworks have requirements in place requiring operators to offer such limits. Although it is not suitable to demand that operators set the same limits for every player (individuals have different circumstances) operators it is mandatory for operators in these overseas regulated jurisdictions to (a) offer players such limits and (b) make sure that the player is aware that these limits are available.</p>
<p>3. Prohibition of lines of credit</p>	<p>N/A - this is no longer relevant as it has been covered and considered in the latest version of the Bill to amend the Interactive Gambling Act 2001 (Cth).</p>	
<p>4. Offering inducements consistent with responsible gambling</p>	<p>This is a significant issue currently for the sports betting industry. The concern with advertising of inducement offers is much less of an issue in the online poker industry. In online poker, concepts like “free money” and “deposit bonuses” are typically not as widespread due to the fact that the peer to peer nature of the game dramatically increases the cost of these to operators. Any funds that an operator gives players, can end up in the hands of other players that are able to then withdraw them from the system as winnings. Contrary to games in which players play against the house or operator, the peer to peer aspect of online poker games makes it so that funds awarded to players carry a much higher cost. A regulated Australian market would enable strict regulations to be applied to licensed operators in this area, something that is not possible to impose on unlicensed operators targeting Australian players.</p>	
<p>5. Activity statements on demand and on a regular basis</p>	<p>Unlike traditional land based games, internet gambling offers a highly detailed trail of activity. This level of detailed information offers customers the information needed in order to control their spending. Online poker is no exception and actually provides customers even more data to allow them to control how they spend their time. Because poker is a game of skill and a player's relative skill level will differ between games and stakes they will easily see in which games they perform better and chose those games.</p> <p>The data needed to make those decisions is readily available to all players at all times.</p>	

<p>6. Responsible gambling messaging</p>	<ul style="list-style-type: none"> <li>• <b>Highly visible support</b> – If a regulated licensing framework for online poker is established, regulation can be put in place to require these locally licensed operators to display prominently responsible gambling messages and warnings about excessive behaviour, as well as clear and direct links to helplines or help groups and other similar organisations where players can get assistance and talk to someone about problem gambling behaviour.</li> </ul> <p>Similar obligations already exist currently, for example, the prescribed responsible gambling messages required under the South Australian Gambling Codes of Practice 2013.</p>	<p>Regulations around Responsible Gaming related messaging are mandatory part of the requirements in most jurisdictions which have licensing and regulatory framework around the world. This messaging will often include information on how players, or indeed their families, can get further help if needed.</p>
<p>7. Staff training</p>	<p>Licensed operators can be required to have their customer facing staff undergo proper Responsible Gaming training in order to identify possible warning signs in a particular player's activity or interactions with staff.</p>	
<p>8. Customer verification</p>	<p>Online wagering operators are bound by various obligations relating to customer identification and verification under both their licence conditions and under AML/CTF laws in Australia.</p> <p>Similar regulations can be extended to apply to a regulated online poker framework on the basis that the same core principles and issues arise. That is, as online poker is generally an account based service, the risks and issues relating to fraud, anti-money laundering risks and customer verification procedures which exist in relation to online wagering, also apply.</p> <p>See our further comments below.</p>	<p>Strict laws and regulations relating to KYC (Know Your Customer), AML, CTF and PEP exist under the regulatory framework in most jurisdictions in the world.</p>
<p>9. Proactive monitoring</p>	<p>Some regulators around the world are now requesting that licensed operators in their licensing jurisdictions use the data they gather from their customers in order to develop technologies that will allow proactive detection of customers prone to problem gambling.</p> <p>Operators in some of those jurisdictions are now turning to machine learning and artificial intelligence to fulfil this regulatory requirement. This is a good example of how well-established regulators are able to dictate the conditions in which operators can operate and how licensed operators can do their part to work with regulators to encourage innovation in the industry for the ultimate goal of protecting the consumers.</p>	<p>In the UK, the regulator requires license holders to work proactively to try to identify players that may exhibit problem gambling tendencies. Operators must then show that they are assessing the results of their initiatives and follow up on them to try and improve. This is a new approach that is expected to deliver positive results over time. This promising development is only possible if there is a regulatory framework in place that requires/demands it.</p>
<p>10. Links to SACC providers / pay day lenders</p>	<p>N/A - this is no longer relevant as it has been covered and considered in the Bill to amend the Interactive Gambling Act 2001 (Cth).</p>	

In light of the above, it is clear that many of the issues which arise in respect of online wagering and sports bookmaking in Australia also apply to online poker. However, to the extent that an extensive and stringent regulatory framework is already in place for online wagering, we consider that utilising the core of the already established framework would be helpful in extending this to establish a regulated online poker framework.

It should also be said that many international online poker operators who are not offering services in Australia already offer harm minimisation measures and procedures, even if not mandatorily required by law, regulation or under their licence. That is, many of the well-established and reputable online poker operators in the international market currently similar to those set above understand their responsibilities to their customers and understand the importance of maintaining integrity and harm minimisation measures to protect their customers, and already voluntarily implement a number of these consumer protection and responsible gambling practices.

#### **(b) Anti-Money Laundering and Counter Terrorism Financing**

The very nature of online poker makes it an unattractive means for money laundering. A combination of the stakes in which the majority of online poker games take place (the vast majority of games are played in what is known as micro stakes), high transaction costs and high risk of detection by operators who do not want to be defrauded, make it so that those wishing to legitimize illegal profits prefer to use other methods. However, in every regulated online gaming activity there is a risk that the service will be used to facilitate money laundering or terrorism financing (**ML/TF**). Under Australian law, specifically, the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* and the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)* (**AML/CTF Rules**), designated service providers, including online gambling operators, are required to implement a number of measures to mitigate this risk. These measures are largely successful at preventing ML/TF due to the high traceability of online transactions and the customer identity verification controls.

Such measures include, but are not limited to:

- Customer identity verification, including special requirements for politically exposed persons and enhanced requirements for high risk customers;
- Customer due diligence;
- Employee training programs;
- Threshold transaction reporting;
- Record-keeping;
- Suspicious activity reporting;
- Transaction monitoring;
- Risk assessment and management; and
- Internal policies and procedures.

Similar measures are also already in place in jurisdictions where online poker is a regulated activity. This is largely as a result of the recommendations of the Financial Action Task Force (**FATF**), an international inter-governmental body of which Australia, the United Kingdom and the United States are members. FATF sets standards for the effective implementation of legal, regulatory and operational measures for combating ML/TF, including in relation to online gambling.

In international jurisdictions where online poker is a regulated activity, including in the UK and the US states of Nevada, Delaware and New Jersey, the ML/TF risks of both online poker and online sports wagering are similarly managed. There are, of course, a number of possible ML/TF risks which are specific to online poker. For example, in every discussion relating to the regulation of online poker, there arises some concern in relation to options for laundering via player-to-player transfers.

However, on the basis that operators are encouraged to take a risk-based approach to assessing and mitigating ML/TF risk and the appropriate systems are set up to ensure the licensed poker operator is responsible for managing and monitoring player funds and transactions, such risks which are specific to online poker services are easily addressed on an operator specific basis. This may include, for example, a prohibition on player-to-player fund transfers (as is the current practice of licence online poker providers in the UK and US.)

Further, given that online poker typically:

- involves low value bets;
- requires players to bet with funds deposited via bank accounts held with licensed financial institutions; and
- subjects players to identity verification checks conducted by the relevant financial institutions (which are also subject to their own KYC and AML/CTF obligations and regulations) as well as the gambling operator which adds an additional level of customer verification and monitoring,

It can be said that online poker presents a lower ML/TF risk than offline poker provided in land based venues, such as casinos. This is consistent with the findings of a number of studies showing that other services (including physical casinos and poker machines), present more effective opportunities for people to engage in ML/TF<sup>2</sup>.

On this basis, it is proposed that there is no logical basis on which to suggest that online poker involves a ML/TF risk that is greater than that presented by the provision of offline poker services to customers in land based venues. Further, Australia's robust AML/CTF regulatory regime provides operators with the flexibility to address those risks which are specific to the provision of online poker services, subject to the oversight of the relevant gambling regulators and the Australian Transaction Reports and Analysis Centre (**AUSTRAC**).

#### (c) Game Integrity and Organised Crime

Poker, being a player vs player game, is therefore potentially open to players trying to cheat other players. Irresponsible operators who will still be providing services to Australians have little incentive to take proactive steps to prevent such cheating. Online poker regulation can ensure that operators take necessary steps to identify and act on different forms of cheating in poker. This can include:

- **Collusion** – where two or more players are working together to gain an advantage over other players at the table
- **Automated software (bots)** – where scripts and other automated software is used to play against other players. We are strong believers that all players participating in online poker should be humans
- **Account takeovers** – where a more skilled player takes over a less skilled one in a big tournament (and where the prizes start getting bigger and less skilled players are more likely to lose).

Due to its online nature, online poker can be a target for organised crime and collusion. However, with strong regulations and laws in place which require online poker operators to work closely with not only gambling regulators, but also financial law enforcement agencies, organised crime and the integrity of online games can be monitored and controlled.

Again, many reputable internationally licensed operators already take such measures. However, it is likely that, if the IGA Bill passes, this leaves only the less scrupulous sites targeting Australians, given that the activities to identify cheating above both (a) cost money to carry out and (b) reduce operator commission. In other words, many of those unlicensed operators will do nothing to protect players.

One international example occurred in 2016, when the Italian Guardia di Finanza (the Italian [law enforcement](#) agency, forming a part of the [Ministry of Economy and Finance](#) responsible for dealing with financial crime and smuggling) took down a major online poker operation run by organized crime which operated poker sites from Romania, with servers in Florida.

The poker sites were not being used to launder money, but games were rigged create extra profits. These profits were then laundered through buying racehorses and property in London amongst other places. The Italian regulatory system permits online poker, but it levies high taxes and imposes other impractical restrictions which means few legitimate operators seek to be licensed in Italy, which has the effect that Italian poker players are driven to play at unregulated sites.

This gives rise to a risk that a similar circumstance will take place in Australia. Without any legal framework which allows Australian players to play online poker with reputable poker operators recognised and licensed by an Australian regulator, in accordance with Australian expectations and community standards, Australian citizens will be exposed to a much greater risk of finding themselves looking to overseas unregulated websites which may be run by organised crime.

**(d) Protection of Player funds**

As with online sports betting, online poker players will deposit funds into an account held by the operator. These funds are usually held in operator managed bank accounts for the players.

Responsible and reputable operators will always ensure that player funds are held in a completely ring fenced bank account, completely separate from business operations funds.

In some regulations worldwide, operators are required to go further and hold the funds in a trust. This ensures that, if the operator experiences difficulties, ceases trading or goes into corporate bankruptcy, player funds are always protected and returned. A similar system is required, for example, of online sports betting operators licensed in the Northern Territory.

Without a framework for the licensing of online poker operators in Australia to be regulated, Australians playing poker online will not be able guarantee that their funds are always safe. As indicated above, there will be a significant number of players who will continue to play on overseas unregulated online poker sites.

**(e) Jurisdictional and Regulator Control**

It is acknowledged that the amendments in the IGA Bill do not prohibit Australia customers from playing online poker – the act of playing online poker is not being criminalised.

The IGA Bill merely prohibits the provision (and advertising) of online poker to customers resident in Australia by operators who are not licensed to provide these online poker services under the laws of an Australian State/Territory. Given that there is no regulatory framework in Australia currently which provides scope for either an Australian or international company to be licensed to provide online poker services to Australians, this means that the online poker operators who continue to provide services to Australians will be in breach of Australian law.

However, as many of these companies are overseas, they operate outside the jurisdiction of the Australian government, regulators and law enforcement agencies. This means that there is very little that an Australian regulator can do in practice to prevent these overseas operators from providing their services to Australians. Prohibiting such overseas companies from providing online poker is therefore largely unenforceable and ineffectual in protecting Australian consumers.

True prohibition would ban the players from playing online poker but, even in countries where this is the case, there have been few to no prosecutions (e.g. there have been no players prosecuted in the US and prosecutions were attempted in Romania but were abandoned when it was met with significant community protest).

The amendments to the IGA will not therefore deter players from playing online poker. They will merely deter the main reputable international poker brands who seek to be compliant with the national and local laws in the jurisdictions in which they operate and are licensed, and will leave the market open to the less scrupulous operators.

Implementing a regulatory and licensing framework in Australia, which is governed by Australian law, driven by Australian community standards and expectations and focused on the protection of the Australian consumers and community will place the Australian regulators back in a position of control in that they will be able to set the requirements that must be met in order to be licensed in Australia.

This will also allow the Australian regulators and government to put in place a legal framework which gives the regulators and Australian law enforcement agencies (such as AUSTRAC, the ACMA and Australian Federal Police) the ability to apply, and enforce, Australian laws against operators who act in breach of the Australian standards and laws. Again, this gives greater protection to Australian consumers.

**(f) Financial benefit**

As previously mentioned, there is a significant demand for online poker in Australia. Many players will not stop. The Australian government is missing out on potential tax revenue by not regulating the market and applying a tax to the activity.

Regulating the market will bring secondary benefits, with licensed operators investing in local marketing and people through setting up premises in Australia, hiring local staff, sponsoring Australian business etc.

**9. Conclusion**

A successful regulated online poker market benefits all stakeholders:

- **Poker players** – can feel safe in the knowledge that they are playing with reputable operators who have been fully checked and vetted by appropriate regulators. They are protected by regulations in areas such as funds management and they know operators are bound to take steps to prevent fraud and cheating. Vulnerable players get access to help and tools to give the best chance of managing such vulnerabilities
- **Reputable operators** – can operate with certainty backed by a license (provided they continue to comply of course), allowing them to invest in the business and generate long term returns.
- **Regulators** – ensure that the overwhelming majority of Australian poker players will be playing with fully vetted sites under the protections of sensible and robust regulations (and not playing with unknown, unlicensed and potentially irresponsible operators)
- **Government** – generate direct tax revenue

It is beyond doubt that thousands of Australians enjoy playing online poker. Prohibition will simply not work, and is inconsistent with the treatment of land based poker as well as other types of online gaming. Licensing of online poker is proven elsewhere in the world, and iBus strongly recommend Australia taking a similar path.

iBus thanks the Committee for the opportunity to make this submission and commends the Australian government for recognising the need to consider the impact of online poker in Australia.

iBus sees the great potential benefits that a responsible and regulated licensing framework for online poker could provide to Australia as well as the risks and damage that could be caused for Australian consumers by an express blanket prohibition of online poker.

Given our experience and knowledge, of online poker generally, we would be pleased to assist if the Committee requires any further information.