

## CHAPTER 3

### SCOPE OF THE BILL

#### Introduction

3.1 In the context of the conclusion that the Government should implement a ban on internet gambling, this chapter considers whether the coverage of the ban as proposed by the bill is appropriate. Submissions to this inquiry have argued that the bill should not ban wagering and lottery services provided on the internet, and that the broad definition adopted by the bill may have unintended impacts on various existing activities.

3.2 These submissions accordingly seek a narrowing of the definition of interactive gambling.

#### Inclusion of wagering

3.3 The Committee received a significant number of submissions that argued for the exclusion of wagering from the bill.<sup>1</sup> This is based on four points:

- there are significant differences between wagering and gaming;
- wagering via the internet does not involve any new gaming product;
- banning wagering on the internet may have significant adverse impacts on the racing industry; and
- wagering is already adequately regulated.

#### *Differences between wagering and gaming*

3.4 First, submissions argue that wagering is fundamentally different in character to gaming and lacks the addictive characteristics of gaming. Interactive wagering relates to a gambling event that takes place on a physical race track or playing field, and includes betting on a sporting event such as horseraces, football or greyhounds. According to Centreracing:

Wagering, whether it be through the internet or not, can not be considered interactive. Events are conducted and controlled by regulated authorities, upon which people wishing to place a bet make their selections with a third party supplier. These selections are not spur of the moment betting, but researched via newspapers, radio, television and internet information.<sup>2</sup>

3.5 Dr Ashman, representing the Australian Registered Bookmakers' Advisory Council (ARBAC), gave this explanation of the differences:

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1 In addition to those specified below, submissions include: ACT government, Submission 20, p 1; NT government, Submission 22, p 8; FACTS, Submission 35, p 11; IAS, Submission 23, p 4.

2 Submission 19, Centreracing, Submission 23, p 1. See also ARBAC, Submission 1, pp 5-6; ARB, Submission 2, p 7; WA government, Submission 17, p 2; Mr A Baxter, Submission 18, pp 2-3.

Wagering is about skill and judgment. It provides for a heightened level of excitement when watching a horse race or sporting contest or some other event where the punter has a real expectation of winning. Interactive gaming does not involve skill. It is a high frequency activity and is randomly based. I am also appalled by the suggestion by some commentators that wagering is in some way less regulated than gaming. This is a fallacy. Bookmaking and totalisator operations are subject to stringent controls and regulations at various levels, including state government departments, racing industry control bodies and self-regulation.<sup>3</sup>

3.6 In contrast, interactive gaming is entirely technology dependent, and lacks any of the skill or research components of wagering, being purely based on a random event at certain odds. According to the Senate Information Technologies Committee report, *Netbets*:

‘Online gaming’ is where the gambling event is based on a computer program and the outcome is determined by a random number generator. These activities involve no element of skill and include games such as black-jack, poker lotteries and electronic gaming machines.<sup>4</sup>

3.7 This view is supported by Canbet:

Gaming involves gambling with the certainty that participants will in the end lose a set proportion of their bet.<sup>5</sup>

3.8 It is argued that elements of gaming make it inherently more addictive than wagering:

These games can be played at high rapidity 24 hours a day, and do not rely on an actual event or occurrence for their determination.<sup>6</sup>

3.9 Because of these differences, a number of submissions argued that wagering is not likely to cause problem gambling. Centrebet states:

We believe we are an organisation that has a lot of experience in this area. Our experience has been that there have been virtually no examples of problem gambling arising from sports betting, either online or offline, in the time that we have been operating.

We think there are three reasons for that. The reasons are: firstly, there is a long gap between the time a bet is actually placed and resulted; secondly, it requires some skill, rather than chance, to determine winners consistently; thirdly, events occur reasonably infrequently. In fact, if you placed a bet at 8 o’clock this morning the first opportunity you would have the result of the bet would not be until after

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3 Dr Ashman, *Proof Committee Hansard*, Canberra 4 May 2001, p 9.

4 Senate Select Committee on Information Technologies Report, *Netbets: A review of online gambling in Australia*, March 2000, p 2.

5 Canbet, Submission 10, p 1.

6 TAB NSW, Submission 7, p 3.

lunch today and there would not be another opportunity until 5 o'clock tonight. There are quite large gaps between those occasions.<sup>7</sup>

3.10 Instead, studies have found that the bulk of problem gambling is associated with the increased accessibility of gaming products, and in particular 'pokies' or Electronic Gaming Machines.<sup>8</sup> The Productivity Commission said:

The grounds for bans are strongest for gaming technologies (casino-type games such as roulette and virtual gaming machines). The case for banning internet wagering (sports betting and racing) or traditional lotteries are weaker, reflecting likely lower risks and the fact that other mediums for making these gambles, such as phone-betting, are close substitutes for the internet.<sup>9</sup>

3.11 In supporting their claim that wagering is not responsible for current problems in problem gambling, evidence to the inquiry pointed out that in the past decade, national wagering turnover has dropped 10.8 per cent to \$11.717 billion while gaming turnover has grown 900 per cent to \$90.722 billion. Over the same period, real wagering expenditure (that which is lost by punters) has risen by only 21.3 per cent to \$1.704 billion whereas real gaming expenditure has risen 600 per cent to \$10.705 billion.<sup>10</sup> TAB Ltd argues that this negative growth trend:

has continued during the last 10 years despite the introduction of computer based interactive wagering services. These figures show that real per capita annual racing expenditure has dropped from \$171 in 1975 to \$118 last year, a fall of approximately 30 per cent. During the last 10 years the decline in racing expenditure has averaged 17 per cent. We think it is worth noting that the real per capita growth in gaming during the same 25 year period has been approximately 300 per cent, with the last 10 years representing a growth of approximately 150 per cent. From a fairly even comparison 25 years ago, expenditure on gaming now outstrips wagering by a factor of some seven to one.<sup>11</sup>

3.12 Evidence on behalf of the wagering industry argued instead that for online wagering, the key issue is micro-event wagering. Mr Ryan, representing ARBAC, explained that micro-event wagering is:

will the next ball be hit for a two or a three, or how many runs will be scored off the next ball? Will the next serve be an ace? It is those types of events. In itself, that event before it occurs is not critical to the outcome of the overall competition. The next ball served by Patrick Rafter is not going to be critical as to whether he wins the game or not. It is chance based.<sup>12</sup>

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7 Mr Morgan, *Proof Committee Hansard*, Canberra 4 May 2001, p 1. See also Centrebet, Submission 33, p 3.

8 ARBAC, Submission 1, p 2.

9 Productivity Commission, 'Inquiry Report into Australia's Gambling Industries', November 1999, para 18.54. Quoted in Submission 17, WA government, p 1.

10 ARBAC, Submission 1, p 8. See also Canbet, Submission 10, p 1; WA government, Submission 17, p 3.

11 Mr Wilson, *Proof Committee Hansard*, Canberra 4 May 2001, p 17. See also Mr Ryan, *Proof Committee Hansard*, Canberra 4 May 2001, p 13.

12 Mr Ryan, *Proof Committee Hansard*, Canberra 4 May 2001, p 13.

3.13 By reason of the high rapidity of the events, and their chance based nature, this form of gambling is likely to be inherently more addictive than other forms of wagering. However, as ARBAC point out, micro-event wagering has already been controlled by means of a self-imposed industry moratorium.<sup>13</sup>

*No new gaming product*

3.14 The wagering industry also points out that because wagering is based on physical events in contrast to a computer generated game, the use of the internet to place bets simply a new way of placing a bet, and not any new gaming product. The Australian Racing Board argues:

Since virtually the inception of Australian TABs in the 1960s, significant proportions of turnover have been attributable to off-course punters placing bets with TABs against pre-established account funds via the telephone (telephone betting currently accounts for some 25 per cent of total TAB turnover). Additionally, since the early to mid-1990s larger-scale punters in all jurisdictions have had access to official bookmakers' telephone betting services.<sup>14</sup>

... This, combined with the existence of a racing channel on pay TV means that, in terms of enabling 'remote' gambling, internet wagering facilities as such add little to what has already been available over the telephone for several decades.<sup>15</sup>

3.15 The Australian Racing Board comment:

The huge increase in Australian internet connectivity points clearly to the conclusion that wagering by this medium will increasingly replace betting with TABs either in person or by telephone.<sup>16</sup>

3.16 Accordingly, the Western Australian government argue there is:

little difference between the now acceptable purchasing of products, including shares, in an 'e-commerce' environment, and buying a lottery ticket or placing a bet with the TAB through the internet.<sup>17</sup>

3.17 The wagering industry concludes that the increasing use of the internet in their gambling operations does not reflect a growth in wagering but the transfer of existing customers away from telephone betting, and betting on-site, to the internet.<sup>18</sup>

3.18 As was discussed in Chapter 2,<sup>19</sup> there are also arguments stressing the importance of not impeding the adoption of new technologies. With reference to the wagering industry,

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13 ARBAC, Submission 1, p 3.

14 ARB, Submission 2, p 8.

15 ARB, Submission 2, p 8. See also TABCORP, Submission 24, p 8.

16 ARB, Submission 2, p 14.

17 WA Govt, Submission 17, p 2. See also TAB NSW, Submission 7, p 3.

18 Mr Charles, *Proof Committee Hansard*, Canberra 4 May 2001, p 16. For details of the extent of the transfer of customers from phone betting to internet, see Canbet, Submission 10(a), p 1.

19 See paragraphs 2.18 – 2.20.

there are significant cost advantages in using the internet as the communications medium, as Mr Charles from TABCORP explains:

We win on the cost side, because it costs \$10 for you to phone through to the TAB. So if you phone through and have a \$2 bet we have just lost money; whereas if someone puts a bet on the internet it is a matter of cents. It costs less than a dollar to transmit that bet.<sup>20</sup>

### *Effects of a ban on wagering*

3.19 A third issue relates to the effects of a ban on internet wagering on the racing industry and the implications of this for regional Australia. The Australian Racing Board submission explained that:

... racing and wagering are inextricably linked. Racing is heavily reliant upon large and consistent revenue flows from wagering turnover, to the extent that at present some 70 per cent of the racing industry's total revenue is derived from TAB payments. Without this revenue there would be a severe reduction in the income flows to race clubs, breeders, owners and industry workers.<sup>21</sup>

3.20 The scale of the annual revenues derived from wagering was detailed by TAB Ltd:

\$173 million distributed to the New South Wales racing industry; \$189 million distributed to the New South Wales government in wagering taxes; and \$51 million retained by TAB and paid to our shareholders in after-tax profits from our wagering business. The \$173 million paid to the New South Wales racing industry represents over 70 per cent of that industry's total revenues.<sup>22</sup>

3.21 The Committee also heard evidence of both the scale of the Australian racing industry, and its importance to regional Australia:

The racing industry, defined according to the nine main activities of administration, breeding, owning, training, riding, veterinary, farriers, clubs and race gambling made up about ½ of one per cent of Australia's Gross Domestic Product (GDP) amounting to some \$2.4 billion. Direct employment in the racing industry involves some 132,000 people and amounted to 40,000 full-time equivalents (FTE).<sup>23</sup>

3.22 Importantly, over three quarters of the 22,000 races held around Australia each year take place in the bush or in regional areas of Australia,<sup>24</sup> and roughly 40 per cent of the industry's contribution to production and employment levels is generated in regional Australia.<sup>25</sup>

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20 Mr Charles, *Proof Committee Hansard*, Canberra 4 May 2001, p 16. See also Mr Ryan, *Proof Committee Hansard*, Canberra 4 May 2001, p 12; TAB NSW, Submission 7, p 3; and TABCORP, Submission 24, p 8.

21 ARB, Submission 2, p 6.

22 Mr Wilson, *Proof Committee Hansard*, Canberra 4 May 2001, p 17.

23 ARB, Submission 2, p 4. Quoting the ACIL Australia report.

24 Mr Charley, *Proof Committee Hansard*, Canberra 4 May 2001, p 8.

25 ARB, Submission 2, p 4.

3.23 The Committee has also heard evidence that by reason of the Australian racing industry's reliance on gaming funds, it is particularly vulnerable to the diversion of Australian betting funds to overseas internet wagering companies who do not return any of their revenue to the industry:

A fundamental distinguishing feature of racing is that, unlike most other industries, it is possible for an outside party to garner revenues from the industry without contributing to its costs.<sup>26</sup>

3.24 Mr Charley, Chairman of the Australian Racing Board, explained that this threat is already significant:

Already in the form of bookmakers based in the no-tax haven of Vanuatu, taking bets from Australian citizens on Australian racing is a real problem. Recently, the UK company SportsBet.com, the seventh largest bookmaker in Europe, acquired the operation in Vanuatu which was previously owned by Australian interests. The turnover that was listed in the report to the London Stock Exchange was that that operation is turning over \$500 million a year – greater than the total turnover of bookmakers operating legally in Victoria. That \$500 million is currently costing the Australian racing industry \$20 million a year in revenue and the state government somewhere between \$15 million and \$20 million a year.<sup>27</sup>

3.25 The argument is therefore that in the context of a general transfer of wagering activity to the internet, banning Australian wagering businesses from supplying internet services will reduce the funding to this important regional business sector, with adverse implications for the existence of the industry and employment.

3.26 The Committee further notes the particular effect that the ban would have on the access to existing betting services of regional Australians who are often a long way from the city infrastructure of TABs and agencies. These concerns were noted by the Western Australian government:

The internet provides an important platform through which Western Australians access wagering services within the State. The Western Australian TAB internet service provides not only a readily accessible wagering service but also information and live audio to many Western Australians who would not normally have access to these services.

Western Australia, with an area of over a million square kilometres provides service operators such as the Western Australian TAB with vastly different problems to that experienced by TAB's in locations such as the ACT or Victoria. The TAB internet wagering and information platform provides a much needed and efficient service to many Western Australians interested in racing.<sup>28</sup>

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26 ARB, Submission 2, p 12. See also p 14, and TAB NSW, Submission 7, p 6.

27 Mr Charley, *Proof Committee Hansard*, Canberra 4 May 2001, p 9.

28 Western Australian Government, Submission 17, p 3.

*Wagering is already strictly regulated*

3.27 Finally, it is argued that the wagering and racing industries are already heavily regulated, principally by state and territory legislation, and that the imposition of the proposed Federal legislation is unnecessary and duplicative.<sup>29</sup> Also forming part of the regulatory structure is a national regulatory model approved the Australian racing ministers,<sup>30</sup> and the bookmakers' self-regulatory mechanism.<sup>31</sup>

3.28 Professor McMillen, however argues that while racing is regulated, Australian Institute of Gambling Research shows that in many cases, Australian sportbetting and wagering providers have not introduced player protection measures to equal those of the interactive gaming providers.<sup>32</sup>

3.29 This is echoed by Mrs Pafumi representing Lasseters:

if wagering is to be exempted, this industry must be subject to the exact same standards of regulation set by the online casino industry, including spending limits. Only then could the government be assured that problem gambling will not result from this exempted industry.<sup>33</sup>

*Sportsbetting*

3.30 A further issue raised by the evidence is the extent to which sportsbetting, as a sub-category of wagering, ought to be covered by the bill. Professor McMillen from the Australian Institute for Gambling Research pointed out that, according to Tasmanian Gaming Commission statistics for 1999-2000, whilst gaming machine turnover increased by 12.27 per cent in that year; sportsbetting increased by 42.13 per cent:

If the aim of the legislation is to address problem gambling, the TAB's proposal that wagering should be exempted from the bill is unacceptable. As the TGC figures above indicate, sportsbetting is the most rapidly growing gambling market in Australia.<sup>34</sup>

3.31 TAB Ltd rejected this evidence, basing their response on the same Tasmanian government statistics:

Sports betting last year represented total real per capital expenditure of \$2.89 per adult versus total gambling expenditure of \$931.64 – clearly, less than 0.3 of one per cent of the total gambling expenditure in Australia.<sup>35</sup>

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29 ARBAC, Submission 1, p 2. See also TAB NSW, Submission 7, p 4-5; Dr Ashman, *Proof Committee Hansard*, Canberra 4 May 2001, p 9.

30 ARBAC, Submission 1, p 5-6. See also ARB, Submission 2, p 7. WA Govt, Submission 17, p 2. Mr Andrew Baxter, Submission 18.

31 Mr Ryan, *Proof Committee Hansard*, Canberra 4 May 2001, p 15.

32 AIGR, Submission 34, p 2.

33 Mrs Pafumi, *Proof Committee Hansard*, Canberra 4 May 2001, p 41.

34 AIGR, Submission 34, p 2.

35 Mr Fletcher, *Proof Committee Hansard*, Canberra 4 May 2001, p 22.

### Conclusion

3.32 Notwithstanding this evidence, the Committee notes the fundamental purpose of the bill is to limit the opportunities for Australians to gamble and that, as the Productivity Commission identified, wagering remains a significant source of problem gambling.<sup>36</sup> In this context, the Committee is also concerned at the evidence that suggests that the wagering industry does not seem to be as advanced as the gaming industry in the development of harm minimisation measures.

3.33 For this reason the Committee does not support a general exemption of wagering from the ban.

### Inclusion of lotteries

3.34 Similar arguments are put forward in relation to the sale of lottery tickets over the internet. According to these submissions, lotteries should be exempted from the ban, since they do not have the addictive characteristics of the gaming targeted by the bill, since they include a considerable interval between placing each stake and the determination of the winners.<sup>37</sup> According to Tattersalls:

In no way can it be suggested that buying a weekly lottery ticket, as Australians have regularly done for more than a century, contributes to problem gambling levels in this country.<sup>38</sup>

3.35 At the same time, Golden Casket argue that the social demographic of lottery players is broad ranging and generally representative, and is not associated with poor and more vulnerable parts of society.<sup>39</sup> Conversely, disadvantaged segments of the community, including the elderly, disabled and those living in remote areas are particularly reliant on internet access for certain services, and are therefore likely to be particularly inconvenienced by the proposed ban.<sup>40</sup>

3.36 The Western Australian government also point to the net social benefit of lotteries:

Lotteries in fact provide a net community benefit. At page 11.1 of its report, the Productivity Commission, in gauging the net impacts of the gambling industries, concludes as a *Key Message* that its *quantitative estimates for lotteries suggest that they provide a clear benefit and, in the process, general few social costs*. In Western Australia this year, the Lotteries Commission will turnover \$453 million and return \$130 million to the community.<sup>41</sup>

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36 See also Mr Wilson, *Proof Committee Hansard*, Canberra 4 May 2001, p 21.

37 Golden Casket, Submission 30, p 7. See also Boystown Lotteries, Submission 6, p 1; State Retailers Association, Submission 29, p 1, and ACT Govt, Submission 20, p 2; Mr Thorburn, *Proof Committee Hansard*, Canberra 4 May 2001, p 24. Mr Mortimore, *Proof Committee Hansard*, Canberra 4 May 2001, p 26.

38 Tattersalls, Submission 21, p 3.

39 Golden Casket, Submission 30, p 8. Reference in particular the diagrams of player statistics.

40 Golden Casket, Submission 30, p 11. Tattersalls, Submission 21, p 3.

41 WA Govt, Submission 17, p 4. See also the Productivity Commission findings that net community benefit of between \$1.1 billion and \$1.5 billion. (11.7-8) Quoted in Golden Casket, Submission 30, p 7.

3.37 Linked to this is the economic importance of the lotteries industry. An independent study commissioned by the Australian Lotteries Industry in late 1997, entitled *Economic Significance of the Lotteries Industry in Australia*, estimated that the industry made a direct contribution of over \$1.2 billion to the Australian economy, and a direct employment impact of 8,185 jobs with a further indirect impact of 17,421 jobs,<sup>42</sup> including thousands of small businesses throughout Australia that sell lottery tickets.<sup>43</sup>

3.38 As with wagering, overseas providers of lotteries are increasingly making use of the internet for promotions and ticket sales, and any prevention of Australian lotteries following suit is most likely to result in Australians using overseas lotteries with an associated fall in the revenue derived from Australian based games and the numbers of Australians employed in the industry.

### *Conclusions*

3.39 The Committee agrees with these submissions, and considers that many Australians would not necessarily even consider lotteries as falling within the definition of gambling. The Committee also notes that no evidence has been submitted to this inquiry to implicate lotteries in problem gambling. At the same time, the Committee appreciates that many Australians make use of the internet to purchase tickets, particularly those who are disabled or live in remote areas.

3.40 Accordingly, the Committee concludes that lotteries should be exempt from the provisions of the bill.

### **Scope of the proposed ban – ‘unintended consequences’**

3.41 A matter of considerable concern is the extent to which the ban would have an impact wider than that envisaged by the Explanatory Memorandum. According to several submissions, the broad definitions used to create the ban would have ‘unintended consequences’ effecting existing uses of telecommunications facilities, telephones and television broadcasting.

#### *Telecommunications networks*

3.42 Various organisations have submitted that if the bill were passed, it would have the effect of banning any gambling that uses telecommunications technology as part of the process of receiving and processing bets, even where the bettor has no ‘interactive role’. According to Tattersalls:

The bill includes within the ambit of its primary offence provision (Clause 15) any gambling body (such as a State Lottery) that uses a WAN or other carriage service within Australia to conduct its business, whether or not the actual betting by the customer takes place on-line.

Therefore, in its current state, the bill would effectively ban many existing forms of gambling that are not associated in any way with the internet – all that would be necessary to bring a gambling operation within the scope of the legislation is that it

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42 Golden Casket, Submission 30, p 4.

43 Mr Thorburn, *Proof Committee Hansard*, Canberra 4 May 2001, p 23.

uses a listed carriage service (i.e. a network connecting two or more points in Australia) to provide a gambling service to its customers.<sup>44</sup>

3.43 According to the TAB, the existing NetTAB, Betstream, and all TAB wagering operations, including on-course, agencies, PubTAB, ClubTAB, and the TAB state-wide linked poker machine jackpot system would all be covered by the ban.<sup>45</sup> Similarly, Jupiters notes the effects of the ban on their relationships with a range of small business agents connected by means of Wide Area Networks:

[N]ewsagencies receive bets (lottery tickets like Gold Lotto and Power Ball) on behalf of lottery operators and clubs and hotels receive keno entries on behalf of keno operators. The newsagencies, clubs and hotels use a listed carriage service (currently most commonly a WAN, although there is no doubt new and alternative technologies will be used in the future to provide the same service) to transmit the betting information to the lottery or keno operator. These services will be prohibited under the bill because they are provided to customers using a listed carriage service.<sup>46</sup>

3.44 It is argued that these are existing services relating to the provision of gambling in traditional gambling venues, which are already regulated under state and territory laws, and should not be included in the proposed ban. As Mr Hines, representing Jupiters, stated, the intention of the bill:

is to limit the spread of internet gaming. I did not think it was intended to cut back on land based gaming. If it is, I think it has very serious ramifications. It means that you cannot buy a lotto ticket in a newsagent, you cannot buy a keno ticket in public and you will not be able to play poker machines that are linked to jackpots. If that is the intention, we need to have that debate. I think the community view on that would be quite different from the community view on the banning of internet gaming.<sup>47</sup>

#### *The telephone exemption*

3.45 Section 5(3)(a) of the bill provides that a telephone betting service is not an Australian-based interactive gambling service for the purposes of the ban. Several submissions have queried the effect of this provision, arguing that:

the intended exemption for telephone betting services provided for in the bill is so narrow as to be largely irrelevant. In this respect the exemption may only apply when all dealings with customers in relation to a gambling service are wholly by way of voice calls (including synthetic voice etc.) using a standard phone service. In a totalizator the 'gambling service' would be the taking of bets in relation to the totalizator pool – this being achieved through a variety of mechanisms such as TAB agencies. As such, it is the solicitors' view that only 'stand alone' telephone betting operations would be exempt. TAB's, which offer telephone betting as only

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44 Tattersalls, Submission 21, p 6.

45 TAB NSW, Submission 7, p 8. Also TABCORP, Submission 24, pp 6 & 10.

46 Jupiters, Submission 31, p 2-3.

47 Mr Hines, *Proof Committee Hansard*, Canberra 4 May 2001, p 5.

one of many channels into a single totalizator pool, arguably could not therefore claim the intended telephone betting exemption.<sup>48</sup>

3.46 This concern mirrors those raised in relation to the use of telecommunications networks discussed above, and the conclusions set out below relate to both.

*Television: quiz and gameshows*

3.47 The Federation of Commercial Television Stations (FACTS) point to similar unintended effects on a wide range of current broadcasting which involve interactive elements and prizes, such as ‘Big Brother’, ‘the Weakest Link’ and ‘Wheel of Fortune’:

The Bill has the potential to detrimentally affect free to air broadcasting services when its purpose was to protect Australians from new interactive Internet gambling technology. This unintended effect will only be to the detriment of the Australian public.<sup>49</sup>

3.48 FACTS point out that as these types of program are not mentioned in the Explanatory Memorandum, the ban is not intended to have such broad effect.<sup>50</sup> FACTS also argue that the ban should not extend to these programs since there is no evidence that digital broadcast television programs are in any way associated with problem gambling and that television licences are already regulated by state governments. Consequently:

Many viewers would find this an unacceptable intrusion into what they see as their right to long established and harmless forms of entertainment which they consider enhances the television viewing experience.<sup>51</sup>

3.49 Accordingly, FACTS seeks two outcomes from the legislation:

One is that we can continue to do what we are allowed under state law to do, so that we are not precluded from our current activities. The second is to ensure that there is no discrimination in terms of technology. ... it is possible with digital to interact in more than one way. In other words, with digital coming along you can interact with the TV program through the television receiver as an alternative to interacting through the telephone – that there not be discrimination against new technology.<sup>52</sup>

*Conclusions and recommendation*

3.50 The Committee has heard the evidence presented during the inquiry that suggests the provisions of the bill may have a broader effect than was envisaged by the Explanatory Memorandum. That these effects were unintended was confirmed in large part by Mr Dale, of the National Office of the Information Economy (NOIE), the government agency responsible for carriage of the legislation:

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48 TAB NSW, Submission 7, p 8. Also WA Govt, Submission 17, p 4.

49 FACTS, Submission 35, p 1.

50 FACTS, Submission 35, p 4.

51 FACTS, Submission 35, p 11. See also Ms Flynn, *Proof Committee Hansard*, Canberra 4 May 2001, pp 23-24.

52 Ms Oddie, *Proof Committee Hansard*, Canberra 4 May 2001, p 25

The first set of issues concerns terrestrial based gambling services, particularly poker machines, which are linked by telecommunications services, TAB network operations and back-office operations and the very specific issue of sale of lottery tickets in newsagent's premises using, again, telecommunications services. In all of those cases it is not the intention of the legislation to prohibit those types of services.<sup>53</sup>

As far as the at-home interactive TV games that they gave as examples are concerned, there has been no intention on the part of the government to include those in the prohibition.<sup>54</sup>

3.51 The Committee therefore believes that on the basis of NOIE's evidence, the bulk of the concerns raised in relation to these issues will be resolved by amendments currently being drafted.

3.52 However, the Committee does endorse the caveat of Mr Dale with respect to television broadcasting, and the future potential for these services to deliver gambling services:

the qualification is that some of the examples that I understood the broadcasting representatives to be giving about what might be possible in the future – such as changing the basis of the joining fee from a 1900 number to something else and the example given of UK digital TV at the moment, where it is possible to use the television set to place bets on sporting events as they are being played – are two examples that we want to talk to them about as well. It seems to us that those sorts of services are getting fairly close to the sorts of things the government has concerns about, whether they are delivered via TV free-to-air, digital or otherwise, or whatever means. ... Maybe some of those services the government would wish to see limited or prohibited.<sup>55</sup>

3.53 On this point, the Committee also notes the comments of Mr Clark, of the Northern Territory government, in relation to the emerging power of broadcasted gaming:

the television is by far the most accessible and perhaps invasive form of technology we have at the moment. I can switch it off and I can change channels, but the reality is that I take what I am given – unlike the internet, where I actually go and choose what sites I am going to go and visit and what I am going to do when I go to those sites.<sup>56</sup>

3.54 The Committee considers that the emerging broadcasting technology has the potential to exacerbate Australian's gambling problems in a way that is even more direct than the internet. It will therefore be important for the Government to monitor the nature and content of the emerging broadcasting technology, and assess the extent to which it may impact on problem gambling.

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53 Mr Dale, *Proof Committee Hansard*, Canberra 4 May 2001, p 59.

54 Mr Dale, *Proof Committee Hansard*, Canberra 4 May 2001, p 60.

55 Mr Dale, *Proof Committee Hansard*, Canberra 4 May 2001, p 61. Mr Dale is referring to the evidence of Ms Flyn of FACTS, *Proof Committee Hansard*, Canberra 4 May 2001, p 26-28, and FACTS, Submission 35.

56 Mr Clark, *Proof Committee Hansard*, Canberra 4 May 2001, p 49.

**Recommendation 3.1**

The Committee recommends that the Interactive Gambling Bill 2001 be amended to exclude lotto and lotteries. Amendments should also exclude the unintended targets of the ban resulting from the use of internet technology for the administration of the service such as, but not necessarily limited to, telecommunications networks used by, for example, the Western Australian TAB, and television games as discussed in the report.

