



AUSTRALIAN
WAGERING
COUNCIL

29 May 2015

Tax White Paper Task Force
The Treasury
Langton Crescent, PARKES ACT 2600
Email: bettertax@treasury.gov.au

The Australian Wagering Council (AWC) welcomes the opportunity to comment on the Federal Government's Tax White Paper.

AWC members are Australian-based licensed online wagering service providers (**online WSPs**) who operate in a highly regulated Australian market and a highly competitive global online environment.

It is against this background that any proposed gambling taxation reforms must be considered to ensure that Australian online WSPs remain viable and competitive.

This submission highlights a number of important issues and concerns that should be considered when exploring any proposed gambling tax reforms. The AWC urges the Tax Task Force to take AWC concerns into consideration when assessing the merit of any tax reform options.

By way of background, the business models of Australian licensed online WSPs have been developed to provide maximum value for consumers with low margins returning back to wagering providers. As such, any suggestion that an additional tax on the online wagering industry would be a simple and effective way of increasing taxation revenue is grossly misguided. Such a decision will significantly impact the viability of the Australian licensed online wagering industry and create numerous unintended consequences for governments, for sport and racing and for Australian residents. These include:

- lower federal taxation returns to government;
- lower product fee returns to sport and racing;
- unviable licensed online WSPs and a further consolidation of the domestic online wagering market reducing competition;
- less competitive odds as WSPs are forced to pass on their increased operating costs;
- reduced financial contributions to sport and racing by way of marketing activities and sponsorships; and
- the loss of Australian jobs.

Importantly, should Australian licensed online WSPs become uncompetitive in the global online wagering marketplace, Australian consumers will place more bets with illegal offshore black-market operators which will reduce the efficacy of sports integrity and information sharing programs and reduce the ability to provide quality and effective responsible gambling and consumer protection safeguards.

Further evidence-based research into the unintended consequences of any proposed online wagering tax reforms must be undertaken and the experience of overseas jurisdictions examined.

The release of the Federal Tax White Paper also provides a timely opportunity for the Commonwealth Government to revisit the recommendations contained in the 2013 Review of Interactive Gambling Act 2001 (Cth) (**IGA**) in relation to the effectiveness of the IGA legislation and the potential loss of tax revenue to offshore illegal operators.

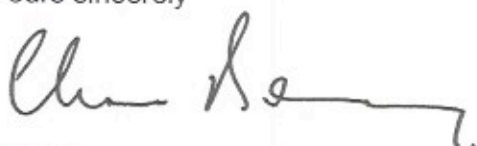
The IGA review recommended, amongst other things, a change to the rules with respect to in-play betting in accordance with the principle of platform neutrality (such that these products can only be offered with the sanction of state/territory regulators and national sports controlling bodies).

The IGA's existing prohibition on Australian licensed online WSPs offering online in-play betting has resulted in a loss of potential tax revenue to offshore illegal operators, is confusing to consumers, inconsistent in its coverage, obsolete given technological changes and creates substantial harm to Australian sports and consumers.

Permitting in-play betting by Australians via the internet with Australian licensed online WSPs will contribute to stemming the increasing tax leakage to offshore operators. The adoption of this recommendation will also strengthen the integrity of racing and sport and will ensure that Australians have access to Australia's highly regulated harm minimisation and consumer protection measures.

In closing, the issues of interest and concern to the AWC and its members are further explored in the attached submission. The AWC welcomes the opportunity to discuss any of the matters raised in this submission with the Task Force at its convenience.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Chris Downy', with a long horizontal flourish extending to the right.

Chris Downy
CEO



AUSTRALIAN
WAGERING
COUNCIL

SUBMISSION

Federal Government Tax Discussion Paper

May 2015

Australian Wagering Council

A: Level 12, 95 Pitt Street Sydney NSW 2000

P: +61 2 8079 5204 **E:** admin@australianwageringcouncil.com

www.australianwageringcouncil.com

INTRODUCTION

The Australian Wagering Council (AWC) welcomes the opportunity to comment on the Federal Government's Taxation Discussion Paper. The AWC's submission focuses on the section of the Tax Task Force's Discussion Paper¹ that relates to Gambling Taxes.

AWC members are Australian-based licensed online wagering service providers (**online WSPs**) who operate in a highly regulated Australian market and a highly competitive global online environment.

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 '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

The global digital environment presents a very real and rapidly growing threat from illegal offshore operators who pay no taxes nor contribute to racing and sport through product fees.

As such, taxation on legal online wagering must be treated differently to other non-internet forms of gambling consumption, as in the highly competitive global wagering marketplace, the online gambler is only a mouse-click away from accessing illegal black market offshore operators whilst searching for better value and higher odds.

It is against this backdrop that any gambling taxation reforms must be carefully considered to ensure Australian online WSPs can continue to viably offer online wagering services to Australian residents. WSPs must remain competitive in the global market to stem the leakage of potential taxation revenue offshore to unlicensed illegal operators. In doing so it will increase government revenue, protect the integrity of Australian sport and racing and protect Australian punters in terms of consumer protection and responsible gambling.

Whilst there is a perception amongst some that gambling, particularly sports betting in Australia, has exploded in the last few years, the breakdown of Australia's official gambling statistics² clearly demonstrates that is not the case. Sportsbetting accounts for 2.3% of Australia's total gambling expenditure, with betting on horse racing (thoroughbred, harness and greyhounds) accounting for 13.3%.

¹ *Re:think* Tax Discussion Paper 'Gambling taxes', p150.

² Australian Gambling Statistics (AGS), 30th Edition, 1987–88 to 2012–13, <http://www.qgso.qld.gov.au/products/reports/aus-gambling-stats/>, accessed 20 May 2015

ABOUT THE AWC

THE AWC is the peak industry body representing Australia's licensed and regulated online wagering and sports betting providers.

AWC members offer online wagering on racing (thoroughbred, harness and greyhound) and sport. AWC members do not offer online gaming, poker machines, casino table games, lotto, bingo or keno.

The AWC currently represents the following licensed online wagering service providers:

- Bet365
- Betfair
- Ladbrokes
- Sportsbet
- William Hill
- Unibet

The AWC encourages high standards of probity, integrity and social responsibility by members and through policy advocacy raises awareness amongst key stakeholders of the importance of the licensed online wagering industry's contribution to responsible gambling, consumer protection and to enhancing the integrity of sport and racing.

EXECUTIVE SUMMARY

1. The contribution of the online wagering industry to the existing Australian taxation framework is significant and unique.
2. Online wagering should be treated differently to other forms of gambling consumption in relation to taxation due to the highly competitive global wagering marketplace in which it operates
3. The United Kingdom (UK) Place of Consumption (PoC) tax is not an appropriate reference point for states and territories in Australia.
4. Only gambling operators that earn economic rent due to government intervention should pay Point of Consumption (PoC) gambling taxes to government.
5. There is no need to create tax neutrality between traditional monopoly retail wagering operators and online WSPs.
6. The leakage of taxation revenue offshore to unlicensed black market wagering operators is significant.
7. A further migration of Australian customers to offshore operators could be expected with the imposition of additional tax.
8. The introduction of any additional tax would significantly impact the viability of Australian licensed online WSPs, limit the ability of licensed online WSPs to support sport and racing in Australia and threaten the integrity of sport and racing.
9. Increasing the tax burden on licensed online wagering providers will have a detrimental effect on the ability to deliver effective responsible gambling and consumer protection measures.
10. Adopting a 'platform neutral' approach by lifting the in-play betting restriction on licensed online WSPs as recommended by the IGA Review³ will stem the increased targeting of Australian residents by illegal black-market offshore operators. In doing so, it would be expected that a significant portion of the \$400 million currently being wagered offshore by Australians each year would flow back to Australian licensed WSPs resulting in economic, social and integrity benefits for Australia.
11. Evidence-based research should be undertaken to determine the effectiveness of any taxation reform options.

³ The Department of Broadband, Communications and the Digital Economy (DBCDE) Final Report into its review of the Interactive Gambling Act 2001 (Cth) (IGA) was released on 12 March 2013.

KEY POINTS

The contribution of the online wagering industry to the existing Australian taxation framework is significant and unique.

Australian licensed online WSPs contribute:

- State and Federal taxes – includes Goods and Services Tax (GST); income, payroll and Fringe Benefits Taxes (FBT);
- State/territory licensing fees – which are currently levied on a *Point-of-Supply* basis by way of license fees to the respective state/territory regulator where the WSP has chosen to be licensed. AWC members are licensed in the Northern Territory (bet365, Sportsbet, William Hill), Tasmania (Betfair) and Norfolk Island (Ladbrokes); and
- Product and race-field fees – which are effectively a form of direct *Product-of-Consumption* tax as they are directly contributed to the particular sport or racing code upon which the wager is placed. These fees and the ‘sports betting right’ are enshrined in legislation in Australia and give racing and sports bodies control over what bets can be offered on their particular ‘product’. The payment of product fees and race-field fees has the additional benefit of easing the financial contribution required by Governments to fund these activities.

Under the current arrangements, industry sources estimate that an Australian online WSPs can pay up to 15% of revenue in product fees and when coupled with GST these contributions account for around 25% of the revenue of AWC members.⁴

In addition, AWC members contribute hundreds of thousands of dollars in sponsorships of regional race clubs and professional sporting clubs.

Online wagering should be treated differently to other forms of gambling consumption in relation to taxation.

Online wagering differs from other forms of gambling consumption as the online gambler is only a mouse-click away from an unlicensed offshore operator.

There are approximately 35 online gambling operators regulated by various states and territories in Australia but an estimated 2,233 offshore gambling sites providing services to Australians in contravention of Australian laws.⁵

Despite the prohibitions under the Interactive Gambling Act 2001 (Cth) (IGA), these illegal operators supply Australian customers from outside Australia and, in doing so, effectively move the potential for the collection of any taxation receipts beyond the effective reach of the government.

Any proposal to impose additional taxes on licensed online WSPs will also give unregulated operators a competitive advantage over licensed WSPs and the tax base will be unintentionally reduced severely limiting the government’s ability to gain the expected tax revenue increase.

⁴ Sportsbet Submission to the SA State Tax Review Discussion Paper 2015, page 2.

⁵ Sally Gainsbury, 2012, Internet Gambling: Current Research Findings and Implication, Springer, page 37

In addition, setting too high a tax rate may have the unintended consequence of leading to a permanent loss of revenue for governments as once Australian residents access offshore providers, it is often difficult to reverse this migration back to Australian licensed online WSPs.

Importantly, tax reforms must not generate unintended consequences such as reducing consumer protection, jeopardizing responsible gambling outcomes or risking the integrity of racing and sport.

The AWC welcomed the Federal Treasurer's recent announcement⁶ that, rather than introducing new taxes, it will focus on levelling the playing field for Australian businesses by mandating that foreign businesses supplying digital products and services be required to pay their fair share.

The Treasurer's announcement is important for business confidence in the online wagering industry at a time when the South Australian Treasurer has mooted that a 'point of consumption' tax would apply to Australian licensed online WSPs who already pay their fair share of direct and indirect taxes to Australian governments and racing and sports bodies. The AWC strongly rejects any proposals to apply a POC tax on any Australian businesses that already pay their fair share.

The UK Point of Consumption (PoC) tax is not an appropriate reference point for Australia

As the Task Force may be aware, the recent South Australian Tax Review suggested that, in addition to the existing taxes and fees paid by the online wagering industry, a Point of Consumption (PoC) tax could be applied in South Australia. The AWC strongly opposes such an approach and contends that the UK PoC tax is not an appropriate reference point for Australia.

Recent UK gambling tax reforms have resulted in online gambling now being taxed on a 'point of consumption' basis. This is possible as the UK is a unitary system where taxation is only imposed at Federal level and no VAT is payable on revenue under the UK PoC tax. By contrast, in Australia online WSPs must, in addition to product fees, pay income tax, GST and PAYG taxes.

Secondly, Australia has a recognised 'sports betting right' enshrined in legislation which gives racing and sports bodies control over what bet can be offered on their 'product' and requires Australian WSPs to pay substantial product fees to them for the right to offer bets on those markets. No similar obligation exists internationally, or in the UK.

Thirdly, prior to the imposition of the UK POC regime in December 2014, tax was imposed on a point of supply basis resulting in much of the online gambling activity being untaxed (as many operators who offered services to UK residents were licensed outside of the UK).

As such the UK operators had and do have a greater capacity to absorb the imposition of a POC tax due to their significantly lower tax burden.

KPMG undertook an economic analysis on behalf of the UK Remote Gambling Association (RGA)⁷. The main findings of the report concluded that the 15% PoC tax on online gambling gross profits will fail to achieve the UK government's stated goals of:

- protecting UK consumers;
- levelling the playing field for existing UK based operators; and

⁶ Second Reading of the Appropriation Bill (No. 1) 2014-15, Treasurer

⁷ KPMG, An Economic Review of the Proposed Change in the UK legislation for Online Gambling Taxation, 2013, <http://www.kpmg.com/IM/en/IssuesAndInsights/ArticlesPublications/Documents/RGA-UK-Summary-Report.pdf>, Accessed 08.04.15

- increasing public revenues.

KPMG suggested that many online gambling businesses will simply pass on increases in operating costs to the consumer who will, in turn, migrate to unlicensed operators who are able to offer better value for money.

Some industry participants have also argued that revenue generation rather than consumer protection underpins the UK government proposals.⁸

Only gambling operators that earn economic rent due to government intervention should pay additional gambling taxes to government.

Monopoly retail wagering operators pay wagering taxes because they enter into monopoly arrangements with state and territory governments that provide competition-free income and monopoly rights and benefits. Local track and online WSPs do not have that advantage.

Over 50% of wagering revenue in Australia is earned via retail land-based retail bricks and mortar markets and is completely competition-free

Under this monopolistic system AWC members are unable to offer its wagering products in these markets.

By comparison, licensed online WSPs must operate in the highly competitive online global wagering market where there is no opportunity to earn economic rent. As such, there is no need to create tax neutrality between traditional monopoly retail wagering operators and online WSPs.

Any difference in fees paid by traditional wagering operators and licensed online WSPs is a result of the fee paid by retail monopolies to retain their monopoly rights to the land-based bricks and mortar retail business.

The wagering taxes paid by traditional monopoly retail operators reflect the substantial economic rent benefits of the retail-based monopolies based in each state.

For example, in South Australia the SA TAB reaps \$446 million in turnover, competition-free. In contrast, AWC members are required to compete in the highly competitive online global market as they are prevented from having a retail presence.

As previously outlined, licensed online wagering providers are already taxed equivalently to traditional retail operators and make a substantial contribution to government by way of Federal taxes, State/territory licensing fees and product and race-field fees

As such, the AWC considers that a review of the state-based monopoly structure of the traditional land-based retail operators would be an appropriate measure for the Tax Task Force to consider.

⁸ Banks, James, 2013 The Conversation 28.10.13, <http://theconversation.com/all-bets-could-be-off-for-online-gamblers-in-the-uk-19314>, Accessed 08.04.15

The leakage of taxation revenue offshore to unlicensed black market wagering operators is significant and growing.

The leakage of taxation revenue offshore to unlicensed black market wagering operators is already significant. This threat is acknowledged in the Discussion Paper.⁹

The Discussion Paper also notes that GST is Australia's third-largest tax source¹⁰. As such, it is in the collective governments' interest to take action, as flagged, to reduce the increasing threat of GST leakage from Australians wagering with offshore operators.

In addition, any reforms which propose to increase taxation levels on licensed Australian online WSPs would have untenable fiscal, social and integrity implications for government, flow-on consequences for the integrity of sport and racing, consumer protection and responsible gambling.

All estimates clearly demonstrate the significant size and scope of the illegal marketplace and its growth potential:

- the 2010 Productivity Commission Report estimated \$1 billion was lost annually to illegal offshore operators;
- the 2012 Review of the Interactive Gambling Act, conducted by Federal Department of Communications, estimated Australia's interactive gambling spend was \$1.6 Billion, with 60% spent with illegal offshore operators; and
- in 2014, H2 Gambling Capital estimated in excess of 20% of Australian expenditure on interactive wagering goes to offshore providers.

Estimates stand at \$400 million (representing \$4 billion of economic activity) and \$100 million in lost taxation revenue and product fees.

Growth predictions for illegal offshore wagering include:

- A 2012 industry report, compiled independently by KPMG and assuming no changes to the current legislative and regulatory environments, estimated that the illegal online gambling market is expected to grow at an average annual rate of 6.3 per cent to \$2.4 billion in Australian in 2021-22;
- Global Betting and Gaming Consultants (2014) estimated, internationally, the online gambling market is expected to reach US\$50 billion by 2017;
- The Joint Select Committee on Gambling Reform (2011) suggested more than 2000 gambling websites were available to Australians, figures backed up by the 2014 Interactive Gambling Report, which indicated a figure in excess of 2300 illegal operators; and
- The Victorian Police Sports Integrity symposium in 2014 heard estimates of around 2500 illegal offshore operators, in Asia alone, offering online in-play wagering to Australian customers.

⁹ Re:Think, Tax Discussion Paper, March 2015, Pg 149 - 150

¹⁰ *ibid*, Pg 134

As previously outlined, pushing Australian consumers to this black market will result in lower revenue for governments and a reduced ability to provide responsible gambling and consumer protection safeguards and to protect the integrity of Australian sport and racing.

There are many examples of the increasing scourge of offshore illegal operators offering to Australian residents and the threats such operators pose to the fiscal, social and integrity impacts of Australian society including the most recent police investigations into the alleged activities of Vanuatu-based operator, Betjack¹¹.

As such, the AWC supports the Federal Government's initiative to establish the *Illegal Offshore Wagering Working Group* to tackle the increasing number of illegal offshore operators targeting Australians and not paying their way.

Curtailing this illegal activity will provide Australian WSPs with a more even playing field and significantly minimise growing tax leakage and increase government revenue. It will also protect the integrity of Australian racing and sport as well as protect Australian punters who may be at risk of problem gambling.

The AWC encourages the Government to progress this important initiative in consultation with relevant stakeholders, including the AWC.

A further migration of Australian customers to offshore operators could be expected with the imposition of additional tax.

Leading gambling researcher Dr Sally Gainsbury recognised this propensity for customers to migrate offshore stating that –

'the taxation model implemented in relation to internet gambling must be carefully considered by regulators to ensure that onshore gambling sites can be competitive with the offshore market and still contribute appropriate levels of funds to government, the community and appropriate sports and racing bodies'.¹²

The Interactive Gambling Act 2001 (the **IGA**) currently prohibits the provision of online gambling services to customers in Australia but does not outlaw Australians from accessing these services on the internet.

As such, there is little governments can do to prevent Australian consumers from migrating to non-compliant, tax-avoiding offshore operators. The imposition of any additional tax could create perverse incentives for the creation of a larger illicit market of illegal offshore operators targeting Australian consumers.

Due to the high price sensitivity of many online wagering customers, brand awareness of Australian licensed online WSPs will not protect a large proportion of Australian customers from switching to tax-avoiding offshore competitors or less reputable operators in less well regulated jurisdictions outside of Australia.

Any proposals to impose additional tax would further limit the ability of domestic licensed bookmakers to compete with offshore operators and would exacerbate the current situation with more consumers

¹¹ Nino Bucci, Patrick Bartley, Nick McKenzie, Police Raid Vanuatu Bookmaker with Melbourne Underworld Links, The Age, 18 May 2015, <http://m.theage.com.au/victoria/police-raid-vanuatu-bookmaker-with-melbourne-underworld-links-20150518-gh3ivb>, Accessed 19 May 2015

¹² Sally Gainsbury, 2012, Internet Gambling: Current Research Findings and Implication, Springer, page 37

switching to illegal operators with no guarantee as to whether there is any undesirable criminal elements involved in these offshore gambling sites.

There are numerous examples in Europe where high taxes are driving the industry offshore. Dr Sally Gainsbury recently referenced an article in Malta Today that identified that –

‘UK gambling reforms may aim to create equal tax for land & online gambling, but online operators are fleeing.’¹³

The introduction of any additional tax would significantly impact the viability of Australian licensed online WSPs, limit the ability of licensed online WSPs to support sport and racing in Australia and threaten the integrity of sport and racing.

AWC members are high-volume, low margin operators and, as such, it is highly likely that licensed online WSPs, especially small boutique online WSPs, will be unable to absorb the additional operational costs should further taxation be proposed.

To maintain sustainable operating margins, the additional costs presented by any additional tax will most likely be met by licensed online wagering providers:

- Reviewing and reducing spend in discretionary areas, such as marketing investments and sponsorships; and
- Passing on the operating cost to Australian consumers in the form of higher prices (worse odds) pushing customers to offshore black market tax-avoiding operators who are able to continue to offer lower priced and more attractive products.

Those licensed wagering providers that cannot afford to pay additional taxes will either shrink or fold reducing the wagering supply of licensed and regulated products in Australian.

Larger businesses may be able to count on economies of scale to reduce costs while smaller boutique companies will have no option other than to focus on their differentiating abilities.

This poses a serious risk for the viability of the regulated market and it could be expected that the financial pressure put on Australian-licensed providers may produce a further consolidation of the domestic market as the margins of smaller boutique providers evaporate, reducing competition.

The imposition of additional online wagering taxes would increase the overall costs for on licensed online WSPs and reduce their capacity to invest in marketing their services, such as through sponsorships, to ensure wagering can continue to compete with other leisure pursuits.

This, in turn, has a flow-on effect for sport and racing in terms of marketing and additional revenue, which would not otherwise be available, if wagering organisations could not viably afford to promote sport and racing.

AWC members have a zero tolerance approach to sports corruption and are committed to information sharing with the relevant enforcement bodies. Compared to cash-based retail or cash-based on-course

¹³ Broeckmann, Anke, expensive UK gambling act debacle, Malta Today 9 October 2014, http://www.maltatoday.com.mt/business/business_comment/44698/an_expensive_uk_gambling_act_debacle#.VSSivnp22JW, accessed 08.04.15

operations, account-based betting promotes transparency and enables the identification of customers and the nature and extent of their betting activities and where it is transacted.

At least one-third of interactive gamblers in Australia are not concerned about gambling with offshore providers¹⁴ exposing them to unscrupulous and sub-standard consumer protection practices and increasing the risks to the integrity of sport and racing.

The International Centre for Sports Security estimates that 80% of global sports betting is illegally transacted, making it invisible to regulators and investigators.¹⁵ Offshore operators are not regulated to Australian standards nor required to report suspicious betting activity, therefore, there are significant threats posed to sport and racing integrity as well as money laundering and other criminal activity.

Increasing the tax burden on licensed online wagering providers will have a detrimental effect on the ability to deliver effective responsible gambling and consumer protection measures

AWC members are strongly committed to responsible gambling and to ensuring that people wager within their means.

The imposition of additional tax is unlikely to be an effective way of mitigating problem gambling.

Rather, additional tax burdens will only impact the legally licensed Australian-based WSPs giving a clear advantage to unlicensed operators who are not required to abide by Australian standards of responsible gambling and consumer protection.

The most effective way to minimise the incidence of problem gambling is to maintain a competitive and highly regulated online wagering market in Australia and to encourage consumers to transact only with Australian licensed and regulated WSPs.

The transparency of account-based online wagering brings significant benefits to consumers in terms of responsible gambling, harm minimization and consumer protection measures - avoiding many of the risks associated with anonymous cash-based retail betting, venue-based gambling and illegal offshore operators - to assist customers to make informed and responsible decisions about their recreational choices and to protect those who are underage or vulnerable.

In addition, the transparent nature of account-based online wagering allows for rigorous age identification and verification tools in line with Australia's Anti-Money Laundering (AML) legislation to combat criminal and fraudulent behaviour.

In relation to problem gambling, leading Australian gambling researcher and academic, Dr Sally Gainsbury recently reported that despite rates of Internet gambling increasing in several jurisdictions, little evidence has been found to suggest that the prevalence of problem gambling has increased. Dr Gainsbury found that –

*'internet gambling does not cause gambling problems in, and of, itself' and suggests 'evidence is emerging that Internet gambling is not only not predictive of gambling problems, but that online may have lower rates of gambling problems.'*¹⁶

¹⁴ Gambling Research Australia, Interactive Gambling, March 2014, Page xiv

¹⁵ University Paris 1 Panthéon-Sorbonne and the International Centre for Sport Security (ICSS), Protecting the Integrity of Sport Competition -The Last Bet for Modern Sport, Page 12

¹⁶ Gainsbury, S.M. (2015). Online Gambling Addiction: the Relationship Between Internet Gambling and Disordered Gambling. *Current Addiction Reports*, 2(2), 185-193

This is in line with the Productivity Commission Report¹⁷ which identified that of the 0.5%-1% of the population who are problem gamblers, it is estimated that 75%-80% is directly related to the use of poker machines¹⁸. Anti-gambling advocates also acknowledge that poker machines are the primary source of problem gambling in Australia with SA Independent Senator Nick Xenophon stating that –

*'We know that the predominant cause of gambling addiction in this country is poker machines.'*¹⁹

Adopting a 'platform neutral' approach to in-play wagering will stem the increased targeting of Australian residents by illegal black-market offshore operators and potentially increase tax revenue to government.

The Interactive Gambling Act 2001 (Cth) (IGA) currently prohibits Australians from placing 'in-play' bets using the internet but permits this type of wagering when customers contact an operator by telephone and in land-based retail outlets, such as TAB outlets, clubs and hotels.

As such, Australians are forced to place in-play bets over the internet using unregulated and illegal overseas websites.

The IGA's existing provisions result in a loss of potential tax revenue, are confusing to consumers, inconsistent in their coverage, obsolete given technological changes and substantial harm to Australian sports.

The AWC calls on the Tax Task Force to support the IGA Review²⁰ recommendation to lift the in-play betting restriction on licensed online WSPs in accordance with the principle of platform neutrality to stop the flow of tax revenue offshore. In doing so, it would be expected that a significant portion of the \$400 million currently being wagered offshore by Australians each year would flow back to Australian licensed WSPs resulting in economic and social benefits for Australia.

This IGA Review recommendation is strongly supported by Dr Gainsbury, who states:

'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 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.'*²¹

¹⁷ The Productivity Commission: Productivity Commission, Inquiry Report on Gambling (2010), p. 5.1.

¹⁸ Ibid

¹⁹ Senate, Hansard, 5 March 2014

²⁰ The Department of Broadband, Communications and the Digital Economy (DBCDE) Final Report into its review of the Interactive Gambling Act 2001 (Cth) (IGA) was released on 12 March 2013.

²¹ 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.

In relation to in-play betting with illegal or offshore gambling providers and his support of in-play betting, 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 in-play betting and working down that path with government and others to get the end result.'*²²

The need to reform the IGA is also well recognised amongst other policy makers, including the:

- 2015 Harper Competition Policy Review, released in March 2015, noted the AWC's arguments in relation to the anti-competitive nature of the IGA and agreed that gambling regulations should be included in a new round of regulation reviews to ensure that they are not unduly restricting competition.
- 2014 'Interactive Gambling' report, commissioned by Gambling Research Australia, agreed the IGA lacks effectiveness, illustrated in particular by high participation rates by Australians on prohibited overseas-based online services.
- 2010 Productivity Commission Inquiry Report into Gambling recommended that Australian licensed operators be allowed to offer online in-play betting to Australian customers.

Adopting a clearly defined and platform-neutral approach towards in-play sports wagering (such that these products can only be offered with the sanction of state/territory regulators and national sports controlling bodies ensuring the integrity of sport) will increase potential tax receipts and stem leakage to offshore operators.

Legislating to allow in-play betting available through the Australian-based websites will also strengthen the integrity of racing and sport and ensure that Australians receive protection in the form of appropriate harm minimisation and consumer protection measures.

Evidence-based research must be undertaken to determine the effectiveness of any taxation reform options

Evidence-based research should be undertaken in a comprehensive and robust manner to identify the impacts and effectiveness of any potential additional taxation regime, notably:

- The unintended consequences of any proposal to increase the tax burden on licensed online wagering providers;
- The economic impact of any potential tax reform options;

²² James Sutherland, CEO Cricket Australia, 12 June 2012

- The price sensitivity of demand for online wagering (including across product types and different customer groups);
- The licensed online wagering industry's ability to absorb additional taxes;
- The customer's willingness and ability to switch to offshore, tax-avoiding, operators;
- The basis on which any additional tax on online wagering providers is proposed and the rate of any such tax;
- The experience of overseas jurisdictions in meeting their stated objectives; and
- Any wider possible effects of additional taxation including the effects on sport and racing, employment, innovation and other spill-over benefits to other sectors (e.g. advertising and marketing sector).

CONCLUSION

The release of the Federal Tax Discussion Paper provides a timely opportunity for the Commonwealth Government to revisit the recommendations contained in the 2013 Final Report of the Review of Interactive Gambling Act 2001 (Cth) (**IGA**) in relation to the effectiveness of the IGA legislation.

This includes adopting a 'platform neutral' approach to in-play wagering to reflect technological advances and best regulatory practice in the digital economy and to stem the increased targeting of Australian residents by illegal offshore black-market operators.

In doing so, the Federal Government could minimise the tax leakage offshore and increase tax receipts for governments.

It is imperative that the legal online Australian wagering industry is taxed in a way that ensures its competitiveness in the global online environment.

Any proposal to introduce further taxation burdens on licensed Australian-based online WSPs is untenable as the business models of online wagering providers have been developed to provide maximum value for consumers with only low margins returning back to wagering providers.

Any such moves would reduce the competitiveness of the industry further pushing Australian punters to illegal offshore operators, costing jobs, reducing revenue to governments, cutting payments to racing and sporting bodies, exposing Australians to little or no responsible gambling or harm minimization measures and no offering no information sharing agreements with racing and sporting bodies to assist in the detection of unusual or suspicious betting activity.

Finally, it is important to reiterate that purchasing wagering online is no different to purchasing any other consumer product online. The AWC is unaware of any other online retailer which is subject to additional taxes, such as a PoC tax and, as such, online wagering should not be treated any differently.