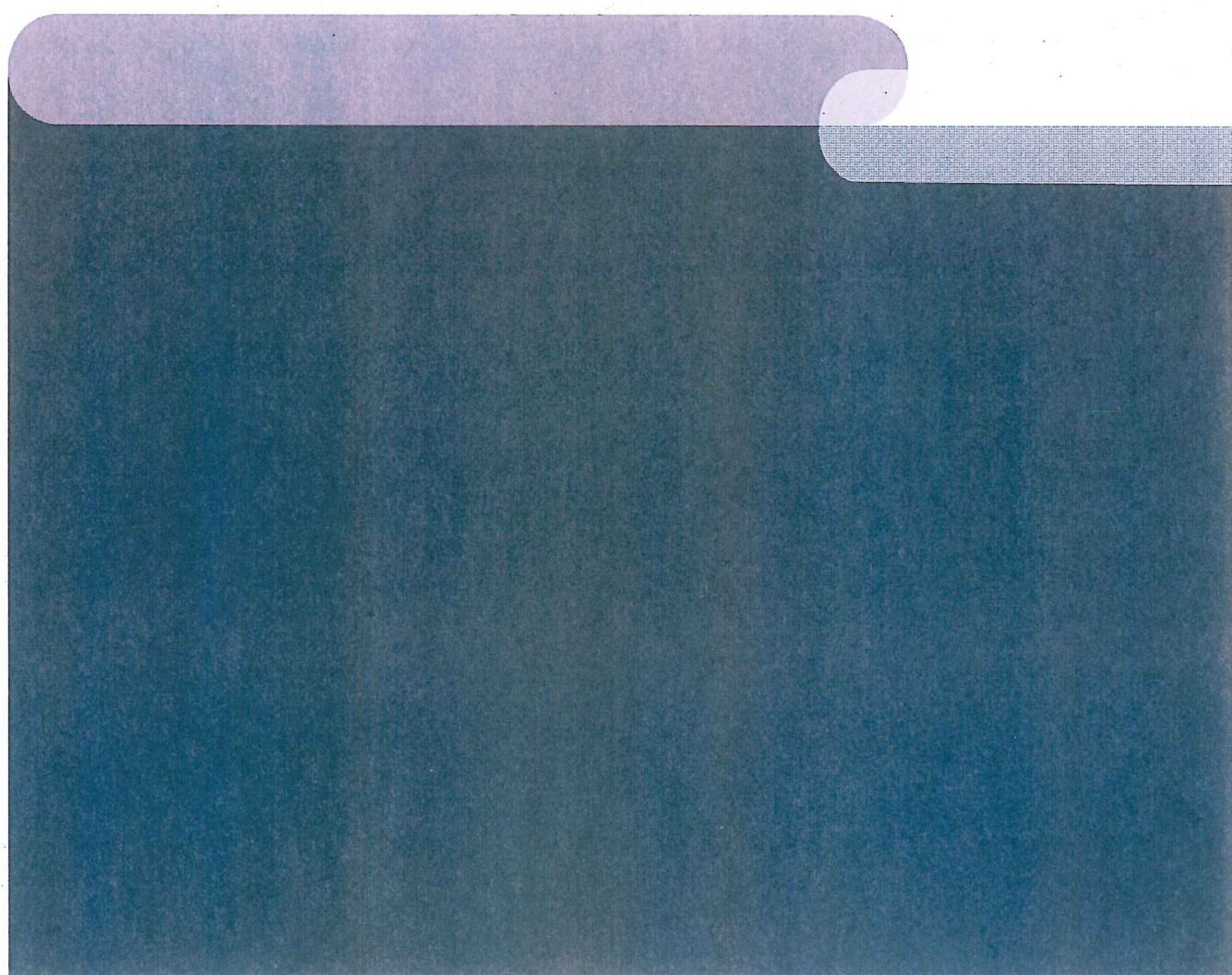


Review of the impact of illegal offshore wagering

Victorian Government submission
November 2015



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1 Executive Summary

The Victorian Government welcomes the opportunity to provide a submission to the Australian Government's Review of the Impact of Illegal Offshore Wagering (the review).

A detailed analysis of the issues covered in the review's terms of reference, underpinned by an examination of the *Interactive Gambling Act 2001* (IGA) and ways in which to strengthen its enforcement, is timely and necessary given the growth and changing nature of online gambling since the IGA's introduction.

The racing and sporting industries are major drivers of economic activity in Victoria in terms of the capital investment, employment and tourism they generate. In 2013, the Victorian Racing Industry (VRI) study estimated that the VRI contributed around \$2.8 billion annually to the Victorian economy and supported the employment of more than 26,600 full time jobs.¹ The Victorian sport and recreation industry is estimated to contribute an additional \$3.7 billion each year to the Victorian economy.

A key challenge facing both the Victorian and national racing and sporting industries is betting with unauthorised offshore wagering service providers (WSPs). It has been reported that over \$1 billion is gambled annually by Australians with unauthorised offshore gambling operators, including unauthorised offshore WSPs.²

This betting activity effectively occurs outside of the existing state-based gambling regulatory and taxation framework and outside of the Commonwealth regulatory framework established by the IGA.

As such, it poses a significant risk to racing and sporting industry revenues by diverting wagering turnover away from authorised WSPs, who pay a fee for the use of Australian racing and sporting products. Unauthorised betting also poses a risk to the integrity of racing and sport due to the lack of access to betting records and account holder information by racing regulators and sports controlling bodies.

Victoria and other Australian state and territory governments have developed domestic regulatory schemes, including legislation, to require wagering service providers, wherever located, to seek authorisation from the relevant racing regulator and sports controlling body whereby they must disclose betting transaction information and make a contribution to the cost of conducting the races and sports on which their businesses are based (race fields or product fees).

This regulatory scheme has been supported by the High Court of Australia and has proven highly effective in ensuring compliance by Australian-based wagering providers. There are also a number of legitimate offshore wagering service providers that have been willing to comply with race fields legislation. However, there are others that have failed to obtain authorisation.

Concerns also exist that Australian customers betting with unauthorised offshore wagering service providers are not covered by domestic harm minimisation and consumer protection measures to minimise the risk of gambling-related harms.

The Victorian Government recognises that changes in technology including faster and more widespread Internet access, the uptake of mobile devices including smart phones and tablets and the growth of subscription pay television and interactive services is facilitating the growth of online gambling.

The Responsible Gambling Ministerial Advisory Council (the Council) is a statutory body that provides advice to the Minister for Consumer Affairs, Gaming and Liquor Regulation (the Minister) about

¹ IER. (2013). *Size and Scope of the Victorian Thoroughbred Racing Industry*. Racing Victoria

² KPMG. (2012). *Estimating the Potential Size of an Online Gaming Market in Australia*.

responsible gambling policy and research. Members are drawn from a wide range of backgrounds including industry, the community, academia and the corporate sector.

The Minister has asked the Council to provide her with advice on the emerging issues arising from the growth of online gambling and to identify ways in which the government could address these issues, including in conjunction with other Australian jurisdictions.

Preliminary advice from the Council has identified several areas relevant to the regulatory and policy settings that apply to online gambling more broadly, including the impacts of advertising and harm minimisation and consumer protection measures for online gambling products permitted under the IGA.

These areas are addressed in this submission.

Defining online gambling

The submission uses the term online gambling to define the range of gambling activities that occur through online mediums.

Online gambling refers to gaming and wagering offered through computers, laptops, mobile and smart phones, tablets, digital and pay television.

Online gaming is defined as a gambling event using the Internet that is based on a computer program with the outcome being determined by a random number generator. This includes games such as blackjack, poker, lotteries and electronic gaming machines.

Online wagering is defined as a gambling event that is determined by the results of a sports event or race, with the Internet the mechanism for placing the wager.³

1.1 Recommendations

In line with, but not limited to, the review's terms of reference, the Victorian Government recommends the following actions are considered by the review and presented to the Australian Government as part of the review's findings:

Recommendation 1: The Victorian Government recommends the review quantify the economic impact on the states and territories of unauthorised offshore wagering, including the size of the impact in dollar terms and forecast growth.

Recommendation 2: The review should consider how the Australian Government and states and territories could develop integrity standards that could be effectively applied to sub-elite and community-based sport.

Recommendation 3: That the review assess what international regulatory regimes, if any, could be implemented in Australia to minimise the impact of unauthorised offshore wagering providers. This should include consideration of the associated impact on the states and territories, industry and consumers.

³ Parliament of Australia. (2000). *Netbets: A review of online gambling in Australia*. Senate Information Technologies Committee.

Recommendation 4: The Victorian Government recommends that the review examine the IGA to determine what amendments are required in line with the significant technological developments since its commencement.

Recommendation 5: The Victorian Government recommends that the review undertake a cost-benefit analysis of options to amend the financial and telecommunication powers of the Australian Government to block unauthorised offshore WSPs providing betting services to Australians on Australian racing and sporting events.

Recommendation 6: That the review examine how state and territory-based regulatory schemes applying to racing and sporting events could be enforced outside of Australia. In doing so, it should consider how a national approach could be achieved.

Recommendation 7: That the review develop options on how the Australian Government and states and territories could achieve nationally consistent harm minimisation and consumer protection standards for online gambling.

Recommendation 8: The Victorian Government recommends that the review examine ways to enhance the enforcement regime that applies to the advertising and operation of online gambling services prohibited under the IGA.

Recommendation 9: That the review develop options for how the Australian Government and states and territories could achieve nationally consistent standards for advertising online gambling products and services.

2 Introduction

Regulation of gambling in Victoria

In the Australian federation, states and territories are generally responsible for the regulation and taxation of gambling activity in their jurisdiction. In Victoria, gambling and activities relating to gambling are generally prohibited unless authorised by the *Gambling Regulation Act 2003* (GRA) or any other Act (such as the *Racing Act 1958*). The objectives of the GRA include:

- to foster responsible gambling in order to minimise harm caused by problem gambling and accommodate those who gamble without harming themselves or others
- to ensure that minors are neither encouraged to gamble nor allowed to do so
- to ensure that gambling is conducted honestly, fairly and free from criminal influence
- to promote tourism, employment and economic activity generally in Victoria.

The regulation and restriction of the supply of gambling services can lead to the creation of economic rents. States and territories can recoup a share of this economic rent through taxation and licence premium payments. Gambling tax revenue contributes to the funding of state responses to the social costs associated with gambling.

The GRA permits betting on racing events (thoroughbred, greyhound and harness), sports and other betting events approved by the Victorian Commission for Gambling and Liquor Regulation (VCGLR) or the Minister for Consumer Affairs, Gaming and Liquor Regulation (the Minister). Under the GRA, there is only one wagering and betting licensee, currently Tabcorp Wagering (Vic) Pty Ltd (Tabcorp).

Tabcorp commenced its 12-year wagering and betting licence in Victoria in August 2012. The licence includes a monopoly terrestrial off-course retail network (TAB), pari-mutuel (totalisator) betting, fixed odds betting, a betting exchange (which Tabcorp does not currently operate) and operation of approved simulated racing events ('Trackside'). The tax arrangements associated with the wagering and betting licence support the viability of the racing industry.

Approved bookmakers can also provide fixed odds betting on racing and sport. In Victoria, there are five authorised corporate bookmakers, 44 bookmaking partnerships and 181 sole trader bookmakers. All bookmakers, Victorian or interstate, and the wagering and betting licensee can offer online and telephone betting services.

The wagering and betting licensee and any other authorised WSPs (including all bookmakers) enter into commercial agreements directly with racing and sport controlling bodies. These agreements usually involve race field or product fees, which are payments for the use of the racing or sport intellectual property.

The GRA requires authorised WSPs to enter into agreements with the racing controlling bodies and sports controlling bodies that include the payment of product fees. The legality of applying race fields fees on interstate WSPs was upheld by the High Court in March 2012.⁴

The provisions relating to racing controlling bodies and sports controlling bodies provided for in the GRA have been used as a model by several other states in developing similar legislative provisions.

⁴ *Sportsbet Pty Ltd v State of New South Wales & ORS*, 2012 [HCA 13].
CD/15/529374

Product fees also apply to offshore WSPs taking bets on Victorian racing or sporting events. However, in practice offshore enforcement remains a challenge for Australian racing and sports controlling bodies.

Unauthorised gambling in Victoria

In Victoria, 'unauthorised gambling' means gambling that is not authorised by or under the GRA. A person conducts unauthorised gambling if they:

- organise, manage or supervise unauthorised gambling
- distribute a prize offered in unauthorised gambling
- distribute money paid or staked in unauthorised gambling
- facilitate participation in unauthorised gambling (including by allowing a person to participate in unauthorised gambling)
- use a document, device, piece of equipment or other thing for the purposes of enabling unauthorised gambling to take place
- assists in any of the above activities.

The GRA also prohibits a person from publishing, or cause to be published, any advertising that contains any information, term, expression, symbol or other thing associated with unauthorised gambling.

Regulation of online gambling – Australia

Whilst gambling is largely a state responsibility, the Australian Government regulates some forms of online and telephone gambling under its communication services powers. The current role of the Australian Government is set out in the *Interactive Gambling Act 2001* (IGA). Under the IGA, it is an offence for any person to provide certain online gambling services to customers physically located in Australia. This law applies to any provider, whether based in Australia or offshore and whether Australian or foreign-owned. The IGA ban applies primarily to online casino-style gaming.

Legal online gambling is gambling online that is exempt from the IGA ban. Lotteries and wagering services are permitted. However, some online wagering and lottery activities, such as 'in play' betting and the sale of instant "scratchies", are prohibited under the IGA.

Regulation of online gambling – Victoria

Victoria plays no direct role in regulating online gambling apart from the licensing and administration of lotteries, wagering and bookmakers in the state, which are permitted under the IGA.

The wagering and betting licensee, the public lottery licensee and bookmakers are required to comply with all relevant Victorian responsible gambling requirements in providing their services via either traditional land-based outlets or online.

Requirements that already apply to WSPs located in Victoria and interstate include:

- prohibiting sports betting providers offering betting on contingencies not approved by the Victorian Commission for Gambling and Liquor Regulation
- restricting WSPs from publishing advertising that breaches appropriate advertising standards set out in the GRA
- requiring WSPs to publish advertising with a prescribed responsible gambling statement

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- prohibiting WSPs from offering an inducement to a Victorian to open a betting account.

Problem gambling in Victoria - wagering

Across all forms of gambling, the Victorian Competition and Efficiency Commission (VCEC) estimated that in 2010-11 the overall social and economic costs of problem gambling in Victoria were in the range of \$1.5 billion to \$2.8 billion.⁵

VCEC has estimated that in Victoria the costs to health, human services and justice systems were between \$74 million and \$147 million in 2010-11.⁶

Recent, yet unpublished data, indicates that over the past five years participation in wagering on racing and sports in Victoria has increased.

⁵ Department of Justice & Regulation. (2015). *Regulatory Impact Statement: Gambling Regulations*. Department of Justice & Regulation.

⁶ Department of Justice & Regulation. (2015). *Regulatory Impact Statement: Gambling Regulations*. Department of Justice & Regulation.

3 Response to terms of reference

3.1 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

Trends in online wagering

The development of online and mobile technology has fundamentally changed the gambling market around the world, including in Australia. Consumers are interacting with racing and sports betting products in new, more mobile ways. Wagering consumption is increasingly online/mobile and increasingly on fixed odds.

Many consumers have transitioned from using telephone and land-based outlets to online channels, with 40 per cent of Australian wagering (including both sport and races) taking place online.⁷

Estimates in 2014 indicate that Australian online wagering generated approximately \$2.1 billion in gambling industry revenue.⁸

Globally, online wagering is estimated to be the largest online gambling product, accounting for 53 per cent of the market, followed by casino games (25 per cent), poker (14 per cent), and bingo (7 per cent).⁹

Online platforms and the ease of creating wagering accounts enables Victorian consumers to gamble with WSPs online in Australia and offshore. It is not an uncommon practice for consumers to hold multiple active betting accounts.

Over the past ten years, there have also been changes to the way Victorians gamble on racing and sport. Since 2004-05, expenditure (player loss) on sports betting in Victoria has increased from approximately \$24 million from turnover of \$180 million to over \$213 million from turnover of \$1.3 billion in 2013-14.

In this period, expenditure (player loss) on racing in Victoria decreased from \$606 million (turnover of \$4.0 billion) in 2004-05 to \$571 million (turnover of \$3.1 billion) in 2013-14.¹⁰ It should be noted that these figures do not include data for bookmaker turnover (on-course and off-course) in 2012-13 and 2013-14 due to unavailable data. In 2011-12, Victorian bookmaker turnover was \$495 million.

Implications of growth on online wagering

A key challenge facing the Australian racing and sporting industries is betting by unauthorised offshore WSPs.

In its report, *Estimating the Potential Size of an Online Gaming Market in Australia* released in 2012, KPMG estimated that the gross gambling yield of the legal online gambling market in Australia in

⁷ Joint Select Committee on Gambling Reform (JSCGR). (2013). *The advertising and promotion of gambling services in sport*. Commonwealth of Australia.

⁸ Sproston, K., Hanley, C., Brook, K., Hing, N., & Gainsbury, S. (2015). *Marketing of sports betting and racing*. Gambling Research Australia.

⁹ Hing, N., Gainsbury, S., Blaszczynski, A., Wood, R., Lubman, D., & Russell, A. (2014). *Interactive gambling*. Gambling Research Australia.

¹⁰ Queensland Government. (2014). *Australian gambling statistics 1988-89 to 2013-14 31st edition*. Queensland Government Statistician's Office, Queensland Treasury and Trade.

2011-12 was \$630 million. It estimated that gross gambling yield of the illegal online gambling market, including unauthorised offshore WSPs was \$1.3 billion in 2011-12.

The report also estimated that based on no changes to the current legislative and regulatory environments, the illegal online gambling market is expected to grow at an average annual rate of 6.3 per cent to \$2.4 billion by 2021-22.

Estimates vary on the number of unauthorised offshore WSPs offering services to Australian residents in contravention of Australian laws. Some reports have suggested that the overall number of unauthorised offshore gambling operators, including unauthorised WSPs, is over 2,200 globally. However, the Victorian Police Sports Integrity Symposium in 2014 heard estimates of around 2,500 illegal offshore operators in Asia offering online in-play wagering to Australian customers.

The growth of online wagering and the activity of wagering with unauthorised offshore WSPs effectively operates outside of the state and Australian Government frameworks for regulating gambling activity.

When Victorians bet with unauthorised offshore WSPs there are social and economic costs in Victoria but any regulation of and tax revenue from the activity are located outside the state.

At the same time, consumption and promotion of online and mobile wagering is contributing to the development of new problem gambling challenges. The demographic of online gamblers is different to the traditional gambling market. The report on *Interactive Gambling* found online gamblers were most likely to be male adults, university qualified and working full-time, with household incomes between \$90,000 and \$119,000. They are also more likely to be younger than traditional land-based gamblers.¹¹

The Victorian Responsible Gambling Foundation notes that changes in online gambling in the last five years have 'affected the way young people both experience and interact with gambling, as a concept and as a product'.¹²

The growth of gambling with online WSPs and shifts away from the traditional state totalisator product, may provide a challenge to the sustainability of racing industry revenues and some states' gambling tax bases. This was referenced in the Australian Government's *Tax Issues Paper*, which noted that state gambling tax revenue may be threatened by "competition between the states and growing trends in online gambling, particularly with providers outside Australia."¹³

Recommendation 1: The Victorian Government recommends the review quantify the economic impact on the states and territories of unauthorised offshore wagering, including the size of the impact in dollar terms and forecast growth.

Risks of unauthorised offshore wagering on integrity in sport

Unauthorised betting poses a risk to the integrity of racing and sport due to the lack of access to betting records and account holder information by racing regulators and sports controlling bodies.

Integrity is a key issue within Australian sport. Risks associated with gambling and match-fixing threaten to undermine public confidence in racing and sport and the expectation of fair competition between participants.

¹¹ Hing, N., Gainsbury, S., Blaszczynski, A., Wood, R., Lubman, D., & Russell, A. (2014). *Interactive gambling*. Gambling Research Australia.

¹² Victorian Responsible Gambling Foundation. (2013) *Gambling and Young people: impacts, challenges and responses*.

¹³ Australian Government. (2015). *What is GST? Tax White Paper*, Australian Government, Canberra.

Incidents relating to match-fixing in Victorian sport in recent years highlighted the damage such incidents can cause to the image of the professional teams and codes concerned.

The *Review of Victorian Sports Betting Regulation* conducted in 2011 noted that public confidence in the integrity of any sporting competition is critical to continued public support of that competition in terms of attendance, commercial activities such as broadcasting and sponsorship and the integrity of betting on the sport. Loss of public confidence through an integrity lapse can carry with it potentially damaging consequences for the continued sustainability of a sporting competition.

A recent unpublished study commissioned by the Department of Health and Human Services found that while integrity issues are being addressed by the professional sporting codes, there is a lack of awareness of integrity risks amongst sub-elite and community-based sport in Victoria, a situation which is likely occurring in other states and territories.

This is a particular concern given related research identified a number of betting markets offered by overseas WSPs on Victorian sport.

The study found that amongst smaller and sub-elite sports, the growth of betting available via unauthorised offshore WSPs has resulted in a greater allocation of time and resources by sports controlling bodies to monitor betting and match-fixing risks. It was also noted that unlike professional sports, sub-elite and community sports are less likely to benefit from partnerships with authorised WSPs, the funding from which enables larger sports to fund integrity units/resources to address the risks that come with betting markets.

Recommendation 2: The review should consider how the Australian Government and states and territories could develop integrity standards that could be effectively applied to sub-elite and community-based sport.

3.2 International regulatory regimes or other measures that could be applied in the Australian context

The global nature of online gambling makes the effectiveness of regulation within countries highly dependent on international regulatory settings.

In particular, the controls that jurisdictions place on service providers located within their own borders have a significant impact on the operation of the global market as a whole.

International jurisdictions have approached the regulation and control of online gambling in a number of different ways. China, Thailand, Singapore and the United States of America (USA) have taken a prohibitionist stance towards online gambling, whereas other countries, particularly those in Europe such as France, Italy, Spain and the United Kingdom (UK), have all legalised components of online gambling.

The international experience has also demonstrated that countries have taken a range of actions to address the issue of unauthorised gambling, including unauthorised offshore WSPs.

For example, the UK *Gambling Act 2005* enables entities to be licensed in the UK to offer online gambling services. The UK Gambling Commission is the body responsible for the regulation and licensing of online gambling providers that offer casino gambling, games of chance, games of skill and chance, wagering and lotteries.

Under the *Gambling (Licensing & Advertising) Act 2014*, online casinos and WSPs are now required to pay a 15 per cent gaming duty on their gross profits from wagers placed in the UK, irrespective of where they are based. This is referred to as a “place of consumption” tax. This issue will be addressed later in the submission.

In France, the *Online Gambling Act 2010* enables the French Government to use financial and telecommunications laws to prohibit unauthorised offshore WSPs from conducting business in France.

An evaluation of the action taken by French authorities indicates that the operations of unauthorised offshore WSPs in France declined from 75 per cent to just 20 per cent of the market following the introduction of these laws.

Recommendation 3: That the review assess what international regulatory regimes, if any, could be effectively implemented in Australia to minimise the impact of unauthorised offshore wagering providers. This should include consideration of the associated impact on the states and territories, industry and consumers.

Tax arrangements for authorised online gambling operators

Australian states and territories currently tax gambling on the location of the gambling operator, a ‘place of supply’ basis. ‘Place of consumption’ taxation would levy gambling tax in the location of the consumer.

In Europe, several countries (Denmark, France, Italy and Spain) have regulated online gambling and are offering domestic licences to international companies. In some cases, this has been a way of preventing tax revenues from leaking offshore.

The UK recently changed its tax regulations for different types of wagering and gaming duties to impose taxes on international companies that offer online gambling services to residents.

Under the *Gambling (Licensing and Advertising) Act 2014*, remote gambling operators (including online casinos and WSPs) who offer services to residents of the UK are liable for tax at the 'place of consumption' rather than the point of supply.

From December 2014, all remote gambling operators are required to pay a remote gaming duty of 15 per cent on their gross profits generated from wagers placed in the UK, irrespective of where the operators are based.

Operators are also required to apply for a licence from the United Kingdom Gambling Commission. It is an offence for unlicensed operators to offer online gambling service to UK residents.

In February 2015, the South Australian Government released the *State Tax Review Discussion Paper* which discussed an option to introduce a UK 'place of consumption' regime for online wagering in Australia.

A 'place of consumption' arrangement aims to ensure that the WSP pays at least some gambling tax to the jurisdiction in which the bet is placed.

The review may wish to examine the tax arrangements introduced by the UK Government and the work being done by the South Australian Government in relation to online wagering.

3.3 What other technological and legislative options are available to mitigate the costs of illegal offshore wagering

The Victorian Government notes that several reviews of the IGA have found that the legislation has been highly effective in limiting Australian-based providers from offering prohibited gambling services to Australian residents. However, the reviews have criticised the effectiveness of the IGA in preventing offshore online gambling providers from offering prohibited services to Australians.

Since 2001, there has also been an expansion in the number of online gambling and wagering platforms driven by technological developments and consumer demand. Despite this, there have been no substantive amendments to the IGA.

The Victorian Government does not support liberalising the regulation of online gambling. Rather, the Victorian Government is supportive of pursuing measures to tighten the regulatory framework provided for by the IGA.

The Victorian Government notes the development of products such as voice over internet protocol (VOIP) by authorised WSPs that enables customers to bet live on events in progress using a smart phone. While the IGA prohibits 'live betting' or 'in play' betting online, betting on live events over the phone and in person is permitted.

Given the convergence of the Internet with smart phone technologies, the Victorian Government encourages the review to examine the relevant provisions of the IGA to determine what amendments may be required.

Recommendation 4: The Victorian Government recommends that the review examine the IGA to determine what amendments are required in line with the significant technological developments since its commencement.

Amendments to Australian Government's banking and telecommunication powers

The Australasian Racing Ministers Conference (ARMC) has sought assistance from successive Australian Governments to address the impact of unauthorised offshore WSPs on the Australian racing industry.

Previous approaches to the Australian Government by the ARMC in 2011, 2012 and 2013 sought direct intervention, including the use of Commonwealth banking and telecommunications powers, to prevent the processing of payments associated with unauthorised wagering.

The ARMC has specifically sought support from the Australian Government to:

- require any betting service provider using the telecommunications system to have prior authorisation from the relevant state or territory approval body for the use of its race fields legislation
- prohibit any financial institution from facilitating transactions with a betting service provider that is not authorised.

The Victorian Government notes that a number of countries have adopted measures to restrict financial transactions with unlicensed or prohibited online gambling service providers. For example, in the USA, restrictions on online gambling are applied through the *Unlawful Internet Gambling Enforcement Act 2006* (UIGEA) which:

- criminalises the acceptance of USA-initiated financial instruments by providers of online gambling websites in connection with unlawful Internet gambling

- prohibits USA financial transaction providers from processing transfers of funds to unlawful Internet gambling businesses.

The Victorian Government also notes the recommendation by the Department of Broadband, Communications and the Digital Economy (DBCDE) in its *Final Report 2012 – Review of the IGA* (DBCDE Review) that a safe harbour provision be developed under the IGA that allows financial institutions to voluntarily block financial transactions between Australian consumers and prohibited online gambling providers (or any intermediaries involved in such transactions) as part of their services to customers.

Recommendation 5: The Victorian Government recommends that the review undertake a cost-benefit analysis of options to amend the financial and telecommunication powers of the Australian Government to block unauthorised offshore WSPs providing betting services to Australians on Australian racing and sporting events.

Enforcing state and territory race fields legislation

Victoria and other Australian state and territory governments have developed domestic regulatory schemes, including legislation, to require wagering service providers, wherever located, to seek authorisation from the relevant racing regulator and sports controlling body whereby they must disclose betting transaction information and make a contribution to the cost of conducting the races and sports on which their businesses are based (race fields or product fees).

This regulatory scheme has been supported by the High Court of Australia and has proven highly effective in ensuring compliance by Australian-based WSPs. There are also a number of legitimate offshore WSPs that have proven willing to comply with race fields legislation.

However, there are others that have failed to obtain authorisation. Therefore, assistance is sought from the Australian Government to introduce mechanisms by which the existing state and territory-based regulatory schemes can be effectively enforced against unauthorised offshore WSPs.

A national and coordinated approach to enforce state and territory race fields legislation is essential to ensure the WSPs operating on Australian racing, wherever they are located, disclose betting transaction information to Australian racing regulators and contribute to the cost of conducting the races on which their businesses are based.

Recommendation 6: That the review examine how state and territory-based regulatory schemes applying to racing and sporting events could be enforced outside of Australia. In doing so, it should consider how a national approach could be achieved.

3.4 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.

Harm minimisation

The Productivity Commission's *Inquiry Report on Gambling* defined harm minimisation as strategies which aim to "minimise the risks associated with gambling and facilitate gambling within appropriate limits, without overtly disturbing those who gamble in a non-problematic manner".

The IGA does not specify any particular harm minimisation or consumer protection measures for online gambling. These matters are dealt with in individual state and territory legislation.

Reports have noted that each jurisdiction has its own separate requirements for harm minimisation, which means the requirements differ between jurisdictions and implementation of requirements can differ for different types of gambling services.

Most large online gambling providers and authorised WSPs promote responsible gambling strategies and offer responsible gambling initiatives to players. The majority of these, such as self-exclusion and pre-commitment, rely on individuals to recognise that they may need some assistance in limiting their play.

Analysis by the Responsible Gambling Ministerial Advisory Council has identified the effectiveness of harm minimisation and consumer protection measures for online gambling as an important issue emerging from the growth of online gambling. The working group is considering specific harm minimisation measures focused on online gambling such as the development of a national self-exclusion program, readily available pre-commitment arrangements and the display of effective and targeted responsible gambling messages.

While the Victorian Government is considering the implementation of these measures at a state-level, it recognises the benefits of adopting a national approach.

A national approach would be consistent with the DBCDE Review recommendation to develop a national standard, applicable to all Australian licensed interactive gambling providers, that establishes the framework for a minimum set of harm minimisation and consumer protection measures for all types of interactive gambling that are permitted by the IGA.

Recommendation 7: That the review develop options on how the Australian Government and states and territories could achieve nationally consistent harm minimisation and consumer protection standards for online gambling.

Prohibiting the promotion of illegal online gambling

In Australia, the promotion of prohibited online gambling services to customers physically located in Australia is illegal under the IGA. The prohibition extends to all forms of media, both electronic and non-electronic, including advertising in newspapers, magazines and billboards or via the Internet and broadcast services.

The DBCDE Review recommended that advertising of prohibited online gambling services, either directly or indirectly, should attract civil as well as criminal penalties that should also be administered by Australian Consumer and Media Authority (ACMA). This should include 'free-play' gambling sites that are associated with 'real money' gambling sites.

National gambling laws commonly prohibit the advertising of online gambling services not authorised in the respective countries.

Advertising restrictions are seen as a key measure to limit access to unlicensed operators and ensure that responsible gambling messages can be promoted to consumers.

In the UK, the *Gambling (Licensing and Advertising) Act 2014* provides that only gambling operators licensed by the UK Gambling Commission are permitted to advertise. Licensed operators who offer online gambling are required to display a link (on all web pages used to access gambling) to their licensed status with the Commission so that consumers can verify whether the operator has a licence.

In France, unlicensed online operators are banned from advertising their brand names on French territory.

The ACMA is empowered to receive and to investigate complaints about online services hosted outside of Australia. ACMA refers all potentially prohibited Australian-hosted online content to the Australian Federal Police for further investigation.

To address the advertising of prohibited online gambling products, the Victorian Government supports more effective powers and adequate resources for ACMA and the Australian Federal Police to enforce the prohibition of online gambling advertisements.

The Victorian Government notes that the Australian Government is undertaking a review of the objectives, functions, structure, governance and resource base of ACMA. The Victorian Government supports this review examining ACMA's role in regulating and enforcing prohibitions relating to the advertising and promotion of both legal and illegal online gambling in Australia.

Recommendation 8: The Victorian Government recommends the review examine ways to enhance the enforcement regime that applies to the advertising and operation of online gambling services prohibited under the IGA.

Regulation of advertising legal online gambling in Australia

The Victorian Government notes that gambling advertising has grown significantly in recent years, primarily due to an increase in sports betting advertising.

Recent research suggests that sports betting advertising may have negative economic and social impacts on vulnerable groups such as young people and problem gamblers, and that it contributes to the normalisation of gambling as a part of sport.

While there have been some recent changes to the broadcast industry codes of practice to restrict the promotion of live odds during the broadcasting of sports events, community concerns about the amount of gambling advertising on television, radio and the Internet remain.

Given many authorised WSPs operate nationally, the Victorian Government believes there is scope for the Australian and state and territory governments to work collaboratively to improve the effectiveness of gambling advertising regulation. This could include the development of measures to control or minimise harm associated with gambling advertising.

The Victorian Government notes the recent comments by the Chairman of Tabcorp Holdings Limited (THL) that the company shares the community's views that there is too much gambling advertising and THL has called for national regulations on gambling advertising to be developed.

The Victorian Government notes South Australia's Gambling Codes of Practice Notice 2013 sets out requirements for gambling advertising across all media channels, including online, and that this could be examined in the development of a national code.

Recommendation 9: That the review develop options for how the Australian Government and states and territories could achieve nationally consistent standards for advertising online gambling products and services.

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