

Chapter 8

Other issues raised in relation to the IGA

8.1 This chapter covers other issues raised with the committee concerning the Interactive Gambling Act.

The need for legislation to be able to deal with emerging new technologies

8.2 Submissions highlighted the emerging technologies that can be used to gamble and raised concerns that the current regulations may not be keeping pace with these developments.¹ Wesley Mission noted that 'the potential for new, enticing and addictive gambling products is limitless'.² Reports indicate that gambling applications on iPhones appeal to the tech-savvy youth market and make it easy to lose money.³ Wesley Mission emphasised:

The new technology makes it possible for problem gamblers to lose more money, and faster, in the privacy of their own homes or anywhere they are not observed. Young people are the main demographic group accessing the new gambling and in many cases their lives will be ruined.⁴

8.3 Dr Sally Gainsbury and Professor Alex Blaszczynski noted:

Advances in computer graphics and technology have led to the development of sophisticated and graphically attractive Internet gaming sites that operate 24 hours 7 days per week and are readily accessible through mobile phones, personal wireless devices (e.g., iPad), and laptop computers. As a consequence, there is an expression of public concern that Internet gambling results in the negative impact and costs associated with excessive gambling and the potential to exploit vulnerable segments of the community.⁵

8.4 The Social Issues Executive, Anglican Church, Diocese of Sydney, believes that 'new technology presents possibilities for casual wagering and betting that have not been considered'.⁶

8.5 J.G. Phillips and Professor Blaszczynski noted that:

1 Note: the section below covers technologies that also facilitate sports betting and wagering which is not covered by the IGA (except the exclusions outlined in the previous chapter).

2 Wesley Mission, *Submission 2*, p. 8.

3 Anne Wright, 'Explosion in smartphone gambling, Apps luring youth punt, *Herald Sun*, 6 June 2011, p. 13.

4 Wesley Mission, *Submission 2*, p. 2.

5 Dr Sally Gainsbury and Professor Alex Blaszczynski, *Submission 7*, p. 5.

6 Social Issues Executive, Anglican Church, Diocese of Sydney, *Submission 17*, p. 1.

Interactivity (and potentially gambling) can be achieved using a number of technologies including PCs (through the internet), via television (through the telephone network e.g. Foxtel) or through games consoles and other devices (e.g. TiVo) that can access the internet, or by using mobile devices such as mobile phones (e.g. via the internet or using premium SMS).⁷

8.6 Clubs Australia highlighted the differences between online and venue-based gambling including the growth of the online gambling environment, adding that unlike traditional venues which have mandatory shutdown periods:

...new technologies foster a 'gamble anywhere, anytime' mentality. Gamblers can now place bets twenty-four seven via the internet, mobile phones or interactive televisions. As internet technology continues to pervade our lives, the number of individuals choosing to participate in online gambling will increase accordingly.⁸

8.7 The Coalition of Major Professional and Participation Sports (COMPPS) was of the view that the IGA provides a good framework but it needs to be updated to 'keep pace with recent developments in technology'.⁹

8.8 Regis Controls reported that gambling via mobile phones is a major growth area for the gambling industry.¹⁰ For example Paddy Power, which owns Sportsbet, reported a 42 per cent increase in online customers and just over one third of its active customers made their transactions via mobile devices.¹¹ Regis Controls also noted the potential for gambling via pay TV using the remote control for sports wagering/betting. It submitted that state and territory gambling authorities 'do not have a clear mandate to monitor gambling via some of the new technologies e.g. mobile phones and pay-TV and there is no overarching regulation by the Commonwealth Government covering the use of these new technologies'.¹²

8.9 Leagues Club Australia also pointed out that the growth in the mobile betting market over the past few years has provided customers a range of services to choose from for their mobile phones, particularly the iPhone:

iPhone betting apps have provided a huge step forward for the mobile market. iPhone (and smart phones in general) have such large, user-friendly

7 J.G. Phillips and Professor Alex Blaszczyński, *Gambling and the Impact of New and Emerging Technologies and Associated Products*, Final Report, August 2010, p. 12.

8 Clubs Australia, *Submission 24*, p. 2.

9 COMPPS, *Submission 16*, p. 4. See also Mr Paul Aalto, *Submission 53*, p. 1.

10 Regis Controls Pty Ltd, *Submission 35*, p. 7. See also Anglicare Tasmania, *Submission 6*, p. 3.

11 Roger Blitz, 'Paddy Power chalks up 42% rise in web clients', *Financial Times*, 30 August 2011.

12 Regis Controls Pty Ltd, *Submission 35*, p. 8.

and high resolution screens and processing speeds that it actually makes markets such as sports betting very user-friendly.¹³

8.10 It also noted the growth in mobile betting announced by Betfair which has previously marketed mobile betting as 'A bookie in your pocket'.

Betfair has seen remarkable growth in their mobile betting announcing last week that it took more than £1 billion in bets on mobile phones, with 168,000 users (up 122% on the previous years) and revenue was up 88% year on year. There is no doubt that mobile betting will continue to increase as technology continues to improve. As well, Paddy Power in Great Britain has released apps for mobile roulette, blackjack and poker, which will make these games more accessible, and will no doubt drive similar revenue growth.¹⁴

8.11 Leagues Clubs Australia also highlighted the ability to gamble via digital TV with the main provider currently being Tabcorp:

Through Foxtel services, Tabcorp has launched Sky Racing ACTIVE. Sky Racing ACTIVE is an interactive television service that provides Victorian and NSW Foxtel subscribers with the chance to view racing forms, odds, fields and results on all Gallops, Harness and Greyhound TAB meetings.

Interactive betting through this service is available only to TAB account holders in Victoria and NSW, who must satisfy identification requirements. Account holders can also manage their TAB Account, deposit funds and check transaction history. In the UK there are over 30 Digital TV stations offering sports betting and fixed odds betting.¹⁵

8.12 It reported that gambling through interactive digital TV has the potential to grow significantly:

...by bringing more new and immediate opportunities to gamblers and this will not be restricted to horse racing alone but many sports. There are several digital TV channels that have signed exclusive rights with companies to provide gambling products over the Interactive television and also through SMS TV. These channels will provide live gambling products like poker, roulette, sports betting, blackjack and racing packages. These services will be offered through the digital TV and would have a revenue sharing model with the gaming company.¹⁶

8.13 Greyhounds Australasia also mentioned the growth in gambling opportunities via interactive TV and reported:

13 Leagues Clubs Australia, *Submission 40*, p. 9.

14 Leagues Clubs Australia, *Submission 40*, p. 9.

15 Leagues Clubs Australia, *Submission 40*, p. 9.

16 Leagues Clubs Australia, *Submission 40*, p. 9.

Wagering via interactive television originally entered the Victorian market in early 2008, but has since been approved in New South Wales in 2008, Queensland in April 2011 and South Australia in June 2011. It will not be long before coverage is extended to all Australian States and Territories.¹⁷

8.14 The committee notes media reporting that a company called Two Way has developed an interactive TV wagering service with Tabcorp Holdings and Foxtel, which has now been extended to include Racing and Wagering Western Australia (RWWA). The report noted:

The company's products are currently being deployed by leading wagering and interactive TV operators in Australia and New Zealand, with the client list including Tabcorp, RWWA, TattsBet, Sportingbet, Betfair, FOXTEL, Austar, Optus TV and Sky New Zealand - with Two Way having five year contracts with some of these major companies. The unique positioning of Two Way includes being the only company with a live betting service linked to the betting engines of all the TABs, and is Australia's first and only TV wagering service. Highlighting that some punters are moving towards the service, in the last three years more than 25,000 users have placed at least one bet using the TAB ACTIVE interactive TV service on the Foxtel platform. Two Way also said more than 15.5 million bets in total have been made, with total turnover exceeding \$137 million.¹⁸

8.15 The Australian Internet Bookmakers Association was of the view that with the growth in the digital economy 'it is simply not appropriate to think that some sections of online business, such as gambling, can be quarantined from the sweeping changes that are occurring'. It added:

Similar comments can be made with respect to the interactive television betting. It is pointless to resist the introduction of this technology. Instead, the question becomes how should this be managed? Interactive television betting raises slightly different issues to online gambling because, in the usual case, the person must choose to access a particular gambling site whereas television viewers have little choice in the stations they watch. However this objection is readily overcome if the interactive gambling service is a supplementary "add on" to the televised program. The client would choose whether a betting service should be available alongside the live coverage of, say, a golf tournament, cricket match or horserace. This would also avoid the concerns that arise with certain forms of advertising around sporting events...¹⁹

8.16 However, the Australian Racing Board was more cautious and pointed out:

17 Greyhounds Australasia, *Submission 41*, p. 7.

18 Information available from:
<http://www.proactiveinvestors.com.au/companies/news/19760/interactive-media-and-gambling-group-two-way-in-pre-open-pending-capital-raising-19760.html> (accessed 19 September 2011).

19 Australian Internet Bookmakers Association, *Submission 54*, p. 23.

One of the most significant implications for public policy from the development of new technologies is the ingenuity of existing and emerging technology companies and remote operators to introduce more and more new products, to find ways of working around regulations, and to achieve high growth to drive their low-margin, high-volume business models.²⁰

8.17 DCBDE recognised in its IGA review discussion paper that 'the continued development of online gambling technologies, along with the increasing convergence of gambling technologies will also be a significant factor in the future regulation of online gambling'. It pointed to the growth of mobile gaming via the use of smartphones noting that this is 'changing the landscape of gambling'.²¹

Potential for harm minimisation measures

8.18 In response to the concerns about increased accessibility to gambling resulting from new online technologies, some submissions rejected the view that new technologies increase the risk and incidence of problem gambling and urged the committee to think of new technology providing new opportunities for consumer protection.²² Betchoice argued:

...technologies, especially those used by online operators, present opportunities for new operators to provide better harm minimisation mechanisms than traditional wagering providers.²³

8.19 Betchoice also explained the opportunities provided by the online environment to enhance probity. It explained that it is a requirement of its licence that it maintain an account for each customer and that it complies with the provisions of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth). For an account to remain open, the Act requires that customers provide a suitable level of identification within 90 days.²⁴ These checks are of a similar standard to the 100 point identity check. Compliance is monitored and enforced by AUSTRAC and regular audits of all wagering operators are conducted. Betchoice is able to use these requirements of the Act and the associated technologies to provide customers with the ability to monitor their gambling activity and restrict their access if they wish.²⁵ The potential for enhanced harm minimisation measures and probity in the online environment is further discussed in chapter three.

20 Australian Racing Board Limited, *Submission 27*, p. 3.

21 Department of Broadband, Communications and the Digital Economy, *Review of the Interactive Gambling Act 2001*, Discussion paper, August 2011, p. 10.

22 Note: the example provided in this section below relates to an online sports betting provider which is not covered by the IGA (except the exclusions outlined in the previous chapter).

23 Betchoice Corporation Pty Ltd, *Submission 43*, p. 12.

24 See chapter 11 for a further discussion of the 90 day period to verify identification.

25 Betchoice Corporation Pty Ltd, *Submission 43*, p. 12.

Committee view

8.20 The committee notes that the use of new technologies could be seen as just an extension of the existing internet technology. For example, people who would gamble anyway can access gambling on their mobiles instead of their laptop. But the key question is whether this increased accessibility is providing the same people with mobile access or whether mobile access is opening up the market to more people, thus increasing gambling participation and the potential for increased problem gambling.

8.21 The short answer is that we don't yet know the effect of these new technologies on gambling behaviour. It would certainly be normal practice for companies to try to increase market share and to do so would mean trying to attract new customers through advertising and inducements, for example. Advertising and inducements are discussed in the next chapter.

8.22 The committee agrees the IGA review needs to take into account the emergence of new technologies for gambling to ensure the legislation stays as up to date as possible and that it does not allow for loopholes. The IGA should be reviewed more regularly to take account of technology developments. The committee also believes there is a need to properly evaluate the risks from new technologies that could be used for gambling and that they should be the subject of further research. The need for further research in a number of areas is discussed in chapter two.

Other online gaming opportunities

8.23 The NSW Law Reform Commission report into *Cheating at Gambling* mentioned new forms of games such as Massive Multiplayer Online Role Playing Games which could constitute virtual casinos offering a variety of gambling opportunities. These are games such as World of Warcraft and Second Life. The games allow players to interact in a virtual world which involves the use of virtual money and trading virtual goods and services. The virtual money can, however, have real currency values 'either through mechanisms comparable to currency exchanges, where virtual currency is bought and sold, or through private real-world transactions, including transactions on online auction sites'.²⁶ The Law Reform Commission raised the question:

...whether any of the forms of gaming that may be made available in virtual worlds (including, potentially, wagering on player versus player contests), but which can have real-world economic consequences, should be regulated by any of the existing laws at either the State or Commonwealth level, including for example laws prohibiting participation by minors.²⁷

26 NSW Government, NSW Law Reform Commission, *Cheating at Gambling*, Report 130, August 2011, pp 48–49.

27 NSW Government, NSW Law Reform Commission, *Cheating at Gambling*, Report 130, August 2011, p. 49.

8.24 The report noted that some of these activities could potentially come within the reach of the IGA as they could be seen to involve a game 'played for money or anything else of value' on an internet carriage service. It concluded that this is a matter for Commonwealth regulation. It also noted that similar questions have arisen in the US where the Unlawful Internet Gambling Enforcement Act prohibits:

'the staking or risking by any person of something of value upon the outcome of a contest of others, a sporting event, or a game subject to chance' but specifically exempts 'participation in any game or contest in which participants do not stake or risk anything of value other than...personal efforts of the participants in playing the game...or...points or credits that the sponsor of the game...provides to participants free of charge and that can be used or redeemed only for participation in games or contests offered by the sponsor'.²⁸

8.25 Regis Controls pointed out some other examples which in its view should be treated as gambling opportunities:

There are other forms of new technology which are not generally regarded as part of the gambling industry but in our view should be treated as such and should be appropriately regulated and taxed. There are several hundred SMS competition sites often linked to television advertisements offering prizes (often fairly minimal in relation to the total cost of entry) for quizzes, footy tipping, pick the best catch etc. Many of these providers target minors who only need a mobile phone to enter and pay. A typical entry cost is \$2.20.²⁹

Emerging gambling opportunities for youth

8.26 Some potential new gambling opportunities appear to be targeted at youth. The committee notes the website wyngle.com.au, which is based on a new concept called ratio shopping. It lets customers try their luck at purchasing an item for \$1, otherwise they pay the advertised price. The website has been registered as a lottery with the NSW Office of Liquor, Gaming and Racing and displays the state government logo on its homepage. The Responsible Gambling Fund chairman, Mr Harry Herbert, expressed concern that young people could access the website and over-commit themselves as they hope to win an item for \$1. The director of the

28 NSW Government, NSW Law Reform Commission, *Cheating at Gambling*, Report 130, August 2011, p. 49.

29 Regis Controls Pty Ltd, *Submission 35*, p. 7. Additional information provided by Senator Nick Xenophon drew attention to another example of DoubleDown Casino which offers free casino games but when free chips run out players are required to purchase chips with real money to continue playing. If a player wins and requests their winnings the payment is made in chips. This was referred to ACMA which responded that the content is not prohibited content as defined under the IGA as it is not possible to win 'money or anything else of value' from playing the games. See Senator Nick Xenophon and ACMA, additional information, received 1 December 2011.

National Children's and Youth Law Centre, Mr Matthew Keely, said the website targeted youth and its terms of use were problematic:

'Young people under 18 generally cannot get a credit card, but they can have a debit card so they may be enticed to give ratio shopping a go', he said. 'Wyngles's terms of use say a person must be at least 18 years of age or have the consent of a parent or guardian to purchase. It's a bit of an issue then that Wyngle's sign up page doesn't ask for information about a person's age'.³⁰

8.27 The committee notes that in July 2011 the media reported that Facebook was promoting a game called Slotomania which could be played by children as young as 13 for real money. The game appears to target young people with cartoons and encourages players to purchase coins with credit cards, BPAY or PayPal. The CEO of Clubs Australia wrote to the government warning about the site. Minister Conroy's office responded that the government would be conducting a review of the Interactive Gambling Act.³¹

8.28 Clubs Australia also noted the format and content of similar sites such as Slotmania are designed to appeal to children:

Social networking sites such as Facebook allow account holders of all ages to access gambling content through programs known as "apps." Children can play slot games, buy credits and send free gifts such as "five free gifts" to friends. Apps such as "Slotmania" and "Texas HoldEm Poker" operate without any age verification measures and allow under-aged gamblers to purchase games and credits via PayPal or credit card accounts. Generous inducements encourage users to purchase "credits" in bulk amounts and players are continually encouraged to "invite" friends to play.³²

8.29 The NSW Law Reform Commission report also drew attention to games such as Slotomania which simulates gaming machines and Farkle Pro which simulates an ancient dice game. While it appears that players cannot redeem points for cash and such games may be legal, 'a concern does exist that they may encourage young people to engage those forms of online gaming that do amount to unlawful gambling'.³³

30 Henrietta Cook, 'Shopping or Gambling', *The Canberra Times*, 30 August 2011, Information available from: <http://www.canberratimes.com.au/news/national/national/general/shopping-or-gambling/2274468.aspx> (accessed 30 August 2011).

31 Joe Hildebrand, 'online betting aiming at kids', *Daily Telegraph*, 22 July 2011, p. 5.

32 Clubs Australia, *Submission 24*, p. 5.

33 NSW Government, NSW Law Reform Commission, *Cheating at Gambling*, Report 130, August 2011, p. 49.

Committee view

8.30 The committee was concerned to hear about online games that appear to be targeting children and notes this will also be considered as part of the current review of the IGA underway by DBCDE:

The convergence of gambling and social networking has led to the development of gambling-themed games on social media websites that are aimed at adolescents. Griffiths et al (2010) suggests that such ‘money free’ gambling introduces adolescents to the ‘principles and excitement of gambling without experiencing the consequences of losing money’. In addition, these games also often contain advertising or links to real-money gambling websites, raising issues regarding social responsibility.³⁴

8.31 While supporting the inclusion of this issue in the review the committee notes that in its 2010 report, the PC recommended that the ministerial council on gambling should develop a consistent national approach for regulating gambling-based quizzes, competitions and auctions operated or marketed through television, mobile phones and the internet.³⁵ The committee agrees with this recommendation.

Recommendation 5

8.32 The committee supports the recommendation of the Productivity Commission that the COAG Select Council on Gambling Reform should review new gambling opportunities, particularly those which appear to target youth, with a view to developing a national regulatory approach.

Other issues

Election outcomes

8.33 Although it would appear that there has been growth in the popularity of election betting,³⁶ the committee did not receive a great deal of evidence on this term of reference and the evidence that was received was evenly divided. The Responsible Gambling Advocacy Centre argued the major issue is that ‘if people have placed a bet on the outcome of a political event they are likely to vote in accordance with that bet. This can effectively undermine the election process’.³⁷

8.34 Others saw no issue with betting on election outcomes. The Australian Internet Bookmakers Association advised:

34 Department of Broadband, Communications and the Digital Economy, *Review of the Interactive Gambling Act 2001*, Discussion paper, August 2011, p. 11.

35 Dr Ralph Lattimore and Mr Gary Banks, *Committee Hansard*, 16 September 2011, p. 48. Productivity Commission, *Gambling*, vol. 1, Commonwealth of Australia, Canberra, 2010, pp 8.26–8.27.

36 See Transcript of ‘Online Gambling’, *Insight*, SBS, 13 September 2011.

37 Responsible Gambling Advocacy Centre, *Submission 29*, p. 13.

It is not clear why election betting has been raised as a term of reference. The integrity of elections is subject to intense public scrutiny - the possibility of cheating in betting on this event is remote. Election betting has been conducted for over a decade in Australia and for longer periods in such places as the United Kingdom, without concerns being raised. There are no reasonable grounds for an objection to be made on election betting.³⁸

8.35 As betting on election outcomes was not raised as a major issue of concern, the committee makes no comment.

38 Australian Internet Bookmakers Association, *Submission 54*, pp 6–7.