



Tuesday 17 November 2015

The Honourable Barry O'Farrell
Chair
Review of the Impact of Illegal Offshore Wagering

Dear Mr O'Farrell,

The Digital Industry Group Incorporated (DIGI) welcomes the opportunity to provide formal comments on the review into the impact of illegal offshore wagering (the "Review"). DIGI comprises representatives from Google, Facebook, Twitter, Microsoft and Yahoo!, and collectively we provide various digital services accessible by Australians ranging from Internet search engines to social networking services and other digital communications platforms.

The terms of reference for the Review identify the following four key areas of inquiry:

1. the economic impacts of illegal offshore wagering and associated financial transactions on legitimate Australian wagering businesses, including size of the illegal industry, growth, organisation and interrelationships with other criminal industries and networks;
2. international regulatory regimes or other measures that could work in the Australian context;
3. what other technological and legislative options are available to mitigate the costs of illegal offshore wagering; and
4. the efficacy of approaches to protect the consumer – including warnings, information resources, public information campaigns and any other measures, regulatory or otherwise, that could mitigate the risk of negative social impacts on consumers.

Advertising wagering services in Australia

We would like to provide more information on the proactive steps already being taken by DIGI members to ensure that advertisements placed by third parties on our platforms for gambling and betting services comply with Australian law.

For online gambling advertisements, our members have clear policies that only allow ads for sports betting and lotteries from advertisers who hold licences / certificates from Australian authorities.

Typically this requires advertisers to produce evidence of their licence / certification and the services they wish to advertise are crosschecked against the services identified in the licence / certificate.

Our members also take steps to protect persons aged under 18 from being exposed to such advertising, either through targeting these advertisements to adult users or through requiring the advertiser to implement an age restriction on who can access their content.

If any of our members receive a complaint from an Australian authority that there are ads being run by an advertiser who is not licensed in that jurisdiction, our members promptly review the complaint and take any action that may be appropriate including removing the advertisement or blocking the ad itself if found to be in breach of these policies. Please refer to the attached addendum ("Addendum") for further information regarding each company's respective policies.

Search results

Two of our members operate Internet search engines. These members do not review or program organic (i.e. unpaid for) search results. Search engines are designed to index the entire body of Internet sites that are available at a point in time and free, uncensored access to this information is considered a fundamental principle of operating these properties.

Website filtering

We understand that the Review is considering proposals to adopt website filtering to assist in the enforcement of Australian laws with respect to wagering and gambling. We consider there to be fundamental flaws and significant practical difficulties with any attempts to filter the Internet such that it may not be possible to automatically block content. Who would determine whether a service is illegal and would entire websites be blocked if there are both legal and illegal services on the website. We have concerns around legal liability in preventing access to commercial websites and question what safe harbours would be provided. In addition, Internet filters can be easily circumnavigated and information about how to use virtual private networks (VPNs) is widely available. There is no existing legal precedent in Australia requiring Internet companies that are not ISPs to filter access to websites.

Pop Up messaging

We understand the Review is also considering the use of "Pop Up" community service type messages for search results. We understand gambling companies are already required to display responsible gambling messages on their websites and advertising and question the effectiveness of adding further messages for all or some gambling services.

Illegal offshore wagering

We would like to highlight that offshore wagering is not illegal per se under the *Interactive Gambling Act 2001* (Cth). We would welcome the harmonisation of the current inconsistencies between State and Territory laws relating to offshore wagering. It further strikes us that the integrity of racing and sports in Australia could be better maintained with stronger enforcement of existing laws. The

Australian betting and gambling industry should not be looking to the digital industry to solve these problems.

It is worth noting that all of our member companies have global policies that prohibit illegal gambling on their platforms, in accordance with local laws. The attached addendum also provides information about how each DIGI member company approaches these issues.

Yours sincerely,

Digital Industry Group Incorporated

ADDENDUM OF DIGI MEMBER COMPANY POLICIES

Facebook policies

All Facebook Pages that are created by organisations to connect with consumers must comply with the Pages Guidelines that state, in relevant part: “ Pages that promote or facilitate online gambling, games of skill or lotteries, including online casino, sports books, bingo, or poker, are only allowed in specific countries with prior authorization from Facebook.”

In addition, all advertisements placed on Facebook must comply with the Facebook Advertising Guidelines, which are available here: <https://www.facebook.com/policies/ads/> As stated in these Guidelines:

“Online real money gambling/games of skill: Ads that promote or facilitate online real money gambling, real money games of skill or real money lotteries, including online real money casino, sports books, bingo, or poker, are only allowed with prior written permission.”

Real money gamblers may only set up Facebook Pages and run advertising on Facebook once they have completed our application form and questionnaire and their application has been fully vetted and approved by outside counsel. Our advertisers must be fully licensed to operate in all jurisdictions, in which they are seeking to advertise and, once approved, we require that any new products or sites are vetted by FB before being advertised.

Real money gambling advertisers also must sign our “Real Money Gambling Ads and Pages Addendum” which provides, amongst other things, that the advertiser must ensure that all of their ads are targeted only at users who are over 18 (or the minimum legal age at which individuals may use the advertisers' products in the territory) and only to the specific jurisdictions that have been approved by Facebook and in which the advertiser is permitted to run such ads and promote its products.

If we receive a complaint from a competent regulator in the territory that there are Facebook Pages or ads running by any advertiser that is not licensed in such jurisdiction, we will review this complaint and take any action that may be appropriate including geo-blocking the Page or blocking the ads if we find the advertiser to be in breach of our policies. To date, we are not aware that we have received any such complaints from Australian regulators.

Google Policies

For online gambling, we only allow advertising for sports betting and lotteries from advertisers who hold current certificates from Australian authorities.

When a gambling or betting advertiser seeks to serve an advertisement on any Google property, we carry out a review of the licence / certificate, verify the body that has issued the licence / certificate and check the terms of that licence / certificate against the websites being advertised. We only serve advertising that passes all of these checks.

If a Google user sees an advertisement that they believe violates our policies, we encourage them to report the advertisement to us for investigation.

For further information, please review the following links:

[Link to gambling certificate application](#)
[Link to gambling policy](#)
[Australia specific policy](#)

Microsoft policies

As an online search engine, the primary objective of Bing is to connect users with the most relevant search results from the web—providing easy access to quality content produced by web publishers. To do this, Bing automatically crawls the web to build an index of new and updated pages (or URLs) to display as a set of search results relevant to a user-initiated search or action. The content of these pages may reference or contain various online resources and content including websites, images, videos, documents, and other items. Search results are generated by using computer algorithms to match the search terms you enter with results in our index. In general, we try to provide as comprehensive and as useful a collection of displayed search results as we can. We design—and continually improve—our algorithms to provide the most relevant and useful results.

As an algorithmically-driven service, Bing doesn't control the operation or design of the indexed websites, and has no control over what indexed websites publish. As long as the website continues to make the information available on the web and to crawlers, the information will be generally available through Bing or other search engines.

If information has already been removed from the website but is still showing up in Bing search results, you can use the Content Removal Tool to submit a page removal or outdated cache removal request. To learn more about the Content Removal Tool, go to Bing Webmaster Help & How-To.

Microsoft respects freedom of expression. If Microsoft receives requests to remove content from individuals, businesses, and governments, in limited cases, where quality, safety, user demand, relevant laws, and/or public policy concerns exist, Bing might remove results, inform users of certain risks, or provide users with options for tailoring their content. Bing limits removal of search results to a narrow set of circumstances and conditions to avoid restricting Bing users' access to relevant information.

Further information on how and when we do this can be found at <http://help.bing.microsoft.com/#apex/18/en-us/10016/0>

When search results are removed, Bing endeavors to be transparent about removal. This includes providing users with notice of removal of search results at the bottom of the page. In addition,

information about search results removal by Bing will be published as a part of a broader Microsoft transparency report starting in fall 2015.

Twitter Inc. Policies

Twitter provides a platform for users to share and receive a wide range of ideas and content, and we greatly value and defend freedom of expression.

However, because advertisers purchase Twitter Ads and can present them to an audience beyond their followers, there are limitations on the type of content that can be promoted with Twitter Ads. Our policies are partially informed by the unique nature of the Twitter platform, the evolving legal landscape, and our immediate concern for our user safety.

While gambling content targeted within Australia is permissible, all applicable regulations and guidelines must be adhered to. If we identify content that is utilising advertising methods or content that is in violation of our Gambling Content Twitter Ads policy, we will suspend or remove any accounts from the Twitter advertising program, consistent with the applicable terms and conditions. For more information on this policy, please refer to our Help Centre at twitter.com/adspolicy/gambling.

Twitter's gambling products and services stated below are permitted in Australia:

- Advertising Fantasy Sports, including directly facilitating or promoting participation in paid or unpaid fantasy sports leagues, is permitted. Operators of Fantasy Sports platforms must comply with all legal requirements.
- Sports betting, including betting on horse racing, is permitted subject to the following restrictions:
 - the advertiser must be registered and hold a valid license with an appropriate state or territory in Australia.
 - the sports betting service may not accept "live" bets online (i.e., bets placed after a sporting event begins).
 - the advertiser must have executed a separate set of Australian Gambling Terms.
- Online lotteries are permitted subject to the following restrictions:
 - the advertiser **must** be registered and hold a valid license with an appropriate state or territory in Australia.
 - Ads **must only** target jurisdictions the advertiser is licensed in
 - the advertiser **must** have executed a separate set of Australian Gambling Terms.

If you think you see a **violation of Twitter Ads policy**, this guide helps users [recognise Twitter Ads](#) and the steps that can to resolve issues without filing a report. Users can also report a Twitter Ad that may be in violation of our policies [here](#).

Yahoo! Policies

Yahoo!7 gambling advertisement policies are as follows:

- Yahoo!7 does not accept advertising for online casinos, gambling “portals” or online gambling educational sites which are primarily advertising supported vehicles for online casinos.
- Organisations that offer casino services as an element of their overall entertainment offering (e.g. Crown Casino hotels) may advertise to all audiences on the Yahoo!7 Properties provided that the advertising generally relates to the advertiser's offerings as an entertainment destination and relate specifically or predominantly to its gambling or betting offerings. It is the advertiser’s responsibility to ensure that it complies with all applicable laws.
- Yahoo!7 accepts advertising relating to the following:
 - online wagering and sports betting services provided that the operator is licensed;
 - educational, free-play gaming sites, provided that players are not required to pay any money in order to play and the primary purpose of the ad is not to promote an associated paid gambling site; and
 - state-licensed lotteries provided that the ads are geo-targeted to the state in which the operator holds a licence. Currently, Yahoo!7 cannot accept national ads from state-licensed lottery operators.
- For international IP-targeted ads, any advertising that promotes online gambling must be permitted by the laws of both the serving country and the IP-targeted country.