

**Submission
No 30**

INQUIRY INTO IMPACT OF GAMBLING

Organisation: NSW Bookmakers Co-operative

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Submission to NSW 'Impact of Gambling' Review - NSW Bookmakers' Co-operative

The NSW Bookmakers' Co-operative is pleased to take this opportunity to make a submission to the Select Committee Review on the Impact of Gambling.

The NSW Bookmakers' Co-operative Limited

The NSW Bookmakers' Co-operative (**Co-op**) is the industry representative and guarantee body for NSW on-course bookmakers.

Our current membership base of approximately 200 is drawn from on-course bookmakers licensed in NSW to operate at thoroughbred, harness and greyhound racecourses in this State and from certain other approved office locations.

On-course bookmakers are typically sole traders or small partnerships. They are acknowledged to be a vital part of the racing industry, adding colour and excitement to the race day experience of racegoers and punters.

Our members' market share within the national wagering industry has diminished in relative size in recent years due to competitive pressures from larger corporate style operations ('corporate bookmakers') and the TABs.

Due to scale of business factors, the operations and commercial viability of our members are very much different to those of the larger corporations operating in the national wagering market. These are predominantly the TABs, corporate bookmaking companies and Betfair.

Our submission to this Inquiry will concentrate on 2 main themes. These are:

- 1. Weaknesses in the national regime for wagering regulation; and**
- 2. Consumer protection issues.**

These themes relate directly to the stated Terms of Reference (f), (g) & (h) for the Select Committee's Review.

In the interests of brevity and focus our submission will summarise the major concerns we have in these areas. We would be pleased to provide any further information or assistance on these issues as the Select Committee may require.

1. Weaknesses in the national regime for wagering regulation

Gambling in Australia is now variously regulated at both State and Federal Government levels.

Historically the State and Territory Governments had sole regulatory control over the gambling conducted within their own jurisdictions. In the context of *wagering* (i.e. betting on live racing and sports events) this control began to be 'tested' following the State and Territorys' legalisation of telephone and (later) internet betting whereby punters were remotely located from both the wagering operator and the conduct of the event itself.

The enactment of the Federal Interactive Gambling Act (**IGA**) in 2001 was a watershed moment in gambling regulation whereby the Federal Government effectively stepped in to override State and Territory Government ability to legalise and regulate on-line gambling, predominantly forms of *gaming* via the internet. This effectively prohibited the provision of on-line gaming to Australian residents by Australian operators.

In this process, and with best intent not to interfere with pre-existing telephone and on-line betting on racing events, the Federal Government exempted most types of on-line *wagering* from the operations of the new Act.

Without going into a detailed description of all associated technicalities of this legislation, suffice to say that the *wagering exemption* (as it is known) has resulted in the continuation of previous State and Territory Government regulation and control of the Australian wagering industry. Tensions now arise due to uneven handling of these matters by the respective Governments.

These include inconsistent regulatory treatment in the following areas:

- ***Licensing and probity requirements and conditions;***
- ***Operational conditions;***
- ***Betting product types available to consumers;***
- ***Advertising restrictions and standards;***
- ***Taxes and industry fees payable by operators;***
- ***Problem gambling and harm minimisation measures; and***
- ***General consumer protection standards.***

Efforts have been made by the States and Territories to try to resolve or minimise some of these cross-border inconsistencies. However without an overarching Federal regime it seems unlikely that all matters can be resolved.

In the context of on-line wagering the Northern Territory has been at the forefront of criticism as operators licensed by that jurisdiction have been given maximum flexibility by the Government and regulators there to create and grow businesses and market share. Their advantaged position is self-evident under any analysis of the number of corporate wagering licenses that have been issued and the share of national betting turnovers and profits that now accrue to these NT-based operators.

The Co-op believes that the regulatory inconsistencies raised above have led to uneven and ultimately unfair commercial outcomes for operators licensed in certain jurisdictions. The 'uneven' playing field for on-course bookmakers across Australia is evident of this situation.

We believe that more needs to be done to achieve regulatory consistency in the national wagering environment, and we would be open minded to consideration of the creation of an appropriate type of overarching Federal Government regime that could deliver this outcome.

2. Consumer protection issues

a. Fair and equitable betting obligations to consumers

The Co-op wishes to take the opportunity to focus on 2 issues in this area that we feel are important for Governments to resolve.

The first of these relates to the practice of corporate betting agencies (especially corporate bookmaking companies but also the TABs) who are now allowed under their respective regulatory rules to ***refuse bets on wagering events from any customer they choose.***

This situation has emanated from a change of rules in the Northern Territory and has now spread to most other jurisdictions including NSW where the TAB is now adopting similar practices for its Fixed Odds business.

The practice was no doubt designed to deny betting to so-called 'professional punters' who possessed above average capability in attempting to make a profit from their betting over time.

It has led to the unfair (and now apparently commonplace) situation whereby punters that are known to or even suspected of having a ***reasonable chance of winning*** will not be accepted by these companies in terms of being able to place requested bets.

The Co-op and our national representative body (the Australian Bookmakers' Association) have without success protested this situation to relevant authorities in the strongest possible terms.

Not only are our on-course bookmaking members being discriminated against via this new policy (as we continue to be required to accept bets from all customers to a regulated minimum level), but we also believe that the practice is ultimately unfair and misleading to consumers and is commercially detrimental to the racing industry.

Taken to its obvious conclusion, this practice encourages (and in fact demands from a corporate profits perspective) betting companies ***to do business only with known losers.***

This appears to us to be an intrinsically unfair situation, which has no precedent in terms of traditional bookmaking practice and requirements.

There are also serious questions to be asked in the area of betting prices (odds) displayed and offered under this scenario. Prices on offer on any given event may ultimately be refused to **all but losing customers**. Again this seems to us to be setting a new and unfair standard for consumer dealings within the broader economy.

This issue **remains within the direct control of the State and Territory Governments** (including the NSW Government) which have allowed the practice to appear via recent amendments to operating conditions (betting rules) applicable to their wagering license holders.

The Co-ope believes that the matter should be resolved by a return to previous betting conditions in all jurisdictions that required wagering operators to accept bets for all / any customers, at the odds displayed by the operator, to a reasonable minimum loss level.

Should the States and Territories be unable or unwilling to revert to the previous arrangements we believe the Federal Government should initiate overarching actions to achieve this outcome.

b. Consistent advertising & promotion standards

Our second consumer protection issue arises in respect of the **inconsistent regulation of gambling advertising laws and standards across the nation**. Again this arises due to inconsistent State and Territory Government regulation that prescribes different conditions depending upon the jurisdiction in which the advertisement appears.

This cross-border confusion over allowable advertising and promotions standards, content, timing, product type and communications medium is clearly bad for consumers and operators alike and **should be resolved via State and Territory Government alignment actions, or if this is unattainable, by appropriate Federal Government intervention**.

In conclusion thank you for providing the opportunity to participate in this review. Once again the Co-op would be please to assist further with any additional information or advice required in the review process.

David Dwyer
Chairman
NSW Bookmakers' Co-operative Limited