



Submission to the Australian Government consultation on amendments to the Basic Online Safety Expectations (BOSE) Determination

February 2024

Key Points

- » The Alliance is extremely concerned about the rapidly increasing harms caused by online gambling, and by the massive advertising of online gambling through a range of media including digital/social media channels.
- » Given the aim of the BOSE Determination is to protect Australians from abusive and harmful content online, we urge the Department to broaden the focus of the Determination beyond important issues such as hate speech, cyber-bullying, and sexual exploitation of children, to also specifically include the important issue of the harms caused by the current provision and advertising of online gambling.

Alliance for Gambling Reform

The Alliance is the only national peak body working to reduce gambling harm. We have over 60 supporting organisations in our network and 23 leadership local councils in Victoria who have an interest in reducing the exponential level of gambling harm in Australia.

We are a registered health promotion charity and are 100% funded by donations from individuals, foundations, trusts, local government and other sources that do not have ties to the gambling industry. We are not affiliated with any political party.

The Alliance for Gambling Reform has long advocated for public health reforms that are evidence-based and community-backed with the sole purpose of reducing and preventing gambling harm in Australia. Online gambling is increasingly becoming one of the biggest health issues we are facing as a country.



The Alliance for Gambling Reform thanks the Department of Infrastructure, Transport, Regional Development, Communications and the Arts ('the Department") for the opportunity to provide this submission to the Department's consultation on proposed Amendments to the Basic Online Safety Expectations (BOSE) Determination made under s45 of the Online Safety Act 2021.

The Alliance for Gambling Reform ('the Alliance") is the national peak body working to reduce gambling harm. As a charity with over 60 supporting organisations in our network, we advocate for evidence-based and community-backed public health reforms which will prevent and reduce the harms caused by gambling.

Australians lose over \$25 billion each year to gambling, the highest per capita spend in the world. These losses are disproportionately experienced by the people who can least afford it: people living with financial and other forms of stress, and people with mental health issues and addiction problems. Gambling harm is a massive public health issue, linked to poor physical and mental health, poverty and homelessness, criminal activity, family violence, and suicide.

The Alliance is extremely concerned about the rapidly increasing harms caused by online gambling, and by the massive advertising of online gambling through a range of media including digital/social media channels.

These concerns have been borne out by the recent findings of a Parliamentary inquiry. The House of Representatives Standing Committee on Social Policy and Legal Affairs tabled the report from its inquiry into online gambling and its impacts on those experiencing gambling harm, chaired by the late Peta Murphy MP, on 28 June 2023. The report, *You win some, you lose more*¹, found that the growing links between sport and gambling are causing increasingly widespread and serious harm to individuals, families, and communities.

The inquiry reported that the participation of Australians in online gambling is rapidly increasing; that repeated gambling can cause changes to the brain which are similar to those observed in addiction to psychoactive substances; and that Australians who gamble online are significantly more likely to report experiencing harm than those who engage in other modes of gambling (pp.1-4).

The inquiry also found a strong association between advertising and gambling harm: "Exposure to advertising can normalise gambling participation, lead to early uptake of online gambling and increased risk of harm and can encourage impulse betting and continued and intensified wagering" (p.6).

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https://www.aph.gov.au/Parliamentary_Business/Committees/House/Social_Policy_and_Legal_Affairs/Onlinegamblingimpacts/Report

A very important recommendation of the report was for a phased, comprehensive ban on online gambling advertising. The inquiry found that the “inescapable torrent” of gambling advertising is normalising online gambling and its links with sport, grooming children and young people to gamble, and encouraging riskier behaviour.

Given the aim of the BOSE Determination is to protect Australians from abusive and harmful content online, we urge the Department to broaden the focus of the Determination beyond important issues such as hate speech, cyber-bullying, and sexual exploitation of children, to also specifically include the important issue of the harms caused by the current provision and advertising of online gambling.

We note that several expectations within the current BOSE Determination could be applied to providers and advertisers of online gambling to help reduce harm, namely, that service providers:

- » Take reasonable steps to ensure that end-users are able to use the service in a safe manner (core expectation).
- » Proactively minimise the extent to which material or activity on the service is unlawful or harmful (additional expectation).
- » Prevent anonymous accounts from being used to deal with material, or for activity, which is unlawful or harmful (additional expectation).

In addition, we note that the proposed amendments to the BOSE Determination outline a range of new additional expectations, including several with relevance to online gambling and its advertising:

- » Service providers ensure the best interests of the child are a primary consideration in the design and operation of any service that is used by, or accessible to, children:
 - We note that the Parliamentary Inquiry into online gambling found that online gambling advertising is “teaching children how to gamble” and is “creating a new generation of Australians who experience harm from gambling” (p.103).
 - We also note the Inquiry’s concern that children and young people are increasingly being exposed to gambling-like activities through interactive games with simulated gambling features such as “loot boxes” that are widely available and marketed to them on all digital platforms, with limited regulation and age-gating. The Inquiry found: “Research suggests that simulated gambling in interactive games normalises gambling for children and young people and carries risks for lifelong addictive behaviours and the range of harms that online gambling causes” (p.146).

- » If a service provider uses recommender systems, they must consider user safety and incorporate safety measures in the design, implementation and maintenance of the recommender system:
 - We note the Parliamentary inquiry into online gambling cited earlier found that “on social media platforms, the more a user engages with certain content, the more a platform learns and provides them with content in line with those interests, resulting in increased exposure to potentially harmful contents such as gambling-related material”. The inquiry found that children can be particularly at risk in this context (p.113).
 - The Digital Platform Regulators’ Forum² has also identified several negative impacts of recommender systems including normalising of harmful content, exploitation of vulnerable users, and exposure to harmful (though not illegal) content. All of these have relevance for online gambling and its advertising. The paper from the Forum specifically notes: “Targeted advertising has the potential to manipulate consumer preferences and exploit individuals experiencing vulnerability. Advertisers can use data and algorithms to identify consumers who are susceptible to certain kinds of advertising... Advertisers might... direct gambling advertisements to children or frequent gamblers.”
- » If a service provider uses generative AI capabilities, they must consider user safety and incorporate safety measures in the design, implementation, and maintenance of the capabilities:
 - We believe that the use of generative AI has potential to multiply the concerns outlined above in relation to recommender systems. We also note that the Digital Platform Regulators’ Forum in its examination of Large Language Models³ (LLMs, ie generative AI) has identified a large range of risks. In the area of online gambling these most notably include privacy risks. The Forum has identified privacy risks including opacity in the collection and handling of personal information; disclosure of inaccurate personal information; lack of control over personal information; data breach risks; and uses of personal information by LLMs: “For example, LLMs could be trained on large amounts of customer data to recognise consumer preferences, and then used to create personalised advertising content for individual users.” This is of great concern in relation to online gambling and its advertising.

² <https://dp-reg.gov.au/publications/working-paper-1-literature-summary-harms-and-risks-algorithms>

³ <https://dp-reg.gov.au/publications/working-paper-2-examination-technology-large-language-models>

- » Service providers make available controls that give end-users the choice and autonomy to support safe online interactions:
 - We note that the Parliamentary inquiry reported hearing from a number of people who had experienced gambling harm and sought to avoid or exclude themselves from online gambling advertising harm, without success.
- » Service providers prepare and publish regular transparency reports on the measures they are taking to keep Australians safe online:
- » This requirement should be applied to providers and advertisers of online gambling.

The amendments also propose a range of new examples of reasonable steps, including that service providers are responsible to assess whether business decisions will have a significant adverse impact on the ability of end-users to use the service in a safe manner, and in such circumstances, appropriately mitigating the impact. If applied to providers and advertisers of online gambling, these steps could assist with identifying and mitigating potential harms.

We support these proposed BOSE Determination amendments with the proviso that they be specifically applied to providers and advertisers of online gambling.

Conclusion

We ask the Department to consider the following issues in developing proposed amendments to the BOSE Determination:

- » Online gambling and its advertising cause immense harm, including to children and young people, and breach online safety, and should be specifically considered and included in the in BOSE Determination amendments and in the application of the Determination.
- » Use of generative AI in online gambling and its advertising presents potential for increased harm, and this issue should be specifically considered and included in the amendments.
- » The use of ever more sophisticated algorithms in online gambling and its advertising presents potential for increased harm, and this issue should be specifically considered and included in the amendments.
- » End-user choice and autonomy can help support safe interactions in relation to online gambling and its advertising, and this should be specifically considered and included in the amendments.

- » The Alliance supports the requirement for providers to publish regular transparency reports on the measures they are taking to keep Australians safe online, and we advocate that this specifically includes online gambling providers and advertisers, and steps they are taking to keep Australians safe from online gambling harm.
- » The Alliance also supports the inclusion of assessment of adverse impacts in provider business decisions, and we advocate that this be included in the regular transparency reports.

Thank you again for the opportunity to provide this submission. I trust that our submission is of assistance in the Department's deliberations, and we would be happy to provide further information if required.

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Alliance for Gambling Reform



**ALLIANCE FOR
GAMBLING REFORM**

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