**Submission by Greyhound Racing Victoria to the Review of Illegal online offshore Wagering**

# Introduction

Greyhound Racing Victoria (GRV) is the body responsible for promoting and controlling the sport of greyhound racing in Victoria.  A key part of its role is the setting of standards, regulating and policing the industry and the people involved.  With approximately 1000 race meetings held across 13 venues throughout the state, GRV distributes to owners and trainers more than $45 million in prize money annually. Wagering turnover on Victorian greyhound racing exceeds $1.7 billion nationally.

GRV considers that illegal offshore wagering poses a genuine risk to Australian consumers and to the Australian racing and sporting bodies whose products are being used illegally by unlicensed operators to facilitate wagering in unregulated or inappropriately supervised offshore environments.

It is GRV’s view that the Australian Government should take all reasonable measures possible, including legislative change, to prevent Australians from interacting with these unlicensed and illegal operators.

GRV is supportive of the overall aim to enhance harm minimisation and consumer protection outcomes by deterring Australians from wagering with illegal operators, including methods for requiring these operators to become licensed in Australia and to abide by Australian laws. GRV does not however support the expansion of online gambling in Australia to include poker or other new forms of interactive gambling.

The definition of what constitutes an illegal offshore operator is not entirely clear. For the purposes of this submission, GRV considers the definition should be made clear and should include an operator:

1. that does not hold a wagering licence in an Australian jurisdiction; or
2. does not hold a relevant approval issued by the relevant Australian racing or sport controlling bodies to publish and use Australian racing/sports fields which would include entering into an integrity and economic contribution agreement with the bodies.

# Legislative Measures

The most important matter to be addressed by legislation relates to the potential for corruption of all codes of racing and sports resulting from unregulated offshore wagering operators facilitating online gambling with not only the Australian public, but people around the globe. These operators typically operate in environments with little or no regulatory oversight or accountability and, as has been identified in previous government reports and in the media, are suspected to have links to organised crime.

We understand that a submission to be made to The Review by the Hong Kong Jockey Club will expand upon this matter, with further evidence relating to the extent of the criminal influences and the size of the illegal offshore market, particularly in the Asian region.

# Exclusion of wagering from the IGA prohibition on interactive gambling

The IGA currently includes a blanket prohibition on interactive gambling services. However, Section 8A of the IGA provides that betting on animal racing or a sporting event is excluded from the general prohibition under the IGA in relation to online internet gambling services that are provided to Australian customers (clause 6(3) of the IGA). Under these circumstances, the IGA allows for online wagering services to be offered to the Australian public, irrespective of whether or not the provider of such services is regulated in Australia.

As a result, we have an apparent conflict between the IGA and the regulatory framework in the States and Territories. The State and Territories’ regulatory framework provides for: (a) State and Territory licensing of Australian based wagering operators; and (b) racing industry approval of both Australian and off-shore operators which publish and use race fields.

Under States and Territories legislation wagering service providers must make application to the relevant authority for approval and subsequently are contracted to pay product fees to the relevant Australian racing authority for the use of the product. The approved operators are also required to enter into arrangements with these authorities to provide for the monitoring and disclosure of suspicious betting transactions.

It is here that the Federal framework is in conflict with those of the States & Territories which potentially leads to serious unintended consequences. The exclusion of all wagering services from the general prohibition with respect to online gambling under the IGA means that wagering services offered online by potentially unregulated offshore operators are not captured under this prohibition.

GRV proposes that the IGA be amended to align with the State and Territories framework. This could be achieved by specifically defining “excluded wagering service” to mean wagering services provided to an Australian customer where the wagering operator either holds:

1. a wagering licence issued under relevant State or Territory legislation; or
2. a race fields approval under relevant State or Territory legislation with respect to the relevant race fields.

If a wagering operator does not meet either of these conditions and continues to provide prohibited online wagering services to Australian customers, then they would be in breach of the IGA and a range of responses would be required, dependent on the nature of the threat to Australian sports’ integrity or consumers and the level of criminality that may be involved.

# Deterrence and enforcement under the IGA

GRV makes the following submission with respect to improving deterrence and enforcement measures under the IGA. Referring to the recommendations on this topic from the 2012 Review of the Interactive Gambling Act conducted by the Department of Broadband, Communications and the Digital Economy (DBCDE), GRV’s views are as follows:

***Recommendation 4:*** *The IGA be amended to include a provision for a director, principal or other person acting in an official capacity for a provider to be issued with a notice requiring them to cause the provider to cease offering services in contravention of the IGA, with failure to comply with the notice being a strict liability offence.*

GRV Response:

GRV supports the implementation of this recommendation, with a proposed amendment to include a further term “associate”. This would encapsulate persons who facilitate illegal off-shore wagering, including the use of agents to recruit customers and/or to facilitate the financial transactions in secret.

***Recommendation 5:*** *The ACMA should be the body responsible for administering civil penalties for the provision of prohibited gambling services hosted in Australia including:*

* *Issuing civil (including pecuniary) penalties by way of an infringement notice – this would be in addition to the existing criminal penalties in the IGA which are the responsibility of the AFP.*
* *Issuing take-down notices to internet gambling service providers in relation to prohibited internet gambling content hosted in Australia—this would be similar to the provisions in Schedule 7 of the Broadcasting Services Act 1992 in regard to prohibited content.*
* *Applying to the Federal Court for injunctive relief, if an Australian-hosted internet gambling service provider acts in contravention of the above proposed civil penalties or take-down notice. Subject to consistency with overarching Commonwealth legal policy, there should be a provision expressly conferring jurisdiction on the Federal Court to grant injunctive relief where such an application is made by the ACMA.*
* *Using discretionary powers to action complaints and investigations about prohibited internet gambling services.*

GRV Response:

GRV supports the implementation of this recommendation and amendments to the IGA ensuring that wagering services and wagering service providers are clearly captured in the amendment.

***Recommendation 6:*** *The list of known prohibited internet gambling providers should be published and regularly updated on the ACMA website accompanied by very clear information discouraging Australians from using these sites because of the risks they would be taking. This listing should be drawn to the attention of the operators of the prohibited online gambling service noting that failure to take reasonable steps to cease providing these services to Australian consumers may result in the commission of offences under the IGA, criminal liability for directors/principals of the provider and the placement of directors/principals of the service on the Movement Alert List. It may be appropriate for this website to also include a link to the websites of state/territory regulators which list the online gambling services that are licensed by states/territories and not prohibited by the IGA.*

GRV Response:

GRV supports the implementation of this recommendation and amendments to the IGA ensuring that wagering services and wagering service providers are clearly captured in the amendment.

***Recommendation 7:*** *Online gambling service providers that are confirmed by the ACMA as providing prohibited services in contravention of the IGA, that do not respond to contest this assessment, and continue to offer the service within 28 days of the notice should be subject to appropriate action as discussed above, including placement of the names of principals/directors of prohibited online gambling service providers onto the Movement Alert List, as well as being referred to relevant state/territory authorities and ASIC. The relevant persons should be notified of the actions taken.*

GRV Response:

GRV supports the implementation of this recommendation and amendments to the IGA ensuring that wagering services and wagering service providers are clearly captured in the amendment.

# Blocking websites and financial transactions

It is highly likely that organised crime is prevalent within the ownership and operations of certain Asian-based and other illegal off-shore wagering operators. The involvement of criminals in these operations presents genuine risks for the integrity and funding of all codes of racing throughout Australia. The Australian public should also be protected from the influences of international organised crime in general.

It is recommended that further actions should be taken to reduce this threat including;

* **Register of illegal operators:** A register of illegal off-shore wagering operators and the websites associated with them should be maintained, updated regularly, published and publicised to Australian consumers by ACMA.
* **Website blocking:** legislative measures should be introduced which require Internet Service Providers (ISPs) to block access by Australian customers to wagering websites that are operated by or on behalf of any illegal off-shore wagering operator who has been placed on an ACMA register of illegal off-shore wagering operators.
* **Blocking of financial transactions:** legislative measures should be introduced which require financial institutions and other online payment facilitators to block financial transactions between Australian customers and illegal off-shore wagering operators who have been placed on an ACMA register of illegal off-shore wagering operators.

# Sports Integrity & Anti-Corruption Unit of Australian Federal Police, Intelligence, data sharing and analysis

GRV submits that the Australian Federal Police (AFP) should be properly resourced and funded to investigate breaches of the IGA, and more specifically breaches that may involve sports match and/or race fixing activities. We understand that Racing Victoria (RV) has proposed to the Review the establishment of a Federal Sports Integrity and Anti-Corruption Unit of the Australian Federal Police (AFP) for this specific purpose. GRV strongly supports this proposition.

The ever-present risk of organised crime, whether based in Australia or overseas, infiltrating major sports and racing must be addressed by a dedicated resource to intercept and prosecute offenders.

Racing and sports authorities in Australia have limited powers for investigating threats to integrity, particularly where these threats emanate from persons or organisations beyond their jurisdictional reach and who may be operating within sophisticated and significantly resourced organised crime circles. In these cases, it is important for sports and racing authorities to form formal partnerships with law enforcement bodies, both State and Federal, to counter this threat more effectively.

A national Sports Intelligence Commission should be established to work collaboratively with state government law enforcement agencies and peak sporting and racing bodies to receive and disseminate information, analyse and identify threats to the integrity of sports and racing, and implement programs and activities to disrupt match or race fixing and related corruption.

# Live “In-play” Betting

GRV is of the view that the current regulations contained within the IGA with respect to in-play betting are appropriate in that there are sufficient measures in place to protect consumers and the integrity of the impacted sports.

The IGA prohibits the offering of online ‘in play’ betting on sports, because, when enacted, Parliament considered such activity could exacerbate problem gambling due to its “capacity to become highly addictive and be easily accessed”.

Australian residents can only place ‘in play’ bets on sport over the telephone (via a telephone operator), face-to-face (e.g. on-course bookmaker) or in venue (e.g. TAB agency).  A ‘telephone betting service’ is defined in section 4 of the IGA as: “telephone betting service means a gambling service provided on the basis that dealings with customers are wholly by way of voice calls made using a standard telephone service.” Contravention of the IGA is a criminal offence subject to penalties of up to $1.8 million per day.

Despite current laws, some Australian operators are already offering online in play betting options on sport. These operators claim the bets are being accepted by telephone, despite the fact they are being lodged via mobile apps. These services have been referred to the Australian Federal Police but no action has been taken as yet. These laws should be tightened to avoid ambiguity, with appropriate powers and resources provided to the relevant authorities to act when breaches occur. Failure to enforce laws encourages non-compliance, creates an uneven playing field and damages the reputation of all gambling operators.

The integrity risks associated with allowing online betting in play on sporting events are already well documented with a number of local and global examples providing clear opportunities for corruption or fraud which have gone undetected.

If live betting on sport is expanded under the IGA, revenue for the racing industry and operators of licensed venues offering TAB wagering will be severely impacted, with early estimates suggesting losses of up to $10 million per annum. The profit margins for in-play betting on sport are generally greater than betting on racing, so online operators are likely to market sports betting, particularly overseas sports, for which they pay no product fees, at the expense of racing – further impacting racing industry revenue.

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