

**SUBMISSION TO THE SENATE COMMUNITY AFFAIRS
REFERENCES COMMITTEE'S**

**INQUIRY INTO THE PREVALENCE OF INTERACTIVE AND
ONLINE GAMBLING IN AUSTRALIA**

TABCORP HOLDINGS LIMITED

AUGUST 2010



EXECUTIVE SUMMARY

A changing market

- The growth of the internet and online technologies has impacted upon consumer preferences for the delivery of gambling services.
- Online wagering activities have grown steadily over the last decade.
- Online technologies have given rise to new wagering operators who are expanding wagering product.

Enforcing an online regulatory regime

- The Interactive Gambling Act 2001 (Cth) prohibits interactive gambling services, with the exception of wagering services. This is an appropriate regulatory framework for Australia.
- International experience demonstrates that restrictions on online gambling can be effectively implemented through specific legislative and regulatory measures and financial transaction controls.

Minimising harm in an online environment

- Gambling is one of Australia's most heavily regulated industries. This is appropriate to ensure integrity, probity and community confidence in the industry.
- Regulation must balance the objective of protecting problem gamblers, with the need to ensure recreational gamblers can continue to choose to enjoy this activity.
- It is important that appropriate harm minimisation measures apply to online gambling.

Wagering market distortions created by the growth in online betting

- A national wagering market has evolved as a consequence of the growth of online technologies.
- Industry funding and regulatory models have not responded to this change and market distortions have resulted.
- If these distortions are not addressed, the Australian racing industry will lose significant funding which will lead to a serious decline. The Australian racing industry is one of the industries in which Australia can claim a position of world leadership. A national approach to the regulation of wagering is appropriate to address these issues, if necessary through "lifting" responsibility for taxation and regulation to a federal level.

1. A changing market

1.1 *The growth of the internet and online technologies has impacted upon consumer preferences for the delivery of gambling services.*

Online technologies have changed the way Australians communicate and do business.

Between 1998 and 2008-09, the proportion of Australian households connected to the internet grew from 16% to 72%, with almost two thirds of these households having a broadband connection.¹ In the commercial sphere, 87% of businesses were estimated to have internet access in 2007-08.²

Online technologies have enabled a growth in electronic commerce, with online gambling also increasing over the last decade.

Despite online gambling in Australia being restricted by the operation of the Interactive Gambling Act 2001 (IGA), the Productivity Commission has estimated that online gaming (casino, poker and bingo games) has increased.³

Research by Wood, Williams and Lawton has outlined four ways in which consumers derive utility from online gambling:

“(a) the relative convenience, comfort, and ease of Internet gambling; (b) an aversion to the atmosphere and clientele of land-based venues; (c) a preference for the pace and nature of online game-play; and (d) the potential for higher wins and lower overall expenditures when gambling online.”⁴

1.2 *Online wagering activities have grown steadily over the last decade.*

Australian wagering customers have traditionally bet in retail betting shops, on-course or over the telephone. The growth of the internet has changed this with some account customers preferring to transact with wagering operators online.

Figure 1 demonstrates the increase in popularity of the internet in relation to Tabcorp's Victorian and NSW betting operations.

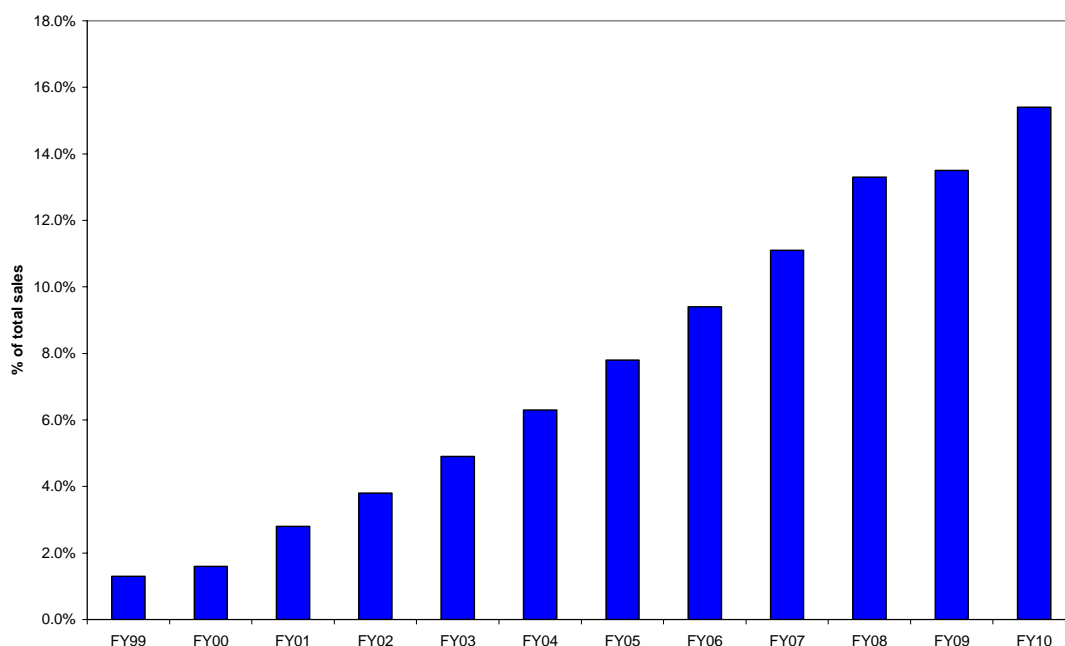
¹ Australian Bureau of Statistics, *Household Use of Information Technology, Australia, 2008-09*, 8146.0, 9 February 2010

² ABS data cited in Department of Broadband, Communications and the Digital Economy, *Australia's Digital Economy: Future Directions*, 2009

³ Productivity Commission 2010, *Gambling*, Report no.50, Canberra, p15.17

⁴ Wood, R., Williams, R. & Lawton, P., *Why do Internet gamblers prefer online versus land-based venues? Some preliminary findings and implications*, Journal of Gambling Issues, Issue 20, June 2007

Figure 1: Tabcorp's internet wagering turnover as % of total turnover



Source: Tabcorp

The borderless nature and immediacy of the internet means that Australians can now place bets with wagering operators not licensed in their home state much more readily than before. For example, Victorian and NSW residents can now easily locate and place bets with interstate corporate bookmakers and betting exchanges, or with international operators established to target customers in Australia. These operators are not precluded from accepting such bets. The immediate nature of the internet has enabled customers to compare products offered by wagering operators and choose the product that best appeals to them.

1.3 *Online technologies have given rise to new wagering operators who are expanding wagering product.*

The internet has allowed wagering providers to achieve wide distribution and raise their profiles at very low cost. It has enabled them both to enter the wagering market in the first instance and to be very competitive once they have entered it.

Corporate bookmakers have taken advantage of the growth of the internet by establishing businesses that offer wagering services online to a national audience.

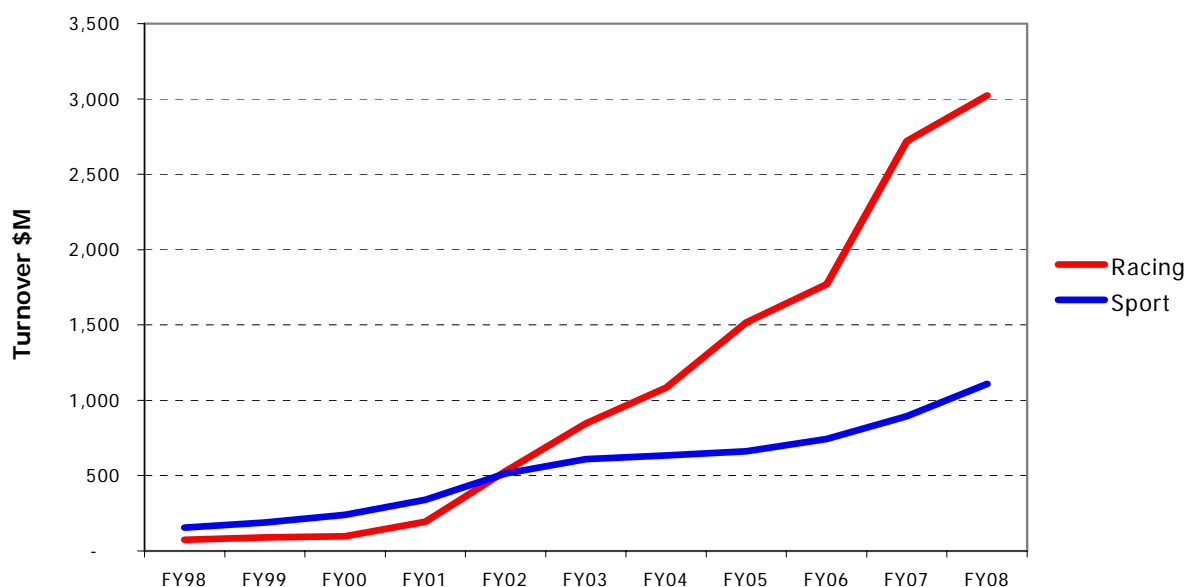
Corporate bookmakers have established their online businesses in jurisdictions that charge little or no wagering tax and racing industry fees, and have regulatory structures that allow them to offer products and services not permitted in other jurisdictions. The Northern Territory is one example of a jurisdiction with a flexible regulatory structure. Such an environment enables corporate bookmakers to:

- Offer better prices to customers because of the relatively low tax and racing industry contributions required; and

- Offer a broader product suite to customers, including the ability to bet on novelty events and on credit.

This “arbitrage” of taxes, product fees and regulation has fuelled growth in the corporate bookmaking market. Figure 2 shows the growth in Northern Territory corporate bookmaker turnover over the past decade.

Figure 2: Growth of Northern Territory corporate bookmaker turnover



Source: Tabcorp analysis

Since the vast majority of corporate bookmaker turnover is channelled over the internet, Tabcorp estimates that more than 30% of the Australian wagering market is now online.

Betting exchanges are a relatively new form of wagering, allowing customers to bet against each other on a variety of events at mutually agreed odds.

Betting exchanges were introduced in Great Britain in 2000. In January 2006 the Tasmanian Government licensed the conduct and operation of Betting Exchanges in Tasmania under the Gambling Control Act (TAS) 1993. The package of legislative reforms included provisions designed to provide a probity and integrity framework.

The Tasmanian-licensed betting exchange, Betfair, now matches bets on racing and sporting events in all Australian jurisdictions and across all codes.

Whilst customers from around Australia are able to use the services of the Tasmanian betting exchange, Tasmania is the only jurisdiction with regulation in place that attempts to address the use of betting exchanges⁵.

⁵ The Gambling Regulation Amendment (Licensing) Bill 2009 (Vic) currently being debated in the Victorian Parliament contemplates integrity standards for the operation of betting exchanges. As at the date of writing, this is not yet law.

2. Enforcing an online regulatory regime

2.1 *The Interactive Gambling Act 2001 prohibits interactive gambling services, with the exception of wagering services. This is an appropriate regulatory framework for Australia.*

The ongoing exclusion of wagering services from the definition of interactive gambling services under the IGA should be retained.

As the Productivity Commission has noted:

“Internet wagering represents a relatively small technological step since people could already lodge their bets remotely by ‘phone’.”⁶

TABs take wagers on real events such as horse races or football games, that take place elsewhere and are not controlled by the gambling operator, as opposed to computer generated random results produced by interactive gaming operators.

Wagering through the internet is merely an alternative method of transmitting bets to the TAB and is equivalent to existing telephone services that the TAB has been operating for many years.

2.2 *International experience demonstrates that restrictions on online gambling can be effectively implemented.*

Whilst the IGA prohibits certain forms of online gambling, it is clear that this activity continues, and is growing. Effective enforcement of the IGA has implications for minimising the harm that gambling may cause for some people.

In its February 2010 report, the Productivity Commission recommended a phased liberalisation of online gambling. The Productivity Commission argues that the prohibitions imposed by the IGA have not been effective. Furthermore, the PC argues liberalisation would enhance consumer choice, may have consumer protection benefits and broader economic benefits in tax collected and commercial opportunities. The Productivity Commission also notes potential risks for problem gambling of liberalising online gambling.⁷

Arguing that the IGA has not been effective in curbing online gambling is not sufficient reason for it to be repealed. There has been significant evolution in regulatory options available to curb illegal online activity, including:

- The reduction in offshore betting with US residents which was achieved by effective prosecution action under US legislation, which has been supported by the Unlawful Internet Gaming Enforcement Act (UIGEA).
- The activities undertaken by the Australian Federal Government in switching off access to certain websites.
- Financial transaction controls introduced by many countries.
- Regulatory reforms introduced to manage cross border betting in Europe.

⁶ Productivity Commission 1999, *Australia's Gambling Industries*, Report No.10, AusInfo, Canberra, p18.27

⁷ Productivity Commission 2010, Chapter 15

- Actions undertaken by sporting bodies to secure product fee rights (eg French Federation of Tennis v Expekt and Unibet of 30 April 2008 and the subsequent dismissal of Unibet's appeal on 15 October 2009).

Should the Australian government wish to more rigorously enforce the existing prohibitions in the IGA, international experience suggests this can be achieved.

3. Minimising harm in an online environment

3.1 *Gambling is one of the Australia's most heavily regulated industries. This is appropriate to ensure integrity, probity and community confidence in the industry.*

Australia's gambling industries operate within strict regulatory frameworks which govern industry probity and the delivery of gambling products. Tabcorp believes government undertakes its regulatory role appropriately.

As a leading Australian gambling operator, Tabcorp has formulated a responsible gambling framework, based on best practice across Australia and internationally, and consulted with employees, counselling services, community groups, governments and expert researchers.

It is our aim to develop gambling environments that are supportive to customers and where potential harm to individuals and the broader community is minimised.

Based on a social health approach, the company's responsible gambling framework consists of three core components namely:

- Primary prevention – those initiatives that the company pursues before a person decides to gamble, for example the provision of information to enable informed choice, financial support for research.
- Secondary protection – activities we pursue once an individual has decided to gamble, for example responsible gambling codes, employee training programs, responsible gambling managers across the company's business units.
- Safety net and rehabilitation – interventions that are appropriate where an individual has most likely developed a problem with their gambling, for example funding for counselling services and the operation and funding of self-exclusion programs.

Tabcorp has continually led the industry in the development and introduction of responsible gambling initiatives which is why we have been recognised as global leader in the promotion of responsible gambling by the Dow Jones Sustainability Index.

3.2 *Regulation must balance the objective of protecting problem gamblers with the need to ensure recreational gamblers can continue to choose to enjoy this activity.*

Industry sustainability requires the gambling industry to be serious in its attempts to address problem gambling.

However, too often the gambling debate ignores the legitimate right of people to gamble responsibly, as a recreational activity.

Statics demonstrate that the vast majority of gamblers do so responsibly and do not have a problem with their gambling. It is critical that gambling continues to be an enjoyable recreational pursuit for these people.

Therefore, there is a balance to be struck in the development of policy to ensure that the costs to recreational gamblers of introducing new initiatives aimed at minimising harm are not outweighed by the benefits to those people who have a problem.

Australians value freedom of choice in how they spend their time and money. As a community, we also value the desire to assist community members in trouble. There needs to be an emphasis on personal responsibility in dealing with matters such as gambling, rather than simply relying on broad regulatory measures.

Promoting responsible gambling rather than simply addressing problematic gambling is critical to achieving this balance.

3.3 *It is important that appropriate harm minimisation measures apply to online gambling.*

As technology evolves, so too will consumer preferences around how they transact with organisations, including wagering operators.

Tabcorp is an innovation leader and is responsive to consumer preferences and demands. For example, Tabcorp's TAB wagering business has recently developed an iPhone application, which is also configurable to the recently launched iPad.

For Tabcorp, our responsible gambling program applies equally to those account customers who utilise new betting technologies as it does to customers who bet in our retail agencies.

However, different wagering operators take different approaches to the responsible delivery of their gambling products.

In an online environment where wagering services can be so readily accessed, responsible service is of paramount importance. Greater availability, ease of play and anonymity have been cited as features of the internet that may lead to problem gambling behaviour.⁸

The approach of states and territories to harm minimisation in online wagering differ markedly. While totalisators in general cannot provide credit to their customers, bookmakers are free to offer credit betting services. Between jurisdictions, differences also apply to wagering advertising and the capacity of operators to offer account opening inducements to wagering customers.

Customers who wish to take advantage of credit betting, account opening inducements and a broad product offering are taking their business to jurisdictions with regulatory environments that allow wagering operators to provide these services.

For this reason, it is important that those offering online wagering services comply with minimum, consistently applied responsible gambling standards. For this to occur, a national approach, founded in agreement by the states and territories, is necessary. Credit betting, inducements to bet and advertising should be subject to consistently applied standards.

⁸ Monaghan, page 23

Tabcorp's industry-leading approach to the responsible service of its gambling products and customer care could also be used as a template for the development of national standards in the development of responsible gambling codes of practice, employment of responsible gambling managers and customer care programs such as the BetCare wagering self-exclusion program.

4. Wagering market distortions created by the growth in online betting

4.1 *A national wagering market has evolved as a consequence of the growth of online technologies.*

The Australian wagering industry is undergoing the most significant change in its history.

Historically, the industry has consisted of:

- State/territory-based totalisators, offering wagering services on-course, in retail shops, over the telephone and, more recently, over the internet, and
- Bookmakers, offering fixed odds wagering services on-course and more recently, over the telephone and internet.

Punters in a particular state or territory have traditionally bet with their home state's totalisator which, in turn, made significant returns to the local racing industry. Although bookmakers make a small contribution to racing industry funding, between 70% and 90% of the racing industry's funding comes from TAB operations, depending on the state or territory. Tabcorp alone contributes more than \$550 million to the racing industries in Victoria and NSW.

The borderless nature of the internet now means that whereas wagering has previously operated as a series of state-based markets, it has evolved to become a national market. For example, a Victorian punter can now bet with a Northern Territory bookmaker on a South Australian race or sporting event. This has many implications, including for how the racing industry is funded.

4.2 *Industry funding and regulatory models have not responded to this change and market distortions have resulted.*

Whilst the Australian online wagering market has evolved to a national one, state and territory governments and racing industry authorities continue to regulate the industries as if they were still state/territory based markets. Each jurisdiction has its own approach to:

- Racing industry funding, including race fields fees
- Wagering taxation
- Integrity management
- Products approved
- Regulatory approval processes
- Harm minimisation / responsible gambling requirements.

Wagering customers will seek out wagering opportunities that provide the best price, product offering and suite of complementary services. Wagering operators will seek out a business environment that enables them to maximise returns. Where a non-level playing field exists, customers and wagering operators will "jurisdiction shop" to find the environment that best suits them.

The distorting effect of taxation can be demonstrated by considering the taxation levied on fixed odds products. In general a wagering tax is levied on TAB operators offering fixed odds betting on racing and sports. In Victoria and NSW the tax rate is 10.91%. In contrast, in the majority of situations, no or marginal wagering tax is levied on bookmakers. The differences in the tax rates applied to wagering operators according to jurisdiction and type of operator allow some operators to offer better prices to their customers, not based on their business model or efficiency, but purely as a result of lower taxes.

Similarly, a non-level playing field exists for fees payable to the racing industry. Totalisator betting contributes approximately 5-6 cents in every dollar of turnover to the racing industry. Corporate bookmakers contribute a fraction of this level. In the case of the revenue based fee model adopted in Victoria the effective contribution can be less than 0.5 cents for every dollar bet.

- 4.3 *If these distortions are not addressed, the racing industry will lose significant funding. A national approach to the regulation of wagering is appropriate to address these issues.*

The impacts of a non-level playing field in the areas of taxes, racing industry fees and regulation leads to leakage of wagering revenue to jurisdictions in which wagering operators pay little or no contribution to the racing industry.

In 2008, the loss of income for the NSW and Victorian racing industries as a result of these distortions was \$58 million and \$45 million respectively. As online wagering continues to grow, this leakage will continue.

The impact of this leakage on employment and economic activity generated by the racing industry, particularly in regional areas, will be material. It is therefore urgent that the distortions be addressed.

Tabcorp believes that the key to addressing these distortions lies in a national approach to the regulation of wagering, including a single national approach to taxation and funding of the racing industry, possibly administered by the Commonwealth.

Overview of Tabcorp

Tabcorp is a diversified entertainment group that strives to offer a first-class entertainment experience for our customers across Australia.

Tabcorp manages leading customer brands in Australia, including the Star City and Jupiters casinos, TAB in Victoria and New South Wales, Tabaret gaming in Victoria, Keno, TAB Sportsbet and Sky Racing, serving millions of customers every day.

Tabcorp was listed on the Australian Stock Exchange (ASX) in August 1994 to acquire the wagering and gaming businesses of the former Victorian Totalizator Agency Board. Tabcorp acquired the Star City hotel and casino in Sydney, in 1999. In 2003 the company merged with Jupiters, the owner of hotel and casino complexes in Brisbane, Gold Coast and Townsville as well as gaming machine monitoring. In 2004, Tabcorp completed the acquisition of Tab Limited, the New South Wales based wagering, media and gaming company.

Tabcorp's three major business units of Casinos, Wagering and Gaming employ more than 11,000 people in all States of Australia.

Tabcorp has more than 220,000 shareholders and has a market capitalisation within the top 50 Australian companies listed on the Australian Securities Exchange.

Tabcorp is committed to ensuring its products are enjoyed by its customers and delivered responsibly. In recognition of its efforts, Tabcorp has been recognised as global leader in the promotion of responsible gambling by the Dow Jones Sustainability Index.

The company makes a significant contribution to the communities in which it operates through sponsorships, donations, provision of community services and payment of taxes.