

Chapter 9

Interactive gambling advertisements and inducements

9.1 This chapter will begin by detailing relevant research on online gambling advertising and inducements and their effects. It then discusses interactive gambling service advertising covered by the *Interactive Gambling Act 2001* (IGA). Advertising in relation to sports betting is introduced and touched on as necessary but is dealt with in detail in chapters 12 and 16.

Effects of gambling advertising

9.2 There is only a small body of empirical research on the effects of gambling advertising. However, Dr John McMullan told the committee that despite this limitation:

We do know that exposure to gambling ads is high and likely to trigger gambling urges and promote positive attitudes towards gambling perceptions and behaviours. Gambling advertisements [have] also been found to be ubiquitous. They are embedded in everyday life, appear in many mediums [radio, print, television, point of sale, internet] and locales and all times of the day and days of the week.¹

9.3 Dr McMullan pointed to a 'troubling convergence of online gambling advertising with new social media and social networking sites that offer new dramatic access points to online gambling as well as gambling experiences to young consumers'. A study found that popular networking sites such as Facebook provide direct and indirect opportunities for poker, sports betting, casino and slot gambling involving both credit and money wagers.²

9.4 Dr McMullan highlighted research which studied the themes of television advertisements for online poker and blackjack and found:

...the dominant theme represented was that gambling was like sport (53%), followed by the messages that gambling was routine, natural and externally reoccurring (50%), gambling was a positive life-changing force that could alter people's social status from a social loser to a high-net-worth person (42%), gambling was a way to prosper through wins and winnings (38%) and gambling was a reprieve from the mundane activities and relationships of everyday life (27%).³

1 Dr John McMullan, *Submission 32*, p. 1.

2 Dr John McMullan, *Submission 32*, p. 2.

3 Dr John McMullan, *Submission 32*, p. 2.

9.5 Other research found the dominant message of online gambling websites was that they:

were domains of virtual socialization conveying knowledge, techniques, beliefs and expected behaviours about the culture of virtual gambling (94%). This was followed by the messages that poker was a consumption practice that occurred every minute of every day rather than an occasional leisure activity (92%), that poker was part and parcel of a winning way of life (83%) and an alternative means to financial and social success (73%), and that poker was an overt skilled activity rather than a mixed skill/chance game (51%).⁴

9.6 Research by Binde on gambling advertising concluded that 'gambling advertising is likely to have some impact on the extent of problem gambling'. It listed some of the risk factors which could, in theory, be related to gambling advertising which include:

High availability of gambling. Gambling advertising informs and reminds us of the availability of gambling. It increases awareness of the existence of games and their features as well as of where these games can be played. A high availability of gambling would not affect the extent of problem gambling if people were not aware of the availability.

Participation in gambling. This factor should be considered as distinct from availability. Advertising exhorts people to gamble and is likely to increase overall participation. When someone gambles, he or she is exposed to the features of that form of gambling that make it enjoyable for the casual gambler. At least some of these features are those that also make that form of gambling addictive for the problem gambler. Continuous exposure to the potentially addictive features of games—such as their capacity to excite or relax—makes it more likely that someone with the potential for developing problem gambling may realize it, for example, during a stressful period of his or her life.

Features of the brain's reward system...the study by Grant and Kim (2001) suggests that advertising constitutes a trigger for gambling. In neurobiological terms, such triggers are linked to the activation of the reward system of the brain. In Skinnerian terms, they constitute cues that activate conditioned responses.

Impulsive personality. Advertising can be assumed to have a greater influence on the behaviour of an impulsive person than on a person of average impulsiveness. According to the DSM-IV criteria (APA, 1994), pathological gambling is an impulse control disorder.

A substantial early win. Numerous studies conducted in various countries report that a large proportion of problem gamblers had won a substantial amount of money early in their gambling careers (Delfabbro, Lahn, & Grabosky, 2005; Turner, Zangeneh, & Littman-Sharp, 2006; Walker, 1992, p. 137-138). Presumably, this event created a lasting impression that it is

easy to win and that gambling can produce intense feelings of joy and satisfaction. Much advertising for gambling gives the impression that it is easy to win, which might reinforce such impressions.

Overconfidence in one's own skill in sports and horse betting. Advertising for sports and horse betting often exaggerates the importance of skill (Binde, 2005a). Attribution of gambling wins to one's own skill, while blaming losses on bad luck or occasional and unlikely events, is a thought configuration found among some problem gamblers (Gilovich, 1983; Rosecrance, 1986).

Sensation-seeking personality. The theme of some advertising is the excitement of gambling. For example, ads may emphasize high odds, big jackpots and the thrill of gambling. This may persuade people who are exceptionally sensation seeking to satisfy their need for excitement through gambling rather than through other activities. Although not all gambling involves sensation seeking (Dickerson, Hinchy, & Fabre, 1987), some forms do (Zuckerman, 1994).

Irrational thinking. Although the importance of irrational thinking and cognitive factors in problem gambling is somewhat disputed (Delfabbro, 2004; Dickerson, 1991; May, Whelan, Meyers, & Steenbergh, 2005), most researchers agree that irrational thinking contributes to problem gambling. Advertising often suggests that luck is of importance. It emphasizes the wonderful consequences of jackpot wins while saying little about the minute probability of winning, and in other ways exploits biases in how people think about probabilities (Binde, 2005a; Mumpower, 1988).⁵

9.7 The research by Binde identified ways in which advertising may contribute to the prevalence of problem gambling:

Advertising recruits new players, some of whom later become problem gamblers. This effect ought to be at its strongest when a new game is introduced and when the market is immature. For example, people may be persuaded by advertising (Web banners or TV commercials) to try Internet poker, a game that for some becomes an obsession. Had it not been for advertising, a number of these persons would not have started playing and others would have done so later, when they were perhaps more aware of the risks involved or when Internet poker operators had increased their implementation of measures to counter excessive gambling.

Advertising intensifies established gambling habits. On the continuum between problem-free gambling and pathological gambling, some people will, because of advertising impact, move a little towards pathological gambling. A problem free gambler may develop at-risk gambling behaviour, an at-risk gambler may become more of a problem gambler, and a problem gambler may behave more like a pathological gambler.

5 P. Binde, 'Selling Dreams – causing nightmares? On gambling advertising and problem gambling', *Journal of Gambling Studies*, Issue 20, June 2007, pp.178–179.

Advertising may sustain and aggravate established problem gambling by providing hard to-resist impulses for gambling that make it harder to adhere to a decision to quit or cut down on gambling.⁶

9.8 These findings were noted by the Productivity Commission in its 2010 report where it concluded that 'empirical evidence suggests that gambling advertising can have adverse effects on susceptible people, but not for many others'.⁷

9.9 Dr McMullan acknowledged that on one hand, advertising is 'one of several factors contributing to problem gambling including opportunities to play, access to money, machine design characteristics, and speed of play'. However, 'advertising that appeals to problem gamblers in the form of strategically located enticements, persistent inducements and constant reminders to play, as is often the case with online gambling, is likely to arouse negative habitual patterns and faulty cognitive beliefs that cause harm'. He concluded that the findings regarding gambling advertising and problem gambling 'signal the need for a vigilant approach to advertising'.⁸

Suggestions to address message content

9.10 Dr McMullan argued 'there is a need for more exacting restrictions on the message content of much gambling advertising' and suggested that online gambling advertising should use more clear and factual messages and fewer emotional or potentially misleading ones. For example, advertising, inducements or images emphasising the following messages should be avoided: winning is easy; winning is guaranteed; winning is substantial; winning changes your status in life; winners are celebrities and vice versa; play every day; play online any time; prizes are free; guaranteed cash prizes; free promotions in cash or kind; bonuses available; referrals for benefits; free money to play and deposit matching to recruit new consumers. These messages should be avoided as they encourage players to 'play, play longer and play beyond their means'.⁹

9.11 Dr McMullan also suggested that in addition to the above:

a responsible advertising program might insist that gambling advertising not imply that games of chance are games of skill or imply that skill predominates over luck in mixed skill/luck games such as poker, blackjack, or pari-mutuel sport betting. It should not convey that gambling is a solution to financial problems or a method of earning income, or imply that

6 P. Binde, 'Selling Dreams – causing nightmares? On gambling advertising and problem gambling', *Journal of Gambling Studies*, Issue 20, June 2007, pp.179–180.

7 Productivity Commission, *Gambling*, vol. 1, Commonwealth of Australia, Canberra, 2010, p. K.11.

8 Dr John McMullan, *Submission 32*, p. 8.

9 Dr John McMullan, *Submission 32*, pp 10–11.

gambling can make consumers more popular, attractive, successful or happy.¹⁰

Effect of advertising on youth

9.12 The effect of online gambling advertising on youth was a particular concern raised with the committee. Dr Sally Gainsbury and Professor Alex Blaszczynski advised the committee that research indicates youth are 'highly influenced by gambling advertising'. For example:

Studies involving Canadian adolescents report that advertisements for gambling products increases the extent to which youth think about and want to try gambling as well as the likelihood of youth engaging in gambling (Derevensky, Sklar, Gupta, & Messerlian, 2010; Felsher, Derevensky, & Gupta, 2004). Promotional products, sexualised images, and celebrity endorsements appear to be highly appealing to youth and these techniques may encourage adolescents and young adults to engage in gambling.¹¹

9.13 Dr Gainsbury and Professor Blaszczynski recommended that:

...efforts be made to protect children and adolescents from being exposed to Internet gambling advertisements online and offline. Efforts should also be undertaken to reduce the appeal of advertising and marketing strategies to youth and young adults and ensure that all advertisements are balanced with appropriate education of gambling risks and potential harms.¹²

9.14 Clubs Australia pointed out practices used by internet gambling sites which are contrary to responsible gambling measures:

Online gambling sites are permitted to advertise, offer inducements and accept credit card payments. A number of sites prompt players to gamble via text message or offer lucrative sign-up bonuses in exchange for credit card details. Such practices are at variance with responsible gambling procedures.¹³

9.15 It recommended that children and adolescents should be protected from exposure to internet gambling advertisements..¹⁴

9.16 Dr Jeffrey Derevensky told the committee that gambling advertising is problematic. He noted that following a relaxation of advertising standards, a number of internet gambling companies are placing games or simulated gambling activities on Facebook. He added that the number one activity in North America on Facebook is

10 Dr John McMullan, *Submission 32*, p. 11.

11 Dr Sally Gainsbury and Professor Alex Blaszczynski, *Submission 7*, p. 6.

12 Dr Sally Gainsbury and Professor Alex Blaszczynski, *Submission 7*, p. 6.

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

14 Dr Sally Gainsbury and Professor Alex Blaszczynski, *Submission 7*, p. 6.

poker.¹⁵ Dr Derevensky told the committee that research around lotteries indicates that gambling advertising does not seem to encourage non-gamblers to gamble but if you are already a problem gambler you are much more likely to feel like gambling.¹⁶

9.17 Dr Gainsbury and Professor Blaszczynski also noted the dangers for youth with these gambling opportunities:

Young people these days are already doing everything online. For example, if you look at Facebook, which is obviously one of the most popular sites in the world and certainly in Australia, there are already a lot of gambling opportunities. Zynga Poker is the most popular Facebook platform, which is a credit base—so free—site. It is incredibly popular, especially amongst youth, as well, so it is a sort of normalising activity in the free play sites. It is not much of a step to go from a free play [site] to a 1c game and then gradually increase the stakes.¹⁷

9.18 Professor Blaszczynski added:

One of the difficulties with the free play sites is that the odds are geared towards the benefit of the player, which gives them the false impression that they have skills which enable them to win. And then, as soon as they go to the pay-for-play sites, the odds change and they end up losing. That has been demonstrated by the research of Sevigny and Ladouceur in Canada.¹⁸

9.19 The committee notes that Facebook recently changed its advertising policy and it is now permitted to broadcast commercials about online gambling (poker games, lotteries, bingo or sports betting). The game should be legal according to the law, meaning that its practice is regulated. The committee notes that such advertisements are currently prohibited in the US.¹⁹ The Facebook advertising guidelines state:

E. Gambling and Lotteries

i. Ads that promote or facilitate online gambling, games of skill or lotteries, including online casino, sports books, bingo, or poker, are only allowed in specific countries with prior authorization from Facebook.

ii. Lottery commissions licensed or sponsored by government entities may advertise on Facebook; provided that ads must be targeted in accordance with applicable law in the jurisdiction in which the ads will be served and may only target users in the jurisdiction in which the lottery is available.

15 Dr Jeffrey Derevensky, *Committee Hansard*, 16 September 2011, p. 2.

16 Dr Jeffrey Derevensky, *Committee Hansard*, 16 September 2011, p. 4.

17 Dr Sally Gainsbury, *Committee Hansard*, 16 September 2011, p. 41.

18 Professor Alex Blaszczynski, *Committee Hansard*, 16 September 2011, p. 41.

19 Information available from: <http://www.poker777.com/20110902/online-poker-facebook-allows-advertising.php> (accessed 27 September 2011).

iii. Ads that promote offline gambling establishments, such as offline casinos, in accordance with applicable laws and regulations, are generally permitted, provided that ads must be appropriately targeted.²⁰

Regulating online gambling advertising

9.20 Dr McMullan told the committee that the growth of online gambling has 'contributed to situations where online gambling advertising has flowed freely across borders without meeting minimum advertising or broadcasting standards in many jurisdictions'. The result is that:

...in some jurisdictions, ads and websites for remote gambling are reluctantly tolerated even though they pose major concerns regarding deceptive messaging, targeting youthful populations via practice sites, free games and bonuses, cheating and fraud of consumers, ethical financial probity and appropriate responsible messaging.²¹

9.21 In contrast, other jurisdictions have prohibited internet gambling advertisements and blocked websites and others have regulated advertising. Dr McMullan informed the committee that the online gambling industry has established a code of practice but compliance is voluntary and 'enforcement is varied and uncertain'.²²

9.22 To address this expansion of advertising, Dr McMullan suggested the following:

- jurisdictions could license operators to advertise gambling products and services and that this licensed status could be prominently displayed on promotional materials in all communication mediums;
- advertising for 'practice' sites should be subjected to the same regulations for money sites. In addition, practice sites should be prohibited from containing or communicating ads to money sites that are often the same operators;
- gambling providers in other jurisdictions should be encouraged to meet the advertising standards of the jurisdiction in relation to exposure, design features, message content and tone, promotional emails and bonus materials, branding, the use of celebrities and sponsorship and responsible messaging. In addition, these standards should be reviewed on a regular basis; and

20 Information available from: http://www.facebook.com/ad_guidelines.php (accessed 27 September 2011).

21 Dr John McMullan, *Submission 32*, p. 12.

22 Dr John McMullan, *Submission 32*, p. 12.

- 'practice' sites offering free games should be honest at all times and the odds of winning and payout ratios should operate on the same basis as money games on real sites as this is currently not always the case.²³

9.23 Dr McMullan acknowledged that the difficulty is establishing 'territorial controls over internet communication' but where appropriate, regulation should include:

...internet ads on radio, newspapers, magazines and television that promote gambling websites in remote jurisdictions and regulating online advertising of offshore sites (i.e. "pop ups") to play at other internet gambling sites in remote jurisdictions.²⁴

9.24 He recommended an 'inclusive integrated regulated approach' by inviting private providers to meet appropriate standards. He argued this would create a 'competitive level playing field' among providers.²⁵ He acknowledged the difficulty of enforcement but outlined a best practice regulatory environment:

Creating the best accountability in gambling advertising environments, including virtual worlds, should likely include: (a) distinct mandatory gambling codes of practices above and beyond existing advertising guidelines and broadcast standards which will set the rules and practices against which gambling providers will be evaluated, (b) legislated gambling acts which set out clear obligations of care, firm restrictions with regard to advertising gambling, and precise penalties including the refusal or/and loss of license for those who do not comply with the codes and legislation, (c) independent third party control commissions who have extensive powers of investigation and prosecution in support of compliance and who can evaluate guidelines and regulations within a uniform stringent casuistic framework, and (d) independent review boards who have the authority to consult with interested parties and experts, and the power to assess the particulars of advertising codes and relevant legislation annually, monitor breaches and complaints on an ongoing basis and propose changes that are legally binding (Binde, 2010; Griffiths, 2005; RIGT, 2007).²⁶

9.25 In addition, gambling advertising codes could include:

...(a) statements of principle covering the naming, packaging, advertising and promotion of gambling products and organizations and emphasize that actions will follow the spirit as well as the letter of the law; (b) language that as much as possible is exact, explicit and measurable; (c) monitoring systems that are proactive and foster climates of evaluation and exclusion before inappropriate commercials have run their course in the media; and (d) creative sanctioning systems for offenders who fail to comply with the

23 Dr John McMullan, *Submission 32*, p. 12.

24 Dr John McMullan, *Submission 32*, pp 12–13.

25 Dr John McMullan, *Submission 32*, pp 12–13.

26 Dr John McMullan, *Submission 32*, p. 13.

spirit and the letter of the codes involving negative publicity, revocation of privileges, services and licenses, fines, administrative controls, and referrals to civil or criminal bodies for repeat offenders where appropriate. (Griffiths, 2005; Korn et al., 2005; RIGT, 2007; McMullan & Miller, 2008) As Poulin (2006) notes, it is time for governments and public health advocates “to stop being seduced by the promise of anti-gambling campaigns and education that place the onus of control on the shoulders of the very individuals who have a serious disorder of impulse control”. Rather we should apply what has been learned from tobacco’s successful control strategies, namely that “success is achieved primarily through public policy” (p1).²⁷

9.26 The Productivity Commission addressed gambling advertising in its 2010 report. It took the view that each form of gambling has its own risk profile, so different approaches would be needed:

We took the view that, in relation to different forms of gambling, you might need to take different approaches. So if the evidence is starting to show, for example, that the way in which sports betting is marketed has a detrimental effect, it is quite appropriate that governments respond to that...If we were looking at poker machines, I can say with some certainty that the three people sitting here would never recommend that poker machine playing be subject to liberal advertising because the harms associated with poker machines are so great, which we have evidenced.²⁸

9.27 Mr Gary Banks, Chairman of the PC, added:

By looking at each of the forms of gaming and gambling we see very different risk profiles. It is possible to argue in relation to alcohol and liquor generally that perhaps the risk profiles are less divergent across the products. When you come to gambling and gaming—and I think we said this in 1999—it is almost like looking at different industries, with very different products. They have similar characteristics. It is much more difficult to recommend a universal approach to all forms of gaming and gambling, but we are very clear that, to those that have higher risks, like EGMs, you would take a particular approach; to those, like lotteries, that have a lesser risk profile, you might take a different approach. But I do not think our report goes into the detailed analysis that you would be looking at.²⁹

Advertising of prohibited content under the Interactive Gambling Act

9.28 The IGA makes it an offence to advertise prohibited interactive gambling services in Australia. This covers all forms of media:

27 Dr John McMullan, *Submission 32*, pp 13–14.

28 Mr Robert Fitzgerald, *Committee Hansard*, 16 September 2011, p. 53.

29 Mr Gary Banks, *Committee Hansard*, 16 September 2011, p. 53.

...both electronic and non-electronic, including advertising via the internet, broadcast services, print media, billboards and hoardings, subject to certain exceptions. For example, the accidental or incidental publication or broadcast of a prohibited interactive gambling service advertisement is likely to be permitted by the IGA. A prohibited interactive gambling service advertisement includes a broad range of material that gives publicity to, or otherwise promotes or is intended to promote:

- a prohibited interactive gambling service
- prohibited interactive gambling services in general
- trademarks in respect of or internet addresses or domain names that relate to a prohibited interactive gambling service, or
- any words that are closely associated with a prohibited interactive gambling service.

For example, sponsored advertising may be a prohibited interactive gambling service advertisement.³⁰

9.29 The legislation does not cover the publication, broadcast or datacast of prohibited interactive gambling service advertisements overseas 'such as publication in magazines that are published overseas, or on websites that are mainly accessed by people who are not physically present in Australia'.³¹

Television

9.30 Free TV Australia detailed the current regulation of gambling advertising during broadcasting:

Under clause 6.14 of the Commercial Television Industry Code of Practice, gambling ads are not permitted to be broadcast during G classification periods.³² In practice, this means that gambling advertisements must not be broadcast between 6.00am and 8.30am on any day, between 4.00pm and 7.00pm on weekdays and between 4.00pm and 7.30pm on weekends. These restrictions do not apply to other media platforms like pay TV.³³

9.31 Free TV submitted that the current provisions are 'adequately meeting community standards'. As evidence it noted that the Code of Practice has only recently been reviewed and of the over 1,400 submissions to the review, only five raised concerns regarding betting and gambling advertisements. It further stated that 'of the

30 Department of Broadband, Communications and the Digital Economy, *Review of the Interactive Gambling Act 2001*, Discussion paper, August 2011, p. 4.

31 Department of Broadband, Communications and the Digital Economy, *Review of the Interactive Gambling Act 2001*, Discussion paper, August 2011, p. 4.

32 Except for a commercial broadcast in a news, current affairs or sporting program.

33 Free TV Australia, *Submission 20*, p. 1.

6,096 Code of Practice complaints received in the five years to 2011, only 11 related to clause 6.14 of the Code, representing just 0.18 % of overall complaints'.³⁴

9.32 Advertisements must also comply with the IGA which prohibits commercial television, commercial radio, subscription television and community broadcasting licensees as well as those providing broadcasting services under a class licence from broadcasting an interactive gambling service advertisement.³⁵

Enforcement

9.33 It is the responsibility of individual broadcasters, internet content providers and print publishers to ensure that their programs or advertisements comply with the IGA.³⁶ Again the enforcement of the advertising provisions of the IGA is reliant on the complaints-based system. The Department of Broadband, Communications and the Digital Economy (DBCDE) advised the committee that the IGA does not specify the process for complaints about the advertising of interactive gambling services and in the absence of provisions conferring the function on ACMA:

...the department has undertaken responsibility for the preliminary assessment of complaints about potential breaches of the advertising prohibition under Part 7A of the IGA. Where a contravention is suspected, the department refers the matter to the Australian Federal Police (AFP), and also to the ACMA if it relates to a possible breach of broadcasting licence conditions.³⁷

9.34 DBCDE suggested the IGA could benefit from the inclusion of a complaints mechanism to ensure complaints 'are handled efficiently and effectively'.³⁸

9.35 The committee notes that from July 2010 to June 2011, DCBDE received nine complaints about the advertisement of prohibited interactive gambling services. Seven of these were referred to the AFP for further investigation and one was not pursued due to a lack of information.³⁹ The other complaint was ongoing at the time the discussion paper was published. DBCDE acknowledged 'the limited range of

34 Free TV Australia, *Submission 20*, p. 1.

35 Department of Broadband, Communications and the Digital Economy, additional information received 7 July 2011.

36 Department of Broadband, Communications and the Digital Economy, *Review of the Interactive Gambling Act 2001*, Discussion paper, August 2011, p. 4.

37 Department of Broadband, Communications and the Digital Economy, *Review of the Interactive Gambling Act 2001*, Discussion paper, August 2011, p. 4.

38 Department of Broadband, Communications and the Digital Economy, *Review of the Interactive Gambling Act 2001*, Discussion paper, August 2011, p. 13.

39 Department of Broadband, Communications and the Digital Economy, *Review of the Interactive Gambling Act 2001*, Discussion paper, August 2011, p. 13.

enforcement options available under the IGA' and the challenges for the AFP undertaking investigations in the online environment.⁴⁰

Issues raised with the committee

Growth in advertising

9.36 Most of the evidence received in relation to advertising dealt with the growth in advertising of sports betting. This is covered in chapter 12 which also includes sponsorship of sporting clubs by gambling providers. However, in relation to other forms of online gambling advertising, submitters also supported more action being taken to block advertising by overseas sites.

9.37 Dr Sally Gainsbury and Professor Alex Blaszczynski noted that little appears to be done to prevent overseas gambling sites from directly marketing to Australians. One result of this is high levels of confusion about internet gambling regulation among Australians. Dr Gainsbury and Professor Blaszczynski recommended that 'further action should be taken to block advertising online and offline by offshore sites, legal action be taken against unregulated sites that allow Australians to play, and efforts made to educate Australians about the dangers of playing on unregulated sites'.⁴¹

Ambiguities and inconsistencies

9.38 Some submissions pointed to a lack of clarity in the IGA regarding advertising. The Victorian InterChurch Gambling Taskforce provided the following example:

...the 'Australian Marketing Team' of an internet gaming and casino provider has sent letters to Australian citizens at their home addresses offering up to \$3,500 in free credits to induce Australians to gamble at their sites.⁴²

9.39 In relation to the unsolicited letters, ACMA advised:

...as this website is not a prohibited internet gambling service, the unsolicited letter does not constitute a prohibited internet gambling service advertisement under Part 7A of the IGA.⁴³

9.40 In addition, the Taskforce advised that the 'Australian Marketing Team' of this provider was able to register an 1800 number in Australia that allows Australians to get in touch with a call centre in South Africa to facilitate Australians gambling on

40 Department of Broadband, Communications and the Digital Economy, *Review of the Interactive Gambling Act 2001*, Discussion paper, August 2011, p. 13.

41 Dr Sally Gainsbury and Professor Alex Blaszczynski, *Submission 7*, p. 3.

42 Victorian InterChurch Gambling Taskforce, *Submission 31*, pp 7–8.

43 Victorian InterChurch Gambling Taskforce, *Submission 31*, p. 8.

their sites. The Taskforce submitted that greater effort needs to be made to deter off-shore internet gaming and casino providers from actively marketing to Australian customers to avoid examples such as the 'Australian Marketing Team' above.⁴⁴ It also submitted that, at the very least, the IGA should be amended to allow the Australian phone numbers of internet gaming and casino providers to be disconnected and to require telecommunication providers to do so.⁴⁵

Clarification regarding accidental or incidental advertising

9.41 Free TV submitted that any gambling advertising restrictions should be at the national level and apply equally across all media platforms. It asked that there be greater clarity around receiving the broadcasts of overseas sporting events which feature prominent signage and other advertisements for interactive gambling services. It provided the example of the final of the 2010 World Snooker Championships, won by an Australian, which featured signage for betfred.com in the background. Free TV believes this to be an incidental accompaniment to the broadcast, satisfying the conditions of para 61DB(a). It noted that as this type of programming is often shown live or with a short turn-around, there is no opportunity for local networks to remove the material before broadcast. It submitted that 'given the uncertainty regarding ACMA's potential interpretation, it was decided not to broadcast this event, to the detriment of free-to-air viewers'.⁴⁶ The committee notes that Free TV has raised this issue with ACMA.

9.42 The committee received the following advice from DBCDE which would appear to cover this example:

The IGA permits an interactive gambling service advertisement that is broadcast or published as an accidental or incidental accompaniment to another matter, provided the broadcaster or publisher does not receive any benefit, either financial or other, in addition to the benefit received for the broadcast or publication of the other matter (s61DB and s61ED of the Act refers).

For example, this could permit the broadcast of an international sporting event at an overseas venue where an interactive gambling service advertisement might be permitted, where the broadcaster does not receive any benefit for the interactive gambling service advertisement, additional to the benefit arising from broadcasting the sporting event (refer Interactive Gambling Bill 2001, revised explanatory memorandum).⁴⁷

44 Victorian InterChurch Gambling Taskforce, *Submission 31*, p. 7.

45 Victorian InterChurch Gambling Taskforce, *Submission 31*, p. 8.

46 Free TV Australia, *Submission 20*, pp 1–2.

47 Secretariat communication with the Department of Broadband, Communications and the Digital Economy, 7 July 2011.

9.43 DBCDE acknowledged there was potential for further clarification of such issues in the IGA:

The structure and complexity of the legislation regulating online gambling may have caused some difficulties in the interpretation and application of certain provisions in the IGA, especially those relating to the advertising of prohibited interactive gambling services. A number of such issues could potentially be clarified to make the IGA more functionally robust.⁴⁸

9.44 DBCDE acknowledged and further explained the difficulties experienced by broadcasters:

...the wording and structure of certain provisions of the IGA appears to have impacted on the ability of stakeholders to confidently interpret the legislation. For example, the section of the IGA which permits the broadcast of an advertisement for a prohibited interactive gambling service in circumstances where that broadcast is an 'accidental or incidental' accompaniment to the broadcasting of another matter. This has caused some confusion, particularly for broadcasters of foreign sporting events that are sponsored by prohibited gambling services (or that involve sports teams that are sponsored by prohibited gambling services). Broadcasters have noted that, when broadcasting such events, they are becoming increasingly unsure of their compliance with legislation. As a result, broadcasters have advised that they have decided not to broadcast certain events, or have heavily edited the broadcasts, to remove all doubt of potential breaches. In addition, broadcasters believe that such sponsorship will only continue to become more prevalent, and make it even more difficult to be confident of their compliance.⁴⁹

Clarification of Australian-based companies providing assistance to overseas customers

9.45 The committee notes that PokerStars owns a company in Australia, GP Information Services, through a subsidiary out of its base in the Isle of Man. The company reportedly believes it is operating within the law as the Sydney office provides customer service only to foreign players.⁵⁰

9.46 DCBDE acknowledged the issue of Australian-based companies that provide 'back-end' services to Australian customers on behalf of a prohibited interactive gambling service. These include financial services or customer assistance. It noted

48 Department of Broadband, Communications and the Digital Economy, *Review of the Interactive Gambling Act 2001*, Discussion paper, August 2011, p. 13.

49 Department of Broadband, Communications and the Digital Economy, *Review of the Interactive Gambling Act 2001*, Discussion paper, August 2011, p. 13.

50 Asher Moses, 'FBI, federal police target overseas poker websites that flout law', *Sydney Morning Herald*, 30 May 2011, p. 1.

that concerns have been raised 'regarding the operation of such services and whether it constitutes a breach of the IGA'.⁵¹

Misleading advertising

9.47 The committee was very concerned to hear from an individual who had not gambled previously who saw an advertisement on a social networking site to make extra money. When he clicked on the advertisement it took him to an overseas gaming website and he ended up losing significant sums of money.⁵²

Committee view

9.48 While aware of limitations, the committee agrees that the advertising restrictions in the IGA have limited the amount of advertising for prohibited interactive gambling services. The committee notes that demand for online gambling is driven in part by advertising, but currently this demand is constrained by the advertising restrictions. One of the strongest themes in the inquiry was the level of concern in the community about the proliferation of advertising for sports betting. As the government works with industry to rein this in (as covered in chapters 12 and 16), the committee supports retaining and strengthening the provisions in the IGA that attempt to limit the amount of advertising for prohibited interactive gambling services. The committee particularly notes research that gambling advertising could intensify gambling habits and sustain or aggravate established problem gambling. Allowing additional gambling advertising would create demand, attract more customers—more customers results in more chances for people to develop gambling problems.

9.49 In the previous chapter, the committee agreed that clarifying ambiguities and inconsistencies in the IGA regarding the provision of interactive gambling services would improve its operation. The same holds true for advertisements for interactive gambling services. The committee was concerned to hear about the ways organisations appear to have found to circumvent the advertising ban in the IGA, such as those outlined above, and supports amendments to address these. It is important that the IGA is reviewed regularly so that various methods being used to circumvent it can be addressed quickly and effectively.

Recommendation 6

9.50 The committee recommends that the *Interactive Gambling Act 2001* be amended to address the inconsistencies and ambiguities identified to the committee regarding the advertising of prohibited interactive gambling services, and any others that are identified through the review being conducted by the Department of Broadband, Communications and the Digital Economy.

51 Department of Broadband, Communications and the Digital Economy, *Review of the Interactive Gambling Act 2001*, Discussion paper, August 2011, p. 13.

52 See *Committee Hansard*, 16 September 2011, pp 55–59.

Specifically it should be amended to capture methods of avoidance such as advertisements that do not mention gambling linked to gambling websites.

Inducements to gamble

9.51 Inducements to promote gambling services and entice people to keep gambling are common and can take a number of forms, such as free games, bets, credits and free daily allowances. Leagues Club Australia reported:

Marketing and promotion of gambling websites is aggressive and competitive, with attractive inducements to sign up and play. These range from sign up bonuses (eg. NobleHouse.com \$4,000), matched deposits for 1st deposit or up to a certain amount, free plays and bonuses, ongoing rewards redeemable for playing credits and refer a friend to get bonus or play credits. Free play sites (including those available in Australia through .net sites) are also a popular conduit for operators to them entice new players to play for money.⁵³

9.52 Anglicare Tasmania has a counselling and family support program which runs Gamblers Help. While the majority of clients experience problems with poker machines, it has clients with online gambling problems and advised:

Gamblers Help clients tell our workers that the gambling environment, including advertising, inducements and player loyalty schemes encourage them to gamble.⁵⁴

9.53 Clubs Australia noted that inducements or incentives to open accounts or place bets are standard practice for online gaming and wagering providers. It explained that:

Typically, these take the form of free bets or games or sign up bonuses at improved odds and higher payout rates. According to a report by Blaszczyński, Sharpe, & Walker, there is evidence to suggest that the possibility to play without money makes games more attractive, reduces barriers to play, and may undermine attempts to quit. Free gambling inducements 'have been identified as fostering future gambling problems.'⁵⁵

9.54 Mr Christopher Hunt, Counsellor, Gambling Treatment Clinic, University of Sydney, told the committee about a client who has been trying to cut down on his gambling. However, a site offered him a free \$50 which enticed him to gamble and he ended up chasing his losses and losing considerably more than the \$50. While this refers to an Australian-based online betting agency, which does not fall under the IGA, the risks are the same regardless of the gambling form. Mr Hunt confirmed that

53 Leagues Clubs Australia, *Submission 40*, p. 4.

54 Anglicare Tasmania, *Submission 6*, p. 2.

55 Clubs Australia *Submission 24*, p. 6.

while such inducements may not contribute to a person becoming a problem gambler, they can certainly exacerbate an existing problem.⁵⁶

9.55 Recent media describes young people being enticed by the offer of free games. These games encourage players to play free for practice where the odds of winning are greater than the paid version to which they are then directed.⁵⁷ Practice games having more favourable odds than real games was also mentioned by the Responsible Gambling Advocacy Centre, which noted:

This leads the player to believe they are able to win more often than they will in 'real life' play. In turn, the player may continue to gamble in order to 'chase the win' and to experience the 'thrill associated with winning', as well as mistaking practice odds for the real chances of winning.⁵⁸

9.56 The Centre believes this practice is dishonest and coercive and recommended that practice games have the same odds as real games.⁵⁹ The Centre also recommended that the practice of offering a free first bet or a guaranteed win should be stopped as 'this lulls the user into a false sense of security and encourages them to return to the website and continue placing bets'. Alternatively a low value limit (\$1-20) should be required.⁶⁰

9.57 Clubs Australia also noted the following practice:

Some sites require the gambler to place a bet or provide credit card details in order to receive free credit. It is often the case that if a gambler wagers a high amount, the incentive is increased accordingly. As one research paper notes, in some cases such practices operate 'ostensibly to familiarise the person with the game and to improve their skill. However, research suggests that there may be a more nefarious purpose.' Players are then conditioned to expect large payouts only to find that when they swap to cash based gaming, the odds have been altered.⁶¹

9.58 Clubs Australia submitted that the practice of offering free bets or other inducements is particularly dangerous. It noted that governments in Victoria, New South Wales and South Australia 'have introduced laws forbidding the advertising of incentive bonuses for sign-ups; however, the websites of many online operators reveal that the sign-up incentives still exist and are being promoted online'.⁶²

56 Mr Christopher Hunt, *Committee Hansard*, 16 September 2011, p 21–22.

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

58 Responsible Gambling Advocacy Centre, *Submission 29*, p. 11.

59 Responsible Gambling Advocacy Centre, *Submission 29*, p. 11.

60 Responsible Gambling Advocacy Centre, *Submission 29*, p. 10.

61 Clubs Australia, *Submission 24*, p. 7.

62 Clubs Australia, *Submission 24*, p. 7.

9.59 Dr John McMullan emphasised that online gambling advertising messages are:

...communicated in a web marketing context of highly attractive incentives and inducements – deposit bonuses, reload bonuses, generous ‘refer a friend’ programs, affiliate programs, online retail stores, free demo practice sites, and of course online tournaments – which rather constantly and aggressively exposed consumers to gambling to gain their attention to play, to inspire likability in their products and to incite returns to gamble continuously.⁶³

9.60 Wesley Mission cautioned that if Australian-based providers were regulated, they would need to offer inducements to gamble to be competitive with overseas providers:

The experience of the now defunct Lasseter’s Online was that an Australian regulated product is not going to be able to compete with offshore competitors unless it can offer the same level of inducements to gamble as the competitors.⁶⁴

9.61 This example was also put forward by the Victorian InterChurch Gambling Taskforce:

A decade ago, Lasseters Online Casino appeared to be in a strong position as the only Australian online casino. Gamblers could experience online casino gambling in a regulated environment by an Australian government. Yet Lasseters Online failed because Lasseters Online was not permitted the same inducements that were offered by online casinos in less regulated parts of the world. In particular, the competitors of Lasseters were offering free credit to gamble. Open an account with these casinos and they give you ‘free’ money to get your gambling started.⁶⁵

Offering credit

9.62 The committee notes recent media coverage of a Melbourne man with a mental illness who ran up \$80,000 in debts with Sportsbet. He claimed he was lured in by the offer of \$5,000 in free bets and then accepted credit.⁶⁶ This issue is discussed in further detail in chapters 11 and 12 dealing with advertisements and inducements for sports betting.

63 Dr John McMullan, *Submission 32*, p. 3.

64 Wesley Mission, *Submission 2*, p. 3.

65 Victorian InterChurch Gambling Taskforce, *Submission 31*, pp 4–5.

66 Richard Willingham, ‘Betting agency settles over man’s \$80,000 debt’, *The Age*, 26 July 2011, p. 3.

Free play sites

9.63 There appears to be different treatment of sites where individuals can play games for money (generally referred to as dot com sites) and practice or free play sites where money is not used (generally referred to as dot net sites). PokerStars and Full Tilt Poker are prohibited from advertising in Australia but PokerStars subsidiary, PokerStars.net, an 'educational' website, is one of the major sponsors of the Cronulla Sharks rugby league team.⁶⁷ The committee notes the following response from DBCDE on this issue:

There may be instances where the promotion of a 'free play' .net site (that was closely associated with a "for money" .com site) would be a prohibited advertisement under the Act. For example, on 11 Nov 2010 ACMA announced that Network Ten's licensees, and the Nine Network's licensees, had breached a condition of their commercial television broadcasting licences by broadcasting advertisements promoting interactive gambling services, in contravention of the IGA, through the promotion of 'pokerstars.net' which is a free play site that is closely associated with 'pokerstars.com'.⁶⁸

9.64 ACMA advised that the final finding of the authority in relation to the example above 'was that that promotion through the dot net site was a clear attempt to promote an interactive gambling service'.⁶⁹

9.65 ACMA further explained the issues taken into consideration for an investigation:

From an investigation point of view, the ACMA will look at a dot net site and a dot com site—it is not necessarily the URL that is indicative, it is whether the site permits gambling and consideration to be paid by the person participating in the service. If, for example, we were investigating a hypothetical site called casino.net and we could not play with real money, that would not amount to prohibited Internet gambling content under the IGA. If the user was able to provide funds and provide consideration in exchange for winnings or losings, that would fall within the requirements of the act.⁷⁰

9.66 The committee notes that such training sites are increasingly being used, especially for poker and blackjack, to 'widen the demographic to people who know little about poker, to popularise it to potential customers and to reproduce the online gambling experience as a cultural product'. A survey of 8,598 students from 201 UK

67 Michael McKenna, 'Online poker site shut down in FBI sting has Aussie officer', *The Australian*, 19 April 2011, p. 5.

68 Secretariat communication with the Department of Broadband, Communications and the Digital Economy, 7 July 2011.

69 Ms Elizabeth Press, *Committee Hansard*, 19 August 2011, p. 42.

70 Ms Elizabeth Press, *Committee Hansard*, 19 August 2011, p. 42.

schools found that 'gambling in money-free mode was the most important predictor of whether an adolescent would gamble for real money'.⁷¹

Committee view

9.67 The committee agrees that inducements to gamble such as: free games; offering credit; free credit; free money to play; deposit matching to recruit new customers; and practice sites encourage people to gamble, to gamble for longer and in some cases, beyond their means.

9.68 It agrees that the IGA should be strengthened in order to ensure that along with advertising, inducements for a prohibited interactive gambling service are banned. The committee has also been inquiring into the Interactive Gambling and Broadcasting Amendment (Online Transactions and Other Measures) Bill 2011. This bill amends the IGA to make it an offence to offer customers an inducement to gamble. This amendment will prohibit gambling service providers offering customers incentives to gamble. The committee supports the intent of this amendment, the operation of which is covered in chapter 15. Inducements to gamble in relation to sports betting and wagering are covered in chapter 12.

71 Dr John McMullan, *Submission 32*, p. 3.

Part 3

Sports betting and wagering

Chapters 10-14 cover issues related sports betting and wagering. They examine the Australian wagering industry, the growth of online wagering and the recent emergence of online corporate bookmakers. As the provision of online wagering services is permitted under the *Interactive Gambling Act 2001*, this part of the report discusses a number of issues that are currently regulated by states and territories, including the risk of betting on losing outcomes, the practice of credit betting, and the offering of inducements to bet. The risks of match-fixing and corruption in Australian sport as well as exotic betting are also discussed, as are gambling advertising and regulatory responses in relation to sport.

