



CrownBet Pty Limited

**Submission to the Review into the Impact of Illegal
Offshore Wagering**

November 2015

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Summary of key recommendations

This summary provides an outline of how CrownBet considers that legislative and non-legislative measures can meaningfully address the social and economic impacts of offshore wagering and ensure that a national policy framework for regulating online wagering is responsible, capable of protecting Australian consumers and delivers economic contributions by way of taxes, fees and employment for Australians.

This paper represents the views and position of CrownBet Pty Limited and Betfair Pty Limited (**Betfair Australia**). Betfair Australia is a wholly-owned subsidiary of Crown Resorts Limited and offers a unique perspective to the Review as the only betting exchange operator licensed and regulated in Australia.

Limit the supply of online wagering by offshore providers to Australian consumers

1. Prohibit offshore operators from offering wagering services to Australian residents

At present, the biggest failing of the Australian wagering regulatory regime is that the *Interactive Gambling Act 2001 (Cth) (IGA)* does not prohibit offshore operators from offering wagering services to Australian residents. These operators are not illegal under the IGA (though they may be for other reasons) and are therefore referred to throughout this paper as “offshore” or “unlicensed” wagering operators.

It is CrownBet’s view that the establishment of a broad based prohibition on an operator accepting bets from Australians without holding an Australian wagering licence will act as an effective deterrent to a large proportion of the unlicensed operators presently accepting custom from Australia.

Under such a prohibition, those operators that are licensed in a reputable overseas jurisdiction would be expected to seek to obtain an Australian licence or take steps to prevent access to their services by Australian residents, as is the case for residents of other prohibited jurisdictions, most notably the United States.

2. Impose penalties for associates, affiliates and agents of operators that breach the IGA

Affiliates, agents and associates are a key gateway for Australian customers seeking to access offshore, unlicensed wagering websites, particularly those that operate in a manner that seeks to limit their audit trail and minimise transparency around their operations.

The IGA should be amended to prohibit the operation of services that support the provision of a prohibited online gambling service in Australia, whether by way of personal referrals or internet websites that direct Australian customers to unlicensed wagering services, as well as those with a physical presence in Australia. The relevant offences should apply on a strict liability basis to ensure

their enforceability.

3. Introduce website (or ISP) blocking

Recent amendments have been made to the *Copyright Act 1968* (Cth), which will enable copyright owners to apply for a court order requiring internet service providers (**ISPs**) to block access to an online location that exists outside of Australia and facilitates the infringement of copyright. A similar scheme should be implemented to provide a mechanism by which ISPs can be directed to block access to offshore wagering websites that offer their services to Australians in contravention of the IGA.

It is CrownBet's view that that the ACMA (appropriately directed and resourced) should be afforded the authority to determine whether an online wagering operator is offering services to Australian residents without holding a valid Australian wagering licence. In circumstances where the ACMA is satisfied that a website is in breach of the IGA it would issue a notice to all Australian based ISPs requiring the ISP to take steps to prevent Australian residents (those with an Australian based IP address) from accessing the website.

Whilst it is acknowledged that internet filtering can be circumvented by determined consumers without access to a competitive domestic service offering (principally through customers' use of VPNs and/or wagering operators altering their IP addresses), website blocking would greatly reduce the potential for customers to interact (unconsciously or otherwise) with illegal offshore operators. It would also prevent access to those larger, reputable offshore operators, who elect to ignore Australian laws. As is the case in the context of copyright infringement, the blocking scheme will likely remain ineffective against website operators that take steps to change domain names and website locations in an attempt to avoid such a regulatory response. However, this is not a valid reason to refrain from taking steps to make it more challenging for offshore operators to break Australian laws and seek to solicit custom from Australians.

Encourage Australian consumers to wager with Australian licensed and regulated operators

4. Eliminate the product imbalance that is allowing offshore operators to thrive

Offshore operators which choose to ignore the IGA (and other Australian laws) are able to offer a more fulsome and competitive suite of wagering products to Australian residents. The most obvious example is that offshore operators freely offer in-play sports wagering online, which contravenes the prohibition in the IGA. The global popularity of in-play sports betting is undeniable. European bookmakers, which are legally permitted to offer in-play betting, report that between up to 75% of all

sports betting activity occurs following the commencement of an event.¹

Accordingly, a vital step in encouraging Australian consumers to migrate their betting from offshore operators to the Australian domestic market is to create an attractive but responsible regulatory regime for online wagering in Australia and to allow operators to compete with the product offers popular with customers and currently provided by offshore operators. This must involve the creation of wagering product parity between Australian operators and their offshore counterparts, but with the imposition of appropriate safeguards.

A key outcome of the Review therefore should be that Australian licensed and regulated operators are able to offer online in-play wagering on sports in order to eliminate the competitive advantage enjoyed by offshore operators and address the imbalance that is presently driving Australians to wager offshore. However, this should only be introduced within an appropriate responsible wagering framework.

This approach will ensure that Australian consumers are able to wager on their favoured products and obtain the benefits of the proposed enhanced consumer protection and harm minimisation framework outlined below. It will also have the obvious effect of diverting revenues and taxation back to Australia and providing sports governing bodies with greater transparency over betting on their game to aid in integrity management due to the information sharing arrangements they have in place with Australian licensed wagering operators.

CrownBet recommends that the managed liberalisation of in-play wagering, subject to responsible wagering conditions, is the preferred approach and will allow government to ensure that the proposed changes do not have any unintended consequences. We propose that for the first twelve months after the in-play restriction is lifted:

- (a) operators be restricted from advertising the availability of online in-play wagering on free-to-air television and radio during sports broadcasts to ensure the product is not intensely advertised; and
- (b) online in-play wagering be permitted only on contingencies that are tied to the outcome of a particular match (for example, the winner of the event, handicap and margin betting) in order to mitigate concerns that highly repetitive forms of wagering (known as “micro betting”²) would be offered.

A specific prohibition on micro-betting should be maintained on an ongoing basis. It should be noted that there exists a further level of protection against micro-betting, in that sports governing bodies are

¹ See, for example, the annual accounts of Bet365 for the financial year ended March 2015. Available at: <https://beta.companieshouse.gov.uk/company/04241161/filing-history>

² CrownBet agrees with and adopts the definition of “micro-betting” proffered by the Department of Broadband, Communications and the Digital Economy’s final report on the review of the *Interactive Gambling Act 2001*. Recommendation 26 outlines in detail what constitutes “micro betting” and the controls necessary to prevent it.

able to enforce a list of permitted bet-types against Australian wagering operators. Where a sport has an integrity or social concern about a particular bet-type, the sport has the legally enforceable right to prevent the wagering operator from offering that betting. We believe that a prohibition in the IGA on micro-betting and a structure that affords sporting bodies with the important right of veto provides significant comfort from both a social and integrity management perspective.

A national policy framework for regulating online wagering

5. Create a national policy framework to regulate online wagering

The current state-based system of gambling regulation in Australia is inconsistent and there is undoubtedly a need for a more co-operative and unified framework. There now exists extensive disparities between the various State and Territory jurisdictions, which has significantly increased the compliance burden and decreased certainty of investment and operation for wagering operators. Responsible operators are presently producing, at significant cost, State-specific advertising campaigns in order to satisfy local requirements. This is not possible, however, for advertisements placed online and on subscription television. These forms of advertising are not capable of being targeted to specific jurisdictions, causing significant compliance and commercial issues for operators.

It is CrownBet's view, given the cross border nature of online wagering and the disparities in State legislation, that a national policy framework for the regulation of online wagering is necessary. Whilst it remains appropriate that wagering operators are licensed in a particular Australian jurisdiction, all elements of consumer protection, harm minimisation requirements and advertising regulations must apply on a consistent, national basis.

A national policy framework may be established by:

- (a) **Federal legislation by way of the *Interactive Gambling Act 2001***: the IGA already contains provisions that prohibit the advertising of interactive gambling services. Provisions regulating the advertising of "excluded wagering services" (which largely covers the field in relation to online wagering) would be a natural and consistent fit; or
- (b) **Nationally consistent legislation enacted by the States**: in a similar vein to the 2012 Council of Australian Governments' (COAG) agreement on a national policy for the prevention of match-fixing in sport, a national policy framework may be agreed at the COAG level and implemented by way of consistent legislation in each State and Territory.

6. Review regulatory responsibility for oversight and enforcement of wagering regulations

It is CrownBet's strong view that responsibility for oversight of the IGA, and the proposed national policy framework, requires consideration as part of the Review. The current situation has proven to have limitations and has contributed to the ineffectiveness of the IGA.

We believe that an active federal regulator is required to enforce the IGA against offshore operators. That agency (which should remain the ACMA) must have a clear direction to be active in monitoring and enforcing compliance and must have the necessary experience, expertise and resources to discharge its regulatory obligations.

In relation to the proposed national policy framework for domestic operators, we consider that given their expertise and experience, existing State-based gambling regulators remain best-placed to monitor and enforce the regulation. This is the model that was adopted in the 2012 National Policy on Match Fixing, which operates in such a manner that an offence in relation to a sporting event conducted in a particular State, is dealt with by that State's gambling regulator.

In this context, where advertising is conducted by a domestic wagering operator in Victoria for example, the investigation and enforcement responsibility would lie with the Victorian Commission for Gambling and Liquor Regulation, as opposed to the wagering operator's licensing authority which may be in another Australian State or Territory. We consider this preferable to the creation of a new federal regulatory body, simply on the basis that the expertise and experience is currently available within each State and Territory and should therefore be utilised.

7. Establish a national, legislated self-exclusion register

Self-exclusion has been widely accepted as an important tool in the promotion and maintenance of responsible gambling, as it involves the identification and recognition by an individual that they are experiencing problems with their gambling behaviours and wish to address that, in part, by abstaining from gambling for a defined period or permanently.

CrownBet proposes that a key element of the national policy framework must be the establishment of a national self-exclusion register that is enshrined in nationally consistent legislation and overseen by State and Territory gambling regulators. A voluntary code of conduct is insufficient.

Currently, if an individual wishes to self-exclude from wagering, they must do so with every operator with which they hold an account, or might gamble with in the future. The ease with which a customer who has self-excluded from one operator may bet with another operator undermines the overall effectiveness of self-exclusion. The development of a more resilient method of self-exclusion presents a clear and immediate opportunity to further reduce the potential harm from problem gambling.

CrownBet has previously advocated the implementation of a self-exclusion scheme which would enable consumers to exclude from all Northern Territory licensed bookmakers by submitting a single application to the Northern Territory Racing Commission (**NTRC**). The NTRC currently regulates twelve wagering service providers representing the majority of the licensed online corporate bookmakers in Australia.

The scheme has been embraced by the NTRC and will form part of the mandatory *Northern Territory Code of Practice for Responsible Online Gambling*, which is proposed to commence from 1 March 2016. Whilst CrownBet believes that a national self-exclusion register must be the ultimate goal, the Northern Territory scheme represents an effective first step in providing protection for customers and garnering broader support for the development of a national scheme. A broad-based self-exclusion register will significantly increase the effectiveness of self-exclusion, affording customers with a greater deal of protection against potential harm.

Consideration must be given to determining whether it is feasible to include non-account cash based wagering operators, who represent the majority of the Australian wagering market, as part of the national scheme. A failure to do so will necessarily undermine its effectiveness as a harm minimisation tool as consumers will retain the ability to wager with certain operators that form part of the locally regulated industry.

8. Require all wagering operators to make available voluntary pre-commitment tools

One of the key advantages of online account-based wagering is the ability to make use of various pre-commitment tools, which allow customers to configure a wide variety of measures to ensure that they gamble in a manner consistent with their pre-set intentions. CrownBet already has a suite of measures to allow customers to elect to impose financial limits on a daily, weekly or monthly basis, however, there is no Australian industry standard, which means that customers may not be offered a consistent level of protection across the domestically regulated industry.

We consider that standardising and enhancing the range of pre-commitment measures offered by wagering operators is a sensible and logical step in protecting Australian customers. CrownBet proposes that as part of the national policy framework it must be a requirement to make available voluntary pre-commitment tools to customers at the point of registration and on an ongoing basis. A range of limits should be offered to customers, including:

- (a) limits on the amount of funds that they may deposit in a given period;
- (b) limits on the amount of funds that they may lose in a given period; and
- (c) limits on the amount of time that they may spend on a particular website.

Operators must be required to act on requests to impose a new or reduce an existing limit immediately. Standards are also required to establish cooling-off periods for customers that may seek to remove or increase previously imposed limits.

9. Introduce nationally consistent controls on wagering advertising

There exists a considerable level of concern within the Australian community regarding the level of gambling and wagering advertising – particularly that advertising which is associated with sport and that which is readily viewable by minors.

Given the current climate, CrownBet acknowledges there is a need for a reduction in the volume and a review of the content of wagering advertising to ensure that Australian licensed and regulated wagering operators are undertaking socially responsible wagering advertising.

CrownBet considers that further regulation should be applied to wagering advertising across all forms of media. CrownBet advocates a range of meaningful measures to reduce the volume of wagering advertising and to impose more stringent regulation on the content of that advertising. Such measures include:

- (a) significant restrictions on all public-facing outdoor advertising, due to the risk of exposure to children;
- (b) a national prohibition on advertising sign-up offers and a limit on the value of promotions (to \$50) advertised by wagering operators;
- (c) nationally consistent and standardised responsible gambling messages to be included on all advertising, regardless of whether that advertising is conducted online or via traditional methods;
- (d) clear and simple opportunities for account holders to opt-out of marketing material generally, or material that contains promotions and offers specifically;
- (e) following the South Australian Responsible Gambling Code of Practice, operators should be able to advertise loyalty programs, but only where the program meets the following conditions, which ensures the program is conducted in a responsible manner:
 - I. a wagering operator's loyalty program is a structured program conducted in accordance with the published terms and conditions;
 - II. the loyalty program must offer members the ability to obtain regular player activity statements and set voluntary expenditure pre-commitment limits; and

- III. the loyalty program offers rewards that are proportionate to the member's wagering activity, including non-monetary privileges attached to tiers in a stepped reward system.

10. Impose more stringent timeframes for age and identity verification

CrownBet seeks to highlight the importance of stringent measures to limit the access of online gambling services to minors. It is for this reason, as well as for probity, to ensure that customers' identity and age are verified as quickly as possible after registration. We note that the conditions of a Northern Territory wagering licence mandate a 45-day period for verification to take place (equivalent to 100 points of identification), which significantly improves on the 90 days offered under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth). CrownBet places significant restrictions on accounts that are unverified. An unverified customer is unable to withdraw funds from the account and this limits the ability of any fraudulent customer or minor to profit from registering an account in the name of a third-party or otherwise providing false details.

Given the advanced electronic verification systems that are employed by Australian account-based wagering operators, CrownBet considers that the time period allowed may be further reduced from a period of 45 days to 7 days. Following the expiry of that period, CrownBet proposes that the account should be suspended such that no further transactions (betting, deposits, and withdrawals) can occur until such time that the customer has successfully verified their identity.

11. Require mandatory staff training in the responsible provision of wagering

There should be a nationally consistent approach to staff training in responsible gambling. All employees (regardless of whether they are customer facing) must be provided with training in the responsible service of gambling in order to ensure that staff can provide responsible gambling information and to promote and facilitate the operator's pre-commitment and exclusion tools to customers.

The training should be provided in accordance with accredited standards and be approved by an appropriate gambling regulatory authority. We believe it is appropriate that the training be provided within 3 months of an employee commencing with the operator and must be refreshed on an annual basis.

1. Introduction

CrownBet welcomes the opportunity to make this submission to the Federal Government's review into the impact of illegal offshore wagering (**Review**). This submission represents the views and position of CrownBet Pty Limited and Betfair Pty Limited (**Betfair Australia**). Betfair Australia is a wholly-owned subsidiary of Crown Resorts Limited and offers a unique perspective to the Review as the only betting exchange operator licensed and regulated in Australia.

The social and economic risks posed by offshore wagering operators offering their services to Australian customers and on Australian racing and sporting events are real and are of significant magnitude. Legislative and attitudinal reform is now necessary to prevent the proliferation of wagering with offshore operators that free ride off Australian racing and sporting competitions and do not otherwise contribute to Australian society. Accordingly, we government should consider reforms that will promote the movement of consumers towards account-based betting with Australian regulated wagering operators, rather than unregulated and sometimes unscrupulous offshore operators.

Given the material risks posed by offshore wagering, CrownBet believes that the federal government must now implement a thorough, targeted and thoughtful regulatory response. The regime must address the economic, social and individual impacts associated with offshore wagering and must ensure adequate protections are provided to all Australians who choose to wager online from a consumer protection and harm minimisation perspective.

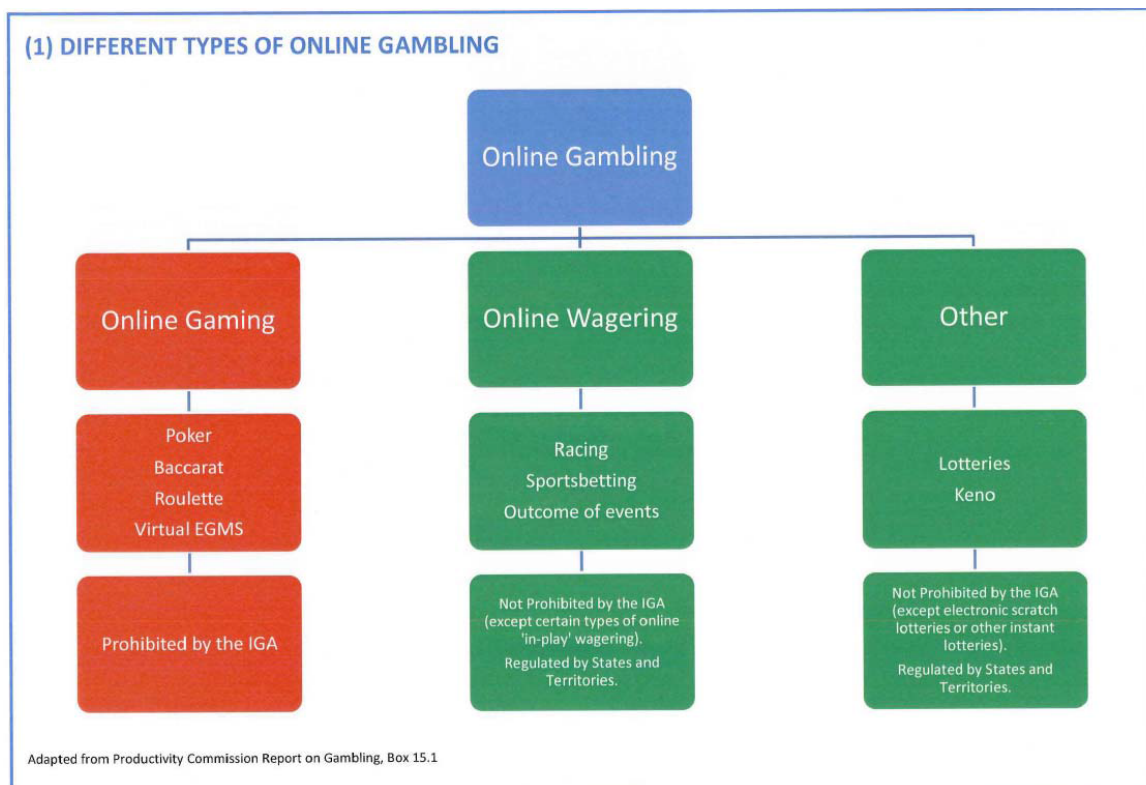
This opportunity should also be taken to ensure that Australian customers that wager with Australian-licensed operators are afforded the a best-practice regulatory framework to allow those who choose to engage in wagering to do so in a safe, secure manner that mitigates against the risk of gambling-related harm. Given the cross border nature of online wagering and the disparities in state legislation, a national policy framework for the regulation of online wagering is now necessary. Whilst it remains appropriate that wagering operators are licensed in a particular Australian jurisdiction, all elements of consumer protection, harm minimisation requirements and advertising regulations must apply on a national basis.

This approach will ensure that issues surrounding integrity and problem gambling can be managed effectively. The national policy framework advocated by CrownBet should be accompanied by a series of enhanced consumer protection and harm minimisation measures, which are detailed in this submission. CrownBet considers that the establishment of a national self-exclusion register, enhanced use of voluntary pre-commitment tools and further controls on wagering advertising and promotions are warranted and necessary to ensure that Australia maintains a best practice framework for effective online wagering regulation.

2. Online wagering in Australia

2.1 The online wagering market

At the outset, it is important to note that the terms of reference limit the scope of the Review to online wagering, as opposed to other forms of online gambling. It is generally accepted that online wagering refers to bets that are placed on the anticipated outcome of an event, be it sports or racing. Online gaming, which is not within scope, refers to games of chance that are played online, including online poker, casino and lotteries.



The increased use of technology has penetrated all aspects of Australian consumer behaviour, with online shopping and banking prime examples. According to the Australian Bureau of Statistics, in 76% of Australian internet users used the internet for online shopping in 2012-13³ and by 2015, as many as 11 million Australians had made a transaction online.⁴

The way that Australians access wagering services is no different, with a steady trend away from traditional retail wagering (through land based TABs and bookmakers) to wagering via modern

³ Australian Bureau of Statistics 'Household Use of Information Technology, Australia' (2012-2013). Available at: <http://www.abs.gov.au/ausstats/abs@.nsf/mf/8146.0>

⁴ Australian Communications and Media Authority 'Australians' Digital Lives' (March 2015). Available at: www.acma.gov.au/~/.//Australians%20digital%20livesFinal%20pdf.pdf

technologies offered by a range of new entrants to the market. The majority of online wagering customers (63%) cited that convenience of access is the primary reason for betting online,⁵ which closely mirrors trends in all areas of e-commerce.

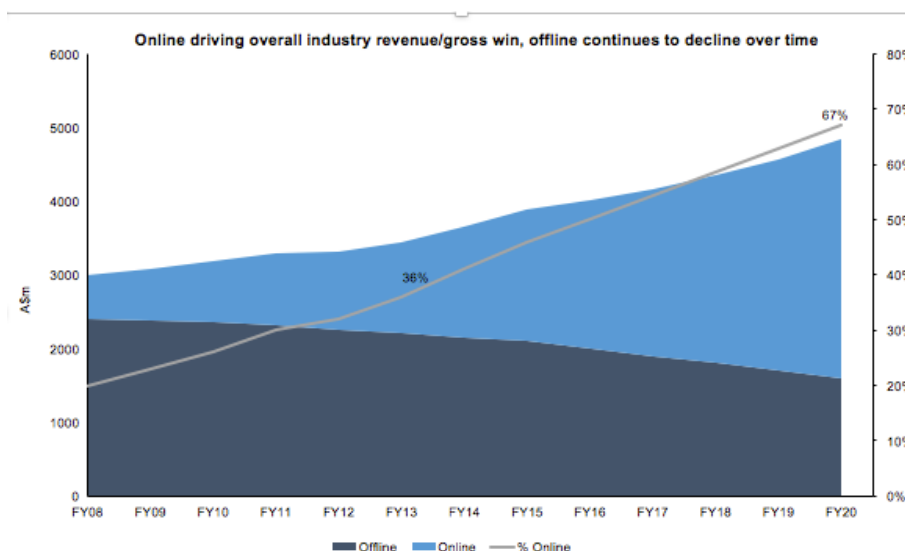
According to Morgan Stanley estimates, in 2014 the regulated, online wagering market made up circa 6% of all Australian gambling and was worth \$1.2 billion in gross gaming revenue.

Online wagering is c.6% of the A\$20bn Australian market (gross gaming revenue)



Source: H2 Gambling Capital, Company Data, Morgan Stanley Research ("Picking the Trifecta" - November 2014)

Legal online wagering in Australia still pales in comparison to the value of retail, anonymous cash-based wagering, which represents \$2.1 billion, or 63% of the total Australian wagering market. However, it has been estimated that the online market will continue to grow at 15% CAGR through to FY18, largely as a result of a shift in consumer preferences away from retail to online wagering, as opposed to any significant growth in the overall wagering market, which has remained relatively flat in real terms over the last decade.⁶



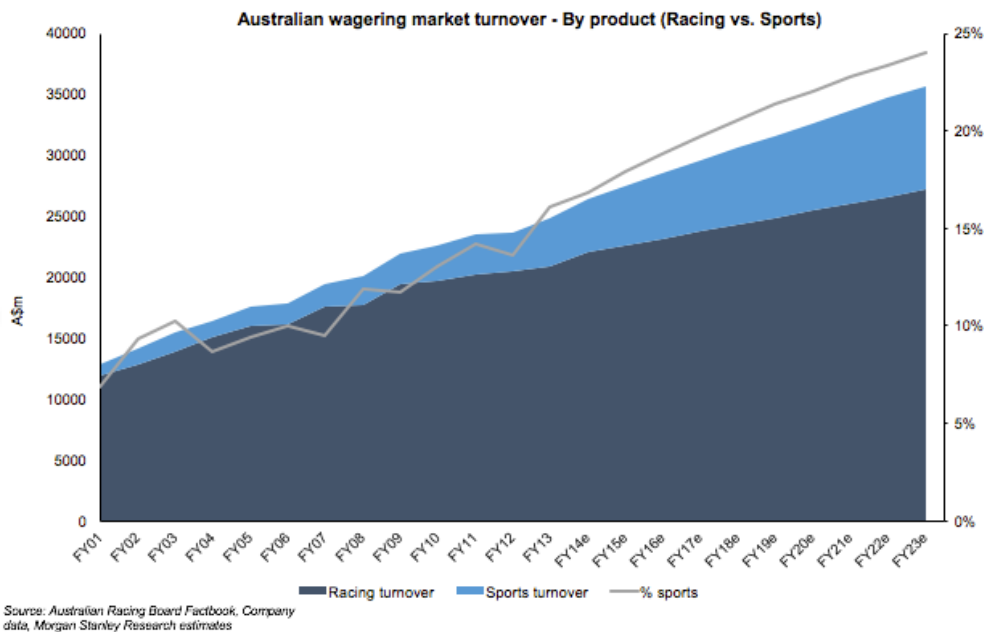
Source: Australian Racing Board Factbook, Morgan Stanley Research estimates

⁵ Hing., N et al, Gambling Research Australia 'Interactive Gambling' (2014), xxi.

⁶ Australian Gambling Statistics (AGS), 31st Edition, 1988-89 to 2013-14.

Wagering on racing remains the dominant form of online wagering, accounting for around 83% of all wagering activity. Sports betting continues to grow at a faster pace than racing wagering, eroding racing’s market share as younger customers migrate towards sports betting, due to the range and simplicity of betting options, more competitive odds and broadened live coverage of sport on a range of new devices and technologies.

In 2008, sports betting made up circa 10% of the total Australian wagering market. By 2014, this had grown to 17%, a trend that is anticipated to continue, as outlined below.



In summary, any growth in the relatively flat Australian wagering market is being driven by a shift in consumer preferences towards online wagering, with a preference for sports over racing. Consumers continue to move away from terrestrial TABs and bookmakers and online fixed odds operators, which have offered customers better prices, service and value as a result of a high level of competition for market share. It is against this background that the online wagering market will be analysed throughout this paper.

2.2 The advantages of account-based betting

One of the key benefits of a shift to online wagering is an increased uptake of account-based betting. There are a number of advantages in offering only account-based betting, the key one being that the operator is always aware of who has placed a bet. The account-based model removes the traditional anonymity of customers that continues to exist in the case of anonymous cash-based retail wagering. It provides significant advantages in detecting and controlling attempts to launder money or to engage in deceptive conduct, and it allows for more effective programs for responsible gambling.

It is also clear that account-based betting provides a superior audit trail for racing and sporting bodies to monitor betting occurring on their respective codes. Account-based betting requires the wagering operator to verify the age and identity of customers to the equivalent of 100 points of identification (the same standard required to open a bank account or apply for a passport), and ensures that his or her identity and other information (such as the devices used to access the service or the bank accounts used to deposit and withdraw funds) can be made known to racing/sporting authorities, regulators and law enforcement agencies where necessary for integrity management or law enforcement. Further, account-based betting (where the operator is regulated and required to share information) serves as an effective deterrent to those intending to engage in race or match fixing due to the ability for their identities to be readily uncovered by law enforcement.

2.3 Impact of online wagering on the prevalence of problem gambling

CrownBet takes problem gambling very seriously. It is strongly committed to implementing and promoting measures that are necessary to reduce the prevalence of harm associated with wagering. All of CrownBet's employees undertake a nationally accredited responsible service of gambling course on commencement of their employment (and attend a refresher course every 12 months). CrownBet provides this training to all staff, not merely customer facing staff as has been the strict legal requirement.

CrownBet has in place a suite of measures to promote responsible gambling. They include the ability for customers to select a pre-commitment limit on a daily, weekly or monthly basis. Customers are also offered the option of self-excluding from betting. CrownBet will shortly release functionality that allows customers to take a break from betting for any period between one day and six months. This feature has been developed in accordance with customer feedback and engagement with researchers and seeks to provide an alternative for those customers who are seeking to limit their access to wagering products. As many as 30% of CrownBet's newly registered customers have accessed at least one of the site's responsible gambling mechanisms since opening their account, evidencing that customers value the ability to elect to impose certain restrictions on their activity.

We reject the argument that online wagering presents a riskier environment for those at risk of problem gambling. We contend that that an online environment, provided that the operators are strictly regulated, affords enhanced protection to customers due to the ability for customers to have complete transparency to their betting habits to an extent not possible with cash-based wagering. Account-based betting allows customers to review their betting history and set appropriate controls, and also provides responsible operators with vital insight into potential issues that their customers may face.

A comprehensive study conducted by Gambling Research Australia in 2014 concluded that the prevalence of problem gambling amongst the adult Australian population was 0.6% (or 1% of those that had participated in a form of gambling).⁷ This finding was in line with the estimates in the Productivity Commission's 2010 report into Gambling, which concluded that there were between 80,000 and 160,000 Australians that fell within the classification of a problem gambler (between 0.5% and 1.0% of the Australian adult population).⁸

The Gambling Research Australia findings also closely mirror the prevalence of problem gambling in the United Kingdom, which has a fully deregulated online gambling market across wagering (including in-play sports betting) and online gaming, such as casino and poker.

The British Health Survey of 2012 (the most recently available data in Great Britain) concluded that 0.8% of the adult male population and adult 0.2% of the female population were identified as problem gamblers.⁹ The British Problem Gambling Prevalence Surveys in both 2007 and 2010 identified that 0.9% of the British adult population had a gambling problem.¹⁰ It can be seen therefore that problem gambling prevalence rates in the United Kingdom have remained relatively unchanged since 2007 despite a rapid uptake in online gambling (both wagering and gaming) in a fully deregulated market and the associated rise in wagering advertising.

It should be noted that a telephone survey conducted by Gambling Research Australia in 2015 suggested that problem gambling prevalence was three times higher amongst interactive gamblers than those who did not bet online.¹¹ There are a number of important limitations associated with this finding, namely that it covers wagerers who participate in unregulated offshore wagering and gaming, where it is agreed there are no consumer protection measures in place, and also that "the study did not allow causality to be determined and it is likely that the greater overall gambling involvement and intensity of interactive gamblers plays an important role in the experience of harms."¹²

A number of studies support the proposition that online gambling only contributes partly to the problems faced by those individuals. A Canadian study by Wood and Williams found that just 11.3% of problem gamblers that gambled online, believed that online gambling was the primary contributor to the problem.

...while internet gambling is an important contributing factor to gambling problems in a portion of problem gamblers, it does not appear to be the main cause of problem gambling for most of

⁷ Hing., N et al, Gambling Research Australia 'Interactive Gambling' (2014), xiv.

⁸ Productivity Commission Report 'Gambling' (No 50) (2010), Vol 1, 8

⁹ United Kingdom Health and Social Care Information Centre 'Health Survey for England, Chapter 7. Available at: <http://www.hscic.gov.uk/catalogue/PUB13218>

¹⁰ United Kingdom Gambling Commission 'British Gambling Prevalence Survey 2010' Available at: http://www.gamblingcommission.gov.uk/research_consultations/research/bgps/bgps_2010.aspx

¹¹ Hing., N et al, Gambling Research Australia 'Interactive Gambling' (2014), xxvi

¹² Ibid, xv

them.¹³

The Gambling Research Australia report ultimately concluded that there is “insufficient evidence to conclude that interactive gambling is causing higher levels of gambling problems.”¹⁴ It is CrownBet’s submission that, where appropriate regulatory controls are in place, online wagering does not pose any heightened risk of gambling-related harm. Indeed, we believe there are numerous advantages from a harm minimisation perspective in encouraging customers to transact only with strictly regulated account-based operators, due to the enhanced protection that can be afforded them, over and above that offered by illegal offshore wagering operators and anonymous cash-based wagering.

3. The Interactive Gambling Act

3.1 Overview of the IGA’s operation

In 2001, pursuant to the communications power in the Constitution, the Commonwealth government enacted the IGA to deal with online gambling generally, and to a lesser extent betting on racing and sport by Australian consumers. The primary objective of the IGA was to “prohibit Australian-based interactive gambling services being provided to customers in Australia and to limit the ability of Australian customers to access internet gambling sites located overseas”¹⁵ largely in order to reduce the potential for gambling harm to Australian consumers. From a conceptual perspective, the IGA is also crucial to sports and racing integrity, though its effectiveness has been found to have been extremely limited.

The starting point in understanding how the IGA applies to online wagering is that section 6 contains a blanket prohibition on the provision of “interactive gambling services” to Australian customers.¹⁶ All forms of online gambling, including racing and sports betting, poker and casino games, are covered by this definition.

Subsection 8A(1) operates to exclude certain types of wagering services from the prohibition. Essentially, the exclusion covers the field for racing and sports betting. Section 8A does not differentiate between licensed and unlicensed operators, and it is on this basis that there is presently no express prohibition on the offering of online racing and sports betting by offshore operators. It is this anomaly that is the overwhelming cause of the IGA’s ineffectiveness.

¹³ Wood., R and Williams., R 'Internet Gambling: Prevalence, Patterns, Problems and Policy Options' (2009), p10

¹⁴ Hing., N et al, Gambling Research Australia 'Interactive Gambling' (2014), xv

¹⁵ Commonwealth, Hansard House of Representatives, *Interactive Gambling Bill 2001 (Second Reading Speech)*

¹⁶ *Interactive Gambling Act 2001 (Cth)*, section 6

Subsection 8A(2) relevantly provides that the exception in subsection 8A(1) does not apply to a service to the extent which:

the service relates to betting on the outcome of a sporting event, where the bets are placed, made, received or accepting after the beginning of that event...

Subsection 8(2) therefore prohibits any betting operator from offering, “in-play” betting via the internet on sporting events to Australian customers. Accordingly, operators are required under the IGA to close their books at the time that a sporting event commences. This prohibition does not apply to bets placed using a “standard telephone service”¹⁷, or in cash at retail outlets.¹⁸

As is clear from the above, the IGA applies consistently to all wagering operators, regardless of whether they are licensed in Australia, licensed offshore or unlicensed. It therefore makes absolutely no distinction between these operators and in doing so fails to make it an explicit offence for an offshore operator to offer wagering services to Australian customers. This is contrary to the position that exists under state law as regards the prohibition on the provision of unlicensed gambling services.¹⁹

Equally it is not an offence for an Australian customer to place a bet with an operator that offers in-play betting. On this basis, the IGA effectively deregulated online gambling for Australian consumers. In doing so, it has left Australian customers with a preference for certain forms of online wagering highly exposed to offshore operators who, due to their extraterritoriality, have elected to ignore the prohibitions contained in the IGA. The result being to make online wagering more dangerous for Australian consumers and decrease the regulatory protections available to these customers.

3.2 Platform neutrality in the regulation of online wagering

At present, Australia is out of step with international jurisdictions that have enacted gambling regulations which apply uniformly across delivery channels. While other countries have created regimes that are platform neutral and do not discriminate whether a player accesses wagering services via a computer, a smartphone/tablet, or over the telephone, the Australian experience is more fragmented leading to poorly-understood and inconsistent regulation that depends on the method of wagering chosen by a customer.

In jurisdictions like the United Kingdom, a customer who chooses to place a bet on a sporting event once it has commenced, for example, is subject to the same conditions (operator codes of conduct,

¹⁷ See the exception contained in subsection 5(3)

¹⁸ The Interactive Gambling Act applies only to interactive gambling. The issue of physical gambling remains the jurisdiction of each of the States and Territories that license gambling operators. See for example the *Gambling Regulation Act 2003* (Vic) and the *Unlawful Gambling Act 1998* (NSW)

¹⁹ See, for example, section 8 of the *Unlawful Gambling Act 1998* (NSW)

responsible gambling protections, etc.) whether they choose to place their wager in person, on the internet, via their smartphone or over the telephone.

Since the IGA came into effect, there has been an increasing degree of convergence between telephones and the internet. Technological advancements have seen telephones develop into mobile computers, capable of streaming a wide range of data and vision from the internet. With computers now able to be used for live voice and video streaming (as well as a raft of other interactive applications), there are few practical differences between mobile telephony and the internet. This has been apparent in recent times with the release by some Australian wagering operators of a “click to call” style betting product which uses smartphone technology to emulate an internet-based experience whilst ostensibly occurring by way of a “standard telephone call” and therefore subject to the safe harbour contained in the IGA.

The separate and different regulatory treatment of online wagering created by the IGA means that when a customer chooses to participate in certain wagering activities – principally in-play betting on sport – their choice of wagering channel determines how, or whether, their activities are protected under Australian law.

According to the Commonwealth’s Convergence Review’s Emerging Issues Paper (**Issues Paper**), which was released on 6 July 2011:

Just about all platforms and devices in the convergent era are digital, which makes them able to converge to a common network that operates over a variety of infrastructure types. This means you can access the internet over your TV, listen to radio on your PC and watch video on your mobile device.²⁰

The Issues Paper opined that a policy framework should develop around a specific service regardless of its mode of delivery. The Issues Paper further noted there are strong arguments in favour of regulatory parity on the basis that it is founded on the ideas of fair competition and technical neutrality.²¹

Platform neutrality in the online wagering sector is pivotal because it will ensure that the IGA will be well equipped to deal with future consumer trends and methods of delivery, therefore allowing the provisions to have an increased shelf life. One key reason that the IGA is presently ineffective is that it failed to regulate services and instead focused on the methods by which those services are delivered (e.g. telephone, internet), therefore becoming antiquated on a rapid basis.

²⁰ Department of Broadband, Communications and the Digital Economy ‘Convergence Review: Emerging Issues Paper’ (2011), p11

²¹ Ibid, p13

3.3 *The effectiveness of the IGA*

Since being enacted nearly 15 years ago, the IGA has been largely ineffective in preventing the activities that it seeks to prohibit. As such, Australian consumers are openly and increasingly accessing illegal interactive gambling services provided by companies who choose to ignore the prohibitions contained in the IGA. All of this means that Australia has become a haven for unregulated, and untaxed, online wagering.

There have been no prosecutions under the IGA since it was passed into law in 2001. The global nature of the internet has rendered Australia's extraterritoriality criminal provisions virtually unenforceable. When coupled with the apparent competing priorities of federal law enforcement authorities and the inability of the prohibition to impact meaningfully on the operations of offshore wagering operators, it is clear that the prohibition could only ever be enforced against the domestic industry.

The submission of the Australian Federal Police to the 2012 Joint Select Committee on Gambling Reform confirmed that there have been no prosecutions under the prohibitions contained in the IGA, despite the AFP receiving 15 referrals in the previous two years from the Australian Communications and Media Authority (the **ACMA**).²²

The AFP advised the Committee that:

*In the previous two years (since 2009), the AFP received 15 referrals concerning allegations of offences committed contrary to the Act. In isolation, when compared to other criminal activity, these referrals were categorised as low priority for investigation and consequently not investigated.*²³

Until 2015, the IGA had constituted a sufficient deterrent against any Australian-based company from providing online in-play wagering to Australian residents. This is no longer the case following the release of "click to call" style wagering products by several Australian licensed operators. Despite the ACMA indicating it considered these products potentially in breach of the IGA and referring three Australian operations to the AFP for "further investigation and enforcement", the AFP declined to accept them for investigation. The ACMA has since published a media release outlining that it maintains a view that the relevant services may not be compliant with the IGA and that it may refer future complaints about similar services to the AFP, which appears a futile response in the current environment.

²² Australian Federal Police, Submission to the Joint Select Committee on Gambling Reform – inquiry into interactive and online gambling and gambling advertising (June 2011), p1

²³ Joint Select Committee on Gambling Reform, Second Report, 'Interactive and online gambling and gambling advertising' (December 2011), p27

The consequence of this confused regulatory approach is that serious questions arise as to the application of the IGA to these products, with little to no prospect of regulatory action. This leaves CrownBet and other operators at a significant competitive disadvantage and further undermines the effectiveness of the IGA. CrownBet's believes that a key outcome of the Review should be reforms to address technology convergence in a manner that will enhance the effectiveness of the IGA.

3.4 *Social and economic impacts of the ineffectiveness of the IGA*

The ineffectiveness of the IGA has had real and material impacts on Australian consumers, the integrity of racing and sport, and tax receipts received by governments. In effect, the IGA has ensured that domestic consumption of certain online wagering services will be exclusively provided by offshore companies. This has had a number of adverse impacts, including:

- Problem gamblers with a preference for online wagering have been offered minimal protection. While the number of easily accessed international websites has risen dramatically in recent years, the extent of harm-minimisation features varies greatly from website to website, and generally falls short of best practice.
- Recreational gamblers who would have preferred to gamble on Australian sites have been subject to a greater risk of being 'ripped off' by some unscrupulous overseas operators. While there are many reputable gaming sites, Australians are nevertheless disadvantaged when trying to resolve disputes with overseas companies due to:
 - the absence of well-defined international laws, as well as legal bodies to enforce them;
 - unfamiliarity with the legal environment in the countries in which overseas companies operate;
 - the difficulty in communicating effectively with companies based on the other side of the globe; and
 - domestic providers of traditional forms of gambling facing greater online competition from jurisdictions with more lenient regulatory requirements
- Recreational gamblers who are discouraged from betting in-play due to the prohibition have less choice and are, accordingly, worse off.
- Offshore operators have not executed information sharing agreements with Australian sporting and racing bodies and therefore there exists a "blind spot" in relation to maintaining the integrity of Australian sport.
- Tax revenue that would otherwise have been collected from legitimate Australian sites is now collected by foreign governments or not at all.
- Commercial opportunities for Australian businesses — including in export markets — have been lost.

4. The impacts of illegal offshore wagering

4.1 *The size of the problem*

The proliferation of internet-based wagering has been the catalyst for the emergence of an illegal global racing and sports betting market of significant magnitude. Recent estimates from a joint study conducted by Sorbonne University and the International Centre for Sports Security indicate that up to 80% of the global racing and sports betting market occurs with illegal, unregulated operators.²⁴

Throughout Asia, illegal wagering networks have consolidated with the migration of betting from physical locations to the online space, thus generating extraordinary amounts of liquidity on an array of sporting events from customers around the globe – including Australia. These highly-liquid markets therefore provide access to high stakes wagering in volumes typically not accepted by Australian and European bookmakers. The Asian market – open on Australian sports and to Australian customers - has been estimated to be worth US\$450 billion annually.²⁵ Despite the prohibition on online racing and sports wagering in the United States, it is estimated that the illegal sports betting market in that nation is as much as 100 times larger than the legal market in Nevada.²⁶

Unsurprisingly, there is a lack of data available to determine the extent to which Australians are gambling with illegal offshore operators, a fact acknowledged by the Department of Broadband, Communications and the Digital Economy in their 2012 review of the IGA.²⁷ However, there are over 440 publically facing offshore websites that make their sports betting services available to Australian residents and countless others that, despite restricting Australian customers, accept bets on Australian racing and sports events.²⁸

In 2012, a submission to the Joint Select Committee of Gambling Reform by Sportsbet and Sportingbet Australia quoted research from H2 Gambling Capital which estimated that approximately 14% of Australian expenditure on online wagering goes to unlicensed providers based outside of Australia.²⁹ The research concluded that the vast majority of the spend was on online in-play wagering, a product which remains illegal to offer to Australian customers. We understand this research has been updated and current data will be offered to the Review.

²⁴ International Centre for Sports Security and Sorbonne University 'Protecting the Integrity of Sports Competitions: The Last Bet for Modern Sport' (2015), p21

²⁵ Ibid

²⁶ Ibid

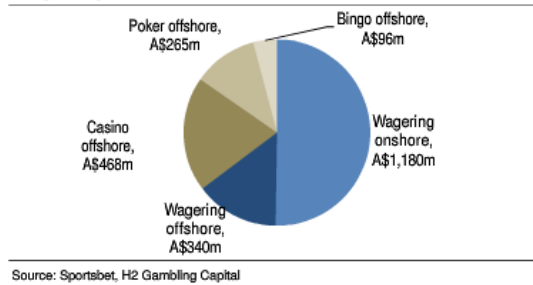
²⁷ Department of Broadband, Communications and the Digital Economy Final Report, 'Review of the Interactive Gambling Act' (2012), p27

²⁸ See, for example, <http://online.casinocity.com/>

²⁹ Sportsbet Pty Ltd: submission to the Joint Select Committee on Gambling Reform – inquiry into interactive and online gambling and gambling advertising (June 2011)

Exhibit 19

Offshore wagering is estimated by H2 Gambling Capital to be 30% the size of onshore online wagering market



The Hong Kong Jockey Club (**HKJC**), one of the world's largest legal wagering operators, has recently expressed significant concern about the impact of illegal betting by Hong Kong residents, which primarily occurs on local Hong Kong racing with south-east Asian betting exchanges and bookmakers that illegally offer their services online to Hong Kong residents. Hong Kong laws prohibit customers from betting with unapproved providers and criminalises the provision of services. Despite this stringent approach, the HKJC believes:

The amount of wagers Hong Kong people placed with illegal bookmakers tops hundreds of billions of dollars each year, which is double the HK \$150 billion recorded by the authorised betting channels. This growing trend also aggravates the numerous social and criminal problems and activities it brings to the community.³⁰

The HKJC estimates indicate that HK \$12 billion (\$A2.15 billion) is lost to offshore operators (i.e. revenue to the operator – as opposed to turnover figures quoted above), which have links to organised crime and have the potential to compromise the integrity of Hong Kong's racing industry.³¹

4.2 Why Australian residents wager offshore

In a similar manner to a number of other industries, the racing and sports betting industry has been revolutionised by the proliferation of the internet and the rapid uptake by citizens across the globe of mobile internet technology. The internet has transformed racing and sports betting from a retail cash-based activity that was largely bound by physical proximity and therefore the local laws of the jurisdiction, to a borderless market that connects operators with customers regardless of their location.

Consumers therefore have more choice and value as they now have access to racing and sports betting providers from all over the world, but with this shift comes new challenges for regulators as it means that operators and customers from beyond the sport's jurisdiction are wagering on local racing and sports in increasingly large sums.

³⁰ Hong Kong Jockey Club 'What is illegal gambling?' (2015). Available at <http://www.hkjc.com/responsible-gambling/en/anti-illegal/index.aspx>

³¹ Ibid

This is no different to the transition that is occurring in the retail market as customers use the borderless nature of the internet to seek out the best deals. Recent trends have led PriceWaterhouse Coopers to project that by 2017, 44% of all purchases made by Australians online (representing \$6 billion in sales) will be with offshore retailers. Online shopping customers largely transact with offshore operators for the same reasons as online wagering customers – lower prices (i.e. better odds), convenience, greater product range and increased accessibility.³²

In 2014, research conducted by Gambling Research Australia found that whilst Australians preferred to use domestically regulated sites, they were “most likely to choose an interactive operator based on competitive price and promotions”.³³ The research also indicated that “at least one-third of interactive gamblers were not concerned about gambling with offshore providers”.³⁴ Only 6% of customers considered the jurisdiction where the site is regulated when selecting a provider.³⁵

The internet has given unlicensed operators and those licensed in jurisdictions that provide substandard regulation, a sense of legitimacy that was not previously possible. In the majority of circumstances, consumers are unable to differentiate between a legal, regulated sports betting operator and one that has no such standing. Accordingly, volumes being traded through unregulated wagering operators is on the rise.³⁶

Unlicensed providers compete directly with Australian-licensed providers in the Australian market, which, at times, places Australian-licensed providers at a competitive disadvantage simply as a result of complying with the Australian regulatory regime. These unlicensed providers, in many cases, offer a combination of services some of which are legal to offer to Australians and others of which are prohibited by the IGA.³⁷

Offshore operators can also offer more competitive products to Australian residents given their non-compliance with Australian laws. The most obvious example is that offshore operators freely offer in-play sports wagering online, which contravenes the prohibition in the IGA. In-play sports betting globally is a highly attractive product and as it is not offered by Australian licensed operators, consumers are forced to look offshore to satisfy their demand. European bookmakers report that between 60-80% of all sports betting activity occurs following the commencement of an event, evidencing the level of customer demand.³⁸

Further, rapidly increasing product fees charged by racing authorities around Australia are not paid by

³² PriceWaterhouse Coopers ‘Top 10 digital technologies set to change the game’ (June 2014). Available at: <http://www.pwc.com.au/industry/retail-consumer/assets/digital-technologies-jun14.pdf>

³³ Hing., N et al, Gambling Research Australia ‘Interactive Gambling’ (2014), xiv

³⁴ Ibid

³⁵ Ibid, xxiv

³⁶ Ibid, xvii

³⁷ Joint Select Committee on Gambling Reform, Second Report, ‘Interactive and online gambling and gambling advertising’ (December 2011), p42

³⁸ See, for example, the 2015 annual accounts of Bet 365 for the financial year ended March 2015. Available at: <https://beta.companieshouse.gov.uk/company/04241161/filing-history>

offshore operators (in addition to avoiding GST and wagering tax). The upshot is that offshore operators can offer significantly better odds and attract larger bets from low-margin customers simply due to having a vastly reduced cost base. Price sensitive customers are offered more attractive options overseas than when betting in Australia and therefore may seek to transfer their wagering activity to these operators.

4.3 *The economic impact of offshore wagering*

The primary economic impact of Australian residents choosing to wager with offshore operators is that the revenues generated by that activity flow away from those operators licensed within an Australian jurisdiction and which provide legal services to Australians. Accordingly, revenues are lost to Australian federal, state and territory governments, as well as racing and sports governing bodies. The following taxes would otherwise have flowed directly to:

- (a) the licensed operator's "home" licensing jurisdiction in the form of licence fees, taxes and community support levies (between 10-50% of revenue);
- (b) the federal government by way of goods and services tax receipts (10% of taxable revenue);
- (c) the federal government by way of corporations tax (30% of corporate profit);
- (d) racing and sports governing bodies by way of regulated and voluntary product fees (10-30% of revenue); and
- (e) various state governments by way of payroll tax.

Tax revenue on the activities of Australian residents that would otherwise have been collected from Australian operators is retained by foreign governments that are effectively free riding on the gambling of Australians. It has long been accepted in Australia that the public benefits of gambling outweigh the associated harms, however, in circumstances where the social issues described in the following section are not accompanied by a reasonable financial contribution, the balance appears to be askew.

This revenue leakage undermines the ability of Australian wagering operators to employ and retain staff and also impacts on the complementary industries that benefit from the existence of a strong, domestic market for wagering services – including the horse racing industry, media partners, technology providers and other commercial associates.

Further, the offshore industry has a competitive advantage against Australian licensed operators, undermining the ability of Australian operators to "compete internationally and export their services to markets with a more liberal approach to certain online wagering products".³⁹

Funding from wagering is critical to the ongoing viability of the Australian racing industry, as up to 90% of its funding comes from receipts from wagering operators. Continued leakage away from regulated operators may threaten the ongoing viability of the sport. Further, sports bodies almost exclusively

³⁹ Productivity Commission Inquiry Report, Gambling Report No. 50 (2010), 15.19

apportion their wagering receipts to funding integrity units and putting other measures in place to mitigate against the risk of betting-related corruption infiltrating their sport. Not only are racing and sports bodies at risk of a funding bypass and an integrity “blind spot” in terms of Australian customer betting, but they also suffer at the hands of overseas customers betting with offshore betting agencies. Whilst offshore operators are not prohibited under the IGA, by accepting bets on Australian racing and sports without paying product fees, they are committing an offence under the various race/sports fields laws around Australia. With the exception of a notable recent prosecution, these laws have been entirely ineffective in preventing the offering of markets on Australian sports.⁴⁰

4.4 *The social impact of offshore wagering*

Further to the comments made at section 3.4 above in the context of the IGA, unregulated wagering with no regulatory oversight or controls poses significant risks for consumers. There are no mandated consumer protection or harm minimisation measures that can be required of offshore operators and Australian consumers are unlikely to have any legal recourse in case of a dispute. Due to the difficulties in identifying a website as regulated in Australia, there remains the distinct possibility that Australian customers are unwittingly exposing themselves to the risks associated with dealing with these companies.

According to the Productivity Commission:

Disreputable offshore companies may offer deceptive and misleading products, have little interest in the welfare of their customers; fail to pay out on winnings or provide adequate security to users.⁴¹

Dr Gainsbury and Professor Blaszczynski in a submission to the Joint Select Committee on Gambling Reform highlighted their concerns with the impacts of offshore wagering by Australian consumers:

One particular deficiency of the IGA is the degree of compliance enforcement. Despite a policy of prohibition, Australians can easily access offshore Internet gambling sites, spend large amounts of money and be exposed to unfair player practices. This is of significant concern as Australians have little recourse if they lose their money or experience unscrupulous treatment. However, little appears to be done to prevent these sites from allowing Australians to play or to stop the sites from directly marketing to Australians⁴².

Offshore wagering operators typically also offer other illegal products to Australians, in the form of in-play wagering and casino and poker games, as well as the provision of unsolicited credit, which may

⁴⁰ New South Wales Justice Department Media Release ‘Prosecution of illegal wagering operator’ (8 July 2015)

⁴¹ Productivity Commission Inquiry Report, Gambling Report No. 50 (2010), 15.9

⁴² Joint Select Committee on Gambling Reform, Second Report, ‘Interactive and online gambling and gambling advertising’ (December 2011), 7.18

place some consumers at risk of harm.

4.5 *The relationship between illegal offshore wagering and organised crime*

The most powerful weapon in the fight against organised crime, particularly money laundering, is transparency. Unlike Australian regulated operators, which are compliant with the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth), offshore operators are not required to verify the age or identity of their customers to appropriate standards, allowing a high degree of anonymity. Australian regulatory agencies have no oversight of the transactions that occur on these platforms and no ability to determine whether Australians are engaging in suspicious activities through their online accounts.

As an account-based wagering operator, CrownBet verifies the age and identity of every customer (to a similar standard as a 100 point check) that uses its services, and maintains records of all transactions and funding sources used to access a customer's account. These records are offered to regulators in circumstances where CrownBet detects suspicious activity, or are otherwise provided to regulators upon request.

There is anecdotal evidence that unregulated sports betting markets provide criminals with an inexpensive and low-risk mechanism by which to launder money. SportAccord claims:

*...the global possibilities provided by the internet coupled with sophisticated financial market tools allow organised crime launder huge sums practically unchallenged.*⁴³

Unregulated betting operators have the advantage of little to no taxation obligations and are therefore able to offer higher payout rates to customers than can legal, regulated operators, which are generally subject to significant taxes and licence fees payable to governments, regulators and racing/sporting bodies for use of their product. It is these higher payout rates (which lower the cost of money laundering) that make unregulated sports wagering a particularly attractive target for international criminal gangs seeking to launder money across borders.

The other key risk to Australian sports and racing posed by betting with unregulated operators is a heightened risk of betting-related corruption. Unlike all Australian entities, these operators have not executed information sharing agreements with Australian sporting and racing bodies and therefore there exists a "blind spot" in relation to maintaining the integrity of Australian sport.

⁴³ SportAccord, 'Integrity in Sport: understanding and preventing match-fixing' February 2013, p39. Available at http://www.sportaccord.com/multimedia/docs/2013/03/2013-02 - SportAccordIntegrityReport_UpdatedFeb2013.pdf

As the Coalition of Major Professional and Participation Sports (**COMPPS**) advised the Joint Select Committee on Gambling Reform, as regards in-play wagering:

*This form of betting is being driven offshore by the current prohibition. Australian sports and regulators have no access to suspicious betting data and have no means of tracking illegal activity.*⁴⁴

In a similar vein, in their 2011 report into *Cheating at Gambling*, the New South Wales Law Reform Commission opined that:

*We are convinced, in the light of the incidence of match-fixing internationally, and the failure of any prohibition model (for example, those in the US, India, Pakistan, and in several other Asian countries) to prevent its occurrence, that there is an imperative to preserve a safe and lawful market for sports and event betting. It is essential that such a market be transparent and subject to appropriate supervision by regulatory authorities, with the assistance of sports controlling bodies and betting agencies.*⁴⁵

The integrity risk posed by offshore wagering must therefore be a significant concern for Australian racing and sports. CrownBet believes that further regulatory attention is necessary to ensure that Australians maintain confidence that their sporting contests are free of outside influence in the form of betting-related corruption.

5. Legislative measures that may reduce the impacts of offshore wagering

Given the risks posed by offshore wagering that have previously been discussed, CrownBet believes that the federal government must now implement a thorough, targeted and thoughtful regulatory response. The regime must address the economic, social and individual impacts of online wagering, and must ensure adequate protections are provided to Australians who choose to wager online from a consumer protection and harm minimisation perspective.

As the IGA has now been in place for nearly 15 years with no prosecutions, it is likely that operators of prohibited services are either unaware of the Australian law or believe they are beyond its reach. If the IGA is to be at all effective, this needs to be addressed.⁴⁶ The deterrence objectives of the IGA will only be effective if operators of prohibited services are aware of the relevant IGA provisions, the

⁴⁴ Department of Broadband, Communications and the Digital Economy, Final Report, 'Review of the Interactive Gambling Act' (2012), p126

⁴⁵ New South Wales Law Reform Commission 'Cheating at Gambling' (2011), 1.32

⁴⁶ Department of Broadband, Communications and the Digital Economy, Final Report, 'Review of the Interactive Gambling Act' (2012), p70

penalties involved, the intent of law enforcement and regulatory bodies to take enforcement action, and the options operators of prohibited services have of becoming licensed in Australia.

5.1 Recommendation 1: Prohibit offshore operators from offering wagering services to Australian residents

As previously outlined, the IGA does not prohibit unlicensed operators from offering services to Australian residents. It is CrownBet's view that the establishment of a broad based prohibition will act as an effective deterrent to a large proportion of the offshore operators presently accepting custom from Australia. Under such a prohibition, those operators that are licensed in a reputable overseas jurisdiction would be expected to seek to obtain an Australian licence or take steps to prevent access by Australian residents, as is the case for residents of other prohibited jurisdictions, most notably the United States.

It is proposed that amendments should be made to the IGA to specifically allow a person to provide an *excluded wagering service* insofar as that service is offered on a horse race, harness race, greyhound race or sporting event only where the person is licenced by a gambling regulator in an Australian State or Territory. Operators who continue to accept bets without holding a valid licence should be subject to a strict-liability prohibition.

CrownBet does not consider that obtaining a wagering licence from an Australian State or Territory is an overly onerous process. The fact that the 2014 implementation in the United Kingdom of a "point of consumption" licensing regime attracted in excess of 170 licence applications from operators around the globe, should provide government with confidence that operators that wish to participate in the Australian market will seek to legitimise their operations and obtain a licence.

A broader base of licence holders in Australia would continue to provide Australian residents with choice and competition but would ensure that newly licensed providers would offer standardised harm minimisation and consumer protection measures, pay relevant taxes and product fees, and participate in the Australian sports integrity framework.⁴⁷

The creation of a strict-liability civil penalty for a breach of the prohibition is recommended as it would provide an effective enforcement mechanism. It would then only be necessary to prove that a gambling service was operated in contravention of the IGA rather than requiring the establishment of criminal liability through the federal courts.

5.2 Recommendation 2: Impose penalties for associates, affiliates and agents of operators that breach the IGA

Affiliates, agents and associates are a key gateway for Australian customers seeking to access offshore wagering websites, particularly those that operate in a manner that seeks to limit their audit

⁴⁷ Department of Broadband, Communications and the Digital Economy, Final Report, 'Review of the Interactive Gambling Act' (2012), p43

trail and minimise transparency around their operations. A large number of offshore wagering operators do not accept customer registrations from the public, instead requiring a prospective customer to obtain an invitation from an affiliate or agent. This is particularly true for Asian bookmakers and betting exchanges, which often operate in violation of local laws as well as the laws of Australia. Of further concern is that this activity allows customers to remain anonymous, exacerbating the risk of accounts being used for nefarious activity, such as money-laundering or match-fixing.

A network of agents and affiliates are engaged by these operators to recruit new customers in return for a trailing commission paid by the operator relative to the customer's wagering activity. Many of these agents and affiliates are Australian-resident individuals or companies and are therefore within Australia's jurisdictional reach. This offers Australian authorities an effective path to enforce the IGA even in circumstances where the relevant wagering operator is not present in Australia.

The IGA should be amended so that it prohibits the operation of services that support the provision of a prohibited online gambling service in Australia, whether by way of personal referrals or internet websites that direct Australian customers to offshore wagering services as well as those that have a physical presence in Australia. Conceivably, this prohibition could extend to payment providers, marketing agencies or other associated entities.

The inclusion of enforceable penalties on a strict-liability basis (which may be in the form of civil or pecuniary penalties) for the operation of such services would assist in disrupting the provision and advertising of the prohibited services to Australian consumers, thereby limiting the availability of these services.⁴⁸

6. Non-legislative measures that may reduce the impacts of offshore wagering

The proposed substantive amendments to the IGA must be accompanied by a number of measures to ensure that the proposed new offences are capable of being enforced and the legislative intent given effect. There are a number of steps open to the government to improve the effectiveness of the IGA. Whilst CrownBet is of the strong view that none of these solutions will, in isolation, be entirely effective (and indeed some may be impractical), the government should consider taking steps to which may collectively ameliorate the problem of illegal offshore wagering.

⁴⁸ Department of Broadband, Communications and the Digital Economy, Final Report, 'Review of the Interactive Gambling Act' (2012), p68

6.1 **Recommendation 3: Introduce website (or ISP) blocking**

Recent amendments have been made to the *Copyright Act 1968* (Cth), which will enable copyright owners to apply for a court order requiring internet service providers (**ISPs**) to block access to an online location that exists outside of Australia and facilitates the infringement of copyright. A similar scheme should be implemented to provide a mechanism by which ISPs can be directed to block access to offshore wagering websites that offer their services to Australians in contravention of the IGA.

The copyright system requires copyright owners to apply directly to the Federal Court for an injunction to disable access to an infringing online location, without establishing ISPs' liability for that infringement. The court must take into account a number of factors when determining whether to grant injunctive relief, with those factors including the flagrancy of the infringement, the impact of the public interest and whether disabling access is a proportionate response in the circumstances.

The second reading speech in support of the amending legislation to the *Copyright Act 1968* (Cth) highlights similarities to the issue of offshore wagering operators:

*There are a number of foreign based websites that disseminate large amounts of infringing content to Australian internet users, and presently they are able to operate, in practical terms, without disruption, and their operators can secure a profit from facilitating the streaming and downloading by end users of infringing copies of audio-visual material.*⁴⁹

It is CrownBet's view that given there are less variables in an online wagering context, that the ACMA (appropriately directed and resourced) should be afforded the authority to determine whether an online wagering operator is offering services to Australian residents without holding a valid Australian wagering licence. In circumstances where the ACMA is satisfied that a website is in breach of the IGA on this basis, it would issue a notice to all Australian based ISPs requiring the ISP to take steps to prevent Australian residents (those with an Australian based IP address) from accessing the website.

It should be noted that the United Kingdom proposed to introduce a voluntary website blocking regime, which was rejected by the major ISPs in that jurisdiction on the basis of cost and administrative burden. As such, CrownBet does not consider that a voluntary scheme would be sufficient to address the matter. Rather, in a similar vein to the copyright regime, Australian based internet service providers should be mandated to follow the ACMA's instructions in blocking illegal, offshore wagering providers.

⁴⁹ Commonwealth, Hansard House of Representatives, Copyright Amendment (Online Infringement) Bill 2015 (Second Reading Speech)

Whilst it is acknowledged that internet filtering can be circumvented by determined consumers without access to a competitive domestic service offering (principally through customers' use of VPNs and/or wagering operators altering their IP addresses), website blocking would greatly reduce the potential for customers to interact (unconsciously or otherwise) with illegal offshore operators. It would also prevent access to those larger, reputable offshore operators, who elect to ignore Australian laws. As is the case in the context of copyright infringement, the blocking scheme will likely remain ineffective against website operators that take steps to change domain names and website locations in an attempt to avoid such a regulatory response. However, this is not a valid reason to refrain from taking steps to make it more challenging for offshore operators to break Australian laws and seek to solicit custom from Australians.

6.2 *Restrict payments being processed to illegal wagering providers*

Unlike website blocking, CrownBet considers there are significant issues associated with efforts to block payments being made to offshore wagering operators. Whilst we are supportive of the concept in theory, it is likely to be a costly and difficult solution and – in line with the international evidence – is unlikely to be effective.

Both the Joint Select Committee and the Department of Broadband, Communications and the Digital Economy in their reviews have examined the option of payment blocking regimes and declined to recommend their adoption. In submissions provided to the inquiries, the Australian Bankers' Association (**ABA**) and Visa raised serious concerns about the effectiveness of payment blocking and the onerous burden to administer it. The ABA noted that:

The technology and payment systems infrastructure for a card issuer to approve or decline a transaction at the point the merchant seeks authorization for a transaction is not currently available and to put it in place would be operationally complicated, administratively costly and legally convoluted.⁵⁰

Both the ABA and Visa noted that offshore gambling service providers would be constantly updating their payment details and identifications and therefore it would be difficult for an accurate list of gambling providers and their merchant codes to be maintained.

The two major jurisdictions to introduce payment blocking legislation are the United States and Norway. Both have introduced laws which make it an offence for a financial institution to process a transfer from a citizen to companies who offer prohibited gambling services.

In respect of the United States, despite a prohibition on gambling being in place (except in a handful of States and predominately via retail), it remains the world's largest gambling nation with an estimated

⁵⁰ Australian Bankers Association, submission to the Department of Broadband, Communications and the Digital Economy review of the *Interactive Gambling Act*, p15

\$100 billion in revenue.⁵¹ Since the introduction of the prohibition on payment blocking in 2006, online gambling revenues have been constant at approximately \$6 billion per year as offshore operators have found ways to circumvent the laws.⁵² This is despite a compliance cost of close to \$90 million for financial institutions in abiding by the laws.⁵³ The Norway experience has seen similar results with the gaming authority reporting that they have not seen any significant change in the number of players gambling on non-licensed online gaming sites.⁵⁴

6.3 *Impose travel sanctions on individuals associated with illegal wagering operators*

Sanctions should be considered against the movement of directors, principals and associates of illegal offshore wagering operators who attempt to enter Australia. As recommended by the Department of Broadband, Communications and the Digital Economy, the “movement alert list” (MAL), which is administered by the Department of Immigration may offer an effective solution.

The names and details of the principals and directors of these companies can be placed on the MAL for the purposes of alerting relevant authorities when these people enter Australia.⁵⁵ This is particularly relevant for those wagering operators which operate offshore, but whose principals and employees are Australian residents. For example, the New South Wales Office of Liquor, Gaming and Racing has recently charged a Vanuatu licensed operator, Betjack, and its principals (who were based in Queensland), with the illegal publication of New South Wales greyhound race fields.⁵⁶

7. Encourage Australian consumers to only wager onshore

7.1 **Recommendation 4: Eliminate the product imbalance that is allowing offshore operators to thrive**

Offshore operators which choose to ignore the IGA (and other Australian laws) are able to offer a more fulsome and competitive suite of wagering products to Australian residents. The most obvious example is that offshore operators freely offer in-play sports wagering online, which contravenes the prohibition in the IGA. The global popularity of in-play sports betting is undeniable. European bookmakers, which are legally permitted to offer in-play betting, report that between up to 75% of all sports betting activity occurs following the commencement of an event.⁵⁷

⁵¹ International Centre for Sports Security and Sorbonne University 'Protecting the Integrity of Sports Competitions: The Last Bet for Modern Sport' (2015)

⁵² European Gaming and Betting Association 'Fact Sheet: Financial and ISP Blocking'. Available at: www.egba.eu/media/FACTSHEET_FINANCIALISPBLOCKINGS.pdf

⁵³ iBus Media Limited, Submission to the Joint Select Committee on Gambling Reform (2012), p45

⁵⁴ European Gaming and Betting Association 'Fact Sheet: Financial and ISP Blocking'. Available at: www.egba.eu/media/FACTSHEET_FINANCIALISPBLOCKINGS.pdf

⁵⁵ Department of Broadband, Communications and the Digital Economy, Final Report, 'Review of the Interactive Gambling Act' (2012), p71

⁵⁶ New South Wales Justice Department Media Release 'Prosecution of illegal wagering operator' (8 July 2015)

⁵⁷ See, for example, the annual accounts of Bet 365 for the financial year ended March 2015. Available at: <https://beta.companieshouse.gov.uk/company/04241161/filing-history>

Accordingly, a vital step in encouraging Australian consumers to migrate their betting from offshore operators to the Australian domestic market is to create an attractive but responsible regulatory regime for online wagering in Australia and to allow operators to compete with the product offers popular with customers and currently provided by offshore operators. This must involve the creation of wagering product parity between Australian operators and their offshore counterparts, but with the imposition of appropriate safeguards.

A key outcome of the Review therefore should be that Australian licensed and regulated operators are able to offer online in-play wagering on sports in order to eliminate the competitive advantage enjoyed by offshore operators and address the imbalance that is presently driving Australians to wager offshore. However, this should only be introduced within an appropriate responsible wagering framework.

This approach will ensure that Australian consumers are able to wager on their favoured products and obtain the benefits of the proposed enhanced consumer protection and harm minimisation framework outlined below. It will also have the obvious effect of diverting revenues and taxation back to Australia and providing sports governing bodies with greater transparency over betting on their game to aid in integrity management due to the information sharing arrangements they have in place with Australian licensed wagering operators.

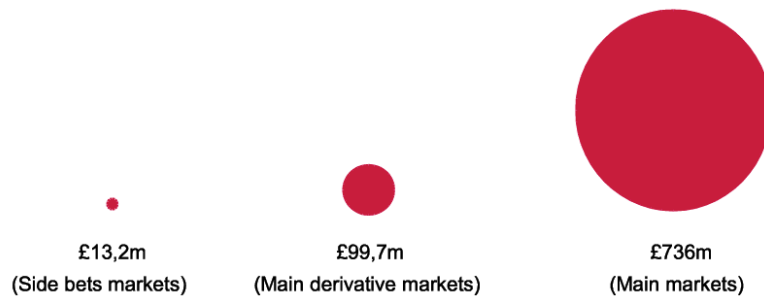
CrownBet recommends that the managed liberalisation of in-play wagering, subject to responsible wagering conditions, is the preferred approach and will allow government to ensure that the proposed changes do not have any unintended consequences. We propose that for the first twelve months after the in-play restriction is lifted:

- (a) operators be restricted from advertising the availability of online in-play wagering on free-to-air television and radio during sports broadcasts to ensure the product is not intensely advertised; and
- (b) online in-play wagering be permitted only on contingencies that are tied to the outcome of a particular match (for example, the winner of the event, handicap and margin betting) in order to mitigate concerns that highly repetitive forms of wagering (known as “micro betting”⁵⁸) would be offered.

A specific prohibition on micro-betting should be maintained on an ongoing basis, but it is important to note that micro betting is not offered by regulated and responsible operators anywhere in the world. On a global basis, Betfair has reported that 86% of all sports wagering activity related to betting on the winner of a particular event, with a further 11% of wagering on derivatives of the winner market

⁵⁸ CrownBet agrees with and adopts the definition of micro-betting proffered by the Department of Broadband, Communications and the Digital Economy’s final report on the review of the *Interactive Gambling Act 2001*. Recommendation 26 outlines in detail what constitutes “micro betting” and controls necessary to prevent micro-betting.

(such as handicap markets and line betting).⁵⁹ Only 3% of total betting was on markets that may be considered minor markets, such as first goal scorer, markets in relation to the number of corners/penalties awarded in a soccer match. No betting was offered on “micro betting”.



Source: Asser Institute “The odds of Match-Fixing – January 2015”

It should be noted that there exists a further level of protection against micro-betting in Australia, in that sports governing bodies are able to enforce a list of permitted bet-types against Australian wagering operators. Where a sport has an integrity or social concern about a particular bet-type, the sport has the legally enforceable right to prevent the wagering operator from offering that betting. We believe that a prohibition in the IGA on micro-betting and a structure that affords sporting bodies with the important right of veto provides significant comfort from both a social and integrity management perspective.

8. A national policy framework for regulating online wagering

8.1 The current consumer protection and harm minimisation regulatory regime in Australia

Australian licensed and regulated wagering operators are currently subject to extensive regulation by their regulator (in CrownBet’s case, the NTRC), gambling regulators in other Australian jurisdictions and codes of conduct that apply across all forms of advertising. Regulation around harm minimisation applies effectively across all account based wagering operators, however, those measures can’t easily be transitioned to the non-account, cash based wagering environment. The account-based model removes the traditional anonymity of punters and provides significant advantages allowing for more effective programs for responsible gambling.

Consumer Protection and Harm Minimisation

A brief summary of the current harm minimisation and consumer protection regulations which are contained in various state regulations (but which will be largely codified by the mandatory Northern

⁵⁹ ASSER Institute ‘The odds of match fixing: facts and figures on the integrity risks of certain sports bets (January 2015), p20. Available at: <http://www.asser.nl/about-the-institute/news/the-odds-of-match-fixing-facts-figures-on-the-integrity-risk-of-certain-sports-bets/>

Territory Code of Practice for Responsible Online Gambling (**Northern Territory RSG Code**) from 1 March 2016) is outlined below:

- (a) Operators must provide information to customers on their websites, including clear terms and conditions, information about responsible gambling and links to gambler's help support services.
- (b) All customer facing staff must be provided with training in the responsible service of gambling in order to ensure that staff can provide responsible gambling information to customers and to promote and facilitate the operator's pre-commitment and exclusion tools. The training must be provided within 3 months of an employee commencing with the operator and must be refreshed on an annual basis.
- (c) Operators are required to have in place self-exclusion facilities (via website and telephone) and must action customer requests for exclusion. The mandatory Northern Territory RSG Code will establish a cross-operator self-exclusion scheme, which will allow customers to elect to exclude from all Northern Territory licensed operators by submitting a single request. This will also prevent customers from opening accounts with other operators in the future.
- (d) Operators are required to have in place harm minimisation measures, including but not limited to voluntary pre-commitment facilities. Customers are able to elect to set a deposit limit and/or a loss limit and can obtain information regarding time spent on a particular website.
- (e) Customers must be able to access their activity statements, which clearly outline the customer's transaction history.
- (f) Operators are required to have systems in place to prevent minors accessing their websites and using their services. This includes requirements to promote filtering software and to conduct thorough identity verification checks within 45 days of an account being opened.

Deferred Settlement Facilities (Credit)

Wagering operators licensed in the Northern Territory are permitted to offer deferred settlement facilities to their clients. The Northern Territory Code of Practice for Deferred Settlement Facilities (**Northern Territory DSF Code**), which commenced on 1 November 2015, imposes the following requirements on this practice:

- (a) Customers must make an application for a DSF, which must not be offered by an operator on an unsolicited basis. Operators must not offer any promotions or incentives to encourage a

customer to implement a DSF. Other than on its website, operators must not advertise the existence of DSF facilities.

- (b) Prior to establishing a DSF for a customer, the operator must undertake an appropriate credit assessment, which must include verification of the customer's identity and assessment of credit worthiness via third party reports, and establishment of source of funds/income.
- (c) Settlement of the DSF must only occur on a weekly or monthly basis and no interest or other fees may be charged by the operator.
- (d) In circumstances where a customer does not meet a scheduled repayment on a DSF, the operator must review the limit to ensure that it remains appropriate. Where it is not satisfied, the limit must be reduced.
- (e) Operators must maintain a register of all customers that have a DSF in place, with the NTRC reserving the right to review the register for compliance with the Northern Territory DSF Code.

Advertising

Australian licensed and regulated wagering operators are currently subject to extensive regulation by their regulator (in CrownBet's case, the NTRC), gambling regulators in other Australian jurisdictions and codes of conduct that apply across all forms of advertising. A summary of current regulation applying to the advertising conducted by Australian wagering operators is below:

- (a) Only operators with a wagering licence issued by an Australian State or Territory are permitted to advertise in Australia. Offshore operators are prohibited from advertising their services under the IGA and various state laws.
- (b) All television advertising is reviewed for compliance by Free TV Australia (Commercials Advice). In circumstances where Free TV Australia is of the view that an advertisement is non-compliant with any regulation of an Australian State or Territory, it will not permit the advertiser to broadcast the advertisement.
- (c) Whilst inconsistency applies across jurisdictions, gambling legislation in each state (for example the *Gambling Regulation Act 2003* in Victoria and the *Racing Administration Regulation 2012* in New South Wales) contain advertising standards for the advertising of wagering services, including regulation of promotional offers and inducements.
- (d) the *Competition and Consumer Act 2010* (Cth) applies to all wagering conducted by Australian wagering operators and contains minimum standards as regards misleading and deceptive conduct and misleading representations.

- (e) Advertising must not:
 - i. portray children as participating in betting or gambling;
 - ii. portray betting or gambling as a family activity;
 - iii. make exaggerated claims;
 - iv. mislead or deceive;
 - v. promote betting or gambling as a way to success or achievement; and
 - vi. associate betting with alcohol.
- (f) All advertising must include a responsible gambling warning message and contact details for Gambler's Help services and be socially responsible in nature.
- (g) Wagering operators are prohibited from advertising "live odds" on television after the commencement of an event or forming part of commentary teams on radio or television.
- (h) Wagering operators are prohibited from advertising between 4.30pm and 7.30pm (Monday-Friday) on television, with exemptions applying to dedicated sports/racing broadcasts.

8.2 **Recommendation 5: Create a national policy framework for regulating online wagering**

The current State-based system of gambling regulation in Australia is inconsistent and there is undoubtedly a need for a more co-operative and unified framework. There now exists extensive disparities between the various State and Territory jurisdictions, which has significantly increased the compliance burden and decreased certainty of investment and operation for wagering operators. Responsible operators are presently producing, at significant cost, State-specific advertising campaigns in order to satisfy local requirements. This is not possible, however, for advertisements placed online and on subscription television. These forms of advertising are not capable of being targeted to specific jurisdictions, causing significant compliance and commercial issues for operators.

It is CrownBet's view, given the cross border nature of online wagering and the disparities in state legislation, that a national policy framework for the regulation of online wagering is necessary. Whilst it remains appropriate that wagering operators are licensed in a particular Australian jurisdiction, all elements of consumer protection, harm minimisation requirements and advertising regulations must apply on a consistent, national basis.

A national policy framework may be established by:

- (a) **Federal legislation by way of the *Interactive Gambling Act 2001***: the IGA already contains provisions that prohibit the advertising of interactive gambling services. Provisions regulating the advertising of “excluded wagering services” (which covers the field in relation to online wagering) would be a natural and consistent fit; or
- (b) **Nationally consistent legislation enacted by the States**: in a similar vein to the 2012 Council of Australian Governments’ (**COAG**) agreement on a national policy for the prevention of match-fixing in sport, a national policy framework may be agreed at the COAG level and implemented by way of consistent legislation in each State and Territory.

8.3 **Recommendation 6: Review responsibility for regulatory oversight**

It is CrownBet’s strong view that responsibility for oversight of the IGA, and the proposed national policy framework, requires consideration as part of the Review. The current situation has proven to have limitations and has contributed to the ineffectiveness of the IGA.

Responsibility for regulatory oversight of the IGA

We believe that an active federal regulator is required to enforce the IGA against offshore operators. That agency (which should remain the ACMA, appropriately directed and resourced) must have a clear direction to be active in monitoring and enforcing compliance and must have the necessary experience, expertise and resources to discharge its regulatory obligations.

The IGA presently establishes a curious investigation process for Australian hosted content. It mandates that any complaints be made to the ACMA but then provides that the ACMA must not investigate those complaints. The Act then goes on to require the ACMA to form a view as to whether the complaint should be referred to the AFP. By definition, this requires some level of investigation by the ACMA, in apparent contradiction to the earlier restriction on the ACMA’s ability to investigate. The AFP’s Case Categorisation and Priority Model places further obligations on the ACMA before it is entitled to refer to a matter to the AFP for investigation. In essence, ACMA is therefore required to form a view as to whether a breach of the IGA has occurred in order to meet its statutory obligations.

In practice, the ACMA has determined that in order to meet these requirements it conducts a preliminary assessment of the product or service that is the subject of a complaint and the outcome of this assessment determines whether the matter then referred to the AFP. In case of the recent referrals, the ACMA’s media release suggested that a prima facie case was evident on the facts

“those services which have been assessed...do not appear to involve the service provider

*dealing with customers using a standard telephone service.*⁶⁰

The ultimate outcome was that the AFP declined to conduct an investigation despite the ACMA's position, which has rendered the ACMA's view largely irrelevant. Essentially, these instances render the IGA in its current form unenforceable and therefore of extremely limited utility in ensuring that the government's policies are adhered to.

Responsibility for regulatory oversight of the national policy framework

In relation to the proposed national policy framework for domestic operators, we consider that given their expertise and experience, existing State-based gambling regulators remain best-placed to monitor and enforce the regulation. This is the model that was adopted in the 2012 National Policy on Match Fixing, which operates in such a manner that an offence in relation to a sporting event conducted in a particular State, is dealt with by that State's gambling regulator.

In this context, where advertising is conducted by a licensed wagering service provider in Victoria for example, the investigation and enforcement responsibility would lie with the Victorian Commission for Gambling and Liquor Regulation, as opposed to the wagering service provider's licensing authority which may be in another Australian State or Territory. We consider this preferable to the creation of a new federal regulatory body, simply on the basis that the expertise and experience is currently available within each State and Territory and should therefore be utilised.

8.4 Recommendation 7: Establish a national, legislated self-exclusion register

Self-exclusion has been widely accepted as an important tool in the promotion and maintenance of responsible gambling, as it involves the identification and recognition by an individual that they are experiencing problems with their gambling behaviours and wish to address that, in part, by abstaining from gambling for a defined period or permanently.

CrownBet proposes that a key element of the national policy framework must be the establishment of a national self-exclusion register that is enshrined in nationally consistent legislation and overseen by state gambling regulators. A voluntary code of conduct is insufficient.

Currently, if an individual wishes to self-exclude from wagering, they must do so with every operator with which they hold an account, or might gamble with in the future. The ease with which a customer who has self-excluded from one operator may bet with another operator undermines the overall effectiveness of self-exclusion. The development of a more resilient method of self-exclusion presents a clear and immediate opportunity to further reduce the potential harm from problem gambling.

⁶⁰ Australian Communications and Media Authority 'Media Matters: the Interactive Gambling Act' (27 October 2015). Available at: <http://www.acma.gov.au/theACMA/engage-blogs/engage-blogs/Media-matters/Interactive-Gambling-Act-2001>

CrownBet has previously advocated the implementation of a self-exclusion scheme which would enable consumers to exclude from all Northern Territory licensed bookmakers by submitting a single application to the NTRC. The NTRC currently regulates twelve wagering service providers representing the majority of the licensed online corporate bookmakers in Australia. We consider this should form the template for the implementation of a national self-exclusion scheme.

The scheme has been embraced by the NTRC and forms part of the mandatory *Northern Territory Code of Practice for Responsible Online Gambling* which is proposed to commence on 1 March 2016. Whilst CrownBet believes that a national self-exclusion register must be the ultimate goal, the Northern Territory scheme represents an effective first step in providing protection for customers and garnering broader support for the development of a national scheme. A broad-based self-exclusion register will significantly increase the effectiveness of self-exclusion, affording customers with a greater deal of protection against potential harm.

Consideration must be given to determining whether it is feasible to include non-account cash based wagering operators, which represent the majority of the Australian wagering market, as part of the national scheme. A failure to do so will necessarily undermine its effectiveness as a harm minimisation tool as consumers will retain the ability to wager with certain operators that form part of the locally regulated industry.

8.5 **Recommendation 8: Mandate the availability of voluntary pre-commitment tools**

One of the key advantages of online account-based wagering is the ability to make use of various pre-commitment tools, which allow customers to control a wide variety of measures to ensure that they gamble in a manner consistent with their pre-set intentions. CrownBet already has a suite of measures to allow customers to elect to impose financial limits on a daily, weekly or monthly basis, however, there is no Australian industry standard, which means that customers may not be offered a consistent level of protection across the domestically regulated industry.

We consider that standardising and enhancing the range of pre-commitment measures offered by wagering operators is a sensible and logical step in protecting Australian customers. CrownBet proposes that as part of the national policy framework it must be a requirement to make available voluntary pre-commitment tools to customers.

A range of limits should be offered to customers, including:

- (a) limits on the amount of funds that they may deposit in a given period;
- (b) limits on the amount of funds that they may lose in a given period; and
- (c) limits on the amount of time that they may spend on a particular website.

Operators must be required to act on requests to impose a new or reduce an existing limit immediately. Standards are also required to establish cooling-off periods for customers that may seek to remove or increase previously imposed limits.

8.6 Recommendation 9: Introduce nationally consistent controls on wagering advertising and promotions

There exists a considerable level of concern within the Australian community regarding the level of gambling and wagering advertising – particularly that advertising which is associated with sport and that which is readily viewable by minors.

Given the current climate, CrownBet acknowledges there is a need for a reduction in the volume and a review of the content of wagering advertising to ensure that Australian licensed and regulated wagering operators are undertaking socially responsible wagering advertising.

CrownBet considers that further regulation should be applied to wagering advertising across all forms of media. CrownBet advocates a range of meaningful measures to reduce the volume of wagering advertising and to impose more stringent regulation on the content of that advertising.

Such measures include:

- (a) significant restrictions on all public-facing outdoor advertising, due to the risk of exposure to children;
- (b) a national prohibition on advertising sign-up offers and a limit on the value of promotions (to \$50) advertised by wagering operators;
- (c) nationally consistent and standardised responsible gambling messages to be included on all advertising, regardless of whether that advertising is conducted online or via traditional methods;
- (d) clear and simple opportunity for account holders to opt-out of marketing material generally, or material that contains promotions and offers specifically;
- (e) following the South Australian Code of Conduct for Responsible Gambling, operators should be able to advertise loyalty programs, but only where the program meets the following conditions, which ensures the program is conducted in a responsible manner:
 - i. a wagering operator's loyalty program is a structured program conducted in accordance with the published terms and conditions;

- ii. the loyalty program offers members the ability to obtain regular player activity statements and voluntarily set expenditure pre-commitment and deposit limit options; and
- iii. the loyalty program offers rewards that are proportionate to the member's wagering activity, including non-monetary privileges attached to tiers in a stepped reward system.

8.7 **Recommendation 10: Impose more stringent timeframes for age and identity verification**

CrownBet seeks to highlight the importance of stringent measures to limit the access of online gambling services to minors. It is for this reason, as well as for probity, to ensure that customers' identity and age are verified as quickly as possible after registration. We note that the conditions of a Northern Territory wagering licence mandate a 45-day period for verification to take place (equivalent to 100 points of identification), which significantly improves on the 90 days offered under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth). CrownBet places significant restrictions on accounts that are unverified. An unverified customer is unable to withdraw funds from the account, and this limits the ability of any fraudulent customer or minor to profit from registering an account in the name of a third-party or providing false details.

Given the advanced electronic verification systems that are employed by Australian account-based wagering operators, CrownBet considers that the time period allowed may be further reduced from a period of 45 days to 7 days. Following the expiry of that period, CrownBet proposes that the account should be suspended such that no further transactions (betting, deposits, and withdrawals) can occur until such time that the customer has successfully verified their identity.

8.8 **Recommendation 11: Require mandatory staff training in the responsible provision of wagering**

There should be a nationally consistent approach to staff training in responsible gambling. All employees (regardless of whether they are customer facing) must be provided with training in the responsible service of gambling in order to ensure that staff can provide responsible gambling information and to promote and facilitate the operator's pre-commitment and exclusion tools to customers.

The training should be provided in accordance with accredited standards, be approved by an appropriate gambling regulatory authority. We believe it is appropriate that the training be provided within 3 months of an employee commencing with the operator and must be refreshed on an annual basis.

8.9 *Consistent and meaningful responsible gambling information*

CrownBet agrees that it is crucial for responsible gambling information to be easily accessible and available to gamblers, regardless of the mode of gambling. CrownBet takes positive steps to ensure that all of its responsible gambling material is made available and appropriately promoted to its customers in all customer communications, on its advertising collateral and on its website and apps (CrownBet's responsible gambling information page can be accessed from all transactional pages on its website, significantly increasing its utility for our customers).

As part of their approach to the amendment of advertising restrictions to remove the historic anti-competitive provisions and allow all Australian-based wagering operators to advertise, the States have made the publication of responsible gambling information compulsory.

CrownBet agrees with this stance in-principle, but disagrees with one aspect of the approach: certain state-based regulators require their own specific messages to be used. This places wagering operators in the position of having to include a number of different responsible gambling messages in the same advertisement when advertising at a national level such as Pay TV, which limits the effectiveness of the messages to consumers. Accordingly, a national responsible gambling message should be adopted as part of the national policy framework and used in conjunction with the national gambling helpline telephone number. A uniform approach would be more effective from a harm-minimisation perspective, by providing consistency of messaging across all gambling related communications.

From an existing customer perspective, the mechanisms in place for online, account-based betting are an effective method in serving targeted, dynamic responsible gambling messages to customers. Government should consider commissioning further research into potential triggers which could be used as the basis for the use of these messages.

8.10 *Controls on methods used to fund wagering accounts*

Deferred Settlement Facilities

CrownBet is permitted, under the terms of its wagering licence, to offer deferred settlement facilities to its customers. The NTRC has implemented a Code of Practice for Deferred Settlement Facilities (**DSF**), which places a number of stringent controls on approved operators (as outlined in section 8.1 above).

It is CrownBet's view that given this regulation has only come into force in November 2015, the scheme should be given some time to determine the level of its effectiveness. Should the evidence dictate that further regulation is necessary, the issue would appropriately be revisited at that time.

CrownBet takes its responsibilities in the offering of DSFs very seriously and has strict internal

controls and procedures to ensure that facilities are only offered in appropriate circumstances. As many as 50% of all applications received are rejected based on the strict assessment criteria imposed by CrownBet, underlining our commitment to only offering a DSF where we consider the customer has the means to service the facility.

Any prohibition or restriction on wagering operators being able to provide DSFs to their customers would have a number of negative social impacts, including that customers would continue to access credit from unregulated overseas operators (which may also potentially adversely impact on the integrity of sport as suspicious betting patterns cannot be identified or bets tracked) or from less scrupulous operators, such as illegal SP bookmakers and loan sharks which have little regard for consumer protection or harm minimisation.

Credit Cards

Australians have a clear preference for using credit cards for a wide array of online transactions, not merely online wagering. There is no tangible evidence that would support any restrictions being imposed on the ability of Australians to use credit cards when depositing funds in an online wagering account.

In considering this issue, the Productivity Commission concluded:

As credit cards are the primary means of payment for internet purchases, this is particularly relevant to online gambling. For non-problem gamblers, the distinction between using a savings account or credit account is no different for gambling online than it is for shopping online or purchasing any other good or service from a physical location.⁶¹

Credit cards come with a spending limit that has been pre-imposed by the issuing financial institution, which carries out a detailed risk assessment on the individual's spending pattern, asset position and credit history. Further, as was identified by the Productivity Commission, credit card statements are provided to customers on a monthly basis along with a requirement to make minimum repayments.⁶² Significant comfort should be taken from the fact that customers cannot deposit funds into their accounts over and above these approved spending limits. This spend tracking is not available for cash-based wagering.

CrownBet therefore does not support any specific restrictions being imposed on the use of credit cards to fund online wagering accounts.

Again, we note that offshore wagering operators continue to accept all forms of payment methods, including credit and debit cards and "e-wallets", the most notable being PayPal. Placing further

⁶¹ Productivity Commission Inquiry Report, Gambling Report No. 50 (2010), 15.2

⁶² Ibid

restrictions on deposit options will only apply to Australian licensed operators and will cause further migration towards offshore operators by those customers that prefer to use a credit card for their online transactions.

9. Education and Awareness

In many instances the location and licensing status of a gambling website operator is not obvious to the consumer. As noted by the Department of Broadband, Communications and the Digital Economy in their 2012 review of the IGA:

Submissions to the review noted that Australian consumers have a very limited understanding of which online gambling services are prohibited and which are permitted under the IGA. Consumers also appear to be largely unaware of the potential risks associated with using prohibited overseas-based services.⁶³

It is important that Australian consumers are deterred from transacting with these operators. In the United Kingdom, the Gambling Commission's website allows visitors to search for licensed operators, and details the compliance process for these operators. Under the Gambling Commission's kitemark system, to comply with the terms of their licence, the licensee must include on their website a statement that they are licensed and regulated by the Gambling Commission, and a link (provided by the Gambling Commission) to their current licensed status as recorded on the Commission's website.

The licensee's gambling website must also be constructed in such a way that the consumer can access that information before they transact with the operator, as well as on each screen on which the operator provides a facility for gambling.

CrownBet is supportive of Australian licensed operators following similar protocols, and believes the ACMA website should be the central location for housing information of Australian licensed and regulated online bookmakers.

We also support the further and better use of technology to assist customers understand that they are transacting with an unlicensed operator. The Department of Broadband, Communications and the Digital Economy in their 2012 review of the IGA stated:

The Australian licensed online gambling industry, in conjunction with the department, should consult with major Internet Service Providers (ISPs) and the vendors of security software on the possibility of them voluntarily enabling a standard warning page appearing whenever an

⁶³ Department of Broadband, Communications and the Digital Economy, Final Report, 'Review of the Interactive Gambling Act' (2012), p88

Australian consumer accesses an unlicensed online gambling website as identified by the ACMA. The page would alert the user to the fact the website they have accessed is not regulated by any Australian authority, that standard Australian consumer protections may not be available, as well as alerting the consumer to a list of Australian licensed online gambling providers.⁶⁴

CrownBet believes a combination of housing details of licensed Australian online bookmakers on a trusted website (such as that of a federal regulatory agency), as well as warning pages for known unlicensed online gambling websites, will give Australian consumers a greater understanding of the licensing status of online gambling providers and the risks associated in transacting with unlicensed operators.

⁶⁴ Department of Broadband, Communications and the Digital Economy, Final Report, 'Review of the Interactive Gambling Act' (2012), p12

Conclusion

CrownBet welcomes the review into offshore wagering, which as outlined in this paper, poses a number of social and economic risks to Australia. We believe that the domestically regulated wagering market in Australia has come a long way in recent years, but that the government must now act to ensure that appropriate protections are provided to all customers with a preference for wagering online. The Review represents a significant opportunity and one that if not taken, will result illegal offshore wagering continuing to have negative social and economic consequences for Australian residents, as well as our racing and sporting industries.

Representatives of CrownBet and Betfair Australia would welcome any opportunity to address the members of the Review team and believe we can make a significant contribution to any discussions about the future of online wagering in Australia.

List of abbreviated terms

AANA	Australian Association of National Advertisers
ABA	Australian Bankers' Association
ACMA	Australian Communications and Media Authority
AFP	Australian Federal Police
CAGR	Compound Annual Growth Rate
COAG	Council of Australian Governments
COMPPS	Coalition of Major Professional and Participation Sports
DBCDE	Department of Broadband, Communications and the Digital Economy
DSF	Deferred Settlement Facility
GST	Goods and Services Tax
HKJC	Hong Kong Jockey Club
IGA	<i>Interactive Gambling Act 2001 (Cth)</i>
ISP	Internet Service Provider
JSCOGR	Joint Select Committee on Gambling Reform
MAL	Movement Alert List
Northern Territory DSF Code	Northern Territory Code of Practice for Deferred Settlement Facilities
Northern Territory RSG Code	Northern Territory Code of Practice for Responsible Online Gambling
NTRC	Northern Territory Racing Commission
Review	The government's review into the impact of illegal offshore wagering
TAB	Operator of a totalisator
VPN	Virtual Private Network