

Submission by  
**Sportsbet Pty Ltd**

to the

**Review of the  
*Impact of Illegal Offshore Wagering***

*Addressing the serious adverse impacts of Australians wagering with,  
and being targeted by, illegal offshore wagering operators*

November 2015

The logo for Sportsbet.com.au is displayed on a blue rectangular background. The word "sportsbet" is written in a bold, italicized sans-serif font, with "sports" in white and "bet" in yellow. Below it, ".com.au" is written in a smaller, white, italicized sans-serif font.

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# Executive Summary

## Reforms recommended by Sportsbet to address the adverse impact of illegal offshore wagering operators

Sportsbet recommends five main reform measures in its Submission that are available to the Federal Government to address the adverse impact of illegal offshore wagering operators:

- 1. Make it a legal requirement to be licensed in Australia in order to be permitted to offer wagering services to Australian consumers**
- 2. Adopt a *platform neutral* approach to in-play betting by removing the in-play restriction in the IGA**
- 3. Strengthen the deterrence measures deployed by ACMA:**
  - ACMA should publish and regularly update on the ACMA website the list of known prohibited gambling operators
  - Make operators of prohibited services aware that law enforcement bodies may be monitoring any attempts by them to enter Australia
- 4. Increase education and awareness among Australians of the dangers of transacting with illegal offshore wagering operators:**
  - Produce a national symbol to assist Australians to identify wagering sites licensed and regulated in Australia
  - Maintain and publish on ACMA's website a 'blacklist' of known illegal offshore operators
  - Provide links to the National Gambling Helpline, pop up warnings and further resources on ACMA's website
- 5. Introduce the following mandatory responsible gambling initiatives:**
  - Mandatory, voluntary pre-commitment
  - Reduced time period for age verification of account holders
  - Mandatory self-exclusion and national self-exclusion database
  - Wagering operators making appropriate de-identified wagering information available to support research into wagering and appropriate public policy

Illegal offshore gambling is seriously affecting the integrity and viability of Australia's racing and sporting landscape, and Australian consumers.

Of the estimated \$1.6 billion spent by Australians on online *gambling* each year, offshore *wagering* operators currently enjoy revenue of approximately \$480m a year.<sup>1</sup> This is resulting in substantial tax leakage to Federal and State governments (to the detriment of the broader community and grass roots sport), *as well as* millions of dollars in lost 'product fees' for Australian racing and sports controlling bodies, levied by those bodies on Australian licensed wagering providers in return for permission to offer wagering services on those codes.

Sportsbet is well placed to provide a meaningful contribution to public policy in the context of the Terms of Reference for this Review. Sportsbet is the largest online wagering operator in Australia accounting for

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<sup>1</sup> *Australian Offshore Interactive Wagering Independent Report*, H2 Gambling Capital, November 2015, Pg 32

approximately 23% of Australia's online wagering market and is an industry-leading digital e-commerce business with over two million Australian customers. Sportsbet is a member of the industry peak body, the Australian Wagering Council (**AWC**).

Sportsbet contributes significantly to the Australian economy. Sportsbet pays taxes and product fees to racing and sports bodies, which in FY15 alone totalled \$107 million. Sportsbet also invests tens of millions of dollars each year developing new and innovative technology and products and employ over 650 highly skilled professionals.

Despite some misconceptions that there has been an 'explosion' in wagering spend by Australians in recent years, in reality, there has been only moderate growth in wagering turnover in Australia from 2007, broadly in line with CPI increases. The tectonic shift has been not in total spend but rather in the betting channels where that spend is occurring:

- Vastly improved technology including the high uptake by Australians of digital devices such as smartphones, and tablets<sup>2</sup>, prompting a shift from the more traditional wagering channels (i.e. retail outlets, on-course and phone operator) to online channels such as the Internet and smart phones; and
- Sports betting in Australia has increased in popularity in recent years in line with the global industry. While wagering on racing is a well-established and mature betting market, sports betting is an emerging market which has experienced considerable growth.

Australian consumers have taken advantage of these digital technologies which has enabled illegal offshore wagering operators to easily target Australians. As we outline in detail in our submission, this affects Australian consumers, Australian businesses, and significantly erodes Federal and State tax revenue. It is important to note the prevalence of problem gambling is extremely low in the online wagering environment and significantly lower again when compared with gambling on poker machines where the latter represents 75%-80% of problem gambling.

Sportsbet's submission deals in turn with each Term of Reference outlined for the Review.

## **Impact of illegal offshore wagering operators on Australia**

The effects of Australians wagering with, and being targeted by, illegal offshore wagering operators are serious and multi-faceted:

- **Impacts to Australian consumers** - Australian consumers are at serious risk by betting with illegal offshore operators who have next to no responsible gambling and consumer protection measures and who have a history of not returning customers' winnings.
- **Seriously compromising sports integrity** - Illegal offshore operators pay no product fees to racing and sports and do not have information sharing agreements with racing and sporting authorities to assist in the detection of suspicious betting activity.
- **Growing tax leakage** - Illegal offshore wagering operators currently enjoy revenue from Australians of approximately \$480M a year. By 2020, this will amount to a staggering \$2.2-2.3B leaving Australia in lost wagering profits, and a further \$100M per annum in tax leakage.<sup>3</sup>
- **An uncompetitive environment for Australian licensed wagering providers** - Australian licensed wagering providers suffer a significant and unnecessary regulatory burden which places them at a competitive disadvantage to offshore operators, who are able to offer in-play betting on a platform neutral basis, and do not pay the taxes Australian licensed providers pay.
- **Interrelationships with criminal industries and networks** – Across the globe, law enforcement officials and gambling regulators warn of the dangerous links between unlicensed and unregulated wagering operators and organised crime.

<sup>2</sup> 70% of Australians go online using a smart phone and 50% with a tablet, see *ACMA Report 1 – Australians' digital lives*, March 2015.

<sup>3</sup> *Australian Offshore Interactive Wagering Independent Report*, H2 Gambling Capital, November 2015, Pg 2

It is imperative that the Government ensures that Australians can access the products they prefer in a safe, legal, regulated domestic market.

## **The international experience**

International best practice demonstrates that in order to mitigate the impact of illegal offshore operators, a regulatory environment is needed which enables local providers to offer a complete and competitive suite of wagering products to their customers.

This is strongly endorsed by a report conducted by Gambling Compliance Research Services (**GCRS**) in 2014, which shows that licensed operators overseas have far greater freedom in the products they can legally offer to their customers. Crucially, these international markets permit their operators to provide most forms of online gambling, with *all* markets permitting in-play betting and applying a platform neutral approach. This is at complete odds with the current, obsolete ban on online in-play wagering in Australia.

## **Technological and legislative options available to mitigate the costs of illegal offshore wagering**

Regrettably, the merit and effectiveness of the two main technological measures explored internationally to mitigate the costs of illegal offshore wagering – internet blocking and financial transaction blocking – have proven to both be highly questionable and not feasible in the current technological landscape.

Internet blocking has proven to be ineffective and easily circumvented in a wide range of contexts and sectors. This can be demonstrated by the extent of Australian consumers using technological workarounds to access pirated content such as movies and music. With the introduction of legal subscription services like Netflix however, we are seeing the start of a turnaround in the fight against piracy as, for the first time, consumers have access to a legal domestic market that can compete with content available illegally.

Similarly, financial transaction blocking is not the panacea some think it is because, like IP blocking, there are several well-established methods which can be deployed with ease to circumvent a block.

Sportsbet recommends that two simple and logical legislative measures must be implemented to effectively mitigate the costs of illegal offshore operators:

- make it a legal requirement to be licensed in Australia in order to be permitted to offer wagering services to Australian consumers; and
- adopt a *platform neutral* approach to in-play betting by removing the in-play restriction in the IGA.

Presently, there is no uniform requirement that in order to offer wagering services to Australian consumers the wagering operator must hold a wagering licence issued by a Commonwealth, State or Territory government or regulatory body. Making this simple and prudent legislative change would bring Australia in line with leading international jurisdictions.

With respect to a platform neutral approach, since 2001 when the IGA was enacted, the prohibitions in the Act have become less effective and out-dated as the internet and associated technologies including smart phones have advanced. In a real sense, the IGA is ‘analogue’ legislation ill-suited and ill-equipped to deal with the digital age. Consumers now expect to be able to wager on their mobile devices and over the internet but Australian licensed WSPs cannot legally provide this in-play product.

There is a long list of overwhelming evidence and findings that the IGA has been grossly ineffective in preventing offshore-based wagering operators from providing prohibited services to Australians. Removing

the in-play restriction is consistent with international best practise and was recommended in the 2010 *Productivity Commission Inquiry Report into Gambling*, the 2013 DBCDE's Final Report – *Review of the Interactive Gambling Act* and the 2014 *Interactive Gambling Report*, commissioned by Gambling Research Australia. The 2015 *Harper Competition Policy Review* also acknowledged the AWC's contentions in relation to the anti-competitive nature of the IGA and agreed that gambling regulations should be included in a new round of regulation reviews to ensure that they are not unduly restricting competition. It is also recommended and supported by leading research academics, along with traditional bookies such as Tabcorp.

Removing the in-play restriction also has support of Australia's major sporting bodies including AFL, NRL and Cricket Australia, and The Coalition of Major Professional and Participation Sports (COMPPS) who recognise that in-play is the product Australians are using offshore, which has significant consequences for the integrity of their codes. H2GC confirms this is the case with in-play accounting for up to \$275-300M of the \$480M in revenue being enjoyed annually by illegal offshore operators.<sup>4</sup> Indeed with established licensed wagering operators William Hill and Bet365 now offering live betting products such as 'Click to Call' from their desktop and mobile channels, which involve enabling a 'microphone' at bet placement, this further serves to highlight the convergence in technology and the fact that the IGA's restriction on online in-play betting has become obsolete.

Sportsbet therefore recommends that removing the in-play restriction will have four material benefits from a public policy perspective:

- **Mitigating potential harms to Australian consumers** – As consumers will be enabled a choice to bet with Australian-based licensed wagering service providers (rather than forcing them to bet with black market offshore wagering operators) and receive the benefit of the robust harm minimisation and consumer protection measures.
- **Protecting and enhancing the integrity of Australian sport** – As Australian-based wagering companies are required to pay product fees and provide detailed information to major sporting bodies to protect and enhance the integrity of sport and to mitigate the risk of gambling-related corruption.
- **Growing Australia's digital economy and benefits for Government** – Removing the online in-play restriction would significantly contribute to wagers by Australians being redirected to Australian licensed wagering service providers with the attendant economic benefits for Government in the form of GST and income tax, and associated benefits to community and grass roots sport.
- **A platform neutral approach to in-play betting will ease a significant regulatory burden on the Australian online wagering sector and enhance competition** – Allowing in-play bets online would reduce operating costs by approximately \$3.5m per year for Sportsbet and, separately, enable Australian based online wagering service providers to compete with offshore wagering operators who offer this established and globally popular product, which is consistent with the Federal Government's deregulation agenda.

In Sportsbet's view, in order to effectively adopt a platform neutral approach to in-play betting without compromising protections provided to Australian consumers and the integrity of sport, it is important to ensure that *micro betting* (or 'spot betting'), i.e. betting on the outcome of the next ball in a cricket match, be prohibited across *all* technological platforms, including telephone as well as in retail TAB outlets.

## **Approaches to protect the consumer that could mitigate the risk of negative social impacts on consumers**

Former Minister for Social Services, the Hon. Scott Morrison noted in undertaking this Review that it is especially important we look at what can be done to protect individuals vulnerable to problem gambling. Sportsbet agrees, and is of the view that this can be achieved by a variety of measures which fall under three broad categories:

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<sup>4</sup> *Australian Offshore Interactive Wagering Independent Report*, H2 Gambling Capital, November 2015, Pg 32

- **Strengthen the deterrence measures deployed by the Australian Communications and Media Authority** - including the Australian Communications and Media Authority (**ACMA**) making offshore operators aware of the restrictions in the IGA and informing operators of prohibited services that law enforcement bodies may be monitoring any attempts by their officers to enter Australia.
- **Increase education and awareness among Australians of the dangers of transacting with illegal offshore wagering operators** – including producing a national symbol to assist Australians to identify wagering sites licensed and regulated in Australia, maintaining and publishing on ACMA's website a list of known illegal offshore operators and providing links to the National Gambling Helpline, and further resources on ACMA's website.
- **Introduce the following mandatory responsible gambling initiatives** – to bolster the existing extensive suite of harm minimisation and consumer protection measures presently offered by Australian licensed wagering service providers:
  - mandatory, voluntary pre-commitment (i.e. a mandatory requirement that allows customers to voluntarily choose to set a deposit limit);
  - reduced time period for age verification of account holders;
  - mandatory self-exclusion and national self-exclusion database; and
  - wagering operators making appropriate de-identified wagering information available to support research into wagering and appropriate public policy

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# Introduction to Sportsbet

## A sophisticated digital e-commerce business

Sportsbet is an industry-leading digital e-commerce business in the online wagering sector with over two million Australian customers. Sportsbet accounts for approximately 23% of Australia's online wagering market and is a member of the wagering industry peak body, the Australian Wagering Council (**AWC**). Sportsbet is licensed in the Northern Territory and is wholly owned by Paddy Power plc, which is publicly listed on both the Ireland and London stock exchanges and only operates in jurisdictions where it is licensed to offer services to in-country residents.

We invest tens of millions of dollars each year developing new and innovative technology and products, and supporting budding new technology staff including program and app designers, analysts, software engineers and data scientists. This investment has led Sportsbet to become the largest online wagering operator in Australia. We're leading the digital development of world class IT solutions including cutting edge initiatives demonstrated by:

- Our leading 4½ star app in the Apple App Store having reached a number one ranking three times in the last four years
- Google currently considering us as an international case study
- Our globally integrated systems across Australia, Ireland, Bulgaria, and Italy with product development occurring and integrated teams located across the world
- Our recent market entry of a 'Punters Club' (beta offering) that has become an instant hit
- One of the first organisations in the world to develop a prototype on the Apple iWatch and the first to identify a critical bug in one of the early Apple releases
- A ground-breaking initiative with Racing Victoria whereby Sportsbet streams live all Victorian thoroughbred races across Sportsbet's digital platforms to drive revenue for the sustainability of the Victorian thoroughbred racing industry and allow our customers to watch live racing on their preferred devices free of charge

## Sportsbet is a significant contributor to the Australian economy

We make a significant contribution to the Australian economy through the employment of over 650 highly skilled professionals across our Melbourne, Sydney and Darwin offices. We're consistently adding 70-80 new staff a year and have budgeted for similar growth over the next three years. We are also acquiring additional office space at our Melbourne and Sydney offices to accommodate this growth.

Sportsbet pays State and Federal taxes on the same basis as other Australian bricks and mortar and digital businesses, namely, GST, fringe benefit tax, payroll tax and income tax. Combined with product fee contributions to Australian racing and sports controlling bodies (see below in this section), Sportsbet contributed \$107M in product fees and taxes in FY15 alone. This amounts to around 25% of Sportsbet's revenue.

In addition to taxes and product fees, Sportsbet is responsible for significant economic activity in the form of:

- Over 650 jobs and thousands of third party supplier engagements;

- State and Territory licensing fees;
- Significant advertising spend including across multiple digital platforms;
- Hundreds of thousands of dollars in sponsorships to regional thoroughbred race clubs such as the Ballarat Turf Club, Devonport and the Gawler and Barossa Jockey Club and to mainstream professional sporting clubs and codes such as the NRL and AFL; and
- Tens of millions of dollars invested each year developing new and innovative technology

In Australia, licensed, wagering service providers (**WSPs**) are legally obliged to pay race fields' fees and other product fees (hereafter, collectively **product fees**) to each peak racing body across Australia and designated sports controlling bodies of the sporting codes (e.g. AFL, NRL, Cricket Australia) in return for the right to offer wagering services on those events (**Product Fee Agreements**).

Product Fee Agreements, which provide for detailed information sharing regimes with sports controlling bodies and regulators, are at the cornerstone of protecting and enhancing the integrity of the Australian racing industry and sport, and also operate to ensure the financial viability of racing.

## Sportsbet's strong commitment to responsible gambling and consumer protection

Sportsbet is committed to providing a safe environment where wagering is a fun and entertaining experience and the harms associated with problem gambling are minimised as far as reasonably possible. Sportsbet acknowledges the significant harms that problem gambling can cause individuals and their families. It is for this reason that Sportsbet strives to lead the online wagering industry in responsible gambling and is proactive in developing innovative tools that empower our customers to understand, and stay in control of, their gambling behaviour.

Sportsbet's responsible gambling philosophy is simple. We recognise that we have a responsibility:

- to provide our customers with transparent and easily accessible information about their betting activity to enable them to make informed decisions about their wagering;
- to provide our customers with the best tools to empower them to place limits on their behaviour so that they can stay in control of their wagering; and
- to intervene where a customer has lost control of their betting and do whatever we can to prevent that customer from causing further harm.

While there is no doubt that the impacts of problem gambling can be significant, it is important to understand the prevalence of problem gambling in the context of online wagering and the broader gambling landscape in Australia. In 2010, the Productivity Commission found that problem gambling affected between 0.5% and 1.0% of the adult population. Of that group, based on robust research, it was estimated that 75%-80% of problem gambling expenditure was attributable to poker machines, with the residual balance spread across other forms of gambling including lotteries, instant win scratch tickets and wagering (land and online based).

It follows that the incidence of problem gambling is extremely low in the online wagering environment and significantly lower again when compared with gambling on poker machines. Anti-gambling advocates have acknowledged that poker machines are the primary source of problem gambling in Australia. According to Independent Senator Nick Xenophon:

*'We know that the predominant cause of gambling addiction in this country is poker machines.'*<sup>5</sup>

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<sup>5</sup> Senate, Hansard, 5 March 2014

Further, in 'one of the most comprehensive research projects undertaken into problem gambling anywhere in the world', the Queensland Government Household Gambling Study<sup>6</sup> did not find any increase in the prevalence of problem gambling over the period 2001 to 2009 – a period over which the online wagering industry was established and experienced significant growth. In fact, the Study indicated a decline in problem gambling prevalence over this time [noting that the decline was 'not statistically significant'].

Sportsbet's commitment to responsible gambling is genuine and demonstrated through the wide range of responsible gambling initiatives and tools we offer that go over and above the obligations imposed on Australian licensed WSPs under state and territory-based laws, regulations, codes of practice and advertising standards.

### **These responsible gambling measures and initiatives include:**

- **Deposit Limits (Voluntary Pre-Commitment)** - Customers are able to set a daily, weekly or monthly limit on the amount of money they are able to deposit into their account. Once set, a deposit limit is subject to a 'cooling-off period' which prevents customers from immediately increasing their limit once it has been reached, ensuring the deposit limit is an effective barrier to the customer betting above their chosen amount. In excess of 25% of new Sportsbet customers elect to set a deposit limit.
- **Take a Break and Self-Exclusion** – Sportsbet recently launched *Take a Break*, a self-service self-exclusion tool which allows our customers to choose when, and for how long, to take a break from betting. *Take a Break* allows our customers to take a short term break (24 hours – 30 days), long term break (6 months, 1, 3 or 5 years) or permanently self-exclude at any time, without needing to contact customer service or submit any forms.
- **Spend-tracking facilities** - Sportsbet provides customers with an easily accessible, transparent and customisable history of all of a customer's transactions, including winning and losing bets, deposits, withdrawals and a running account balance. This allows our customers to apply their own analysis and monitoring of their own behaviour.
- **Specialised Responsible Gambling Officers** – Sportsbet employs a number of Responsible Gambling Officers (**RSG Officers**) who oversee and implement our customer care, escalation and intervention policies. Sportsbet's RSG Officers receive specialised training in responsible gambling, passive listening and how to deal with distressed customers.
- **Mandatory Staff Training** – All employees receive annual responsible gambling training. The training covers topics including the harms of problem gambling, how to escalate a responsible gambling issue and the products and tools we offer our customers to help them stay in control of their betting.
- **Responsible marketing of gambling** - Sportsbet is committed to ensuring that the content of its advertising meets community standards and is compliant with the Australian Association of National Advertisers Code of Ethics (**AANA**). Sportsbet, together with the AWC, has taken a leading role in a new Code of Conduct for advertising in the online wagering sector which was published on 9 November for community consultation. This self-regulation measure will apply a number of specific and tailored controls to advertising in the online wagering sector and ensure all WSPs meet community standards with their advertising.
- **Support for industry self-regulation** – Sportsbet is supportive of all self-regulation measures that have been proposed by the AWC, including an industry wide advertising code of conduct and the banning of the broadcasting of live odds and advertisements during play.

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<sup>6</sup> Queensland Household Gambling Survey, 2012, Pg7

- ***Clock and Session Timer*** – Sportsbet provides a clock and session timer present on every page of the desktop site. This helps ensure customers are aware of how much time they are spending on betting and provides a ‘reality check’.
- ***Responsible Gambling Microsite*** – Sportsbet has a dedicated responsible gambling website that provides detailed information on all of Sportsbet’s responsible gambling tools and encourages customers to assess their own betting behaviour. The website also provides information about support and counselling services.
- ***The implementation of a cash withdrawal card*** so that customers can immediately withdraw money from their account, removing any hindrance or restrictions for customers to access their funds.

# Australia in the context of the global gambling landscape

## Wagering in Australia in 2015

### Australian online gambling spend

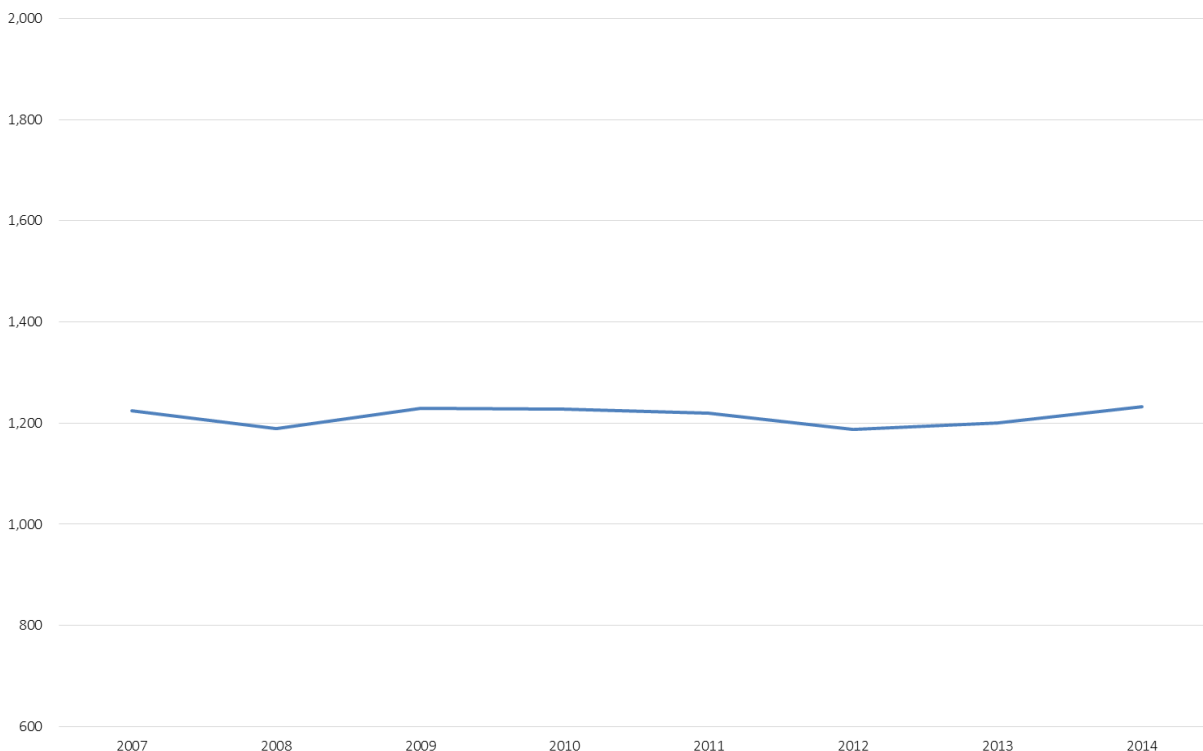
Despite the prohibition on various interactive gambling services in the IGA, Australians spend in excess of \$1.6 billion per annum on online gambling and KPMG reports that spend by Australians into the illegal online gambling market is expected to grow at an average annual rate of 6.3% to \$2.4 billion in 2021 - 22.<sup>7</sup>

### Online wagering spend in Australia

Sports betting accounts for 3% of Australia's total gambling expenditure, with betting on racing accounting for 13.2%.<sup>8</sup>

Contrary to the perception of an 'explosion in wagering', wagering is not growing in Australia in net terms. Figure 1 below shows there has been a slight decline in real wagering turnover spend per person in Australia from 2007.

**Figure 1 – Real Wagering Turnover Per Capita<sup>9 10</sup>**



<sup>7</sup> Estimating the potential size of online tournament poker and in-play wagering markets in Australia, KPMG, November 2012, Pg 4

<sup>8</sup> Australian Gambling Statistics (AGS), 31st Edition, 1988-89 to 2013-14

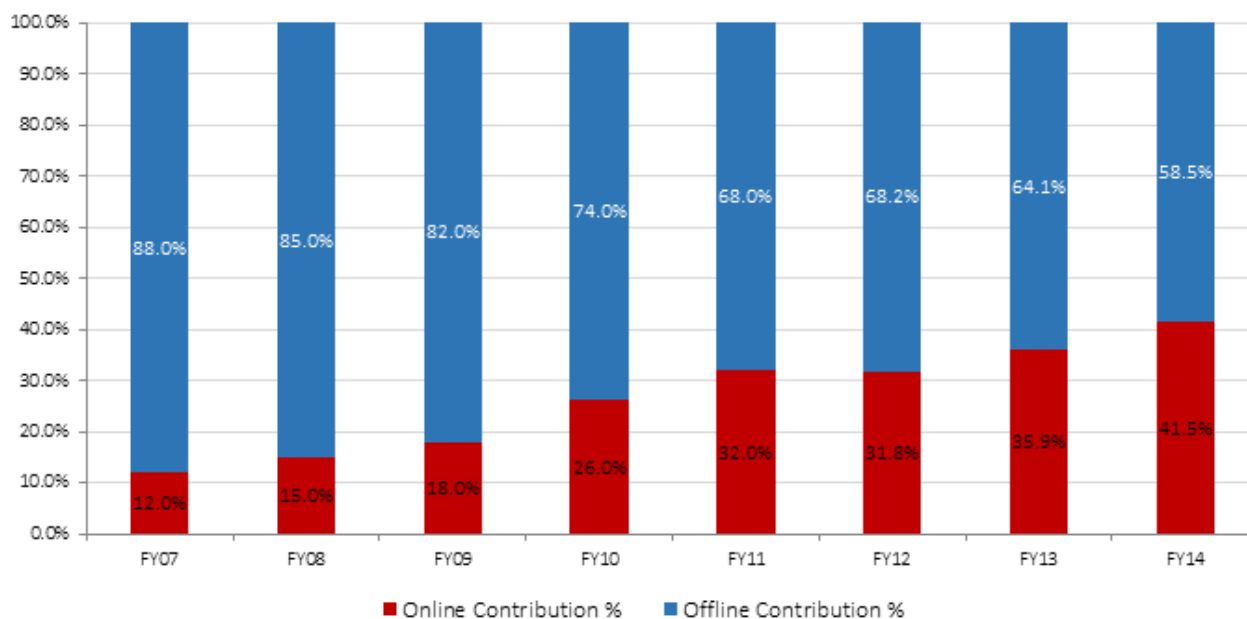
<sup>9</sup> Source: Australian bureau of Statistics; Australian Racing Factbook

<sup>10</sup> Turnover is value of bets places as opposed to player spend

While spend is down, there has been a material shift in the betting channels where that spend is occurring. Vastly improved technology including the high uptake by Australians of digital devices such as smartphones, and tablets<sup>11</sup>, and better innovation has seen a shift from the more traditional wagering channels (i.e. retail outlets, on-course and phone operator) to online channels such as the Internet and smart phones.

Figure 2 below shows total wagering turnover from 2007 to 2014 and the relative contributions of the on-course, retail, phone operator and internet channels and illustrates the growth in the internet and mobile channel and the decline in the retail and traditional phone channels.

**Figure 2 – Australian Wagering Industry - Turnover by Channel**



Australian consumers have taken advantage of new digital technologies and the mobile platform is now overwhelmingly Australian consumers' preferred betting platform.

The Australian wagering sector is highly regulated and not without its complexities with a rich interplay between various Federal, State and Territory laws, industry codes and standards, license conditions and other regulatory obligations. This regulatory framework and attendant complexity can lead to misunderstandings about the market, its operators and the impacts that policy decisions may have, including on consumers betting offshore. Sportsbet addresses some of the chief misconceptions at **Annexure 1**.

### The current Australian regulatory framework in respect of the *Interactive Gambling Act*

The IGA was introduced to minimise the scope for problem gambling online among Australians by limiting provision of online gambling services to Australians through interactive technologies such as the internet.<sup>13</sup> The IGA imposes a broad general prohibition on the provision of 'interactive gambling services' to customers in Australia, including various online casino games such as roulette and poker.<sup>14</sup> There are a number of exceptions to this general prohibition, including:

- a general exception for telephone betting services; and

<sup>11</sup> 70% of Australians go online using a smart phone and 50% with a tablet, see *ACMA Report 1 – Australians' digital lives*, March 2015.

<sup>13</sup> Explanatory Memorandum – *Interactive Gambling Bill 2001* (Cth)

<sup>14</sup> Section 15, IGA

- an exception for services that relate to betting on horse races, harness races, greyhound races or sporting events.

However, the exception for betting on sporting events does not apply to in-play betting over the internet. The relevant provisions of the IGA that deal with this topic are extracted in **Annexure 2**.

The net result of the in-play restriction is to create an inconsistent (*non-platform neutral*) regulatory regime under which in-play betting can be offered to Australian consumers:

- through a telephone betting service,
- through traditional land-based venues such as TAB retail stores including via touch screen terminals;
- through illegal offshore websites; and
- for horse, harness and greyhound races,

but is not allowed on sporting events where the bets are placed online. Table 1 below represents this starkly.

**Table 1 – Methods by which Australians can currently wager in-play**

How can Australians wager <i>in-play</i> legally?	
In a retail outlet	✓
Over the telephone	✓
In a TAB via a touch screen	✓
<u>Via offshore operators</u>	✓
Online on racing	✓
Online on sport	✗

Indeed with established licensed wagering operators William Hill and Bet365 now offering live betting products such as ‘Click to Call’ from their desktop and mobile channels, which involve enabling a ‘microphone’ at bet placement, this further serves to highlight the convergence in technology and the fact that the IGA’s restriction on online in-play betting has become obsolete.

### Australians are wagering with offshore operators to access the in-play product via mobile devices and the internet

Since 2001 when the IGA was enacted, the prohibitions in the Act have become less effective and out-dated as the internet and associated technologies including smart phones have advanced. In a real sense, the IGA is ‘analogue’ legislation ill-suited and ill-equipped to deal with the digital age. Consumers now expect to be able to wager on their mobile devices and over the internet but Australian licensed WSPs cannot legally provide this in-play product.

This has led to significant confusion among Australian punters and means that those who enjoy online in-play betting, which is an established and extremely popular mode of wagering in the global sports-betting industry, are forced to bet with offshore wagering operators, many of which are illegal or unregulated, and who typically operate in a way that is entirely inconsistent with the Australian regulatory environment.

As more Australians turn to offshore operators to access the in-play product, the greater focus these offshore operators place on targeting Australian consumers. We know the offshore operators are targeting Australians as, for example, several Gibraltar-based websites offer online in-play betting on Australian major professional sports such as AFL and NRL. Substantial numbers of illegal offshore operators provide the in-play product to Australian consumers every day and despite the IGA in-play restriction being in operation for 15 years there have been no prosecutions for companies who offer this service to Australians, let alone other forms of interactive gambling.

See below on pages 17 – 20 for key statistics and greater detail of the significant threat of these operators.

What is clear is that given the borderless nature of the internet, if Australian online wagering consumers do not find the products they require in the locally regulated online market, they will seek these products offshore. Blanket gambling prohibition does not work in the digital age. Therefore, measures to address the increasing threat of offshore operators without addressing the root of the problem and the fundamental reason why Australians are betting offshore (access to the in-play product via mobile devices and the internet), will not achieve the outcome Government is seeking. In this context, improving appropriate supply is plainly the best way to cut off popular demand.



# Addressing the Review's Terms of Reference

## The size, growth and impacts of illegal offshore wagering

### The size and growth of illegal off-shore wagering

While estimates of the sheer magnitude of the illegal offshore gambling market vary, the impact it is having on the integrity and viability of Australia's racing and sporting landscape and to Australian consumers is significant.

In announcing the Review, former Minister for Social Services, the Hon. Scott Morrison referenced Australian Institute of Family Studies statistics that online gambling is a \$1.6 billion dollar business in Australia with sixty per cent (and therefore \$960M) of this revenue going offshore to more than 2,000 sites beyond the reach of Australian regulators and tax collectors.<sup>15</sup>

Of the estimated \$1.6 billion spent by Australians on online gambling each year, H2 Gambling Capital (**H2GC**) (a highly respected market data and intelligence consultancy specialising in the global gambling industry whose *Australian Offshore Interactive Wagering Independent Report* can be accessed at **Annexure 5**) estimates that offshore wagering operators enjoy revenue of approximately \$480M a year<sup>16</sup> wagered by Australian punters. This is resulting in nearly \$50M in GST leakage per annum to governments (to the detriment of the broader community and grass roots sport), *as well as* millions of dollars in lost 'product fees' for Australian racing and sports controlling bodies levied by those bodies on Australian licensed wagering providers in return for permission to offer wagering on those codes.

This \$480M in revenue being enjoyed annually by illegal offshore operators is expected to grow rapidly with the 2014 Victorian Police Sports Integrity Symposium reporting approximately 2,500 illegal offshore operators, in Asia alone, targeting and offering online in-play wagering to Australian customers, along with thousands of other illegal offshore gambling operators offering higher risk forms of interactive gambling such as online roulette and casino games.<sup>17</sup> In the current quarter (Q4 2015) H2GC has identified:

*'... 383 offshore interactive gambling sites operated by 175 operators that are targeting Australian players. The number of operators targeting the market is up by 140% in the past three years.'*<sup>18</sup>

Even more disturbing are estimates from H2GC that show the growth trajectory of illegal offshore wagering spend by Australians by 2020 will have increased to a staggering \$2.2-2.3B leaving Australia in lost wagering profits, and a further \$100M per annum in tax leakage.<sup>19</sup>

There is only limited product loyalty in the online wagering industry and consumers can easily and do compare prices and switch providers. Although Australians have demonstrated that they would prefer to transact with regulated onshore wagering service providers, given the borderless nature of the internet, if online wagering consumers do not find the products or prices they require in the locally regulated online market, they will seek alternative products offshore.

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<sup>15</sup> The Hon. Scott Morrison MP, Minister for Social Services, *Coalition government tackles illegal offshore wagering*, Media Release, 7 September 2015

<sup>16</sup> *Australian Offshore Interactive Wagering Independent Report*, H2 Gambling Capital, November 2015, Pg 32

<sup>17</sup> The Joint Select Committee on Gambling Reform (2011) suggested more than 2000 gambling websites were available to Australians, figures backed up by the 2014 *Interactive Gambling Report*, which indicated a figure in excess of 2300 illegal operators.

<sup>18</sup> *Australian Offshore Interactive Wagering Independent Report*, H2 Gambling Capital, November 2015, Pg 32

<sup>19</sup> *Australian Offshore Interactive Wagering Independent Report*, H2 Gambling Capital, November 2015, Pg 2

Alarming, a representative survey of Australian consumers who hold a betting account with an online wagering service provider has found that 1 in 5 (20%) Australian punters have opened an account and bet with an offshore wagering operator.

The significant size and growth of the illegal offshore gambling market, including wagering, is further demonstrated via the following statistics:

- in 2010 the Productivity Commission Report estimated \$1 billion was lost annually to illegal offshore operators;
- the DBCDE estimated in its *Final Report 2012 – Review of the Interactive Gambling Act (2012 Review of the IGA)* that Australia’s interactive gambling spend was \$1.6 billion, with 60% spent with illegal offshore operators<sup>22</sup>; and
- the Joint Select Committee on Gambling Reform (2011) suggested more than 2000 illegal gambling websites were available to Australians, figures corroborated by the *2014 Interactive Gambling Report*, which indicated a figure in excess of 2,300 illegal operators.

### The serious impacts of illegal offshore wagering operators on Australia

The effects of Australians being targeted by, and wagering with, illegal offshore wagering operators are considerable and include:

**Impacts to Australian consumers** - Australian consumers are at serious risk by betting with illegal offshore operators, many of whom have next to no responsible gambling and consumer protection measures and who have a history of not returning customers’ winnings. Summarising the vast and significant risks associated with betting with illegal offshore operators, Racing Victoria Chief Executive Bernard Saundry said:

*‘Punters electing to bet with unapproved offshore bookmakers are not only transacting with a business which is undermining the racing industry by paying no race-field fees, but they may risk doing their money cold.’<sup>23</sup>*

**Seriously compromising sports integrity** - Illegal offshore operators pay no product fees to racing and sports controlling bodies. Also, unlike licensed Australian wagering service providers, illegal offshore operators do not have information sharing agreements with racing and sporting authorities to assist in the detection of suspicious betting activity, seriously compromising sports integrity.

**Growing tax leakage** - Illegal offshore wagering operators currently enjoy revenue from Australians of approximately \$480M a year. By 2020, this will amount to a staggering \$2.2-2.3B leaving Australia in lost wagering profits, and a further \$100M per annum in tax leakage.

**An uncompetitive environment for Australian licensed wagering providers** - Australian licensed wagering providers suffer a significant and unnecessary regulatory burden which places them at a competitive disadvantage to offshore operators, who are able to offer in-play betting on a platform neutral basis.

**Interrelationships with criminal industries and networks** – Across the globe, law enforcement officials and gambling regulators warn of the dangerous links between unlicensed and unregulated wagering operators and organised crime. Early this year we learned of AFP and QLD police investigations into the alleged illegal

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<sup>22</sup> *Final Report of the Review of the Interactive Gambling Act 2001*, p29

<sup>23</sup> Nino Bucci, Patrick Bartley, Nick McKenzie, Police Raid Vanuatu Bookmaker with Melbourne Underworld Links, *The Age*, 18 May 2015, <http://m.theage.com.au/victoria/police-raid-vanuatu-bookmaker-with-melbourne-underworld-links-20150518-gh3ivb>, Accessed 19 May 2015

activities of Vanuatu-based operator, Betjack, reported to have links to Melbourne gangland figures.<sup>26</sup> Queensland detectives are believed to have investigated whether an associate of a jailed drug lord had taken over the business from a convicted criminal.

It is imperative that the Government ensures that Australians can access the products they prefer in a safe, legal, regulated domestic market.

### Negative social, integrity and financial impacts of illegal offshore wagering

H2GC observe that because of the slow pace of regulatory change to respond to the consumer shift toward interactive wagering worldwide:

*'...considerable economic advantages to operating an offshore sportsbook have emerged. In short, offshore operators: pay no taxes, pay no licensing fees, pay no product fees, contribute no prize money to sport, contribute no funds to sport running costs – facilities, grass roots and/or elite programmes, contribute no funds to preserving sports integrity and contribute no funds to promoting responsible gambling.'*<sup>27</sup>

With the above in mind, Table 2 below illustrates the fundamental negative consumer harms, social, integrity and financial impacts offshore illegal wagering operators have on Australia and serves to highlight the importance of wagering regulatory reforms to ensure the millions of Australians who enjoy having a punt are channelled to bet with Australian licensed WSPs in Australia's highly regulated environment.

**Table 2 – Comparison between Australian licensed wagering service providers and illegal offshore wagering operators**

Online regulatory wagering landscape	Australian licensed online wagering service providers	Illegal Offshore Wagering Operators
<b>Harm Minimisation and Consumer Protections</b>		
Offer sophisticated and comprehensive responsible gambling measures and programs	✓	✗
Offer robust consumer protection measures and programs	✓	✗
<b>Social Impacts</b>		
Promote employment in Australia	✓	✗
Contribute to the community through sponsorships across Australia	✓	✗
Share wagering information with Australian racing and sports controlling bodies to protect and enhance the integrity of sport	✓	✗
Operate legal businesses that ensure consumers can access their money	✓	✗
<b>Economic Impacts</b>		

<sup>26</sup> Nino Bucci, Patrick Bartley, Nick McKenzie, Police Raid Vanuatu Bookmaker with Melbourne Underworld Links, The Age, 18 May 2015, <http://m.theage.com.au/victoria/police-raid-vanuatu-bookmaker-with-melbourne-underworld-links-20150518-gh3ivb>, Accessed 19 May 2015

<sup>27</sup> Australian Offshore Interactive Wagering Independent Report, H2 Gambling Capital, November 2015, Pg 17

Pay taxes to Australian Government (e.g. GST, income tax)	✓	✗
Pay product fees to Australian racing and sports controlling bodies	✓	✗
Pay State & Territory licensing fees in Australia	✓	✗
Invest heavily in developing new and innovative technology and digital products in Australia	✓	✗

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

In announcing the Review, the Government noted that a number of countries have developed actions to address issues of unauthorised wagering operators, thus leading the Review to examine regulation in overseas jurisdictions that could be applied in Australia.

The international experience strongly points to the fact that the jurisdictions that implement a strict domestic regulatory regime for the provision of online wagering services have been more effective in protecting consumers than those that have imposed a blanket ban on wagering. Many governments in major western countries over the past decade including the UK, Italy, France and Denmark have decided that in order to mitigate the risks of problem gambling and preserve the integrity of sport, the most effective public policy measure is to permit wagering under a regulated onshore licensing regime. H2GC observe:

*'Those [jurisdictions] that have successfully controlled interactive offshore wagering through the process of regulation...have created fair and competitive environments for licensed operators that, in turn, attract their citizens away from their unlicensed offshore competitors, and so wager on sites that provide good consumer protection and contribute tax revenues to the state.'*<sup>28</sup>

### The importance of supply and demand in the international market

A report conducted by Gambling Compliance Research Services (**GCRS**) in 2014<sup>29</sup> found that internationally, jurisdictions are regulating both the supply and demand for online gambling by restricting access to a market for unlicensed operators, while providing a licensed and legal alternative. In the European context, restricting the access to, and the supply of, online gambling services to licensed operators has been termed "channeling", with regulation seeking to channel players from illegal websites to the regulated market. This is the case for both federally governed jurisdictions, such as Spain, and unitary governments, such as France. In comparison, the report notes, Australia's IGA simply restricts the *supply* of online gambling services.

This latter point is critical as it is imperative that the Government takes account of how Australians interact with the global online market, because if a wagering product or service is or becomes prohibited or unviable for domestic operators to offer, Australians will still be able to, and do, readily access the same products online through unregulated overseas websites. H2GC reinforce this:

*'Australia has one of the biggest grey markets in the world. Numerous commercial offshore operators illegally target the country, but it still remains legal for Australian citizens to use them.'*<sup>30</sup>

These unregulated offshore websites do not meet Australia's stringent regulatory requirements for consumer protection and harm minimisation, nor contribute to protecting the integrity of Australian sport and racing.

### Providing customers with attractive, competitive products to 'channel' consumers to licensed domestic providers

Sportsbet has long held the view that in order to address the serious adverse impacts of offshore operators, domestic providers must be able to provide the products that Australians are seeking offshore.

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<sup>28</sup> *Australian Offshore Interactive Wagering Independent Report*, H2 Gambling Capital, November 2015, Pg 25

<sup>29</sup> *Harm Minimisation, Sports Integrity & Emerging International Practices in Online Gambling Regulation*, GamblingCompliance, July 2014

<sup>30</sup> *Australian Offshore Interactive Wagering Independent Report*, H2 Gambling Capital, November 2015, Pg 43

The GCRS Report found through its analyses of international markets, that the product suites permitted to be offered internationally by licensed operators are much broader than the limited exceptions under the IGA available to Australian providers. Crucially, these international markets permit their operators to provide most forms of online gambling, with *all* markets permitting in-play betting and applying a platform neutral approach to wagering.

H2GC take a consistent view, that:

*'Australia is one of the only countries in the world where such a level of prohibition exists... the reality is that the IGA ruling has made offshore providers that much more attractive and easier for Australian consumers to bet with, than their licensed and highly regulated onshore contemporaries.'*<sup>31</sup>

In the UK for example, section 4 of its *Gambling Act*, defines remote gambling as 'gambling in which persons participate by the use of remote communication'. The GCRS Report observes with the respect to the Act that:

*'The definition of remote communication is therefore platform neutral and therefore could encompass accessing gambling services from a desktop computer, smartphone, tablet, or even telephone betting.'*<sup>32</sup>

International best practice recognises that to mitigate the impact of illegal offshore operators, jurisdictions must create a regulatory environment that supports domestically licensed providers being able to offer a complete suite of wagering products to its customers. To this end, the GCRS Report noted:

*'The concept of "channeling", which most European markets use as a means to restrict supply of gambling services, provides justification for permitting licensed operators to compete with black market offers through competitive and similar product suites, in order to not be put at a competitive disadvantage to unlicensed operators.'*<sup>33</sup>

H2GC pick up on this theme writing that:

*'Interactive – is totally consumer led: Interactive operators are part of a highly competitive international environment... players have greater control because purchasing decisions are not limited by location or time.'*<sup>34</sup>

## **Australia should follow leading international regulatory regimes and adopt a platform neutral approach**

Research clearly shows that international markets have successfully created online regulatory regimes which are platform neutral and therefore do not discriminate between customers accessing services in person or via a computer, tablet or over a telephone. This has resulted in having the same gambling product regulated uniformly and consistently across platforms and subject to the same rules and consumer protections.

For instance, as the GCRS Report outlines, a UK customer can place an in-play bet in person at a land-based betting shop, over a smartphone, or over telephone and therefore will be subject to the same protections found in the UK's gambling regime, including license conditions and codes of conduct operators are required to uphold. This of course makes complete sense and serves to further highlight the inconsistency of

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<sup>31</sup> *Australian Offshore Interactive Wagering Independent Report*, H2 Gambling Capital, November 2015, Pg 19

<sup>32</sup> *Harm Minimisation, Sports Integrity & Emerging International Practices in Online Gambling Regulation*, GamblingCompliance, July 2014, Pg 11

<sup>33</sup> *Harm Minimisation, Sports Integrity & Emerging International Practices in Online Gambling Regulation*, GamblingCompliance, July 2014, Pg 5

<sup>34</sup> *Australian Offshore Interactive Wagering Independent Report*, H2 Gambling Capital, November 2015, Pg 12

Australia's laws. Using the same example, an Australian punter is able to place an in-play bet on a horse race online, but not on the outcome of an AFL or State of Origin game at half-time. Likewise, the punter can place in-play bets over a telephone call or at a land-based venue, but not online for sporting events.

There is a clear link between prohibiting certain wagering products Australians want and those Australians wagering offshore. As noted in the GCRS Report:

*'One consequence of this inconsistent regulatory approach in Australia is that it risks driving Australian players to seek out black market online betting sites which offer a more attractive range of betting products compared to those available on the regulated market.'*<sup>35</sup>

Not only is it straightforward and common sense, but international experience and best practice demonstrates that removing the in-play restriction is prudent to ensure Australians receive the best responsible gambling and harm minimisation protections by wagering in a highly regulated environment.

### Enhanced sports integrity in regulated betting markets

Australia's approach to match-fixing has been world leading with the development of its National Policy on Match-Fixing in Sport acting as a catalyst for other countries who are implementing similar models.

Australia's Match-Fixing Policy notes that all Australians expect that the sport they watch or participate in is played honestly and to the ideals of fair play and good sportsmanship. Fraudulent betting on sport and the associated match-fixing is an emerging and critical issue globally for sport, the betting industry and governments alike. It has the potential to undermine public confidence in the integrity of sport, sporting events and the markets offered by betting agencies and if left unchecked, this corruption will compromise the integrity of sport and diminish the acceptability and effectiveness of sport as a tool to develop and support many aspects of our society.

It has been suggested that in-play betting on contingencies within sporting events is susceptible to manipulation for match fixing purposes. However the European experience shows:

*'Far from being a threat to sports integrity, [regulated betting markets] are a key bulwark in efforts to combat match-fixing. This is because regulated markets provide for a range of sports integrity measures to be in place.'*<sup>36</sup>

Crucially, the GCRS Report observed that although Australia has been a leader in many respects in combating match-fixing, it is an outlier compared with international jurisdictions, as its suite of regulated online betting offers does not match up to those offered by unlicensed operators acting on an unregulated market.

*'By bringing online in-play betting into the regulated market, information sharing and monitoring systems will gather data and any suspicious betting patterns or other related sports integrity threats can be illuminated for authorities to act upon.'*<sup>37</sup>

Australia cannot consider itself world leading in measures to combat anti-corruption in sport and promote sports integrity when it is lagging behind the rest of the world in these vital respects.

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<sup>35</sup> Harm Minimisation, Sports Integrity & Emerging International Practices in Online Gambling Regulation, GamblingCompliance, July 2014, Pg 5

<sup>36</sup> Harm Minimisation, Sports Integrity & Emerging International Practices in Online Gambling Regulation, GamblingCompliance, July 2014, Pg 5

<sup>37</sup> Harm Minimisation, Sports Integrity & Emerging International Practices in Online Gambling Regulation, GamblingCompliance, July 2014, Pg 5

## Prevalence of problem gambling in international jurisdictions

With the focus of this Review on examining regulation in overseas jurisdictions that could be applied in Australia, it is important to consider whether there is anything that can be gleaned from the international context as regards the social impacts of removing the in-play restriction, such as with respect to the prevalence of problem gambling.

Looking to the prevalence of problem gambling in international jurisdictions, the GCRS Report notes that the UK has commissioned periodic prevalence studies, and importantly, the studies have been commissioned both prior to, and after online gambling regulations came into force. These studies include Gambling Prevalence Studies in 1999, 2007, 2010 and 2013.

*'The results to date indicate that gambling prevalence rates have remained stable over the years in the UK, suggesting that regulating online gambling has not led to a spike in problem gambling.'*<sup>38</sup>

Sportsbet has not seen any evidence in any jurisdiction that online in-play betting poses a specific, identifiable risk to problem gambling as opposed to other modes of wagering. This is supported by leading academic Dr Sally Gainsbury who states that:

*'Despite widely cited concerns over the potential for internet gambling to dramatically increase the number of people experiencing gambling problems, there is little evidence to indicate that the prevalence of problem gambling has increased worldwide, or in countries that have liberalised access to online gambling.'*<sup>39</sup>

Rather than increasing the prevalence of problem gambling, adopting a platform neutral approach to in-play betting will aid the millions of Australian consumers who enjoy a wager, in so far as it will provide them with a choice to bet with Australian-based licensed wagering service providers rather than forcing them to bet with black market offshore wagering operators. This will ensure they receive the benefit of the robust harm minimisation and consumer protection measures that Australian licensed wagering service providers are required to have in Australia's highly regulated environment.

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<sup>38</sup> Harm Minimisation, Sports Integrity & Emerging International Practices in Online Gambling Regulation, GamblingCompliance, July 2014, Pg 22

<sup>39</sup> See Dr Sally Gainsbury, Gambling Research and Education Centre, Southern Cross University, *Internet Gambling: Current Research Findings and Implications*, [2012]



## Technological and legislative options that are available to mitigate the costs of illegal offshore wagering

The digital age is the age of continuous change. While directors are navigating their organisations through an accelerating period of change and disruption, criminals too are taking advantage of an increasingly borderless world. Technology has changed the behavioural patterns of consumers and adoption of these technologies is steadily increasing. Given the borderless nature of the internet, if consumers do not find the products they require in local markets, they will seek alternative products offshore.

Online sports-betting is a global industry and Australian policy decisions and legislation must take account of the practicalities of how Australians interact with the global market. The DBCDE 2012 *Review of the IGA* estimated that there may be approximately 2,200 online gambling providers providing services to Australians in contravention of the IGA.

If a wagering product or service is or becomes prohibited or unviable for domestic operators to offer, Australians will (acting lawfully) still be able to, and do, readily access the same products online from illegal offshore operators.

In this section, we address, in turn:

- a. the merits of some of the principal technological options that may be available to mitigate the costs of illegal offshore wagering; and
- b. key legislative options we recommend the Government must implement to mitigate the costs of illegal offshore wagering.

### Technological options to mitigate the costs of illegal offshore wagering

Two potential technological measures which have been canvassed as options to mitigate the costs of illegal offshore wagering are:

- **Internet blocking** - intended to restrict access to information or resources typically hosted in another jurisdiction. Its primary objective is to prevent specific content from reaching customers' devices connected to the blocking ISP; and
- **Financial transaction blocking** – the blocking of financial transactions by Australian residents with designated prohibited offshore operators.

Regrettably, the merit and effectiveness of each option is highly questionable and not feasible in the current technological landscape; each of these options is discussed in turn below.

### Internet blocking is easily circumvented and is not a viable solution

There are two common types of blocking conducted by an ISP:

1. *DNS filtering* – where a user is prevented from accessing a pre-defined website at the PC level; and
2. *IP blocking* – which prevents the connection between a server/website and one or more IP addresses.

Sportsbet understands that IP address blocking is more common and more successful than DNS filtering, although for the reasons that follow, neither are effective or feasible in the current technological landscape.

IP address blocking seeks to prevent connections between a server/website and the targeted IP addresses generally by blocking access to the relevant IP address of content sought to be accessed.

A report prepared by The Centre for Internet Safety at the University of Canberra titled *IP and Financial Transaction Blocking in the context of Online Wagering (Internet Safety Report)* - the report can be found at **Annexure 4** - found that IP blocking is ineffective given the proven and well-established technological methods to circumvent blocking, including:

- use of common ‘tunnelling’ (privacy) software that encrypts online searches and prevents blocking software from seeing the web request (discussed in further detail below);
- use of foreign proxy servers to bypass an ‘Australian’ block;
- users switching to another name server; and/or
- at the website end, by changing the website configuration to a different address.

Put simply, IP blocking is most commonly circumvented by privacy tools such as a ‘Virtual Privacy Network’ (VPN). VPNs are used to protect a user’s data and identity by routing a user’s internet activity through an IP address other than their own. They are extremely common, and are used for several reasons – legal, illegal and ideological – but always result in a user’s IP address being undeterminable and therefore will defeat any blocking attempt.

Internet blocking has proven to be ineffective and easily circumvented in a wide range of contexts and sectors. This can be demonstrated by the extent of Australian consumers using technological workarounds to access pirated content such as movies and music. With the introduction of legal subscription services like Netflix however, we are seeing the start of a turnaround in the fight against piracy, as for the first time, consumers have access to a legal domestic market that can compete with content available illegally.

In addition to the above shortcomings, blocking technologies have varying associated costs and bring about additional risks of:

- over-blocking (i.e. unintentionally preventing lawful and plainly acceptable content from being distributed); or
- under-blocking (i.e. not preventing illegal content from being distributed).

As noted in the DBCDE 2012 *Review of the IGA*, a blocking approach to mitigate the costs of illegal offshore wagering (unfairly) ‘places ISPs in a position where they would be enforcing prohibitions on gambling with overseas providers where there is no law that currently prevents Australian citizens from gambling on these sites. Implementing such blocking tools would be strongly opposed by ISPs and other key stakeholders’.

Ultimately, the Internet Safety Report concludes:

*‘DNS filtering – is minimally effective, risky in terms of security, costly in terms of monitoring and presents many side effects and IP blocking – has many shortcomings, particularly the use of using virtual private network tunnelling techniques.’<sup>40</sup>*

In light of the above, it is our submission that internet blocking is ineffective, easily circumvented and can have considerable significant adverse unintended consequences.

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<sup>40</sup> *IP and Financial Transaction Blocking in the context of Online Wagering*, The Centre for Internet Safety, University of Canberra, April 2015

## Financial transaction blocking has not proven effective and is not a viable solution

Similarly, the Internet Safety Report found that financial transaction blocking is not the panacea many think it is because, like IP blocking, there are several well-established methods which can be deployed with ease to circumvent a block. Financial transaction blocking is generally carried out by international authorities by blocking Merchant Category Codes (MCC) used in internet banking transactions. However, this can be overcome by:

- both operators and consumers as the MCC is not able to differentiate between different types of gambling, or between legal or prohibited services offered by the same operator;
- operators failing to disclose their merchant status as gambling operators;
- use of foreign bank accounts or alternative payment methods without MCC; and/or
- use of non-traditional payment systems, such as e-wallets which will also bypass financial blocking methods.

The merits of internet and financial transaction blocking were thoroughly researched for the DBCDE 2012 *Review of the IGA*, which noted:

*'A number of stakeholders have suggested that financial restriction measures be implemented in Australia to support enforcement of the IGA. While these measures appear feasible, their effectiveness has not yet been sufficiently verified.'*<sup>41</sup>

The international experience supports this view. By way of example, the 2011 Joint Select Committee noted challenges with the effectiveness of measures introduced in the United States in 2006, noting that while they have had some impact, circumvention methods still allow access:

*'Professor Robert Williams and Associate Professor Robert Wood agreed that the introduction of the Unlawful Internet Gambling Enforcement Act 2006 resulted in a 25 per cent decrease in the number of online gambling sites accepting bets from US citizens. However, they argued that this reduction has not been permanent, with many US citizens participating in online gambling and finding ways around the restrictions imposed by the legislation.'*<sup>42</sup>

The DBCDE 2012 *Review of the IGA* concluded that while financial transaction blocking mechanisms may have value in causing a disruptive effect on the operation of prohibited gambling providers:

*'The key is whether there is a sufficiently cost-effective means of financial transaction blocking that would enable a significant level of disruption to the ability of prohibited online gaming providers to access Australian customers—noting that any such blocking would be capable of being circumvented by people sufficiently motivated to do so.'*<sup>43</sup>

The Internet Safety Report concluded that, rather than technological workarounds:

*'Consumer protection may be better preserved through attractive and internationally competitive regulation which keeps consumers away from the black market.'*<sup>44</sup>

Given the ineffectiveness of internet and financial transaction blocking outlined above, it is all the more important to consider what legislative options exist to mitigate the serious impact of illegal operators.

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<sup>41</sup> *Final Report of the Review of the Interactive Gambling Act 2001*, p75

<sup>42</sup> Parliamentary Joint Select Committee on Gambling Reform, Second report—Interactive and online gambling and gambling advertising; Interactive Gambling and Broadcasting Amendment (Online Transactions and Other Measures) Bill 2011, p. 97.

<sup>43</sup> *Final Report of the Review of the Interactive Gambling Act 2001*, p85

<sup>44</sup> *IP and Financial Transaction Blocking in the context of Online Wagering*, The Centre for Internet Safety, University of Canberra, April 2015

## Legislative options to mitigate the costs of illegal offshore operators

Presently, there is no uniform requirement that in order to offer wagering services to Australian consumers the wagering operator must hold a wagering licence issued by a Commonwealth, State or Territory government or regulatory body. Making this simple and prudent legislative change would bring Australia in line with leading international jurisdictions.

As outlined earlier, although Australians have demonstrated that they would prefer to transact with regulated onshore wagering service providers, given the borderless nature of the internet, if online wagering consumers do not find the products they require in the locally regulated online market, they will seek alternative products offshore.

In light of that, Sportsbet recommends that two simple and logical legislative measures be implemented to effectively mitigate the costs of illegal offshore operators:

- make it a legal requirement to be licenced in Australia in order to be permitted to offer wagering services to Australian consumers; and
- adopt a *platform neutral* approach to in-play betting by removing IGA's online in-play restriction.

The reasons for Sportsbet's submission that a platform neutral approach to in-play betting must be implemented and the logical and responsible method for doing so follow.

## Adopting a platform neutral approach in the IGA is a straightforward legislative change

The inconsistent treatment of in-play betting conducted online is the result of a single provision in section 8A(2) of the IGA, which takes this type of in-play betting outside the scope of the general exception that otherwise would apply for services for betting on sporting events.

It would be straightforward to amend the IGA to remove this inconsistency, as it would simply be a matter of deleting section 8A(2). Following this change, the same rules would apply to online in-play betting on sporting events as currently apply for betting on horse, harness and greyhound races, telephone bets and in retail TAB venues.<sup>45</sup>

However, in order to effectively adopt a platform neutral approach to in-play betting without compromising protections provided to Australian consumers and the integrity of sport, Sportsbet recommends that *micro-betting* or 'spot betting' (i.e. betting on the outcome of the next ball in a cricket match or the next point in a tennis match) be prohibited across *all* technological platforms, and that State and Territory governments similarly legislate to prohibit micro-betting over the telephone and in retail outlets. This draws on international precedents, including in France, where in-play betting is permitted but micro-betting is not.

Given the propensity for micro-betting to give rise to at risk behaviour, Sportsbet maintains that it should remain illegal and the simplest and most effective means to implement this in relation to online wagering in the absence of s8A(2) of the IGA would be to create a new, for instance, s8A(3)(f) which includes an appropriate definition for micro-betting. This was, after all, the real vice the IGA in-play prohibitions were introduced to address, as the explanatory memorandum made clear.

In this context, Sportsbet considers that micro-betting needs to be clearly defined to include the placing, making, receiving or acceptance of bets which have the following characteristics:

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<sup>45</sup> There would be no need to make any additional changes to the IGA, and the deletion of section 8A(2) would not adversely affect the remaining provisions of the IGA.

- the betting opportunity is repetitive, of a high frequency and is part of a structured component of the relevant match or game;
- the bet is placed on one of a limited number of possible outcomes (for example, whether the next serve will be a fault, or whether the next ball in a cricket match will be a no ball); and
- the time between placing the bet and knowing the outcome is very short (less than 2 minutes).

If a bet type satisfies all three of the above criteria, it would be classified as a micro-bet and therefore be prohibited.

Sportsbet considers that the above proposed definition would better clarify the micro-betting prohibition. In addition, Sportsbet recommends that relevant State and Territory regulatory bodies and, where they exist, relevant sporting bodies should be (and are) empowered as the controlling bodies to approve specified bet types in accordance with the Product Fee and Integrity Agreements with licenced Australian WSPs. If a bet is not approved by the relevant sporting body, licensed Australian WSPs would not be permitted to take bets on that type of market. The effectiveness of this measure is well established.

For example, Part 5 of the *Gambling Regulation Act 2003* (Vic) (**GRA**) establishes a platform-neutral regime to control the types of bets that can be offered by bookmakers on sporting events in connection with Victoria and to facilitate information sharing between these bookmakers and relevant sports controlling bodies in order to help guard against potential threats to sports integrity. The net effect of the Victorian regime is that Australian licensed betting operators are precluded from offering any markets (or bet types) on major sports unless they are specifically approved by the sports controlling body, based on its expert assessment of any risks the relevant market or bet type may pose to the integrity of the sport.

Sportsbet submits that sporting bodies in particular have the requisite expertise in relation to the sports which they govern to carry out this role most effectively. In addition, the GRA provides an additional safeguard pursuant to s4.5.29 which empowers the Commission to prohibit wagering on any type of contingency if the Commission believes (either of its own volition or on application of a sporting body) that a bet type may, among other things, expose the relevant event to unmanageable integrity risks or be contrary to public policy.

In relation to the third element of the micro-betting definition, Sportsbet submits that any time period longer than two minutes would cause significant ambiguity and lead to inadvertent breaches of the prohibition. Further, the proposed two minute period would clearly capture those high repetition events such as those covering the next ball in a cricket match or the next point in a tennis match.

Finally, Sportsbet also recommends that State and Territory governments properly give effect to the above proposed change by ensuring that micro-betting across all wagering platforms, including in relation to bets placed over the telephone or in retail outlets, be outlawed.

In sum, adopting a platform neutral approach to in-play betting in the manner outlined above would provide various and significant public policy benefits to numerous stakeholders, and do so in a clear and responsible manner to ensure that the type of wagering that can give rise to at risk behaviour remains outlawed. The various and significant benefits associated with removing the in-play restriction in the IGA are discussed below.

## The IGA's in-play restriction is not working and there is strong support for a platform neutral approach among policy makers, gambling research academics and Australia's major sports controlling bodies

There is a long list of evidence and findings that the IGA has been grossly ineffective in preventing offshore-based gambling operators from providing prohibited services to Australians. This includes the:

- 2010 Productivity Commission *Inquiry Report into Gambling* which recommended that Australian licensed operators be allowed to offer online in-play betting to Australian customers;
- 2012 DBCDE Review of the IGA which acknowledged that while the primary objective of the IGA is to reduce harm to problem gamblers and to those at risk of becoming problem gamblers, evidence suggests that it is making only a very minor contribution to this objective and that the IGA may in fact be exacerbating the risk of harm because of the high level of usage by Australians of prohibited services which may not have the same protections that Australian licensed online gambling providers are required to have<sup>46</sup>;
- 2014 *Interactive Gambling Report*, commissioned by Gambling Research Australia, which found the IGA lacks effectiveness, illustrated in particular by high participation rates by Australians on prohibited overseas-based online services and is out of step with international regulatory best practice; and
- 2015 *Harper Competition Policy Review* which noted the AWC's contentions in relation to the anti-competitive nature of the IGA and agreed that gambling regulations should be included in a new round of regulation reviews to ensure that they are not unduly restricting competition. These are important observations and policy imperatives and Sportsbet recommends they should be front-of mind for the Federal Government, including in the context of the current Review.

The recommendation in the 2012 Review of the IGA to update the IGA to remove the in-play restriction on licensed Australian wagering service providers is also strongly supported by leading Australian gambling researcher and academic, Dr Sally Gainsbury, who states:

*'The DBCDE recommendation to adopt a 'platform neutral' approach that makes no distinction in the way that bets are placed is an important step for consistent gambling policy. Regulation of in-play wagering should be consistent across online operators, via telephone and land-based outlets. This is consistent with the recommendations of the Joint Select Senate Committee on Gambling Reform.*

*The recommendation to permit online in-play betting on the final outcome of sports events and on exotic bets (that is pre-defined events within an event) is appropriate given that these types of bets are currently permitted over the telephone and at physical venues. Given the substantial in-play betting market held by offshore operators, legalising this form of betting in Australia is essential in encouraging operators to become regulated within Australia. This regulatory change is also important to enable legal wagering sites to compete with offshore operators and operators that have land-based venues.<sup>47</sup>*

It is imperative that the Government take account of how Australians interact with the global online market because if a wagering product or service is or becomes prohibited or unviable for domestic operators to offer, Australians will still be able to, and do, readily access the same products online through unregulated overseas websites. These websites do not meet Australia's stringent regulatory requirements for consumer

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<sup>46</sup> Final Report of the Review of the Interactive Gambling Act 2001, p6

<sup>47</sup> Submission by Dr Gainsbury from the Centre for Gambling Education and Research, Southern Cross University to the Department in response to the Department's Interim Report on the review of the IGA dated 25 June 2012, pp 25-26.

protection and harm minimisation, nor contribute to protecting the integrity of Australian sport and racing. This is reinforced by H2GC who observe:

*'[that] just over 50% of interactive gambling spend of the Australian player is expected to take place with offshore operators – mainly due to the lack of availability of in-play betting and gaming. The inability of onshore operators to offer these products has led to an increasing number of offshore suppliers stepping into the void in recent years.'*<sup>48</sup>

The international experience strongly points to the fact that the jurisdictions that implement a strict regulatory regime for the provision of online gambling services have been more effective in protecting consumers than those that have imposed a blanket ban on products such as online in-play wagering. Many governments in major western countries over the past decade including the UK, Italy, France and Denmark have decided that in order to protect their citizens from problem gambling and preserve the integrity of sport, the most effective public policy measure is to permit online wagering under a regulated onshore licensing regime.

Removing the in-play restriction will not only reap the Government benefits in terms of minimising growing GST leakage (by permitting punters to place wagers with Australian licensed wagering service providers rather than illegal offshore wagering operators who do not pay GST) and product and wagering fees, but also address a serious regulatory burden for Australian online WSPs. It is imperative that the Government provides a regulatory framework for wagering that encourages Australian consumers to interact with Australian WSPs.

Even traditional bookies such as Tabcorp understand the need for Australian licensed operators to offer in-play betting, stating in a media release in 2012:

*'The deregulation of certain online gambling activities, such as live betting on sports events and tournament poker, would enable Australians who wish to participate in such activities to bet with reputable Australian operators, rather than force them to bet with contravening offshore or local operators.'*<sup>49</sup>

Critically, H2GC suggest that in-play accounts for up to \$275-300M of the \$480M in revenue being enjoyed annually by illegal offshore operators.<sup>50</sup>

## Public policy benefits of removing the in-play restriction

Sportsbet considers that removing the in-play restriction will have four key benefits from a public policy perspective, each of which are discussed below.

### 1. Mitigating potential harms to Australian consumers

At the outset, it must be recognised that there is no evidence that online in-play betting poses a specific, identifiable risk to problem gambling as opposed to other modes of wagering.<sup>51</sup> Indeed, as mentioned above, the urgent need for a platform neutral approach is supported by some of Australia's leading gambling academics, such as Dr Sally Gainsbury.

Adopting a platform neutral approach to in-play betting will aid the millions of Australian consumers who enjoy a wager in their leisure time - particularly those at-risk of problem gambling, in so far as it will provide

<sup>48</sup> Australian Offshore Interactive Wagering Independent Report, H2 Gambling Capital, November 2015, Pg 32

<sup>49</sup> Tabcorp, Review of the Interactive Gambling Act 2001, Media Release, 29 May 2012

<sup>50</sup> Australian Offshore Interactive Wagering Independent Report, H2 Gambling Capital, November 2015, Pg 32

<sup>51</sup> See also report conducted by the UK Gambling Commission, 2009.

them with a choice to bet with Australian-based licensed wagering service providers (rather than forcing them to bet with black market offshore wagering operators) and receive the benefit of the robust harm minimisation and consumer protection measures that Australian licensed wagering service providers are required to have in Australia's highly regulated environment.

## 2. Protecting and enhancing the integrity of Australian sport

For many years, Australian-based wagering companies such as Sportsbet have worked closely with major sporting bodies to protect and enhance the integrity of sport and to mitigate the risk of gambling-related corruption. The cornerstone of this ongoing relationship (and protecting the integrity of the sport generally) is the integrity and information-sharing agreements between Australian-based wagering companies and major sporting bodies, which is enshrined in State legislation<sup>52</sup>. These agreements mean that as soon as any suspicious betting behaviour is detected by wagering companies, it is immediately reported to the relevant sporting body. In addition, Sportsbet also works closely with specialist law enforcement agencies and, where appropriate, shares betting information with relevant agencies.

A critical component to protecting the integrity of Australian sport is to ensure that, to the extent possible, all wagers placed on Australian sport occur through licensed and regulated Australian-based wagering companies which are party to these integrity agreements. For this aim to be achieved, it is vital that Australian wagering companies are able to offer similar products and services to those offered by offshore wagering operators, specifically online in-play betting.

As outlined earlier, several Gibraltar-based websites offer online in-play betting on Australian major professional sports such as AFL and NRL, which illustrates such sites are specifically targeting Australian customers. This also shows that as online sports-betting is a global industry, a blanket ban on Australian companies offering mainstream globally popular services simply doesn't work because Australians are still legally able to and do access these services through the many thousands of unregulated or illegal overseas-based sports-betting websites.

In stark contrast, unregulated offshore operators are not required to share information regarding suspicious betting activity with the major Australian sporting bodies, nor do they contribute any product fees or sponsorship to Australian sports.

Removing the in-play restriction has support of Australia's major sporting bodies who recognise that this is the product Australians are using offshore, which has significant consequences for the integrity of their codes.

In relation to in-play betting with illegal or offshore wagering operators, the CEO of Cricket Australia, James Sutherland said:

*'It's very significant. The first thing for us is all about integrity. It's all about making sure that the public's faith in the game, the confidence in the game about it being a fair contest is the absolute priority and that's what we are focused on. When you talk about in-play betting, one of things that perhaps isn't so well understood is that people can bet in-play in Australia, but they do it offshore. So it follows that if it is something that people are able to do here in Australia, then we should create some sort of framework around it to make it protected and protect it from those who want to get to the game in a way that be inappropriate or reduce that faith in the fair contest. That's where COMPPS has come to a position of supporting in-play betting and working down that path with government and others to get the end result.'*<sup>53</sup>

<sup>52</sup> See Part 5, *Gambling Regulation Act 2003 (Vic)* and Annexure 3

<sup>53</sup> James Sutherland, CEO Cricket Australia, 12 June 2012



The AFL also recognises the threat estimating that 20 per cent of money wagered on the outcome of AFL games and all other forms of exotic betting is placed with illegal offshore operators.

The AFL's General Counsel, Andrew Dillon, said:

*'In line with other professional sporting codes in Australia, the AFL has product fee and information sharing agreements with Australian betting agencies to ensure we have transparency regarding bets placed on our sport. Only by working with the agencies are we able to protect the integrity of our sport. Offshore betting by Australian punters is a real concern for sport integrity because the betting cannot be scrutinised. The best way to counter the use of offshore illegal betting by Australians is to allow Australian registered and regulated agencies the right to compete fully with the offshore agencies, and that includes by permitting in-play betting online.'*<sup>54</sup>

Similarly, Racing Victoria's integrity boss Dayle Brown said:

*'Non-approved wagering service providers, most of which are located offshore, present a significant risk to the Victorian thoroughbred racing industry. They pay no returns to the Victorian thoroughbred racing industry for the use of its product, nor are they complying with Racing Victoria's integrity requirements as approved wagering operators are obliged to do through information sharing and compliance.'*<sup>55</sup>

There are laws already in place in Australia that protect possible integrity risks of in-play betting. These existing protections apply irrespective of the platform on which the relevant betting services are offered, and will apply to in-play betting that takes place online in the same way as they currently apply.

As touched on above, Part 5 of the Victorian GRA establishes a platform-neutral regime to control the types of bets that can be offered by bookmakers on sporting events in connection with Victoria and to facilitate information sharing between these bookmakers and relevant sports controlling bodies in order to help guard against potential threats to sports integrity. The net effect of the Victorian regime is that Australian licensed betting operators are precluded from offering any markets (or bet types) on major sports unless they are specifically approved by the sports controlling body, based on its expert assessment of any risks the relevant market or bet type may pose to the integrity of the sport.

The GRA regime has received strong support from professional sporting bodies around Australia and a substantially similar regime is pending Ministerial approval in New South Wales (through the *Racing Administration Amendment (Sports Betting National Operational Model) Act 2014* (NSW) and proposed accompanying regulations).

Notwithstanding that the GRA regime has not yet been enacted in all Australian jurisdictions, testament to the strong commitment and co-operation between licensed Australian wagering companies and Australia's major sports controlling bodies, Sportsbet understands that Australian wagering companies do not offer wagering markets on events in States outside of Victoria unless they have in fact been approved as events which can be bet on, by the applicable sports controlling body.

A summary of the key elements of the GRA regime is set out in **Annexure 3**.

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<sup>54</sup> *Racing, police combine to end illegal betting agencies*, Patrick Smith, The Australian, 27/8/15

<sup>55</sup> Racing Victoria, Rule Amendment No 154, 31/8/15

### 3. Growing Australia's digital economy and benefits for Government

Removing the online in-play restriction would significantly contribute to a sizable portion of the \$480 million currently being enjoyed each year by offshore wagering operators in respect of amounts being wagered by Australians being redirected to Australian licensed wagering service providers with the attendant economic benefits for Government in the form of GST and income tax and the associated community benefits.

This is all the more critical with the growth of Australians' spend through offshore operators predicted to amount to \$2.2-2.3B by 2020.

This reform would contribute to a strong and prosperous digital economy in keeping with the Government's 2015 Budget commitments.

### 4. A platform neutral approach to in-play betting will ease a significant regulatory burden on the Australian online wagering sector and enhance competition

The Government has committed to cutting the regulatory burden on Australian businesses and is seeing significant results with decisions to remove red tape resulting in estimated savings to Australian businesses of around \$2.45 billion.<sup>56</sup>

The online in-play restriction imposes a significant regulatory and administrative burden and costs on Sportsbet (and the Australian online wagering industry more widely), including:

1. **Increased operational costs** – telephone bets for in-play wagers represent significant additional operational costs including infrastructure, call recording technology (all telephone calls, 24/7) and call recording storage. Allowing in-play bets online would significantly reduce operating costs (by approximately \$3.5m per year for Sportsbet and all other Australian licensed WSPs and allow them to better compete with offshore providers).
2. **Betting slip disputes** – telephone bets for in-play wagers result in increased costs associated with the investigation and resolution of betting slip disputes with customers; and
3. **Bet abandonment** – Sportsbet is forced to abandon approximately 2% of telephone bets for in-play wagers due to the waiting time to place a bet, and as there is no online alternative for in-play bets, this represents revenue leakage and a poor customer experience. From January to July 2015, Sportsbet's customers spent a total of approximately 2,467 hours waiting to talk to an operator regarding an in-play bet.

Removing the in-play restriction will also enable Australian based online wagering service providers to compete with offshore wagering operators who offer this established and globally popular product.

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<sup>56</sup> Warren Entsch MP, Coalition decisions to cut red tape now total \$2.45 billion, Media Release, 18 March 2015

## Approaches to protect the consumer that could mitigate the risk of negative social impacts on consumers

It is vital to examine what can be done to protect individuals vulnerable to problem gambling.

Sportsbet recommends this can be achieved by a variety of measures which fall under three broad categories – they are:

- Strengthen the deterrence measures deployed by the Australian Communications and Media Authority
- Increase education and awareness among Australians of the dangers of transacting with illegal offshore wagering operators
- Introduce specific mandatory responsible gambling initiatives to meaningfully bolster the existing extensive suite of harm minimisation and consumer protection measures presently offered by Australian licensed wagering providers.

It is well known that illegal offshore operators have little or no regard to basic responsible gambling and consumer protection measures. In stark contrast, Sportsbet and many other WSPs have extensive harm minimisation and consumer protection programs in place, which are the product of considerable investment, product innovation and collaboration with Government and gambling research academics.

Not only is it the right thing to do but more importantly Sportsbet recognises it has a responsibility to provide Australians with a responsible online environment. Thus a focus of this Review should be to consider measures to encourage those Australians who wager on sports and racing to do so with licensed, domestic providers who have extensive responsible gambling and consumer protection measures in place. Given we know that Australian punters prefer to bet with domestic providers, it is critical that we arm them with information to guide their decisions about who to bet with.

Finally, to conclude this section of our submission, in light of some recent ill-informed and sensationalist reporting in relation to the provision of credit by Australian licensed WSPs, we set out some facts in relation to the existing regulatory regime for the provision of credit facilities which already includes, among many other consumer protection measures, a prohibition on unsolicited offers of credit and serious adverse consequences for regulated bookmakers found to be in breach.

We now turn to discuss in detail each of the three principal consumer protection concepts and measures outlined above which Sportsbet recommends be implemented.

### Strengthen the deterrence measures deployed by the Australian Communications and Media Authority

ACMA is responsible for investigating formal complaints made under the IGA about the provision of prohibited internet gambling content. The Department of Communications is currently undertaking a review of the ACMA to investigate the future shape and responsibilities of ACMA, the regulatory regime ACMA administers and to achieve the Government's priorities in relation to the sector and the broader economy.

ACMA has published a series of papers highlighting the pressure placed on the regulatory regime by the convergence of previously distinct communication platforms<sup>57</sup>. ACMA point out that many laws are now

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<sup>57</sup> ACMA (2011), 'Broken Concepts—the Australian communications legislative landscape'. <http://www.acma.gov.au/theACMA/About/The-ACMA-story/Connected-regulation/broken-concepts>

quite dated and that the concept behind many, that content could be controlled by how it is delivered, is breaking-down. ACMA lacks enforcement powers and refers cases to the Australian Federal Police for investigation. The AFP has historically not pursued these matters, e.g. its decision not to pursue William Hill's Click to Call product.

Although Sportsbet agrees that for the reasons outlined above the IGA needs to be updated to reflect the current technological landscape, the deterrence objectives of the IGA still need to be effective. For that to occur operators of prohibited services must be made aware of the relevant IGA provisions, the penalties involved, the intent of ACMA and law enforcement to take enforcement action, and the options operators of prohibited services have of becoming licensed in Australia. As the IGA has now been in place for 15 years, with no prosecutions, operators of prohibited services may either be unaware of the Australian law or simply believe they are beyond its reach. If the IGA is to be at all effective, this needs to be addressed.

Sportsbet also endorses the following two recommendations also identified in the DBCDE 2012 *Review of the IGA*,<sup>58</sup> namely that:

- ACMA should publish and regularly update on the ACMA website a 'blacklist' of known prohibited gambling operators, accompanied by clear information discouraging Australians from using these sites because of the risks they would be taking; and
- the deterrence impact of the IGA could also be increased if operators of prohibited services were aware that law enforcement bodies may be monitoring any attempts by them to enter Australia. They may potentially be implemented through use of a Movement Alert List, administered by the Department of Immigration.

## **Increase education and awareness among Australians**

In addition to strengthening the deterrence measures to be deployed by ACMA, Sportsbet recommends the introduction of the following initiatives to assist and educate Australians about the dangers of betting with offshore operators which will, in turn, channel them to legal licensed providers:

1. Produce a national symbol to assist Australians to identify wagering sites licensed and regulated in Australia
2. Maintain and publish on ACMA's website a blacklist of known illegal offshore operators
3. Provide links to the National Gambling Helpline, pop up warnings and further resources on ACMA's website

Each of these approaches and measures is outlined below.

### **Produce a national symbol to assist Australians to identify wagering sites regulated in Australia**

Sportsbet recommends the Government consider in consultation with Australian licensed wagering providers producing a national symbol to assist Australians to identify wagering sites regulated in Australia. This would be promoted and prominently displayed by all Australian operators and, executed properly, would give consumers comfort that they are wagering with Australian licensed providers.

### **A dedicated resource on ACMA's website that identifies known illegal offshore operators who provide services to Australians**

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<sup>58</sup> See discussion at pages 70-72, including Recommendations 6 and 7.

It is important that consumers understand the risks associated with unregulated offshore operators and how these operators significantly differ from Australian licensed and regulated wagering providers – particularly with regard to consumer protection and responsible gambling. To this end, the government should provide a dedicated resource on ACMA’s website that identifies known illegal offshore operators unlicensed in Australia, and seeks to educate Australian consumers about the dangers of being exposed to unscrupulous offshore operators that don’t have comparable consumer protection and harm minimisation measures.

### **Provide links to the National Gambling Helpline, pop up warnings and further resources on ACMA’s website**

Additional measures could include the ‘Cybersafety Help Button’ including a link to the National Gambling Helpline under the ‘TALK’ function, as well as other help button functionalities that would be of value in alerting users of the Help Button to the risks of using prohibited online gambling service providers.

In addition to a resource on ACMA’s website, the National Gambling Telephone Helpline and Gambling Help Online should be able to explain, on request, the difference between licensed and unlicensed wagering providers. Relevant ACMA programs should be tailored to address issues relating to the risks to children of accessing online gambling sites, particularly prohibited online gambling sites.

In addition, pop-up warnings should be introduced to warn Australians when accessing known illegal offshore wagering websites. Again, given the borderless nature of the internet, users of illegal offshore gambling sites may be unaware that they are in fact accessing illegal services.

### **Other responsible gambling initiatives which will mitigate the risk of negative social impacts on consumers**

The online environment through account-based wagering has the capacity to deliver timely responsible gambling tools more effectively and easily than most forms of venue-based gambling with online tools and referral information readily accessible to consumers via the internet and their accounts at all times.

These benefits are reinforced by H2GC:

*‘Interactive wagering has a significant advantage over land-based gambling in that key RG preventative measures can be more easily targeted at the individual player. Common initiatives now online include age verification, deposit limits, self-assessment/exclusion tests, protection software, and ‘one click away’ access to support networks (including entry to a national self-exclusion register).’<sup>59</sup>*

As a sector however, the wagering industry has lagged behind world’s best practice for some years and we have been lobbying the Federal Government during this period to press the need for the introduction of further industry measures in order to be at the forefront of consumer protection.

It’s important to note that any harm minimisation measure considered in this Review must be based on robust research and evidence that it is effective in improving harm minimisation. Responsible gambling is a highly complex policy area and any measures introduced which are not proven to be effective in protecting consumers will only exacerbate Australians’ spend with illegal offshore wagering operators and increase the regulatory burden on licensed Australian-based providers, while providing no additional protection to consumers.

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<sup>59</sup> Australian Offshore Interactive Wagering Independent Report, H2 Gambling Capital, November 2015, Pg 29

With the above in mind, in addition to increasing education and awareness among Australians of the dangers of betting with illegal offshore operators, Sportsbet believes the introduction of the following mandatory responsible gambling initiatives would meaningfully bolster the existing extensive suite of harm minimisation and consumer protection measures presently offered by Australian licensed wagering service providers across the wagering sector:

- Mandatory, voluntary pre-commitment
- Reduced time period for age verification of account holders
- Mandatory self-exclusion and national self-exclusion database
- Wagering operators making appropriate de-identified wagering information available to support research into wagering and appropriate public policy

Each of these initiatives is discussed in turn below.

### **Mandatory voluntary pre-commitment**

***The voluntary pre-commitment tool should be mandatory across all licenced online wagering service providers.***

Sportsbet currently has in place a *mandatory, voluntary pre-commitment* capability whereby customers can set a daily, weekly or monthly deposit limit when opening an account and update this at any time. This is further enhanced by imposing a seven day cooling-off period in relation to any request to increase a deposit limit. Voluntary pre-commitment encourages responsible gambling by ensuring customers spend within their means up to a maximum amount which they have pre-determined. Any attempted deposits that are made by customers that would cause the nominated limit to be exceeded are denied.

Online voluntary pre-commitment facilities are significantly more effective than those that can be offered by land-based cash operators as only account-based online wagering operators have the ability to verify the identity of customers and to enforce any established pre-commitment limit.

It's important to note why we recommend a 'mandatory voluntary' pre-commitment. Pre-commitment ought to be a mandatory requirement that any new customer must consider upon sign up, but importantly, choosing to set a deposit limit and the quantum should be voluntary. This is because Australians should have the ability to manage their spend, and any attempts by government or regulators to define this for them will exacerbate the already significant wagering that Australians conduct with illegal offshore operators who have no such restrictions on deposit limits.

Sportsbet customers have demonstrated that they use the pre-commitment tool as one of many responsible gambling measures Sportsbet has in place. The solid take up rate by Sportsbet's customers highlights that the pre-commitment tool is working and Sportsbet believes it would be an even more valuable tool if implemented across the industry.

## Reduced time period for age verification of account holders

***In keeping with global best practice, age verification requirements on Australia online wagering sites should be reduced from 90 days to 7 days of account funding.***

As outlined, all wagers placed by Sportsbet's customers are conducted through registered online accounts which facilitate a variety of controls for responsible gambling measures, many of which are not provided by cash-based retail betting or on land-based gaming machines.

Under the *Anti-Money Laundering and Counter Terrorism Financing Act 2006* (Cth), all Australian licensed WSPs are required to verify the identity of its new customers within 90 days of account opening. This is to ensure Australian licensed WSPs comply with the Act and to ensure that individuals under the age of 18 years are not able to access wagering services. The Northern Territory Racing Commission sports bookmaker license holders are required by their licensing conditions to verify the identity of new customers within 45 days.

While complying with this new requirement, Sportsbet believes the industry can go further and reduce age verification requirements on Australian online wagering sites from 90 days to 7 days of account funding. This will keep pace with global best practise and ensure quick identity verification and age identification – subject to access to all federal and state databases.

## Mandatory self-exclusion and national self-exclusion database

***The establishment of a national self-exclusion database to be funded by licensed Australian wagering service providers and administered by an appropriate independent third party such as ACMA.***

Sportsbet customers have the ability to self-exclude from betting with Sportsbet. This enables persons who may be at risk of problem gambling to take proactive steps to ensure Sportsbet permanently closes their account and does not take bets from them. While this can be an effective tool for our customers, it does not prevent consumers from utilising the services of alternative Australian licensed wagering service providers having closed their account with Sportsbet.

This could be remedied by establishing a national self-exclusion database that would enable any customer who self excludes with a licensed Australian wagering provider to be recorded on the register, and Sportsbet strongly supports the establishment of such a database. This would ensure that a customer who has taken steps to manage their gambling by closing an account with one wagering provider is subsequently excluded from all providers. All wagering providers would be required to check new customer applications against this register and also periodically check their existing customer database against this register. Any identity matches would result in a rejection of a new application or suspension of an existing account.

A national self-exclusion database should be funded by Australian licensed online wagering providers and crucially, be administered by an appropriate independent third party such as ACMA, which will instil the necessary confidence in the system to Australian licensed WSPs and consumers.

## Providing wagering information to support research

### ***Wagering operators making appropriate de-identified wagering information available to support research into wagering and appropriate public policy.***

The online wagering environment is a relatively new landscape. Although research conducted to date overwhelmingly shows that the prevalence of problem gambling among online wagering is significantly lower compared to those affected by poker machines and other forms of gambling, it would be beneficial for research to be continued in this area.

Research could, among other initiatives, assess the impact of the growth in online gambling (as it draws customers from the retail environment) and the most effective forms of harm minimisation for use by counselling services.

## The existing regulatory regime for the provision of credit facilities

As foreshadowed above, it is important to highlight some facts in relation to the offering of credit (sometimes referred to as deferred settlement facilities) by Australian licensed wagering service providers, and in particular Sportsbet's existing stringent credit practices, in light of some recent ill-informed and sensationalist reports on these facilities. These recent reports fail to comment on the current regulatory environment, but rather scantily report on a handful of issues from about 2012 (a time at which, as detailed below, the current regulatory regime did not exist) – they include a report written by Herald Sun contributor Scott Pape suggesting sports betting companies are 'exploiting lending loopholes'<sup>60</sup> and a report prepared by Financial Counselling Australia<sup>61</sup> which makes a number of anecdotal and unsubstantiated claims including in relation to 'accidental deaths' related to the sports betting debts and cases of employees illegally 'embezzling funds from their employer to pay for gambling debts'.

The provision of credit facilities by licensed Northern Territory sports bookmakers is (rightly) subject to rigorous regulatory controls under the existing 'Mandatory Code of Practice for the Provision of Deferred Settlement Facilities for Northern Territory Licensed Sports Bookmakers' (**NT Mandatory Code of Practice**). The NT Mandatory Code of Practice came into force on 1 November 2015 and imposes strict obligations on all licensed Northern Territory sports bookmakers. Non-compliance with any of the obligations (including in relation to unsolicited offers of credit) carry serious penalties, including loss of the sports bookmaker's licence.

In particular, the NT Mandatory Code of Practice requires, among other things, that:

1. credit facilities be applied for, and bans unsolicited offers of credit;
2. operators conduct diligent credit assessments on all credit facility applications;
3. settlement be conducted weekly; and
4. customers not be approved for a facility amount in excess of a pre-commitment limit set by a customer; and
5. no interest be charged on these facilities, which also serves to ensure any requests for an increased facility are subject to a 'cooling off' period, as well as aiding further due diligence checks by betting operators.

In addition, it is useful to understand that only approximately 5% of active Sportsbet customers hold a credit account, 87% of which are for a maximum amount up to \$200. Over and above the obligations imposed by the NT Mandatory Code of Practice, Sportsbet implements its own rigorous checks and balances to ensure

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<sup>60</sup> Scott Pape, *Lost in a loophole over betting*, The Herald Sun, 31 October 2015

<sup>61</sup> Financial Counselling Australia, *A Report Duds, Mugs and the A-List, The Impact of Uncontrolled Sportsbetting*, August 2015



that consumer protection and harm minimisation measures are strengthened while the benefits for approved customers to use a credit facility as a convenient funding option are maintained.

Sportsbet supports prudent and reasonable regulation however, in response to the Financial Counselling Australia's recommendation to prohibit the provision of credit facilities, we must emphasise that overly prescriptive regulation can, and in the case of a blanket prohibition likely will, result in Australian consumers being exposed to the dangers of transacting with operators who are not subject to that regulatory regime. That is, if consumers are unnecessarily restricted in the way they could operate a credit facility, it would likely lead to the following unintended consequences:

- customers would continue to access credit from unregulated offshore operators (which may also adversely impact on the integrity of sport as suspicious betting patterns cannot be identified or bets tracked);
- customers would continue to access credit from less scrupulous operators, such as illegal SP bookmakers and loan sharks which have little regard for consumer protection or harm minimisation; and
- legitimate and illegitimate third party credit providers and intermediaries may fill the void, either directly or indirectly, which would then subject customers to:
  - significant interest and fees on their loans; and
  - undesirable collection methods.

Sportsbet recommends the Federal Government allow the NT Mandatory Code of Practice be allowed time in practice to assess its efficacy prior to implementing any additional regulatory reform. This is supported by the recent publication of the South Australian Independent Gambling Authority's *'Gambling Codes of Practice (Account Gambling) Variation Notice 2015'*<sup>62</sup> to vary the existing *Gambling Codes of Practice* by including a proposed strict regime to regulate the provision of credit facilities to South Australian residents (SA Provision). The SA Provision sets out some prudent regulatory measures for consultation, which would require that:

- credit facilities be applied for in writing and, like the Northern Territory Mandatory Code of Practice, ban the unsolicited offering of credit facilities;
- practices such as requiring an account holder to maintain a particular level of activity in order to have credit are prohibited;
- documented due diligence is conducted before granting a credit facility to provide reasonable assurance as to, among other things, the means of an account holder to operate a credit facility.

The SA Provision is currently in a consultative process of its own, with submissions due from stakeholders on 17 November 2015. It is Sportsbet's recommendation that given the newly established regulatory regime which applies to all licensed Northern Territory sports bookmakers, and further proposed regulation relevant to South Australian account holders, now is not an appropriate time to implement any further reform to the existing regulatory regime for the provision of credit.

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<sup>62</sup> The Variation Notice is marked '28-day Draft No.1, as at 16 October 2015'

## Conclusion

Sportsbet appreciates the opportunity to contribute to the Review and applauds the Government for taking meaningful action to address the rising costs of illegal offshore wagering.

Sportsbet's high level 'information' with respect to the Review's Terms of Reference can be found in our executive summary. Below, we again highlight our key recommendations necessary to address the adverse impact of illegal offshore wagering operators.

### Reforms recommended by Sportsbet to address the adverse impact of illegal offshore wagering operators

Sportsbet recommends five main reform measures in its Submission that are available to the Federal Government to address the adverse impact of illegal offshore wagering operators:

- 1. Make it a legal requirement to be licensed in Australia in order to be permitted to offer wagering services to Australian consumers**
- 2. Adopt a *platform neutral* approach to in-play betting by removing the in-play restriction in the IGA**
- 3. Strengthen the deterrence measures deployed by ACMA:**
  - ACMA should publish and regularly update on the ACMA website the list of known prohibited gambling operators
  - Make operators of prohibited services aware that law enforcement bodies may be monitoring any attempts by them to enter Australia
- 4. Increase education and awareness among Australians of the dangers of transacting with illegal offshore wagering operators:**
  - Produce a national symbol to assist Australians to identify wagering sites licensed and regulated in Australia
  - Maintain and publish on ACMA's website a 'blacklist' of known illegal offshore operators
  - Provide links to the National Gambling Helpline, pop up warnings and further resources on ACMA's website
- 5. Introduce the following mandatory responsible gambling initiatives:**
  - Mandatory, voluntary pre-commitment
  - Reduced time period for age verification of account holders
  - Mandatory self-exclusion and national self-exclusion database
  - Wagering operators making appropriate de-identified wagering information available to support research into wagering and appropriate public policy

# Annexures

## Annexure 1 – Addressing myths and common misconceptions

The wagering environment is complex. This complexity can lead to misunderstandings about the market, its operators and the impacts that policy decisions have on consumers betting offshore. This section addresses common myths and misconceptions.

### Myth: Northern Territory is an unregulated tax haven that encourages online sports bookies

Sportsbet is licensed in the Northern Territory as it is unable to be granted a licence in any other State due to monopoly agreements with governments in those states. The perception that the Northern Territory has a relaxed licensing regime is not correct – it is far more stringent than models which are in place in many international jurisdictions. Australia (rightly) has a heavily regulated landscape for betting on racing and sport, and Sportsbet is required to comply with legislation in every State and Territory of Australia. In addition, the Northern Territory Racing Commission has a Responsible Gambling Code of Practice which Sportsbet is required to comply with as a condition of its licence.

### Myth: Online wagering service providers don't pay tax

It is sometimes suggested that Australian WSPs like Sportsbet, because they are based online or licensed in the Northern Territory, don't pay their fair share of taxes.

Licensed online WSPs such as Sportsbet are already taxed equivalently to traditional retail operators by making a substantial contribution to Government by way of federal taxes (in the form of GST, fringe benefit tax, payroll tax and income tax), state and territory licensing fees, along with substantial product fees to Australian racing and sports controlling bodies. Combined with product fee contributions Sportsbet has contributed \$107M in product fees and taxes in FY15 alone. This amounts to around 25% of Sportsbet's revenue.

It is important here to also distinguish the tax paid by online WSPs from monopoly retail operators in Australia. The tax rates paid by Australian monopoly gambling providers reflects the substantial benefits that they enjoy from being granted licences to operate as a monopoly in particular States and Territories, removing all forms of competition enabling them to operate highly profitable businesses.

In respect of wagering (as distinct from the broader gambling industry, e.g. casinos and pokies), monopoly retail wagering operators pay wagering taxes because they enter into monopoly licencing arrangements with State and Territory governments that provide competition free income and monopoly rights and benefits, albeit also not immune from the threat of illegal offshore wagering operators. Over 50% of wagering revenue in Australia is earned via retail outlets and is competition-free.

By contrast, Australian online WSPs such as Sportsbet must compete in a highly competitive *global* online wagering marketplace and are prevented from offering their products in these bricks and mortar retail markets under the current exclusive monopolistic regimes in place across Australia.

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

Additionally, State governments have from time to time suggested that licensed online WSPs do not contribute to the States whose residents bet with online WSPs. In early 2015, this led to policy considerations of a 'point of consumption tax' on online wagering firms.

Governments of all persuasions, however, have come to recognise that the real threat is not Australian licensed wagering providers who contribute to the economy through jobs, taxes and significant local spending, but illegal offshore wagering providers who target Australian consumers and don't contribute at all. In FY15 alone, Sportsbet paid \$36 million in GST, directly benefiting State governments.

### **Myth: Australia has witnessed an explosion in sports betting**

There is a perception among some that wagering, particularly sports betting in Australia, has 'exploded' in the last few years. However, Australia's official gambling statistics<sup>63</sup> clearly demonstrates that is not the case. In fact there hasn't been an increase and real spend per adult has slightly declined for the period from 2007 to present.

While there has been slight decline in wagering turnover from 2007, there has been a material shift in the betting channels where that spend is occurring. Improved technology and better innovation has seen a shift from the more traditional wagering channels (i.e. retail outlets, on-course and phone operator) to online channels such as the Internet and smart phones. In addition, while wagering on racing is a well-established and mature betting market, sports betting is an emerging market which has experienced considerable growth. It's important to note that while there has been a shift from offline to online betting, over 50% of wagering revenue still occurs through retail outlets.

### **Myth: Removing the in-play restriction will lead to a greater prevalence of problem gambling**

There is no evidence that online in-play betting poses a specific, identifiable risk to problem gambling as opposed to other modes of wagering. This is supported by leading academic Dr Sally Gainsbury who states that:

*'Despite widely cited concerns over the potential for internet gambling to dramatically increase the number of people experiencing gambling problems, there is little evidence to indicate that the prevalence of problem gambling has increased worldwide, or in countries that have liberalised access to online gambling.'*<sup>64</sup>

Gambling Compliance Research Services in its 2014 report found that of the international markets studied, the UK experience provides the most reliable evidence as it conducted studies of its population's gambling prevalence before and after the legalisation of online in-play gambling.

Crucially, it found:

*'The UK's experience suggests that the introduction of online gambling has not exacerbated problem gambling.'*<sup>65</sup>

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<sup>63</sup> Australian Gambling Statistics (AGS), 31st Edition, 1988-89 to 2013-14.

<sup>64</sup> See Dr Sally Gainsbury, Gambling Research and Education Centre, Southern Cross University, *Internet Gambling: Current Research Findings and Implications*, [2012]

<sup>65</sup> *Harm Minimisation, Sports Integrity & Emerging International Practices in Online Gambling Regulation*, GamblingCompliance, July 2014, Pg 5

## Myth: Australian licensed online wagering operators irresponsibly advertise or induce people to gamble including minors

### Responsible advertising

The online wagering industry operates in a highly competitive global environment and, as is the case across many industries, advertising promotes brand loyalty, creates awareness of the products being offered to the marketplace and allows companies to engage with their customers. Growth in sports-betting advertising has not increased wagering in Australia which has in fact seen a slight decline in real wagering turnover spend per person in Australia from 2007. Nor has it been shown to have caused an increase in the prevalence of problem gambling.

Licensed Australian wagering operators should be free to advertise their services, acknowledging the benefits it provides for sport, racing, broadcasting and consumers. Wagering providers are the first to agree that advertising should always conform to prevailing community standards, and not promote harmful behaviour, or make implicit promises that undermine those standards.

That's why the proposed Australian Association of National Advertisers (**AANA**) national code is important in establishing those standards within an accepted and effective complaint and enforcement framework.<sup>66</sup> The proposed code would – and should – establish standards that are broadly consistent with wider advertising standards. It is important the Review let this process take its course. It is self-regulation, and self-regulation is a term that is often used pejoratively. But this process involves the AANA, the wider broadcasting and advertising industries, and an independent complaint and enforcement mechanism through the Advertising Standards Board that is demonstrably effective.

### Promotions

Sportsbet is not aware of any evidence that indicates the availability of promotional offers to customers encourages or has increased the prevalence of problem gambling. The Productivity Commission found that making these types of offers to new customers is not necessarily harmful and that it merely promotes a competitive market.

Australian wagering operators, like any other legal business, have the right to advertise their services responsibly. The offering of promotions is common practice for all types of businesses and as a result, operators in a highly competitive market should be permitted to offer promotions to wager provided such offerings are responsible. While incentive offers have facilitated the growth in the market share of online wagering operators, they have not driven an increase in wagering spend by Australians, in fact, we have seen a slight decline in real wagering turnover spend per person in Australia from 2007.<sup>67</sup>

With these important facts in mind, Sportsbet is concerned with the NSW Government's Media Release of 7 November 2015<sup>68</sup> indicating an intention to widen existing restrictions on certain advertising inducements'. Such a change will have wide reaching serious adverse consequences to Australian racing and sports codes as it would preclude popular promotional activity which promotes wagering, for instance, on the racing industry which is dependent on wagering revenue streams.

Moreover, the mooted changes will have a cataclysmic effect on broadcasters and Australian wagering service providers because, among other things, it will add further regulatory complexity in a piece meal

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<sup>66</sup> Australian Association of National Advertisers, AANA launches public consultation on code for wagering, Media Release, 9 November 2015

<sup>67</sup> See 13 above of Sportsbet's submission including Figure 1

<sup>68</sup> NSW Deputy Premier, Live betting advertising banned in NSW, Media Release, 7 November 2015

fashion for national broadcasts as well as create tremendous uncertainty for Australian wagering operators due to the real threat that wide reaching restrictions will capture promotional offers which merely constitute benefits of membership with the likes of Sportsbet, and in turn, force even more Australians to bet with illegal and foreign websites in pursuit of competitive incentives and so-called ‘inducements’.

It is critical that the NSW Government meaningfully consult with Australian racing and sports controlling bodies, broadcasters and wagering operators and, more particularly, approach the chair of this Review, the Hon Barry O’Farrell, to discuss the merits of greater national uniformity in this area. It is also critical to scrutinise the public policy benefits behind any reforms in this area, with Australia on full notice of the magnitude and growing adverse impacts of illegal offshore wagering.

### **Underage persons**

Sportsbet employs a range of measures to ensure our advertising does not target teenagers. Particular concerns about children being exposed to the promotion of live odds have been addressed by the decision to remove references to live odds from in-play broadcasts and in stadiums, and to restrict commentators from discussing live odds, along with existing broadcast regulations governing advertising to minors.

Additionally, the rigorous account-opening procedures which include third party identity and age verification checks contribute to preventing minors from accessing online account-based wagering services in Australia.

### **Myth: Land based and online wagering operators consistently restrict bets or refuse some bets altogether**

The fact is that Australian licensed wagering operators accept bets from almost all consumers. Australian Consumer Law provides general protection. Australian operators employ risk assessment personnel and tools to determine maximum betting limits, and monitor betting patterns on events. As a result of those processes, Australian wagering operators do on occasion restrict a bet (or, more rarely again decline one) for risk management purposes or for sports integrity reasons. This represents only a small fraction of total bets.

Indeed, Sportsbet accepts bets from all consumers (including professional gamblers) other than those who have had their account closed due to integrity reasons or for breaching Sportsbet’s terms of use. While Australian operators might on occasion decline a bet for risk management purposes or for integrity reasons, this represents only about one in every 10,000 bets.

It’s important to remember that Australian wagering providers risk their own capital in every market, and should be allowed to manage that risk as they see fit consistent with consumer protection law. Online wagering is not a monopoly, nor a public service. There must be a willing buyer and willing seller in each transaction.

It’s also important to allow wagering operators to manage integrity issues, including betting patterns, in association with sports controlling bodies. This may, on occasion, include limiting bets or possibly declining them. Wagering operators are expected to know their customers, verify their identity, and manage integrity and money-laundering rules. It would be perverse to expect that operators then forgo the opportunity to use that and other knowledge to manage risk in their businesses. Wagering is, after all, not gaming: many bettors win over time, and wagering operators’ risk are, by definition, a mirror of their customers’ risks. Risk management is a central feature of wagering.

## Myth: A minimum bet rule on sport is an easy answer to Australians betting with illegal offshore websites

A minimum bet rule (**MBR**) was introduced for racing in the Northern Territory in 2011 and then abolished only 18 months later as it was quickly found to be contrary to the interests of the racing industry. A similar rule was also considered by Racing Victoria this year in light of Racing NSW implementing one in 2014, but decided it was not in the best interests of consumers and the sustainability of the racing industry. MBRs do not exist in leading overseas jurisdictions despite licensed operators in those jurisdictions being renowned for applying far stricter commercial risk management practices.

In reality, **a MBR on sports betting in Australia would have significant adverse impacts and unintended consequences for Australian consumers, the racing and sports industries and Australian operators**

### a) Australian consumers:

- **Worse prices** – Australian operators will be forced to respond to the increased commercial risk of forced acceptance of minimum bets by adopting more conservative pricing (lower odds) which represents less value to consumers.
- **Reduced markets** – increased commercial risk will also lead to fewer markets and reduced opportunity for consumers to bet early on markets.
- **Slower bet placement** – whereas 99.75% of bets are currently accepted automatically at Sportsbet, this will decrease dramatically in order to comply with a MBR. Operating systems do not have the functionality to automatically apply a MBR, which will require a manual process to apply the MBR, leading to delayed communication of acceptance of the bet to consumers and a worse customer experience.
- **Consumer protection** – as more consumers turn to illegal offshore operators, who are able to offer better products and prices due to the practical difficulties of enforcing a MBR on offshore operators, consumers will not benefit from the same high standards of harm minimisation and consumer protection that Australian operators provide.

### b) Racing and sports industries:

- **Information sharing** – unlike Australian operators, illegal offshore wagering operators are not subject to extensive information sharing and reporting requirements, including disclosure of unusual betting activity to racing and sports controlling bodies, which is a cornerstone in protecting the integrity of sport in Australia.
- **Lower contributions** – illegal offshore wagering operators also do not contribute product fee payments to sports controlling bodies. Australian operators are significant contributors to Australian racing and sport - Sportsbet paid \$49 million in product fees in FY15 alone. Ultimately, a MBR will lead to reduced betting with Australian operators which will generate lower product fee payments to sports controlling bodies which are channelled towards protecting and enhancing the integrity of sport.
- **Impact on racing** – if the Australian online wagering market is decimated by a MBR and more Australian consumers are driven to bet with illegal offshore operators, this will have a natural flow-on effect on the Australian racing industry, which will also be decimated for the same reasons as outlined above.

**c) Australian wagering operators:**

- **Commercial risk** – the viability of Australian operators, who currently employ significant risk governance programs and operate with typical low profit margins of between 3% and 12%, will be in serious jeopardy if they are forced to take bets that represent a greater commercial risk and/or offer reduced markets.
- **Fewer markets** – reduced ability to offer smaller markets (such as a player head-to-head market) that attract fewer bets and therefore have a lower bet pool and greater commercial exposure, or early markets which Australian operators place limits on in order to manage the risks of limited early information on those markets. A MBR will render these markets too risky for Australian operators to offer and prompt Australian consumers to turn to offshore operators.
- **Dispute resolution** – will likely generate complex and costly disputes for bookmakers and State/Territory licensing bodies (or indeed, the Federal Government), which proved to be the case with the minimum bet rule that was abolished by the Northern Territory Racing Commission.
- **Coalition Government’s commitment to deregulation** – imposing a MBR would create a significant regulatory burden and overhead costs for Australian operators and would be inconsistent with the Government’s commitment to remove red tape, at a time where the Government has identified measures to save Australian businesses \$2.45 billion.<sup>69</sup>
- **Liberal market** – any Federal Government intervention to impose an MBR is counter to allowing and encouraging a pro-competition economy that benefits Australia’s digital economy and Australian business’ in a global marketplace.

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<sup>69</sup> Warren Entsch MP, Coalition decisions to cut red tape now total \$2.45 billion, Media Release, 18 March 2015



## Annexure 2 – Central provisions of the IGA relating to the prohibition on ‘interactive gambling services’ and permitted wagering services

### 15 Offence of providing an interactive gambling service to customers in Australia

- (1) A person is guilty of an offence if:
- (a) the person intentionally provides an interactive gambling service; and
  - (b) the service has an Australian-customer link (see section 8).

Penalty: 2,000 penalty units.

### 5 Interactive gambling services

- (1) For the purposes of this Act, an **interactive gambling service** is a gambling service, where:
- (a) the service is provided in the course of carrying on a business; and
  - (b) the service is provided to customers using any of the following:
    - (i) an internet carriage service;
    - (ii) any other listed carriage service;
    - (iii) a broadcasting service;
    - (iv) any other content service;
    - (v) a datacasting service.

Note: This definition relates to the offences created by section 15 and Part 7A.

- (2) Subsection (1) has effect subject to subsection (3).

#### *Excluded services*

- (3) For the purposes of this Act, none of the following services is an **interactive gambling service**:
- (a) a telephone betting service;
  - (aa) an excluded wagering service (see section 8A);
  - (ab) an excluded gaming service (see section 8B);
  - (ac) a service that has a designated broadcasting link (see section 8C);
  - (ad) a service that has a designated datacasting link (see section 8C);
  - (ae) an excluded lottery service (see section 8D);
  - (b) a service to the extent to which it relates to the entering into of contracts that are financial products within the meaning of Chapter 7 of the *Corporations Act 2001*;
  - (c) an exempt service (see section 10).

### 8A Excluded wagering service

- (1) For the purposes of this Act, an **excluded wagering service** is:
- (a) a service to the extent to which it relates to betting on, or on a series of, any or all of the following:
    - (i) a horse race;
    - (ii) a harness race;
    - (iii) a greyhound race;
    - (iv) a sporting event;
  - (b) a service to the extent to which it relates to betting on:

- (i) an event; or
  - (ii) a series of events; or
  - (iii) a contingency;
- that is not covered by paragraph (a).

- (1A) Subsection (1) does not apply to a service unless such other conditions (if any) as are specified in the regulations have been satisfied.
- (2) Paragraphs (1)(a) and (b) do not apply to a service to the extent to which:
- (a) the service relates to betting on the outcome of a sporting event, where the bets are placed, made, received or accepted after the beginning of the event; or
  - (b) the service relates to betting on a contingency that may or may not happen in the course of a sporting event, where the bets are placed, made, received or accepted after the beginning of the event.

A summary of the key elements of the GRA regime is set out in **Annexure 3**.

## Annexure 3 – The GRA regime

### Outline of the GRA regime

In brief, the key elements of the GRA regime are as follows:

- a power for the Victorian Commission for Gambling and Liquor Regulation (**VCGLR**) to approve a sporting event (or class of events) in Victoria for betting purposes. The VCGLR must take a variety of factors into account when deciding whether or not to issue an approval, including matters such as whether the event is exposed to unmanageable integrity risks and whether betting on the event would be offensive or contrary to public interest;
- a prohibition on sports betting providers offering a betting service on an approved sporting event in Victoria unless they have an agreement in place with the sports controlling body approved by the VCGLR for that sporting event (or, in the absence of an agreement, where the VCGLR has made a determination allowing the relevant provider to offer a betting service on the relevant sporting event). Sports controlling bodies must be approved by the VCGLR, and in deciding on whether or not to issue an approval the VCGLR must, among other things, take into account whether the applicant has the expertise, resources and authority necessary to protect the integrity of the relevant sporting event; and
- a power for the VCGLR to prohibit betting on a particular contingency relating to an approved sporting event in connection with Victoria. Again, the VCGLR can take a variety of factors into account when exercising this power, including whether allowing betting on the relevant contingency would expose the relevant sporting event to unmanageable integrity risk or would be offensive or contrary to the public interest. The advantage of prohibiting select bet types by exception is more efficient as it allows regulatory resources to be targeted at specific activities that are considered undesirable.

## **Annexure 4 – IP and Financial Transaction Blocking in the context of Online Wagering**

# IP and Financial Transaction Blocking in the context of Online Wagering

EXPERT OPINION

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## Executive Summary of Opinion

Two options which have been identified to tackle the growing threat of the provision of illegal wagering services to Australians by online offshore betting operators (offshore operators) are:

1. blocking of financial transactions by Australian residents with designated prohibited offshore operators; and
2. blocking of access by Australian residents to websites of designated prohibited offshore operators.

In summary, on merit and feasibility neither of these two options work successfully. Restrictions such as financial and ISP blocking of online gambling services are inefficient, easily circumventable and drive consumers towards the black market as evidenced in markets where such measures have been introduced. Making parallels with other online issues (from intellectual property rights through to online child exploitation) the use of financial transaction and IP blocking has not been successful in curbing illegal use.

The report below sets out more detail on the reasons for my opinion on these options, together with some valuable context.

## Background on Online Wagering and Introduction

The Commonwealth *Interactive Gambling Act (2001)* (IGA) was introduced to minimise the scope for problem gambling online among Australians by limiting the provision of online gambling services to Australians through interactive technologies such as the internet.<sup>1</sup>

The IGA imposes a broad prohibition on the provision of ‘interactive gambling services’<sup>2</sup>, including online wagering services. There are a number of exceptions to this general prohibition<sup>3</sup>, including:

- an exception for services that relate to betting on horse races, harness races, greyhound races or sporting events<sup>4</sup>; and
- a general exception for telephone betting services<sup>5</sup>.

However, the exception for betting on sporting events does not apply to the extent that the relevant service relates to betting on the outcome of an event, or a contingency that may or may not happen during the course of an event, where bets are placed after the beginning of the event<sup>6</sup> (hereafter referred to as ‘in-play betting’).

The net result of this lack of platform neutrality is a regime under which in-play betting is allowed on horse, harness or greyhound races or where the bets are placed using a telephone betting service (or through traditional TAB retail stores), but is not allowed on other sporting events where the bets are placed online.

### About the Author

**Nigel Phair** is an influential analyst on the intersection of technology, crime and society. He has published two acclaimed books on the international impact of cybercrime, is a regular media commentator and provides executive advice on cyber security issues. In a 21 year career with the Australian Federal Police he achieved the rank of Detective Superintendent and headed up investigations at the Australian High Tech Crime Centre for four years.

### About the Centre for Internet Safety

The Centre for Internet Safety at the University of Canberra was created to foster a safer, more trusted Internet by providing thought leadership and policy advice on the social, legal, political and economic impacts of cybercrime and threats to cyber security.

The Centre for Internet Safety is hosted within the Faculty of Law at the University of Canberra. The University of Canberra is Australia’s capital university and focuses on preparing students for a successful and rewarding career.

[www.canberra.edu.au/cis](http://www.canberra.edu.au/cis)

<sup>1</sup> Federal Department of Broadband, Communications and the Digital Economy, Review of the *Interactive Gambling Act 2001* Final Report 2012, p. 21, with reference to Explanatory Memorandum—*Interactive Gambling Bill 2001* (Cth)

<sup>2</sup> Defined in section 5 of the IGA

<sup>3</sup> See section 5(3) of the IGA

<sup>4</sup> Federal Department of Broadband, Communications and the Digital Economy, Review of the *Interactive Gambling Act 2001* Final Report 2012, p. 21, with reference to Explanatory Memorandum—*Interactive Gambling Bill 2001* (Cth)

<sup>5</sup> *ibid*

<sup>6</sup> *ibid*, p. 120

The IGA has created a number of offences surrounding the offering of interactive gambling services to Australian residents. Since the inception of the IGA, the Federal Government has conducted a number of inquiries into the effectiveness of the IGA including:

- the Productivity Commission's *Inquiry into Gambling* in 2010 which culminated in a formal report<sup>7</sup>; and
- the Digital Economy *Review of the IGA* in 2011, which culminated in a number of recommendations to improve the effectiveness of the IGA and to address problem gambling, as well as options to tackle the provision of illegal interactive gambling services to Australians<sup>8</sup> (IGA Report).

The internet has created a borderless world which has created significant opportunities, such as e-commerce, for Australian and international organisations. There has been much public comment from relevant stakeholders including gambling research academics, licensed Australian online wagering service providers and racing and sports bodies on the present ineffectiveness of the IGA to prevent offshore operators offering illegal wagering services to Australians, and in turn, the impact on Australians from a responsible gambling and consumer protection perspective as well as the adverse impact on the integrity and sustainability of the racing and sport industry<sup>9</sup>.

A key regulatory point of difference for offshore operators is their ability to offer online in-play betting. For instance, in-play betting online is permitted in jurisdictions such as the UK, France, Italy, Denmark and Spain.<sup>10</sup> And, although it is illegal to advertise in-play betting to Australian residents under the IGA, it is not illegal for Australian customers to open an account with an offshore operator and use in-play betting services with those offshore operators<sup>11</sup>.

The IGA Report commented on the trend of Australian consumers moving to wager with offshore operators, noting that:

- 'There may be around 2200 online gambling providers currently offering services to Australians that may be in contravention of the IGA.
- The number of Australians accessing these services is significant and growing.
- Some estimates suggest Australians lose around \$1 billion per annum to online gambling service providers that are not licensed in Australia. This is projected to continue growing strongly.<sup>12</sup>

The magnitude of this issue was recognised by the Federal Government's announcement in October 2014 to establish an *Illegal Offshore Wagering*

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<sup>7</sup> Productivity Commission, *Inquiry Report on Gambling* (2010). Retrieved on 17 April 2015 from <http://www.pc.gov.au/inquiries/completed/gambling-2009/report>

<sup>8</sup> Federal Department of Broadband, Communications and the Digital Economy, *Review of the Interactive Gambling Act 2001 Final Report 2012*

<sup>9</sup> See, for example, the multiple of submissions to the Department of Broadband, Communications and the Digital Economy regarding the review of the IGA.

<sup>10</sup> Gambling Compliance Research Services, *Report on Harm Minimisation, Sports Integrity & Emerging International Practices in Online Gambling Regulation* (2014), p. 7.

<sup>11</sup> Federal Department of Broadband, Communications and the Digital Economy *Review of the Interactive Gambling Act 2001 Final Report 2012*, p. 21

<sup>12</sup> *ibid*, p. 6

*Working Group to devise ways to tackle illegal offshore wagering services provided to Australians, including ‘to examine the regulatory regimes in international jurisdictions that may have an application within Australia and to also look at all other technological and legislative options available’<sup>13</sup>*

To counter the threat of illegal offshore operators, two of the options that have been identified by some relevant stakeholders, and discussed in the IGA Report are:

1. blocking of financial transactions by Australian residents with designated prohibited offshore operators; and
2. blocking of access by Australian residents to websites of designated prohibited offshore operators.

This report sets out our opinion on the merit and feasibility of these two options.

## The Internet

The internet is a global computer network providing a variety of information and communication facilities, consisting of interconnected networks using standardised communication protocols. The World Wide Web is a way of accessing information over the medium of the internet. It is an information-sharing model that is built on top of the Internet. The internet is technically designed to be de-centralised communication networks that allow the re-routing of communication packages around blocking points.

## Internet Blocking

Internet blocking is a technical measure intended to restrict access to information or resources typically hosted in another jurisdiction. Its primary objective is to prevent specific content from reaching customers’ device connected to the blocking ISP. This is possible by means of hardware or software products that block specific targeted content from being received or displayed. Since the internet was designed to ensure that a communication goes from one point to another without being stopped, it is only possible to restrict access to content rather than “blocking” it completely. In recent years, internet blocking technologies for different categories of contents (i.e. intellectual property rights enforcement, child sexual abuse material, online gambling, etc.) have been discussed at national and international levels.

Most blocking is conducted by an ISP, though an individual organisation may attempt to conduct this activity (to meet their regulatory obligations, for example,

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<sup>13</sup> Media release, Joint Federal Government and Victorian Government announcement of the establishment of the Illegal Offshore Wagering Working Group (30 October 2014). Retrieved on 17 April 2015 from <http://www.formerministers.dss.gov.au/15241/national-group-to-target-illegal-off-shore-wagering/>



they may try to prevent an entire country's IP range from accessing their content, known as "IP geo blocking").

There are two common types of blocking conducted by an ISP:

- DNS filtering – where a user is prevented from accessing a pre-defined website.
- IP blocking – which prevents the connection between a server/website and one or more IP addresses.

IP Address blocking is the most common (and much more successful than DNS filtering). IP address blocking prevents connections being established between a server/website and the targeted IP addresses. IP blocking targets either IP addresses of the relevant content to hinder user access (typically carried out by an access provider), or IP address(es) of a set of users to hinder their access to a given piece of content – which remains directly accessible to all users outside the targeted group.

### Deficiencies of Blocking

Blocking, depending on the mechanism used, can be more or less easily circumvented from a technical perspective. Since the internet was designed to provide an open flow of communication, a user can access content blocked by an access provider in its country via other means such as using foreign proxy-servers to bypass the local block; using tunneling software that encrypts online searches and prevents blocking software from seeing the web request; or by simply switching to another name server. IP blocking can also be circumvented by changing the website configuration to a different address. In addition to the possibility of circumvention, blocking technologies bring about risks of over-blocking (unintentionally preventing legal material from being distributed) or under-blocking (not preventing illegal material from being distributed) and have varying associated costs. Essentially:

- DNS filtering – is minimally effective, risky in terms of security, costly in terms of monitoring and presents many side effects.
- IP blocking – has many shortcomings, particularly the use of using virtual private network tunnelling techniques.

There are two main workarounds, Tor and Virtual Private Networks to avoid IP blocking, and each one has its advantages and disadvantages.

### Tor

Tor is short for The Onion Router [<https://www.torproject.org/index.html.en>] and was initially a worldwide network of servers developed with the U.S. Navy that enabled people to browse the internet anonymously. Now, it's a non-profit organisation whose main purpose is the research and development of online privacy tools.

The Tor network disguises a user's identity by moving their traffic across different Tor servers, and encrypting that traffic so it isn't traced back to them. Anyone who tries would see traffic coming from random nodes on the Tor network, rather than the user's computer. To access this network, users just need to download the Tor browser. It doesn't need any setup or configuration, though since data goes through a lot of relays, it can be slow.

There are many sites which give user-friendly instructions on how end-users can build a Tor server and become either a middle-relay or exit-node as part of the Tor network, for example see [<https://ipredator.se/guide/torserver#intro>].

Benefits: A user's IP address is undeterminable to the site they visit. Tor is also free.

Disadvantages: Tor is sometimes slow.

## VPNs

A virtual private network (VPN) protects a user's data and identity over public networks, like the internet and wireless hotspots. They are subscribe-only services that route a user's internet activity through an IP address other than their own. Various protocols are used to create an encrypted tunnel that transports data securely. A VPN is designed to implement the same level of security provided by private networks at substantially lower costs.

Most VPNs are used to add security. Public Wi-Fi hotspots, common in airports and coffee shops, are a hacker's dream because they offer streams of visible data waiting to be mined. Using a VPN keeps a user's information more secure.

VPN services provide different gateway cities where the IP address assigned to a computer is located. This allows users to access websites only available to users from a certain country.

Benefits: VPNs generally don't slow down browsing speed noticeably. A user can also choose which country's IP addresses they would like to use at any given time.

Disadvantages: VPNs generally aren't free (at least not the good ones). They range in price from US\$3-US\$15 per month.

## Why Hide your IP Address?

There are many reasons, legal, illegal and ideological why internet users want to hide their IP address. These include:

1. Hide their geographical location
2. Prevent Web tracking
3. Avoid leaving a digital footprint
4. Bypass any bans or blacklisting of their IP address

### Some Common Tools for Hiding an IP Address

- *Hide My Ass* - <https://www.hidemypass.com>
- *Private Internet Access* - <https://www.privateinternetaccess.com/pages/buy-vpn/>
- *PureVPN* - <http://www.purevpn.com/order/>
- *VyprVPN* - [https://www.goldenfrog.com/vyprvpn/special/referral?offer\\_id=60&aff\\_id=1022&source=VPN\\_Comparison&aff\\_sub=VPN\\_Comparison&processed=1#](https://www.goldenfrog.com/vyprvpn/special/referral?offer_id=60&aff_id=1022&source=VPN_Comparison&aff_sub=VPN_Comparison&processed=1#)

### The Role of ISPs

ISPs are intermediaries (sometime referenced similarly as the post office which delivers letters, but does not know the contents) and act a little bit like utilities. They provide access to the internet. Only on rare occasions should they be put in a position of picking and choosing what people have access to, rather, government direction on blocking access should be restricted to very serious criminal matters such as child exploitation. ISPs have long argued (particularly to the music and movie industry) that undertaking large scale blocking measures is not only very difficult but also inefficient and that the responsibility of blocking sites should have been born by the host.

### Using Social Media to Thwart Blocking

It is possible for unscrupulous offshore operators to defeat domestic IP blocking by setting up new sites directed at markets blocking access. Understanding that it takes time for the new site to be detected, to be placed on a central black list, and then to be added to individual ISP filters, a site set up around a key event may not be blocked in time.

There is a distinct role for social media in aiding this: friends sharing links to these new sites, and targeted advertising. We foresee a situation where these fast evolving “single use” sites deployed by unscrupulous offshore operators render current IP blocking efforts almost entirely useless.

### Financial Blocking

Participation in online gambling requires a mechanism for paying for the gambling transaction and receiving money from any winning bets. Whilst Australia is enamoured in the use of credit cards, we are also significant users of internet banking transactions. The usual practise by international authorities is the blocking of Merchant Category Codes (MCC). This can also be overcome by both operators and consumers. There is a MCC for gambling, which applies to all forms of gambling, including gaming, wagering and lotteries. However, the MCC is not able to differentiate between different types of gambling, or between legal or prohibited services offered by the same operator. It is also reliant on the operator when they apply for their merchant status to state they are a gambling operator. In some jurisdictions the acquiring financial institution may not conduct sufficient due diligence to check.

Regardless, gambling site operators can miscode their transactions by changing their names so that the transaction between the consumer and them fails to recognise the MCC. Consumers can use foreign bank accounts or alternative payment methods without MCC.

Using non-traditional payment systems, such as e-wallets also bypass financial blocking methods. These wallets are an online stored-value account that enables customers to add, withdraw and transfer funds to other users. Such accounts are also accessible through mobile applications. The rise in digital currencies, such as Bitcoins in both mainstream use and legitimacy as a currency exchange further complicates the issue, allowing near anonymous transactions.

### International Trends

Various methods are used overseas to limit access, including payments blocking, ISP blocking, advertising restrictions, direct enforcement measures, diplomatic pressure and international co-operation. Payments and advertising restrictions are most prominent.

The effectiveness of these measures has yet to be conclusively determined but payments blocking and advertising restrictions appear to be having at least some effect of curbing unlawful online gambling in some countries, such as the US.

Most recently authorities in Singapore have blocked access to more than 100 online casino, poker and sports betting websites. The decision came after the country's legislature adopted a law that banned online gambling in the country. Authorities plan on continuing to add new online gambling sites to this list as they get discovered. All ISPs located in the country are required to block people's access to online gambling sites that accept Singapore players.

The Canadian province of Quebec plans to order internet providers to block unlicensed gambling websites due to a loss of revenues.

There have also been historic case studies of jurisdictions blocking gambling sites. In Norway, the Norwegian Gaming Board reported in January 2012 that 54% of gamblers playing on foreign websites played as frequently as they did before a payment ban came into effect 18 months ago (1 January 2010) and that 5% actually played more often than before. In Italy, there are over 3000 banned websites but the number of clicks onto black market websites amounted to 525 million between January and September 2010. Currently the blacklisted site number grows by approximately 100 sites per month. There are up to three million attempts to access the blocked sites each day. In France, the gambling law of 2010 foresaw the blocking of websites not licensed in France as well as the blocking of payments to and from non French licensed websites. However, the application of the law continues to be difficult due to the lack of agreement between the French regulator and ISPs on who is to bear the costs of banning a website.

In March 2014 the House of Lords rejected a proposed amendment to the Gambling (Licensing & Advertising) Bill that would have allowed the UK Gambling Commission to block financial transactions between financial institutions and unlicensed online gambling sites.<sup>14</sup>

### Ring-Fencing

Ring-fencing essentially places restrictions on operators and customers from participating in gambling within a country's regulated environment. It is emerging as a trend for internet gambling regulation in Europe. The European Parliament has recognised that combating unlawful gambling and strengthening technical and legal instruments for identifying and sanctioning unlawful operators is a best practice as well as promoting high quality, competitive legal offerings and fostering cooperation between regulatory authorities.

Some European jurisdictions have ring-fencing arrangements currently in place:

- Italy – the country that pioneered the regulation of ring-fenced online gambling.
- France – the largest country to introduce a ring-fenced regime.
- Belgium – a jurisdiction, which has pioneered the model of requiring a land-based licence for the operation of online gambling.
- United Kingdom – requires all gambling providers in the UK to acquire a licence from the UK Gambling Commission and pay gaming duty on bets from UK customers.

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<sup>14</sup> Payment Processors to Block Transactions Involving Unlicensed UK Gambling Operators. Retrieved on 20 April 2015 from <http://www.pokernews.com/news/2014/03/payment-processors-to-block-transactions-17675.htm>

## Non-Gambling Trends

Netflix has a huge collection of streamable movies, but depending on where an internet user is in the world, that selection of movies might only be available in that country or region. Programming on Netflix varies from region to region because of how TV shows and movies are licensed. Organisations that own the rights to different TV shows and movies license the rights by geography, so Netflix has to acquire rights on a territory-by-territory basis. For this reason, what's available in the U.S. isn't always the same as what's available in other countries, and vice-versa. The same mechanisms discussed above are used by internet users to bypass these issues, just like they do to access foreign operated gambling sites.

## Conclusion

The effectiveness of IP blocking is highly questionable because there are proven ways to circumvent the measure such as, change of the URL by the operator or a change of the gambler's internet settings. They are not reliable given their limited effectiveness and considerable side effects.

Likewise financial blocking is not the panacea many think it is, with many easy to use methods to bypass scrutiny.

Consumer protection may be better preserved through attractive and internationally competitive regulation which keeps consumers away from the black market.

## Glossary

- DNS – The Domain Name System is an internet service that translates domain names into IP addresses. Because domain names are alphabetic, they are easier to remember.
- IP Address - An IP address a unique string of numbers separated by full stops that identifies each computer using the Internet Protocol to communicate over the internet. They can be either dynamic or static.
- IP Blocking – IP address blocking prevents the connection between a server or website and certain IP addresses or ranges of addresses.
- Proxy Server – A proxy server is computer that functions as an intermediary between a web browser (such as Internet Explorer) and the internet.
- VPN – A Virtual Private Network is a method used to add security and privacy to private and public networks, like WiFi Hotspots and the internet.
- ToR - Tor is free software for enabling anonymous communication.

## **Annexure 5 – Australian Offshore Interactive Wagering Independent Report, H2 Gambling Capital**



# **Australian Offshore Interactive Wagering Independent Report**

**November 2015**

Prepared for: **Australian Wagering Council**  
Prepared by: **H2 Gambling Capital**

**Premium business  
solutions**



 [h2gc.com](http://h2gc.com)



## Executive Summary

**H2 Gambling Capital (H2)** - the leading authority regarding market intelligence on the global gambling industry - has prepared this independent report in response to the *Impact of Illegal Offshore Wagering* review initiated by the **Commonwealth Government of Australia**. It has been submitted to help provide an **impartial** perspective during the review process, in advance of its intended reporting deadline of 18 December 2015.

Over the last few years, it is fair to say the global gambling industry has seen a **paradigm shift** characterised by land-based to interactive wagering; from racing (horse and dogs) to sports (predominantly football); from PC/desktop use to mobile; and from pre-match wagering to in-play. The Australian market is no different.

Our assessment leads us to conclude that, if nothing changes going forward, the Australian offshore interactive market will remain strong at **over 60%** of all gambling activity. By 2020, this will amount to **A\$2.2-2.3bn** leaving the country in lost profits, of which **A\$900m** will be from wagering, plus a further **A\$100m per annum in lost tax dollars**, and significant economic growth opportunities - particularly **job creation, technological investment, and problem gambling prevention** - remaining underdeveloped when compared to the world's other leading gambling nations.

Put simply, there is **imbalance** in the market at the moment between Australia's onshore and offshore operators. The Internet, while it **can never be fully policed**, if properly regulated, can move Australia closer towards **market equilibrium** - with the government, licensed operators, and consumers all benefiting.

We draw 14 'top line' conclusions in particular:

### H2 Independent Report - 14 Conclusions

- 1. Sports wagering is nearly half of all interactive gambling globally, and mobile use in the sector is set to double by 2018. Interactive is still only 9% of all gambling worldwide however, but growing at 8x the rate of the land-based sector.*
- 2. In-play wagering is growing at 19% of all wagering, and could reach 50% by the end of the decade (excluding racing). It is now considered the essential component for interactive business growth.*
- 3. Europe is by far the dominant region online with nearly half the world's interactive market. The Nordic countries are the most progressive with interactive wagering levels in excess of 30%.*
- 4. Offshore operators enjoy a significant advantage over their onshore competitors - evidenced by not having to pay local taxes, licensing or product fees; adhere to quality standards or investigative procedures; nor contribute towards responsible gambling initiatives, local jobs or economic growth. The trend is moving away from grey however with nearly two-thirds of interactive wagering to take place on white markets by 2020.*
- 5. The most mature interactive nations have 'something for everyone' market equilibrium - where the government has player security and taxation; the operators have market protection and profit; and the consumer enjoys choice, value for money and player protection.*

6. *Australia is the No 1 gambling nation in the world (based on spend per head), but does not enjoy market equilibrium, with a plethora of offshore operators exploiting a unique 'grey area' within current regulations, most exposed by the arrival of in-play wagering.*
7. *Australia has one of the biggest grey markets in the world. Numerous commercial offshore operators illegally target the country, but it still remains legal for Australian citizens to use them.*
8. *'You can't police the Internet' – however a range of blocking measures could be introduced in Australia to help restore market equilibrium – a ban on offshore operator advertising; IP/financial blacklisting; imposing penalties; higher standards of player protection; legalising in-play and other new product verticals; outlawing offshore wagering.*
9. *Interactive wagering is much more sensitive to tax take than other product verticals. A maximum 'sweet spot' exists which in Australia is probably in the region of, but no more than, 15% of gross win equivalent.*
10. *Two types of benchmarking market exist - those attempting to control interactive offshore wagering through restrictive measures, and those successfully controlling it via regulation. No two markets are the same, but there are lessons Australia can draw on from both camps. Parallel regulatory developments in the US are also of consideration.*
11. *Australia, alongside the UK and Canada, make up the three nations worldwide pioneering new approaches to Responsible Gambling (RG) within the sector. RG "is now firmly on the radar of every Tier 1 CEO". Problem gambling remains highest among land-based, not interactive, players.*
12. *The current offshore interactive gambling market is made up of over 5x the number of sportsbooks than three years ago. It is worth A\$1.3bn, of which sports wagering is cA\$400m, with in-play between A\$200-225m of this. Under the status quo, the total market will reach A\$2.2-2.3bn by 2020 with A\$900m of this wagering, of which A\$600m will be from in-play. The equivalent of A\$100m tax dollars will be lost per annum, and over 60% of all interactive gambling will stay offshore.*
13. *If in-play wagering was regulated, the total market would only increase by 3% by 2020, but the proportion of Australian spend with onshore interactive operators would rise from 49% in 2014 to 78% by 2020.*
14. *The majority of operators want to operate in a fairer market with the UK regulatory model considered the "gold standard". They believe increased competition will drive innovation, with the 'recreational punter' and in-play wagering the main focus going forward.*

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## Context for this Report

This is an independent report provided in response to the *Impact of Illegal Offshore Wagering* review initiated by the **Commonwealth Government of Australia** on 7 September 2015.

It has been prepared by **H2 Gambling Capital (H2)** - the leading authority regarding market intelligence on the global gambling industry - to help provide an **impartial** perspective during the review process, in advance of its intended reporting deadline of 18 December 2015.

The review's Terms of Reference provide for a thorough examination of the practice of providing offshore wagering services to customers in Australia under the *Interactive Gambling Act 2001* and are to contain recommendations for mitigating illegal offshore wagering including, but not limited to, improved government controls; industry codes and standards; and information to customers to enhance self-responsibility. Four specific terms for the review are highlighted in particular:

- 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 be applied 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."*

Source: Commonwealth Government of Australia, 2015

We believe our analysis herein helps inform all four of the above, by offering a mixture of both **quantitative** financial and benchmarked data, as well as up-to-date **qualitative** opinion from the market, under 7 main themes:

### H2 Independent Report - 7 Themes

1. Global overview of the interactive market – in particular highlighting the growth of **sports wagering** (now 48% of all interactive wagering within the sector), and the use of **mobile** (doubling over the next 5 years);
2. Taxation – commentary on how the sector currently **handles taxation on the Internet**, including the setting of optimum levels for interactive wagering (and its subsequent impact on consumer retention);
3. **Benchmarked markets** – best practice examples of wider regulation within the sector worldwide, including description on how the advent of new innovations like in-play wagering have been dealt with, particularly within the UK and Europe;
4. Current Australian offshore market – informed **qualitative** data, and **quantitative** opinion, on the economics and size of the market and how it is currently regarded by non-Australian regulated operators (including a clear explanation of how offshore provision works within the space);
5. **In-play** – commentary on how in-play works currently, and has grown within the sector in recent years;
6. **Problem gambling** – analysis of the sector’s current approach to problem gambling; whether new forms of activity such as in-play wagering make it worse or not; and key RG (Responsible Gambling) programmes and developments underway to safeguard players in the future;
7. Offshore blocking measures – commentary and benchmarking examples from other countries on the difficulties in **policing the Internet**.

We hope our material is of value to all parties involved in the review, and as part of any subsequent government policy formulation that may or may not follow.

## H2 Credentials

H2 is widely recognised as the leading authority regarding independent market intelligence on the global gambling industry. Its team has been researching and tracking the value of the sector in real time since 2000.

The intelligence generated by H2’s unique industry forecasting model has become by far the most quoted source regarding the sector amongst corporates, banks, analysts, governments, regulators and the trade media. Its team has worked with nearly 500 clients globally with specific legislative work undertaken most recently within the Netherlands, the Czech Republic, Sweden, the US (the states of New York, Pennsylvania and California), Greece, Norway, Belgium, France and China. In the media, the company regularly provides data and information to many leading outlets including the BBC, Reuters, Bloomberg, *The Economist*, *The Financial Times*, *The New York Times* and *The Wall Street Journal*.

The H2 databank itself covers approximately 120 world markets, with over 2m data points and 1,450 postings per year, and 5-year projections out to 2020. Forecasts are for land-based, interactive and mobile channels and cover both onshore and offshore numbers. As a result, the vast majority of the sector’s current Tier 1 operators/suppliers; its regulators; and many of the world’s leading banks/financial institutions currently take out the **H2 Subscription**. In parallel, the **H2 Premium** advisory service offers access to the more dedicated time of the H2

team and its network of senior associates located all over the world, and this service is regularly used today as part of government policy formulation in the sector.

In terms of its reporting, H2 utilises '**gross win**' (i.e. turnover less prizes, but including any bonuses played) rather than the turnover/sales measure to value the gambling sector. This is due to the fact that across different product verticals, geographies and market channels payout rates are all different. Therefore, gross win provides a much more consistent measure for comparison across the sector. Furthermore, it also provides a much better reflection of operators' top line revenue as opposed to turnover, which can include the same money that has been recycled a number of times in many of the product verticals.

Finally, it should also be noted that in order to be included in H2's analysis any activity must be licensed either in the same jurisdiction as the player is located ('**White Market**') or in a different market ('**Grey Market**'). We do not cover any activity that is completely unregulated or illegal ('**Black Market**').

*Note: The unique H2 model collates and compiles data via key **primary sources** that include:*

- ✓ *Actual published primary/secondary market and organisation data;*
- ✓ *Knowledge/assessment of the supply side by product vertical;*
- ✓ *H2's own in house tracking of activity;*
- ✓ *Generic information pooled under NDA;*
- ✓ *Regular contact with private organisations/investors, including subscriber feedback;*
- ✓ *Knowledge/opinion of third parties - including providers and other industry analysts.*

*Market forecasts are based on a number of key **secondary drivers** including:*

- ✓ *Maturity of product;*
- ✓ *Expected product development;*
- ✓ *GDP/broadband/mobile growth;*
- ✓ *Benchmark markets;*
- ✓ *Incorporating the impact of past and expected legislation.*

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#### H2 Disclaimer

Whilst great care has been taken in the preparation of this publication H2 Gambling Capital accepts no liability for the accuracy or completeness of all data and information provided, and no warranty is given as to its correctness or forecast estimates herein.

## Section 1: Global Interactive Wagering – Overview

### Evolution of Interactive Wagering Globally

*Sports wagering nearly half of all interactive gambling, and mobile use set to double by 2018. Interactive still only 9% of all gambling worldwide, but growing at 8x the rate of the land-based sector.*

1. **'Interactive wagering'** commonly refers to betting on the outcome of an external outcome or fact, principally sporting fixtures, but can also now include popular events such as the results of reality TV shows, political and/or celebrity activities. It is widely considered (and regulated as) a **'game of skill'** in the gambling sector (as opposed to a 'game of chance').
2. Traditionally, wagering took the form of **'fixed odds'** betting – with bets placed either through pari-mutuel pools (literal translation 'mutual betting' – also known as the Tote), in which all bets of a particular type are placed together in a pool and the odds calculated by sharing the pool among all the winning bets after the event; or via bookmakers using odds offered at the time the bet is placed.
3. In some countries, wagering has also been offered as an extension to an existing **lottery draw** game – principally via straight win, lose or draw result combinations – the most noteworthy recent example being China, where the China Sports Lottery experimented with the 'one off' introduction of a specialist draw game linked to the FIFA World Cup 2014. This resulted in an 83% rise in ticket sales over the month of the tournament (source: China Sports Lottery, 2014).
4. As wagering moved from trackside to retail outlets and then to over the telephone, its global popularity grew and proper regulation and licensing of the sector's incumbent and emerging bookmakers followed. However, as the world increasingly moved online (or interactive) over the last 20 years, the proper policing and licensing of wagering activity within traditional government and/or state boundaries began to provide the sector with some significant challenges, and today **many varying approaches** to regulation have developed across different markets all over the world.
5. From the consumer's point of view, the Internet has provided the platform for an explosion in **new wagering innovations**, all designed to service increased player demand – most recently:
  - **Betting exchanges** – a wagering system that allows consumers to both back and lay bets at the odds of their own choosing. Similar to a stock exchange, a bettor can either back a team (hoping it will win) or lay a team (hoping it will lose, effectively also acting in the role of bookmaker).
  - **Spreads** – where a consumer's payout is based on the accuracy of the wager, rather than a simple win/lose outcome. A spread is a range of outcomes and the bet is whether the outcome will be above or below the spread offered.
  - **In-play** – the new phenomenon of wagering, where the odds on offer from the bookmaker change constantly during a game according to the state of the match and the events taking place previously. This new format has also markedly increased the types of bet now on offer from bookmakers – with odds no longer just for straight win, lose or draw, but on anything from first goal scorer to the number of penalties or

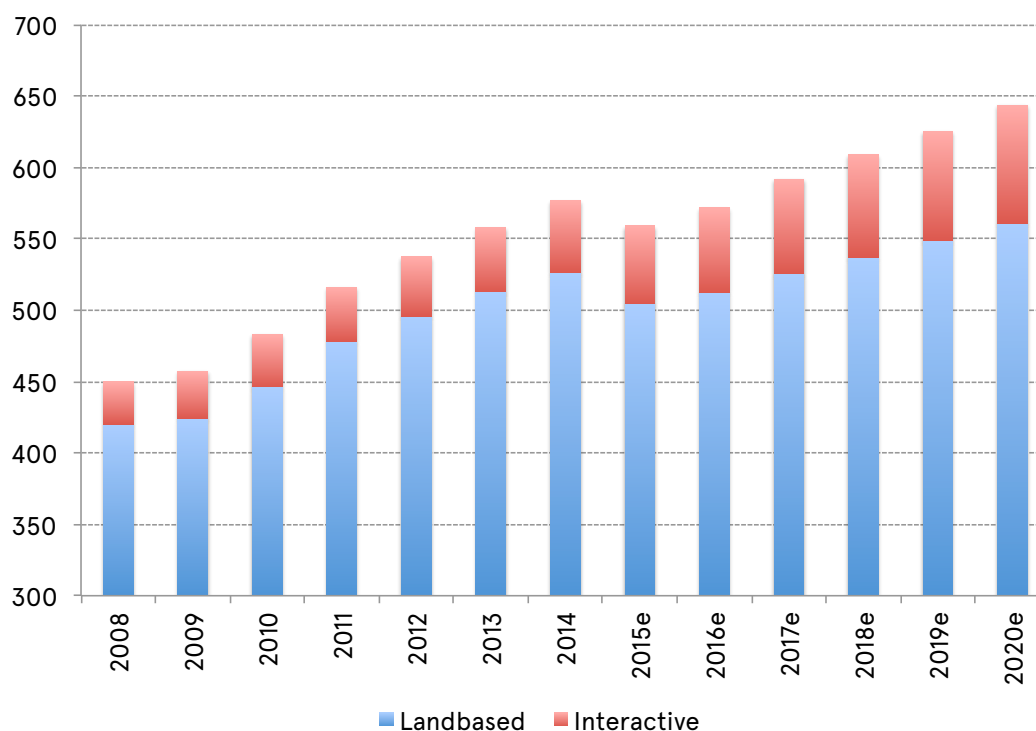
highest number of tackles. The total in-play market **grew to 19% in 2014**, in comparison to ante post wagering (i.e. fixed odds selected prior to an event starting) at 8%, and all wagering in total at 14%.

- **Virtual sports** - computer generated action with near real life graphics and sounds simulating real sports events or races, and the results decided via the draw of random numbers. Those currently available in the sector are produced as mini-versions of sports events, all lasting between 1-5 minutes in duration. In Italy, virtual sports are now over 20% of all sports betting, and in the UK, the vertical has grown to become the No 1 form of gambling conducted more than 2x week in-store (source: Gambling Commission, 2014).
  - **Daily fantasy sports** - where participants act as owners of a team, with its players picked based on statistics generated by the real life performance of individual professional athletes. Fantasy teams compete against other fantasy owners within leagues or tournaments. Play is now offered on a daily basis within the US in particular, with the number of active players up from 33.5m in 2013 to 42m in 2014 (source: Fantasy Sports Trade Association, 2015).
  - **eSports** - 'electronic' sports where play takes the form of professionally run multi-player video game competitions, again within leagues or tournaments. The most common video game genres are real-time strategy, fighting, first-person shooter, and multiplayer online battle arenas. Consumers either physically attend or stream competitive matches, leagues and championships, and gamble on their outcome.
6. As a consequence of all the above, and as more and more live sport is shown on TV or streamed via digital platforms, the global interactive wagering market is growing fast and is already significant in terms of its size and maturity. Although rooted in the mid-to late 1990s, its stability in industry terms spans a solid 15-20 years of benchmarked performance.
  7. According to H2's own analysis, global interactive gambling has developed from **A\$19.5bn** of gross win or **5.1%** of the total market in 2005, to be expected to reach **A\$54.6bn**, or **9.8%** in the current year. This means that the interactive section of the industry has grown at **8x the rate of the land-based sector** over this period, with no signs of this trend to slow down.
  8. Consumers have embraced technology throughout their lives with the gambling sector being no different. In parallel to this operators have been able to utilise technology to provide more sophisticated product propositions, such as betting exchanges and in-play wagering that are much more compelling to today's consumer.
  9. It has been the **wagering sector** of the gambling industry that has seen much of the shift onto the interactive channel with **34.7%** of its total global gross win expected to be interactive in the current year which corresponding rates of 7.2% and 2.9% for gaming and lotteries respectively.
  10. Not only did a relative lack of development in terms of the overall market size of wagering create the demand but also the transactional, 'on-the-go' nature of the experience has meant that interactive platforms in general, and more recently mobile platforms specifically, have proven to be ideal for the vertical.
  11. During 2014, according to H2's own analysis (see Fig 1), global gambling gross win reached **A\$577bn**, up 3.4% on the prior year and at a **CAGR of 4.2%** during the six year period from **2008 to 2014**. In the current year from data modeled thus far, we expect that the total



size of the global market will **fall 3.1%** to **A\$559bn**, due to the contraction of Macau's casino and China's lottery markets which have both become important parts of the global sector during the past decade.

**Fig 1: Global Gambling Gross Win by Market Channel (A\$bn)**

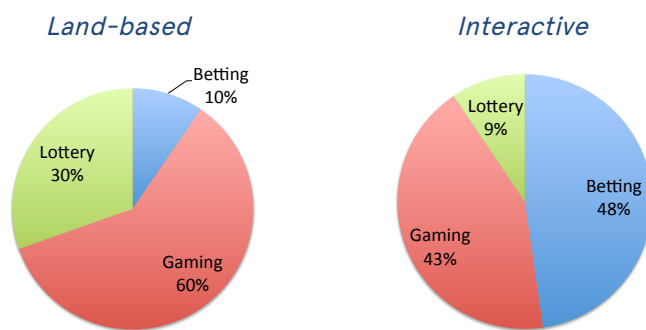


(A\$bn)	2008	2009	2010	2011	2012	2013	2014	2015e	2016e	2017e	2018e	2019e	2020e
Land-based	420.3	424.4	446.2	477.9	495.9	512.8	526.5	504.5	512.6	525.6	536.8	548.6	560.8
Interactive	29.6	33.0	36.7	38.0	41.5	45.1	50.5	54.6	59.2	66.3	72.5	76.7	82.6
<b>Grand Total</b>	<b>449.9</b>	<b>457.4</b>	<b>482.9</b>	<b>515.9</b>	<b>537.4</b>	<b>557.9</b>	<b>577.0</b>	<b>559.2</b>	<b>571.8</b>	<b>591.9</b>	<b>609.3</b>	<b>625.3</b>	<b>643.5</b>
% Interactive	6.6%	7.2%	7.6%	7.4%	7.7%	8.1%	8.8%	9.8%	10.3%	11.2%	11.9%	12.3%	12.8%

Source: H2 Gambling Capital, November 2015

12. Going forward H2 expects the total value of the sector to grow at a **CAGR of 2.8%** during the five-year period from **2015 to 2020** taking its total gross win to **A\$644bn** by the latter. This represents just under 0.5% of global GDP or an average of approximately A\$108 per adult.
13. During 2014, the total global gambling market consisted of A\$74bn (10%) wagering (mainly horse racing and sports), A\$338bn (60%) gaming (casino, gaming machines, bingo etc) and A\$165bn (30%) lottery (draws, instant tickets, numbers games). Online however, sports wagering is the **fastest growing market segment** within all gambling worldwide, and now dominates at nearly **half of all interactive** gambling (**48%**) (see Fig 2):

Fig 2: Global Gambling Gross Win by Major Product Vertical 2014



Land-based Global Gambling Gross Win

A\$bn	2008	2009	2010	2011	2012	2013	2014	2015e	2016e	2017e	2018e	2019e	2020e
Betting	45.9	43.9	44.4	44.9	45.4	46.4	50.3	48.7	50.2	51.9	53.9	56.1	58.8
Gaming	248.8	246.5	265.2	287.2	300.6	312.4	316.2	296.3	300.4	308.5	314.6	320.9	327.1
Lottery	125.6	134.0	136.7	145.8	150.0	154.0	159.9	159.5	162.1	165.2	168.3	171.6	175.0
<b>Land Total</b>	<b>420.3</b>	<b>424.4</b>	<b>446.2</b>	<b>477.9</b>	<b>495.9</b>	<b>512.8</b>	<b>526.5</b>	<b>504.5</b>	<b>512.6</b>	<b>525.6</b>	<b>536.8</b>	<b>548.6</b>	<b>560.8</b>
% Betting	10.9%	10.3%	10.0%	9.4%	9.1%	9.0%	9.6%	9.7%	9.8%	9.9%	10.0%	10.2%	10.5%

Interactive Global Gambling Gross Win

A\$bn	2008	2009	2010	2011	2012	2013	2014	2015e	2016e	2017e	2018e	2019e	2020e
Betting	14.2	15.1	16.7	17.9	19.7	21.6	24.1	25.9	28.0	29.8	32.4	33.8	36.6
Gaming	13.4	15.5	17.5	17.3	18.6	19.7	21.6	23.1	25.0	29.3	31.9	33.8	35.8
Lottery	2.0	2.4	2.5	2.8	3.2	3.8	4.8	5.6	6.2	7.3	8.2	9.1	10.2
<b>Interactive Total</b>	<b>29.6</b>	<b>33.0</b>	<b>36.7</b>	<b>38.0</b>	<b>41.5</b>	<b>45.1</b>	<b>50.5</b>	<b>54.6</b>	<b>59.2</b>	<b>66.3</b>	<b>72.5</b>	<b>76.7</b>	<b>82.6</b>
% Betting	47.9%	45.9%	45.5%	47.0%	47.5%	47.9%	47.7%	47.4%	47.3%	44.9%	44.7%	44.1%	44.3%

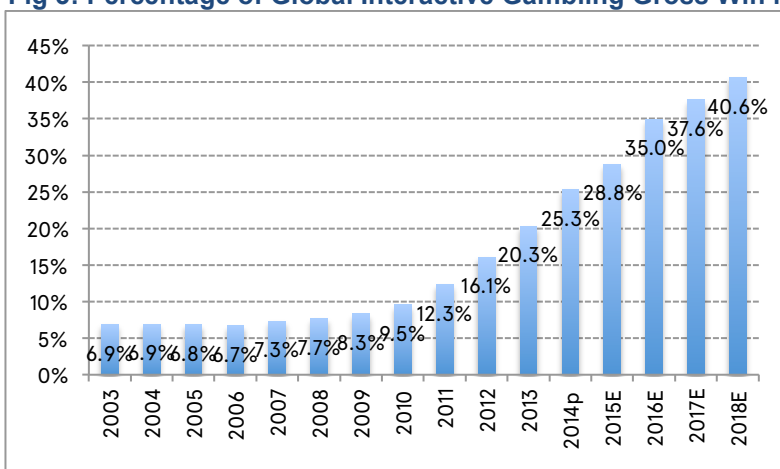
All Global Gambling Gross Win

A\$bn	2008	2009	2010	2011	2012	2013	2014	2015e	2016e	2017e	2018e	2019e	2020e
Betting	45.9	43.9	44.4	44.9	45.4	46.4	50.3	48.7	50.2	51.9	53.9	56.1	58.8
Gaming	60.1	59.1	61.1	62.8	65.1	68.0	74.4	74.6	78.2	81.7	86.3	89.9	95.5
Lottery	262.1	262.0	282.6	304.6	319.1	332.1	337.9	319.4	325.3	337.8	346.5	354.6	362.9
<b>All Total</b>	<b>127.6</b>	<b>136.3</b>	<b>139.2</b>	<b>148.6</b>	<b>153.2</b>	<b>157.8</b>	<b>164.7</b>	<b>165.1</b>	<b>168.3</b>	<b>172.5</b>	<b>176.5</b>	<b>180.8</b>	<b>185.1</b>
% Betting	13.4%	12.9%	12.7%	12.2%	12.1%	12.2%	12.9%	13.3%	13.7%	13.8%	14.2%	14.4%	14.8%

Source: H2 Gambling Capital, November 2015

14. At **A\$24.1bn gross win** in 2014, the size of the global interactive sports wagering market is significant. The above figures also translate to just under a third of the global wagering market taking place via interactive channels as opposed to just over 6% for gaming and 3% in the case of lotteries. A fifth of this is accounted for by mobile, with this figure itself **set to double** from 20% in 2013 to **41% by 2018** (see Fig 3):

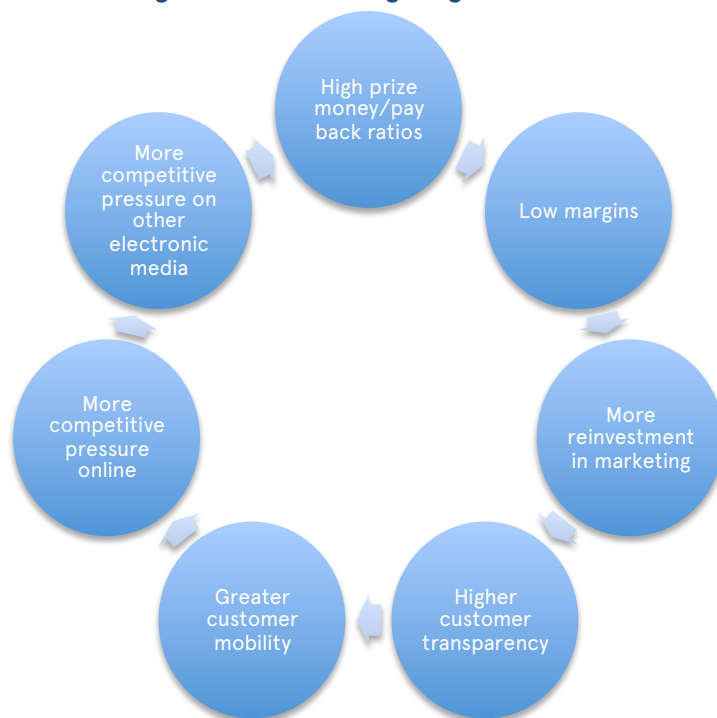
Fig 3: Percentage of Global Interactive Gambling Gross Win Mobile



Source: H2 Gambling Capital, November 2015

15. When you also consider recent research that suggests a purported 8 out of 10 of the world's sports bets are placed on the black market (source: International Centre for Sport Security, 2014), the true interactive wagering market size might actually be nearer **5x this amount** (or A\$120.5bn). Indeed, for specific sports events it may be enormous – the American Gaming Association estimating recently that the amount wagered illegally on Superbowl 2015 was US\$95bn or **38x** that bet legally within the sportsbooks of Nevada (source: American Gaming Association, 2015).
16. Of the interactive betting market's gross win, H2 assessment suggests that in 2014 racing (horses and dogs) accounted for cA\$13.7bn gross win (**57%**) with other sports accounting for the remaining A\$10.4bn (43%) between them. Although its absolute market size continues to grow, increasingly racing is losing share to other sports – especially football (soccer) – with parity of market size expected to be reached in 2020 when both sub-sectors are expected to generate a gross win of cA\$18.3bn.
17. Finally, as part of our introduction, it is also worth commenting on some of the major differences that exist between land-based and interactive wagering, and which necessitate significant variations in their fiscal policy. In short, the interactive channel has been a key area of growth for the gambling sector in recent years as has been the case across the global economy in general. Consumers spend an increasing amount of their time and money online so it is only natural that they will seek to purchase and play all aspects of gambling products online. The channel has also brought **power to the consumer** as now prices can be easily compared between providers and innovation, technology and cross-border supply have all contributed to an evolution of service that has ensured that the sector has been able to keep pace with the increasing sophistication of consumers' tastes and preferences.
18. This has led to some significant differences in operator approach, namely:
  - Land-based – is mainly product/provider led**
    - *Land-based operators primarily compete within national or state territories.*
    - *Players usually visit their wagering premises.*
    - *As a result, there is less competition than in the interactive space, making price less sensitive.*
    - *The environment, ambiance and community within land-based outlets are components that can never be replicated within interactive wagering.*
  - Interactive – is totally consumer led**
    - *Interactive operators are part of a highly competitive international environment where price is much more elastic.*
    - *Players have greater control because purchasing decisions are not limited by location or time.*
    - *This is compounded by vast opportunity, with better offers, bonuses and promotions all 'just one click away'.*
19. As a result, the **interactive business model** is significantly different to its land-based equivalent and is operated principally on lower margins, with greater sensitivity in particular over marketing costs (see Fig 4):

Fig 4: Interactive Wagering Business Model



Source: H2 Gambling Capital, November 2015

## Growth Areas Currently

*In-play wagering is growing at 19% of all wagering, and could reach 50% by the end of the decade (excluding racing). It is now considered the essential component for interactive business growth.*

20. At the time of the review, we identified **9 specific growth areas** for interactive wagering going forward:

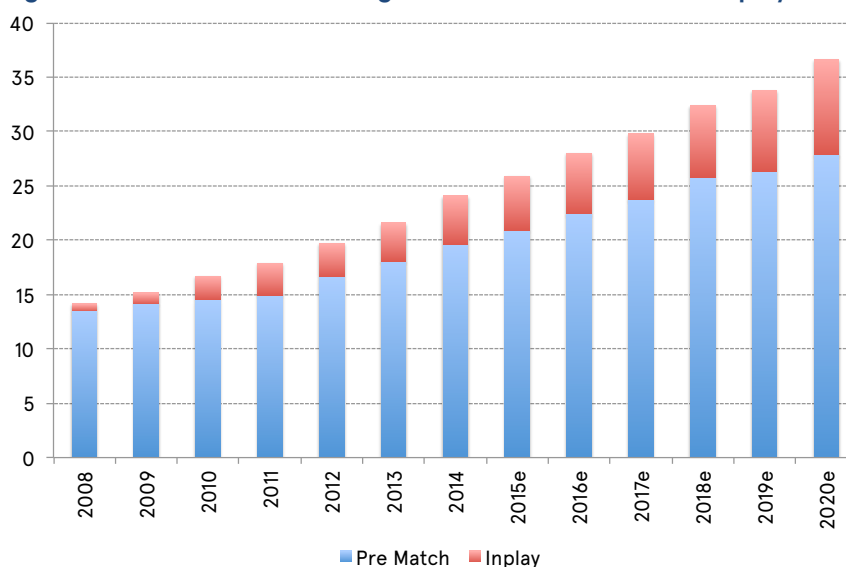
### Global Interactive Wagering - 9 Growth Areas in 2015

1. **Grey growth** – the strongest interactive growth is projected to come mainly from an increase in activity within grey (offshore) markets;
2. **Slow regulatory evolution** – a maturing picture, as more and more regulators begin to play catch up, and move towards fully licensed land-based and interactive markets;
3. **Fast pace of technology** – new innovations, driven by ever more specialist and smaller, fleet-of-foot technology suppliers entering the sector;
4. **Personalisation and social wagering** – a customised experience increasingly dictating the future, with real time tracking of consumer behaviour and data learning capability defining the way consumers are offered a wagering service, increasingly integrating with, and through, existing social networks;
5. **Mobile-driven omnichannel service** – mobile use doubling over the next 5 years, but also the same consistent wagering service offered across all devices a consumer interacts with - mobile, tablet, PC, TV, watch, in-stadium console, gaming machine etc;

6. **Lottery integration** – wagering increasingly combining and cross-selling with traditional lottery draw games, particularly as the latter begin to play catch up and move their ticket sales online;
7. **In-play sports wagering** – becoming the essential component for interactive wagering business growth, represented by access to more and more live sport, and also the continued emergence of always on, ‘unreal’ sport – i.e. virtual sports, daily fantasy sports, eSports;
8. **Operator domination** – the big operators getting bigger, with more market expansion increasingly as a result of in-sector JV partnerships and/or M&A activity – retaining success through liquidity, adaptability and flexibility;
9. **Growing up responsibly** – the sector maturing, with high standards of responsible gambling increasingly being demanded by regulators and firmly on the radar of all operator CEOs.

21. Specifically in relation to in-play, H2 has assessed the size of the global market to be **cA\$4.5bn** of gross win, or just under **19%** of the total value of the interactive gambling market. In the current year it is expected that in-play will reach cA\$5bn of gross win and going forward it is expected that its gross win will increase to cA\$8.4bn by 2020, a **CAGR over 11%** during the next five years (see Fig 5).
22. Given that in-play accounts for virtually no wagering on racing, H2’s analysis implies that it currently accounts for c43-44% of the gross win generated via betting on other sports and that this rate will continue to increase **toward 50%** by the end of the decade, therefore, emphasising its growing popularity amongst consumer and importance to operators.

**Fig 5: Global Interactive Betting Gross Win: Pre Match vs In-play (A\$bn)**



(A\$bn)	2008	2009	2010	2011	2012	2013	2014	2015e	2016e	2017e	2018e	2019e	2020e
Pre Match	13.5	14.1	14.5	15.0	16.6	18.1	19.6	20.9	22.4	23.7	25.8	26.3	27.8
In-play	0.7	1.0	2.2	2.9	3.1	3.5	4.5	5.0	5.6	6.1	6.6	7.5	8.8
<b>Interactive Total</b>	<b>14.2</b>	<b>15.1</b>	<b>16.7</b>	<b>17.9</b>	<b>19.7</b>	<b>21.6</b>	<b>24.1</b>	<b>25.9</b>	<b>28.0</b>	<b>29.8</b>	<b>32.4</b>	<b>33.8</b>	<b>36.6</b>
% In-play	4.8%	6.6%	13.0%	16.4%	15.6%	16.4%	18.6%	19.2%	19.9%	20.3%	20.4%	22.2%	24.0%

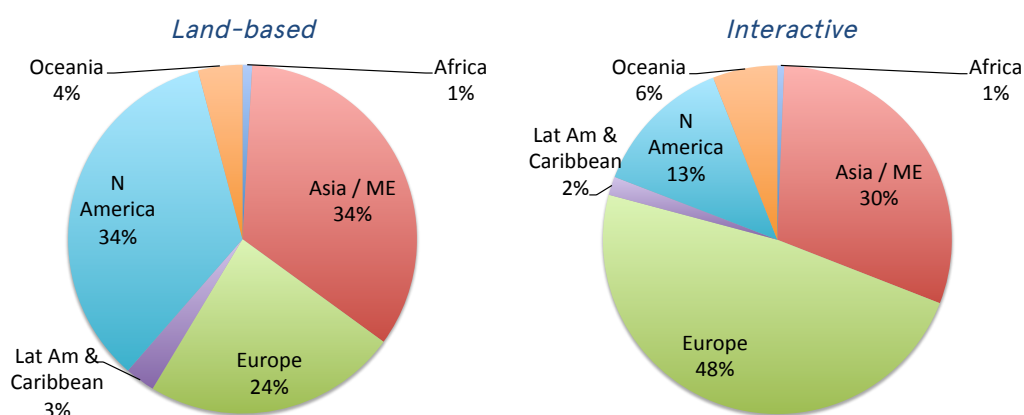
Source: H2 Gambling Capital, November 2015

## Regional Variations

Europe by far the dominant region online with nearly half the world's interactive market. The Nordic countries the most progressive with interactive wagering levels in excess of 30%.

23. The varying pace of regulating interactive wagering globally has led to significant regional variations in overall market size. Europe remains **by far the dominant** interactive region (49%), and boasts the most regulated and diverse gambling market in the world, particularly in the areas of sports betting and interactive wagering (see Fig 6):

Fig 6: Global Gambling Interactive Gross Win by Region 2014



### Land-based Global Gambling Gross Win

A\$bn	2008	2009	2010	2011	2012	2013	2014	2015e	2016e	2017e	2018e	2019e	2020e
Africa	3.4	3.7	3.8	4.0	4.2	4.6	4.7	5.0	5.2	5.4	5.6	5.8	6.0
Asia / ME	96.4	101.3	121.3	144.8	156.6	173.2	179.6	152.9	157.0	163.5	168.9	175.1	181.7
Europe	128.1	125.9	124.6	126.4	126.0	123.6	124.3	125.2	127.3	129.1	131.0	132.4	133.9
Lat Am & Caribbean	9.2	10.2	11.3	12.2	13.2	13.6	14.7	15.4	15.9	16.6	17.3	17.8	18.4
N America	163.6	162.9	165.3	169.7	174.5	176.4	181.5	184.3	185.2	188.7	191.5	194.5	197.5
Oceania	19.5	20.3	19.9	20.7	21.3	21.4	21.7	21.7	22.0	22.3	22.7	23.0	23.4
<b>Land Total</b>	<b>420.3</b>	<b>424.4</b>	<b>446.2</b>	<b>477.9</b>	<b>495.9</b>	<b>512.8</b>	<b>526.5</b>	<b>504.5</b>	<b>512.6</b>	<b>525.6</b>	<b>536.9</b>	<b>548.6</b>	<b>560.9</b>

### Interactive Global Gambling Gross Win

A\$bn	2008	2009	2010	2011	2012	2013	2014	2015e	2016e	2017e	2018e	2019e	2020e
Africa	0.1	0.2	0.2	0.2	0.3	0.3	0.3	0.4	0.4	0.4	0.5	0.5	0.5
Asia / ME	9.6	10.2	10.8	11.7	12.8	13.9	15.3	16.7	17.8	18.9	20.1	21.2	22.6
Europe	11.3	13.5	15.5	17.3	19.4	21.3	24.3	26.4	29.2	31.5	34.4	36.0	38.8
Lat Am & Caribbean	0.3	0.4	0.4	0.5	0.6	0.7	0.9	1.0	1.1	1.1	1.3	1.3	1.5
N America	6.9	7.2	7.9	6.2	6.1	6.3	6.6	7.0	7.1	10.6	12.3	13.4	14.9
Oceania	1.4	1.6	1.9	2.1	2.4	2.7	3.0	3.3	3.6	3.8	4.0	4.2	4.4
<b>Interactive Total</b>	<b>29.6</b>	<b>33.0</b>	<b>36.7</b>	<b>38.0</b>	<b>41.5</b>	<b>45.1</b>	<b>50.5</b>	<b>54.6</b>	<b>59.1</b>	<b>66.3</b>	<b>72.4</b>	<b>76.7</b>	<b>82.6</b>

### All Global Gambling Gross Win

A\$bn	2008	2009	2010	2011	2012	2013	2014	2015e	2016e	2017e	2018e	2019e	2020e
Africa	3.6	3.8	4.0	4.2	4.5	4.8	5.0	5.4	5.6	5.8	6.1	6.3	6.5
Asia / ME	106.0	111.5	132.2	156.5	169.4	187.2	194.9	169.6	174.8	182.4	188.9	196.3	204.2
Europe	139.4	139.4	140.1	143.8	145.4	144.9	148.6	151.6	156.5	160.6	165.3	168.4	172.7
Lat Am & Caribbean	9.5	10.6	11.7	12.7	13.8	14.3	15.6	16.3	17.0	17.7	18.5	19.1	19.8
N America	170.5	170.1	173.2	175.9	180.6	182.7	188.1	191.3	192.3	199.3	203.8	207.9	212.4
Oceania	20.9	21.9	21.8	22.8	23.7	24.0	24.7	25.0	25.6	26.1	26.7	27.2	27.8
<b>All Total</b>	<b>449.9</b>	<b>457.4</b>	<b>482.9</b>	<b>515.9</b>	<b>537.4</b>	<b>557.9</b>	<b>577.0</b>	<b>559.2</b>	<b>571.8</b>	<b>591.9</b>	<b>609.3</b>	<b>625.3</b>	<b>643.5</b>

Source: H2 Gambling Capital, November 2015

24. Across Europe interactive wagering accounts for A\$24.3bn – or **48%** of total gross win – in 2014, with the rate in excess of 30% across the Nordics, and 26% in the UK. There is room for growth – particularly in the Americas where the pace of change (largely due to prohibition in the US reinforced by the introduction of the *Unlawful Internet Gaming Enforcement Act 2006*), lags well behind that seen in Europe and Asia (the two dominant sports betting regions – albeit the latter is mostly grey).
25. Oceania is expected to continue to be the fourth largest region at A\$25bn with Australia generating the majority of this. Indeed the total value of Australia’s gambling market is the **sixth largest** behind only the United States, China (Including the SARs Hong Kong/Macau), Japan, Italy and the United Kingdom.
26. By other measures the Australian market ranks higher. By percentage of GDP represented by gambling gross win it **ranks fourth** at c1.4%, and in terms of the average amount of gross win generated per adult, then Australia ranks **number one** at A\$1,245 in 2014.

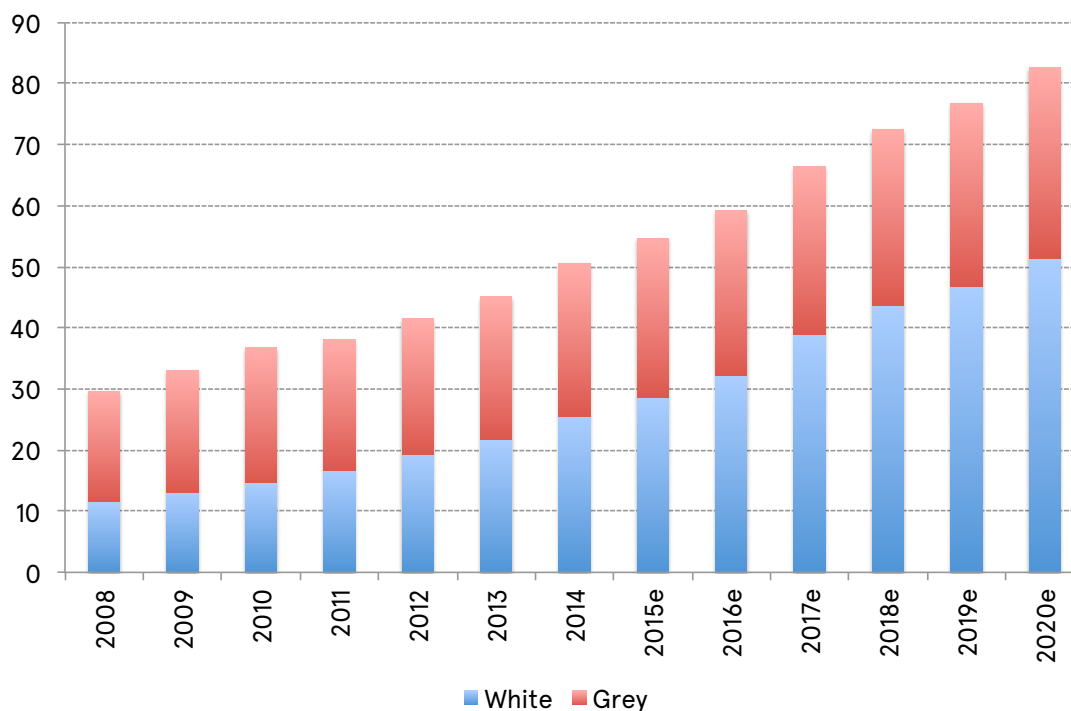
## The Balance between Onshore and Offshore

*Offshore operators enjoy a significant advantage over their onshore competitors – evidenced by not having to pay local taxes, licensing or product fees; adhere to quality standards or investigative procedures; nor contribute towards responsible gambling initiatives, local jobs or economic growth. The trend is moving away from grey however with nearly two-thirds of interactive wagering to take place on white markets by 2020.*

*The most mature interactive nations have ‘something for everyone’ market equilibrium – where the government has player security and taxation; the operators have market protection and profit; and the consumer enjoys choice, value for money and player protection.*

27. A particular quirk of interactive wagering has been the emergence of the ‘grey’ or ‘offshore’ market over the last 15-20 years, where the player bets online with a bookmaker that is not licensed in the country within which s/he is located. Largely because of the slow pace of regulatory change in responding to this consumer shift worldwide, this growth has been significant in recent years with grey markets profiting from **over 60%** of all global interactive wagering.
28. Latterly however, there has been a clear movement away from the majority of interactive activity taking place on offshore grey sites, to the establishment of properly onshore regulated white markets where players are fully protected and the operators pay tax. In 2008, less than 40% of global interactive gambling gross win was conducted under a scenario where the operator was fully licensed in the same jurisdiction as the player. Last year represented the point at which the size of interactive white markets **surpassed that of the grey markets** for the first time, and it is expected that by 2020 over **62%** of the value of the global interactive gambling market will take place within ‘white markets’ (see Fig 7):

Fig 7: Global Interactive Gambling Gross Win by Regulatory Status (A\$bn)



(A\$bn)	2008	2009	2010	2011	2012	2013	2014	2015e	2016e	2017e	2018e	2019e	2020e
White	11.6	13.1	14.7	16.7	19.4	21.7	25.5	28.7	32.2	38.8	43.6	46.8	51.4
Grey	18.0	19.9	22.0	21.3	22.1	23.4	25.0	26.0	27.0	27.5	28.8	30.0	31.3
<b>Interactive Total</b>	<b>29.6</b>	<b>33.0</b>	<b>36.7</b>	<b>38.0</b>	<b>41.5</b>	<b>45.1</b>	<b>50.5</b>	<b>54.6</b>	<b>59.2</b>	<b>66.3</b>	<b>72.5</b>	<b>76.7</b>	<b>82.6</b>
% White	39.1%	39.7%	40.0%	44.0%	46.6%	48.0%	50.5%	52.5%	54.4%	58.5%	60.2%	61.0%	62.1%

Source: H2 Gambling Capital, November 2015

29. Because of this regulatory gap, considerable economic advantages to operating an offshore sportsbook have emerged. In short, offshore operators:

- × Pay no taxes;
- × Pay no licensing fees;
- × Pay no product fees;
- × Contribute no prize money to sport;
- × Contribute no funds to sport running costs – facilities, grass roots and/or elite programmes;
- × Contribute no funds to preserving sports integrity;
- × Contribute no funds to promoting responsible gambling.

and also:

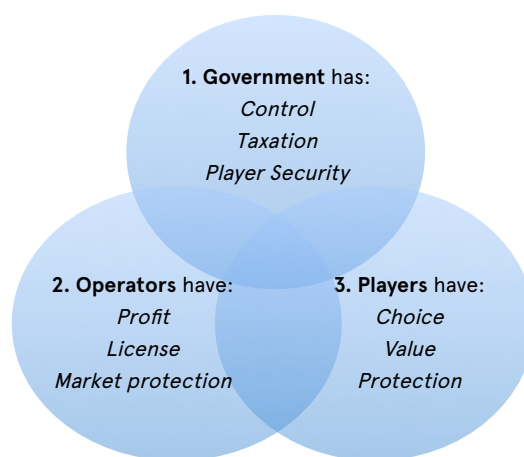
- × Generate straight profit;
- × Do not have to create or sustain jobs, and pay associated taxes, nor invest in technology within their targeted country;
- × Do not have to adhere to that country's licensing requirements, operating standards and/or codes of practice (including advertising controls and responsible gambling measures);
- × Do not have to adhere to that country's regulatory practices (e.g. can offer products not permitted domestically and/or the same products cheaper);
- × Avoid regulatory audit and submitting wagering transaction data to the authorities for scrutiny;
- × Are harder to track if criminal or anti-money laundering proceedings are enacted;
- × Operate with less risk.



30. **No two markets are the same** and around the world, some territories have been fully opened up, others have been developed but remain closed and limited to a local monopoly, with another cohort placing restrictions on who may, or may not, enter the market:
- **Europe** still remains the 'centre of the world' for fully regulated interactive gambling. 13 countries have issued licenses for interactive gambling, and a further 18 countries are reviewing their current regimes. The level of taxation is a key sticking point however, and in the UK, the new 15% POCT (Point of Consumption Tax) introduced in December 2014 is having some effect in driving less established operators elsewhere.
  - In **Africa**, gambling is gaining momentum, though mainly driven by a growth in land-based operations, as well as in sports betting - in Kenya, Nigeria, Tanzania and Uganda. African markets are generally underdeveloped (South Africa excepted - which regulates interactive sports betting with some licenses available for private operators), though mobile penetration is increasing.
  - In **Asia**, the trend in 2015 has been towards more blanket prohibitions on large black (and grey) market operations - particularly in Singapore and Macau. In general terms, Asia is in deep with the anti-corruption and anti-money laundering crackdown - and the current offshore focus is shifting to the Philippines, South Korea, and even Russia. Interactive regulation is more likely longer term across the region, but not before land-based regimes have fully developed and matured. China has become the most progressive global market in accepting commerce via mobile, and Japan has been actively considering a more liberal opening up of its wagering market. India has also begun to consider the real possibility of properly regulated sports betting however progress is slow, and there are also current barriers for direct foreign investment.
  - In **Latin America**, there is will to develop in a similar way to Europe - led by Mexico - and driven by a consensus to control offshore competition and generate revenue from licence fees and taxation. In total, 7 major Latin American countries are currently reviewing their respective interactive gambling legislation, however progress again is slower than originally anticipated.
  - In **North America**, the US grey market is huge and the focus remains on the 5<sup>th</sup> US state after Nevada, Delaware, Oregon and Montana to fully open up its territory for properly regulated legal sports wagering. The professional sports leagues have joined the lobby to force the pace of change with the NBA openly calling for proper consideration of the topic, and the NFL, MLB and NHL all partnering with new Daily Fantasy Sports (DFS) operators - themselves filling the void left (because of a loophole in the *Unlawful Internet Gaming Enforcement Act 2006* legislation that currently bans interactive sports wagering) to service arguably latent US consumer demand for interactive wagering (albeit a new push has emerged in recent weeks to regulate DFS within Nevada).
31. In considering all the above, H2 has concluded that, in general terms:
- ✓ The gambling industry is maturing with an **increasing number of locally regulated markets** - government driven, to generate revenue through gambling taxes and the sale of licences;
  - ✓ Physical and digital channels continue to **converge** - with licenses being issued to land-based operators, for both land-based and interactive products;

- ✓ The most sophisticated nations are now reaching a stable growth environment of anywhere **between three to six** established major Tier 1 operators across all gambling forms;
- ✓ Local **monopolies/incumbents** have generally done well in all regulated markets independent of the level of the taxation rate set and restrictions on market entry; and
- ✓ The most mature interactive gambling nations have '**something for everyone**' market **equilibrium** – where they balance government tax take with new commercial opportunity, plus reflect dynamic market conditions where technology advancements and pace of change – particularly interactive – can benefit all parties and attract new players, without disenfranchising core consumer groups (see Fig 8):

Fig 8: '**Something for Everyone**' – The Gambling Industry's Optimum Market Equilibrium



Source: H2 Gambling Capital, November 2015

## Australian Offshore Interactive Wagering in Comparison

*Australia is the No 1 gambling nation in the world (spend per head), but does not enjoy market equilibrium, with a plethora of offshore operators exploiting a unique 'grey area' within current regulations most exposed by the arrival of in-play wagering.*

32. Based on spend per head (A\$1,245 pa in 2014), Australia is still the **No 1 gambling nation** in the world. It is hardly surprising therefore, that there has been a clear increase in the number of sites actively targeting the Australian market from offshore in recent years.
33. The key difference between the Australian interactive wagering market and the rest of the world, is that the current *Interactive Gambling Act (IGA) 2001* allows for sports wagering through licensed operators as long as the betting occurs prior to the sports event starting – the premise being that wagering this way an individual is not gambling 'interactively'. Since the IGA has come into force however, the arrival of in-play wagering in particular has exposed a unique 'grey area' within the current regulations. Under the IGA, in-play betting is outlawed on online platforms, including mobile phones. Australian consumers, however, can bet on the outcome of an event after it has begun, but only via the telephone or in person.
34. Australia is **one of the only countries in the world** where such a level of prohibition exists. Yet while some incumbent licensed bookmakers have tried to put in place innovative

solutions that can service this new demand for interactive in-play – such as partial cash out, or allowing Australian consumers to keep their smart phone microphone on while wagering online – the reality is that the IGA ruling has made offshore providers that much more attractive and easier for Australian consumers to bet with, than their licensed and highly regulated onshore contemporaries.

35. It is worth noting here that, in general, interactive sportsbook sites tend to be larger operations (gaming sites by comparison dwarf sportsbook sites and are more often than not one owner multiple brands or 'skins'). This is especially the case in the offshore Australian market where the main offshore sportsbook operators are fairly sophisticated operations that were **not there before** the new demand for **in-play wagering** emerged. Indeed, there are now an estimated **5x the number of offshore sites in the 3 years since in-play** has really taken hold. This in some way goes to the common held theory that offshore operators will look to fill any gap in a market that exists, and from there manoeuvre their way in further as they build brand, online chatter and re-invest in underground online marketing.
  36. Not only is this an unfortunate consequence of the current IGA legislation, but it also means that financially, Australia's offshore operators benefit from significantly higher profit margins allowing them to offer that **much more competitive** odds, bonuses and eventual payouts. Clearly, today, this is far from 'market equilibrium'.
-

## Section 2: Australian Interactive Wagering – Regulation

### Current Legislative Framework

*Australia has one of the biggest grey markets in the world. Numerous offshore operators illegally target the country, but it is still legal for Australian citizens to use them.*

37. Historically, regulation of Australian gambling has sat primarily within **state and territory governments**, however the current Commonwealth Government has since its 2013 election been committed to **a more national approach** to gambling policy, to investigating methods of strengthening the enforcement of the *Interactive Gambling Act 2001*, and so ensuring Australians are protected from illegal interactive gambling operators.
38. We summarise the main characteristics and evolution of the current legislative framework below:

#### Market Dynamics

- Online, only **sports wagering** and **lotteries** are legal. Operators must be licensed in the state where the service is being used and the state in which they are based.
- TAB outlets offer fixed odds land-based wagering nationwide - Tabcorp in 3 states, Tatts (the state lotteries monopoly) in 4, and Western Australia TAB in 1.
- Betfair operates the only betting exchange nationally.
- Commercial offshore operators target the market illegally but it is not an offence for Australian citizens to use them, which in turn creates a sizeable grey market.
- In-play wagering is prohibited, however some operators offer it through a telephone betting loophole.

#### Government Policy

- Gambling is traditionally the responsibility of the states that regulate and collect tax.
- New technologies and growing public concern prompted the Commonwealth Government to step in during the late 1990s.
- Proceedings:
  - 1999: PM John Howard advised the states to stop the further expansion of internet gambling.
  - 2000: The Commonwealth Government passed a moratorium on interactive gambling for 1 year.
  - 2001: The Commonwealth passed the *Interactive Gambling Act 2001* to ban interactive gambling (other than the exemptions listed above) and advertising across all states.
- Major Inquiries:
  - 1998: The Institute of Criminology led a national conference on the future of interactive gambling and concluded that the Commonwealth Government could try to prohibit interactive gambling but this could be problematic, especially regarding inter-state cooperation. The desirable approach would be to launch a nationwide regulatory system with common legislated standards, tax rates and operating conditions.
  - 1999: The Productivity Commission released a report on the performance of the Australian gambling industry and concluded the best way to solve the problems of a rapidly expanding interactive gaming market was to liberalise and regulate. Key findings: 80% gamble; large problem gambling population; liberalisation and regulation would promote consumer protection, minimize criminal activity, reduce risks of problem gambling.

- 2000: A Senate Select Committee released a report on interactive gambling and concluded that prohibition would be ineffective and liberalisation of the industry through a uniform national regulatory framework would be the best approach.
- 2001 – The NOIE (National Office for the Information Economy) Inquiry assessed the feasibility of banning interactive gambling and concluded that a ban would not be sustainable either from a social policy, skills development or technical standpoint.

#### Legality

- Interactive gambling and interactive gambling advertising is prohibited across Australia since 2001 with exceptions for interactive lotteries and sports wagering.
- It is illegal for an interactive gambling company to offer additional interactive gambling products to Australian citizens, but it is not illegal for Australian citizens to gamble online.
- Interactive sports wagering is legal if offered by a licensed operator. The state regulatory body controls licensing and operators must apply for licenses for each state.
- In-play wagering is prohibited as it is deemed interactive by the IGA 2001, however some major operators – most notably William Hill Australia – currently operate an in-play product by using a system classified as telephone wagering. In July 2015 this was referred to the Australian Federal Police (AFP) by the Australian Communication and Media Authority (ACMA), however four months later in November, the AFP announced, *“in line with the AFP’s case categorisation and prioritisation model, this matter was not accepted by the AFP for further investigation”*.
- Interactive lottery sales are also legal and subject to licensing at state level.

#### Taxation, License Fees and Product Fees

- Licensed operators pay **direct and indirect** federal and state/territory taxes in the form of GST, payroll tax, income tax and fringe benefit tax.
- Licensed operators must also pay a licence fee, again at state/territory level.
- Australian licensed operators are also required to pay product fees to racing and sports bodies for the right to offer bets on their markets.

#### Regulatory Bodies

- The **Australian Communication and Media Authority (ACMA)** is responsible for regulating interactive gambling and providing the industry code. The high profile of wagering means regulators monitor the onshore industry closely. The offshore market does not receive the same level of scrutiny currently.
- Each state has its own regulatory body:
  - Australian Capital Territory – ACT Gambling and Racing Commission.
  - New South Wales – New South Wales Office of Liquor, Gaming and Racing.
  - Northern Territory – Licensing Commission.
  - Queensland – Office of Liquor and Gaming Regulation.
  - South Australia – Independent Gambling Authority.
  - Tasmania – Tasmanian Gaming Commission.
  - Victoria – Victorian Commission for Gambling and Liquor Regulation.
  - Western Australia – Department of Racing, Gaming and Liquor.
- The Australian Transaction Reports and Analysis Centre (AUSTRAC) is responsible for the investigation and enforcement of anti-money laundering and terrorist financing.
- The Australian Association of National Advertiser (AANA) works alongside the Advertising Standards Bureau to maintain a self-regulatory framework governing the advertising conduct of operators.

#### Federal Legislation

- *Interactive Gambling Act 2001* (last amended March 2015).

## Towards Market Equilibrium – Key Considerations

*'You can't police the Internet' – however a range of blocking measures could be introduced in Australia to help restore market equilibrium – a ban on offshore operator advertising; IP/financial blacklisting; imposing penalties; higher standards of player protection; legalising in-play and other new product verticals; outlawing offshore wagering.*

39. Good regulation focuses on the **overall aims and objectives** of a legislative framework rather than seeking to control what is offered at the micro level. The United Kingdom is generally viewed as a leader in the regulation of the gambling industry currently. In the UK, the Gambling Commission (regulator) has three overarching licensing objectives, namely to ensure gambling is: crime free; fair and open, and children/vulnerable people are protected.
40. Consumers across the board, but especially in an entertainment industry such as gambling consumers, are fickle. Changes in tastes and preferences can lead to spending moving at the drop of a hat into new areas that were previously not thought of.
41. There are plenty of examples recently just in sports wagering – the Internet, mobile, in-play, virtual sports, betting exchanges, daily fantasy sports – all have caught some or all regulators off-guard. It is guaranteed that there will only be more innovation both in product and how it is accessed by consumers going forward. The introduction of technology and the acceleration of its development has only gone to heighten the pace of innovation.
42. **Innovation** has been the most important driver of growth in the sector over the last 5-10 years. Without it the consumer becomes bored and will move into other products and services quite quickly. Since the widespread adoption of the Internet, **power has shifted to the consumer** and there is the possibility that offshore non-tax paying and potentially less well-regulated entities will fill the void should onshore operators be prevented from offering a new variation of a product or participating via a channel.
43. In the current day and age it is **almost impossible to close down an offshore gambling sector**. Therefore, rather than 'sticks' aimed at prevention, the 'carrot' of a broad and fair onshore licensing system is preferable in order to enable operators to service customer demand for the latest products. This should be flexible in order that operators are not just able to offer bets based on today's tastes and technology but those of the future too.
44. It is clear from established onshore-regulated interactive gambling schemes that as long as the product is competitive and the value on offer is similar, consumers **prefer to transact within an onshore-regulated scheme** due to the additional protection and peace of mind that this ensures them.
45. The above said, if we accept that '**something for everyone' market equilibrium** (see Fig 9) is the optimum industry model for interactive gambling, and that the Australian interactive wagering sector is not yet currently in equilibrium (because of the abnormally high number of existing offshore operators), then there are a number of key considerations (based on experience in other markets) that could be addressed as part of any potential future regulatory change.
46. Key Australian market considerations going forward then are:
  - **Range of product verticals:** The more product verticals permitted, the more attractive the market for onshore operators due to economies of scale and cross-sell opportunities (e.g. game and platform neutral in-play);

- **Advertising ban on unlicensed operators:** Advertising is essential for licensed operators to develop. Blocking unlicensed operators from advertising is one of the most effective means to control an offshore market, though it may be difficult to limit it effectively online;
  - **Blocking (IP, financial, blacklist):** Makes an onshore licence that much more valuable, however there will be methods for offshore operators to bypass this - *'you can't police the Internet'*;
  - **Penalties for unlicensed operators:** Punitive measures including fines may deter some grey operators, but regulation needs to be enforceable in the offshore jurisdiction concerned;
  - **Responsible gambling/player protection:** Increasingly important politically, a legal and protected environment will draw in certain players whilst protecting minors and the vulnerable;
  - **Outlawing offshore wagering:** Making it a straight criminal offence for Australian citizens to wager on offshore websites.
47. The economic benefits of a regulated market over an illegal market are not just financial. Other key factors that also need noting are:
- ✓ **Security:** There exists for Australian citizens a legal place to play safely, in a straightforward manner, and securely (in terms of data protection and cash pay out);
  - ✓ **Jobs:** An upturn in employment opportunity, with the potential to replace offshore employment with onshore Australian jobs – the majority within indirect sectors e.g. marketing (as onshore regulated activity leads to more use of the mainstream media), payments and geo-location;
  - ✓ **Economic growth:** Enhanced cross-channel marketing opportunities for associated non-wagering sector operators, brands and sectors.

## Taxation

*Interactive wagering is much more sensitive to tax take than other product verticals. A maximum 'sweet spot' exists which in Australia is probably in the region of, but no more than, 15% of gross win equivalent.*

48. For a regulatory framework to be generally innovation-friendly, taxation levels (GST and current state/territory wagering taxation), product range and liquidity are all factors that are critical in ensuring that the potential of any onshore-regulated interactive market is fully realised.
49. Australia already predominantly taxes the sector with respect to gross win. This enables operators not to have to bear unnecessary risks and offer the best possible value to the player. Lower rates of taxation will always lead to operators being able to invest more in the product and marketing, leading to a larger market size and better rates of capture within the onshore market. As with any good or service, a better price generally leads to a greater level of demand.
50. Our modeling based on H2's prior tax take assessments (including within the US, Belgium, Greece, Netherlands, Norway, Sweden and the United Kingdom) and general economic theory – most notably the Laffer Curve – is that that there is a **'sweet spot'** for a taxation

rate at which the headline take is sufficiently high so as to optimise a broader position once secondary fiscal, economic and player protection/value benefits have been taken into consideration.

51. Given the sensitivity of the interactive wagering market to value, an optimal taxation burden of **in the region, but no more than, 15% of gross win equivalent** is, in our opinion, Australia's maximum 'sweet spot'. At this level the tax take may be close to its ceiling whilst ensuring the highest proportion of players are still attracted to those operators licensed onshore.

## Similar Benchmarked Markets

*Two camps exist - those attempting to control interactive offshore wagering through restrictive measures, and those successfully controlling it via regulation. No two markets are the same, but there are lessons Australia can draw on from both camps. Parallel regulatory developments in the US are also of consideration.*

52. In considering the optimum way forward in Australia, it is interesting to consider lessons learnt from similar nations around the world that have addressed, or are currently addressing, a **high level of offshore interactive market activity**.
53. Most eye raising currently of these is **the US**, and the international alliance just announced between Clubs Australia and the American Gaming Association (AGA), in which both parties are collaborating to promote the risks of illicit gambling websites, and work on measures to prevent their spread. The parallels are strong, particularly as the partnership also forms part of the AGA's **Stop Illegal Gambling - Play it Safe** initiative, which focuses on four key areas of illegal gambling: illegal sports betting, black market machines, Internet sweepstakes cafes, and illegal online betting. H2 believes a formal review of the US offshore interactive market is not far behind the current one underway in Australia - and that the countries have much to gauge from each other.
54. Other nations of consideration split into **two camps**:
  - Those that have **attempted to control interactive offshore wagering through enforcing restrictive measures** such as payment blocking and blacklists. Whilst illegal, citizens of these countries can still access, and wager on, offshore sites as operators can easily side step the majority of prohibitive techniques used by the authorities.
  - Those that have **successfully controlled interactive offshore wagering through the process of regulation**. All the markets listed here have created fair and competitive environments for licensed operators that, in turn, attract their citizens away from their unlicensed offshore competitors, and so wager on sites that provide good consumer protection and contribute tax revenues to the state.



**Fig 9: Markets Attempting To Control Interactive Offshore Wagering Via Restrictive Measures**

Market	Total Interactive Gross Win 2014 (€m)	% Interactive Onshore 2014	% of Total Market Interactive	Products	Key Aspects of the Interactive Market
Russia	€315	0%	21%	None	<ul style="list-style-type: none"> <li>Interactive gambling banned in 2006.</li> <li>Illegal operators face harsh penalties if convicted of offering gambling to Russian citizens.</li> <li>Four remote designated zones were set up in 2009 in which certain forms of gambling were permitted. In 2011 authorities were granted the power to fine users of interactive gambling sites outside of these zones.</li> <li>A blacklist of blocked ISPs (containing over 600 gambling sites) has been active since 2006.</li> <li>A payment blocking bill has been introduced to block all payments to gambling sites through Russian banks.</li> <li>2014 offshore gross win €315m.</li> </ul>
Romania	€57	0%	8.3%	All interactive products are legal	<ul style="list-style-type: none"> <li>Originally prohibited by the Gambling Act 2009.</li> <li>Fully regulated since 2015 following the passing of GEO 92/2014.</li> <li>All operators must have a Romanian license and be based in a EU country to transact with Romanian citizens.</li> <li>Whilst provisional interactive licenses are being awarded the gambling authority continues to block sites via a blacklist of blocked ISPs (currently containing 288 sites). The list includes certain operators who have conformed with the requirements for a licence such as paying back taxes at a rate of 20% GGR.</li> <li>Online gamblers are taxed on their winnings at varying rates up to 25% when gambling on licensed sites.</li> </ul>
China	€3,653	0%	5.6%	None	<ul style="list-style-type: none"> <li>Prohibited since 1979 under the Criminal Law of the People's Republic of China.</li> <li>The Ministry of Public Security and the National Police Authority issue severe punishments for the operation of online gaming sites aimed at Chinese citizens.</li> <li>A network of Internet cafes, snooker halls and private premises illegally offer access to online gaming and are subject to frequent raids.</li> <li>Prison sentences of at least 5 years and large fines are regularly administered to those convicted of organising or using online gambling sites.</li> </ul>

Market	Total Interactive Gross Win 2014 (€m)	% Interactive Onshore 2014	% of Total Market Interactive	Products	Key Aspects of the Interactive Market
Singapore	€273	43%	4.3%	Lottery and sports betting only	<ul style="list-style-type: none"> <li>Officially prohibited since 2015 by the Remote Gambling Act 2014 although operators can apply to be given an exemption.</li> <li>A blacklist of blocked ISPs is enforced by the Ministry of Home Affairs.</li> <li>Payment blocking provisions are in place that target interactive gambling transactions.</li> <li>Operating illegal gambling sites is punishable by fines of up to €326,000.</li> <li>Engaging in illegal gambling is punishable by imprisonment of up to six months.</li> </ul>

Source: H2 Gaming Capital, November 2015

**Fig 10: Markets Successfully Controlling Interactive Offshore Wagering Via Regulation**

Market	Total Interactive Gross Win 2014 (€m)	% Interactive Onshore 2014	Interactive Onshore Market Gross Win % Growth (2008-2014)	% of Total Market interactive	Products	Key Aspects of the Interactive Market
United Kingdom	€4,982	34%	85%	29%	All interactive products are legal – including in-play	<ul style="list-style-type: none"> <li>Largest interactive market in the world by gross win.</li> <li>Fully regulated since 2007 following the passing of the Gambling Act 2005.</li> <li>All operators must have a UK licence to transact or advertise in the market since 2014.</li> <li>Majority of operators are based offshore.</li> <li>Approximately 400 licences have been issued to date.</li> <li>Operators are taxed at the point of consumption at a rate of 15% of GGW.</li> <li>Betting and casino games make up over 60% of interactive market.</li> <li>A consultation was launched into the issues around in-play betting in 2008, the results of which allowed the Gambling Commission to conclude the activity does not require any additional controls.</li> </ul>

Market	Total Interactive Gross Win 2014 (€m)	% Interactive Onshore 2014	Interactive Onshore Market Gross Win % Growth (2008-2014)	% of Total Market interactive	Products	Key Aspects of the Interactive Market
Ireland	€652	1.1%	N/A	39%	All interactive products are legal – including in-play	<ul style="list-style-type: none"> <li>• Fully regulated since 2015 following the passing of the Gambling Act 2015.</li> <li>• All operators must have an Irish licence. Two types are available: remote bookmakers licence for gaming, and remote intermediary for betting.</li> <li>• The % of revenue generated onshore is projected to increase to 43% by 2016.</li> <li>• RBMs are taxed at 1% of turnover/RBIs taxed at 15% of betting duty.</li> <li>• 27 operators currently licenced.</li> </ul>
Denmark	€423	88%	294%	38%	All interactive products are legal – including in-play	<ul style="list-style-type: none"> <li>• Fully regulated since 2012 following the Gambling Act 2012.</li> <li>• All operators must have a Danish licence to transact with Danish citizens.</li> <li>• There are 9 regulated operators to date.</li> <li>• Operators subject to 20% tax on GGR.</li> <li>• CJEU ruled interactive tax rates should be set to encourage players to play on regulated sites, irrespective of land-based tax rates.</li> </ul>
Italy	€930	78%	219%	5.2%	All interactive products are legal – including in-play	<ul style="list-style-type: none"> <li>• Regulated since 2014.</li> <li>• Progressive legalisation of the market started with betting in 2007 and completed with betting exchanges in 2014.</li> <li>• All operators must have an Italian licence and be based in a EU country to transact with Italian citizens.</li> <li>• Betting taxed at max 5%, gaming taxed at 20% GGW.</li> <li>• In-play betting was legalised in October 2014 providing the results can be verified by the regulator.</li> </ul>

Source: H2 Gaming Capital, November 2015

## Importance of Responsible Gambling

*Australia, alongside the UK and Canada, make up the three nations worldwide pioneering new approaches to Responsible Gambling (RG) within the sector. RG "is now firmly on the radar of every Tier 1 CEO". Problem gambling remains highest among land-based, not interactive, players.*

55. Australia, alongside the UK and Canada, make up the three nations worldwide **pioneering** new approaches to Responsible Gambling (RG) within the sector globally. Recent research by H2 has shown that amongst the leading interactive operators RG "is now firmly on the radar of every Tier 1 CEO" (source: H2 Gaming Capital, 2015). As operators and suppliers increasingly focus their corporate strategies on regulated markets, H2 believes that responsible gambling initiatives will **continue to gain traction**.
  56. Interactive wagering has a significant advantage over land-based gambling in that key RG preventative measures can be more easily targeted at the individual player. Common initiatives now online include age verification, deposit limits, self-assessment/exclusion tests, protection software, and 'one click away' access to support networks (including entry to a national self-exclusion register).
  57. In statistical terms, the rate of problem gambling worldwide varies from **0.3% of the adult population in Sweden to 5.3% in Hong Kong**. Estimates in Australia are produced on a state-by-state basis. We have noted however that the Australian Productivity Commission has attempted to combine these rates and estimate that the rate of problem gambling in Australia is somewhere **between 1.4% and 2.1%** of adults (source: Gambling Commission, 2011).
  58. According to the latest British Gambling Prevalence Survey 2010, problem gambling prevalence remains **highest among land-based players** – the top 3 being those who play **poker** at a pub/club (12.8%); those who play **casino slot machine** style games (9.1%); and those who play **fixed odds betting terminals** (8.8%) (source: Gambling Commission, 2011).
  59. As well as the main operators, the leading industry suppliers are also increasingly focused on RG and are investing in business intelligence to better understand gambling behaviours, in addition to measures to identify problem gambling from the onset. The RG drive for them over the next 2-3 years is in **technology** and the constructive use of **customer data**.
  60. Most importantly, RG is now something no longer to be undertaken because of regulatory requirements and/or external political influence, but because it is a key part of an operator's competitive strategy for longer-term business growth and sustainability – where the belief is better customer protection will lead to longer-term brand loyalty, and hence customer retention.
  61. Finally, most of the bigger operators are very progressive at the moment with data, transparency and customer protection much higher on their agendas than ever before – particularly when it comes to interactive wagering.
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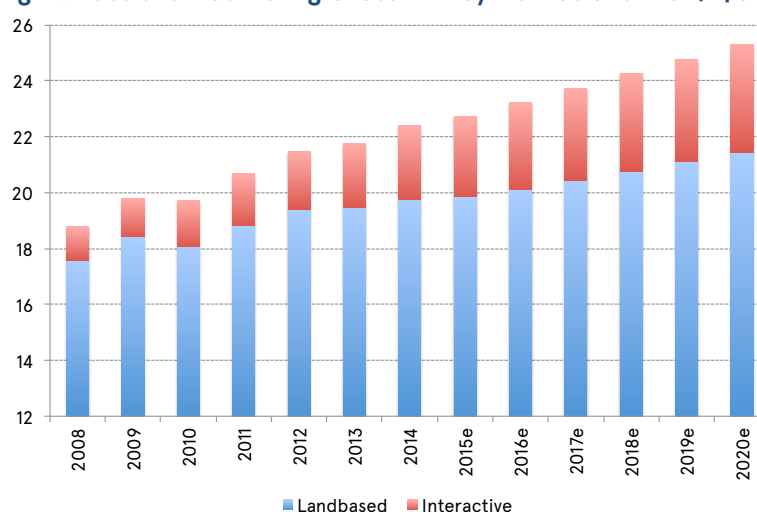
## Section 3: Australian Interactive Wagering – Quantitative Data

### Market Size 2008-2020 – Status Quo

The current offshore interactive gambling market is made up of over 5x the number of sportsbooks than three years ago. It is worth A\$1.3bn, of which sports wagering is cA\$400m, with in-play between A\$200-225m of this. Under the status quo, the total market will reach A\$2.2-2.3bn by 2020 with A\$900m of this wagering, of which A\$600m will be from in-play. The equivalent of A\$100m tax dollars will be lost per annum, and over 60% of all interactive gambling will stay offshore.

62. First of all, it is worth highlighting that in certain sectors of the Australian gambling market there is **currently conflicting data** regarding the true size of the market. Nowhere is this more the case than in the onshore wagering market where H2 refers to four different categories of sources of information, namely: the various state and territorial gaming and/or wagering boards; the Australian Racing Board; Australian Gambling Statistics (prepared by the Queensland Government Statistician's Office); and the results of the publically listed companies.
63. Although the former three sources provide the basis for our historical analysis of the Australian gambling market, it is the recent reports of the companies (in most cases to H1 calendar year 2015) that provide the best insight as to the current state of the market.
64. In parallel to the assessment of the onshore-regulated market, H2 has also tracked the evolution of the offshore interactive gambling market, which targets Australian players.
65. H2 has undertaken a quarterly audit of all of the operators that either (a) actively target or (b) passively accept Australian players by the major product verticals for the past decade. Over this timeframe we have developed a good sense of the scale of the offshore interactive gambling market not just in Australia, but also across the world.

Fig 11: Australian Gambling Gross Win by Market Channel (A\$bn)

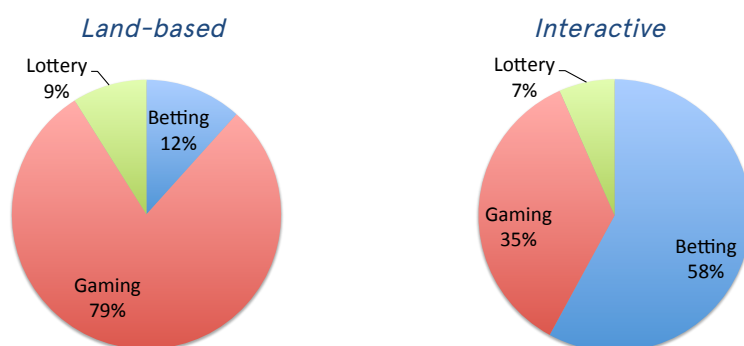


(A\$bn)	2008	2009	2010	2011	2012	2013	2014	2015e	2016e	2017e	2018e	2019e	2020e
Land-based	17.6	18.4	18.1	18.8	19.4	19.5	19.8	19.9	20.1	20.4	20.8	21.1	21.4
Interactive	1.2	1.4	1.6	1.8	2.1	2.3	2.6	2.9	3.1	3.3	3.5	3.7	3.9
<b>Grand Total</b>	<b>18.8</b>	<b>19.8</b>	<b>19.7</b>	<b>20.7</b>	<b>21.5</b>	<b>21.8</b>	<b>22.4</b>	<b>22.7</b>	<b>23.2</b>	<b>23.7</b>	<b>24.3</b>	<b>24.8</b>	<b>25.3</b>
% Interactive	6.5%	7.0%	8.3%	8.9%	9.6%	10.6%	11.7%	12.7%	13.3%	13.9%	14.4%	14.8%	15.3%

Source: H2 Gambling Capital, November 2015

66. During 2014, H2 has assessed the size of the Australian gambling market in terms of gross win to be **A\$22.4bn - 2.8% ahead** of its 2013 level. In the current year, H2 is expecting the market to grow a further 1.8% to A\$22.7bn and then, assuming a continuation of the current regulatory framework, to **A\$25.3bn by 2020**, the latter representing a **CAGR of 2.2%** over the coming five years (see Fig 11).
67. In terms of split by product vertical, the Australian gambling gross win in 2014 was distributed **A\$3.8bn (17%) wagering**, A\$16.6bn (74%) gaming and A\$1.9bn (9%) lotteries. Interactive wagering generated A\$2.6bn in gross win, 14% ahead of the 2013 level. In 2014 interactive gross win accounted for 11.7% of the Australian player total, up from 10.6% during 2013 (see Fig 12):

**Fig 12: Australian Gambling Gross Win by Major Product Vertical 2014**



*Land-based Global Gambling Gross Win*

A\$bn	2008	2009	2010	2011	2012	2013	2014	2015e	2016e	2017e	2018e	2019e	2020e
Betting	2.3	2.3	2.3	2.6	2.3	2.2	2.3	2.3	2.3	2.3	2.3	2.3	2.4
Gaming	13.6	14.2	14.0	14.6	15.3	15.3	15.7	15.8	16.1	16.4	16.7	17.0	17.4
Lottery	1.7	1.9	1.7	1.6	1.8	1.9	1.8	1.7	1.7	1.7	1.7	1.7	1.7
<b>Land Total</b>	<b>17.6</b>	<b>18.4</b>	<b>18.1</b>	<b>18.8</b>	<b>19.4</b>	<b>19.5</b>	<b>19.8</b>	<b>19.9</b>	<b>20.1</b>	<b>20.4</b>	<b>20.8</b>	<b>21.1</b>	<b>21.4</b>
% Betting	12.9%	12.5%	12.7%	13.6%	11.8%	11.5%	11.7%	11.5%	11.3%	11.3%	11.2%	11.1%	11.0%

*Interactive Global Gambling Gross Win*

A\$bn	2008	2009	2010	2011	2012	2013	2014	2015e	2016e	2017e	2018e	2019e	2020e
Betting	0.5	0.7	0.8	1.0	1.1	1.3	1.5	1.7	1.8	1.9	2.0	2.1	2.3
Gaming	0.6	0.6	0.7	0.7	0.8	0.8	0.9	1.0	1.1	1.2	1.2	1.3	1.3
Lottery	0.1	0.1	0.1	0.1	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2
<b>Interactive Total</b>	<b>1.2</b>	<b>1.4</b>	<b>1.6</b>	<b>1.8</b>	<b>2.1</b>	<b>2.3</b>	<b>2.6</b>	<b>2.9</b>	<b>3.1</b>	<b>3.3</b>	<b>3.5</b>	<b>3.7</b>	<b>3.9</b>
% Betting	43.4%	47.6%	51.3%	53.5%	54.6%	55.8%	57.9%	59.6%	58.0%	57.6%	57.8%	58.3%	58.9%

*All Global Gambling Gross Win*

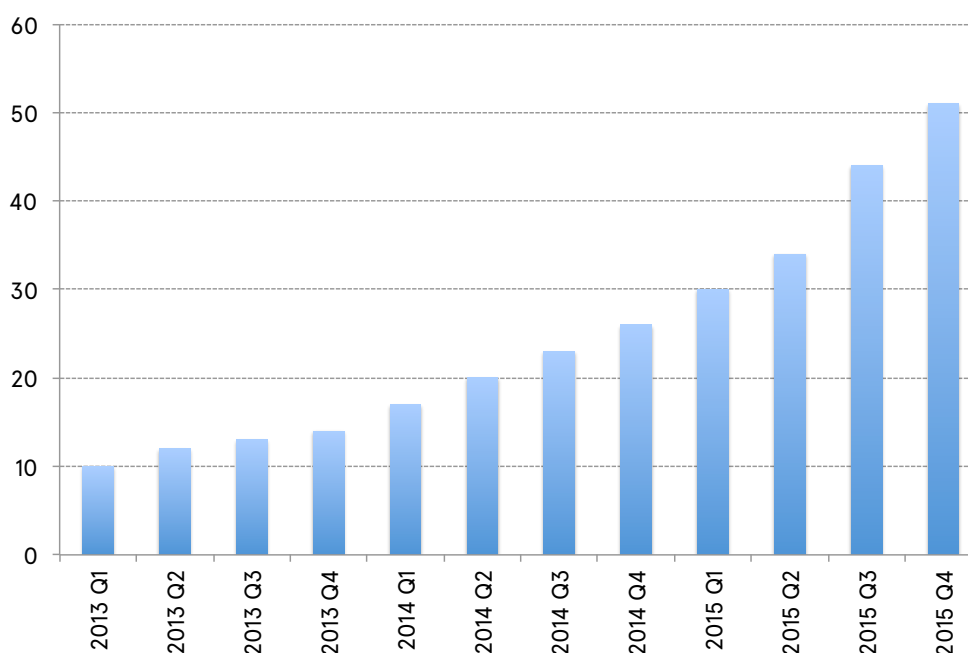
A\$bn	2008	2009	2010	2011	2012	2013	2014	2015e	2016e	2017e	2018e	2019e	2020e
Betting	2.8	3.0	3.1	3.6	3.4	3.5	3.8	4.0	4.1	4.2	4.3	4.5	4.6
Gaming	14.1	14.8	14.7	15.4	16.1	16.1	16.6	16.8	17.2	17.6	18.0	18.3	18.7
Lottery	1.8	2.0	1.9	1.8	2.0	2.1	1.9	1.9	1.9	1.9	1.9	2.0	2.0
<b>All Total</b>	<b>18.8</b>	<b>19.8</b>	<b>19.7</b>	<b>20.7</b>	<b>21.5</b>	<b>21.8</b>	<b>22.4</b>	<b>22.7</b>	<b>23.2</b>	<b>23.7</b>	<b>24.3</b>	<b>24.8</b>	<b>25.3</b>
% Betting	14.9%	15.0%	15.9%	17.2%	15.9%	16.2%	17.1%	17.5%	17.6%	17.7%	17.9%	18.1%	18.3%

Source: H2 Gambling Capital, November 2015

68. Australia's highly developed land-based gaming sector means that the proportion of gross win that interactive wagering would be expected to account for would be lower than Nordic and Western European benchmarks, though H2 would still expect the channel to account for in the region of 15-20% of total gambling gross win to place the market on a par with similar ones. Clearly the limited opportunity for onshore product vertical innovation may be cited as a key reason for this.

69. In the current year, it is expected that interactive gambling will increase a further 9.5%, taking it to just under A\$2.9bn, which will represent **13.7% of the total Australian market**. By 2020 it is anticipated that the corresponding figures will be A\$3.9bn and 15.3%.
70. Just over 50% of interactive gambling spend of the Australian player is expected to take place with offshore operators – mainly due to the lack of availability of in-play betting and gaming. The inability of onshore operators to offer these products has lead to an increasing number of offshore suppliers stepping into the void in recent years.
71. In the current quarter (Q4 2015) H2’s assessment of offshore interactive gambling supply has identified **383 offshore interactive gambling sites** operated by **175 operators** that are targeting Australian players (see Fig 13):

**Fig 13: Number of Offshore Sportsbooks Targeting the Australian Market**

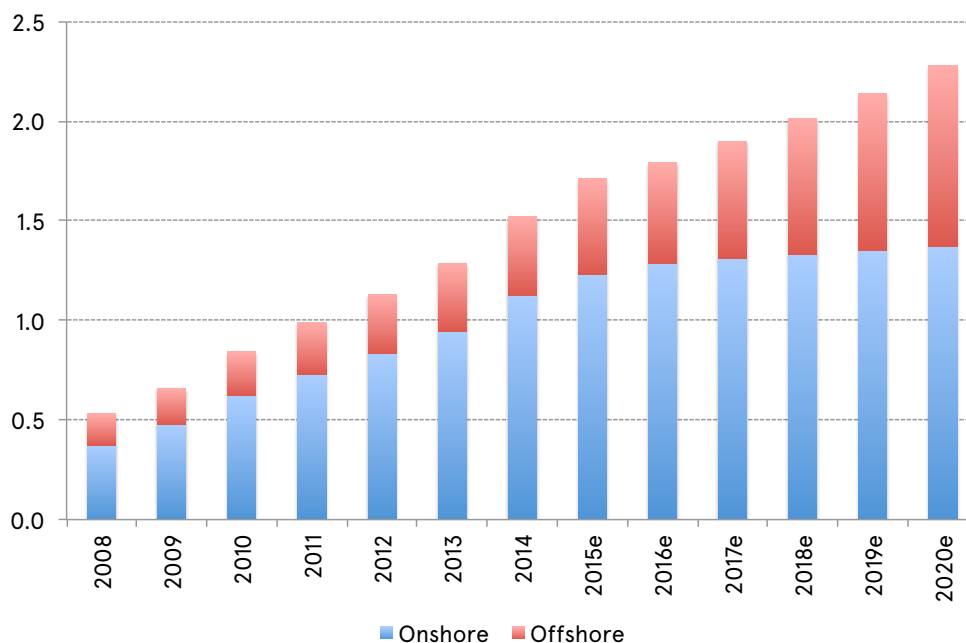


	13 Q1	13 Q2	13 Q3	13 Q4	14 Q1	14 Q2	14 Q3	14 Q4	15 Q1	15 Q2	15 Q3	15 Q4
Sportsbooks	10	12	13	14	17	20	23	26	30	34	44	51
Gaming	149	147	147	156	168	170	179	192	211	236	305	332
<b>Total</b>	<b>159</b>	<b>159</b>	<b>160</b>	<b>170</b>	<b>185</b>	<b>190</b>	<b>202</b>	<b>218</b>	<b>241</b>	<b>270</b>	<b>349</b>	<b>383</b>
Operator Numbers	73	75	77	79	81	91	97	104	114	125	160	175
Ave Sites per Operator	2.18	2.12	2.08	2.15	2.28	2.09	2.08	2.10	2.11	2.16	2.18	2.19

Source: H2 Gambling Capital, November 2015

72. The number of operators targeting the market is **up by 140%** in the past three years with the number of sportsbooks increasing at the greatest rate, with over 50 sportsbooks now targeting the Australian market – **over 5x the level of three years ago** – when it was believed a pre-match only onshore market was sufficient to cater for demand.
73. In total the offshore gambling market is believed to have increased from cA\$750m gross win in 2008 to **A\$1.3bn** by 2014 and is expected to reach close to A\$1.6bn in the current year and **A\$2.2-2.3bn by 2020**. Of this sports wagering accounted for **cA\$400m** in 2014 with in-play expected to account for between **A\$200-225m** of this. In the current year offshore sports wagering gross win is expected to increase to cA\$480m as more operators have entered the market with in-play accounting for up to A\$275-300m of this (see Fig 14):

Fig 14: Australian Interactive Betting Gross Win by Regulatory Status (A\$bn)



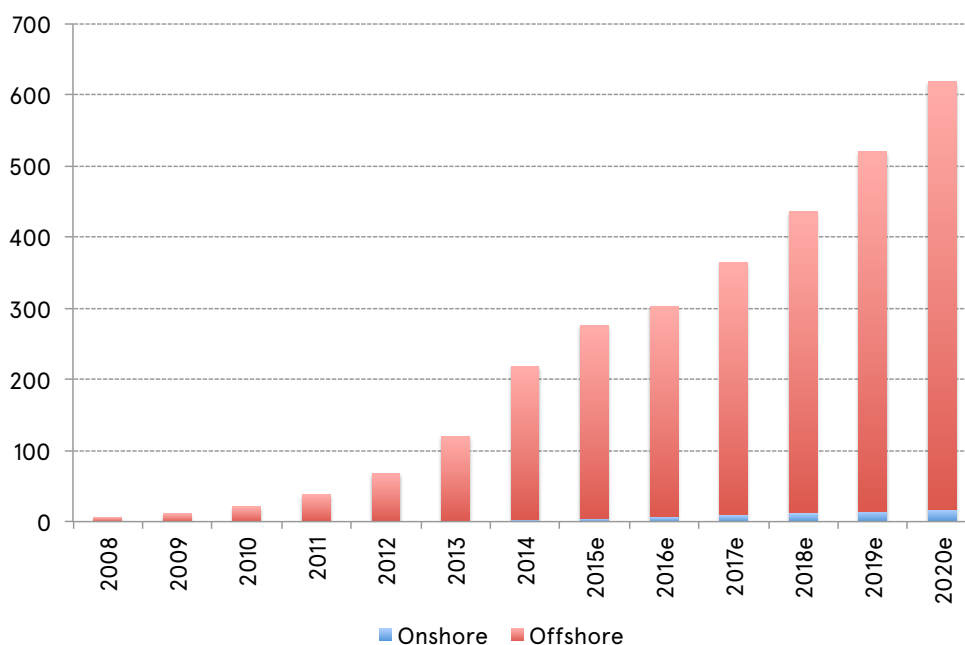
(A\$bn)	2008	2009	2010	2011	2012	2013	2014	2015e	2016e	2017e	2018e	2019e	2020e
Onshore	0.37	0.47	0.62	0.73	0.83	0.95	1.13	1.23	1.28	1.31	1.33	1.35	1.37
Offshore	0.16	0.18	0.22	0.26	0.30	0.34	0.40	0.48	0.51	0.59	0.68	0.79	0.91
<b>Interactive Total</b>	<b>0.53</b>	<b>0.66</b>	<b>0.84</b>	<b>0.99</b>	<b>1.13</b>	<b>1.29</b>	<b>1.52</b>	<b>1.71</b>	<b>1.79</b>	<b>1.90</b>	<b>2.01</b>	<b>2.14</b>	<b>2.28</b>
% Onshore	69.5%	72.1%	74.0%	73.7%	73.7%	73.5%	74.0%	71.9%	71.7%	69.0%	66.2%	63.2%	60.1%

Source: H2 Gambling Capital, November 2015

74. It is recognised that a few onshore licensed operators have been offering in-play wagering under current regulations, which permit it via voiceover telephone rather than interactive means. Data that H2 has seen suggests that onshore voiceover telephone in-play wagering is currently the equivalent of c1% of non-racing sports betting - i.e. it will generate just under A\$5m in the current year, which is in turn is less than 2% of the size of the offshore in-play wagering market (see Fig 15).
75. Given the majority of offshore sports betting activity is non-racing, the onshore channelling rate for non-racing sports betting is c50%, which represents **one of the lowest onshore channelling rates of any regulated interactive gambling market**. Generally channelling rates for onshore-regulated interactive markets in Europe such as Denmark, France, Italy and Spain are in the 70-90% range depending on the taxation and broader regulatory regime.



Fig 15: Australian Interactive In-play Gross Win by Regulatory Status (A\$bn)



(A\$m)	2008	2009	2010	2011	2012	2013	2014	2015e	2016e	2017e	2018e	2019e	2020e
Onshore	0.0	0.0	0.0	0.0	0.0	0.0	3.1	4.8	7.3	9.7	12.2	14.8	17.4
Offshore	6.5	11.3	20.8	38.1	67.6	119.5	214.9	271.2	295.4	354.3	423.7	505.3	600.5
<b>Interactive Total</b>	<b>6.5</b>	<b>11.3</b>	<b>20.8</b>	<b>38.1</b>	<b>67.6</b>	<b>119.5</b>	<b>218.1</b>	<b>276.0</b>	<b>302.8</b>	<b>364.0</b>	<b>435.9</b>	<b>520.0</b>	<b>617.9</b>
% Onshore	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	1.4%	1.7%	2.4%	2.7%	2.8%	2.8%	2.8%

Source: H2 Gambling Capital, November 2015

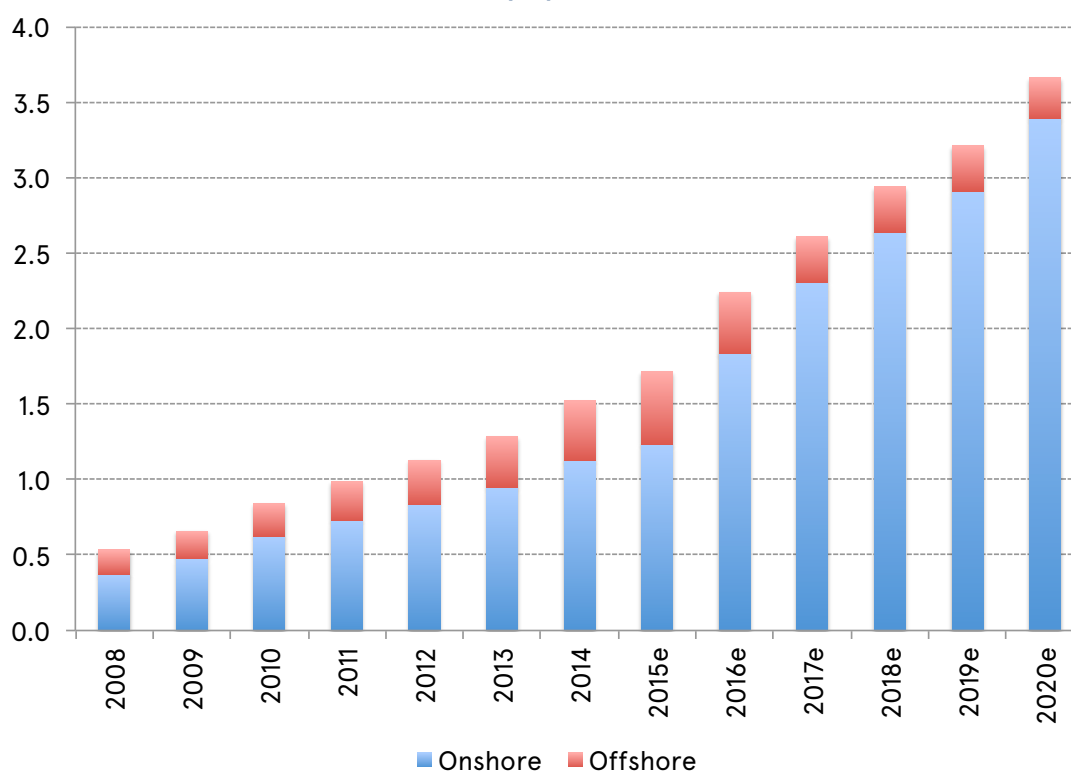
76. This clearly demonstrates the importance of providing an environment where operators are able to offer not just the product vertical but up-to-date formats of that vertical in order to attract players to transact with operators licensed within the onshore scheme.
77. Going forward H2's forecasts for the Australian market under the current status quo suggest that the situation will only escalate as: (a) player demand for in-play products continues to grow; (b) more operators target the Australian market from offshore to take advantage of this; and (c) information is circulated amongst more players via platforms such as online fora in respect of the ability to bet in-play freely with offshore operators.
78. Therefore, should the current regulatory regime remain intact it would be expected that the gross win generated by the offshore interactive sports betting market will increase to over **A\$900m by 2020** with **ca\$600m** of this being accounted for by in-play. By then the offshore market would account for just **over 60% of the total amount** spent by Australians on non-racing sports betting as the level of leakages continues to grow.
79. Clearly with this scale of leakage from Australia's onshore interactive wagering market, not only are **ca\$100m tax dollars per annum are being lost** but there is little or no protection in place for the growing number of Australian players that are forced to transact with offshore bookmakers as a means to access truly interactive in-play wagering products.
80. It should be noted that this is merely the headline sports wagering activity that is being lost and excludes any additional gaming that is cross-sold to Australian players once they are on offshore sites. H2's experience would suggest that this in itself could represent anything **up to 50% on top of this**.

## Market Size 2008-2020 – Regulated In-Play

*If in-play wagering was regulated, the total market would only increase by 3% by 2020, but the proportion of Australian spend with onshore interactive operators would rise from 49% in 2014 to 78% by 2020.*

81. H2 has run our industry model in order to determine the impact on the Australian interactive wagering market **if onshore licensed in-play wagering was legalised**. The aim of this being to demonstrate the 'pull effect' created by offering the products that consumers want within the protection of an onshore scheme.
82. We have made the following assumptions:
  - Current taxation levels are applied - i.e. GST at 1/11th of the net win (player losses) and the various rates of taxation, usually calculated with respect to gross win, levied by the individual state and territorial governments;
  - A start date for the onshore in-play wagering scheme of 1 January 2016 (*note: we realise that this is unrealistic but it enables five full years of forecasts*).
83. H2's analysis has built up the current position of the Australian interactive wagering market as a starting point and then considered the performance of a number of markets in Europe.
84. Firstly, we considered the **United Kingdom** as a benchmark regarding the potential of in-play wagering for Australia. Culturally the United Kingdom and Australian betting markets are often quoted as being fairly similar. Australians are generally viewed as having a higher propensity to gambling, however the language, many of the same leading operators, and an interest in many of the same sports, concludes us to believe that the level of adoption of in-play wagering would be fairly similar - subject to the specific variables as regards the sports bet on, which we have sought to take into account as part of our analysis.
85. The United Kingdom has recently experienced a regulatory shift but this has merely involved the taxation onshore of operators that have always been free to target the market under existing regulation at the point of consumption. We have looked across Europe as well, therefore, to the transition from an offshore 'grey market' to an onshore 'Dot Country' regulated 'White Market' as an example of how a newly regulated scheme attracts the consumer onshore.
86. Although there are a myriad of markets, **France** was selected as the best model as (a) it already had a large onshore interactive horse race betting market pre-deregulation; and (b) only poker of the various gaming products had been legalised in the onshore market. That said, it should be noted that France in itself could be seen as having some limitations due to the relative high turnover-based tax of 8.5%, which has meant that the current size of the market is believed by many to not be as high as it potentially could be leaving more offshore operators in the market than would otherwise be the case
87. In other markets, the impact of regulating interactive sports wagering has been clouded more due to the opening up of all of the interactive gaming market, including the much larger casino vertical at the same, or a similar time.
88. Based on the above approach, our analysis concluded that total gross win generated by Australian interactive wagering would be **ca\$2.24bn** if in-play was fully embraced into an onshore regulated scheme **in 2016** as opposed to the **ca\$1.79bn** we are currently forecasting for the market in the absence of such a scheme (see Fig 16):

Fig 16: Australian Interactive Betting Gross Win by Regulatory Status Following Full Regulation of In-play (A\$bn)



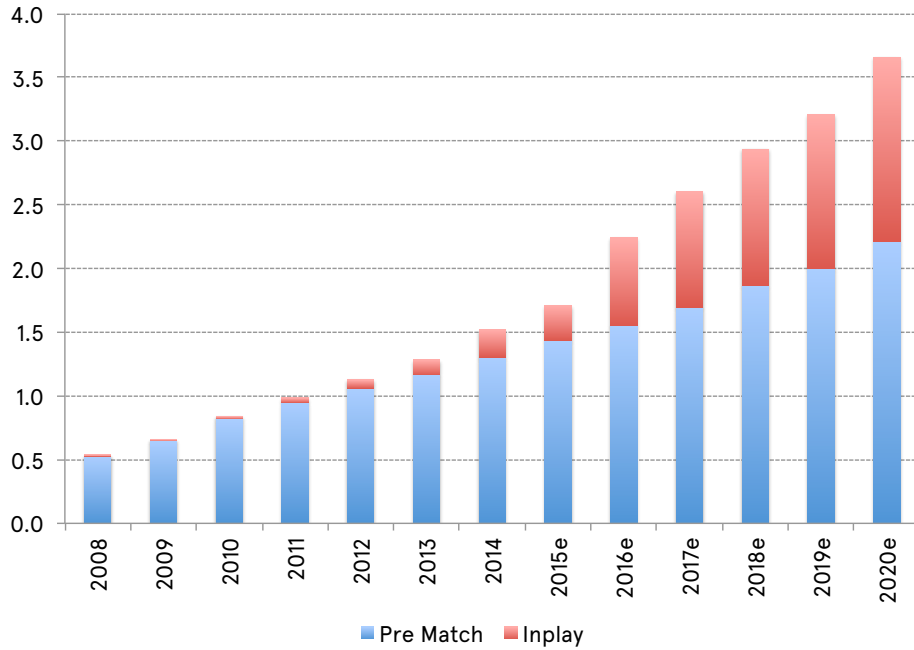
(A\$bn)	2008	2009	2010	2011	2012	2013	2014	2015e	2016e	2017e	2018e	2019e	2020e
Onshore	0.37	0.47	0.62	0.73	0.83	0.95	1.13	1.23	1.83	2.30	2.64	2.91	3.39
Offshore	0.16	0.18	0.22	0.26	0.30	0.34	0.40	0.48	0.41	0.30	0.30	0.30	0.27
<b>Total Betting</b>	<b>0.53</b>	<b>0.66</b>	<b>0.84</b>	<b>0.99</b>	<b>1.13</b>	<b>1.29</b>	<b>1.52</b>	<b>1.71</b>	<b>2.24</b>	<b>2.61</b>	<b>2.94</b>	<b>3.21</b>	<b>3.66</b>
% Onshore	69.5%	72.1%	74.0%	73.7%	73.7%	73.5%	74.0%	71.9%	81.8%	88.3%	89.8%	90.7%	92.6%

Source: H2 Gambling Capital, November 2015

89. Furthermore, rather than just under 72% of Australians' interactive gross win being captured within an onshore scheme in 2016 the corresponding rate if onshore interactive in-play were to be fully permitted would be **c82%** (see Fig 16) meaning the onshore market would generate a gross win of **cA\$1.83bn** of which **cA\$500m** would be in-play.

90. Going forward the benefit of enabling onshore operators to offer in-play wagering products will then only continue to grow with the total gross win expected to generate cA\$3.66bn by 2020 (see Fig 17). Of this **c93%** would be expected to be captured within the onshore scheme meaning the onshore market would be **cA\$3.39bn** of this, with **in-play in turn accounting for c40%** (see Fig 18).

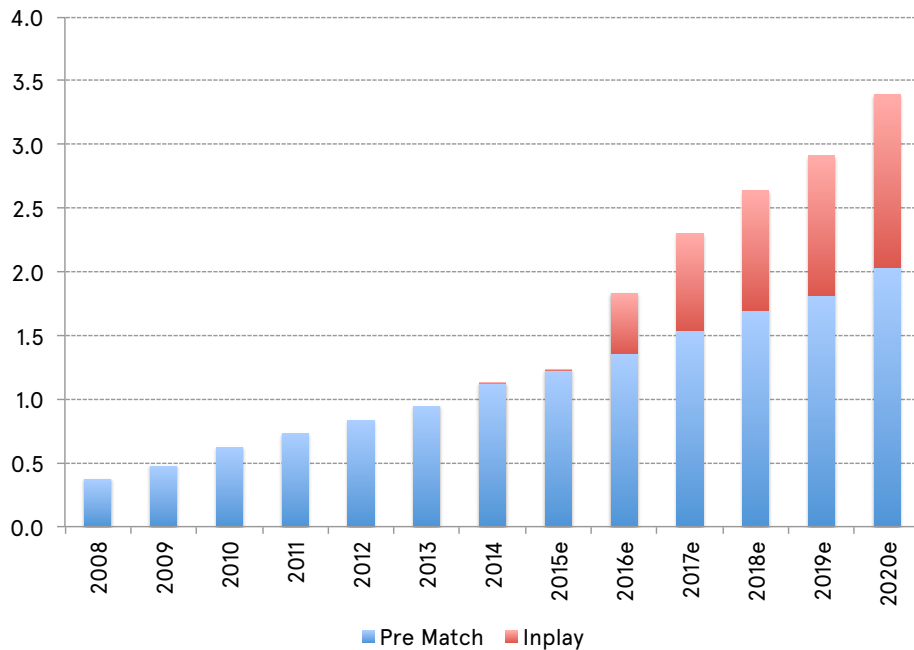
**Fig 17: Australian Interactive Betting All Gross Win Following Full Regulation of In-play (A\$bn)**



(A\$bn)	2008	2009	2010	2011	2012	2013	2014	2015e	2016e	2017e	2018e	2019e	2020e
Pre Match	0.53	0.65	0.82	0.95	1.06	1.17	1.30	1.44	1.55	1.70	1.86	2.00	2.21
In-play	0.01	0.01	0.02	0.04	0.07	0.12	0.22	0.28	0.69	0.91	1.07	1.21	1.45
<b>Total Onshore</b>	<b>0.53</b>	<b>0.66</b>	<b>0.84</b>	<b>0.99</b>	<b>1.13</b>	<b>1.29</b>	<b>1.52</b>	<b>1.71</b>	<b>2.24</b>	<b>2.61</b>	<b>2.94</b>	<b>3.21</b>	<b>3.66</b>
% In-play	1.2%	1.7%	2.5%	3.9%	6.0%	9.3%	14.3%	16.1%	30.7%	35.0%	36.5%	37.8%	39.6%

Source: H2 Gambling Capital, November 2015

**Fig 18: Australian Interactive Betting Onshore Gross Win Following Full Regulation of In-play (A\$bn)**

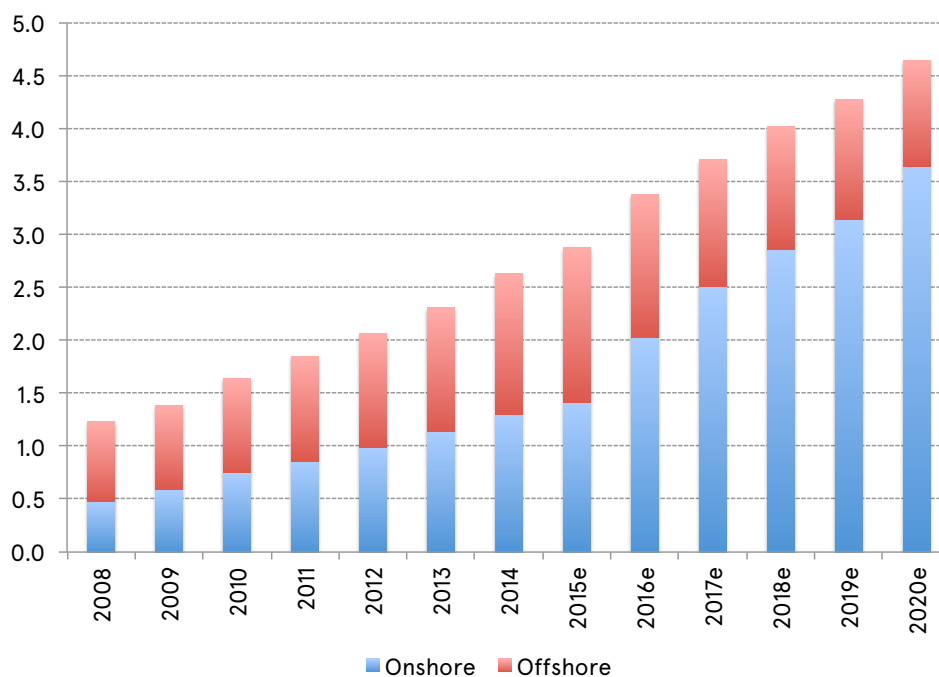


(A\$bn)	2008	2009	2010	2011	2012	2013	2014	2015e	2016e	2017e	2018e	2019e	2020e
Pre Match	0.37	0.47	0.62	0.73	0.83	0.95	1.12	1.23	1.36	1.54	1.70	1.81	2.03
In-play	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.48	0.77	0.94	1.10	1.36
<b>Total Onshore</b>	<b>0.37</b>	<b>0.47</b>	<b>0.62</b>	<b>0.73</b>	<b>0.83</b>	<b>0.95</b>	<b>1.13</b>	<b>1.23</b>	<b>1.83</b>	<b>2.30</b>	<b>2.64</b>	<b>2.91</b>	<b>3.39</b>
% In-play	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.3%	0.4%	26.0%	33.3%	35.8%	37.7%	40.0%

Source: H2 Gambling Capital, November 2015

91. Given a market of this kind of magnitude, it would be expected that the taxation paid by the onshore interactive wagering sector would increase **from cA\$300m today to cA\$400m** and then grow to as much as **A\$775m by the end of the decade**, whilst ensuring that the vast majority of Australians are fully protected when participating in the sector.
92. Furthermore, it would be anticipated that there would be some reduction in offshore interactive gaming as some sports wagering operators would leave the market and there would be far less offshore interactive sports wagering customers to cross-sell into gaming. However, it should be noted that offshore interactive gaming would be expected to continue to thrive as the majority of offshore operators are specialists in gaming.
93. Overall the **increase in total size** of the Australian player gambling market associated with the regulation would be **3%** - i.e. the total gross win generated via Australian players would be A\$26.1bn rather than A\$25.3bn by 2020. The total impact of regulating onshore interactive in-play wagering would be to increase the proportion of Australian total interactive gambling spend with onshore operators **from 49% in 2014** to c60% in 2016, with this rate growing to **c78% by 2020** (see Fig 19). Without the fully regulation of interactive in-play, wagering dollars will continue to leak offshore.

**Fig 19: Australian Interactive All Gambling Gross Win by Regulatory Status Following Full Regulation of In-play (A\$bn)**



(A\$bn)	2008	2009	2010	2011	2012	2013	2014	2015e	2016e	2017e	2018e	2019e	2020e
Onshore	0.48	0.59	0.75	0.86	0.99	1.14	1.30	1.41	2.03	2.51	2.86	3.14	3.64
Offshore	0.75	0.79	0.89	0.99	1.07	1.17	1.33	1.46	1.35	1.19	1.16	1.13	1.00
<b>Total Gambling</b>	<b>1.23</b>	<b>1.39</b>	<b>1.64</b>	<b>1.85</b>	<b>2.07</b>	<b>2.30</b>	<b>2.63</b>	<b>2.88</b>	<b>3.38</b>	<b>3.71</b>	<b>4.02</b>	<b>4.27</b>	<b>4.64</b>
% Onshore	38.8%	42.9%	45.7%	46.6%	48.0%	49.3%	49.5%	49.2%	60.1%	67.8%	71.2%	73.6%	78.4%

Source: H2 Gambling Capital, November 2015

## Section 4: Australian Interactive Wagering – Qualitative Opinion

*The majority of operators want to operate in a fairer market with the UK regulatory model considered the “gold standard”. They believe increased competition will drive innovation, with the ‘recreational punter’ and in-play wagering the main focus going forward.*

94. All the principal Australian onshore and offshore interactive wagering operators were canvassed at the same time as running our data model, to seek – from an independent perspective – their up-to-date **attitudes and opinions** on the review. Anonymity was guaranteed and the following contacted:

Onshore Operators		Offshore Operators
<b>AWC Members</b>	<b>Non-AWC Members</b>	10Bet
Bet 365	Beteasy	12Bet
Betfair	Crownbet	Betfred
Sportsbet	Ladbrokes Australia	BetVictor
Unibet	Palmerbet	ComeOn
William Hill Australia	Tabcorp	Marathonbet
(including	Tatts	Matchbook
TomWaterhouse.com	Topbetta	Pinnacle Sports
and Centrebet)		SBO Bet
		Titan Bet

95. Predictably, there was **limited response** from the offshore operator sample despite repeated attempts to solicit input via email and follow-ups, web search, and social media (Twitter and LinkedIn) connection.
96. Onshore, however, replies were more comprehensive with a **60% response rate** returned. Their main opinions below:

### On the Review

- All operators concurred that the review was timely and welcomed the Commonwealth Government’s action.
- Some observed “Australia should set the benchmark globally in regulation” and also noted that several reviews have been completed with “good recommendations”, yet little progress in terms of reform has been made and “none of the recommendations have been implemented”. These include the 2010 Productivity Committee report on gambling and 2013 review undertaken by the Department of Broadband, Communications and the Digital Economy.
- Both of these reviews found that “the current regulations have little affect, limiting the provision of illegal online gaming services by overseas operators”.

### On Sports Integrity

- The operators interviewed acknowledged that to operate in the Australian market they have had to enter into product fee and integrity agreements with the major Australian racing and sporting bodies.
- These agreements require the operators to pay a product fee to the relevant body and comply with integrity related and other obligations.

### On the Importance of the Australian Market

- The majority of operators view the Australian market as vital to their business. *"Australia is a very important market for our business". "On a scale of 1-10 it's a 9". In the future all operators do not envisage this situation to change, "I would rank it 10/10 in importance for our business".*
- However they would all like to operate in a fairer market: *"the current situation with on and offshore operators providing wagering services with different regulatory restrictions will prevent Australian business growth".* It was also noted that *"offshore operators are not regulated to Australian standards, so for punters are of significant risk due to inadequate protection".*
- Australian onshore operators offer as full a market of wagering options to punters as permissible, but due to the Australian legislation are unable to offer the in-play. Their services are provided by a range of channels including: *"telephone, desk, IOS, Android and a range of native App based applications".*

### On Regulation

- Australian Onshore Operators currently satisfy a myriad of state/territory, federal government and numerous industry bodies' legislative requirements. These laws contain restrictions on various aspects of the gambling industry conducted by the wagering operator. These include restrictions applied to advertising, the provision of services to minors and other harm minimization practices. *"We operate nationally, so we comply with Federal, State and Territory legislation, ASIC, ATO, AUSTRAC, as well as more than 20 different racing bodies in Australia".*
- The general consensus is *"we respect and adhere to all the requirements, but operate in an environment where many of our competitors are not required to due to their operational base".*
- The different levels of legislation, lack consistency between state, territory and federal requirements and the *"ever-changing reporting landscape"* is increasing the time operators spend *"adapting their reports to the various bodies including the sporting codes and clubs".*

### On Onshore vs Offshore

- The current operational environment supports a range of benefits for companies operating offshore, selling into the Australian market. *"There are massive gaps in the market, and offshore operators are enjoying favourable conditions".*
- It was strongly suggested advertising standards need to be explored as part of this proposed review. At present operators must adhere to the gambling legislation of each state/territory (including the conditions of a race fields approval); the range of advertising codes that apply to a particular media, as well as the Association of Australian National Advertisers (AANA) Code which applies to all advertising; as well as the advertising restrictions defined in Australian Consumer Law.

### On Benchmark Markets

- The United Kingdom regulatory model is considered the *"gold standard"* and *"fair and reasonable to all onshore and offshore operators"*. Two other Northern Hemisphere jurisdictions cited were the Denmark and France.
- The UK was seen as an *"open market that included in-play betting"* and *"provided a viable domestic market with the price the customers seek in a responsible manner"*.

### On Responsible Gambling

- There was consensus that the Australian market should draw on international successes to better protect consumers. Both Denmark's *"behavioural profiling"*, and the United Kingdom's *"robust research into program gambling"* should be considered.
- A *"National Self Exclusion Database"* shared across all wagering operators is cited as a key aspect to the ongoing management of wagering in Australia. It is also suggested

that “*mandatory pre-commitment*” be considered as well and changing the length of time for age verification for new account holders.

- Further, nationally there should be more ongoing funded research “*Queensland’s ongoing studies capturing 30,000 respondents is where we need to go nationally*”. Only then will “*Australia as a whole have the data to make informed policy and legislation for our industry*”.

#### **On Future Trends and Innovations**

- While the respondents were cautious not to provide ‘*commercial and in confidence*’ product information, the following potential trends and innovations for the Australian interactive wagering market were cited.
  - All spoke of the ‘*recreational punter*’ as the focus for wagering product development and innovation going forward.
  - The 6 key points made:
    1. Increased competition will drive innovation;
    2. In-Play wagering online;
    3. Smaller operators entering the market with greater flexibility to meet customer requirements;
    4. New deposit and withdrawal products, enabling punters to cash out and enjoy greater choice in wagering;
    5. An increased bet size for telephone wagering;
    6. Better traction for Australian interactive tournaments.
-



## Conclusions

97. Over the last few years, it is fair to say the global gambling industry has seen a **paradigm shift** characterised by land-based to interactive wagering; from racing (horse and dogs) to sports (predominantly football); from PC/desktop use to mobile; and from pre-match wagering to in-play. The Australian market is no different.
98. Our assessment leads us to conclude that, if nothing changes going forward, the Australian offshore interactive wagering market will remain strong at **over 60%** of all activity. By 2018, this will amount to **A\$2.2-2.3bn** leaving the country in lost wagering profits, a further **A\$100m tax dollars per annum**, plus significant economic growth opportunities - particularly **job creation, technological investment, and problem gambling prevention** - remaining underdeveloped when compared to the world's other leading gambling nations.
99. Put simply, there is **imbalance** in the market at the moment between Australia's onshore and offshore operators. The Internet, while it **can never be fully policed**, if properly regulated, can move Australia closer towards **market equilibrium** - with the government, licensed operators, and consumers all benefiting.
100. While there are a number of independent evidence-based findings with our report herein, we would pull out 14 in particular as our 'top line' conclusions to feed into the Commonwealth Government's *Impact of Illegal Offshore Wagering* review at this time:

### H2 Independent Report – 14 Conclusions

1. *Sports wagering is nearly half of all interactive gambling globally, and mobile use in the sector is set to double by 2018. Interactive is still only 9% of all gambling worldwide however, but growing at 8x the rate of the land-based sector.*
2. *In-play wagering is growing at 19% of all wagering, and could reach 50% by the end of the decade (excluding racing). It is now considered the essential component for interactive business growth.*
3. *Europe is by far the dominant region online with nearly half the world's interactive market. The Nordic countries are the most progressive with interactive wagering levels in excess of 30%.*
4. *Offshore operators enjoy a significant advantage over their onshore competitors – evidenced by not having to pay local taxes, licensing or product fees; adhere to quality standards or investigative procedures; nor contribute towards responsible gambling initiatives, local jobs or economic growth. The trend is moving away from grey however with nearly two-thirds of interactive wagering to take place on white markets by 2020.*
5. *The most mature interactive nations have 'something for everyone' market equilibrium – where the government has player security and taxation; the operators have market protection and profit; and the consumer enjoys choice, value for money and player protection.*

6. *Australia is the No 1 gambling nation in the world (based on spend per head), but does not enjoy market equilibrium, with a plethora of offshore operators exploiting a unique 'grey area' within current regulations, most exposed by the arrival of in-play wagering.*
7. *Australia has one of the biggest grey markets in the world. Numerous commercial offshore operators illegally target the country, but it still remains legal for Australian citizens to use them.*
8. *'You can't police the Internet' – however a range of blocking measures could be introduced in Australia to help restore market equilibrium – a ban on offshore operator advertising; IP/financial blacklisting; imposing penalties; higher standards of player protection; legalising in-play and other new product verticals; outlawing offshore wagering.*
9. *Interactive wagering is much more sensitive to tax take than other product verticals. A maximum 'sweet spot' exists which in Australia is probably in the region of, but no more than, 15% of gross win equivalent.*
10. *Two types of benchmarking market exist – those attempting to control interactive offshore wagering through restrictive measures, and those successfully controlling it via regulation. No two markets are the same, but there are lessons Australia can draw on from both camps. Parallel regulatory developments in the US are also of consideration.*
11. *Australia, alongside the UK and Canada, make up the three nations worldwide pioneering new approaches to Responsible Gambling (RG) within the sector. RG "is now firmly on the radar of every Tier 1 CEO". Problem gambling remains highest among land-based, not interactive, players.*
12. *The current offshore interactive gambling market is made up of over 5x the number of sportsbooks than three years ago. It is worth A\$1.3bn, of which sports wagering is cA\$400m, with in-play between A\$200-225m of this. Under the status quo, the total market will reach A\$2.2-2.3bn by 2020 with A\$900m of this wagering, of which A\$600m will be from in-play. The equivalent of A\$100m tax dollars will be lost per annum, and over 60% of all interactive gambling will stay offshore.*
13. *If in-play wagering was regulated, the total market would only increase by 3% by 2020, but the proportion of Australian spend with onshore interactive operators would rise from 49% in 2014 to 78% by 2020.*
14. *The majority of operators want to operate in a fairer market with the UK regulatory model considered the "gold standard". They believe increased competition will drive innovation, with the 'recreational punter' and in-play wagering the main focus going forward.*

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