Uniting Church in Australia
SYNOD OF VICTORIA AND TASMANIA

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Submission of the Synod of Victoria and Tasmania, Uniting Church in Australia to the Senate Standing Committee on Environment and Communications inquiry into the *Interactive Gambling Amendment (Credit and Other Measures) Bill 2023*.

22 September 2023

The Synod of Victoria and Tasmania, Uniting Church in Australia, welcomes the opportunity to provide a submission to the inquiry into the *Interactive Gambling Amendment (Credit and Other Measures) Bill 2023.* The Synod supports the Bill and urges that the Committee recommend its prompt passage through the Parliament.

We share a growing concern about the increasing impacts of online gambling. As the Department of Social Services notes,

> *"Online gambling is the fastest growing gambling segment. In 2022, the Australian Communications and Media Authority (ACMA) found that more than one in 10 (11%) Australians have reported participating in online gambling at some stage in the previous six months. This figure is up from 8% in 2020. Digital technology means people are able to gamble at any time."*

Concerns with Gambling with Credit

The risk with credit gambling is that it facilitates people losing money they do not have. People can lose everything they own to online gambling businesses and then go further into debt through credit gambling.

Debt is a common outcome for people already being harmed by gambling. Debt problems are a more severe subtype of financial harm and are posited to be the primary indicator of financial impairment in gambling disorder.[1] Research has shown that personal unsecured debt correlates strongly with mental health problems.[2]

Financial harms, including debt problems and bankruptcy, are among the most common harms reported by those who have been harmed by gambling.[3]

For example, Financial Counselling Australia reported the case of 'Max', a senior employee in a large finance corporation. He spent $2,000 per bet on weekend sporting games through online sports betting. He was sent incentives by an online sports-betting business to entice him to gamble more, and his bets went up to $5,000 per bet. One weekend, Max bet $250,000 on a single game and lost. He placed a second $250,000 bet that same weekend and lost that as well. In total, he had lost $670,000 to the sports betting business. The sports betting business

[1] Thomas B. Swanton and Sally M Gainsbury, 'Gambling-related consumer credit use and debt problems: a brief review', *Current Opinion in Behavioural Sciences* ***31,*** (2020), 21.
[2] Ibid., 22.
[3] Ibid., 21.

then froze his account. On Monday morning, Max told the company he worked for that he had embezzled money to gamble. He was prosecuted and sent to prison. He ended up with no assets. A financial counsellor assisting him discovered he had a further $200,000 of unsecured debt on credit cards generated through his gambling on sports events.[4]

Work by researchers Swanston and Gainsbury published in 2020 found there had been little empirical investigation of credit betting patterns by people, despite borrowing money being a diagnostic criterion for gambling disorder and financial harms being one of the most commonly reported harms.[5] The research suggests that credit betting and debt problems increase with problem gambling severity.[6]

They further reported that gambling-related debt problems increase the likelihood of experiencing poor psychosocial functioning, including psychological stress. Gambling-related debt problems also increased the probability of adverse family impacts, involvement in crime and the possibility of suicide.[7] Gambling-related debt problems are associated with alcohol-related problems.[8]

A UK survey of people gambling found that those in the worst categories for harm made up 47 per cent of those using credit cards to gamble. By comparison, only 8 per cent of those gamblers who had no problems with their gambling used credit cards.[9] Another study that looked specifically at gamblers experiencing harm identified that 49 per cent of these gamblers were using credit cards to fund their gambling.[10]

Commbank fined $150,000 for increasing the credit limit of a person being harmed by gambling.[11]
On 30 October 2020, the Federal Court imposed a fine of $150,000 on Commbank (the Commonwealth Bank) for increasing the credit card limit of David Harris, who had told the bank he was being harmed by gambling. The increase in the credit card limit was a breach of the *National Consumer Credit Protection Act 2009*.

Mr Harris told the bank in October 2016 that he was being harmed by gambling and did not wish to increase his credit limit until he could stop the gambling harm. However, the bank increased his limit from $27,100 to $35,100 on 20 January 2017.

Mr Harris then ran up a debt of $35,706.91 on his credit card. He could not make the minimum repayment of $699 per month. The judge in the case calculated that even if he could make the minimum repayments on the debt, it would have taken Mr Harris 137 years to pay it off.

To try and pay off the debt, Mr Harris worked six or seven days a week as a roofer. He became physically and mentally exhausted. He had trouble sleeping and began to suffer from depression and anxiety.

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[4] Financial Counselling Australia, 'Duds, Mugs and the A-List', August 2015, 7.
[5] Thomas B. Swanton and Sally M Gainsbury, 'Gambling-related consumer credit use and debt problems: a brief review', *Current Opinion in Behavioural Sciences* ***31,*** (2020), 21.
[6] Ibid., 21.
[7] Ibid., 21.
[8] Ibid., 23.
[9] UK Gambling Commission, 'Consultation on gambling with credit cards', 2019.
[10] E. Nash, N. MacAndrews, & S. Edwards, 'Out of luck: An exploration of the causes and impacts of problem gambling'. London: Citizens Advice, 2018.
[11] Australian Securities & Investment Commission, '20-263MR CBA ordered to pay $150,000 for credit limit increase provided to problem gambler: Royal Commission case study', 30 October 2020.

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The Synod notes the positive trend towards an increasing number of credit card issuers forbidding their cards from being used for gambling transactions to reduce gambling-related harm experienced by their customers. Macquarie Bank, Citibank, Suncorp, the Bank of Queensland, Virgin Money and Bank Australia have implemented a position that they will not allow people to use credit cards for gambling.[12]

Comments and Recommendations on the Bill

The Synod believes that the penalty that applies to subsections 15C(1) and 15C(3) should apply to every occasion in which the regulated interactive gambling service violates the provisions. The penalty should apply as a separate offence for every transaction that contravenes the provision. Violations should not be able to be bundled into a single offence. Treating each violation as a separate offence will ensure that regulated interactive gambling services will not be able to take a chance that the profit from accepting credit bets will outweigh the penalty for doing so. Further, a regulated interactive gambling service that systematically and intentionally violates the prohibition of taking credit bets should not be offering gambling. A considerable fine may have the desirable impact of driving such unsuitable providers out of business.

The Synod strongly supports paragraph 15C(4A)d to empower the Minister to make disallowable legislative instruments that would extend the ban to new credit forms that may emerge.

The Synod supports subsection 15C(5A) that where a regulated interactive gambling provider relies on a defence that they took adequate due diligence measures to ensure that someone in Australia did not make the credit bet, the burden of providing they undertook adequate due diligence should rest with the provider.

The Synod believes it would have been preferable for the Bill to make it an offence for the regulated interactive gambling provider not to have an adequate due diligence system in place. The ACMA would be the regulator to ensure regulated interactive gambling providers have sound due diligence systems. Such a requirement would be similar to the need for regulated entities under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* to have adequate due diligence systems. In that case, the requirement is enforced by AUSTRAC.

The Synod supports the ability of the ACMA to receive enforceable undertakings. Generally, the more tools a regulator has at their disposal, the better it can tailor a response to obtain compliance from regulated entities. At the same time, there is always a danger that the regulator applies an inadequate response to wilful illegal behaviour, reinforcing a willingness to continue the illegal conduct. Contrary to the standard regulatory pyramid, where light touch intervention by a regulator is often used in response to a first detected breach, work by behavioural economist Dan Ariely suggests greater deterrence is needed on the first detected wilful offence. In a range of tests around dishonesty, he concludes that it's important to counteract the first time someone is detected to be dishonest, as once a person starts being dishonest, it can lead to other acts of dishonesty over time:[13]

> *The first act of dishonesty might be particularly important in shaping the way a person looks at himself and his actions from that point on – and because of that, the first dishonest act is the most important one to prevent.*

Thus, inappropriate use of enforceable undertakings could assist in entrenching illegal behaviour if the provider regards the undertaking as getting away with wilful criminal conduct.

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[12] Parliamentary Joint Committee on Corporations and Financial Services, 'Regulation of the use of financial services such as credit cards and digital wallets for online gambling in Australia', November 2021, 31.
[13] Dan Ariely, 'The (Honest) Truth about Dishonesty', HarperCollins Publishers, London, 2012, 137.

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