

# **Dissenting report by Nick Xenophon Team Senators**

## **'With online gambling, you can lose your home without having to leave it'**

1.1 Those words by the Rev. Tim Costello spoken in 2001 have even greater resonance today, with the proliferation and rapid expansion of online gambling in recent years.

1.2 The Nick Xenophon Team (NXT) vehemently rejects the recommendation contained in the majority report.

1.3 NXT reject the committee's assertion that the Interactive Gambling Amendment (Sports Betting Reform) Bill 2015 (the bill) may be unnecessary. In fact, it is more necessary than ever, given the increasing levels of harm caused by online gambling.

1.4 Financial Counselling Australia has outlined the ever increasing prevalence of harm caused by online gambling and has given a number of powerful case studies of the problems it causes. Its considered recommendations are reflected to a considerable extent in this bill.

1.5 This bill seeks to introduce stronger harm minimisation provisions, and provide for a stronger regulatory framework for the gambling industry. The current framework, even with the recent Government amendments, is woeful.

### **A national regulator**

1.6 NXT reject the committee's recommendation that a dedicated Interactive Gambling Regulator is not necessary to the monitoring and enforcement of offences and civil penalties.

1.7 The need for a national regulator stems from the lack of consumer protections in the current regulatory framework.

1.8 Evidence was heard at the public hearing on 7 March 2017 that many of the stakeholders, including Racing and Wagering Western Australia,<sup>1</sup> Uniting Communities,<sup>2</sup> Financial Counselling Australia,<sup>3</sup> and Dr Anna Thomas, Manager of

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1 Mr Richard Burt, Chief Executive Officer, Racing and Wagering Western Australia, *Proof Committee Hansard*, 7 March 2017, p. 44.

2 Mr Mark Clayton Henley, Manager, Advocacy and Communication, Uniting Communities, *Proof Committee Hansard*, 7 March 2017, p. 31.

3 Ms Lauren Levin, Director Policy and Campaigns, Financial Counselling Australia, *Proof Committee Hansard*, 7 March 2017, p. 44.

the Australian Gambling Research Centre,<sup>4</sup> agree with the need for a national regulator. Tabcorp also voiced support for a national regulator.<sup>5</sup> Responsible Gambling Australia provided in principle support for a national regulator.<sup>6</sup>

1.9 The committee heard evidence from Financial Counselling Australia that that the current regulatory framework is inadequate:

Senator KAKOSCHKE-MOORE: Ms Levin, in your opening statement you went to the fact that, yes, problem gamblers will get a call, but it is to congratulate them on becoming a VIP because they have entered a new spending threshold with these companies. The companies will say, 'We're operating within the regulatory frameworks set by the states and we have state-based regulators that are watching over our shoulder.' In my experience from speaking with constituents, and in your experience in speaking with clients through your report, do you believe that the current state-based regulatory system and the state-based regulations are effective?

Ms Levin: I have not found regulation to be helpful in any instance. I will give you an example: I had a guy who was with ClassicBet which is registered in New South Wales. He got offers that were contrary to the spirit of the law. I wrote to the regulator and they said that no, their legislation only applies to offers that have been advertised to the public. These firms know that, so they do not advertise those offers; they phone their members up to get around it. I have not found the regulation to be any use at all.

Senator KAKOSCHKE-MOORE: To that extent, would a national regulator and a national framework be a step in the right direction? Would it be an improvement in the status quo?

Ms Levin: Absolutely, especially if it were backed up by harsh penalties. When you see some of the penalties that come out of New South Wales for breaching advertising regulations, they are joke: \$5,000, or \$10,000 or \$2,000 for billion-dollar companies. I think a strong national framework with strong penalties would be wonderful.<sup>7</sup>

1.10 When questioning the representative from Uniting Communities, Senator Kakoschke-Moore posited what change the organisation would most like to see. Uniting Communities voiced a similar position in supporting a national regulator:

Senator KAKOSCHKE-MOORE: If this committee were to, in its report, make recommendations, what would your recommendations be in relation

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4 Dr Anna Thomas, Manager, Australian Gambling Research Centre, Australian Institute of Family Studies, *Proof Committee Hansard*, 7 March 2017, p. 12.

5 Mr Julian Hoskins, Acting Group General Counsel, Tabcorp Holdings Limited, *Proof Committee Hansard*, 7 March 2017, p.43.

6 Mr Stephen Conroy, Executive Director, Responsible Wagering Australia, *Proof Committee Hansard*, 7 March 2017, p. 20.

7 Ms Lauren Levin, Director Policy and Campaigns, Financial Counselling Australia, *Proof Committee Hansard*, 7 March 2017, p. 49.

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to steps the government could and should take now to reduce the harm caused by gambling?

Mr Henley: I think there are two levels. There is the slightly longer term, but for me the really important starting point is establishing a national online gambling regulator. We have to get that structural piece in place, because then the states can work around it and they can work with police and other enforcement bodies. We have to have that piece of the structure in place, and it is currently missing.<sup>8</sup>

1.11 NXT notes that with such a large number of stakeholders advocating for a national regulatory body one is clearly needed.

### **Restrictions on advertising**

1.12 Restrictions on advertising are required to ensure children are not exposed to gambling, and to limit the amount of gambling advertising in general.

1.13 Advertising spending by gambling companies is increasing. This increase will undoubtedly lead to greater exposure of children to gambling advertising. The Australian Psychological Society provided evidence that one of their biggest concerns is around advertising, and its impact on young people:

I think there is regulation on children's viewing, but we know that with time shifting and such, and also because young people can view at just about any time, it is a little bit meaningless.<sup>9</sup>

1.14 A number of submissions supported a reduction in the level of gambling advertising, including Responsible Gambling Australia,<sup>10</sup> CrownBet,<sup>11</sup> the Australian Psychological Society,<sup>12</sup> Gambling Impact Society<sup>13</sup> and Financial Counselling Australia.<sup>14</sup>

1.15 NXT is concerned about the normalisation of gambling in relation to sports, and the impact this exposure has on children and young people.

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8 Mr Mark Clayton Henley, Manager, Advocacy and Communication, Uniting Communities, *Proof Committee Hansard*, 7 March 2017, p. 31.

9 Ms Heather Gridley, Manager, Public Interest, Australian Psychological Society, *Proof Committee Hansard*, 7 March 2017, p. 2.

10 Mr Stephen Conroy, Executive Director, Responsible Wagering Australia, *Proof Committee Hansard*, 7 March 2017, p. 19.

11 CrownBet, *Submission 18*, p. 20.

12 Australian Psychological Society, *Submission 4*, p. 12.

13 Gambling Impact Society, *Submission 5*, p. 2.

14 Financial Counselling Australia, *Submission 22*, p. 15.

1.16 This bill introduces necessary regulation of gambling advertising that extends the current provisions to ensure their aims are being effectively met. Too many parents around the nation are expressing concern that their young children, due to being exposed to gambling ads during games, seem to know more about the betting odds than the game itself.

### **Self-exclusion register**

1.17 As identified in the majority report the National Self-Exclusion Register (NSER) is strongly supported by many stakeholders, including online sports betting companies.<sup>15</sup>

1.18 One of the issues identified is that customers can currently exclude themselves from some of the gambling companies, but that exclusion is not all-encompassing.

Senator XENOPHON: Which begs the question: can your patrons pre-commit to how much they want to lose using—

Mr Hoskins: They can, yes.

Senator XENOPHON: And you can lock them out of the system if they breach that pre-commitment. The problem is that, if they lock themselves out of your system, they can go down the road to somewhere else. That is the fundamental flaw.

Mr Hoskins: Correct.<sup>16</sup>

### **Harm minimisation**

1.19 This bill aims to address the lack of current effective harm minimisation strategies.

1.20 The committee heard concerning evidence regarding expansions in the gambling industry such as in relation the increase in Electronic Betting Terminals (EBTs).

1.21 NXT believe that EBTs are not operating under appropriate supervision. Tabcorp assured the committee they were supervised at all times, but conceded that those supervisors may be doing multiple jobs as well as being tasked to supervise the EBTs.

Senator KAKOSCHKE-MOORE: Is that the sole responsibility of the person who is supervising the terminals, or do they have other security obligations as part of their role that day?

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15 See pages 28–29 of the majority report.

16 Mr Julian Hoskins, Acting Group General Counsel, Tabcorp Holdings Limited, *Proof Committee Hansard*, 7 March 2017, p.38.

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Mr Hoskins: We have both, depending upon the event. Turning back to the chair's question, and my comment about the Spring Racing Carnival, at the Spring Racing Carnival the personnel who were supervising the machines would have been dedicated entirely to supervision and—

Senator KAKOSCHKE-MOORE: In a sports stadium?

Mr Hoskins: It depends on the number of machines and their location. If you have a machine that is right next to a cashier, that cashier will be supervising the machine and they will be doing other things. Our obligation is to ensure that there is reasonable supervision of those machines, otherwise we breach our licences. To some extent, comfort should also be taken from the fact that the state and territory based regulators have inspectors. They quite often have those inspectors attending peak events—they certainly did over the spring and autumn racing carnivals—to make sure that there are no incidents. We do not want children hanging around EBTs. If we see that, those children will be ushered along.<sup>17</sup>

1.22 These machines are located in public areas, such as sporting venues, which are visited by children.

1.23 Betting companies have also increased their use of tablets and iPads in pubs to make it easier for punters to make in-play bets. Responsible Wagering Australia conceded that they believe more stringent harm minimisation strategies are required to properly regulate this recent introduction.<sup>18</sup>

1.24 NXT want stronger regulation of these environments, and a clear regulatory body who can rely on a strong National Consumer Protection Framework for not only online betting, but also land based gambling.

1.25 The current regulatory framework is failing to address these concerns, and has failed to provide for a consistent harm minimisation framework with clear regulation and strong penalties for breaches.

1.26 The regulator proposed in the bill has the capacity to be responsible for implementing and monitoring a National Consumer Protection Framework.

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17 Mr Julian Hoskins, Acting Group General Counsel, Tabcorp Holdings Limited, *Proof Committee Hansard*, 7 March 2017, p.43.

18 Mr Stephen Conroy, Executive Director, Responsible Wagering Australia, *Proof Committee Hansard*, 7 March 2017, p. 20.

**NXT Recommendations**

1.27 This inquiry has identified that stronger regulation of the gambling industry is required.

1.28 Although the majority report states that several developments may render the bill unnecessary, those developments relate to possible future developments, the impact of which are currently hypothetical and which the government has yet to introduce.

1.29 It is clear from this inquiry that this bill is urgently required.

**Recommendation 1**

**1.30 That this bill be passed.**

**Senator Nick Xenophon**  
**Senator for South Australia**

**Senator Skye Kakoschke-Moore**  
**Senator for South Australia**