

**Submission
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INQUIRY INTO IMPACT OF GAMBLING

Organisation: Australian Wagering Council

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A U S T R A L I A N
W A G E R I N G
C O U N C I L

SUBMISSION

NSW Legislative Council Select
Committee on Gambling

Inquiry into Gambling

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AUSTRALIAN
WAGERING
COUNCIL

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1. ABOUT THE AWC

The Australian Wagering Council (**AWC**) is the peak industry body representing the online wagering and sportsbetting industry in Australia.

AWC members provide a recreational and social experience for over 2 million Australians balancing the legitimate right of customers to wager on racing and sporting events with the provision of effective consumer protection and responsible gambling measures.

The AWC was established in October 2012 to raise awareness amongst key stakeholders of the online wagering and sportsbetting industry's contribution to enhancing the integrity of racing and sport and to promoting consumer protection and responsible gambling.

Through policy leadership and advocacy, the AWC provides a united industry approach to issues that impact the continuing sustainability of the online wagering and sportsbetting industry. This includes taking all appropriate measures to protect vulnerable members of the community by ensuring high standards of probity, integrity and social responsibility from members.

The following prominent independently operating companies in Australia are members of the AWC:

- Betfair
- bet365
- Betchoice (operating as Unibet)
- Eskander's Betstar
- Ladbrokes.com.au
- Sportsbet (including its subsidiary IASbet.com)
- Sportingbet Group Australia (which includes Sportingbet, Centrebet and Tom Waterhouse.com)

The regulated online wagering and sportsbetting industry employs more than 1000 Australians, pays in excess of \$100 million in product fees per annum and over \$100 million per annum in taxes.

AWC members also make a significant investment into the NSW economy and into NSW racing and sport through sponsorship of various sporting teams, sporting codes, race events and clubs.

2. INTRODUCTION

The overwhelming majority of NSW residents who wager on racing and sport online with AWC members do so safely and responsibly. For most, it is a legitimate form of entertainment and an enjoyable recreational and leisure activity.

As such, there is significant public benefit for the NSW Government and NSW communities in ensuring that measures to reduce potential problem gambling risks for NSW residents are balanced against the positive social, recreational and economic contribution that can be delivered by a responsible and well regulated online wagering and sportsbetting industry. This includes the ability to enhance the integrity of NSW racing and sport.

Achieving a balanced approach to online wagering and sportsbetting activities in NSW is supported by the objectives of the *Racing Administration Act 1998 (NSW)* which include:

- a) Ensuring that the integrity of racing is in the public interest;
- b) Ensuring that certain betting activities by licensed bookmakers are conducted properly;
- c) Minimising the adverse social effects of lawful gambling; and
- d) Protecting a source of public revenue that is derived from lawful gambling.¹

The following key gambling statistics and trends provide some context to the Inquiry:

- The most common mode of gambling on racing in NSW was at a TAB betting agency (49%), followed by a club or hotel (35%), at the track (22%) and then the internet including access via a mobile phone (11%).²
- The most common mode of betting on sports events in NSW was at a TAB (63%).³
- The most popular gambling activity in NSW was lottery products (41%), followed by instant scratch tickets (28%), poker/gaming machines (27%), horse/greyhound races (24%), Keno (14%), sports betting (8%), table games in a casino (7%), private card games for money (3%), bingo (3%) and casino or pokies-style games on the Internet (2%).⁴
- Of NSW residents who self-reported ever having a problem with gambling, the vast majority (78%) had been mainly involved with gaming machines.⁵ This statistic is consistent with the *Productivity Commission* findings that identified that whilst problem gambling affects less than one percent of Australians, of that one percent, poker machines “account for around 75-80 per cent of problem gamblers.”⁶
- NSW turnover for both the TAB and bookmakers in 2012-13 on thoroughbred racing was estimated at \$3,828.63 million, harness racing \$600.71 million, greyhound racing \$1,015.38 million and on sporting events 868.43 million.⁷
- Expenditure on total wagering (both offline and online) represented 14.8% of Australia’s \$19 billion total gambling spend in 2008-09 of which sportsbetting represented 1.2%. By way of comparison, 55% was spent on poker machines in clubs and hotels, 18.2% on casino gaming and 12% on lotteries, pools and keno.⁸

¹ <http://www.legislation.NSW.gov.au/maintop/view/inforce/act+114+1998+cd+0+N>

² Ogilvy Illumination Strategic Communications Research (2013), Figure 3

³ Ogilvy Illumination Strategic Communications Research (2013), Figure 4

⁴ Ogilvy Illumination Strategic Communications Research (2013), Page i

⁵ Ogilvy Illumination Strategic Communications Research (2013), Page v

⁶ Productivity Commission (2010), Inquiry Report Gambling

⁷ Australian Racing Fact Book 2012/13, Page 69

⁸ Productivity Commission (2010), Inquiry Report Gambling

- Of the total gambling expenditure in Australia, poker machines in hotels and clubs increased from 29% to 55% between 1986-87 and 2008-09. In the same period, wagering on racing and sportsbetting reduced from 36% to 15%.⁹
- Assuming that no changes are made to the current legislative and regulatory environment in Australia, KPMG¹⁰ estimates that:
 - the gross gambling yield (GGY) of the Australian legal land-based gambling market is expected to grow at an average annual rate of 3.4 per cent to \$26.8 billion in 2021-22;
 - the GGY of the legal online gambling market is expected to grow at an average annual rate of 6.8 per cent to \$1.2 billion in 2021-22; and
 - Despite the prohibitions contained in the Interactive Gambling Act 2001 (**IGA**) (Cth), the GGY of the illegal online gambling market is expected to grow at an average annual rate of 6.3 per cent to \$2.4 billion in 2021-22.
- Along with the shift away from telephone, on-course and retail-outlet wagering to online wagering, there has been a shift of wagering turnover by Australians from illegal, offshore websites to licensed, domestic wagering operators (estimated to have declined from 37.7% in 2003 to 13.8% in 2011).¹¹ This positive shift, which indicates that Australians prefer to bet with domestic operators, is currently under threat as more onerous regulatory regimes are introduced. For example with the increase in attractiveness of in-play sports betting and the fact that Australian operators can't offer it online, consumers are seeking the opportunity from illegal offshore operators. This has obvious implications on the integrity of sport and the funding returned via product fees and taxes.

3. SUMMARY OF MAIN THEMES

With regard to the Inquiry's Terms of Reference, the main themes underlying this submission may be summarised as follows:

3.1. Capacity Of The Online Environment To Deliver Consumer Protection, Responsible Gambling Measures And Integrity Benefits.

The benefits of account-based wagering should be acknowledged from an integrity management, consumer protection and responsible gambling perspective.

The online environment affords enhanced protection to customers and provides responsible licensed wagering and sportsbetting operators with greater insight into any potential problem gambling issues, more so than land-based operators.

Members adhere to strict protocols to ensure customers can transact with integrity and have access to effective consumer protection and harm minimisation features, trained customer service staff, online counselling, treatment services and programs.

The transparency of the account-based online model avoids many of the risks associated with anonymous cash-based wagering. It provides significant advantages in controlling and detecting attempts to corrupt the outcome of sport, launder money or to engage in

⁹ Productivity Commission (2010), Inquiry Report Gambling

¹⁰ KPMG, Estimating the potential size of online tournament poker and in-play wagering markets in Australia, 2012

¹¹ H2 Gambling Capital, eGaming Data Set, February 2012

deceptive conduct.

Maintaining a competitive and a well-regulated online wagering market which encourages Australians to bet with reputable and licensed Australian-based online wagering operators is one of the most effective ways of keeping Australian sport and racing free of corruption and match-fixing. The transparent nature of online account-based operations provides for the immediate identification of clients and the full extent of their betting activities. Negotiated integrity agreements and products fee arrangements with AWC members ensures sports controlling bodies have access to betting information and control over the bet types on their particular sport.

3.2 Achieving National Minimum Standards For Harm Minimisation & Consumer Protection

The development of national standards for harm minimisation and consumer protection that covers responsible gambling, advertising, licensing requirements and probity standards (as recommended in the final report of the IGA Review) should be developed as a matter of priority.

In developing these national standards, the AWC maintains that any new measures must be applied to all forms of wagering in Australia and should be evidence based, not detrimental to the competitiveness of the industry and reasonably achievable from an operational and technical perspective.

3.3. Adherence To The Extensive Regulatory Framework For Gambling Advertising And Responsible Gambling

The advertising and promotion of wagering and sportsbetting products and services by AWC members accords with the promotion of responsible gambling and the need to ensure the protection of the integrity of sport.

In doing so, the AWC acknowledges community concerns that advertising must be presented in such a way so as not to contribute to any longer-term problem gambling issues, especially to vulnerable members of the community, such as children.

This right to advertise, however, is an important distinguishing legal right granted only to those wagering providers who have agreed to meet the strict standards of the extensive regulatory environment. Any proposed changes should be based on research-based evidence and should equally be applied to both cash-based and account-based wagering operators alike.

Any overly burdensome regulatory regime will significantly impact on only the licensed Australian wagering providers by reducing their ability to compete with illegal offshore wagering operators. This will result in more Australians gambling through unregulated offshore sites - not less - and place Australian wagering and sportsbetting providers at a competitive disadvantage to illegal offshore operators. If this occurs Australian consumers will face significant risk in terms of inadequate harm minimisation and consumer protection measures and reduced integrity of sport.

3.4 Revitalising The Interactive Gambling Act 2001 (IGA) (Cth)

The Interactive Gambling Act (IGA) came into law in 2001. The COAG Select Council on Gambling Reform announced that the then Department of Broadband, Communications and the Digital Economy (**DBCDE**) would undertake a review of the IGA in May 2011, with an interim report released on 29 May 2012 and the final report being released on 13 March 2013.¹²

The report acknowledged that while the primary objective of the IGA is to reduce harm to problem gamblers and to those at risk of becoming problem gamblers, evidence suggests that it is making only a very minor contribution to this objective. The IGA may in fact be exacerbating the risk of harm because of the high level of usage by Australians of prohibited services which may not have the same protections that Australian licensed online gambling providers could be required to have.¹³

The most significant issues for the online wagering and sportsbetting industry are the lifting of the prohibition on online in-play betting, the introduction of national standards for harm minimisation and consumer protection and the introduction of enhanced measures to enforce and deter unlicensed illegal operators who continue to offer services to Australians in contravention of the IGA.

4. TERMS OF REFERENCE

The AWC provides the following comments on ten of the thirteen Terms of Reference which have been identified as being of specific relevance to the online wagering industry.

c) Voluntary pre-commitment technology and operational guidelines

AWC members are strongly committed to promoting responsible gambling and provide a range of effective harm minimisation measures, including voluntary pre-commitment facilities, to assist customers make informed and responsible decisions about their recreational choices.

Voluntary pre-commitment facilities are available to customers online at the time of opening an account and available throughout the life of the account, by contacting trained customer relations staff and via members' websites.

Voluntary pre-commitment encourages responsible gambling by ensuring customers spend within their means up to a maximum amount which they have predetermined is appropriate for them. Any deposits that are made by customers that cause the nominated limit to be exceeded for the nominated period (eg a day, week or month) are not permitted.

Should a customer choose to decrease their pre-committed deposit limit that reduction becomes effective immediately.

Online voluntary pre-commitment facilities are significantly more effective than those that can be offered by land-based cash operators as only account-based online wagering

¹² Final Report of the Review of the Interactive Gambling Act 2001

¹³ Final Report of the Review of the Interactive Gambling Act 2001, Page 6

operators have the ability to verify the identify of customers and to enforce any established pre-commitment limit.

In addition, the nature of account-based online wagering allows a customer to readily access information about their wagering spend via an activity statement which can be accessed electronically at any time. Activity statements also perform a useful budgetary function in enhancing a customer's awareness of the nature and scale of their wagering activity.

d) Access to cash and credit in and around gambling venues, and the form and delivery of cash prizes

Online wagering and sportsbetting operators only permit customers to place bets if they have opened an account. The distribution of any funds as a result of a successful wager is deposited back into that account.

The transparency of the account-based model avoids many of the risks associated with anonymous cash-based wagering. It provides significant advantages in controlling and detecting attempts to corrupt the outcome of sport, launder money or to engage in deceptive conduct and it allows for more effective programs for responsible gambling.

The advantage of account-based betting also means that every bet placed is tagged to a specific customer. Technology enables tracking of a customer's name, address, location, IP address and payment method to inhibit possible fraud and money laundering. The source of funds and the destination of funds can be identified. A customer's betting history is readily available and can identify any potential problem gambling issues and any unusual or suspicious betting activity.

In relation to the provision of credit in the online environment, the AWC is in the final stages of adopting a self-regulatory industry-initiated Code of Practice which will clearly define the principles to be adopted by members when providing a Deferred Settlement of Facilities (DSF) to its customers. This funding option allows a customer to place bets and reconcile the account shortly after.

The AWC's DSF Code of Practice will ensure all AWC members adopt a responsible, prudent and consistent approach by clearly defining the principles to be adopted by members when providing such a facility to customers.

e) The role and capacity of gambling industry staff to address problems caused by gambling

Online wagering and sportsbetting operators ensure customer service staff are appropriately trained to use the valuable insight provided by account-based online wagering to actively provide a range of preventative and rehabilitative support to customers at risk.

In addition to these online measures, the rich and immediate source of information provided by account-based wagering means online customers are in constant contact with a medium that can deliver instant access to a wide variety of problem gambling information, tools and assistance - more easily and effectively than most forms of venue-based gambling.

The provision of these tools ensures customers can readily access information at any time in

order to assess their own circumstances and minimise any risk of gambling beyond their means.

Similarly, the internet can be used to extend current treatment and counselling services for those seeking help and allows online wagering providers to offer graduated responses, which can be tailored to the severity of the gambling behavior.

In addition, the anonymity of the internet may actually encourage people to source help, such as online counseling, should they feel intimidated or stigmatised by face-to-face encounters and allows for the use of software-based help systems and dynamic self-help approaches to resolving problems.¹⁴

f) The regulation of telephone and internet gambling services in other jurisdictions in Australia and overseas

An extensive framework of regulatory obligations and responsibilities is in place in relation to the online wagering and sportsbetting products and services in Australia. In addition to the IGA, state and territory legislation and regulatory bodies determine responsible gambling and advertising codes of practice and guidelines, together with self-regulatory industry codes which ensure wagering and sportsbetting is delivered in a socially responsible manner, and importantly, does not target children. Further detail on the regulatory framework of the online wagering and sportsbetting industry in relation to advertising is detailed later in this submission.

The development of nationally consistent minimum standards for harm minimisation and consumer protection as recommended by the IGA review should be progressed as a matter of priority. The harmonisation of wagering and sportsbetting laws will prevent duplication and inconsistencies between jurisdictions that are inappropriate for a national (and global) market and which create burdensome and confusing compliance issues for industry.

In developing these national standards it is critical they be based on a number of fundamental principles to ensure its effectiveness in protecting all Australians undertaking wagering activities:

- **Any measure introduced must be research-based** – any harm minimisation measure which is implemented as part of a national standard must be done so because there is robust research and evidence that it is effective in improving harm minimisation. Responsible gambling is a highly complex policy area and any measures introduced which are not proven to be effective in protecting consumers will only increase the regulatory burden on licensed Australian-based operators (and not unregulated foreign websites) while providing no additional benefit and protection to consumers.
- **The regulatory regime must be competitive** – care needs to be taken to ensure that any consumer protection or harm minimisation measures do not limit the ability of licensed wagering and sportsbetting operators to be able to compete with illegal offshore or onshore wagering operators. Any overly burdensome regulatory regime will simply mean that licensed operators will not be able to compete with such illegal wagering operators (either from a price, service or customer experience perspective). Such constraints will drive more Australians to gamble with illegal

¹⁴ Productivity Commission (2010), Inquiry Report Gambling, para 15.27

wagering operators and provide consumers with the risks the reforms seek to address.

- **New measures must not be overly burdensome to implement** – any new harm minimisation measure that is to be introduced must be reasonably achievable from an operational and technical perspective. System development is an extremely complex and costly exercise and any measure that is overly burdensome in this respect will have two adverse consequences. Firstly, it will discourage operators who are currently operating illegally offshore from licensing in Australia and legally offering online wagering and sportsbetting services and secondly, it will put those that are operating legally in Australia at a competitive disadvantage.

Any new national standards must be applied to all forms of wagering in Australia and should acknowledge the benefits of account-based betting from an integrity-management and problem gambling perspective.

Also critical is the need to ensure that federal, state and territory regulators consider how Australians interact with the global online market as should a wagering product or service be prohibited or become unviable, Australians are still able to access the same products online through unregulated overseas websites which do not meet Australia's stringent regulatory requirements for consumer protection and harm minimization nor contribute to protecting the integrity of Australian sport and racing.

There would be significant benefits to a lifting of the prohibition on in-play betting on the internet being offered by licensed Australian wagering and sportsbetting operators as recommended by the IGA review in the form of:

- platform neutrality across all betting channels;
- increased consumer protection for Australians who are currently wagering on this product with illegal unregulated offshore operators and illegal SP operators;
- significant improvements in the ability to protect the integrity of sport in Australia; and
- the inclusion of a blanket ban on all micro-betting (regardless of the channel used for such betting).

The DBCDE in making their IGA review recommendations drew on a number of research reports which examined the online gambling environment in other international jurisdictions. This included the KPMG Report which examined a number of key international markets, including United Kingdom, Canada, France, Italy and Malta.¹⁵

In relation to gambling advertising in sport, the AWC recently commissioned Gambling Compliance to compare Australia's current regulatory approach to the leading regulated sports betting markets in Europe. The comparison of leading European jurisdictions with the Australian regulatory regime found that it compared favourably with European jurisdictions, noting that the European jurisdictions investigated had more online gambling channels available than Australia with only sportsbetting and lotteries permitted online in Australia.¹⁶

¹⁵ KPMG, *Estimating the potential size of online tournament poker and in-play wagering markets in Australia*, Nov 2012

¹⁶ Gambling Compliance - *Gambling Advertising and Sport: A Comparison of Regulated Markets*, March 2013. See Attachment 1

g) The regulation of gambling advertising

An extensive framework of regulatory obligations and responsibilities is in place in relation to the advertising of online wagering and sportsbetting products and services in Australia with a comprehensive list of restrictions, arising from multiple sources, including:

- gambling legislation at both the commonwealth (the IGA) and the state/territory level;
- a variety of regulatory bodies, for example:
 - o the licensing body;
 - o the regulatory bodies responsible for the regulation of gambling in jurisdictions in which operators make their services available (for example, the South Australian Independent Gambling Authority, which is responsible for overseeing the SA Advertising Code); and
 - o in the case of advertisements relating to a particular betting market (for example, the NRL Grand Final), by the body that oversees that event (the NRL in this case).
- where applicable, legislation that regulates the medium by which the advertisement is viewed. (For example, the Broadcasting Services Act 1992 (Cth) (BSA) establishes the licensing framework by which Australian television and radio stations are licensed and includes advertising restrictions which apply to these licensees. These restrictions provide an additional mechanism to protect children from exposure to program material which may be harmful to them.
- Australian Association of National Advertisers (AANA) Code of Ethics¹⁷;
- AANA Code for Marketing & Advertising Communications To Children¹⁸;
- Advertising Standards Board¹⁹ (ASB), which is made up of individuals who are representative of the wider community, that adjudicates compliance with the AANA codes;
- Broadcasters' industry codes of practice, including FreeTV Australia, ASTRA and Commercial Radio Australia (which must be approved and are enforced by the Australian Communications and Media Authority (ACMA); and
- Self-regulatory industry codes of practice.

The AWC is cognisant that the advertising of gambling services must be presented in a socially responsible manner and in such a way so as to minimise the prevalence of problem gambling.

Concern about the risks of promotion of live odds during sports coverage 'normalising' gambling behaviour for children has been addressed by, among other things, the decision to remove references to live odds from in-play broadcasts and in stadiums and to restrict commentators from discussing live odds in the broadcast codes. These measures were immediately adopted by AWC members despite at least two submissions to the Joint Select

¹⁷ http://www.aana.com.au/codes/AANA_Code_of_Ethics-01012012.pdf

¹⁸ http://www.aana.com.au/codes/AANA_Advertising_Marketing_Comms_to_Children_Code-082009.pdf

¹⁹ www.adstandards.com.au.

Committee Inquiry which highlighted the general misconception regarding the numbers of children actually watching live sports broadcasts.²⁰

Since then there has been a notable decrease in advertising with the amended broadcast codes allowing Australians who enjoy analyzing and discussing the odds prior to the start of a sporting event to be able to continue doing so. It ensures a balance between community concerns about children being overly exposed to promotion of live odds and the right of licensed wagering service providers (who by seeking a license in an Australian jurisdiction have agreed to meet certain standards) to advertise their products in a socially responsible manner for the majority of those Australians who gamble responsibly.

As mentioned in the previous Term of Reference the specific requirements and obligations of each state and territory jurisdiction vary which creates compliance difficulties for wagering and sportsbetting operators who advertise in a number of jurisdictions, through paid TV and online advertisements (which include responsible gambling messages).

Any further restrictions on the advertising and the promotion of wagering and sportsbetting services may have the unintended consequence of actually increasing the risks for NSW residents and its young people as:

- They will have a negative impact on licensed and reputable Australian-based companies and their ability to compete with unregulated, illegal overseas-based betting operators.
- If Australian-based companies are unable to compete with unregulated overseas websites, inevitably, Australian consumers will be driven to placing bets in the risky gambling environment of overseas operators which have few harm minimisation measures and weak consumer protection frameworks.
- This in turn will compromise the integrity of Australian sport because unregulated offshore websites do not fall under the auspices of Australian regulators and do not have integrity agreements with major sporting bodies which require wagering companies to monitor and report on betting activity which is directly linked to the integrity of sport.
- Australian sporting codes will receive significantly less revenue from Australian wagering companies if more Australians bet with unlicensed overseas operators that contribute nothing to Australian sporting bodies in terms of product fees, sponsorships or advertising; to consumer protection; or to governments (federal and state) as they pay no license fees or tax in Australia; and
- Creates a disincentive for offshore operators to seek a license in an Australian jurisdiction.

Wagering and sportsbetting operators, like any other legal business, have the right to advertise their services responsibly. The offering of inducements is common practice for all types of businesses and as a result, operators in a highly competitive market should be permitted to offer inducements to open a betting account provided such offerings are responsible.

²⁰ ASTRA Submission to the 2013 JSC Inquiry and Free TV Submission to the 2013 JSC inquiry

The existing prohibition to offer inducements to open a betting account (as in NSW and Victoria) and/or to bet more frequently on an existing account (e.g. NSW and WA) favours retail-based operators (TABs) and distorts a competitive wagering market.

Any changes in relation to inducements and promotion of gambling services should be based on evidence (there is no evidence that indicates the availability of inducements to customers encourages or has increased the prevalence of problem gambling) and should therefore be equally applied to cash-based and account-based betting operators alike. Currently, there is no regulation of inducements linked with forms of wagering which do not require the establishment of an account (i.e. inducements to place bets with cash-based operators).

There is a need for a nationally consistent approach to the issue of inducements. As noted in the Productivity Commission report, a nationally consistent approach to inducements is warranted as the current interstate discrepancy disadvantages some wagering operators when competing for market share in jurisdictions that permit these practices.²¹

The Productivity Commission in its report said:

*“Offering inducements to wager through discounted prices to new customers is not necessarily harmful; it may primarily serve to reduce switching costs between incumbent wagering operators and new entrants, enhancing competition.”*²² (Finding 16.5)

Limiting inducements is not necessarily the solution. Any limitation on the ability of licensed Australian wagering and sportsbetting operators to use inducements will significantly impact the ability of domestic operators to compete with illegal or unregulated foreign wagering websites. This would mean more Australians gambling through unregulated offshore sites, not less, with the attendant risks to Australians in terms of inadequate harm minimisation and consumer protection measures.

The ability to offer inducements in a socially responsible manner is a critical business tool for licensed Australian wagering providers to invest in achieving market growth in the current wagering market which is characterized by highly competitive wagering providers, a price-sensitive customer base with low brand loyalty, high consumer price elasticity and low switching costs between both domestic and international wagering providers.

Imposing overly burdensome restrictions on legal online Australian wagering and sportsbetting operators to offer inducements is highly likely to have the unintended consequences of enabling offshore illegal operators to enter the market putting domestic wagering providers at a significant competitive disadvantage and channeling Australian demand for an established industry to offshore operators beyond the reach of Australian regulations, sporting bodies and potential taxation revenues.

There is every likelihood that NSW residents will be more inclined to turn their backs on Australian licensed wagering providers who offer stringent harm minimisation and consumer protection measures and, instead, open betting accounts with (already accessible)

²¹ Productivity Commission (2010), Inquiry Report Gambling, para.16.58

²² Productivity Commission (2010), Inquiry Report Gambling, para.16.59

offshore/illegal wagering operators who do offer inducements without any regulation with the attendant risks of increasing the prevalence of problem gambling.

i) Gambling education including school-based programs, and measures to reduce the exposure of children and young people to gambling activity

The AWC fully supports the responsible provision of appropriate gambling education initiatives. This includes educating all Australians about the risks of using unlicensed offshore operators that are not subject to Australia's strict regulatory environment.

The online wagering environment allows educational materials and tools to be readily accessible to NSW residents via the internet at all times.

In relation to children, it is widely accepted that the best way to prepare them for adult life is to educate them about the safe and responsible use of products and services that are available to adults. This is especially so in today's globally connected society where raising children in isolation of internet technology is extremely difficult.

However, care must be taken when developing educational programs to ensure that the very codes set up to protect children are not breached. All education programs must be rigorously evaluated to ensure they do not do the exact opposite of their intended affect and be found to actually promote harmful gambling. For example, the Victorian Government's recent *Kidbet* campaign was deemed by the *Advertising Standards Bureau* to have inappropriately linked children to wagering (via a parody of a sports betting advertisement).²³

The rigorous account opening procedures which verify the identity and age of customers contributes to preventing minors from accessing online account-based wagering services in Australia. The use of internet activity monitoring software to restrict minors from accessing internet wagering sites is also recommended which in turn will reduce their exposure to gambling activity.

As previously mentioned, concerns about children being overly exposed to promotion of live odds have been addressed by the decision to remove references to live odds from in-play broadcasts and in stadiums, and to restrict commentators from discussing live odds, along with existing broadcast regulations governing advertising to minors.

More generally, the AWC considers a number of other educational initiatives may be worthy of consideration. These include:

- a national symbol to allow customers to identify sites regulated in Australia should be developed and promoted;
- the Cybersafety Help Button should include a link to the National Gambling Helpline under the 'TALK' function, as well as other help button functionalities that would be of value in alerting users of the Help Button to the risks of using prohibited online gambling service providers;
- the National Gambling Telephone Helpline and Gambling Help Online should be able to explain, on request, the difference between licensed and unlicensed providers;

²³ Advertising Standards Bureau Case report - <http://ms.adstandards.com.au/cases/0376-13.pdf>

- relevant ACMA programs should be tailored to address issues relating to the risks to children of accessing online gambling sites, particularly prohibited online gambling sites; and
- pop-up warnings should be introduced to warn Australians when accessing illegal and offshore betting websites.

j) The adequacy and effectiveness of problem gambling help services and programs, including service standards, qualifications and funding of chaplaincy, counselling and treatment services

Wagering with reputable regulated Australian-based licensed organisations provides significant benefits to consumers in terms of customer protection, harm minimisation measures and responsible gambling strategies - more so than cash-based retail betting, illegal Australian SP bookies or offshore unregulated operators can provide.

The online environment has the capacity to deliver problem gambling help services and programs more effectively and much more easily than most forms of venue-based gambling with online tools and referral information readily accessible to NSW residents via the internet at all times.

k) The effectiveness of public health measures to reduce risk of gambling harm, including prevention and early intervention strategies.

The continuing challenge for industry, regulators and stakeholders is to identify prevention and early intervention public health strategies that effectively targets those who are vulnerable or in need of assistance without unduly impacting on the legitimate enjoyment of recreational punters who experience no problems, and without undermining the financial viability of the wagering industry.

As such, the AWC has been cooperatively involved with a number of NSW initiatives including the online promotion of Responsible Gambling Awareness Week and more recently the development of the NSW Office of Liquor Gaming and Racing initiated *Track you Spend* App which is featured on the AWC website which encourages customers to track their total gambling spend and links them to responsible gambling messages.

As part of the AWC responsible gambling strategy, a suite of responsible gambling measures assists customers in making informed decisions about their recreational choices. These public health measures aim to:

- **Protect vulnerable customers** including the provision of:
 - o activity statements to enable customers to review betting activity and history and to track spending 24/7
 - o voluntary pre-commitment facilities
 - o deposit and loss financial limits
 - o self-exclusion procedures
 - o training of customer service staff
 - o providing access to problem gambling awareness tools, support services and responsible gambling messages, online and telephone self-help and contact details for counselling services available on websites.

- **Prevent underage gambling** with age identification and verification tools and by encouraging the use of filtering programs.
- **Combat criminal and fraudulent behaviour** by developing technology and systems which identifies suspicious betting transactions and patterns which might pose a threat to the integrity of racing and sporting events with reporting protocols to the relevant authorities and sporting bodies.
- **Protect Customer Privacy** by ensuring procedures are in place to ensure privacy of personal customer information and the safeguarding of financial account information.
- **Responsible Marketing** with all advertising and promotional activities undertaken in a socially responsible manner, complying with all regulations and codes, and in line with community expectations.
- **Promote problem gambling awareness** by ensuring information on self-help and support services together with responsible gambling messaging is provided on websites and other mediums including links to the national gambling helpline and gambling counselling organisations. Dedicated links to AWC members' responsible gambling policies and practices are also available on their respective website.
- **Provide Customer Support and Satisfaction** by providing customers with an enjoyable wagering experience with access to support and complaint resolution.
- **Provide a secure, safe and reliable operating environment** through the provision of internal systems of compliance, good governance and business continuity.

I) The effectiveness of strategies and models for consumer protection and responses to problem gambling in other jurisdictions in Australia and overseas.

The AWC's responsible gambling strategy provides for consumer protection measures to:

- **Protect Customer Privacy** - by ensuring procedures are in place to ensure privacy of personal customer information and the safeguarding of financial account information; and
- **Provide a secure, safe and reliable operating environment** through the provision of internal systems of compliance, good governance and business continuity.

The AWC and its members recognise that online fraud in Australia is an increasing problem within the community. Therefore, the AWC has taken steps to establishing a relationship with the Australasia Consumer Fraud Taskforce (ACFT), whose responsibility it is to protect consumers regarding fraud and scams through initiatives such as the National Consumer Fraud Week. This association will allow AWC members to generate greater awareness of fraud and scams amongst its thousands of online customers.

In relation to deterrence and enforcement:

- There should be provisions that allow for directors or those acting for unregulated/illegal websites to be issued with a notice of contravention of IGA;

- ACMA should be responsible for administering civil penalties for the provision of prohibited gambling services hosted in Australia including:
 - o Issuing civil (including pecuniary) penalties
 - o Issuing take-down notices
 - o Applying to the Federal Court for injunctive relief
 - o Using discretionary powers to action complaints and investigations;
- ACMA should publish the list of known and blocked illegal/unregulated websites including information about the dangers of illegal/unregulated websites; and
- Placement of names of principals/directors of illegal/unregulated websites which do not cease operation should be placed on a movement alert list.

In addition, the IGA should be amended to provide a safe harbour for financial institutions that choose to voluntarily block financial transactions between Australian consumers and unlicensed online gambling service providers (or any intermediaries involved in such transactions) as part of their services to customers. The list of prohibited gambling service providers should be identified and published by the ACMA and should be drawn to the attention of financial institutions by the department.

ISPs must be required to implement IP blocking for illegal/unregulated websites based on list of URLs provided by and updated by the ACMA.

m) Any other relevant matters

i. Lifting the prohibition on online in-play betting under the IGA

In-play betting (also known as betting in-the-run or live betting) is a form of wagering whereby the bettor is able to place bets after that event has commenced (for example, betting on the outcome of an AFL game at half time).

In-play betting using the internet is prohibited in Australia under the IGA but it does not prohibit Australian customers from accessing such services through unregulated offshore websites. In-play betting services are also not prohibited using the telephone (through an operator) or at land-based venues such as TABs.

The integrity of Australian sport would be greatly enhanced by amending the IGA in accordance with the IGA review recommendation to permit licensed Australian-based sports-betting companies to offer online, in-play betting.²⁴

This recommendation is strongly supported by leading Australian academic Dr Sally Gainsbury who has written:

“The DBCDE recommendation to adopt a ‘platform neutral’ approach that makes no distinction in the way that bets are placed is an important step for consistent gambling policy. Regulation of in-play wagering should be consistent across online operators, via telephone and land-based outlets.

This is consistent with the recommendations of the Joint Select Senate Committee on Gambling Reform. The recommendation to permit in-play betting on the final outcome of sports events and on exotic bets (that is pre-defined events within an

²⁴ Department's Final Report on the review of the IGA, page 29, especially Diagram 2.

event) is appropriate given that these types of bets are currently permitted over the telephone and at physical venues. Given the substantial in-play betting market held by offshore operators, legalising this form of betting in Australia is essential in encouraging operators to become regulated within Australia. This regulatory change is also important to enable legal wagering sites to compete with offshore operators and operators that have land-based venues.”²⁵

The DBCDE expressly recognised that Australians are betting in-play with unlicensed offshore operators in its Final Report:

“It is already the case that major online gambling providers based overseas and unlicensed in Australia, are specifically targeting the Australian market. In doing so, they are also taking advantage of the opportunities to provide ‘in-the-run’ wagering services. This places these services at a distinct advantage over Australian based services, as well as potentially undermining the scope of Australian sports bodies from receiving payment for their products and putting the integrity of Australian sports at risk.”²⁶

The DBCDE’s proposal for platform neutrality to bring online in-play betting in line with telephone and land-based venues also has support from Coalition Of Major Professional and Participant Sports (COMPPS). In relation to in-play betting with illegal or offshore gambling providers, the CEO of Cricket Australia, James Sutherland said:

“It’s very significant. The first thing for us is all about integrity. It’s all about making sure that the public’s faith in the game, the confidence in the game about it being a fair contest is the absolute priority and that’s what we are focused on. When you talk about in-play betting, one of things that perhaps isn’t so well understood is that people can bet in-play in Australia, but they do it offshore. So it follows that if it is something that people are able to do here in Australia, then we should create some sort of framework around it to make it protected and protect it from those who want to get to the game in a way that be inappropriate or reduce that faith in the fair contest. That’s where COMPPS has come to a position of supporting inplay betting and working down that path with government and others to get the end result.”²⁷

Lifting the prohibition on online in-play betting under the IGA to permit it through Australian-based licensed websites will strengthen the integrity of sport and ensure access to enhanced consumer protection and responsible gambling measures, which are not available through illegal, unregulated offshore websites and illegal SP operators.

ii. Match-Fixing and Legislation in NSW

In light of alleged incidences of match-fixing both domestically and internationally, it is imperative to preserve a safe and lawful market for sports and event betting in NSW.

Betting markets must be transparent and subject to appropriate supervision by regulatory authorities, with the assistance of sports controlling bodies and betting agencies. The transparent account-based online wagering environment facilitates this by allowing the

²⁵ Submission by Dr Gainsbury from the Centre for Gambling Education and Research, Southern Cross University to the Department in response to the Department’s Interim Report on the review of the IGA dated 25 June 2012, pp 25-26.

²⁶ Department’s Final Report on the review of the IGA, pages 112-113.

²⁷ James Sutherland, CEO Cricket Australia, 12 June 2012

identity of customers to be verified, enabling wagering operators to quickly identify and expose dishonest or deceptive behavior, exchanging information with authorities, suspending suspicious betting and passing on relevant information to law enforcement agencies.

It is equally essential that there be appropriate criminal offences available to cater for those cases where cheating or other forms of corruption occur and that there be means available to guard against sportsbetting being used for money laundering purposes.

Accordingly, the AWC acknowledges the efforts of the NSW government in becoming the first Australian jurisdiction to enact laws resulting in 10-year jail sentences for inappropriate and fraudulent sportsbetting and match-fixing activities.²⁸

iii. Leakage of Gambling Revenue

The global nature of the internet means that if an online wagering service or product becomes unviable in Australia (or NSW in this instance), Australians are still able to - and do - easily switch to unregulated offshore or illegal SP operators in search of competitive prices and available betting markets.

As mentioned previously, the leakage of gambling revenue offshore is already significant as Australian punters can, and do, switch to unregulated offshore operators in search of competitive prices and available betting markets.

The markets on Australian sporting codes offered by offshore wagering operators are potentially undermining the scope of sporting codes to receive payment for their products and putting the integrity of Australian sporting codes at risk.²⁹

It will also dramatically increase the risk to the integrity of racing and sport in NSW because offshore and SP operators do not abide by Australian laws and NSW regulations and do not have measures in place to protect the integrity of racing and sport, such as sharing information about irregular or suspicious betting activity.

This adds to the risk of diminishing control of wagering activities and decreasing race fields and product fee receipts if that turnover continues to migrate offshore.

It is for this reason that it is imperative that governments and regulatory bodies and sporting/racing bodies provide a regulatory framework for wagering that encourages Australian consumers to interact with Australian licensed operators. Wagering and sportsbetting operators need to be able to offer the products that consumers demand at reasonable prices in a well regulated market place. Australians have demonstrated that they would prefer to transact with regulated onshore operators and it is important a competitive offering is provided to them.

5. CONCLUSION

There is significant public benefit for the NSW Government and communities across NSW in ensuring that measures to reduce potential problem gambling risks are balanced against the positive recreational and economic contribution of a socially responsible wagering industry to NSW, including the ability to enhance the integrity of NSW racing and sport.

²⁸ <http://www.smh.com.au/NSW/match-fixers-face-10-years-in-jail-under-new-laws-20120813-244sy.html#ixzz2tYSdL5bQ>

²⁹ Deloitte Report Optimal Product Fee Models for Australian Sporting Bodies, July 2012, p 16

The online wagering and sportsbetting industry in Australia is a highly regulated and efficiently run industry. It is important that there be a nationally consistent regulatory regime in place that recognizes that artificial state barriers are not conducive to a global industry.

The main objective of regulation in Australia should be a national harmonization of legislation and regulation that recognizes that the internet knows no barriers and that regulation of the online wagering and sportsbetting industry should be national in focus, if the industry is to compete with illegal, unlicensed offshore operators.

In so doing this can only have real benefits for the NSW residents in terms of achieving a socially responsible industry that delivers a significant public benefit for the NSW Government and NSW communities in ensuring that measures to reduce potential problem gambling risks for families and individuals in NSW are balanced against the positive social, recreational and economic contribution that can be delivered by a responsible and well regulated wagering and sportsbetting industry.