

## **Dissenting Report by Senator Nick Xenophon**

1.1 While the committee's majority report makes a number of reasonable recommendations, it fails to fundamentally address the insidious promotion of gambling in sport.

1.2 This dissenting report will largely reflect the sentiments I expressed in the committee's previous report into my bill - Interactive Gambling and Broadcasting Amendment (Online Transactions and Other Measures) Bill 2011 – introduced in the Senate on 20 June 2011, and the committee reported in December 2011.<sup>1</sup>

1.3 That bill contained unambiguous provisions to prohibit the broadcasting of gambling advertising on television and radio during all sports broadcasts as well as all G-rated periods. It dealt in part with the anomaly of the current Commercial Television Code of Practice, which exempts news, current affairs and sporting broadcasts from the ban on gambling advertising during G-rated periods.

1.4 At that time, I raised concerns relating to the level of gambling advertising in sport, including the incessant broadcasting of live odds, and the subsequent risks of normalisation for the next generation who will grow up viewing sports through the prism of gambling.

1.5 Those concerns are more relevant today, and despite over 23 months elapsing, it is extremely frustrating that governments, commercial television networks, sporting clubs and corporate bookmakers are still having the same futile discussions over how to combat the proliferation of gambling in sports. However, I welcome the recent announcement of the South Australian Premier, the Hon Jay Weatherill, to strengthen the South Australian regulatory codes, which appears to go further than what the federal government is now proposing.

### **The proliferation of sports betting**

1.6 The growth in the online sports betting market is a major concern. Leading market research company Roy Morgan estimated that for the 12 months to September 2011, sports betting doubled from \$0.4 billion to \$0.8 billion.<sup>2</sup> According to media reports of IBIWorld's assessment of the gambling industry, sports betting has grown by an average of 12 per cent a year over the past five years.<sup>3</sup> Further, other estimates

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1 Joint Select Committee on Gambling Reform, *Second Report, Interactive and online gambling and gambling advertising and Interactive Gambling and Broadcasting Amendment (Online Transactions and Other Measures) Bill 2011*, December 2011.

2 Roy Morgan research, *Australians spent \$18.5 billion on gambling in the 12 months to September 2011; Spending on pokies falls to \$11.2 billion*, Media Release, 24 November 2011, <http://www.roymorgan.com/news/press-releases/2011/1489/> (accessed 5 June 2013).

3 Danielle Teutsch, 'Perfect storm fear for problem gamblers', *Sun Herald*, 30 May 2010, p. 21.

predict that sports betting will be worth \$10.6 billion, or 38 per cent of the nation's gambling industry, by 2016-17.<sup>4</sup>

1.7 The varied estimates of spending on gambling advertising highlight the need for further independent research into the prevalence of the sports betting industry in Australia.

1.8 Associate Professor Samantha Thomas told the committee of the need for further research into the impact of gambling advertising on children:

We have preliminary data which we think should be used to inform further research and it may be indicative of some of the harm that is starting to happen. For example, one of the things we know from our research with young people is that they have a very high awareness and recall of brands. This is unprompted. When we ask young people whether or not they know of any gambling-industry brands they are able to come up with at least two or three names of companies. That is concerning for us. Quite often, children also have a much higher recall of advertising and brand names than their parents and adults generally. So certainly we see that children are recognising and are aware of the products and companies, and this obviously is concerning for us—particularly when thinking about long-term behaviours and harm.<sup>5</sup>

1.9 The growth in the domestic sports betting market was also highlighted by the University of Sydney Gambling Treatment Clinic in evidence provided to the committee's inquiry into interactive and online gambling and gambling advertising over two years ago:

In the past five years, as regulation around sports betting has been loosened, there has been an increase in the number of clients presenting to the clinic with problematic sports betting. Indeed, from representing less than 5% of our clients in the 2006-2007 financial year, problem gamblers with sports betting problems now represent 15-20% of new clients in the current financial year. Thus, whilst still representing a minority, reported problems with sports betting are rising, and rising rapidly.<sup>6</sup>

1.10 It is clear that the online wagering market is growing exponentially, and it is simply ignorant (or perhaps disingenuous) of Tom Waterhouse in his purported apology to state: I understand betting turnover has not risen (apart from CPI) since

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4 Dr Sally Gainsbury and Professor Alex Blaszczynski, Submission to the Joint Select Committee on Gambling Reform's inquiry into Interactive and online gambling and gambling advertising, *Submission 7*, p. 8.

5 Associate Professor Samantha Thomas, *Committee Hansard*, 27 March 2013, p. 42.

6 University of Sydney Gambling Treatment Clinic, Submission to the Joint Select Committee on Gambling Reform's inquiry into Interactive and online gambling and gambling advertising, *Submission 9*, p. 2.

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2007.<sup>7</sup> The Roy Morgan research and IBISWorld figures referred to sit starkly at odds with Mr Waterhouse's assertion.

1.11 Independent, benchmark research on the growth of sports betting (including on unauthorised overseas sites) and prevalence levels of problem gambling due to sports betting would help inform the public policy debate. However, this research should not be used as an excuse to delay action on gambling advertising given the existing research available.

### **Recommendation 1**

**1.12 The federal government should urgently commission independent research to effectively quantify the growth and prevalence of sports betting in Australia, together with the impact of this growth on children, as well as problem gambling prevalence rates.**

### **Advertising**

1.13 While the federal government's recent announcement that it would ban the promotion of betting odds during live sports matches, generic gambling ads during game play and banners and sponsorship material is obviously a welcome reform, it should be noted that live odds advertising makes up about 5 per cent of total gambling advertising shown during sporting programs. It is also worth noting that the intention to ban live odds was first announced by the federal government in May 2011, and the government chose to allow the commercial television industry to develop amendments to its own code of conduct at a snail's pace.

1.14 Arguably, it wasn't until FreeTV released its proposed amendments to its code - which would have merely prevented the broadcast of live odds during limited time periods - that the government's hand was effectively forced.

1.15 Further, the federal government's proposal will not prevent the broadcast of generic gambling advertisements during scheduled breaks in play.

1.16 Research indicates that children under 11 have difficulty distinguishing differences between program and advertising content. The Victorian Responsible Gambling Foundation also told the committee of:

Additionally disturbing ... results from recent research on gambling advertising that indicates it is being successful in creating an attitude in those aged 13-18 that gambling is 'entertaining, harmless and convivial'.<sup>8</sup>

1.17 This research clearly highlights the critical need to legislate to ban all forms of gambling advertising at any time that children could be watching.

1.18 As Associate Professor Samantha Thomas stated:

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7 Tom Waterhouse, 'I'm sorry and I've listened to your message', *Daily Telegraph*, May 31, 2013.

8 Victorian Responsible Gambling Foundation, *Submission 17*, p. 4.

... Industry claims that the point is that advertising should not target children, in my opinion the actual point is that children should not be exposed to advertising for this potentially harmful product.<sup>9</sup>

1.19 Not only this, but given the federal government's reluctance to rapidly address the issue of gambling advertising in sports broadcasts, I am also concerned that it will not respond to any changes in the way in which the gambling industry advertises on social media and other emerging forms of technology.

1.20 As Associate Professor Samantha Thomas suggested:

Given previous evidence from tobacco and alcohol, it is extremely naïve to think that industry will not find alternative strategies to promote their products within sport, and reach and target new audiences. This also includes shifts to new media platforms such as social media sites and mobile technologies. Voluntary industry codes of conduct appear to have had very limited impact on the promotion of gambling during sport, particularly when there are 'exceptions' within these codes which allow advertising during peak audience viewing times.<sup>10</sup>

### **The effect of government inaction**

1.21 The government has been put on notice for some time now that the wider community expects effective regulation of gambling advertising in sport. Relationships Australia clearly described the work required in order to effective control of gambling advertising in sport to be realised:

Attempts in hand to further regulate the industry - to curb the promotion of live odds at matches and on broadcasts – are likely to have limited effect. Many sporting codes and individual clubs are reliant on official partnerships and sponsorships from betting agencies. The gambling industry is powerful...and it argues that it is already well-regulated.<sup>11</sup>

1.22 Strong industry opposition to greater regulation is becoming less and less convincing in the eyes of the Australian community. It must not be forgotten that the proliferation of gambling in sports is not just a numbers game, but that there are real people suffering the effects of gambling addiction as a result.

1.23 I have seen firsthand the impact of gambling addiction on families. It is too easy for a person to bet large amounts of money in short spaces of time without loved ones being aware. Often a husband or wife, son or daughter, only finds out about the problem when it is too late. By this stage the family home is history and the family is faced with repaying tens (and in some cases hundreds) of thousands of dollars of gambling debt.

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9 Associate Professor Samantha Thomas, *Committee Hansard*, 27 March 2013, p. 41.

10 Associate Professor Samantha Thomas, *Submission 33*, p. 2.

11 Relationships Australia, *Submission 10*, p. 6.

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## **Broadcasting Services Amendment (Advertising for Sports Betting) Bill 2013**

1.24 While I support this passage of this bill, I believe there are more suitable ways of addressing these particular issues. This bill sets out specific requirements in law, which makes the provisions harder to strengthen based on changing circumstances. While this is a benefit in terms of ensuring those specific provisions stay in force, it means the bill lacks flexibility. In addition, the bill should be amended to go further – there ought to be a blanket ban on gambling advertising during all sports broadcasts. The number of children watching sports broadcasts after 9pm can number in the many tens of thousands.

## **The Interactive Gambling and Broadcasting Amendment (Online Transactions and Other Measures) Bill 2011**

1.25 Instead of including the specific provisions in law, this bill proposes that regulations be introduced to place requirements on broadcasting licences.

1.26 We have seen how sports betting and advertising has evolved in such a short time. It is naïve to believe operators will not respond to the new restrictions and find ways to promote their product. By allowing for conditions to be enshrined in regulations, this bill will allow future lawmakers to respond easily and quickly to new developments.

1.27 For example, since 2011 we have seen bookmakers become involved in sports commentary teams, a situation that did not exist at the time the bill was drafted. However, the bill can continue as it stands, with the regulations themselves now expanded to cover these circumstances.

1.28 This bill also contains further provisions aimed at addressing problem gambling, including allowing problem gamblers to request their financial institutions suspend payments to online gambling providers, prohibits the use of incentives to gamble (including free online credit), and introduces stricter rules regarding match-fixing.

1.29 These provisions, together with the greater flexibility this bill allows, make it a preferable option for addressing these issues.

## **Recommendation 2**

**1.30 The Interactive Gambling and Broadcasting Amendment (Online Transactions and Other Measures) Bill 2011 be passed. In the absence of this, the Broadcasting Services Amendment (Advertising for Sports Betting) Bill 2013 should be amended to enable greater flexibility to meet emerging technological trends and to extend the ban on gambling advertising to all sports broadcasts.**

**NICK XENOPHON**

**Independent Senator for South Australia**