

## **Additional comments by Senator Xenophon**

1.1 While I agree with much of the committee's report, I do not believe that sufficient action is being taken to address the risks and harms of online gambling which have already emerged, and have the potential to increase exponentially.

1.2 Online gambling will create the next big wave of gambling addiction unless urgent action is taken to improve the current regulatory framework. Australia already has difficulty dealing with the harm caused by poker machines in the community because of their rapid liberalisation, and we should learn from this experience. I do not believe that now is the time to open up the industry further, as doing so will inevitably lead to more problems.

1.3 I note that the committee heard about people experiencing problems with overseas gambling websites as well as domestic sites.

### **There are already problems to address**

#### *Overseas gambling websites*

1.4 In evidence which raised a number of issues, the committee heard from an individual who got into severe financial difficulties through accessing an overseas gambling website.

1.5 In the first instance, he accessed this website in response to an advertisement on a social networking site which offered an opportunity to make extra money each week. The advertisement took him to Casino.com, which the committee heard is a site hosted in Singapore but licensed in Gibraltar. It has an Australian flag in the background and lists of Australian winners, and takes bets in Australian currency. This individual had the impression the website was secure. He started with A\$250 on his credit card and received a bonus A\$250. After three hours he had won A\$6,000 and tried to withdraw it. However, he soon discovered that the free \$250 was conditional on playing certain games which he did not wish to play. The conditions also included that he had to wager 1,000 times his 'investment' amount before he could withdraw money.<sup>1</sup>

1.6 After having this explained the company offered him the option of resetting the balance to \$250. However, he felt like he had lost \$6,000 so after a week or so he started again. Within about 30 days he was up \$41,000 but found it difficult to withdraw because of a five day waiting period and a \$20,000 a month limit on withdrawals. So he continued to play, and in two months he was up \$90,000. Then he

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1 *Committee Hansard*, 16 September 2011, p. 56.

started to lose and lost the \$90,000 he had won. At one point, he lost \$50,000 in a day.<sup>2</sup>

1.7 In the meantime he was being sent free gifts, such as an iPod, laptop and iPhone4, and free trip to anywhere in the world plus \$5,000 spending money. He was being referred to as a VIP customer.<sup>3</sup>

1.8 The website then made \$90,000 in unauthorised transactions from his credit cards. He made official complaints to three banks which have now reversed the transactions. His total loss still stands at \$120,000.<sup>4</sup>

1.9 This case illustrates that the potential for harm with overseas sites is great and the regulatory framework in some of these countries is grossly inadequate. However, I do not believe that bringing these sites onshore is the answer. Australia already has a saturated gambling market, as evidenced with the recent growth in online sports betting, and the committee has heard that there are a growing number of people experiencing gambling problems from using domestic betting websites. How many more opportunities do Australians need to gamble, particularly on forms of gambling where the risk of harm and addiction is significant?

### ***Domestic online sports betting websites***

1.10 The growth in online sports betting is a major area for concern, as it has led to more people presenting with problem gambling from using domestic sites. This was reported by the University of Sydney Gambling Treatment Clinic (GTC):

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

1.11 The GTC emphasised that these clients are not gambling on overseas but on domestic websites:

The vast majority of our sports betting clients are primarily gambling on Australian-based, legal sports betting operators. Whilst we would not want to dismiss the existence nor seriousness of illegal activity in either local or

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2 *Committee Hansard*, 16 September 2011, pp 56–57.

3 *Committee Hansard*, 16 September 2011, p. 57.

4 *Committee Hansard*, 16 September 2011, p. 58.

5 University of Sydney Gambling Treatment Clinic, *Submission 9*, p. 2.

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overseas sports betting markets, this issue does not appear to be a major contributing factor in the stories of the majority of our clients.<sup>6</sup>

1.12 The expansion of this domestic market along with the associated expansion in advertising and inducements to gamble are a significant concern. These areas must be addressed before any consideration is given to opening up the market for more gambling opportunities.

### **The risks of opening up the gambling market**

1.13 Liberalisation, or allowing domestic websites to provide online gambling services currently only available from websites overseas, is not the answer. It carries a significant number of risks. Liberalisation would carry the message that the government has sanctioned this activity and people will think that it is safe. However, the committee has heard that online gambling is not a safe environment.

#### ***Accessibility increases levels of problem gambling***

1.14 It is already very easy to gamble online, and the options available to online gamblers are far greater than those available to people who choose to gamble ‘in person’. Opening the gambling market will increase accessibility, which in turn will lead to more people participating. More people gambling will inevitably lead to more people developing gambling problems. This was even acknowledged by Professor Alex Blaszczynski:

There is certainly greater opportunity. Where there are greater opportunities, more people are exposed to gambling; where more people are exposed to gambling, the higher the levels of consumption; where there are higher levels of consumption, the greater is the number of people who develop problems. That is the same with alcohol consumption and distribution.<sup>7</sup>

1.15 It was also acknowledged by the Productivity Commission (PC):

Greater access could increase the prevalence of problem gambling and its associated harms.<sup>8</sup>

1.16 The evidence for this can be seen in Western Australia, where poker machines are only available at the Burswood Casino. Western Australia’s rate of problem gambling is lower than other jurisdictions,<sup>9</sup> demonstrating that increased liberalisation and access leads to higher levels of problem gambling. This also occurred in South

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6 University of Sydney Gambling Treatment Clinic, *Submission 9*, p. 2.

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

8 Productivity Commission, *Gambling*, vol. 2, Commonwealth of Australia, Canberra, 2010, p. 15.7.

9 Productivity Commission, *Gambling*, vol. 1, Commonwealth of Australia, Canberra, 2010, p. 5.20, 5.26, vol. 2 Appendix F.

Australia with the introduction of poker machines, particularly into hotels and clubs. This is also evident in other states.

### ***Internet appears riskier for problem gamblers***

1.17 It is already known that the online environment can exacerbate risky gambling behaviour, and research is showing increased rates of problem gambling. After reviewing the evidence of problem gambling rates in the online environment, the PC concluded that people who have gambled online tend to have higher rates of problem gambling than people who have not gambled online:

...while none of the studies so far are adequate, they tend to point towards higher rates of problem gambling from people who operate in the online environment. Why that is, is not so clear. There may be a selection bias that people who have problems tend more likely to go into the online as first adopters, but we just do not know. The evidence at the moment is that there appear to be some high risks in the online environment.<sup>10</sup>

1.18 The PC acknowledged the internet could exacerbate risky behaviour:

While the risks associated with online gambling are likely to be overstated, the relatively high prevalence of problem gamblers is still a cause for concern. At the very least, it indicates that the internet is very attractive to this group and, though the evidence is weak, gambling online may exacerbate already hazardous behaviour...<sup>11</sup>

### ***Protecting vulnerable individuals***

1.19 The ease of access and the ability to gamble at any time on anything makes online gambling problematic. In addition, if an individual is intoxicated, taking drugs or they have a mental health issue, this makes them vulnerable, and this not readily apparent in the online environment.

1.20 I do not agree with the PC that there are some features of gambling online at home which can mitigate the risks, such as family who may intervene. Online gambling has been identified as an attractive option for people who wish to hide their gambling so family members may not necessarily be aware of it. With mobile devices people can take their gambling anywhere.

1.21 The committee has heard that there is the potential to put in place methods of tracking and identifying risky gambling behaviour in the online environment.<sup>12</sup> However, because these methods are only possibilities at this stage and have not been mandated, they cannot be relied on to 'solve' the problems with online gambling.

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10 Dr Ralph Lattimore, *Committee Hansard*, 16 September 2011, p. 52.

11 Productivity Commission, *Gambling*, vol. 2, Commonwealth of Australia, Canberra, 2010, p. 15.15.

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

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### ***Taxation not assured***

1.22 Those arguing for liberalisation of online gambling point to the potential for tax revenue and jobs. The PC has said that the amount of tax that could be expected from such liberalisation would be uncertain:

On the tax side, though, our view was that this is not an area where you would be seeking significant tax revenue. You could not, precisely because of the capacity to move across borders—unlike physical poker machines, for example, where that capacity does not genuinely exist. The tax rates that you could achieve would be lower and we have also warned generally of the allure of tax revenue in this area.<sup>13</sup>

1.23 This was supported by Dr Mark Zirnsak of the Victorian InterChurch Gambling Taskforce:

...normally where gambling has been regulated or authorised within a jurisdiction the state looks at a cost-benefit analysis where there are the costs of the problem gambling and the harm is being caused, and that is seen to be balanced in some way by the benefit of collecting tax. But the problem with the online environment appears to be that often that tax revenue does not flow, so the benefit side is much reduced in an online environment compared to a land based gambling provider if you are doing that kind of analysis.<sup>14</sup>

### ***Portability of business model***

1.24 The extent of job creation is also uncertain. Overseas experience has shown that providers tend to gravitate to regulatory environments where they pay less tax and have fewer licence conditions imposed on them. The portability of this online business model makes it easy to move. The committee also heard about the possibility of a gambling provider setting up in Australia but then moving overseas to take advantage of less regulation and more favourable tax rates, and therefore taking customers with them to a less regulated environment:

Potentially, the offshore provider is going to be able to offer much better deals to gamblers to, once they are gambling in the Australian environment, attract them into the offshore environment. So you have built the market through funnelling people into firms regulated in the Australian market and then having the offshore providers picking them off and shifting them over. And you may even have Australian companies do that. Tatts currently operate an online gambling facility out of Malta, so you could imagine Tatts setting up an Australian business that gets people in to play on a regulated Australian provider and then moves them to the Malta one. I do not want to cast aspersions on that particular company, but you could imagine a situation in which a company has an operation running out of Australia and an operation running out of somewhere else that markets

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

14 Dr Mark Zirnsak, *Committee Hansard*, 11 August 2011, p. 42.

from that operation to their offshore operation, which would be operating in a secrecy jurisdiction in which they do not pay any tax.<sup>15</sup>

## Conclusion

1.25 The possible benefits of liberalisation are at best uncertain, but it is clear that liberalisation would lead to more people developing gambling problems. I believe it would be unwise to liberalise other forms of online gambling such as casino-type games. This could be seen as giving it the seal of approval from the government, and could lead people to think it is safe when it is not:

**Senator XENOPHON:** But just going back to that: do you acknowledge that if you liberalise forms of gambling and say, 'This is approved by the state; it will be regulated, audited and all those things,' people still lose. The nature of the gambling transaction is that the house will always win—that is the case, is it not?

**Prof. Blaszczyński:** That is the case, absolutely.<sup>16</sup>

1.26 I agree with the committee view that the *Interactive Gambling Act 2001* (IGA) should be strengthened to improve its effectiveness. I support the current review being conducted by the Department of Broadband, Communications and the Digital Economy. It should look closely at the loopholes identified in the IGA through this inquiry, and put forward appropriate amendments to address them along with others they may uncover.

1.27 In addition to strengthening the IGA in order to make it more effective, I believe that specific measures are necessary to deter people from using overseas websites to gamble. In addition to the provisions suggested in the bill, which would allow customers to cancel financial transactions to international gambling websites, I also support the option which was raised during the inquiry, and which is outlined in chapter 15 and supported by the Chair.

1.28 This would involve the government maintaining a 'blacklist' of merchant identification numbers to enable financial institutions to prohibit transactions to certain vendors.

1.29 While not a perfect solution, I believe that such restrictions on online gambling transactions would go a considerable way to curbing problem gambling behaviour, and would also protect Australians from scam websites. Blocking direct payments would be likely to deter gamblers from making impulsive decisions to chase losses using quick credit card transactions. Even though there may be ways around such systems, such restrictions would force some gamblers to make a more conscious decision to deposit money into an account instead of making rapid direct payments.

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15 Dr Mark Zirnsak, *Committee Hansard*, 11 August 2011, p. 42.

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

1.30 I support the recommendation of the Chair that, as part of the current review of the Interactive Gambling Act (IGA), the government should investigate in detail the merits and practicalities of a system of financial controls along these lines.

## **Advertising**

1.31 Advertising is a particular concern in relation to both overseas and domestic providers. I agree with the recommendation to strengthen the IGA to close the loopholes currently being exploited by overseas providers.

1.32 The proliferation of sports betting advertising shows one possible outcome of liberalisation. Unless specifically restricted, liberalisation would be likely to bring an avalanche of advertising for online casino-type games to attract new customers.

1.33 The current amount of sports betting advertisements is overwhelming. This goes beyond the issue of live odds, which have already attracted a significant amount of criticism. This level of advertising is increasing the normalisation of gambling – the 'gamblification' of sport – which is a major concern not just for problem gamblers and those engaging in risky gambling behaviours, but particularly for young men and the next generation who will grow up viewing sports through the prism of gambling.<sup>17</sup> Further, the exposure of children to gambling advertising at sports events is an increasing community concern.

1.34 While the government's recent announcement to reduce and control the broadcasting of live odds is a step in the right direction, there are concerns about how effective this scheme will be. The fact that it will be regulated by the industry is not appropriate, and the government needs to understand that legislation is the only avenue that will ensure proper controls are in place.

1.35 While I support the committee's comments in relation to the intent of Schedule 3 of the Interactive Gambling and Broadcasting Amendment (Online Transactions and Other Measures) Bill 2011, I do not believe the committee majority's recommendation in relation to this goes far enough. While the committee majority has recommended that that Broadcasting Services Act be amended to prohibit gambling advertising during times when children are likely to be watching, this would mean that sport or sport or sports related programs broadcast late at night would still permit gambling advertising. However, this would not address the problem of children being exposed to gambling advertising at sporting grounds.

1.36 In addition to addressing live odds and broadcasting of gambling advertisements, I welcome the recommendations to achieve national consistency in a number of important areas to ensure more effective protection for consumers, noted below.

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17 Dr Samantha Thomas, *Committee Hansard*, 11 October 2011, p. 2.

## Inducements

1.37 The committee has heard that the regulation of inducements is inconsistent. Some gambling providers are able to offer credit and are able to pay commissions to third parties. As the University of Sydney Gambling Treatment Clinic told the committee, inducements to gamble have the potential to hinder the recovery efforts of existing problem gamblers:

I have a client, who I saw this week, for example, who was trying to cut down and then the gambling site gave him a free \$50 and that got him into a spiral where he ended up losing considerably more than that. While it might not contribute to someone becoming a problem gambler it definitely exacerbates the problem of already existing problem gamblers.<sup>18</sup>

### *Using credit to bet*

1.38 The committee heard of a case where a vulnerable man with a mental illness ran up \$80,000 in debts with Sportsbet. He was originally attracted by the offer of \$5,000 in free bets. He then accepted thousands of dollars worth of credit to continue betting.<sup>19</sup> I do, however, acknowledge the approach taken by Sportsbet when approached by myself and Mr Alan Tudge MP. Fortunately the transactions were eventually reversed, and Sportsbet acted promptly to reverse the man's bankruptcy and loss of property. Their prompt action deserves acknowledgement.

1.39 With a high-risk product such as a gambling service, inducements such as 'free bets' or the provision of credit can lead to significant financial problems, as shown in the aforementioned case. Regulations covering such practices are inconsistent between jurisdictions, allowing providers to use loopholes to their advantage.

### *Third party commissions*

1.40 This case also uncovered the practice of betting agencies paying commissions to third parties to introduce new clients to their services. These third parties then receive an 'affiliate share' of the gambler's losses:

**Mr Barry:** In this case, the client was referred to us by a third party. There are a number of third-party agents who would network within racing clubs and professional gambling circles. He was referred to us on the basis—

**Senator XENOPHON:** Sorry—let's go back a step. When you get a referral from a third party, and you have your Facebook page where people share tips and things like that, do you provide any credits, any inducements or any reward for third parties introducing customers to you?

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18 Mr Christopher Hunt, University of Sydney Gambling Treatment Clinic, *Committee Hansard*, 16 September 2011, pp 21–22.

19 Richard Willingham, 'Betting agency settles over man's \$80,000 debt', *The Age*, 26 July 2011.



**Mr Barry:** Yes. Those third parties can be on a finders fee or they could gain a share of the revenue from the customer—an affiliate share.

**Senator XENOPHON:** If the punter loses \$10,000 and they were introduced by a third party, that third party could be getting a share of that?

**Mr Barry:** Absolutely.

**Senator XENOPHON:** Is that disclosed to the punter?

**Mr Barry:** Not necessarily, but it would not be in any way deliberately hidden.<sup>20</sup>

1.41 The nature of the gambling product was discussed and the fact that the more a person loses, the more the person who introduces them stands to receive:

**Mr Barry:**...but it is a reasonably standard business practice for referrals to occur. I think many businesses would operate on the basis that people get recommended to another service if they enjoy using a service or they believe an individual may wish to use that service.

**Senator XENOPHON:** But isn't this a little bit different? The bigger the person's loss, the more the referrer gets.

**Mr Barry:** It is often the case that when a third party refers someone to you they would get a share of the benefit. I do not think it is any different.

**Senator XENOPHON:** But given that you are dealing with an unusual product—you are dealing with a product that you acknowledge in your very comprehensive submission has a risk of harm and you have items on your website to deal with problem gambling—don't you see that offering those sorts of inducements could fuel problem gambling? The third party that introduces the punter to you might have an incentive to encourage that person to keep playing.

**Mr Barry:** Typically an affiliate would be something like a racing forum, an information site or that type of thing and those people would have links to our site. They refer a customer through that means. So typically that is a reward for the affiliate and the affiliate has an ongoing relationship with that customer.<sup>21</sup>

1.42 Sportsbet indicated that it paid out around \$3.5 million in commissions each year.<sup>22</sup> While this practice is disclosed in Sportsbet's terms and conditions listed on their website, a greater level of transparency is required. This should include mandatory disclosure laws similar to those relating to commissions paid for financial service referrals.

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20 Senator Xenophon and Mr Cormac Barry, Sportsbet, *Committee Hansard*, 11 August 2011, p 5.

21 Senator Xenophon, Mr Cormac Barry and Mr Ben Sleep, Sportsbet, *Committee Hansard*, 11 August 2011, p 5.

22 Senator Xenophon, Mr Cormac Barry and Mr Ben Sleep, Sportsbet, *Committee Hansard*, 11 August 2011, p 5.

1.43 The Queensland Government noted that there has been discussion of a national approach to inducements to bet for some years, but no agreement has yet been reached.<sup>23</sup> As a result, I support the recommendation of the committee for the COAG Select Council on Gambling Reform, in consultation with the COAG Legislative and Governance Forum on Consumer Affairs, to develop nationally consistent standards for tighter controls on the practice of credit betting and greater transparency around the practice of paying third party commissions by betting agencies. This work would feed into the work recommended in the next chapter for a national code of conduct for wagering providers addressing a number of business practices, including advertising.

1.44 However, I believe this approach should be included in legislation, with appropriate penalties for breaches, rather than an industry code and a nationally consistent approach through federal legislation is preferred to outlaw such practices. There is no question the Commonwealth has the constitutional power to legislate comprehensively in this area, using a combination of the corporations, banking and telecommunications, and taxation heads of power in the Constitution.

## **Conclusion**

1.45 The committee has heard how easy it is to gamble online. To quote Tim Costello: “online gambling allows you to lose your home without even leaving your home”.<sup>24</sup>

1.46 In relation to allowing online poker to be provided in Australia, I acknowledge the intent of regulation to ensure probity and protect consumers. However, the message this would send to the community would be one of normalising the activity, and it would create an impression of safety. But it would not be safe. More people will be attracted to such sites, more will lose money, and more will end up as problem gamblers. Furthermore, they could still choose to gamble on unregulated overseas sites that would offer inducements to do so. Problem gamblers would be more likely to choose unregulated overseas sites when confronted with any domestic consumer protection measures.

1.47 I am also concerned that opening up the market would create more access and generate more demand. It would result in a much bigger gambling industry in Australia. The more accessible forms of gambling are, the greater the degree of likely problems. This is the downside of the PC proposal—the more accessible you make a form of gambling, more people will participate in it, which will inevitably result in more problem gamblers.

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23 Queensland Government, *Submission 55*, p. 15.

24 Information available from:  
[http://sgp1.paddington.ninems.com.au/sunday/political\\_transcripts/article\\_473.asp?s=1](http://sgp1.paddington.ninems.com.au/sunday/political_transcripts/article_473.asp?s=1)  
(accessed 15 November 2011)

1.48 We need to be able to regulate effectively the forms of gambling that are already legal in Australia before we consider opening up the gambling market even further. This inquiry has shown the serious loopholes that exist in Australia's laws and regulations (including the gambling products offered), and these issues need to be addressed as a matter of urgency.

1.49 The rapid liberalisation and increased availability of poker machines has resulted in great harm in the community, and we are still trying to address that adequately. Harm minimisation measures have been catching up but they are clearly insufficient as new technology, inducements and features work against safety for consumers.

1.50 There are also lessons to learn from the growth in online sports betting, driven by persistent advertising on the part of gambling agencies. The committee has heard how people are now presenting to gambling clinics with online sports betting addiction, and that these numbers are growing. It is only now, when live odds announcements have reached saturation point, that some action to address it has been initiated. The government should learn from these gambling experiences and those overseas.

1.51 Through the current IGA review process, the Government should commission research to better understand and minimise the risks from online gambling, regardless of the eventual policy decisions regarding regulation.

1.52 All governments, the industry and other stakeholders should first turn their attention to better regulating the gambling services already legally available. Until appropriate and effective harm minimisation measures are made consistent and mandatory across jurisdictions, the community risks online gambling becoming the new growth area for problem gambling. This includes appropriate restrictions placed on advertising to avoid the normalisation of gambling and to reduce the exposure for children and other vulnerable people in the community. This should be the current focus. Until these areas are adequately addressed, Australian regulation should not be expanded to other gambling forms.

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

1.53 In relation to the provisions of the bill the issues raised have been detailed earlier in the report.

#### **Schedule 1 —Ability to suspend or cancel online gambling transactions**

1.54 In an attempt to reduce losses resulting from interactive and online gambling, the bill establishes provisions to allow consumers to cancel regulated financial transactions to international gambling websites provided the transactions have not been completed.

1.55 As already indicated, I support an additional alternative method put forward during the hearings. This involves the government maintaining a 'blacklist' of merchant identification numbers to enable financial institutions to prohibit transactions to certain vendors.

1.56 In conjunction with strengthening the Interactive Gambling Act, this would deter gamblers from accessing overseas gambling websites. I recognise there will be some who find technical ways to avoid these measures, but it should protect the majority of gamblers, and would ensure those who circumvent the measures make a much more conscious decision to do so.

1.57 While I support the Chair's recommendation that this issue should be further investigated as part of the current review of the IGA, I believe it should result in an amendment which requires that a blacklist of prohibited sites be used by financial institutions to prohibit online gambling transactions.

### **Schedule 2—Inducements to gamble**

1.58 Schedule 2 of the bill amends the IGA, making it an offence to offer customers an inducement to gamble.

1.59 As indicated above, inducements to gamble can be harmful to those who already have or who are at risk of developing gambling problems. This is particularly the case when the inducements, coupled with advertising, give the impression that it is easy to win. Gambling is a product with inherent dangers, and should not be treated like any other product. This already exists in the case of land-based gambling venues, although these regulations should also be improved.

1.60 I note the committee majority's decision to wait until the review of the IGA has been concluded so that a package of amendments can be considered. Given that the review is not due to report until mid 2012, and further consideration will have to be given to the findings before legislation is drafted, I believe this issue needs to be addressed now rather than waiting for another year at least. I stress the importance of moving quickly on this issue to address inducements and links to online gambling websites which are currently loopholes.

### **Prohibitions on corporations offering gambling services —Clause 3**

1.61 Clause 3 of the bill prohibits gambling service providers from offering spot betting (also known as 'micro' or exotic betting), in-play betting or any similar form of betting.

1.62 The bill attempts to address what is considered to be a riskier form of betting for problem gambling, as well as the greater potential for match-fixing resulting from bets on micro-events and bets on losing outcomes.<sup>25</sup> The National Rugby League

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25 Senator Xenophon, Second Reading Speech, *Journals of the Senate*, 20 June 2011, p. 3272.

(NRL) has recently banned some exotic betting options following a match-fixing scandal in 2010, and the Australian Football League has also banned exotic bets such as the last goal in a game, tribunal verdicts and 'the first coach to be sacked.'<sup>26</sup>

1.63 The committee majority has agreed to maintain the status quo for in-play betting and spot betting, instead opting for further research.

1.64 However, I note that increasing concerns in relation to spot betting are being raised around the world, most recently by Lord Paul Condon. Lord Condon, who set up and led the International Cricket Council's anti-corruption unit from 2000, has stated that "spot-fixing is the name of the game" when it comes to corruption in cricket.<sup>27</sup>

1.65 Lord Condon's comments came after three Pakistani cricket players were jailed after being found guilty of conspiracy to cheat and conspiracy to accept corrupt payments during the 2010 tour of England.

1.66 An article by the *Brisbane Times*' Phil Lutton, published in July this year, stated that 19 per cent of NRL footballers know of players who have bet on games.<sup>28</sup> Dr Jack Anderson, an Irish expert on sports law and corruption, is quoted in the article as saying:

You see in the NRL and Australian Rules, certain players doing specific things that facilitate gambling. It's about the integrity in sport. Do you believe what is being done on the field is being done for the right reasons or for gambling reasons?

1.67 The ability to place spot bets means that the temptation for players is greater than ever. Getting an entire team to throw a match is no longer necessary; with spot betting, one player's actions are all that need to be influenced. However, this is not always the case. In an interview, with the *New York Times*' soccer blog, sports corruption expert and author of *The Fix*, Declan Hill states:

There was a case in Asia that I looked at when researching my book where they fixed all the players on one team, all the players on the other team, the coaches, the substitutes, the referee and the linesmen. They had everyone.<sup>29</sup>

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26 Senator Xenophon, Second Reading Speech, *Journals of the Senate*, 20 June 2011, p. 3273.

27 Telegraph UK, 'Lord Condon: every international cricket team, at some stage, was involved in illegal match fixing', 15 November 2011. Online: <http://www.telegraph.co.uk/sport/cricket/international/8891998/Lord-Condon-every-international-cricket-team-at-some-stage-was-involved-in-illegal-match-fixing.html>

28 'Footballers gambling? You can bet on it', *Brisbane Times*, 28 July 2011 (<http://www.brisbanetimes.com.au/sport/footballers-gambling-you-can-bet-on-it-20110727-1i02z.html>)

29 Declan Hill, *New York Times Goal*, 27 November 2009. Online: <http://goal.blogs.nytimes.com/2009/11/27/q-a-on-match-fixing-with-declan-hill-author-of-the-fix/>

1.68 It is vital that action is taken on this issue before a major Australian sporting code becomes irrevocably damaged by betting-induced corruption.

### **Schedule 3—Advertising**

1.69 Schedule 3 of the bill amends the Broadcasting Act to prohibit advertising of betting venues and online gambling sites during G classified programs and all sport or sport related programs. I have previously outlined my concerns with the committee majority's recommendation on this issue, although I support their stance in general.

1.70 Evidence of the pervasive and intrusive nature of gambling advertising raises issues of the need to require effective remedial advertising to deal with gambling addiction. In the absence of an outright ban on gambling advertising, there ought to be a requirement for advertisers to fund on a dollar for dollar basis advertisements promoting the reduction of harm and gambling help services. Such monies should not be administered by the industry, but rather by government with input from independent experts.

### **Schedule 4—Obtaining a financial advantage by deception, in relation to a code of sport**

1.71 Schedule 4 of the bill inserts a provision into the Criminal Code, making it an offence to participate in match-fixing, establishing a maximum penalty of 10 years imprisonment and/or 10, 000 penalty units.

1.72 I note the work underway to advance the new National Policy on Match-Fixing, and I encourage the government to progress this issue as a matter of urgency. I refer to my comments earlier in relation to my concerns on this matter.

### **Additional information**

1.73 I would also like to raise concerns about an issue that has come to my attention in the last few days as the committee finalised this report. I hope to be able to discuss this further with the committee in the near future.

1.74 It has recently come to my attention that some games that can be played through websites such as Facebook are considered to be 'excluded gaming services' under Section 8B of the *Interactive Gambling Act 2001*.

1.75 However, a constituent has raised concerns with me about a particular game, where players are encouraged to buy chips with real money. These chips are then gambled, and players either win or lose. However, there is no way to convert the chips back into real currency and therefore cash out winnings. When players contact the website to complain, they do not receive a reply and their account is shut down.

1.76 I have been informed by the Australian Communications and Media Authority that this game is not considered a 'prohibited internet gambling service' because it is

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not possible to win ‘money or anything else of value’ and is therefore considered an ‘excluded gaming service’ under the Act<sup>30</sup> – even though money can be lost.

1.77 This demonstrates a clear loophole in the Act, which must be addressed as a matter of urgency. It is reasonable to assume that a game which relies on purchasing chips and then gambling these chips in casino games would then allow a player to cash out their winnings. The fact that this game is able to operate within the current law in Australia simply highlights the urgent need for reform in this area.

### **Recommendation 1**

**1.78 That the bill be passed with amendments to require that a blacklist of prohibited sites be used by financial institutions to prohibit online gambling transactions.**

### **Recommendation 2**

**1.79 That the loophole identified in relation to the matters raised in 1.73 to 1.77 be the subject of urgent legislative amendment.**

**NICK XENOPHON**

**Independent Senator for South Australia**

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<sup>30</sup> ACMA, email to office of Senator Nick Xenophon, 25 November 2011, additional information received by the committee 1 December 2011.

