



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

Review of the Impact of Illegal  
Offshore Wagering

November 2015

**Australian Wagering Council**

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The Australian Wagering Council Limited (**AWC**) welcomes the opportunity to make this submission, on behalf of its members, to the Illegal Offshore Wagering Review (the **Review**). In recognition of the importance of this inquiry to the licensed online wagering industry, it is anticipated that a number of separate submissions will also be made by member organisations.

## 1. THE AWC AND ITS MEMBERS

The AWC is the peak industry body representing the Australian online wagering and sports betting industry. Members of the AWC are:

- bet365
- Betfair
- Sportsbet
- Unibet
- William Hill Australia

AWC members are Australian licensed online wagering service providers who operate in a highly regulated Australian market and a highly competitive global online environment.

AWC members provide recreational online wagering services on thoroughbred, harness and greyhound races and sports events to over 2 million Australians. They do not offer online gaming, poker machines, casino table games, lotto, bingo or keno.

AWC members are in the e-commerce business balancing the legitimate right of consumers to wager online on racing and sporting events with industry responsibility to provide effective consumer protection and harm minimisation measures and to maintaining a vigilant stance in regard to the integrity of all racing and sports events.

Importantly, all AWC members are licensed and regulated in Australia.

AWC members are at the forefront of Australian innovation and create highly skilled jobs across technology, finance and data, marketing and design and all areas of business management.

AWC members pay significant amounts of direct and indirect taxes in the form of state and federal taxes including GST, payroll tax, income tax and fringe benefit tax together with license fees to their respective state/territory licensing bodies and 'product fee' contributions to Australian racing and sports controlling bodies.

AWC members invest millions annually in developing innovative technology and employ thousands of Australians both directly and indirectly.

## 2. INTRODUCTORY REMARKS

The global digital environment presents a very real and rapidly growing threat to Australian licensed online wagering service providers with the emergence of illegal offshore operators.

In order to achieve the objectives outlined in the Review's Terms of Reference, the AWC believes that the Review should look at three themes:

- Consumer protection;
- Economic benefit for Australia; and
- Racing and sports integrity.

Offshore wagering operators strike at the heart of these goals, which is why the AWC both welcomes this Review and urges it to make some specific recommendations.

*'The most mature interactive nations have 'something for everyone' market equilibrium – where the government has player security and taxation; the operators have market protection and profit; and the consumer enjoys choice, value for money and player protection.'*

*H2 Gambling Capital 2015<sup>1</sup>*

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<sup>1</sup> H2 Gambling Capital - Australian Offshore Interactive Wagering Independent Report: November 2015. See Appendix A.

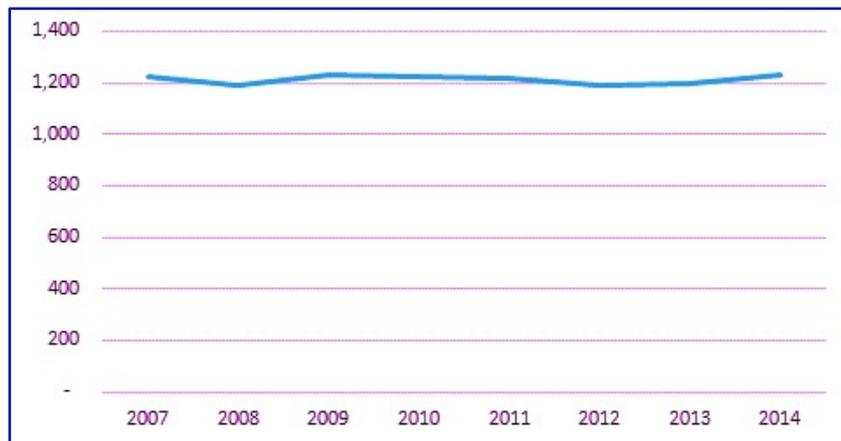
### 3. EMERGENCE OF ONLINE WAGERING AND THE CURRENT MARKET STRUCTURE

Gambling is an enjoyable pursuit for many Australians and meeting that demand gives rise to a significant service industry which in turn helps fund sport and racing and contributes to the economy more widely. As much as possible, policy should aim to preserve these benefits, whilst targeting measures at gamblers facing significant risks or harm.<sup>2</sup>

The Australian wagering market has changed markedly since the introduction of the *Interactive Gambling Act (IGA)* in 2001. Technological developments, communications convergence and changing consumer preferences over these periods are highly relevant against the context of the rapid globalisation of the industry.

Whilst there is a perception amongst some that gambling, particularly sports betting in Australia, has exploded in the last few years, Australia's official gambling statistics clearly demonstrates that is not the case.

A breakdown of the Australian Gambling Statistics<sup>3</sup> show only nominal moderate growth in sports betting and that the real spend per adult has been flat for the period from 2007 to 2014, with the total rising only in line with the growth in population.



*Changes in Real Wagering Spend per Capita*  
Source: Australian Gambling Statistics 31<sup>st</sup> edition

The graph above highlights that there has been no change over the past five years in real wagering spend per capita.

<sup>2</sup> Productivity Commission Inquiry Report: Gambling 2010.

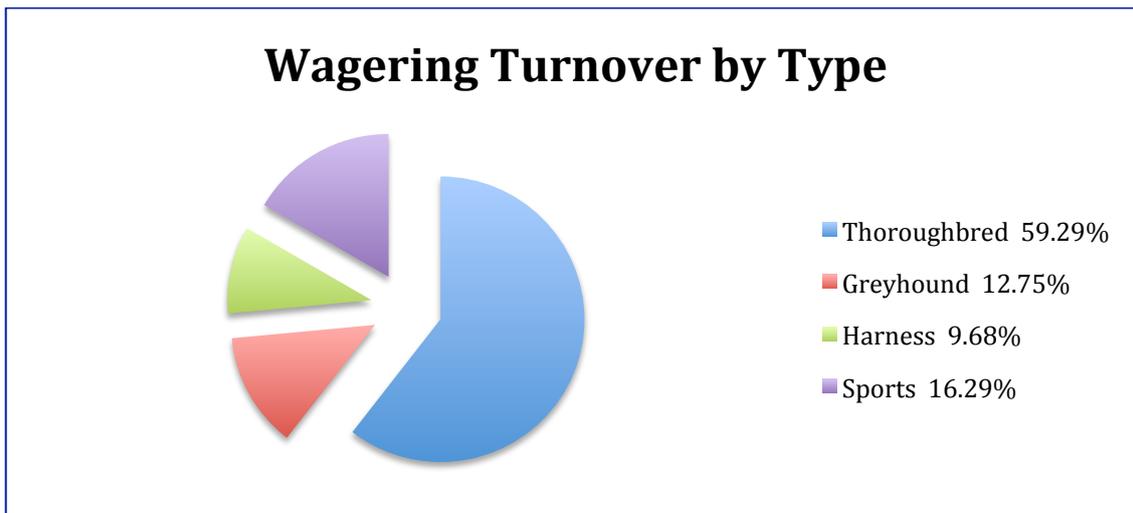
<sup>3</sup> *Australian Gambling Statistics*, 31<sup>st</sup> edition, Queensland Government Statistician's Office, Queensland Treasury, 1988-89 to 2013-14.

As the figure below shows, wagering on thoroughbred, harness and greyhounds racing accounted for 13.2% of Australia's total gambling expenditure and wagering on sport for the relatively small proportion of 3%. The majority of gambling spend is still on poker machines in clubs and hotels (52.2%) and casino gaming (20.7%).<sup>4</sup>



*Australia's Total Annual Gambling Expenditure 2013/14,  
Total expenditure: \$21,155,919 Billion  
Source: Australian Gambling Statistics 31<sup>st</sup> edition*

Thoroughbred racing remains the most popular wagering product, at no risk of being engulfed by sports betting, as demonstrated in the figures below.



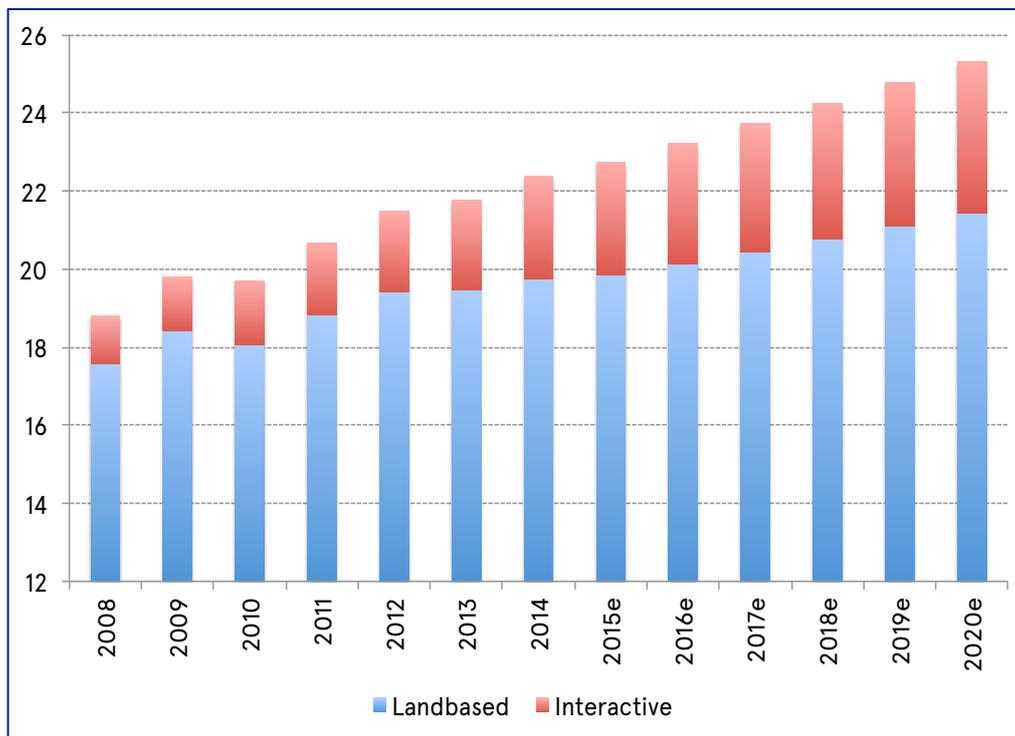
*Breakdown of Wagering Turnover between Racing and Sport in Australia  
Source: Australian Racing Fact Book 2014*

<sup>4</sup> Ibid.

During 2014, H2 Gambling Capital has assessed the size of the Australian gambling market in terms of gross win to be **A\$22.4 Billion - 2.8% ahead** of its 2013 level.

In the current year, H2 is expecting the market to grow a further 1.8% to A\$22.7 Billion and then, assuming a continuation of the current regulatory framework, to **A\$25.3 Billion by 2020**, the latter representing a **Compound Annual Growth Rate of 2.2%** over the coming five years (see figure below).<sup>5</sup>

### Australian Gambling Gross Win by Market Channel (A\$bn)



Source: H2 Gambling Capital 2015

<sup>5</sup> H2 Gambling Capital - Australian Offshore Interactive Wagering Independent Report: November 2015. See Appendix A.

## 4. AUSTRALIAN HIGH DIGITAL CONNECTIVITY RATES

This is thus not a story about rising wagering spend per capita. It is a story of a significant shift in means of consumption (onto the internet, especially the mobile internet). It is a shift that reflects the wider rise of e-commerce and the use of digital devices by Australians to manage their lives.

Australians are early adopters of technology and have some of the highest rates of digital connectivity in the world with nearly all adult Australians now going online.

The Australian Communications and Media Authority (**ACMA**) released a report in March 2015 on *Australians' digital lives*.<sup>6</sup>

The report drew on information from the Australian Bureau of Statistics (**ABS**) and commissioned their own survey, conducted by Roy Morgan Research, on our habits of digital consumption.

92% of Australians use the internet, with 100% of people aged 18-44 going online in the survey period.

The way Australians access the Internet is also changing. Whilst laptops and desktop computers are still the devices used most often to access the internet, 70 per cent of Australians go online using a mobile phone and 50 per cent with a tablet.<sup>7</sup>

A comparison of ABS statistics since the introduction of the IGA shows a steep increase in the proportion of internet users purchasing or ordering goods or services via the internet growing from 11% of adults in 2001<sup>8</sup> to 76% in 2012-13.<sup>9</sup>

Australians are active participants in the online economy clearly demonstrating that e-commerce, in all its forms, is here to stay. In the three months to June 2014, 9.1 million Australians (62 per cent of internet users) made a purchase online.

In the four weeks to June 2014, 10.85 million Australians completed an e-commerce transaction on a range of goods and services, including (from highest to lowest spend):

- Entertainment and Leisure; Fashion; Reading material; Food and beverage; Electronics; Travel; and Health and beauty.

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<sup>6</sup> ACMA Report 1—Australians' digital lives, March 2015. See Appendix B.

<sup>7</sup> Ibid.

<sup>8</sup> ABS 8146.0 - Household Use of Information Technology, Australia, 2001- 2002.

<sup>9</sup> ABS 8146.0 - Household Use of Information Technology, Australia, 2012-2013.

## 5. CONSUMER LED CHANGE IN WAGERING HABITS – A PARADIGM SHIFT BUT NOT OVERALL GROWTH

Wagering providers are responding to the digital connectivity process, and the transformation they reflect is an e-commerce story as well as a racing, sporting or wagering one.

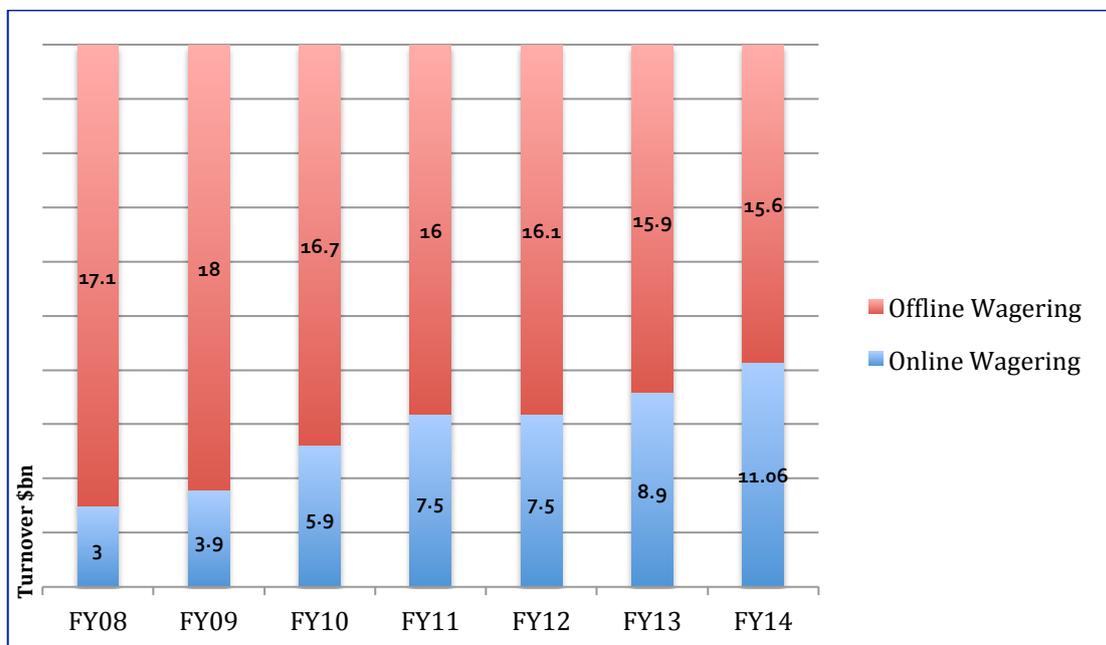
Wagering in Australia is experiencing a paradigm shift that is reflective of what is happening across the wider economy.

### Shift from Land-based to Online

While there has been only moderate growth in wagering turnover from 2007, there has been a material shift in the betting channels where that spend is occurring. Improved technology and better innovation has seen a shift from the more traditional wagering channels (i.e. retail outlets, on-course and phone operator) to online channels such as the internet, smart phones and tablet devices.

The figure below shows total wagering turnover from 2008 to 2014 and the relative contributions of the on-course, retail, phone operator and internet channels. It illustrates the growth in the internet and mobile channel and the decline in the retail and phone channels.

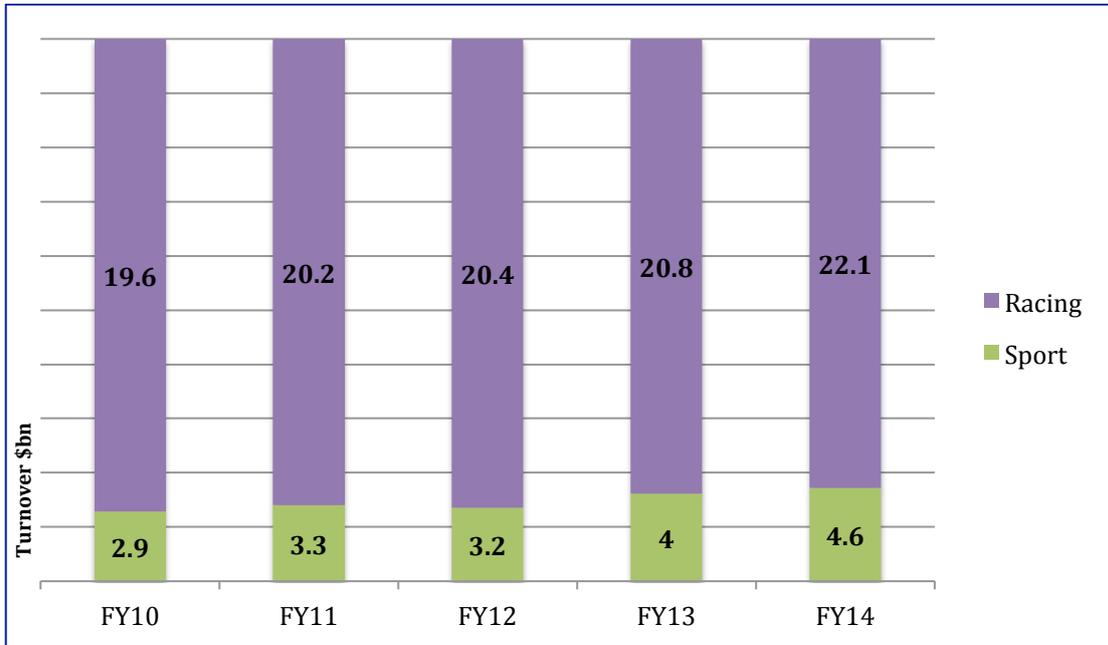
*Australian Wagering Industry Turnover by Channel*



*Change in Consumer Preferences 2008-2014:  
Offline Wagering v Online Wagering in Australia*

### Shift from Racing to Sports Betting

Sports betting growth is newer, especially with younger people. Sporting bodies are not as reliant on wagering revenue, but wagering firms contribute to integrity (both in terms of financial contribution and data), and are responding to rising customer demand for wagering.



*Change in Consumer Preferences 2010 - 2014: Racing v Sport in Australia*

Sports betting has increased in popularity in Australia over the last 5 years in line with global trends. As the figure above shows, racing remains a well-established market in Australian (81.72% of wagering turnover in 2014) at no risk of being engulfed by sports betting (16.29%).

### Shift from Pre-Game to In-Play Betting

H2 Gambling Capital report that the total in-play market globally **grew by 20% in 2014**, in comparison to ante post (pre-game) wagering (i.e. fixed odds selected prior to an event starting) at 8%, and all wagering in total at 14%.<sup>10</sup>

And it's not allowed online in Australia. The IGA bans interactive (ie online) wagering on a sports event after it has started. In-play wagering is not banned totally as such; it is permitted in person, or on the telephone. Australians wanting to wager in-play have been obliged therefore to use these traditional, less convenient means, or have recourse to offshore wagering providers who offer these products.

<sup>10</sup> H2 Gambling Capital - Australian Offshore Interactive Wagering Independent Report: November 2015, page 8. See Appendix A.

This is significant. It means Australian licensed wagering providers cannot offer the product they know will be in demand from customers, and those customers are then going to be looking offshore. This is significant in what is already a very competitive market.

Australia has many advantages: good regulation, a betting culture and a free market economy, all of which continues to support investment in Australian wagering businesses. But (like all e-commerce) it's fiercely competitive: the promiscuity of punters (with many having multiple accounts) means brand loyalty counts for relatively little, and price, convenience, and the type of wagers offered count for a lot (so the uniquely Australian ban on sports in-play wagering online counts against the legitimate industry).

And there are lower barriers to entry in the offshore market: less risk, ready profits (no taxes and product fees, no money spent on responsible gambling or integrity), nor any requirement to meet the regulatory obligations of one (1) Commonwealth Government, eight (8) State and Territory Governments, major sports controlling bodies and each state/territory racing body across the country.

## 6. THE SPORTS BETTING INTEGRITY FRAMEWORK

The integrity of racing and sporting competitions supports their economic and social value (who would pay to watch a rigged match or race?). Licensed Australian wagering providers contribute directly to the integrity of racing and sport:

- Protecting the integrity of racing and sport via information sharing agreements (so helping detect cheating);
- Funds from product fees paid by wagering providers are applied directly to fighting match fixing/sports corruption; and
- Licensed wagering providers have direct responsibilities under anti-money laundering rules.

In light of recent incidents of match-fixing and other corrupt activities, both domestically and internationally, it is imperative to preserve a safe and lawful market for sports betting.

Betting markets must be transparent and subject to appropriate supervision by regulatory authorities, with the assistance of sports controlling bodies and betting agencies, and sanctions imposed if integrity requirements are not implemented.

The transparent account-based online wagering environment facilitates this. Encouraging Australians to bet with Australian licensed wagering providers is one of the most effective ways of keeping Australian sport free of corrupt activities, which in turn minimises any potential for cheating in gambling.

Australian licensed providers have a long-standing commitment to ensuring that their integrity obligations are fulfilled to protect sporting and racing outcomes in Australia.

These obligations include:

- Conducting regular audits of their customer databases to determine if prohibited participants (such as officials, administrators, coaching staff and players) have placed bets;
- Developing industry standards for information exchange with sports, governments and law enforcement agencies about unusual bets and suspicious betting patterns;
- Developing national integrity agreements with sports controlling bodies to ensure binding agreement about the type of bets permitted by the sport and other integrity requirements as specified by that sporting body;
- Entering into similar information sharing agreements in the case of a transgression of rules or suspicious behaviour with racing bodies around Australia; and

- Contributing a direct financial return by way of product fees to respective sporting organisations to fund measures to strengthen the fight against corruption, fraud, match-fixing and the manipulation of sports events.

Any review of the impact of illegal operators must be cognizant of the importance of account based wagering operations of licensed providers to the integrity of sport and racing.

The global nature of the internet means that if an online wagering service or product becomes unviable in Australia, Australian punters are still able to - and do - easily switch to unregulated offshore or illegal SP operators in search of competitive prices and available betting markets contributing to the leakage of gambling revenue offshore.

Sports integrity is a global issue, and it seems self-evident that it can only really be tackled through a combination of effective domestic regulation and international cooperation. Here, the lack of a single Australian regulator has muted Australia's voice and impact. Police cooperation goes some way, and cooperation between sporting bodies helps too. But Australia needs to be able to engage at a national level on integrity and wagering issues. For example, there is a recent *Council of Europe Convention on the Manipulation of Sports Competitions* (done at Macolin 18 November 2014). This provides a comprehensive framework for international sports integrity cooperation, and it would be open to Australia to accede. But to do so would require Australia to designate a competent national authority – a national regulator – to cooperate with other countries.

## 7. ECONOMIC CONTRIBUTION OF E-COMMERCE BUSINESSES

E-commerce businesses, including online wagering providers, add a good deal of value to the economy where they are located. They generate high-value employment, and form strong innovation links with other software and service providers. The skills and techniques they develop to meet customer needs, and to protect, manage and exploit the data they generate is often shared across the economy, either through delivery supply chains, or through the labour market (when staff move from firm to firm taking technical skills with them). If Australia's future prosperity is to include innovative, technology-based service industries, then online wagering is a real asset.

But it's never certain: e-commerce businesses are always footloose, and always face real competition: barriers to entry are low for 'me too' providers, and consumer loyalty almost non-existent. Competitive survival for firms wanting to build a sustainable future involves continual investment in new products and techniques, and in customer engagement. That, in turn, means the regulatory environment needs to be predictable and stable, to sustain longer-term investment. It's important to emphasize that a predictable, stable regulatory framework can embody very high standards.

AWC members have created over 1500 high-value jobs in Australia so far. They are all looking to grow further, and to underpin that they seek a stable regulatory environment, welcoming the fact that such an environment would include very high standards of consumer protection, harm minimisation, and sports and racing integrity contributions.

The economic contribution of AWC members to the Australian economy is discussed in Chapter 11 of this Submission.

## 8. GOVERNMENT REGULATION IN AUSTRALIA

Wagering and gambling are politically and socially controversial, so there's constant scrutiny and debate – arguably leading to more effective oversight than in other e-commerce businesses.

The Australian market is heavily regulated and closely supervised by governments.

### Commonwealth

Special regulation (and restrictions, with criminal penalties) for online provision exist through the IGA.

The need for IGA reform is well recognised, including by:

- 2010 Productivity Commission Inquiry Report into Gambling;
- 2013 Federal Review of the IGA;
- 2014 Interactive Gambling Report commissioned by Gambling Research Australia (**GRA**);
- 2015 Harper Competition Policy Review;
- Racing and Sports Control Bodies; and
- Leading Gambling Researchers and Academics.

The IGA's provisions restricting in-play wagering have come in for attention, because they have distorted the market between onshore and offshore so much.

The IGA no longer reflects advancements in technology, changes in consumer preferences and the global nature of the wagering marketplace.

The 2013 IGA Review Report<sup>11</sup> by the then *Department of Broadband, Communications and the Digital Economy* (**DBCDE**) 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 that may not have the same protections that Australian licensed online gambling providers could be required to have.<sup>12</sup>

General Commonwealth provisions operate too under corporation, competition and consumer law. The high profile of wagering means regulators, watch the industry closely, including:

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<sup>11</sup> Final Report of the Review of the Interactive Gambling Act 2001.

<sup>12</sup> Final Report of the Review of the Interactive Gambling Act 2001, page 6.

- The Australian Communications and Media Authority (ACMA) is an active regulator and responsible for investigating formal complaints made under the IGA about the provision of prohibited internet gambling content.
- The Australian Competition and Consumer Commission (ACCC) is also an active regulator of the sector. Australian consumer law applies to the online betting sector in the same way that it applies to other industries and sectors. Consumer issues in online trading are listed as an enforcement priority for the ACCC, and as such they closely monitor the online wagering industry for any breaches of consumer law.
- The Australian Transaction Reports and Analysis Centre (AUSTRAC) has a role too. The AWC is committed to supporting the Anti-Money Laundering and Counter Terrorism Financing (**AML/CTF**) regime introduced to strengthen Australia's capacity to deter, detect and combat serious and organised crime, money laundering and terrorism financing. To ensure that AWC members comply with the requirements of the regime, they provide appropriate support at a major cost to their business. The AWC also appreciates the need for Australia's robust and rigorous regime to be one that keeps pace with international trends and developments and supports global efforts to combat AML/CTF activity as well. A key feature of the Australian regime is its risk-based approach.

### **State & Territory Governments**

State & Territory governments provide fundamental permissions through licensing, regulation of products and the promulgation of licensing conditions (For example, the South Australian Gambling Codes of Practice and the recent Northern Territory rules on the offering of Deferred Settlement Facilities).

The Productivity Commission (2010) reported<sup>13</sup> that 'over the last decade, state and territory governments have put in place an array of regulations and other measures intended to reduce harm to gamblers. Some have been helpful, but some have had little effect, and some have imposed unnecessary burdens on industry'.

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<sup>13</sup> Productivity Commission Report, Gambling, 2010, page 2.

## 9. IMPORTANCE OF CONSUMER PROTECTION AND HARM MINIMISATION

Consumers **choose** to wager online, and on mobile devices. Platform neutrality (including in-play wagering) is essential if this shift is to be accommodated – it certainly can't be stopped.

Consumer protection is important, and must be considered in this context. This should be reflected in appropriately researched and designed:

- Responsible gambling initiatives, making full use of online data and data analytics;
- Harm minimisation processes that exploit the interactive environment to quickly identify problems, and signpost support. Self-exclusion systems and pre-commitment limits are existing examples of this sort of process. There are many others.
- Personal/identity/financial information protection, as with any e-commerce business.

Consumer protection is central to any regulatory framework, and licensed, Australian wagering providers are committed to it.

The consumer protection framework needs to be based on good public information, and a commitment to clearly differentiating Australian providers from offshore ones. Consumers need to be shown the difference and encouraged to make good choices.

Consumer protection includes wagering-specific features related to problem gambling, but also generic e-commerce features related to data protection and identity checking.

Gambling Research Australia's (**GRA**) recent report on interactive gambling<sup>14</sup> provides insight into consumer protection issues involved in interactive gambling by Australians. Among its findings, the report identified that:

- Interactive gambling should not be considered a distinct form of gambling, simply a mode of access; 81% people who use online services also engage in land-based offerings.
- Consumers tend to choose online services based on convenience/ease of access and availability of more competitive product offerings, but many also have concerns about the security and integrity of interactive sites.

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<sup>14</sup> Gambling Research Australia, Interactive Gambling, 2014.

- While most interactive gamblers prefer domestically regulated sites at least one-third are not concerned about using offshore (i.e. unregulated, prohibited) providers.
- Responsible gambling commitments are serious, effective and industry-wide (among Australian participants). The on-line environment promises access to data-driven insights that will target help in future and industry actively collaborates with academic research.

The continuing challenge for industry, regulators and stakeholders is to identify prevention and early intervention 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 governments around Australia to promote Responsible Gambling Awareness Week.

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 measures include the provision of:

- Activity statements to enable customers to review betting activity and history, and to track spending 24/7;
- Voluntary pre-commitment facilities;
- Deposit and loss financial limits;
- Self-exclusion procedures;
- RSG Training of customer service staff; and
- 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.

A new industry initiative launched by AWC member Sportsbet recently includes the self-service responsible gambling tool - *Take A Break* - that allows customers to choose when and how long they take a break from wagering.

GRA provides insight into the complexities that exist when exploring the harm minimisation issues involved in interactive gambling by Australians. Among its findings, the report<sup>15</sup> concludes:

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<sup>15</sup> Gambling Research Australia, Interactive Gambling, 2014.

- There is insufficient evidence to conclude that interactive gambling is causing higher levels of problems; interactive gambling problems account for a small proportion of gamblers presenting to help services. Nonetheless, participation in interactive gambling is increasing and it is possible that related problems might increase over time.
- There is an ongoing need for land-based and interactive gambling harm minimisation measures to be implemented in Australia, including measures specifically tailored to the online gambling environment.

## 10. THE OFFSHORE MARKET

This is a story of a shift in market demand, and the ability of offshore providers to respond in ways that are different to those open to Australian licensed providers.

Importantly, and as this submission has shown, total wagering spend per capita is flat (so the market only grows with population). Overall, wagering is changing, not growing.

We also know that the shift to online consumption of services is a powerful one, extending well beyond wagering. In recent years that shift, already under way when the IGA was passed, has been overtaken by the rise of mobile internet services, as smart phones have become near ubiquitous.

Within wagering, the global trends are clear too:

- The rise of sports betting (racing remains important but it's not where the growth lies); and
- The rise of in-play wagering as a preferred product type among consumers, facilitated by mobile internet services.

These are big, global shifts in the demand for, and means of consumption of, wagering products. It is a change in the structure of demand driven by consumers, facilitated by technology. It is not mandated by wagering providers, nor by sports bodies.

The offshore market is proving adept at meeting this demand. Offshore operators enjoy a significant advantage over their onshore competition - offering punters prices and betting types unavailable from licensed providers (especially in-play wagering), so it's a perennially appealing part of the market, especially as punters do not have brand loyalty. The case for legalising in-play wagering arises from this combination.

Experience from licensed providers is that consumers choose offshore providers for reasons of value (especially in racing, where they can get better prices), and choice of product (mainly in other sports, with in-play wagering the main draw-card). The fact that this wagering type is lawful in other developed country markets (and often regulated to good standards) means customers will often see little wrong in engaging with offshore operators, although there is often little basis for customers to make informed choices between operators, leaving them open to exploitation.

### How Easy is it to Access the Offshore Market?

Accessing the offshore market is easy for tech-savvy and engaged Australian wagering consumers.

In addition to normal avenues (including direct wagering operator to customer engagement and word of mouth), there are several websites that help Australian customers identify offshore operators who will offer them markets on Australian racing and sports events, including online in-play wagering.

For example, the website <http://www.australianbookmakers.com> rates and reviews the bookmaking services of Australian licensed onshore bookmakers and offshore operators. They rate bookmakers on criteria including price competitiveness and product availability.

Extract:

*Here at the Australian Bookmakers review site we showcase the leading online Australian bookies, telling you what they have to offer the Australian punter. We also review the best of offshore bookies who accept Australian punters and support accounts in Australian Dollars.*

They advise visitors to their site that the law in Australia prohibits licensed Australian bookmakers from offering wagering online in-play. They make recommendations about which offshore operators offer the best online in-play betting options to Australian customers.

Extract:

*To place live sports bets online on sporting events you need to look to an overseas bookmaker. Whilst the Australian legislation here does not allow Australian bookmakers to offer live betting online, you can bet LIVE online with overseas based bookmakers. Suggested offshore bookmakers for Australians for Live Sports Betting are BetVictor, Intertops, Pinnacle Sportsbook and GUTS.com*

An example of a typical review:

Extract:

*Pinnacle Sports are a long established bookmaker operation founded in 1998 and licensed by the Government of Curacao. Pinnacle have the reputation of consistently offering the highest betting odds in the industry. As a consequence they have customers from all over the world betting with them. They also have high betting limits, so cater well for big punters. Their business model is based around getting high turnover and using low margins and in*

*doing so they have cemented themselves as a bookmaker account for every regular punter to have. They also don't shy away from accepting arbitrage betting, like many other bookmakers do. LIVE IN-PLAY BETTING Plenty of live betting available here on a wide range of sports worldwide.*

Similarly, <http://www.aussportsbetting.com/guide/live-in-play-betting/> explains the law and offers suggestions for the most 'reputable' of these offshore operators.

*Live online betting in Australia. At this stage, no major Australian bookmaker offers live online betting to Australian residents, however most international agencies do. After conducting a survey of betting agencies that offer live online betting and AUD accounts, we found 10Bet.com and Stan James to be among the best.*

An examination of some of these websites<sup>16</sup> reveals how easy it is for an Australian punter to wager on sport, including online in-play.

A wagering industry survey of illegal offshore operators offering in-play products on the AFL, NRL, Cricket World Cup and Melbourne Cup in both 2014 and 2015 indicate the targeting of Australian major sporting and racing events by offshore operators.<sup>17</sup>

### How Large is the Offshore Market?

The offshore market is by its nature hard to measure, with participants ranging from the well-established to ephemeral.

Globally, estimates of size and scale of the offshore market, include:

- 2012: Independent KPMG industry report estimated 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;
- 2014: International Centre for Sports Security estimated 80% of global sports betting is transacted illegally;
- 2015: H2 Gambling Capital estimated offshore operators have 60% of the global interactive market; up to 80% in regions where governments have been slow to regulate.

But it clearly takes a significant share of the Australian market. Within the Australian context, estimates of size and scale of the offshore market, include:

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<sup>16</sup> See Appendix C, Screen shots - Offshore Operators' Websites.

<sup>17</sup> See Appendix D, Offshore Operators Offering In-Play and Pre-Game Bets to Australians during Major Australian Events 2014 & 2015.

- 2010: Productivity Commission Report estimated \$1 Billion was lost annually to illegal offshore operators;
- 2012: Final Review of the IGA estimated Australia's interactive gambling spend was \$1.6 Billion, with 60% spent with illegal offshore operators;
- In 2014, H2 Gambling Capital estimated in excess of 20% of Australian expenditure on interactive wagering goes to offshore providers:
  - \$400 Million (representing \$4 Billion of economic activity);
  - \$100 Million in lost taxation revenue and product fees.

For this Review, the AWC has again asked H2 Gambling Capital (**H2**) to look at the question of Australian wagering spend going offshore. Their whole report is also submitted to the Review.<sup>18</sup>

H2's analysis, the AWC argues is a careful one, which H2 knows will be the subject of a good deal of scrutiny, with H2's reputation at stake.

The conclusions remain estimates, like all of these measurements, but we consider they are well founded:

- In the current year, interactive gambling is likely to grow 9.5%, taking it to just under A\$2.9 Billion, which will represent 13.7% of the total Australian gambling market. By 2020 it is anticipated that the corresponding figures will be A\$3.9 Billion and 15.3%.
- Just over 50% of interactive gambling spend of the Australian player is expected to take place with offshore operators – mainly due to the lack of availability of in-play betting and gaming. The inability of onshore operators to offer these products has led to an increasing number of offshore suppliers stepping into the void in recent years.
- In the current quarter (Q4 2015) H2's assessment of offshore interactive gambling supply has identified 383 offshore interactive gambling sites operated by 175 operators that are targeting Australian players.
- The number of operators targeting the market is up by 140% in the past three years with the number of sportsbooks increasing at the greatest rate, with over 50 sportsbooks now targeting the Australian market - over 5x the level of three years ago.
- In total the offshore gambling market is believed to have increased from cA\$750 Million gross win in 2008 to A\$1.3 Billion by 2014 and is expected to reach close to A\$1.6bn in the current year and A\$2.2-2.3 Billion by 2020. Of this, sports wagering

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<sup>18</sup> See Appendix A.

accounted for cA\$400 Million in 2014 with in-play expected to account for between A\$200-225 Million of this. In the current year offshore sports wagering gross win is expected to increase to cA\$480 Million as more operators have entered the market with in-play accounting for up to A\$275-300 Million of this.

It is estimated by companies that track betting patterns that 20% of money wagered on the outcome of AFL games and all other forms of exotic betting is placed with the illegal offshore operators.<sup>19</sup>

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<sup>19</sup> See <http://www.theaustralian.com.au/sport/turf-thoroughbreds/racing-police-combine-to-end-illegal-betting-agencies/story-fnajufri-1227500254317?sv=b3f2132fac75593fba9dad8c897165db>

## 11. ANALYSIS: THE IMPACT OF OFFSHORE WAGERING

The strong and potentially growing market position enjoyed by offshore operators (and clearly described in the H2 report accompanying this submission) is pernicious in its effect on Australian sport, racing, consumers, and the economy as a whole.

Offshore operators:

- Pay no taxes in Australia (AWC members do - last year contributing over \$100 Million in State & Federal taxes & licensing fees);
- Create no jobs in Australia (AWC members do - employing more than 1,500 FTE staff);
- Don't have to comply with consumer protection rules around data protection, anti-money laundering rules, as well as other more general consumer, credit and competition laws;
- May be associated with various forms of organised crime;
- Make no financial contribution to racing codes, nor sporting bodies in Australia. (AWC members do – contributing over \$7 Million in sponsorship of racing and sports last year);
- Are not invested in sports integrity programs (as AWC members are – contributing over \$115 Million last year in product fees and race field fees to racing & sports control bodies);
- Are not required to adhere to quality standards of responsible gambling programs;
- Pay no broadcast rights fees for the right to live stream Victorian races as some AWC members do;
- Make no investment to product innovation, research & development (as AWC members do – contributing over \$30 Million last year); and
- Don't contribute by way of Corporate Social Responsibility obligations. (AWC Members do - supported wide-ranging community and charity events such as 4Tracks4Kids).

**The AWC argues that these reasons are each legitimate public policy goals, and that in the context of the rise of the mobile internet and the power that conveys to consumers, the Review should recommend a national regulatory framework for wagering in Australia. This would accommodate the shifts in demand arising from the mobile internet and the globalisation of sports, while minimising harm and maximising benefit to Australia, individual Australians and Australian sport and racing.**

### National Regulation

The AWC argues that national regulation is needed to provide a strong, predictable framework for investment (including job creation), integrity, harm minimisation, and underpin returns to racing and sporting bodies. All of the issues before the Review, including any credible response to offshore wagering, are by definition ones which affect the whole Australian market, and which the AWC argues require continuing regulatory oversight as well as legislative reform.

National regulation should address all of the issues covered by the Review's terms of reference, as well as other issues which affect wagering consumers and producers in Australia.

AWC members accept that no regulation is ever static; their desire for a stable and predictable framework is one where new regulation is evidence based and properly and rationally consulted. Indeed, the AWC argues that new regulation 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 that is implemented as part of a national standard must be done based on 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 wagering providers (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 unnecessarily limit the ability of licensed wagering and sports betting providers to be able to compete with illegal offshore or onshore wagering operators. Any overly burdensome regulatory regime will simply mean that licensed providers 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 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 sports betting 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.

Scale matters on the internet to support investment in all these systems in a competitive, global market. Regulatory fragmentation adds directly to costs. Nationally-consistent regulation is needed to provide a strong, predictable framework for investment (including job creation), integrity, harm minimisation, and underpin returns to racing and sporting bodies.

This is not a new idea: this approach supports the Productivity Commission's stance in its Final Report in 2010 that online and telephone wagering, along with all other online gambling activities, should be subject to a consistent regulatory regime and overseen by a specialist body.<sup>20</sup>

The Productivity Commission considered:<sup>21</sup>

*At a minimum, regulation of online gambling needs to be national in scope. However, as Australian online gambling companies participate in global markets (and some Australians will prefer to gamble on offshore sites), Australia has an interest in consistency with international online gambling regimes. ... Where possible, regulation should be aligned with that of similarly liberalised countries such as the UK, ...*

*The current operating framework for providers of online gambling services is the IGA, which is administered by the Australian Communications and Media Authority (ACMA). As such ACMA,*

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<sup>20</sup> Productivity Commission Report, Gambling, 2010 [16.48].

<sup>21</sup> Ibid [15.32-15.34].

*could feasibly serve as a broader regulatory body for the online gaming industry. Equally, it may be that a specially constituted body with a specific expertise in online gambling may be preferable. In either case, the regulatory body would oversee the provision of the harm minimisation measures, and could potentially examine probity measures as well.*

*The regulatory body should be national in scope and supported by federal legislation. That means that wherever there is conflict between the national framework and any state legislation, the Commonwealth would take precedence (as is the case in many other areas). That said, states would retain autonomy in areas not covered by the national regulatory body and, in particular, would retain the ability to ban certain types of online gambling, so long as they met the principles of competitive neutrality. For example, if a state elects to totally prohibit the provision of a particular gambling service (both online and in physical venues) on the grounds that it is associated with excessive risk of harm, it should still be permitted to do so.*

*... the national regulatory regime should also be applied to all remote gambling, including gambling via mobile phone and television. A federal online gambling regulator would be well placed to investigate and regulate practices such as inducements and credit betting, which are common amongst online wagering providers.*

*In order to appropriately respond to the wide variety of online gambling products and practices, the regulating agency should have the capacity to conduct ongoing research into the online gambling industry and the impact it has on Australian consumers. Granting access to the industry data required for this kind of research should be a licensing condition for providers of online gambling products.*

We agree. The time has come. There is a tragic sense of déjà vu around all of this. The Review has a real opportunity to get this sector onto the right regulatory footing.

Such a step would have consequential benefits too.

It would enable Australia to consider requiring all providers operating into Australia to be licensed (as other countries are doing). This would help level the playing field and raise the standard of consumer protection. But it can't be done sensibly without a national regulator to act as the licensing body. The Review should consider this possible approach too.

A national regulator would also be well-placed to work with the Australian Tax Office (**ATO**) to tackle tax avoidance – a significant e-commerce issue generally, and one where international cooperation between national regulators and tax authorities will be essential.

There is also a fundamental economic case for national regulation. Wagering operators face constant competitive pressures. If a thriving, domestic on-line wagering market is to be sustained, then a predictable and coherent national framework for investment is needed to provide for the necessary investment.

There are compelling public policy reasons to make a thriving domestic wagering sector a regulatory objective:

- Wagering connects customers to sport and racing, providing a direct flow of funds through racing fees and sporting product agreements. Australian sport and racing benefits directly and significantly;
- Sporting integrity, and wider efforts to deal with money laundering and the wider rule of law on the internet are directly supported by a licensed onshore wagering sector; and
- It creates high quality employment and innovation. Wagering providers are technology-driven businesses, creating substantial employment. And they're innovative (they have to be to survive), developing new products and tools constantly. The results of that innovation are not confined to wagering: they spill over into the rest of the Australian economy through the labour market, through racing and product fees, and through online and e-commerce partnerships.

H2 report that if nothing changes going forward, the Australian offshore interactive wagering market will remain strong at **over 60%** of all betting activity. By 2020, this will amount to **A\$2.2-2.3 Billion** leaving the country in lost wagering profits, a further **A\$100 Million per annum in tax dollars**, plus significant economic growth opportunities - particularly **job creation, technological investment, and problem gambling prevention** - remaining underdeveloped when compared to the world's other leading gambling nations.<sup>22</sup>

A properly resourced national regulator is best placed to police and enforce laws against the unlicensed, offshore operators who will inevitably continue to attempt to target Australian customers.

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<sup>22</sup> H2 Gambling Capital - Australian Offshore Interactive Wagering Independent Report: November 2015. See Appendix A.

### A Platform Neutral Approach: In-Play Wagering

The AWC also argues that the present ban on the offering of in-play wagering should be removed, to allow Australian licensed operators to offer a product type which is central to consumer demand. Without that, Australia-based offerings will always be partial and pricey, and offshore operators will step in to meet that demand, without making any legitimate contribution to Australia's economy, society and sport.

In its Report, H2 considered that if in-play wagering was regulated, the total market would only increase by 3% by 2020, but the proportion of Australian spend with onshore interactive operators would rise from 49% in 2014 to 78% by 2020.

The AWC argues that banning in-play wagering online while allowing it in other ways is unrealistic, given the changes in consumer choice and behavior we have described.

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

*“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.”*<sup>23</sup>

The DBCDE Final Report recommended the restriction on online in-play should be lifted to achieve platform neutrality.<sup>24</sup>

This recommendation was strongly supported by leading Australian academic Dr Sally Gainsbury who wrote:

*“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 event) is appropriate given that these types of bets are currently permitted over the*

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<sup>23</sup> Department's Final Report on the review of the IGA, pages 112-113.

<sup>24</sup> Department's Final Report on the review of the IGA, page 128.

*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.”<sup>25</sup>*

This recommendation is also in line with the preferences of the major sporting codes. In relation to in-play betting with illegal offshore websites, 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 in-play betting and working down that path with government and others to get the end result.”<sup>26</sup>*

The AFL’s general counsel, Andrew Dillon, in August 2015 told *The Australian*:

*“In line with other professional sporting codes in Australia, the AFL has product fee and information sharing agreements with Australian betting agencies to ensure we have transparency regarding bets placed on our sport.*

*Only by working with the agencies are we able to protect the integrity of our sport. Offshore betting by Australian punters is a real concern for sport integrity because the betting cannot be scrutinised. The best way to counter the use of offshore illegal betting by Australians is to allow Australian registered and regulated agencies the right to compete fully with the offshore agencies, and that includes by permitting in-play betting online.”<sup>27</sup>*

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<sup>25</sup> 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, pages 25-26.

<sup>26</sup> James Sutherland, CEO Cricket Australia, 12 June 2012.

<sup>27</sup> <http://www.theaustralian.com.au/sport/turf-thoroughbreds/racing-police-combine-to-end-illegal-betting-agencies/story-fnaujfri-1227500254317?sv=b3f2132fac75593fba9dad8c897165db>

The Harper Competition Policy Review, highlighting the AWC's arguments in relation to the anti-competitive nature of the IGA, agreed that gambling regulations should be included in a new round of regulation reviews to ensure that unnecessary restrictions on competition are removed.<sup>28</sup>

Regulation should be platform neutral, so consumers and providers can interact in different ways as technology and social behaviour evolve, subject to appropriate controls and protection.

Genuinely platform-neutral regulation should apply to all wagering, including telephone and retail channels, with the same standards of consumer protection, money laundering controls, advertising and credit controls applying to wagering services throughout Australia. Only national regulation can achieve this.

And of course in-play wagering should be controlled. Integrity concerns have been raised around the ease with which so-called micro-betting might be abused and other concerns surround the potentially 'repetitive' nature of in-play wagering. Wagering operators' experience in other regulated markets is that the integrity issue is manageable, and the concern about harmful wagering patterns is just wrong. But both issues deserve to be managed, and wagering operators would seek appropriate regulation to do so.

Such regulation should firstly include a recognition that sports controlling bodies should continue (as they do now for non online in-play wagering) to have control over what types of bets may be offered in-play, reflecting the circumstances of each sport.

Secondly, wagering operators should continue (as they do now) to monitor betting patterns for both integrity and harm minimisation reasons, and act promptly on anomalous or concerning behaviour. This is as things are now, but worth emphasizing.

Finally, the national regulator should have a step-in power, to restrict bet types if there is evidence of integrity or customer protection issues not being addressed. This is analogous to arrangements already in place in Victoria.

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<sup>28</sup> The Competition Policy Review, Final Report, March 2015, pages 43, 150.

## 12. OTHER ISSUES

But there are other issues too, which arise in public debate, and which need to be considered, and where the Review should make recommendations, if its conclusions on its main Terms of Reference are to be effective.

### Advertising

Advertising is a classic externality, in that it is seen by many people who are not its intended audience. Good advertising gets noticed; the wagering industry advertises because there is fierce competition between wagering providers.

There are divergent considerations here: wagering advertising helps promote sport, and supports free-to-air media. It informs consumers of the identity of licensed Australian-based wagering service providers through which they can participate in wagering in a highly controlled and consumer protected environment while avoiding the significant dangers which exist from wagering with illegal offshore operators. That's good. But it's intrusive for others, and can be visually unappealing in some contexts.

Wagering providers should be free to advertise their services, and the support that provides for sport, racing, broadcasting and consumers is surely beneficial. But wagering providers are the first to agree that advertising should always conform to accepted social standards, and not promote harmful behavior, or make implicit promises that undermine those standards.

That's why the proposed Australian Association of National Advertisers (**AANA**) national code<sup>29</sup> is important in establishing those standards within an accepted and effective complaint and enforcement framework. The proposed code would – and should – establish standards that are broadly consistent with wider advertising standards. And, of course, the resulting standards should be open to review with experience.

The AWC argues that the Review should let this process take its course. It is self-regulation, and self-regulation is a term that is often used pejoratively. But this process involves the AANA, the wider broadcasting and advertising industries, and an independent complaint and enforcement mechanism through the Advertising Standards Board that is demonstrably effective.

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<sup>29</sup> The AANA Discussion Paper on the proposed *AANA Wagering Advertising & Marketing Communication Code* (the Code) is available at <http://aana.com.au/self-regulation/code-development/> and attached as Appendix E.

### Identifying Australian wagering operators

Related to advertising is the fundamental question of helping customers readily identify licensed Australian wagering providers. At present there are no restrictions on unlicensed offshore operators using Australian symbols, imagery, Australian voices, and accepting bets in Australian dollars. The AWC considers that the Review should consider whether there should be a symbol or logo which could be restricted to licensed Australian operators, and which would allow customers to make a quick, informed choice to use licensed operators.

### Internet & payment blocking

Some argue that it should be possible and desirable to use payment blocking, internet protocol address blocking or internet filtering systems to simply shut unlicensed offshore operators out of the Australian market.

Each of these technical options is possible. But most of them are unlikely to be successful, either because they are trivially easy to evade (IP address blocking), or disproportionately intrusive (internet filtering, which would also impose large costs on ISPs).

The one approach that has attracted attention is payment blocking, where there have been experiences where some banks have chosen not to process gambling and wagering payments. Banks use a coding system to identify merchant payment classes, and these classes could, in principle, be restricted.

The AWC considers that this would be an intrusive step, and one that would in principle apply to all gambling and wagering payments, not just to payments to suppliers, which is regarded as undesirable. Evasion would be easy, and compliance with Australia's international obligations would need to be considered (as would the benefits of collaboration with overseas jurisdictions).

These conclusions are supported by an expert opinion from The Centre for Internet Safety (**CIS**) hosted within the Law Faculty at the University of Canberra, which considered that:

*“financial and ISP blocking restrictions of online gambling services are inefficient, easily circumventable and drive consumers towards the black market as evidenced in markets where such measures have been introduced. Making parallels with other online issues (from intellectual property rights through to online child exploitation) the use of financial transaction and IP blocking has not been successful in curbing illegal use.”*<sup>30</sup>

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<sup>30</sup> The Centre for Internet Safety (CIS), IP and Financial Transaction Blocking in the context of Online Wagering, April 2015. See Appendix F.

The CIS report concludes by suggesting that:

*“consumer protection may be better preserved through attractive and internationally competitive regulation which keeps consumers away from the black market”.*

A national regulator would be best placed to consider whether these ideas could, and should be implemented effectively and proportionately.

### **International cooperation**

International cooperation is an important issue.

Australia’s international obligations (including prospective obligations under the recently-signed Trans Pacific Partnership Agreement) limit Australia’s ability to unilaterally restrict e-commerce delivery into Australia without appropriate public policy reasons and a non-discriminatory framework.

At the same time, there are opportunities for regulatory cooperation that would allow global wagering regulation to be advanced. At present, the lack of a national regulator stops Australia from taking up these opportunities.

The AWC sees these as further reasons to put national regulation in place. The existing work of the National Integrity in Sport Unit (which has been surprisingly effective in setting an international example) would be another dimension that could be advanced by national regulation. Sports integrity is a fundamental value for all Australian sport and racing, and integrity issues arise in the context of global wagering markets, often poorly policed. International cooperation to close these ‘ungoverned spaces’ on the internet can only be in Australia’s interest, and can only be achieved by engagement at national level. This is also one of the areas where further research is needed.

### **National self-exclusion scheme**

One idea we hope the Review will endorse is a national self-exclusion scheme, allowing customers to opt out of betting for periods of time, or permanently, with that request immediately honoured by all wagering providers, including retail providers.

AWC members would welcome this initiative, and recognise that they and other wagering providers would need to fund such a scheme, but not manage it. That should be a task overseen by a national regulator.

### Rules on ‘credit’

Technically, wagering providers who let customers settle their accounts periodically aren’t offering credit in the legal sense. But periodic, deferred settlement looks and feels like credit for customers, and that’s the sense in which the AWC is using the term here.

AWC members will provide more detailed information from a commercial perspective. In considering this issue, it also makes sense to exclude high net-worth customers from the discussion. For these customers, credit ‘risk’ is not an issue, and their arrangements are much a matter of mutual convenience. For the rest of this discussion, the AWC is talking about ordinary Australian customers, who may want to be able to settle their accounts regularly, in arrears if that is the position the account is in.

‘Credit’ of this sort is already regulated. Some state and territory jurisdictions have introduced rules or are consulting on them (especially the Northern Territory, where most AWC members are licensed, and South Australia). The Northern Territory has recently introduced a mandatory code on the provision of deferred settlement facilities, with compliance being a condition of license.<sup>31</sup> AWC members welcome this step. Wagering providers accept that credit should not be offered unsolicited, and that it should be accompanied by normal credit checks (which protect both parties).

It is worth noting that wagering providers report that the vast majority of accounts are run on a deposit basis (ie do not involve ‘credit’ arrangements). Again, the vast majority of accounts where deferred settlement is agreed are well conducted. And the normal level of ‘credit’ is very low – this is an arrangement of convenience for customers.

AWC members accept that a future regulator should continue to monitor ‘credit’ arrangements of this sort, to ensure a high and consistent standard of consumer protection, uniformly applied across the Australian market. If the case for tighter regulation were to emerge, it would be accepted. This is another area where a program of future research would help better understand the market and consumer behaviour, and inform future regulatory policy.

### Restriction of bets

Some bettors are concerned that their proposed wagers are declined, or restricted. The fact is that Australian licensed wagering providers accept bets from almost all consumers. Australian Consumer Law provides general protection. Australian providers employ risk

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<sup>31</sup> Mandatory Code of Practice for the Provision of Deferred Settlement Facilities for Northern Territory Licensed Sports Bookmakers 2015. See Appendix G.

assessment personnel and tools to determine maximum betting limits, and monitor betting patterns and behaviour. As a result of those processes, Australian operators do on occasion decline or restrict a bet for risk management purposes or for sports integrity reasons. This represents only a small fraction of total bets.

It's important to remember that wagering operators risk their own capital in every market, and should be allowed to manage that risk as they see fit consistent with consumer protection law. Online wagering is not a monopoly, and not a public service. There must be a willing buyer and willing seller in each transaction.

It's also important to allow wagering operators to manage integrity issues, including anomalous betting patterns, in association with sports controlling bodies. This may include declining bets, or limiting them. Wagering operators are expected to know their customers, verify their identity, and manage integrity and money-laundering rules. It would be perverse to expect that operators then forgo the opportunity to use that and other knowledge to manage risk in their businesses. Wagering is, after all, not gaming: many bettors win over time, and wagering operators' risk are, by definition, a mirror of their customers' risks. Risk management is a central feature of wagering.

In practice, licensed wagering providers say those being restricted are a very small number of professional gamblers. Racing NSW has rules to mandate minimum bets being accepted. Racing NSW are best placed to comment, but AWC members note that these rules have been very hard to implement, monitor and enforce.

### 13. CONCLUSIONS AND RECOMMENDATIONS

The AWC argues that the Review should conclude that:

- Online wagering is here to stay. Only well-run, well-regulated Australian businesses will meet this demand in ways that maximise benefit and minimise harm to society, the economy and racing and Australian sport;
- Consumers choose to wager online, and on mobile devices. Platform neutrality (including in-play wagering) is essential if this shift is to be accommodated – it certainly can't be stopped;
- National regulation is needed to provide a strong, predictable framework for investment (including job creation), integrity, harm minimisation, and underpin returns to racing and sporting bodies;
- Consumer protection is central to any regulatory framework, and licensed, Australian wagering operators are committed to it. The consumer protection framework needs to be based on good public information, and a commitment to clearly differentiating Australian operators from offshore ones. Consumers need to be shown the difference and encouraged to make good choices. Consumer protection includes wagering-specific features related to problem gambling, but also generic e-commerce features related to data protection, identity checking, money laundering rules, and consumer remedies.

What would that mean? The AWC urges the Review to recommend:

- A national framework for licensing and regulating wagering services. A regulatory body should be established to license operators, and set and enforce national consumer protection rules and problem gambling standards. It should also oversee a national self-exclusion scheme. It should have the ability to engage with regulators around the world to advance Australian interests, and close some of the ungoverned spaces in this part of the internet;
- Legislative support for uniform rules on consumer protection (using existing consumer law wherever possible). This should include rules around the provision of credit facilities.
- A national framework for harm minimisation and problem gambling programs, standards and services;

- Recognition that the proposed AANA code on advertising should be supported, and reviewed after a period if necessary;
- An end to the prohibition on in-play wagering delivered online (with appropriate protections and rules for so-called micro-betting);
- Provision for a certified trademark or logo identifying licensed Australian providers, to underpin consumer education and information;
- A national self-exclusion scheme, funded by industry but run by government; and
- A national research program on wagering issues and behaviour, to inform debate and policy.

## LIST OF APPENDICES

- Appendix A: H2 Gambling Capital - Australian Offshore Interactive Wagering Independent Report: November 2015.
- Appendix B: ACMA Report 1—Australians’ digital lives, March 2015.
- Appendix C: Screen Shots - Offshore Operators’ Websites.
- Appendix D: Offshore Operators Offering In-Play and Pre-Game Bets to Australians during Major Australian Events 2014 & 2015.
- Appendix E: The AANA Discussion Paper on the proposed *AANA Wagering Advertising & Marketing Communication Code*.
- Appendix F: Centre for Internet Safety Centre for Internet Safety 2015 – IP and Financial Transaction Blocking in the Context of Online Wagering.
- Appendix G: Mandatory Code of Practice for the Provision of Deferred Settlement Facilities for Northern Territory Licensed Sports Bookmakers 2015.