Chair's additional comments

Interactive Gambling Act

1.1   Although I support the vast majority of the report, there is one issue where I take a different view from the committee majority. This is how to address the deficiencies in the *Interactive Gambling Act 2001* (IGA), particularly the lack of ability to stop Australians accessing potentially dangerous overseas websites to play casino-type games. The committee heard how the IGA has been particularly effective in preventing the provision of interactive gambling services by Australian-based providers. So currently, Australians wishing to access interactive gambling services that are prohibited by the IGA must do so via overseas websites as domestic providers are prohibited from providing such gambling services.

1.2   Although under the IGA overseas websites are prohibited from targeting Australians, the ability to enforce this appears limited. The mechanism relies on complaints to the Department of Broadband, Communications and the Digital Economy which refers investigations to the Australian Federal Police (AFP). The AFP in turn has to rely on overseas enforcement agencies. Where the gambling service is being provided legally in the overseas country, the ability for enforcement action to be taken is problematic and limited.

1.3   The evidence of the lack of ability to enforce the IGA in relation to interactive gambling service providers overseas is the over 2,000 overseas gambling websites that Australians can easily access. Despite the IGA prohibiting overseas websites from targeting Australians, the committee heard about websites such as Casino.com, which obviously targets Australians with the display of the Australian flag in the background and lists of Australian winners. Clearly this enforcement mechanism is not working.

1.4   Although there is an element of risk in accessing overseas websites, this will be a greater deterrent for some people more than others. As the Productivity Commission (PC) points out, this is more likely to deter responsible players than problem gamblers.

> ...in essence, the legislation attempts to dissuade people from gambling online by making it more dangerous. This will have the biggest deterrent effect on responsible gamblers who are more likely to react by avoiding online gaming altogether, thereby forfeiting the unique benefits of the medium. The IGA will be least effective on problem gamblers whose behaviour means they may not respond appropriately to the riskier online gaming environment the IGA facilitates.[1]

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1   Productivity Commission, *Gambling*, Commonwealth of Australia, Canberra, 2010, pp 15.19-15.20.

1.5   The current arrangements leave problem gamblers who prefer to gamble online with casino-type games with minimal protection and at risk of exploitation. As the PC noted, 'the extent of harm minimisation features varies greatly from website to website, and generally falls short of best practice'.[2] This was confirmed in evidence to the committee from Dr Sally Gainsbury:

> It is also a very diverse form of gambling. There are multiple operators and multiple sites that range from those that appear one moment and disappear shortly thereafter to well-established operators who are regulated in jurisdictions that do have quite stringent requirements...[3]

1.6   In addition, the current situation leaves Australians on their own should they experience any difficulties in the online environment. The committee heard the personal story of an individual who lost a large sum of money through his use of Casino.com through unauthorised transactions and of his difficulty in addressing the situation through the regulator in Gibraltar where the company is licensed.[4]

1.7   I think we have to recognise the reality. Australians already gamble on overseas websites. They wish to do so and will continue to do so. Currently the sites they can access vary greatly in terms of reliability, harm minimisation and consumer protection measures and probity. Some are highly regulated and enforced and others are not and it can be very difficult for an individual to know the difference.

1.8   My overriding concern is putting in place appropriate harm minimisation and consumer protection measures for individuals who wish to gamble online. As we cannot ensure the quality of overseas online gambling websites, I agree with the recommendation of the PC to allow online poker to be offered by Australian-based providers. These providers could then operate under legislation and regulations that ensure high standards for harm minimisation and consumer protection.

The view of the Productivity Commission

1.9   The PC told the committee that in its view, Australia currently has the worst possible model:

> If you introduce managed liberalisation, you have the ability to have registered Australian operators. So you can do whatever you like with that particular group and regulate that particular group in the way that you believe is desirable. At the moment, we do not have that capacity, so effectively everyone else is outside, subject to various regulations or no regulation at all. So you are right: the sites that the person is looking at at the moment are a mixture of regulated and unregulated sites over which we as a nation have almost no control. That is the danger we have at the

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2   Productivity Commission, *Gambling*, vol. 2, Commonwealth of Australia, Canberra, 2010, p.15.18.

3   Dr Sally Gainsbury, *Committee Hansard*, 16 September 2011, p. 33.

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

moment. The question is whether you go to a model that says, 'In addition to those sites we have Australian regulated [sites], and they work together' or, alternatively, your hybrid model where you introduce the Australian regulated sites and try to extinguish or prohibit these other sites by some means. But we actually have the worst of all at the moment. The person is sitting there, exactly like you have indicated, spending fairly substantial sums of money, but there is no way we can influence that.[5]

1.10 The PC recommended 'managed liberalisation' of online gaming, starting with online poker. It argued that the effects of this change should then be evaluated before further liberalisation is considered.[6] It emphasised that managed liberalisation should be subject to a regulatory regime that mandates:

- strict probity standards; and

- high standards of harm minimisation, including:

  - prominently displayed information on account activity, as well as information on problem gambling and links to problem gambling support;

  - automated warnings of potentially harmful patterns of play;

  - the ability to pre-commit to a certain level of gambling expenditure, with default settings applied to new accounts, and the ability for gamblers to set no limit on their spending as one of the system options (with periodic checking that this remains their preference); and

  - the ability to self-exclude.[7]

1.11 Mr Gary Banks, Chairman, Productivity Commission, explained why the PC took this approach:

> ...we thought that there would be merit in introducing such a managed liberalisation approach with a precautionary element in that particular area, subject to the sorts of protections and harm minimisation arrangements that we thought would need to be best practice regardless.[8]

1.12 The PC recommended that the government should monitor the effectiveness of these harm minimisation measures, as well as the performance of the regulator overseeing the national regulatory regime. In addition, the government should also evaluate whether: the provision of online poker card games should continue to be

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5   Mr Robert Fitzgerald, *Committee Hansard*, 16 September 2011, p. 46.

6   Productivity Commission, *Gambling*, vol. 2, Commonwealth of Australia, Canberra, 2010, pp 15.34–15.35.

7   Productivity Commission, *Gambling*, vol. 2, Commonwealth of Australia, Canberra, 2010, p.15.35.

8   Mr Gary Banks, *Committee Hansard*, 16 September 2011, p. 43.

permitted and whether liberalisation should be extended to other online gaming forms.[9] The PC emphasised to the committee that it recommended contingent liberalisation where an evaluation would look at the operation of liberalised online poker, but if it found there were significant problems, consideration would then be given as to whether it should continue to be permitted.[10] Dr Ralph Lattimore, Assistant Commissioner, Productivity Commission, explained what is meant by contingent liberalisation:

> So not only would the evaluation look at the experiences associated with liberalised online poker but if it found that there were significant problems it would be possible to turn it back. We explicitly say that you would examine whether it should continue to be permitted. There is quite a contingency attached to liberalisation here which is quite different from any other liberalisation measures where you say, 'Let's liberalise something'— you do not suggest that it is possible that you may in the future reregulate it.[11]

Why treat online poker differently?

1.13   iBus media highlighted the increased popularity of poker both online and at land-based venues:

> It is clear that poker is a popular form of entertainment and that there is great consumer demand for poker services. There can be no doubt that increasing numbers of Australians are playing poker online despite the prohibition on online poker services contained in the *Interactive Gambling Act 2001*(the **IGA**).[12]

1.14   The PC outlined why it believed that online poker could be liberalised:

- it has a different character to poker machines;

- it is seen as a game of skill;

- there is no evidence that players experience the trance like states that occur when playing EGMs;

- there is a social dimension in that you are playing against other people so it is very interactive;

- other games can be played much more quickly and the stakeholder for other games is the casino;

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9   Productivity Commission, *Gambling*, vol. 2, Commonwealth of Australia, Canberra, 2010, p. 15.35.

10   Dr Ralph Lattimore, *Committee Hansard*, 16 September 2011, p. 44.

11   Dr Ralph Lattimore, *Committee Hansard*, 16 September 2011, p. 44.

12   iBus Media, *Submission 42,* p. 3.

- the ground rules that apply, with players competing for a pot of money to which they contribute, limit losses.[13]

1.15   Mr Banks explained:

...It is a game of skill, you have a bunch of people, you put money in the pot—you are kind of locked into that site for some period of time unless you are so brilliant you can have two screens going with two tournaments operating simultaneously. That is why we felt it was pretty safe territory really. The character of it and the relationships with the machine and other people is quite different. It is more like a real game than other forms of gambling which are described as gaming.[14]

1.16   Dr Gainsbury agreed that poker has an element of skill:

Poker is somewhat different to some of the other forms of gambling in that there is an element of skill involved. That is not to say that all poker players are skilled or that you cannot have problem gamblers using poker and spending excessive amounts. That is certainly also the case.[15]

Advantages

Increased harm minimisation and consumer protection

1.17   The recommendations of the PC received support. Professor Alex Blaszczynski explained why he agreed with the PC recommendation:

My view would be to support the Productivity Commission's recommendations from the perspective that there is evidence that Australians already gamble on overseas sites, which then exposes them to risk of exploitation et cetera. My view is that it is a sensible approach to regulate it and ensure that the Australian community are aware that they can gamble through legitimate, well-regulated, well-policed and well-monitored sites. From that perspective one has a control over the responsible gambling measures as well as protecting the Australian community from exploitation.[16]

1.18   Dr Gainsbury also supported this view on the basis of consumer protection:

If people already are playing there should be an option for them to play on a site where they can be protected, both in terms of ensuring that they do have somewhere to go if they experience any cheating or fraud, and that any site that is regulated should be required to have quite stringent responsible gambling features in place.[17]

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13   Mr Gary Banks, *Committee Hansard*, 16 September 2011, pp 45–46.

14   Mr Gary Banks, *Committee Hansard*, 16 September 2011, p. 47.

15   Dr Sally Gainsbury, *Committee Hansard*, 16 September 2011, p. 33.

16   Professor Alex Blaszczynski, *Committee Hansard*, 16 September 2011, p. 33.

17   Dr Sally Gainsbury, *Committee Hansard*, 16 September 2011, p. 33.

1.19   Expanding on the responsible gambling features that could be put in place, Dr Gainsbury continued:

> There is some evidence that these can be implemented on internet sites in some cases even more effectively than those in land-based venues, because you can track players consistently and look at individual behaviour.[18]

1.20   Betfair expressed its view that:

> By permitting Australian based operators to offer online poker and gaming, we are of the view that Australians will migrate towards Australian companies because of better customer service, security of engaging with an Australian based company and superior product offerings. An important additional benefit of a regulated environment is that responsible gambling initiatives could be enforced on Australian based operators, as well as a requirement for licence fees and taxes to be paid.[19]

1.21   While acknowledging that it is an unusual position for a consumer organisation to take, Ms Penny Wilson from the Responsible Gambling Advocacy Centre said it favoured regulation:

> We have noted that it is an unusual position for a consumer organisation, to say that whilst it is more regulation it is opening up a market, but we feel that then at least some of the inadequacies of what is being offered by online gambling could be addressed. For instance, you can have compulsory pop-ups, or you can make it a requirement of the regulations that access to self-limiting mechanisms such as limits on the amount of money or time spent is available from the first screen, not buried somewhere in the back of the website or not available at all. It gives you some scope for that, but we do acknowledge that that is an unusual position...[20]

1.22   Professor Blaszczynski told the committee that in his view the sensible approach would be to offer Australian-based highly regulated sites:

> ...with appropriate auditing and monitoring of regulated sites, you can ensure that the players are not playing against robots or software and that the game itself is fair. You can ensure that underage gambling is prevented or restricted. You have got the checks and balances in place. Again, it is a balance between opening up the Australian community to unfettered gambling opportunities and recognising the reality that there is an increase in legalised gambling online that comes from a variety of international sources, some of which are regulated and highly policed while others are the fly-by-nighters. My view essentially is that, if there is the opportunity for online gambling, then I think the sensible approach basically is to ensure that there are highly regulated and safe sites. The example there is

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18   Dr Sally Gainsbury, *Committee Hansard*, 16 September 2011, p. 33.

19   Betfair, *Submission 12*, p. 13.

20   Ms Penny Wilson, *Committee Hansard*, 11 August 2011, p. 37.

the online lottery and online sports betting within Australia. That has quite a high degree of community acceptability simply because they know it is regulated. There are avenues for complaints and complaints are dealt with sensitively and sensibly.[21]

1.23   He added:

...Given the liberalisation of gambling overseas—in Canada, Ontario and Quebec have introduced online gambling, and in Europe there are the examples of Gibraltar, Alderney and so forth—I think the reality is that internet gambling is with us and it is going to increase, particularly with the advent of mobile phones, iPads and other mobile devices that allow people to stream in videos et cetera. My view, essentially, is that we are not going to prevent online gambling under the current circumstances, and therefore it is a matter not of introducing new forms of gambling but of putting in steps to ensure that the Australian community is protected.[22]

1.24   iBus media submitted that the experience in overseas jurisdictions shows that online poker can be regulated effectively:

…and the most appropriate regulatory outcome is for a local licensing regime (incorporating effective harm minimisation measures) to be developed. Indeed, effective harm minimisation measures are easily and widely utilised by online poker operators, both voluntarily and as a requirement of licence conditions.[23]

1.25   Dr Ralph Lattimore, Assistant Commissioner, PC, elaborated on necessary safeguards:

We raised a number of them already, and many of them are a current feature of the existing online sites that are legal in Australia. In some respects it was online gambling sites in Australia that led the way in harm minimisation back before the IGA came into play. But strict probity standards go without saying. That probably applies currently across all gambling forms that are legal in Australia. Prominently displayed information, account activity, information on problem gambling, links to problem gambling support, automated warnings if your behaviour looks like it is running into risky areas—all of these are very easily achieved in an online environment because each transaction is recorded. I believe Betfair gave evidence to you and cited a case of someone who wanted their account to go up to $70,000. They immediately queried that strange aspect of behaviour given past account behaviour by that person. That is the sort of thing you can do in an online environment. Clearly the precommitment and self-exclusion arrangements we discussed earlier. We envision all of those

21   Professor Alex Blaszczynski, *Committee Hansard*, 16 September 2011, p. 34.

22   Professor Alex Blaszczynski, *Committee Hansard*, 16 September 2011, p. 38.

23   iBus media, *Submission 42,* p. 3.

as a feature of the online environment, whereas some of these features remain controversial in the terrestrial context.[24]

1.26   Mr Robert Fitzgerald, Commissioner, PC, added:

...One of the things that we said both in the 1999 report and in the 2010 report in relation to interactive gambling is that you can build a whole range of consumer protection mechanisms into those systems including—as in the 2010 report—precommitment, which can be mandatory if that is the approach that you take. So that certainly can be built in. The difficulty with that is that people can move easily to another site. The danger is that they can move from a mandatory precommitment on an Australian regulated site to another site that does not have precommitment. So it would probably be a little less effective but...if they value a trustworthy Australian regulated site they are more likely to maintain gambling on that site. We would see absolute precommitment on these internet sites being not only available but part of the design features that you would have if you were in fact to allow Australian sites and regulate them.[25]

1.27   The committee heard that currently people can gamble online from home under the influence of alcohol or drugs and any harm minimisation measures to assist them would depend on which website is accessed. Professor Blaszczynski told the committee that online gambling algorithms could be used to monitor gambling behaviour and identify changes or dangerous gambling behaviour:

...So if a person is on some occasions completely inebriated and gambling excessively in episodes of binges, that pattern of behaviour would be identified more readily than if the person is slightly inebriated and regularly going to a land based venue, slipping under the radar but nevertheless exhibiting impaired control over their judgement over a longer period. When we talk about gambling, apart from the lotteries with Australia, any form of gambling could potentially be seen as incurring some degrees of problems. The question is: what level of harm are we prepared to accept in terms of the government liberalising gambling legislation within Australia?[26]

1.28   The opportunity to identify risky gambling behaviour was also emphasised by Dr Gainsbury:

If there is a prohibition policy, something needs to change because it is not working at the moment. You can go online and gamble. If that is not going to be enforced, perhaps legalisation and regulation would create a safer playing environment for people. If someone wants to gamble in a problematic way, they probably will be able to in some way, shape or form, but there at least will be some options and there will be efforts made to

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24   Dr Ralph Lattimore, *Committee Hansard*, 16 September 2011, p. 46.

25   Mr Robert Fitzgerald, *Committee Hansard*, 16 September 2011, p. 44.

26   Professor Alex Blaszczynski, *Committee Hansard*, 16 September 2011, p. 34.

protect people from developing problems and to look after those who appear to have risky behaviours.[27]

1.29   Currently Australians have over 2,000 overseas-based interactive gambling websites at their fingertips. However, there are no consistently mandated requirements in the form of harm minimisation measures to protect players and particularly vulnerable individuals. I believe that allowing Australian-based interactive gambling service providers to offer online poker presents the opportunity to identify and put in place appropriate harm minimisation and customer protections measures as the starting point for developing regulation.

Would this attract new gamblers?

1.30   When asked whether this liberalisation of online poker would attract new gamblers, Mr Banks responded:

> As to whether there would be more people attracted to online poker card games, I suspect there would be. Would that be a harmful activity per se? That did not appear to us to be the case relative to other forms of gambling and, in particular, gaming—poker machines as opposed to poker card games.[28]

1.31   He added:

> That is happening currently. I suppose what you are saying is that things could be worse and that the people who are encouraged into this activity through its domestic liberalisation would also be the sorts of people who were almost indifferent to whether they were doing it domestically or internationally. We were arguing that the people who might enter into it would feel more secure in an Australian environment and that is why they had not actually been doing it before on those international sites. There is a degree of speculation and that is why, on balance, as Ralph said, we had a very precautionary approach and a contingent approach where, subject to review, it could be stopped. But I agree; there are judgments that need to [be] brought to bear on those things.[29]

1.32   Professor Blaszczynski expressed his view that:

> ...what we are essentially arguing here is not so much that we are introducing a new form of gambling, because internet gambling currently exists. We are really looking at imposing a proper regulatory system to protect the Australian community.[30]

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27   Dr Sally Gainsbury, *Committee Hansard*, 16 September 2011, p. 35.

28   Mr Gary Banks, *Committee Hansard*, 16 September 2011, p. 43.

29   Mr Gary Banks, *Committee Hansard*, 16 September 2011, p. 44.

30   Professor Alex Blaszczynski, *Committee Hansard*, 16 September 2011, p. 36.

Additional requirements

Education

1.33   Dr Gainsbury suggested that this model should be supplemented with education to increase awareness of regulated and unregulated sites and the potential risks and harms:

> If people are playing online then having a regulated site would offer player protections, but I would want to look at a more balanced model and also at increasing awareness of the difference between regulated and unregulated sites, putting consumer protections on the sites and advertising at a community level that poker play can result in harm as well.[31]

Advertising

1.34   While FamilyVoice Australia did not agree that online poker should be allowed on Australian-hosted sites, it did advise that should this occur, it should be accompanied by restrictive advertising rules that limit the times and the nature of the advertising. There should also be a requirement to provide accurate information about potential losses.[32]

1.35   Regardless of the model used, the PC spoke about the need to address the regulation of advertising:

> Going back to your advertising question, one of the things that we were talking about earlier in the day was, if you were to introduce, for example, managed liberalisation of poker game playing, what would you allow in relation to advertising there? You might take the approach of, 'We'll allow it, but we won't allow advertising.' You might also take the approach of, 'What we would do is we'd allow advertising that this is a registered, regulated site so that people are encouraged to go there.' Even in that area, whether you would allow advertising is one question and the nature of the advertising is another. From my point of view you would want to look at the risks that you are trying to deal with, relative to a game.[33]

1.36   I agree with both these ideas. Educating consumers will be essential to increase awareness of the dangers of overseas sites. It is also the case that gambling is not without risk even in a well regulated environment and people need to be aware of the potential risks and harms as well as the tools and resources to assist them. In addition, restricting advertising not only for overseas but domestic providers is necessary to avoid repeating the situation we now have with the proliferation of sports betting advertising.

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31   Dr Sally Gainsbury, *Committee Hansard*, 16 September 2011, p. 33.

32   FamilyVoice Australia, *Submission 4*, p. 3.

33   Mr Robert Fitzgerald, *Committee Hansard*, 16 September 2011, p. 54.

Would Australians prefer Australian-based sites?

1.37   The committee heard that many Australian gamblers are likely to prefer using Australian-based websites and a safer domestic market (see discussion in chapter three). The PC considered that while the evidence is not clear that Australians, particularly young Australians, would choose to use a better regulated Australian site over an overseas site, at least some would. It added that education could play a part in steering people towards better regulated Australian sites.[34]

1.38   Dr Gainsbury also indicated that evidence shows at least some people would move to a domestic site but the sites would have to be competitive:

> I would certainly say that it is a very competitive market and liberalising and regulating some sites in Australia will not necessarily reduce the number of offshore competitors. Evidence from other jurisdictions that have liberalised and implemented their own sites suggests that they do capture, in some cases, a minority. Sweden, for example, has only 30 per cent of the poker market on its state-based site. So sites have to be competitive, which is going to have implications for how much you can tax sites so they can offer attractive rates to players and the various advertising rights that they have. So certainly the regulatory model would have to ensure that any liberalised and legalised site would be competitive in an international market. Absolutely, if it is going to be a model where there is a liberalisation, there will have to be efforts to reduce the attractiveness of competitor sites. That might be by restricting advertising or providing incentives for sites. So there would have to be a dual approach to protect the licensees.[35]

What about overseas sites?

1.39   As long as unregulated overseas sites are available and present an attractive alternative, individuals will still be able to gamble in a manner that could cause significant harm. I favour a hybrid approach where, following the recommendations of the PC, we liberalise the Australian online poker market, appropriately regulate it and put in place safeguards. However, in addition, we implement measures to encourage people to use these well regulated sites.

1.40   This dual approach was supported by Professor Blaszczynski:

> I would support your perspective on that...What we are attempting to do here, basically, is firstly to recognise that internet gambling is currently available to the Australian community. Regulating sites will assist in preventing, but clearly not eliminating, all the problems. Making it difficult

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34   Mr Robert Fitzgerald, *Committee Hansard*, 16 September 2011, pp 49–50.

35   Dr Sally Gainsbury, *Committee Hansard*, 16 September 2011, pp 37–38.

for Australians to gamble on unregulated sites is, I think, one of the key initiatives that I would strongly support.[36]

1.41   The PC thought the approach had merit:

If you believe there is any scope at all for addressing overseas sites then you can do that in a hybrid model as well. The question is the capacity to do that. There are ways around internet filtering but, of course, if it is present and there are available domestic sites then incentives to get around it are reduced.[37]

1.42   However, Dr Lattimore of the PC cautioned the committee about an issue to be aware of:

However, perhaps one of the bigger problems is that if there were an overseas site that offered identical services to an Australian site and you barred it because of its overseas location then you would probably be in breach of WTO rules.

...Antigua took the US to court on the basis that they were offering a form of gambling that was also offered in the United States. There were two hearings in relation to that matter and Antigua won.

...The key issue would be whether it was legitimate to have a standard harm minimisation. If there were the potential for you to say that an overseas site did not meet those harm minimisation guidelines then it might not breach the WTO rules. But in this instance it did, so it would have to be a consideration in blocking overseas sites.[38]

Payment controls

1.43   I favour using payment controls to encourage individuals to use domestic sites and steer away from unregulated overseas providers. I realise this is not a perfect solution. The most determined individuals would work on circumventing such controls. But they would provide a barrier for most people most of the time, helping to protect them particularly from impulsive gambling episodes. Even for those who find a way around such a mechanism it would mean they are making a much more conscious decision to use those overseas websites. Dr Gainsbury agreed it would not be a perfect solution:

...people can generally find a way around any sort of blocking measures. They have to have the technological know-how, so the majority of people might not be able to, but a minority will.[39]

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36   Professor Alex Blaszczynski, *Committee Hansard*, 16 September 2011, p. 38.

37   Dr Ralph Lattimore, *Committee Hansard*, 16 September 2011, p. 45.

38   Dr Ralph Lattimore, *Committee Hansard*, 16 September 2011, p. 45.

39   Dr Sally Gainsbury, *Committee Hansard*, 16 September 2011, p. 38.

1.44   She stressed that such a model would need to include restricted advertising for unlicensed sites and increasing education for consumers:

> I think one effort that might be encouraged is restricting advertising rights for unlicensed sites and also having a dual campaign of actually educating players about the difference between unregulated and regulated sites, because I really think that in Australia people actually do not know that, for example, poker sites are illegal and they do not know the risks that are involved. So a mixed approach of enforcing prohibition and encouraging and educating consumers about the importance of playing on a regulated site is important.[40]

1.45   I agree with this approach.

1.46   Payment controls are discussed in detail in chapter 15. The Interactive Gambling and Broadcasting Amendment (Online Transactions and Other Measures) Bill 2011 suggested one form of financial transaction control, involving consumers being able to suspend or cancel incomplete transactions to overseas gambling websites. However, during the hearing a more straightforward process was suggested.

1.47   In essence, this would involve the government maintaining a 'blacklist' of merchant numbers belonging to overseas gambling providers and providing the list to financial institutions to enable them to block transactions to those numbers. The Australian Bankers' Association (ABA) gave evidence on this model at a public hearing:

> **Mr Munchenberg:...**if we the industry were to be provided with blacklisted merchant identifiers then we could block payments to those merchant identifier numbers. So, if someone sets up a gambling website in wherever, has a merchant number which, for argument's sake, is 1234 and the Australian government decide that they do not want Australians transacting with that merchant and proscribe 1234, we can block payments to 1234. If that online gambling site then became aware that those payments were being blocked and got a new merchant number, 1235, then we would not be able to block payments to that until such time as the Australian government identified that that had happened and sent it back to us. As I understand it, that would only relate to direct payments: credit card payments and possibly direct debit and EFT payments.
>
> **CHAIR:** So it could be done if you were provided with the information; it is possible.
>
> **Mr Munchenberg:**...I think we probably already do that in other areas such as terrorism, organised crime and anti-money-laundering areas. It would potentially provide an improvement but it would fall well short of

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40   Dr Sally Gainsbury, *Committee Hansard*, 16 September 2011, p. 38.

preventing Australians from gambling online through overseas based entities.[41]

1.48   Like the ABA, I acknowledge that such an approach could never completely prevent or prohibit the use of overseas sites by Australians, but I believe that such controls would dissuade the majority of gamblers. In having to investigate methods to circumvent these controls, a person would be making a much more conscious decision to gamble in a riskier environment overseas and the additional time this would take may give a person time to think and reconsider his or her actions.

1.49   The government should investigate in detail the merits and practicalities of a system of financial controls along the lines suggested by the ABA. In order to achieve this, I suggest that it be included in the current Review of the Interactive Gambling Act (IGA) being undertaken by the Department of Broadband, Communications and the Digital Economy. This work should include close consultation with the industry.

Recommendation 1

1.50   I recommend that as part of the current review of the *Interactive Gambling Act 2001* being undertaken by the Department of Broadband, Communications and the Digital Economy, the government further investigate the method of payment controls which involves maintaining a 'blacklist' of merchant numbers of overseas gambling providers and supplying them to financial institutions.

Conclusion

1.51   In summary, I believe that while the IGA has been effective in limiting the provision of interactive gambling websites by Australian providers, the reality is that Australians continue to gamble on unregulated overseas websites. This exposes Australian consumers to risks. A better, safer alternative would be to allow a well regulated domestic market to operate and provide services to Australians.

1.52   I support the recommendation of the Productivity Commission to allow 'managed liberalisation' of online poker websites. An Australian domestic industry should be developed carefully with effective harm minimisation measures for online play as well as robust consumer protection measures.

1.53   In the model I support, if Australian providers were to be permitted to provide certain forms of online interactive gambling services, I believe that financial transaction barriers on overseas sites should also be put in place. Measures to block payments to overseas websites would be likely to steer most people towards the safer, well-regulated domestic sites. I recognise that such measures are not likely to achieve

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41   Mr Steven Munchenberg and Mr Andrew Wilkie MP, *Committee Hansard*, 16 September 2011, p. 30.

a total prohibition on Australians' access to overseas gambling websites, but would be likely to dissuade all but the most determined.

Mr Andrew Wilkie MP

Chair