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Senator Karen Grogan
Chair of the Committee
Senate Standing Committee on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600

Via email: ec.sen@aph.gov.au

Dear Chair,

Sportsbet's response to Inquiry into the Interactive Gambling Amendment (Credit and Other Measures) Bill 2023 [Provisions]

Sportsbet welcomes the opportunity to provide a submission to the Senate Standing Committee on Environment and Communications' (the Committee) inquiry into the provisions of the *Interactive Gambling Amendment (Credit and Other Measures) Bill 2023* (the Bill).

We support the Bill's introduction of a ban on Australian-licensed interactive gambling services from accepting credit cards and digital currencies as payment methods via amendment to the *Interactive Gambling Act 2001* (the Act).

We share the Government's view that wagering customers should only be able to conduct their wagering activity with their own clear funds. There should be no capacity directly, or through the use of intermediaries such as digital wallets or pre-paid cards, for customers to use a credit card issued by a licensed entity to fund their wagering. This position has been demonstrated in Sportsbet's advocacy over recent years.

The Bill's prohibition on payments directly from a credit card, or payments linked to a credit card in a digital or e-wallet, is the final element necessary to prevent access to credit and ensure customers can conduct their wagering activity with only their own clear funds.

About Sportsbet

Sportsbet is a leading Australian digital e-commerce business in the online wagering sector bringing excitement to our over 2.1 million Australian customers. Representing over 42% of Australia's online wagering market, Sportsbet employs over 1,200 staff across Melbourne, Sydney and Darwin. We are part of the Flutter Group, the world's largest listed online gaming company operating in over 40 regulated markets with a market footprint across Europe, Asia and North America.

We provide in excess of \$1.2 billion in annual economic contribution to Australia including through significant State and Federal Taxes, and product fees and sponsorships with Racing and Sporting bodies. We also support over 32,000 jobs as a wider industry.

Support for the Bill and recommendations

Our view is that the Bill achieves the Government's stated policy objective to ban the use of credit for Australian-licensed interactive wagering services.

The explanatory memorandum notes that while the Bill does not specify the technical mechanism that must be used to block the use of credit, it is expected Australian-licensed interactive Wagering Service Providers (WSPs) will use Bank Identification Numbers (BINs) to identify and block credit card payments.

Sportsbet focuses its comments on the Bill to the options open to Government to effectively facilitate a credit card ban through BIN blocking and the key factors that will support the intended policy outcomes (recommendation 1).

Careful attention should be paid to ensuring that any ban introduced is applied consistently across WSPs and comprehensively covers Australian and international credit cards (recommendation 2).

Importantly, there should also be an independent check and balance on the accuracy the BIN information and its utilisation by WSPs and payment service providers (recommendations 3 and 4).

In addition, the proposed ban on digital currency payments would operate to prohibit interactive WSPs from accepting all payments in cryptocurrency. Sportsbet supports the Bill's inclusion of a ban of digital currencies as the proposed prohibition protects against the risks and challenges of cryptocurrency as a transaction mechanism (recommendation 5).

Sportsbet encourages the Government to implement a credit card ban through BIN blocking while exploring as a longer-term solution the creation and subsequent block on a new 'interactive wagering' merchant category code to prohibit payments from credit cards (recommendation 6).

Lastly, consumer protection policy reforms are most effective if applied consistently across all forms of gambling. Therefore, we recommended that the Bill be amended to include an amendment to the Act so that online keno falls within the remit of the credit card ban (recommendation 7).

In summary, Sportsbet makes the following recommendations:

Recommendation 1

The Federal Government consider the following options as viable mechanisms to implement a credit card ban via BIN blocking, noting that Option Two would be the most effective and uniform approach to implement a comprehensive ban:

- 1. individual interactive wagering service providers are responsible for sourcing their own BIN list;***
- 2. a central and regularly updated BIN list is distributed to interactive wagering service providers by a financial services provider, a payments platform or government regulator; or***
- 3. a credit card only BIN list is distributed to interactive wagering service providers by a financial services provider, a payments platform or government regulator***

Recommendation 2

The Federal Government ensure that any BIN lists used to implement a credit card ban have global coverage through the inclusion of internationally issued credit cards.

Recommendation 3

The Committee recommend in its report that the credit card ban framework to be introduced gives responsibility to an entity, such as the Australian Communications and Media Authority, for monitoring the accuracy of BIN information and its utilisation by interactive wagering service providers.

Recommendation 4

The Committee recommend in its report that the credit card ban framework to be introduced requires:

- a) an audit one month after the commencement of a credit card ban for the purpose of providing interactive wagering service providers the opportunity to rectify any issues of non-compliance; and*
- b) thereafter, a compliance audit every six months.*

Recommendation 5

The Committee recommend in its report that cryptocurrency should be banned as an accepted payment method, as currently drafted in the Bill.

Recommendation 6

The Federal Government explore the creation and subsequent block on a new 'interactive wagering' merchant category code as a long-term solution to prohibiting payments from credit cards and, in the interim, continue with a ban implemented through BIN blocking, taking into consideration the above recommendations regarding implementation options, monitoring, oversight and audits.

Recommendation 7

The Committee recommend in its report that the credit card ban as proposed in the Bill apply to online keno.

If you have any questions with respect to our submission, please do not hesitate to contact Emily Treeby, Public Policy Manager,

Sincerely,

Jules Norton Selzer
General Manager – Corporate Affairs
Sportsbet

Prohibiting payments from credit cards

Since February 2018, Australian-licensed interactive wagering service providers (WSPs) cannot provide credit to Australian customers or facilitate the provision of credit via third parties. This change was implemented as part of the National Consumer Protection Framework (NCPF) as a measure to reduce the risk that the availability of credit may present to individuals who gamble beyond their capacity to pay.

Sportsbet shares the Government's view that wagering customers should only be able to conduct their wagering activity with their own clear funds. There should be no capacity directly, or through the use of intermediaries such as digital wallets or pre-paid cards, for customers to use a credit card issued by a licensed entity to fund their wagering. This position has been demonstrated in Sportsbet's advocacy over recent years.

The Bill's prohibition on payments directly from a credit card, or payments linked to a credit card in a digital or e-wallet, is the final element necessary to prevent access to credit and ensure customers can conduct their wagering activity with only their own clear funds.

As such, Sportbet's view is the Bill achieves the Government's stated policy objective to ban the use of credit for Australian-licensed interactive wagering services.

Payments linked to a credit card in a digital or e-wallet

The drafting of proposed subsection 15C(4A)(b) is appropriate to achieve the intended policy outcome of prohibiting payments linked to a credit card in a digital or e-wallet. The provision is framed with the appropriate level of generality to cover the different versions of digital wallets that exist across different payment service providers.

For example, ApplePay and Paypal are two digital wallet deposit methods available to Sportsbet customers. Currently, when processing a payment with ApplePay, users are displayed their pre-authorised cards within an e-wallet from which they can select one to use for payment. If a credit card ban were in place and a customer processed a payment through their ApplePay e-wallet, the WSP would rely on ApplePay to correctly filter out credit cards and would only make debit cards available to the customer to select. Similarly, if a customer attempted to process a payment for a wagering product with a credit card through Payal, it would detect that the customer is seeking to use credit as the underlying source for a wagering product and block the transaction.

Importantly, WSPs have limited oversight over digital wallets like PayPal and Apple Pay to accurately detect and block a credit funding source because that capability is the wallet provider's technical and compliance responsibility. Hence, in the case of digital wallets, there is a question to be answered around whether interactive WSPs as merchants would be limited in the ability to bear full evidential burden (as drafted in proposed subsection 15C(5A)) as partial responsibility rests with digital wallet providers.

Technical options to implement the ban

The explanatory memorandum notes that while the Bill does not specify the technical mechanism that must be used to block the use of credit, it is expected Australian-licensed interactive WSPs will use Bank Identification Numbers (BINs) to identify and block credit card payments.

Bank Identification Numbers

Every card is issued with a BIN. It is the first four to six digits of the BIN that identifies whether the card is a debit, credit or other type of payment card. As such, BIN lists include BINs for all debit, credit and other payment cards. Due to the increasing number of cards being issued globally, it is expected that there will be a shortage of BINs in the 6-digit BIN range. Therefore, in 2017, the International Organization for Standardization (ISO) published a new 8-digit BIN standard, resulting in the need to support a more complex mixture of 6-digit BIN cards. From April 2022, 8-digit BIN cards have been in market circulation.

To implement a ban on credit cards using BINs, interactive WSPs would need to build systems to scan the BIN of a customer's card being used for payment and block that card if the BIN identifies that the card's underlying source is credit.

For interactive WSPs to know which cards to block and allow, WSPs would require access to current and complete BIN lists. These BIN lists can currently be sourced from different providers, including directly from financial services firms, such as from Visa and Mastercard, the industry body Australian Payments Network (APN), or from BIN data resellers such as Binbase. Some interactive WSPs payment pages are externally hosted by payment service providers who already have and use BIN lists.

Options to implement a credit card ban via BIN blocking

There are several ways a ban utilising BIN blocking could take place. One option is that individual interactive WSPs are responsible for sourcing their own BIN list. Sportsbet has arrangements with APN for access to its BIN list, whereas other interactive WSPs would rely on the BIN lists acquired by the payment service provider they are using. On this approach, there would likely be variation among interactive WSPs as to the source of BIN lists and differences between the lists' jurisdictional reach and the frequency with which the lists are updated. The more regularly BIN lists are updated, the decrease in risk for interactive WSPs to accept a credit card payment in contravention of the ban.

The most effective and uniform option to enable WSPs to identify and block deposits by credit cards is the creation of a central and regularly updated BIN list that is distributed to industry by a financial services provider, a payments platform or government regulator. This would create a new source of authoritative BIN information and, importantly, industry consistency in blocking credit card payments from a single list under which all WSPs can draw their BIN data. Factors to be considered for this option include the appropriate entity to compile a central BIN list and the method and frequency at which this list is shared with industry.

Another option is that interactive WSPs are provided access to credit card only BIN lists, thus clearly signalling to WSPs which BINs are credit cards and therefore need to be blocked. Non-credit cards would not be captured in the list, and thus permitted for deposits to WSPs. Such a list would need to be created in any case for government to check and monitor compliance with the new credit card provisions. Consideration should be given to which entity is appropriately placed to compile and distribute this list, such as a financial services provider, a payments platform or government regulator.

Furthermore, we suggest for all three options above BIN lists should include domestic and international cards, such as BIN lists from Visa and Mastercard. Global BIN lists should be used in order to achieve a ban with complete coverage and close the potential loophole whereby a customer in Australia could use an international credit card to process a payment to an interactive WSPs.

Therefore, we recommend a centralised BIN list, with global coverage through the inclusion of internationally issued credit cards and that is regularly updated and distributed to industry, as the most effective method to implement a consistent and comprehensive credit card ban via BIN blocking.

Recommendation 1 – The Federal Government consider the following options as viable mechanisms to implement a credit card ban via BIN blocking, noting that Option Two would be the most effective and uniform approach to implement a comprehensive ban:

- 1. individual interactive wagering service providers are responsible for sourcing their own BIN list;***
- 2. a central and regularly updated BIN list is distributed to interactive wagering service providers by a financial services provider, a payments platform or government regulator; or***
- 3. a credit card only BIN list is distributed to interactive wagering service providers by a financial services provider, a payments platform or government regulator***

Recommendation 2 – The Federal Government ensure that any BIN lists used to implement a credit card ban have global coverage through the inclusion of internationally issued credit cards.

Monitoring and audits

The overarching challenge to implementing a credit card ban via BIN blocking is ensuring there is a backstop mechanism to monitor and ensure interactive WSPs are not accepting payments from cards with BINs that identify the source as credit. Sportsbet recommends that there be built into the credit card ban framework an entity, such as the Australian Communications and Media Authority (ACMA), whose role it would be to monitor the accuracy the BIN information and its utilisation by WSPs.

For example, it would fall outside an interactive WSP's control if due to human error, a BIN identifies a card as debit instead of credit and, consequently, a credit payment is mistakenly allowed. Relatedly, as discussed above, interactive WSPs would rely on the capabilities built into digital wallets, such as Paypal and ApplePay, and other payment service providers to identify credit sources and block payments.

Recommendation 3 – The Committee recommend in its report that the credit card ban framework to be introduced gives responsibility to an entity, such as the Australian Communications and Media Authority, for monitoring the accuracy of BIN information and its utilisation by interactive wagering service providers.

Sportsbet recommends that regular audits to monitor compliance with the credit card ban be added to the legislative framework. We recommend that the first audit of transactions by BINs processed by interactive WSPs take place one month after the commencement of the ban. This first audit should have the objective of identifying non-compliance within the first month of operation for resolution rather than prosecution – the purpose being to bring any gaps or issues within detection and blocking systems to the attention of interactive WSPs for their prompt rectification. Audits for compliance and enforcement action should occur thereafter at least on a six-monthly basis.

Recommendation 4 – The Committee recommend in its report that the credit card ban framework to be introduced requires:

- a) an audit one month after the commencement of a credit card ban for the purpose of providing interactive wagering service providers the opportunity to rectify any issues of non-compliance; and***
- b) thereafter, a compliance audit every six months.***

Cryptocurrency

Sportsbet supports the proposed prohibition on the use of cryptocurrency for all payments and the proposed prohibition protects against the risks and challenges of cryptocurrency as a transaction mechanism.

Cryptocurrency as an investment vehicle must be differentiated from cryptocurrency as a transaction mechanism for the payment of goods and services. The latter necessitates a deeper examination of the domestic regulatory environment for cryptocurrencies, which at present is embryonic. It would pose significant regulatory and reputational risks for regulators and operators, and safer gambling and consumer protection risks, especially for younger, vulnerable people. Some of these risks are detailed below.

Wagering with cryptocurrency via third-party service providers presents significant anti-money laundering and counter-terrorism finance risks. AUSTRAC has previously stated that the pseudo-anonymous and borderless nature of cryptocurrency presents a risk for the facilitation of serious crimes including money laundering terrorism financing and tax evasion through techniques such as 'layering'. A key focus of the 2015 O'Farrell Review which provided the impetus for the NCPF was to reduce the proliferation of the illegal offshore wagering industry. Introducing a cryptocurrency wagering transaction mechanism, without visibility and verification of its controllers, could erode consumer trust and expose wagering customers to the very same AML/CTF risks that exist in illegal offshore wagering.

Cryptocurrencies have also proven to be extremely volatile, sometime dropping by 65% in a single month, or even more dramatically 50% in one day. When you consider a bookmaker's required liability holdings to payout future bets, this volatility across multiple transactions could lead to bookmaker insolvency and significant consumer damage and loss.

In addition, cryptocurrency is not widely trusted nor understood among customers. In a survey conducted of over 2,800 Sportsbet customers in 2022, there are some concerning insights into the lack of understanding of crypto and its perceived risks. For example, cryptocurrency is viewed as one of the least “trustworthy” or “reliable” investment products. Only 6% of customers associate cryptocurrency with trustworthiness and reliability, and less than one in five customers (17%) associate cryptocurrency with being “easy to understand”.

Relatedly, from a consumer protection perspective, a key facet of Sportsbet’s safer gambling strategy is customer education. Embedded throughout our advertising, product development and safer gambling intervention approach is the active encouragement of wagering customers to understand the concept of deposit limits and apply them where necessary. The education of safer gambling and the setting of deposit limits is relative to gambling expenditure in fiat currency.

Fiat currency is the yardstick to which an overwhelming majority of society evaluates its financial health and wellbeing, and therefore it is central to the safer gambling message. The risk of unsafe gambling will be compounded where customers additional to their spend in fiat currency, need to consider market volatility in cryptocurrency. It will also be compounded if younger, vulnerable customers are required to decouple their fiat financial position and their crypto position and do not consider them in totality to properly assess their risk of unsafe gambling.

As noted above, Sportsbet recommends the Bill should retain a ban of digital currencies, as currently drafted.

Recommendation 5 – The Committee recommend in its report that cryptocurrency should be banned as an accepted payment method, as currently drafted in the Bill.

Longer-term solution: Merchant Category Codes

Sportsbet notes that a block on BINs would not prevent people from using their credit cards to gamble with illegal offshore wagering providers. The ban may have the unintended consequence of encouraging some individuals to continue gambling with credit cards using illegal offshore providers and that this could be addressed by blocking the merchant category code (MCCs) associated with interactive gambling.

It is vital that any Australian gambling regulation strongly focuses on combatting illegal offshore gambling. Illegal offshore gambling has heightened consumer risks and diverts significant economic and tax contributions away from the Australian community.

Illegal offshore providers make up 15% of the current online wagering market. They make no contribution to the racing industry because they pay no product fees nor Point of Consumption Tax, nor do they provide the strong consumer protections that Australian-licensed WSPs offer. A recent report from Responsible Wagering Australia revealed Australia could lose a \$3 billion in taxes, and racing and sport product fees over the next five years to offshore providers.¹ Comparatively, Sportsbet alone pays approximately \$1.2 billion in taxation and product fees in Australia per year. For every \$1 in net revenue Sportsbet earns, 51c goes to governments, racing and sport.

From a consumer protection perspective, the NCPF’s ten measures and industry-led contemporary and innovative safer gambling tools allow Australian-licensed interactive WSPs to provide customers a safe and secure betting experience, with some of the strongest and most targeted protections anywhere in the world.

¹ Responsible Wagering Australia, Australia Offshore Wagering Market Analysis 2023 (April 2023)
<https://responsiblewagering.com.au/wp-content/uploads/2023/05/H2-Australia-Offshore-Wagering-Market-Analysis-2023-Report.pdf>.

MCCs are set by the ISO. A MCC is four-digit number used to identify the type of business in which a merchant is engaged. Payment brands use MCCs to classify merchants and businesses by the type of goods or services provided. For most gambling products, the MCC code is 7995. This code is shared with non-gambling and retail gambling merchants, including newsagents and charities.

Placing a block on a gambling-related MCCs would be the most effective and robust block on credit cards. The block would be implemented to card network standards and network systems. Interactive WSPs would not control implementation, thus removing the capacity for bad faith actors to circumvent a block. Furthermore, the block would capture new interactive WSPs who enter the market.

However, a new 'interactive wagering' MCC would need to be introduced by the ISO to avoid capturing other gambling products like lotteries in the block. This requires an application through an existing card scheme and approval by the ISO, which could take several years.

The explanatory memorandum notes that blocking BINs has been successfully deployed by Australian casinos and poker machine venues to stop credit card withdrawals from ATMs, and was used in the United Kingdom to implement its credit card ban for online gambling in April 2020. However, wagering providers are open to use other methods to block the use of credit for online wagering, in consultation with their banks and relevant payment gateway operators, as other detection or identification methods evolve.

Sportsbets encourages the Federal Government to explore the creation and subsequent block on a new 'interactive wagering' MCC as a long-term solution to prohibiting payments from credit cards. In the interim, the Federal Government should continue with a ban implemented through BIN blocking as outlined in the consultation paper, taking into consideration the above recommendations regarding implementation options, monitoring, oversight and audits.

Recommendation 6 – The Federal Government explore the creation and subsequent block on a new 'interactive wagering' merchant category code as a long-term solution to prohibiting payments from credit cards and, in the interim, continue with a ban implemented through BIN blocking, taking into consideration the above recommendations regarding implementation options, monitoring, oversight and audits.

Scope of the credit card ban

The explanatory memorandum states that the new criminal offence applies only to persons who provide a 'regulated interactive gambling service' (within the meaning of section 8E of the Act) that is a 'wagering service' (within the meaning of section 4 of the Act). The explanatory memorandum goes on to note that the ban would not apply to regulated interactive gambling services falling within paragraphs (c) – (f) of the definition of 'gambling service' in section 4 of the Act, such as a service for the conduct of a lottery or for the conduct of a game of mixed chance and skill. It would also not apply to face-to-face betting, which is outside the scope of the Act.

The credit card ban would not apply to online keno as it falls within the definition of a 'lottery service' in the Act. Sportsbet is concerned by this outcome due to the significant scope of harm given the maximum permissible spend and frequency of draws. For example, in Victoria where there are two operators who provide online keno, customers can spend up to \$1,000 per entry with a draw occurring every three minutes.

Consumer protection policy reforms are most effective if applied consistently across all forms of gambling. As such, Sportsbet recommends that the credit card ban as proposed in the Bill apply to online keno and suggests that this could be achieved through the specification of a condition in regulations, as provided for in section 8D(1A).

Recommendation 7 – The Committee recommend in its report that the credit card ban as proposed in the Bill apply to online keno.