

The Senate

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Environment and Communications  
Legislation Committee

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Interactive Gambling Amendment (Sports  
Betting Reform) Bill 2015

March 2017

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Senator Peter Wish-Wilson, Deputy Chair (from 7 February 2017)	AG, TAS
Senator Anthony Chisholm	ALP, QLD
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# Table of contents

<b>Committee membership .....</b>	<b>iii</b>
<b>Chapter 1: Introduction and background .....</b>	<b>1</b>
Referral .....	1
Conduct of inquiry.....	1
Reports of other committees.....	2
Background.....	3
Purpose and overview of the bill .....	6
Structure of this report.....	8
<b>Chapter 2: Harm minimisation mechanisms .....</b>	<b>9</b>
Prevalence of online sports betting .....	9
Addressing online problem gambling .....	12
Regulation of online sports betting .....	12
<b>Chapter 3: Key issues .....</b>	<b>17</b>
Restrictions on micro betting.....	17
Restrictions on advertising .....	19
Inducements and credit.....	22
Mandatory pre-commitment.....	24
Betting limits .....	26
Mandatory staff training.....	26
Interactive Gambling Regulator .....	28
National Self-exclusion Register .....	29
Financial transaction blocking.....	31
<b>Chapter 4: Committee view .....</b>	<b>33</b>
The O'Farrell Review and government response .....	33
Consideration of the bill .....	34
Conclusion .....	35
<b>Labor Senators' Additional Comments .....</b>	<b>37</b>
<b>Dissenting report by Nick Xenophon Team Senators .....</b>	<b>39</b>

**Appendix 1: Submissions and additional information .....45**  
**Appendix 2: Public hearing.....39**

# Chapter 1

## Introduction and background

### Referral

1.1 The Interactive Gambling Amendment (Sports Betting Reform) Bill 2015 (the bill) was initially referred to the Senate Environment and Communications Legislation Committee (the committee) by the Senate Selection of Bills Committee on 26 November 2015 for inquiry and report by 12 May 2016.<sup>1</sup>

1.2 On 21 March 2016, the Governor-General issued a Proclamation proroguing the Parliament from 5 pm on Friday, 15 April 2016, until 9.30 am on Monday 18 April 2016. One consequence of prorogation is that all bills on the notice papers of the Senate and House of Representatives lapse. On 19 April 2016, the bill was restored to the Senate *Notice Paper*.<sup>2</sup>

1.3 On 8 May 2016, the Governor-General issued a proclamation dissolving the Senate and the House of Representatives from 9 am on 9 May 2016 for a general election on 2 July 2016. As a result of the dissolution of the Senate, the committee ceased to exist and the inquiry lapsed.

1.4 The 45<sup>th</sup> Parliament commenced on 30 August 2016 and members of this committee were appointed on 1 September 2016. The bill was restored to the Senate *Notice Paper* on 31 August 2016.<sup>3</sup> On 15 September 2016, the Senate, on the recommendation of the Selection of Bills Committee, referred the bill for inquiry and report by 30 November 2016.<sup>4</sup> The report tabling date was subsequently extended to 6 December 2016, to 28 February 2017 and to 29 March 2017.<sup>5</sup>

### Conduct of inquiry

1.5 In the 44<sup>th</sup> Parliament, the committee received 22 submissions, which are listed at Appendix 1. In the 45<sup>th</sup> Parliament the committee received one additional submission. This is also listed at Appendix 1. The public submissions are also available on the committee's website at [www.aph.gov.au/senate\\_ec](http://www.aph.gov.au/senate_ec).

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1 Senate Selection of Bills Committee, *Report No. 15 of 2015*, 26 November 2015, Appendix 1; and *Journals of the Senate*, 2013–15, No. 130, 26 November 2015, p. 3493.

2 *Journals of the Senate*, 2013–16, No. 150, 19 April 2016, p. 4141.

3 *Journals of the Senate*, 2016, No. 2, 31 August 2016, p. 79.

4 *Journals of the Senate*, 2016, No. 3, 1 September 2016, p. 92.

5 *Journals of the Senate*, 2016, No. 8, 10 October 2016, p. 259; *Journals of the Senate*, 2016, No. 20, 28 November 2016, p. 629; *Journals of the Senate*, 2016–17, No. 28, 14 February 2017, p. 945.

1.6 No hearings were held during the 44<sup>th</sup> Parliament for the inquiry. However, during the current Parliament, the committee held a hearing in Melbourne on 7 March 2017. The list of witnesses who appeared at the hearing is at Appendix 2.

1.7 The committee thanks those individuals and organisations that assisted with the inquiry.

### **Reports of other committees**

1.8 When examining a bill or draft bill, the committee takes into account any relevant comments published by the Senate Standing Committee for the Scrutiny of Bills. The Scrutiny of Bills Committee assesses legislative proposals against a set of accountability standards that focus on the effect of proposed legislation on individual rights, liberties and obligations, and on parliamentary propriety.

1.9 In an Alert Digest, the Scrutiny of Bills Committee noted that the Explanatory Memorandum did not provide any discussion of the level of penalty imposed for the new offences, or a justification for the civil penalty being set at the same level as the fault-based offence.<sup>6</sup> The Scrutiny of Bills Committee sought further information from Senator Xenophon concerning the rationale of these matters.<sup>7</sup>

1.10 The Scrutiny of Bills Committee also noted that proposed subsection 61HF(1) provides that the Regulator must make a legislative instrument for a person to apply for their name to be removed from the National Self-exclusion Register (NSER).<sup>8</sup> It noted that the Explanatory Memorandum indicates that the legislative instrument may require the production of a psychologist or counsellor report to satisfy that the person applying for removal from the NSER no longer exhibits signs of having a gambling problem.<sup>9</sup> The Scrutiny of Bills Committee noted:

The breadth of the power, including the scope for the inclusion of significant requirements before removal from the register, indicates the potential for the legislative instrument to include matters more suitable for parliamentary enactment. The scrutiny problem is heightened because requirements for seeking removal of a person's name could change between the time a person joins the register and the time at which they seek to be removed from it.<sup>10</sup>

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6 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest*, No. 14 of 2015, 2 December 2015, p. 13.

7 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest*, No. 14 of 2015, 2 December 2015, p. 13.

8 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest*, No. 14 of 2015, 2 December 2015, p. 14.

9 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest*, No. 14 of 2015, 2 December 2015, p. 14.

10 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest*, No. 14 of 2015, 2 December 2015, p. 14.

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1.11 Accordingly, the Scrutiny of Bills Committee sought further advice from Senator Xenophon in relation to the following matters:

- why requirements to be imposed prior to the application for removal being acceded to are appropriately contained in a legislative instrument (rather than being included in primary legislation) given that they may impose requirements that limit rights and liberties of a person;
- whether a person can insist on removal without meeting substantive requirements;
- whether a determination made under this section will be disallowable; and
- whether consideration has been given to alternative ways in which to achieve the desired outcome without inappropriate delegation of legislative power.<sup>11</sup>

1.12 The committee notes that, at the date of writing this report, Senator Xenophon has not provided a response to the concerns raised by the Scrutiny of Bills Committee.

## **Background**

1.13 Gambling is an established part of Australian society. The gambling industry provides some benefits to the community, by investing in the sport, entertainment and tourism sectors, and the significant taxation revenue it generates for governments. However, gambling also causes harm to individuals, families and communities in the form of financial losses, mental health problems and associated social problems, such as relationship breakdown.<sup>12</sup>

1.14 There continues to be public debate in Australia concerning how the gambling industry should be regulated. Advertising, particularly sponsorship of sporting events and associated advertising has been debated. More recently, 'online in-play betting'—placing live bets on sports online—has been controversial.

### ***Reviews of gambling related issues***

1.15 In recent years, matters and policies related to gambling have been subject to several reviews and inquiries. In 2010, the Productivity Commission completed its review of gambling issues.<sup>13</sup> Between 2011 and 2013, the Joint Select Committee on

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11 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest*, No. 14 of 2015, 2 December 2015, pp. 14–15.

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

13 Productivity Commission, *Gambling*, Report No. 50, 26 February 2010.

Gambling Reform completed 11 inquiries on gambling, including on interactive and online gambling and gambling advertising.<sup>14</sup>

1.16 In 2012, the Department of Broadband, Communications and the Digital Economy (DBCDE) undertook a review of the *Interactive Gambling Act 2001* (Cth) (IGA).<sup>15</sup> The review found that the IGA was making only a minor contribution to reducing harm to problem gamblers and to those at risk of becoming problem gamblers. The review went on to comment that the IGA 'may in fact be exacerbating the risk of harm because of the high level of usage by Australians of prohibited services which may not have the same protections that Australian licensed online gambling providers could be required to have'.<sup>16</sup>

1.17 The DBCDE review made recommendations in relation to harm minimisation and consumer protection, deterrence and enforcement, education and awareness, advertising and promotion, online gambling and online wagering, online gambling services aimed at children, and fantasy sports.

1.18 In 2015, the then Minister for Social Services announced a 'review of illegal offshore wagering to investigate methods to strengthen enforcement of the *Interactive Gambling Act 2001*...and ensure Australians are protected from illegal operators' to be undertaken by the former New South Wales premier, the Hon Barry O'Farrell.<sup>17</sup> The O'Farrell review examined four key areas:

- the economic impacts of illegal offshore wagering and associated financial transactions on legitimate Australian wagering businesses, including size of the illegal industry, growth, organisation and interrelationships with other criminal industries and networks;
- international regulatory regimes or other measures that could work in the Australian context;
- what other technological and legislative options are available to mitigate the costs of illegal offshore wagering; and
- the efficacy of approaches to protect the consumer—including warnings, information resources, public information campaigns and

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14 Parliamentary Joint Select Committee on Gambling Reform, *Interactive and Online Gambling and Gambling Advertising Interactive Gambling and Broadcasting Amendment, Second Report*, 2011.

15 Department of Broadband, Communications and the Digital Economy (DBCDE), *Review of the Interactive Gambling Act 2001, Final Report*, 2012. DBCDE is now known as the Department of Communications and the Arts.

16 DBCDE, *Review of the Interactive Gambling Act 2001, Final Report*, 2012, p. 6.

17 Department of Social Services (DSS), *Review of illegal offshore wagering* <https://engage.dss.gov.au/review-impact-of-illegal-offshore-wagering/>.

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any other measures, regulatory or otherwise, that could mitigate the risk of negative social impacts on consumers.<sup>18</sup>

1.19 The consultation period for this review closed on 15 November 2015 and the report was completed and provided to government on 18 December 2015. The government's response to the O'Farrell review was released on 26 April 2016. The government accepted in full or in principle 18 of the O'Farrell review's 19 recommendations.<sup>19</sup>

### ***Interactive Gambling Amendment Bill 2016***

1.20 On 10 November 2016, the government introduced the Interactive Gambling Amendment Bill 2016 (the government bill) in the House of Representatives. The government bill aimed to implement the first stage of its response to the O'Farrell review.<sup>20</sup> On the recommendation of the Selection of Bills Committee, the government bill was referred to the committee which reported on 30 November 2016.<sup>21</sup>

1.21 The third reading of the government bill was agreed to by the House of Representatives on 8 February 2017 and it was introduced in the Senate the following day. Amendments to the government bill were proposed, including by the Nick Xenophon Team. These amendments replicated the provisions of the Interactive Gambling Amendment (Sports Betting Reform) Bill 2015.

1.22 On 20 March 2017, the Senate agreed to seven amendments to the government bill proposed by the Nick Xenophon Team related to the banning of the provision or offering of credit by 'restricted wagering services' (proposed sections 61G and 61GA).<sup>22</sup> No further amendments were agreed to. On 21 March 2017, the government bill was agreed to by the Senate.<sup>23</sup> The government bill, with amendments, has been returned to the House of Representatives for its agreement.

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18 DSS, *Impact of illegal offshore wagering* <https://engage.dss.gov.au/review-impact-of-illegal-offshore-wagering/>

19 *Government Response to the 2015 Review of the Impact of Illegal Offshore Wagering*, April 2016  
[https://www.dss.gov.au/sites/default/files/documents/04\\_2016/government\\_response\\_review\\_illegal\\_offshore\\_wagering.pdf](https://www.dss.gov.au/sites/default/files/documents/04_2016/government_response_review_illegal_offshore_wagering.pdf) (accessed 28 February 2017).

20 *Journals of the Senate*, 10 November 2016, p. 448.

21 Environment and Communications Legislation Committee, *Interactive Gambling Amendment Bill 2016 [Provisions]*, November 2016.

22 *Journals of the Senate*, 2016–17, No. 31, 20 March 2017, pp. 1062–64.

23 *Journals of the Senate*, 2016–17, No. 32, 21 March 2017, p. 1092.

## Purpose and overview of the bill

1.23 The purpose of the bill is to amend the IGA to implement 'harm minimisation measures to help individuals who are engaged in online sports betting [to] better control their gambling'.<sup>24</sup>

1.24 The bill includes three components that provide for additional regulation of online sports gambling. These include restrictions on some wagering services such as those that involve inducements to gamble, establishing an Interactive Gambling Regulator, and the introduction of a NSER to allow individuals to bar themselves from accessing online sports betting.<sup>25</sup>

1.25 The bill would introduce a new key term, 'restricted wagering service', which encompasses websites, datacasting, or any other content service through which individuals can place bets on sporting events (proposed amendment to section 3). It requires restricted wagering services to:

- provide prescribed training to employees who, in the course of their duties, have direct contact with individuals who use the service (proposed subsection 14A(1));
- set an annual and monthly maximum betting limit for any individual who creates an account with that service (proposed section 61GG);
- provide to individuals who use that service a statement containing the transaction history of that individual (proposed section 61GL); and
- include on their website a clear and prominent link to the NSER (proposed section 61GN).

1.26 New offences and civil penalties would apply to restricted wagering services that contravene the above provisions.

1.27 The bill would also prohibit restricted wagering services from:

- providing or offering credit to individuals that use that service (proposed section 61GA);
- inducing or attempting to induce an individual to use that service (proposed section 61GB);
- offering or accepting micro betting (proposed section 61GC);
- creating an account unless the individual is seeking to set up the account provides their personal details (proposed section 61GD);

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24 Explanatory Memorandum (EM), p. 1.

25 EM, p. 15.

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- creating an account or facilitating the placing of bets for an individual if the restricted wagering service has not verified that individual's identity (proposed section 61GE);
  - opening an account or facilitating the placing of bets for an individual if the service has not submitted the individual's personal details into the NSER (proposed section 61GF);
  - creating accounts for individuals on the NSER (proposed section 61GH);
  - increasing or causing to increase an individual's betting limit unless certain criteria are met (proposed section 61GI);
  - inducing, or attempting to induce, an individual to increase their monthly or annual betting limit (proposed section 61GJ);
  - accepting a bet from an individual if that bet exceeds the monthly or annual betting limit (proposed section 61GK); and
  - disclosing the personal information of an individual who uses that service to another person for marketing of goods or services (proposed section 61GM).

1.28 The bill contains new offences and civil penalties where the above provisions have been contravened by a restricted wagering service.

1.29 Additionally, the bill would prohibit a person from broadcasting, or authorising or causing the broadcast of, a restricted wagering service advertisement in Australia during a G classified television program or during a television program that consists of coverage of a sporting event (proposed section 61GO).

1.30 The bill proposes to establish a NSER and an Interactive Gambling Regulator and provides functions and powers to the Regulator, which include:

- maintaining a register of the NSER and making changes to the register;
- monitoring, promoting, investigating and enforcing compliance of the new offences and civil penalties;
- providing advice to the Minister on the new sections of the Act; and
- developing a Code of Practice.<sup>26</sup>

1.31 Lastly, the bill provides for the issuing of injunctions by the Federal Court to block transactions in relation to a prohibited internet gambling service (proposed subsection 31A).

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26 Interactive Gambling Amendment (Sports Betting Reform) Bill 2015, proposed Part 7C and Part 7D.

**Structure of this report**

1.32 Chapter 2 discusses the prevalence of online sports betting, as well as the impact of online sports betting and the effectiveness of current harm minimisation measures.

1.33 Chapter 3 outlines current and proposed harm minimisation measures. It also outlines the key issues and concerns in relation to the Bill as raised by submitters.

1.34 Chapter 4 provides the committee's view and recommendation.

# Chapter 2

## Harm minimisation mechanisms

2.1 Online sports betting is a rapidly growing business in Australia. While betting on horseracing has a long history, the sports betting industry is relatively new. It was launched following a 2008 High Court decision that allowed licensed sports betting agencies to advertise and provide services throughout the country.<sup>1</sup> The prolific growth in the use of smart phones with internet access has contributed significantly to this growth. Although sports betting is legal in all states and territories, interactive gambling licenses are only available in the Northern Territory.<sup>2</sup>

2.2 This chapter provides an outline of the prevalence of online sports betting and its impact as well as the regulation of this activity.

### Prevalence of online sports betting

2.3 The Review of Illegal Offshore Wagering (O'Farrell review) provided information on the growth in online betting in Australia. It was reported that the total amount spent on all forms of interactive gambling was \$2.4 billion in 2014, which includes both onshore and illegal offshore gambling activities.<sup>3</sup> The prevalence of interactive gambling appears to be growing with one study estimating that the rate was eight per cent in 2010–11, while in 2013 a report suggested that the rate of interactive gambling was 21 per cent of the population.<sup>4</sup>

2.4 The overall expenditure on wagering in Australia in 2013–14, including on racing, sporting and other events, was \$3.4 billion.<sup>5</sup> Just under half of all wagering expenditure was conducted online (\$1.4 billion) and is growing at a rate of 15 per cent per annum. The O'Farrell review found that the number of active online wagering accounts in Australia had grown four-fold during the period 2004 to 2014 from 200,000 to 800,000. Many people have more than one account.<sup>6</sup>

2.5 A recent report estimated that 13 per cent of Australian adults currently gamble on sport.<sup>7</sup> This rate of gambling on sport is reflected in the annual turnover of sports betting: in 2013–14, only six years after the commencement of the industry in

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1 *Betfair Pty Ltd v Western Australia* (2008) 244 ALR 32.

2 Queensland Treasury, *Australian Gambling Statistics 1988–89 to 2013–14*, 2015.

3 Department of Social Services (DSS), *Review of illegal offshore wagering* [https://www.dss.gov.au/sites/default/files/documents/04\\_2016/review\\_of\\_illegal\\_offshore\\_wagering\\_18\\_december\\_2015.pdf](https://www.dss.gov.au/sites/default/files/documents/04_2016/review_of_illegal_offshore_wagering_18_december_2015.pdf), p. 44.

4 DSS, *Review of illegal offshore wagering*, p. 37.

5 DSS, *Review of illegal offshore wagering*, p. 39.

6 DSS, *Review of illegal offshore wagering*, p. 46.

7 N. Hing, *Sports Betting and Advertising (AGRC Discussion Paper No. 4)*, Australian Gambling Research Centre, 2014.

Australia, the annual turnover for sports betting was \$5.74 billion, generating approximately \$100 million in annual taxation revenue.<sup>8</sup>

2.6 It is difficult to precisely quantify the prevalence of online sports betting in Australia as there is no national measure available. This situation is compounded by the fact that a significant number of Australians gamble using overseas websites.

2.7 The Centre for Gambling Education and Research has investigated the demographic profile of online gamblers and found that they are more likely to be male and to have higher incomes in comparison with non-online gamblers.<sup>9</sup> The expanding capabilities and sophistication of smart phones has contributed to the development of online sports betting, with convenience the major factor. Research indicates that 50 per cent of all sports betting takes place online or on smartphones.

2.8 The phenomenon was discussed by the Australian Psychological Society (APS) which stated:

The past decade has seen a burgeoning of more sophisticated ways to gamble, including access to 24-hour gambling through the internet, mobile phone technology and interactive television platforms. Participation in sports betting has increased exponentially over this time period, and this is in part due to the growth in online gambling. With such rapid changes in technology, it is important that legislation reflects these changes and takes account of how these sites operate.<sup>10</sup>

### ***Prevalence of problem and moderate risk gambling***

2.9 The Productivity Commission reported on the prevalence of problem and moderate risk gambling in Australia in its 2010 report. It stated that problem and moderate risk gambling was 0.7 per cent and 1.7 per cent, respectively.<sup>11</sup>

2.10 A study conducted in 2014, involving 15,006 gamblers, found that problem gambling rates were three times higher among internet than non-internet gamblers, a finding that was attributed to the interactive nature of internet gambling.<sup>12</sup>

2.11 Similarly, the O'Farrell review found that the rate of problem gambling is higher among interactive gamblers compared to non-interactive gamblers.<sup>13</sup> It noted that 2.7 per cent of interactive gamblers were found to be problem gamblers compared to 0.9 per cent of all gamblers. The O'Farrell review cited a recent study which found

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8 Queensland Treasury, *Australian Gambling Statistics 1988-89 to 2013-14 31st Edition*, 2015.

9 S. Gainsbury et al, *An investigation of internet gambling in Australia*, Centre for Gambling Education and Research, 2011, p. 4.

10 Australian Psychological Society, *Submission 4*, p. 2.

11 Productivity Commission, *Gambling*, No. 50, 26 February 2010, p. 11.

12 Australian Psychological Society, *Submission 4*, p, 9.

13 The Hon Barry O'Farrell, *Review of Illegal Offshore Wagering*, 18 December 2015, p. 38.

that 41 per cent of interactive gamblers were at risk of problem gambling compared with less than 20 per cent of non-interactive gamblers.<sup>14</sup>

2.12 The Productivity Commission noted that the prevalence of gambling (and problem gambling) increases in proportion to the availability of gambling opportunities.<sup>15</sup> Technology advances, in association with the availability of gambling at all hours of the day and night, particularly where it is accompanied with advertising, may have the effect of normalising the activity, causing increased participation and a lower perception of potential harm. This is believed to have a greater effect on younger people who are more susceptible to the influence of advertising.<sup>16</sup>

2.13 Other features of online gambling that increase the risk of problem gambling, as compared with traditional gambling activities conducted in person, include:

- Solitary play—increased potential to dissociate and lose track of time/money gambled;
- Play under the influence of Drugs & Alcohol—Responsible Service of Alcohol laws do not apply in the home;
- Accessibility & Convenience—no time travel required, may lead to greater frequency of play;
- Anonymity—may reduce social anxiety and inhibitions, problem gamblers may gamble in secret and in private;
- Electronic payments—may have a lower psychological value than cash, resulting in greater amounts wagered; and
- Credit Card gambling—accounts are funded by credit card deposits; gamblers bet with money they don't have.<sup>17</sup>

2.14 Mission Australia provided anecdotal evidence that access to credit and inducements frequently exacerbate problem gambling particularly for young adult males. Many do not fully appreciate the consequences of their actions until it becomes too late: 'It's like it is not real money until I get my credit card statement'.<sup>18</sup>

2.15 The APS also cited work by Gainsbury et al (2016) which suggested that 'the mode of accessing internet gambling may be related to subsequent harms. They found that gamblers who prefer to gamble online using computers had lower rates of gambling problems as compared to those using mobile and supplementary devices'.<sup>19</sup>

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14 The Hon Barry O'Farrell, *Review of Illegal Offshore Wagering*, 18 December 2015, p. 38.

15 Productivity Commission, *Gambling*, No. 50, 26 February 2010.

16 S. Monaghan, J. Derevensky, and A. Sklar, 'Impact of gambling advertisements and marketing on children and adolescents: Policy recommendations to minimise harm', *Journal of Gambling Issues*, 22, 252–274.

17 S. Monaghan, *A Critical Review of the Impact of Internet Gambling*, 2009, p. 8; see also Australian Psychological Society, *Submission 4*, p. 10.

18 Mission Australia, *Submission 8*, p. 2.

19 Australian Psychological Society, *Submission 4*, p. 10.

## Addressing online problem gambling

2.16 The APS highlighted that the impact of problem gambling can be far broader than the individual gambler:

Gambling is also an activity that can cause considerable harm to individuals, families and communities. Gambling is a significant public health concern associated not only with financial losses but depression, self-harm and anxiety. Moreover, it is estimated that for every one person with a gambling problem, five to ten other people are affected by it.<sup>20</sup>

2.17 Financial Counselling Australia (FCA) discussed the risk of harm associated with online sports betting in a recent report, emphasising how quickly large amounts of money can be lost:

Sports betting in Australia is widely advertised, easily accessible, growing exponentially and is highly profitable...Betting on the pokies is relatively small fry in comparison—you can't put \$250,000 into slot machines in one sitting, but you can do that with sports betting with the click of a mouse.<sup>21</sup>

2.18 According to the APS, regulation is required by government to address problem online gambling. The APS went on to argue that it is not sufficient to simply allow members of the community to make their own choice, arguing that 'governments need to exercise their social responsibility to protect the public from gambling products that cause harm'.<sup>22</sup>

2.19 The APS emphasised that 'there is an urgent need to look at the impact of gambling on society as a whole, and what can be done to reduce the potential for gambling-related harm'.<sup>23</sup> However, the APS went on to comment that there are also risks with regulation including that problem gamblers still have the option of playing offshore to bypass the restraining influence of Australian harm minimisation features. The APS concluded that 'while regulatory measures hold face validity, we caution rushing to implement measures until further research is available to inform policies that truly minimise harm'.<sup>24</sup>

## Regulation of online sports betting

2.20 Online gambling in Australia is regulated by the *Interactive Gambling Act 2001* (IGA), which reflects the Commonwealth's responsibility for regulating the provision of telecommunications in Australia. However, gambling more broadly is the responsibility of state and territory governments. As a consequence, it is important to note that states and territories are responsible for regulating and licensing the legal onshore gambling operators.

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

21 Financial Counselling Australia, *Duds, Mugs and the A-List: The Impact of Online Sports Betting*, 2015, p. 4.

22 S. Monaghan, *A Critical Review of the Impact of Internet Gambling*, 2009, pp. 4–5.

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

24 Australian Psychological Society, *Submission 4*, p. 15.

2.21 The IGA aims to minimise the scope for online problem gambling in the Australian community by regulating the provision of online gambling services to Australians.<sup>25</sup> The APS commented that under the IGA, while internet gambling in the form of gambling on interactive gambling sites such as online casinos, is not legal in Australia, the use of the internet as a vehicle to place bets on approved forms of gambling, such as sporting events is allowed.<sup>26</sup> According to APS, this is particularly problematic with the 'burgeoning of more sophisticated ways to gamble, including access to 24-hour gambling through the internet, mobile phone technology and interactive television platforms'.<sup>27</sup>

### ***Measures currently proposed by the government***

2.22 As outlined in Chapter 1 of this report, on 10 November 2016, the government introduced the Interactive Gambling Amendment Bill 2016.<sup>28</sup> The committee's inquiry report on the government's bill provided a summary of the provisions of the bill:

- (a) clarify that it is illegal for overseas gambling companies to offer gambling products to Australians unless the person or company holds a licence issued by a state or territory;
- (b) introduce a new civil penalty and infringement notice regime to be administered by the ACMA;
- (c) prohibit 'click-to-call' in-play betting services, which are 'services where a customer can place a bet during a sporting event without speaking to a human operator' (that is, a service that enables a voice call to be made online using a recorded or synthetic voice)—the bill would require that dealings with customers to be wholly by way of spoken conversations between individuals (or an equivalent for a customer with a disability);
- (d) amend the complaint handling process by providing that the ACMA is responsible for all stages of the complaint handling process, with the current mandatory requirements for the ACMA to refer matters to an Australian police force to be removed;
- (e) enable the minister to determine by legislative instrument that, for the purposes of the IGA, a specific thing is, or is not, a 'sporting event';
- (f) require the ACMA to maintain a register of eligible regulated interactive gambling services 'to raise awareness among Australian customers of interactive gambling services that should be avoided, as evidenced by their non-inclusion on the register';
- (g) introduce measures relating to illegal offshore gambling activity that would allow the ACMA to disclose information obtained through the

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25 Explanatory Memorandum (EM), *Interactive Gambling Act 2001* (Cth), p. 1.

26 Australian Psychological Society, *Submission 4*, p. 6.

27 Australian Psychological Society, *Submission 4*, p. 6.

28 *Journals of the Senate*, 2016, No. 15, 10 November 2016, p. 448.

exercise of its powers under Parts 3, 4 and 5 of the IGA to the Department of Immigration and Border Protection and foreign regulators; and

(h) remove the requirement for a report to be prepared and tabled in Parliament each calendar year on contraventions of Part 7A of the IGA—the EM advised that 'this information will be included in the ACMA's annual report, which is also tabled in Parliament'.<sup>29</sup>

2.23 The committee notes that on 25 November 2016, the Minister for Human Services, the Hon Alan Tudge MP, announced that agreement had been reached between Australian, state and territory governments to establish a strong National Consumer Protection Framework for online wagering.<sup>30</sup> In-principle agreement was given to key aspects of the Government's response to the O'Farrell review including:

- a national self-exclusion register for online wagering;
- a voluntary pre-commitment scheme for online wagering; and
- prohibition of lines of credit being offered by wagering providers.<sup>31</sup>

2.24 The Department of Social Services is responsible for developing the national framework for online wagering in consultation with states and territories. It explained that a range of options are being considered, including:

- a National Framework legislated and regulated by the states;
- a National Framework legislated by the Commonwealth and administered by the states; and
- a National Framework, legislated and regulated by the Commonwealth.<sup>32</sup>

2.25 The Department of Social Services stated that:

The Commonwealth Government is moving quickly to implement its response in conjunction with state and territory governments and in consultation with key stakeholders. It is our expectation that a final decision will be made on this matter later this year.<sup>33</sup>

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29 Environment and Communications Legislation Committee, *Interactive Gambling Amendment Bill 2016 [Provisions]*, 30 November 2016, pp. 2–3.

30 The Hon Alan Tudge MP, 'Gambling Ministers agree to consumer protection framework for online wagering', *Media release*, 25 November 2016, <https://www.mhs.gov.au/media-releases/2016-11-25-gambling-ministers-agree-consumer-protection-framework-online-wagering> (accessed 1 March 2017).

31 The Hon Alan Tudge MP, 'Gambling Ministers agree to consumer protection framework for online wagering', *Media release*, 25 November 2016, <https://www.mhs.gov.au/media-releases/2016-11-25-gambling-ministers-agree-consumer-protection-framework-online-wagering> (accessed 1 March 2017).

32 Department of Social Services, *Answers to questions taken on notice* (received 17 March 2017), p. 1.

33 Department of Social Services, *Answers to questions taken on notice* (received 17 March 2017), p. 1.

2.26 The Department of Social Services commented that it also intends to conduct a public consultation process in April 2017, followed by further discussions at the official level to agree on the final details of the framework.<sup>34</sup> The framework will then need to be agreed on by all Commonwealth ministers and state and territory governments.<sup>35</sup> The final stage will be the implementation of the framework which, according to the Department, will be largely dependent on the regulatory model—'whether it has to be passed through Commonwealth legislation, whether it has to be passed through state and territory legislation, whether it has to be included in licensing agreement'.<sup>36</sup>

2.27 The Department of Communications and the Arts also provided information on the proposal to allow the ACMA to notify international regulators and operators about the provisions of the IGA. The Department of Communications and the Arts commented that it is hoped that 'ACMA will get assistance with any evidence and also help raise awareness amongst a number of these international jurisdictions that provide services into Australia'. The Department of Communications and the Arts went on to note:

You normally find that most of them come out about five or six jurisdictions. These include Malta, Gibraltar, even Great Britain and a couple of other jurisdictions as well. The ACMA will be given the power to liaise with these international regulators and to seek assistance on evidence and also to the awareness amongst their operators about the provisions. If the bill is passed, we would be looking to that as a catalyst to start off an advertising campaign overseas and to promote that these new measures and the gambling laws of Australia have changed and the enforcement has increased. We would be looking to get that word out there.<sup>37</sup>

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34 Mr Tristan Reed, Branch Manager, Welfare Quarantining and Gambling, Department of Social Services, *Proof Committee Hansard*, 7 March 2017, p. 59.

35 Mr Tristan Reed, Branch Manager, Welfare Quarantining and Gambling, Department of Social Services, *Proof Committee Hansard*, 7 March 2017, p. 59.

36 Mr Tristan Reed, Branch Manager, Welfare Quarantining and Gambling, Department of Social Services, *Proof Committee Hansard*, 7 March 2017, p. 59.

37 Mr Andrew Verdon, Assistant Director, Online Gambling Section, Department of Communications and the Arts, *Proof Committee Hansard*, 7 March 2017, p. 60.



# Chapter 3

## Key issues

3.1 Many submitters were broadly supportive of the proposals contained in the bill aimed at harm minimisation. However, a number of sports betting companies were of the view that current harm minimisation measures were adequate and pointed to a range of unintended consequences should certain provisions of the bill be implemented.<sup>1</sup>

3.2 Submitters were also generally supportive of having a national regulatory regime and were of the view that consumers and wagering operators would benefit from a uniform national approach.<sup>2</sup> In contrast, submissions from welfare organisations were generally of the view that some provisions in the bill could be further strengthened.

3.3 The following discussion canvasses the key issues raised in evidence.

### Restrictions on micro betting

3.4 The bill proposes to prohibit the provision of micro betting by restricted wagering services. Some submitters argued that the proposed amendment does not distinguish between micro betting and in-play betting.<sup>3</sup>

3.5 Micro betting involves betting on events within a game, such as the next goal scorer in a soccer match, or the outcome of the next ball in a cricket match. This allows for a larger number of bets to be made, compared to betting solely on the outcome of a match. This is distinguished from in-play betting—placing a bet on a race or sporting event after it has started.

3.6 Dr Anna Thomas explained the experience of micro betting and the possible outcome:

Micro-bets within the sports betting environment make the betting experience much more continuous that would otherwise be the case, as an individual is betting on a number of events within a game rather than simply betting once on the outcome of a game...The combination of more frequent bets and the immersive experience of the game will result in the gambler having much less time to consider how much they have bet already, potentially leading to higher than expected expenditure.<sup>4</sup>

3.7 Currently, online in-play betting is not permitted under the IGA, however, in-play betting made using a telephone betting service, that is a 'click to call' betting

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1 William Hill Australia Pty Ltd, *Submission 6*, p. 2.

2 Harness Racing Australia, *Submission 15*, p. 6; Australian Wagering Council, *Submission 11*, pp. 17–18.

3 SportsBet, *Submission 1*, p. 12; and William Hill Australia Pty Ltd, *Submission 6*, p. 4.

4 Dr Anna Thomas, *Submission 3*, p. 2.

service, is permitted. However, some online sports betting companies enable customers to engage in in-play betting through smartphones by activating the microphone or using a mobile application. The call activates a computerised voice that repeats the consumer's bet and asks the consumer to confirm the bet by pressing a button on a website, application or keypad.<sup>5</sup>

3.8 Some submitters supported the prohibition of micro betting across all technologies, but did not support the proposed prohibition on micro betting as defined in the bill.<sup>6</sup>

3.9 SportsBet commented that the bill proposes to prohibit in-play betting by capturing it in the definition of micro betting, that is, a bet which is 'placed, made, received or accepted after the beginning of the race or event'.<sup>7</sup> SportsBet argued that removing the in-play restriction proposed by the bill would have public policy benefits as it would:

- enhance the integrity of Australian sports by reducing the threat of match fixing;
- reduce the number of Australians who will use the gambling services of offshore operators, which would also benefit governments by minimising tax leakage offshore; and
- assist to grow Australia's digital economy.<sup>8</sup>

3.10 Tabcorp submitted that it did not support the proposed definition of micro betting and stated that 'the rationale for an extension of the law to prevent betting on all contingencies prior to the commencement of a race or event is not apparent'. Tabcorp went on to comment that it:

...believes that live betting on sport should be limited to retail venues subject to State and Territory laws. We believe that expanding online live betting on sport has the potential to hurt the Australian racing industry by over \$100 million per year in the long term, as well as hurting local hotels and community clubs.<sup>9</sup>

3.11 Responsible Wagering Australia (RWA) added that it supports a ban on micro betting, but did not support the approach taken in the bill as the current definition would also lead to the ban of all forms of in-play betting. RWA went on to state it:

...would have the opposite effect of what is intended. It would, in our view, significantly curtail the offering of existing legitimate bet types that are not micro bets, have a deleterious effect on the competitiveness of Australian

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5 Interactive Gambling Amendment Bill 2016, Explanatory Memorandum, p. 3.

6 SportsBet, *Submission 1*, p. 10; Australian Wagering Council, *Submission 11*, p. 24.

7 SportsBet, *Submission 1*, p. 12

8 SportsBet, *Submission 1*, p. 12

9 Tabcorp, *Submission 13*, p. 2.

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online wagering operators, and significantly increase the attractiveness of illegal offshore operators.<sup>10</sup>

3.12 Mr Stephen Conroy, RWA, commented further:

What will happen is that the offshore operators—the sharks, the spivs, the people who will just happily take everyone's money in any circumstance—will be the beneficiaries. If you want to take the position that there should not be any and you would recommend that, all you would be doing is driving Australians offshore. There would be Australians who would suffer much worse consequences because of that because there is no harm minimisation; there is a loss of taxation revenue; and a loss of support for the various sporting codes and their practices. You would have a circumstance where you would actually be making the problem worse, even though it looked like you were doing something that made it better.<sup>11</sup>

### **Restrictions on advertising**

3.13 The bill proposes to restrict broadcasting of restricted wagering service advertisements during G classified television programs or a television program that consists of coverage of a sporting event. This provision was supported by some submitters including the Australian Psychological Society (APS), which noted that the inclusion of sports betting advertising in television broadcasts contributes to the normalisation of gambling as an integral component of sporting activities.<sup>12</sup>

3.14 The Gambling Impact Society (NSW) commented that gambling advertisements often creates 'triggers' for those already struggling with gambling problems.<sup>13</sup> Mission Australia noted that:

...clients experiencing problems with sports betting often complain about the saturation coverage that gambling advertising receives during sporting events, which combined with 24 hour a day access via the internet makes giving up extremely difficult.<sup>14</sup>

3.15 While acknowledging that there are currently some limitations on advertising during live play, the APS stated that it is still possible to advertise during breaks and that children are able to view sporting events at later times, which makes the current time restrictions 'a little bit meaningless'.<sup>15</sup>

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10 RWA, *Submission 23*, p. 4.

11 Mr Stephen Conroy, Responsible Wagering Australia (RWA), *Proof Committee Hansard*, 7 March 2017, p. 20.

12 Australian Psychological Society, *Submission 4*, p. 12; see also Gambling Impact Society, *Submission 5*, p. 2; Financial Counselling Australia, *Submission 22*, p. 15.

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

14 Mission Australia, *Submission 8*, p. 2.

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

3.16 Uniting Communities commented on the range of avenues for advertising. Mr Henley stated:

The point is that online sports betting advertising is everywhere. It is across a whole range of advertising media—it is not just TV; it is not just the William Hill ads; it is not just the odd billboard. It is social media; it is part of the commentary; it is live crosses to sports betting companies; it is the whole box and dice. Of course, this is all happening in 'G' rated time, so this is all advertising that is exposed to children, to adolescents, to people who are open to suggestion.<sup>16</sup>

3.17 Mr Henley went on to comment that Uniting Communities supported 'the ban on advertising for online gambling across all forms of advertising'.<sup>17</sup>

3.18 Similarly, Financial Counselling Australia (FCA) were concerned that the restriction in proposed section 61GO did not go far enough.<sup>18</sup> It noted that the 18 to 35 year old age group is highly influenced by social media advertising and argued for a staged approach to ban all gambling advertising.<sup>19</sup>

3.19 Sports betting organisations and broadcasting peak organisations did not support this provision on the grounds that:

- children are not targeted by sports betting advertising;
- persons under 18 years of age comprise a very small proportion of the audience for live sports events on television;<sup>20</sup>
- current restrictions on gambling advertising on commercial free-to-air television provide strong, targeted and appropriate community safeguards;<sup>21</sup> and
- there will be serious adverse consequences including loss of revenue by broadcasters and loss of promotional opportunities for the racing and sports codes.<sup>22</sup>

3.20 Free TV Australia (Free TV) expressed concerns with the bill's proposed restrictions on advertising. Free TV explained that broadcasters are required to follow the Commercial Television Industry Code of Practice (the Code), which had recently been updated and commenced operation on 1 December 2015. Free TV explained that

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16 Mr Mark Henley, Uniting Communities, *Committee Hansard*, 7 March 2017, p. 30.

17 Mr Mark Henley, Uniting Communities, *Committee Hansard*, 7 March 2017, p. 31.

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

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

20 Free TV Australia, *Submission 2*, p. 8.

21 Free TV Australia, *Submission 2*, p. 6; ASTRA, *Submission 20*, p. 2.

22 See SportsBet, *Submission 1*, p. 16; Ladbrokes Digital Australia, *Submission 10*, p. 25; Bet365, *Submission 9*, p. 14; Australian Wagering Council, *Submission 11*, pp. 26–28.

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the new Code has stringent safeguards in place which makes the proposed restrictions on advertising unnecessary and, at times, unworkable.<sup>23</sup>

3.21 Sportsbet stated that the proposed amendments relating to advertising were 'overly restrictive...[and] unnecessary'. It went on to state that the amendments:

...would erode broadcasting revenue in circumstances where an extensive legislative and regulatory framework already exists across Australia's States and Territories to govern the advertising of gambling services to ensure they are socially responsible and do not target children.<sup>24</sup>

3.22 The Australian Subscription Television and Radio Association (ASTRA) submitted that it did not support this provision. It stated that 'existing restrictions are working well to address community concern regarding the exposure of vulnerable people to betting advertising'. ASTRA went on to argue that the bill seems to go beyond the stated intentions of protecting problem gamblers from certain predatory practices and minimising the exposure of children to sports betting advertising.<sup>25</sup>

3.23 ASTRA expressed further concern about the prohibition of advertisements for particular types of services such as micro betting. It stated:

The definition of a restricted wagering service advertisement is so broad that it could prohibit any advertisements on behalf of a company whose business includes, but is not limited to, a restricted wagering service, even if the advertisement does not refer to a restricted wagering service.<sup>26</sup>

3.24 Free TV pointed to unintended consequences of the proposed restrictions on advertising. It stated that the definition of a 'restricted wagering service advertisement' would make it difficult for any broadcaster to show a sporting event where there is a reference to gambling on the ground. Free TV explained that references to gambling or betting companies is often seen on sporting grounds through sponsorship or signage at the grounds or on players or referee's uniforms and that it would not be possible to blur or pixilate these images during live sporting events.<sup>27</sup>

3.25 While CrownBet was not supportive of a prohibition on gambling advertising during a televised sporting event, it agreed that further regulation should be applied to wagering advertising across all forms of media.<sup>28</sup> It advocated for measures that would reduce the volume of gambling advertising, as well as more stringent regulations on the content of the advertisement.<sup>29</sup>

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23 Free TV Australia, *Submission 2*, p. 4.

24 Sportsbet, *Submission 1*, 4.

25 Australian Subscription Television and Radio Association (ASTRA), *Submission 20*, pp. 1–4.

26 ASTRA, *Submission 20*, p. 4.

27 Free TV Australia, *Submission 2*, pp. 6–7. See also ASTRA, *Submission 20*, p. 6.

28 CrownBet, *Submission 18*, pp. 20–21.

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

3.26 RWA also commented on the level of wagering advertising and stated:

...we acknowledge that there is legitimate public concern about the level of wagering advertising, and we support government action to reduce the volume of wagering advertising. To that end, we call on the government to initiate a consultation process with the wagering industry, community groups, sporting organisations and broadcasters to devise a plan that will achieve meaningful reductions in wagering advertising.<sup>30</sup>

3.27 RWA noted that a key part of a licence is that advertising is allowed. However, unlicensed companies also use other methods:

The unlicensed companies just spam or use whatever methods for their online advertising. At the moment, as you would know, there are no restrictions on online advertising in any sphere, whether it is gambling or anything whatsoever. They are targeting people. They target them through other sites to drive people onto their sites. I know you would be very familiar with the fact that there are all sorts of methods used by these companies to try and drag people onto their sites. There have been soft sites, where you do not spend real money. You can gamble with fake money, but then they always try to suck you through into the real money sites.<sup>31</sup>

### **Inducements and credit**

3.28 Credit and other inducements to gamble are offered by online sports betting companies to encourage people to become involved in gambling. The offer of promotional 'free bets' was described by the Australian Hotels Association (AHA) as a 'blatant attempt to encourage a person to gamble who otherwise would not have gambled'.<sup>32</sup>

3.29 Several submissions address the consequences of these offers, including instances where they have caused problem gamblers to relapse. For example, Mission Australia outlined first-hand experience of one of its clients. Mission Australia stated:

Several clients have explained to me that they are often offered amounts ranging from \$50–\$2000 if they match the betting amount, even when they have previously requested to close their online betting accounts. These inducements have often triggered further gambling episodes.<sup>33</sup>

3.30 In this context, Mission Australia advocated prohibition of inducements and credit by online sports betting companies:

...the availability of credit and inducements frequently exacerbates these problems. This Bill is intended to reduce harmful gambling through prohibiting inducements, offers of credit and micro-betting practices. These

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30 Mr Stephen Conroy, RWA, *Proof Committee Hansard*, 7 March 2017, p. 20; see also p.24.

31 Mr Stephen Conroy, RWA, *Proof Committee Hansard*, 7 March 2017, p. 29.

32 Australian Hotels Association, *Submission 14*, p. 6.

33 Mission Australia, *Submission 8*, p. 2.

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measures would be particularly useful, given that the Government has not yet implemented its stated policy of prohibiting credit exemptions.<sup>34</sup>

3.31 This position was supported by Uniting Communities which stated that it opposed all forms of credit gambling.<sup>35</sup>

3.32 FCA suggested that current marketing practices by online companies exacerbate problem gambling. Further, that these companies' primary concern is profit, and not with the welfare of their customers. FCA stated:

The test for providing credit is 'will the company get paid?' rather than whether the customer will experience 'undue hardship' in making the repayments. No one looks at the customer's income or expenses. There is no consideration of the person's circumstances, their capacity to repay or wellbeing.<sup>36</sup>

3.33 Racing and Wagering Western Australia pointed to the lack of consistency between state and territory governments in relation to inducements. It went on to state that matters concerning inducements should be 'harmonised across states at a federal level. These important things that are catching up to what the product and the technology has created are what we are really focused on'.<sup>37</sup>

3.34 Tabcorp commented that it supported a prohibition on online gambling companies offering lines of credit to customers.<sup>38</sup>

3.35 Other submitters did not support further regulation in this area, and considered that the provision of inducements and credit is already sufficiently regulated. Sportsbet argued that prohibiting credit would result in:

- customers increasingly accessing credit from unregulated offshore operators;
- customers increasingly accessing credit from less scrupulous operators...and loan sharks which have little regard for consumer protection or harm minimisation; and
- legitimate and illegitimate third party credit providers and intermediaries filling the void, either directly or indirectly, which would then subject customers to significant interest and fees on their loans; and undesirable collection methods.<sup>39</sup>

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34 Mission Australia, *Submission 8*, p. 1.

35 Mr Mark Henley, Uniting Communities, *Proof Committee Hansard*, 7 March 2017, p. 33.

36 Financial Counselling Australia, *Submission 22*, p.11

37 Mr Richard Burt, Racing and Wagering Western Australia, *Proof Committee Hansard*, 7 March 2017, p. 45.

38 The Hon Peter McGauran, Tabcorp, *Proof Committee Hansard*, 7 March 2017, p. 35.

39 Sportsbet, *Submission 1*, p. 18.

3.36 In addition, Sportsbet stated that:

...the proposed blanket prohibition on offering so-called 'inducements' which would have wide reaching adverse consequences to Australian racing and sporting codes, the Australian wagering industry and, ultimately, consumers, as the restrictions will further encourage even more Australians to bet with illegal offshore operators in pursuit of competitive promotions.<sup>40</sup>

3.37 The committee notes the Commonwealth and state and territory governments have given in-principle agreement to the National Consumer Protection Framework including prohibition of lines of credit being offered by online wagering providers and a harmonised regulatory regime to ensure the offering of inducements are consistent with responsible gambling.<sup>41</sup> The Department of Communications and the Arts commented that it is reviewing research around inducements and stated:

...some of the research says that some inducements are more risky than other inducements, such as sign-up bonuses and inducements that require you to turn over winnings a certain amount of times and things like that. They are the kind of inducements we are looking at more closely, but I cannot say that it is ruled out, because it would be a decision for ministers.<sup>42</sup>

### **Mandatory pre-commitment**

3.38 There was broad support for the introduction of betting limits.<sup>43</sup> Dr Thomas noted that if the system is set up so that gamblers are required to set a betting limit it will normalise the setting of limits and encourage gamblers to think about how much they are willing to spend.<sup>44</sup> Dr Thomas added:

In terms of the pre-commitment options, from my reading of what you have in there, I think it is a really important step forward. Everyone should be thinking about how much they want to spend and how much they are prepared to lose and the protections in place to stop people from gambling more than that once they have reached those limits. The evidence we have in terms of our review would suggest that would be the best practice.<sup>45</sup>

3.39 It was also widely acknowledged that providing customers with the option of setting mandatory betting limits could help them to manage their finances.

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40 Sportsbet, *Submission 1*, p. 4.

41 Mr Tristan Reed, Department of Communications and the Arts, *Proof Committee Hansard*, 7 March 2017, p. 54.

42 Mr Tristan Reed, Department of Communications and the Arts, *Proof Committee Hansard*, 7 March 2017, p. 59.

43 CrownBet, *Submission 18*, pp. 18–19;

44 Dr Anna Thomas, *Submission 3*, p. 3.

45 Dr Anna Thomas, *Committee Hansard*, 7 March 2017, p. 9.

3.40 However, submitters questioned the effectiveness of this strategy in practice. For example, the AHA stated that whilst it supported voluntary pre-commitment in principle, there is:

...no clear evidence that a mandatory pre-commitment system will reduce problem gambling. AHA notes that problem gamblers will be able to set high limits, or effectively even no limit, or even sign up for multiple accounts under the names of friends or family members. AHA believes that mandatory pre-commitment could drive problem and at-risk gamblers towards illegal offshore on-line gambling, which is credit based, unregulated and isn't taxed.<sup>46</sup>

3.41 The Australian Wagering Council (AWC) supported voluntary pre-commitment, rather than mandatory pre-commitment, whereby customers would be made aware that they are able to set a betting limit. The AWC stated that the restrictions should rest with the gambling operator and that they be required to offer customers a betting limit instead of requiring customers to pre-set a betting limit.<sup>47</sup>

3.42 RWA stated that it supported a requirement that wagering operators offer voluntary pre-commitment limits and that the option to set these limits be a completely online process (i.e. not paper-based) and highly visible. However, it did not support the mandatory pre-commitment limits proposed in the bill. As an example, it explained that the bill only proposed mandatory pre-commitment limits to be increased if the customer has not made more than one other such request in the previous 12 months. It stated that, as a consequence:

This could drive a 'last drinks' mentality with customers focussed on what they can spend rather than what they can afford, or cause customers to become frustrated with their inability to change these limits and switch to illegal offshore providers that provide no harm minimisation tools at all.<sup>48</sup>

3.43 RWA went on to state that it supports the principle contained in bill that, where a customer has opted to set a betting limit, operators should be prohibited from accepting a bet that exceeds that limit.<sup>49</sup>

3.44 FCA submitted that rather than imposing a maximum *betting limit*, a maximum *loss limit* should be used.<sup>50</sup> Additionally, FCA argued that the pre-commitment limits should apply to the total online gambling per year, as opposed to limits per company.<sup>51</sup> It explained that it is not uncommon for gamblers to reach a limit with one company only to set up an account with another company.<sup>52</sup> It noted

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46 Australian Hotels Association, *Submission 14*, p. 5. See also SportsBet, *Submission 1*, p. 19.

47 Australian Wagering Council, *Submission 11*, p. 30. See also Sportbet, *Submission 1*, p. 19.

48 RWA, *Submission 23*, p. 5.

49 RWA, *Submission 23*, p. 5.

50 Financial Counselling Australia, *Submission 22*, p. 11.

51 Financial Counselling Australia, *Submission 22*, p. 12.

52 Financial Counselling Australia, *Submission 22*, p. 12.

that the 'impact is on the gambler's global budget so the limit needs to be the overall gambling spend to be effective.'<sup>53</sup>

3.45 The Gambling Impact Society (NSW) noted that the bill limits the introduction of mandatory pre-commitments for those setting up new accounts, but fails to address mandatory pre-commitments for those that already have an account. Additionally, it noted that a problem gambler may gamble a significant amount within a week or even a day and therefore suggested that gamblers also be required to set daily and weekly limits.<sup>54</sup>

### **Betting limits**

3.46 The bill provides that the betting limits of customers with mandatory pre-commitment limits can only be increased if:

- the customer requested the increase and has given 7 days' notice (for monthly limit) or 14 days' notice (for annual limit); and
- the customer has not made more than one request to increase his or her limit in the previous 12 months.

3.47 FCA indicated that it did not support this proposed provision in the bill as it would defeat the purpose of setting a mandatory betting limit. FCA stated:

The whole idea of a rational pre-determined betting/loss limit is that it is there as a protection for when the gambler needs it. By allowing the gambler to undo the protection defeats the purpose of having the protection. Gamblers with a gambling addiction often do not act in their own best interests. The presumption of rational economic decision making does not apply.<sup>55</sup>

3.48 While CrownBet were supportive of the introduction of betting limits, it did not support the proposed limitation of allowing an individual to increase their pre-commitment limit only once in a 12-month period. It argued that this restriction would likely have the effect of lowering the participation rates in the use of pre-commitment facilities or encourage the customer to gamble with a different operator.<sup>56</sup>

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53 Financial Counselling Australia, *Submission 22*, p. 12.

54 Gambling Impact Society, *Submission 5*, pp. 3–4.

55 Financial Counselling Australia, *Submission 22*, pp. 12–13.

56 CrownBet, *Submission 18*, p. 19. See also Tabcorp, *Submission 13*, p.3; Australian Wagering Council, *Submission 11*, p. 31; Sportsbet, *Submission 1*, p.19.

## Mandatory staff training

3.49 The proposed provisions relating to the mandatory training of staff were generally supported by submitters.<sup>57</sup> However, FCA suggested that the provision should go further and that all staff, including those with indirect contact with customers, be required to undertake training.<sup>58</sup>

3.50 CrownBet also noted that the provisions are limited to training for operators engaged in online wagering and stated that it should be expanded to include any operator providing wagering services under the auspices of a wagering licence in an Australian jurisdiction.<sup>59</sup> Gambling Impact Society (NSW) were of the view that the provision should be broadened to require staff to identify 'at risk' problem gambling behaviour, and not merely 'problem gambling', as well as providing support to a problem gambler's family members.<sup>60</sup>

3.51 Dr Anna Thomas also supported these provisions and noted that it was possible for employees of land-based gambling venues to be taught some quick and simple methods to identify a problem gambler and that check-lists had been developed for such a purpose.<sup>61</sup> Dr Thomas conceded that these check-lists were not appropriate for the online environment and that staff would be disadvantaged by not being able to rely on visible cues from gamblers.<sup>62</sup> However, Dr Thomas noted that the online environment offered some advantages over land-based environments as all transactions are recorded, which would allow for algorithms to be developed to identify risky patterns.<sup>63</sup>

3.52 Tabcorp informed the committee that it utilises software which detects changes in a person's gambling problem.<sup>64</sup> Further, it has processes in place whereby staff are trained on responsible gambling and where an issue is identified with a customer, its call centre supervisor is required to make contact with the customer.<sup>65</sup> The Tabcorp *Responsible Gambling Code of Conduct* provides steps for employees,

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57 See Tabcorp, *Submission 13*, p. 2; Ladbrokes Digital Australia, *Submission 10*, p. 24; Australian Wagering Council, *Submission 11*, p. 39; Sportsbet, *Submission 1*, p. 22; Dr Anna Thomas, *Submission 3*, p. 1; CrownBet, *Submission 18*, p. 13; Financial Counselling Australia, *Submission 22*, p. 8; RWA, *Submission 23*, p. 7.

58 Financial Counselling Australia, *Submission 22*, p. 8.

59 CrownBet, *Submission 18*, p. 14.

60 Gambling Impact Society (NSW), *Submission 5*, p. 3.

61 Dr Anna Thomas, *Submission 3*, p. 1.

62 Dr Anna Thomas, *Submission 3*, p. 2.

63 Dr Anna Thomas, *Submission 3*, p. 2.

64 Mr Julian Hoskins, Acting Group General Counsel, Tabcorp Holdings Limited, *Proof Committee Hansard*, 7 March 2017, p. 41.

65 Mr Julian Hoskins, Acting Group General Counsel, Tabcorp Holdings Limited, *Proof Committee Hansard*, 7 March 2017, pp. 41–42.

agents, and agent's employees to take when they notice behaviour indicating a problem with gambling.<sup>66</sup>

3.53 However, according to FCA, betting companies only make phone calls to customers after the customer has lost everything and they are no longer valuable to the company. FCA provided the following case:

One of those was a call that I got last week from a member of parliament talking about a constituent who had lost \$170,000 with Tabcorp over about a five-week period—\$60,000 was overnight. He did receive a phone call a few days later and that was to say, 'Congratulations, we've made you into a platinum member. You've now got your own VIP account manager, and we're going to look after you.' But there was nothing that showed any concern for the amount that he had been gambling.

...So I am a little bit cynical when I hear that there are all these protections in place, because they do not seem to be there until the money has run out, and then it is, 'Why don't you contact a financial counsellor, or why don't you contact gamblers help?'<sup>67</sup>

3.54 In relation to the level of penalty that should be associated with a breach of the proposed provisions, FCA was of the view that a \$2,000–\$10,000 penalty would not provide a sufficient deterrent for billion-dollar companies. Based on penalties for breaches of other regulation, it considered that a \$1 million penalty would provide the necessary deterrent.<sup>68</sup>

### **Interactive Gambling Regulator**

3.55 The establishment of a national gambling regulator was viewed positively by some submitters.<sup>69</sup> The AWC commented that a uniform national regulatory approach would benefit consumers and wagering operators as it would bring together 'the best of the current state/territory arrangements and [ensure] that all wagering provisions in Australia faces uniform supervision, and uniform standards for integrity, responsible gambling and other measures'.<sup>70</sup>

3.56 Sportsbet stated that it supported the introduction of a national gambling regulator for the industry and considered that it would:

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66 Tabcorp, *Answers to questions on notice*. Refer to Tabcorp Wagering (VIC) Pty Ltd, *Responsible Gambling Code of Conduct*, January 2016, para 3.7. Also refer to para 3.5 on training.

67 Ms Lauren Levin, Director Policy and Campaigns, Financial Counselling Australia, *Proof Committee Hansard*, p. 47.

68 Ms Lauren Levin, Director Policy and Campaigns, Financial Counselling Australia, *Proof Committee Hansard*, p. 50.

69 Australian Wagering Council, *Submission 11*, p. 17; Ladbrokes Digital Australia Pt. Ltd, *Submission 10*, p. 18; SportsBet, *Submission 23*, p. 17; Harness Racing Australia, *Submission 15*, p. 6.

70 Australian Wagering Council, *Submission 11*, pp. 17–18.

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...balance the protection of Australian consumers with a healthy and competitive domestic wagering environment that keeps pace with changes in technology and makes research-based decisions.<sup>71</sup>

3.57 FCA noted its strong support for the establishment of a national gambling regulator provided the regulator was independent and could not be directed by the Minister in relation to any compliance and enforcement actions or decisions.<sup>72</sup> However, it commented that the proposed provision does not envisage the regulator being truly independent, as it must comply with a direction of the Minister and is not able to select its own staff.<sup>73</sup>

3.58 However, other submitters, for example the AHA, considered that a national gambling regulator would duplicate bodies already in place at the state and territory level. The AHA was also of the view that 'the capacity to track personal habits to a government agency is an invasion of privacy'.<sup>74</sup> CrownBet were similarly of the view that the state and territory governments were best placed to monitor and enforce gambling regulations and that the establishment of a national gambling regulator would be unnecessarily complex and expensive.<sup>75</sup>

3.59 RWA commented that it did not object, in principle, to the proposal for a regulator but this was subject to further details about the design and implementation of the proposed regulator, including its powers and responsibilities, and how it would interact with current Commonwealth, state and territory agencies, laws and regulations.<sup>76</sup>

### **National Self-exclusion Register**

3.60 Notably, the introduction of a National Self-exclusion Register (NSER) was advocated by online sports betting companies. For example, Sportsbet submitted it 'strongly supports national self-exclusion and has long advocated for a national scheme to properly protect individuals who choose to self-exclude'.<sup>77</sup> Sportsbet also suggested that a NSER should be funded by Australian providers and administered by an independent government agency such as the Australian Communications and Media Authority.<sup>78</sup>

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71 Sportsbet, *Submission 1*, p. 23.

72 Financial Counselling Australia, *Submission 22*, p. 17.

73 Financial Counselling Australia, *Submission 22*, pp. 17–18.

74 Australian Hotels Association, *Submission 14*, p. 5.

75 CrownBet, *Submission 18*, p. 12.

76 RWA, *Submission 23*, p. 2.

77 Sportsbet, *Submission 1*, p. 24.

78 Sportsbet, *Submission 1*, p. 24.

3.61 William Hill Australia (WHA) submitted that it 'endorses a national self-exclusion scheme, allowing customers to opt out of betting for periods of time, or permanently'.<sup>79</sup>

3.62 RWA supported the introduction of a NSER to allow for permanent cross-operator self-exclusion. RWA noted that government is planning to introduce a NSER as part of the National Consumer Protection Framework. However, it noted concern about the model being considered and was of the view that it did not go far enough. RWA pointed to the proposal to allow customers to select which and how many operators to exclude from rather than automatically resulting in exclusion from all operators.<sup>80</sup>

3.63 There was also strong endorsement of the introduction of a NSER from welfare and health organisations, together with the APS. These organisations considered establishment of a NSER to be one of the most important additions to the IGA.<sup>81</sup>

3.64 Dr Sally Gainsbury, Gambling Treatment Clinic and Research Unit, The University of Sydney, commented that a NSER should have the following functions:

A National Self-exclusion Register would allow a customer to immediately exclude from all domestic gambling sites and be removed from the mailing list, including offers and promotions. Individuals should also be provided with information to block ads online, and unfollow all social media accounts of gambling operators. Individuals may also be advised to avoid mediums and times that are likely to lead to exposure to advertisements for online gambling, for example, watching televised sporting events. Referral information should also be provided to assist individuals in seeking further help that is relevant to their location.<sup>82</sup>

3.65 Dr Anna Thomas also suggested that the NSER could consider options for short-term self-exclusion, to allow people to quickly stop for a short period of time, thereby allowing the customer time to consider whether or not they would like to continue gambling.<sup>83</sup> Dr Thomas explained how a 'stop' button could be made available:

...an online gambling company in Finland that had implemented a 'panic button' for online poker players that allowed gamblers to press a button and

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79 William Hill Australia (WHA), *Submission 6*, p. 5.

80 RWA, *Submission 23*, pp. 2–3; The Hon Stephen Conroy, Executive Director, RWA, *Proof Committee Hansard*, 7 March 2017, p. 21.

81 Dr Sally Gainsbury, Deputy Director, Gambling Treatment Clinic and Research Unit, Senior Lecturer, School of Psychology, The University of Sydney, on behalf of the APS, *Answers to questions taken on notice*, p. 1.

82 Dr Sally Gainsbury, Deputy Director, Gambling Treatment Clinic and Research Unit, Senior Lecturer, School of Psychology, The University of Sydney, on behalf of the APS, *Answers to questions taken on notice*, p. 1.

83 Dr Anna Thomas, *Proof Committee Hansard*, 7 March 2017, p. 9.

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immediately suspend an online gambling account for a short period. I understand other online gambling companies have since implemented similar options for their customers (e.g., William Hill in the UK).<sup>84</sup>

3.66 Ms Jenny Williams, the former CEO and Commissioner of the UK Gambling Commission, noted that in 2015, the Commission was able to strengthen consumer protection through the introduction of short periods of 'time out'.<sup>85</sup>

### **Financial transaction blocking**

3.67 The bill provides for the issuing of injunctions by the Federal Court to block transactions in relation to a prohibited internet gambling service. RWA stated that it, and its members, supported this provision in principle as well as blocking of illegal offshore gambling websites. RWA went on to state that 'while we have some reservations about the potential effectiveness of these measures, we believe that if appropriately implemented they could contribute to reducing the impact of illegal offshore wagering'.<sup>86</sup>

3.68 However, other submitters did not support this proposal. CrownBet stated that that this would be a costly and difficult solution, that was unlikely to be effective.<sup>87</sup>

3.69 The provision was also not supported by the Australian Bankers' Association which noted that intervention in the banking and payment system was 'problematic' and pointed to technical and practical problems:

- prohibiting transactions based only on a name is not possible and banks and authorised deposit-taking institutions (ADIs) would need account number(s) and/or beneficiary details;
- unless account number(s) and/or beneficiary details are provided, banks and ADIs will not be certain that they have the correct information and therefore would not be able to block a transaction;
- internet gambling services may create and maintain accounts in multiple names and merchant ID numbers thereby limiting the effectiveness of financial blocking;
- the implementation of a new compliance obligation to block transactions from a customer's bank account would involve the development of significant systems which would have an impact on the cost and efficiency of banking and payment systems; and
- the proposed provisions only relate to banks and ADIs and not credit card issuers and alternative payment providers which would likely result in

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84 Dr Anna Thomas, *Additional information*, 7 March 2017, p. 1.

85 Ms Jenny Williams, *Submission 21*, p. 2.

86 RWA, *Submission 23*, p. 6.

87 CrownBet, *Submission 18*, p. 8.

customers and internet gambling providers to shift their financial transactions and payment preferences to providers not caught by this provision.<sup>88</sup>

3.70 In response to concerns about the cost of transaction blocking being prohibitive, Uniting Communities stated that 'the cost of harm is even more prohibitive'.<sup>89</sup>

3.71 Former CEO and Commissioner of the UK Gambling Commission, Ms Williams, also noted that in 2014–15, financial transaction blocking was considered by the Commission but was assessed to be both costly and not very effective:

The Commission also investigated the costs and benefits of both ISP and financial payments blocking and concluded after discussions with other regulators and looking at the evidence that it did not want such powers. While blocking powers would have some disruptive impact they were not very effective but were very labour intensive. There would be continuous pressure not least from licensed operators for the Commission to use the powers despite the limited impact and often disproportionate costs and time involved and a real risk, therefore, that Commission resources would get sidetracked into what would be at best a pretty ineffective disruption tool.<sup>90</sup>

3.72 The committee was also informed that Treasury was working on payment blocking using credit cards as a disruption measure for illegal offshore wagering providers.<sup>91</sup> Treasury later clarified that, since October 2016, it has consulted key industry groups and other government agencies concerning potential payment system disruption measures for illegal offshore gambling.<sup>92</sup>

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88 Australian Bankers' Association, *Submission 16*, pp. 2–4.

89 Mr Mark Henley, Uniting Communities, *Proof Committee Hansard*, 7 March 2017, p. 31.

90 Ms Jenny Williams, *Submission 21*, p. 4.

91 Mr Tristan Reed, Branch Manager, Welfare Quarantining and Gambling, Department of Social Services, *Proof Committee Hansard*, 7 March 2017, p. 55.

92 Treasury, *Answers to questions on notice*, p. 1.

# Chapter 4

## Committee view

4.1 The committee received compelling evidence of the harmful effects that problem gambling has on individuals, their families, and the community. The damage is not only confined to financial losses but also represents a significant public health concern as it is associated with depression, anxiety, self-harm and suicide.

4.2 The committee considers that the regulation of interactive gambling in Australia requires reform to enhance consumer protections and strengthen enforcement. Consequently, the committee is supportive of many of the principles that underpin this bill. However, the committee notes that since the bill was introduced, there have been several developments that may render the bill unnecessary.

### **The O'Farrell Review and government response**

4.3 It is clear that the government has been undertaking work to ensure a safe wagering environment for Australians. As discussed in Chapter 1, in 2015, the then Minister for Social Services commissioned the Hon Barry O'Farrell to conduct a review of illegal offshore wagering. The review investigated harm minimisation and consumer protection measures and methods to strengthen enforcement of the *Interactive Gambling Act 2001* (IGA).

4.4 In April 2016, the government released the report of the O'Farrell review and its response to the review. As part of its response, the government committed to the establishment of a national self-exclusion register for online wagering (NSER), a voluntary pre-commitment scheme, better information for individuals about their gambling spend and a ban on online wagering companies offering lines of credit.<sup>1</sup>

4.5 On 10 November 2016, the government introduced the Interactive Gambling Amendment Bill 2016 (the government bill). The government bill represents the first stage of the government's response to the O'Farrell review. The government bill contains proposed amendments that are designed to clarify the law regarding illegal offshore gambling and strengthen the enforcement mechanisms under the IGA.

4.6 The government bill was passed by the House of Representatives on 8 February 2017 and was recently debated by the Senate and passed with amendments. At the time of writing, the government bill is before the House of Representatives, which will consider amendments made by the Senate that were supported by non-government senators.

4.7 In addition, following the in principle agreement between the Australian, state and territory governments reached on 25 November 2016, the government bill will be supplemented by the National Consumer Protection Framework. The framework will result in the introduction of an NSER, a voluntary pre-commitment scheme for online

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1 Senator the Hon Mitch Fifield and the Hon Alan Tudge MP, 'Consumer protections and tougher laws to combat illegal offshore wagering', *Media release*, 28 April 2016.

wagering and a prohibition on lines of credit being offered by wagering providers.<sup>2</sup> The national framework will give effect to many aspects of the government's April 2016 response to the O'Farrell review.

4.8 The government has also announced that it will be consulting with internet service and financial payment providers around disruption measures to further reduce illegal offshore gambling activity.

## **Consideration of the bill**

### *Measures covered by the government response to the O'Farrell review*

4.9 It is evident that the bill examined by the committee would implement the government's response to the O'Farrell review by other means. The committee also notes that, during the recent debate in the Senate on the government bill, Nick Xenophon Team senators moved amendments that sought to incorporate many aspects of the bill into the government bill. In the committee's view, this demonstrates that the amendments contained in this bill have been considered through the legislative process underway for the government bill.

4.10 Nevertheless, this inquiry has provided an opportunity to take evidence on matters that were considered by the O'Farrell review and the government's response. The evidence provided to this inquiry concerning the introduction of a NSER, a voluntary pre-commitment scheme and a prohibition on credit betting has demonstrated that these measures will be positive for harm minimisation.

4.11 The committee is of the view, however, that consultation and agreement with state and territory jurisdictions is vital to ensuring the success of these measures. This is particularly the case given that gambling is generally a state and territory responsibility. The committee was informed that consultation with states and territories concerning the national framework is progressing well and that by April 2017 the Department of Social Services is hoping to commence public consultation.

### *Enforcement measures*

4.12 The bill proposes that an Interactive Gambling Regulator would be established to monitor and enforce restricted wagering services' compliance with the IGA. The bill also proposes financial transaction blocking of prohibited gambling services through the issue of injunctions by the Federal Court.

4.13 The committee notes that pursuant to the IGA, the Australian Communications and Media Authority (ACMA) has an established complaints-based system to deal with prohibited internet gambling services. Additionally, changes to ACMA's compliance and enforcement powers will be streamlined and strengthened as a result of the government's bill. While the committee recognises that monitoring and enforcement of offences and civil penalties is integral to a successful regulatory regime, the committee does not believe the case has been made that a dedicated Interactive Gambling Regulator is necessary to achieve this.

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2 The Hon Alan Tudge MP, 'Gambling Ministers agree to consumer protection framework for online wagering', *Media release*, 25 November 2016

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4.14 The committee has also carefully considered the evidence received concerning the proposal to introduce financial transaction blocking. In particular, the committee notes the submission from the former CEO and Commissioner of the UK Gambling Commission that financial transaction blocking was considered by the UK Gambling Commission but was assessed to be costly and not very effective. The committee was advised that Treasury has been investigating and consulting with key industry groups and other government agencies about options for blocking illegal offshore wagering providers. The committee is of the view that it would be premature to implement financial transaction blocking without properly investigating the costs and effectiveness of this measure.

#### ***Micro betting vs in-play betting***

4.15 As outlined by submitters to this inquiry, the definition of micro betting as proposed by this bill captures in-play betting. The committee notes that the government bill proposes amendments to in-play betting services so that 'click-to-call' in-play betting services are prohibited, required that dealings with customers to be wholly by way of spoken conversations between individuals. The committee considers that the amendments proposed in the government's bill relating to in-play betting are appropriate.

#### **Conclusion**

4.16 The evidence presented to the committee regarding problem gambling, and in particular, problem gambling in the online environment is highly concerning. The committee agrees that national reform is necessary and its implementation should be a priority.

4.17 The committee notes the government's commitment to establishing a safe wagering environment for Australians by implementing the recommendations of the O'Farrell review. It is clear that there has been significant progress in developing and implementing the measures announced by the government.

4.18 The committee appreciates the overall intent of the bill; however, the committee considers that the objectives the bill seeks to achieve will be more effectively achieved through the processes initiated by the government. The work already underway indicates that the bill is no longer necessary. Accordingly, the committee does not support the bill.

#### **Recommendation 1**

**4.19 The committee recommends that the Senate not pass the bill.**

**Senator Linda Reynolds CSC  
Chair**



## **Labor Senators' Additional Comments**

1.1 Labor Senators recognise that well-regulated gambling has a place in Australian society and that the growth of illegal online gambling is of great concern. While the majority of people who bet gamble in a responsible manner, Labor knows that gambling in our community can, in some cases, have devastating social, financial and emotional consequences.

1.2 Labor Senators are supportive of many of the principles that underpin the Interactive Gambling Amendment (Sports Betting Reform) Bill 2015 (the bill) however we acknowledge that several recent developments render the bill unnecessary.

1.3 Labor Senators note that in April 2016, the government announced that it would implement its response to the O'Farrell Review in three tranches, and that in November 2016 an announcement was made that agreement had been reached between Australian, state and territory governments to establish a National Consumer Protection Framework for online wagering.

1.4 Labor Senators note that, as part of the first tranche of reform, the government's Interactive Gambling Amendment Bill 2016 (the government bill) passed the House of Representatives in February 2017 and the Senate with amendments in March 2017.

1.5 While Labor Senators welcome the government's response to the O'Farrell Review, and the commitment by Commonwealth, state and territory ministers to work together to develop and establish a national consumer protection framework, we want this important work to be completed without delay.

1.6 Labor Senators supported an amendment to the government bill proposed by the Nick Xenophon Team related to banning credit betting, noting that gambling can have devastating impacts in our community. Labor Senators also note that the Coalition government's own policy position has been to ban credit betting for a number of years. Labor urges the government to expedite progress on the issue of credit betting and remains open to working with government to ensure an appropriate balance is struck between existing business practices and much-needed consumer protection in this area.

1.7 Labor Senators also note problem gambling can cause significant harm and credit betting can be particularly problematic, often resulting in massive debts being incurred by people who simply cannot afford to pay them off. Labor Senators are supportive of measures that ensure there are appropriate protections for vulnerable Australians.

1.8 Labor's approach on the issue of gambling advertising demonstrates an understanding of, and confidence in, the co-regulatory system of broadcast regulation, as enshrined in the *Broadcasting Services Act 1992*. Labor believes that industry

should be afforded the time and flexibility needed to alter business practices and contractual arrangements to address community concerns.

1.9 For these reasons, Labor Senators regard the Interactive Gambling Amendment (Sports Betting Reform) Bill 2015 as unnecessary at this time.

**Senator Anne Urquhart**  
**Senator for Tasmania**

**Senator Anthony Chisholm**  
**Senator for Queensland**

# **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.

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**

# Appendix 1

## Submissions and additional information

### Submissions

#### *Received during the 44<sup>th</sup> Parliament*

- 1 SportsBet
- 2 Free TV Australia
- 3 Dr Anna Thomas
- 4 Australian Psychological Society
- 5 Gambling Impact Society (NSW) Inc.
- 6 William Hill Australia
- 7 Royal Australian and New Zealand College of Psychiatrists
- 8 Mission Australia
- 9 Bet365
- 10 Ladbrokes Digital Australia Pty Ltd
- 11 Australian Wagering Council
- 12 Tatts Group Limited
- 13 Tabcorp
- 14 Australian Hotels Association
- 15 Harness Racing Australia
- 16 Australian Bankers' Association Inc
- 17 Uniting Communities
- 18 CrownBet Pty Limited / Betfair Pty Limited
- 19 Racing Australia
- 20 ASTRA
- 21 Ms Jenny Williams
- 22 Financial Counselling Australia

#### *Received during the 45<sup>th</sup> Parliament*

- 23 Responsible Wagering Australia

**Tabled documents**

Australian Psychological Society – APS Public Interest Team, *Gambling-related harm: A Position Statement*, prepared for the Australian Psychological Society (public hearing, Melbourne, 7 March 2017)

Australian Psychological Society – APS, *2016 Presidential Initiative: The Contributions of Psychology to the Big Issues of the 21st Century* (public hearing, Melbourne, 7 March 2017)

Dr Anna Thomas – Australian Institute of Family Studies and Australian Gambling Research Centre, *Review of electronic gaming machine pre-commitment features: Limit setting* (public hearing, Melbourne, 7 March 2017)

Dr Anna Thomas – Australian Institute of Family Studies and Australian Gambling Research Centre, *Review of electronic gaming machine pre-commitment features: Self-exclusion* (public hearing, Melbourne, 7 March 2017)

Dr Anna Thomas – Australian Institute of Family Studies and Australian Gambling Research Centre, *Review of electronic gaming machine pre-commitment features: Transaction history statements* (public hearing, Melbourne, 7 March 2017)

Tabcorp – Half-yearly results financial statement (public hearing, Melbourne, 7 March 2017)

Financial Counselling Australia – *Duds, Mugs and the A-List: the impact of uncontrolled sports betting*, August 2015 (public hearing, Melbourne, 7 March 2017)

**Additional information**

Additional information provided by Dr Anna Thomas following public hearing, Melbourne, 7 March 2017

**Answers to questions on notice**

Australian Psychological Society – Answers to questions on notice, public hearing, Melbourne, 7 March 2017

Dr Anna Thomas – Answers to questions on notice, public hearing, Melbourne, 7 March 2017

Tabcorp – Answers to questions on notice, public hearing, Melbourne, 7 March 2017

Responsible Wagering Australia – Answers to question on notice, public hearing, Melbourne, 7 March 2017

Department of Social Services – Answers to questions on notice, public hearing, Melbourne, 7 March 2017

Department of Treasury Answers to questions on notice

# **Appendix 2**

## **Public hearing**

*Tuesday, 7 March 2017 – Melbourne*

### **Australian Psychological Society**

Ms Heather Gridley, Manager, Public Interest  
Dr Harriet Radermacher, Research and Policy Officer, Public Interest

### **Dr Anna Thomas – Private capacity**

### **Responsible Wagering Australia**

Mr Stephen Conroy, Executive Director

### **Uniting Communities**

Mr Mark Henley, Manager, Advocacy and Communications

### **Tabcorp**

The Hon Peter McGauran, Racing Advisor  
Mr Julian Hoskins, Acting General Counsel

### **Racing and Wagering Western Australia *via teleconference***

Mr Richard Burt, Chief Executive Officer,  
Mr Glenn Miller, Manager Compliance and Legal

### **Mission Australia *via teleconference***

Mr Noel Mundy, State Director for Victoria and Tasmania

### **Financial Counselling Australia**

Ms Lauren Levin, Director Policy and Campaigns

### **Department of Communications and the Arts**

Dr Carolyn Patteson, First Assistant Secretary, Content Director  
Mr David Jansen, Director, Broadcast Content Section  
Mr Andrew Verdon, Assistant Director, Online Gambling Section

### **Department of Social Services**

Mr Tristan Reed, Branch Manager, Welfare Quarantining and Gambling