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MS23-003918

 <p>Australian Government Department of Infrastructure, Transport, Regional Development, Communications and the Arts</p>

To: The Hon Michelle Rowland MP, Minister for Communications (for information)

Subject: Gambling Advertising – Initial views on the House of Representatives Inquiry

Critical Date: Please action by 17 July 2023 ^{s47C}

Recommendation/s:	
1. That you note the information in this brief.	(Noted / Please Discuss)
 The Hon Michelle Rowland MP	Date: 24/7/23
Comments:	

Key Points:

1. The House of Representatives Standing Committee on Social Policy and Legal Affairs has handed down the report of its inquiry “*Online gambling and its impacts on those experiencing gambling harm*”. The report makes 31 recommendations across the portfolios of: Social Services, Communications, Treasury, Attorney-General and Health. These recommendations propose significant institutional and regulatory changes, as well as improvements to current policy, research and education programs (**Attachment A**).

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Recommendation 26 – Gambling advertising

3. The report recommends a four-phase approach commencing immediately and implemented over three years, with an end state of a total ban on all online gambling advertising and sponsorship. Minor exemptions apply for dedicated racing channels and programming, and a delayed implementation of the ban for two community radio broadcasters (until December 2025). In regard to this last point, the Community Broadcasting Association of Australia advised the Committee Secretary on 5 July that it is not aware of any community broadcasters seeking this exemption. It is likely to be two small regional/remote commercial broadcasters.

4. There are currently 3 bills before Parliament (the opposition, the Member for Goldstein and the Member for Mayo), which propose varying degrees of gambling restrictions.

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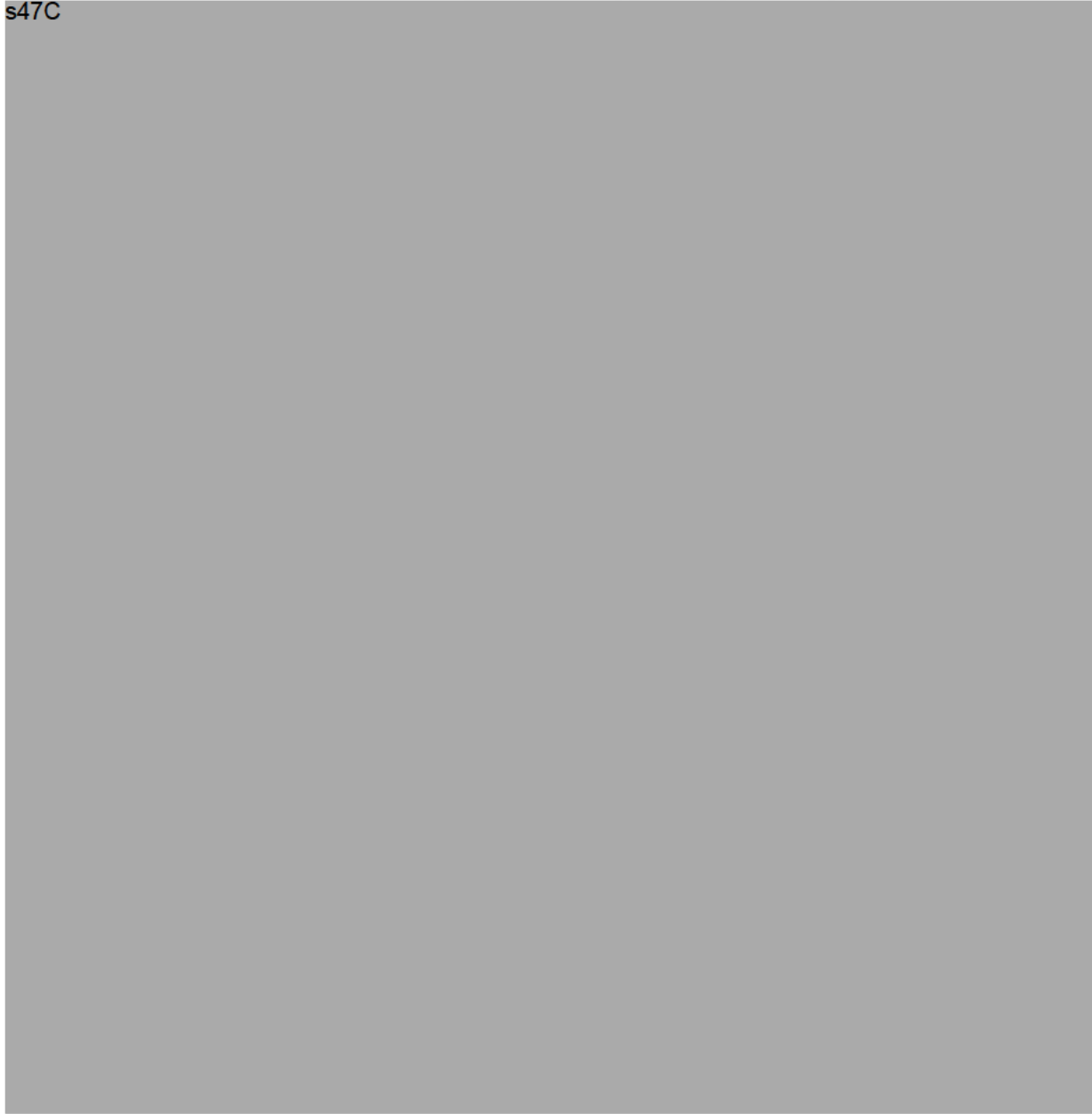
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(Attachment B) compares the report's recommendation with the three Bills. You have publicly stated your commitment to gambling advertising reform and on 21 June 2023 you wrote to Senator Hanson-Young outlining your position on gambling reform (Attachment C).

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Other recommendations

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9. The report recommends that responsibility for online gambling harm reduction be held by a single Australian Government Minister (rec 1) and the establishment of a national online gambling regulator (rec 3) with the sole purpose of reducing online harm and with responsibility for all licencing and regulation. The report is silent on which portfolio this regulator would be in.

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10. Decisions on Ministerial portfolios is a matter for the Prime Minister. In regard to the regulator proposal, while the Social Services portfolio is responsible for gambling policy the Communications portfolio has primary responsibility for addressing a range of online harms of which online gambling (ACMA) is one. Others include: online safety (eSafety Commissioner), the National Classification System (Classification Board) and mis- and disinformation (ACMA).

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Next steps

s34(3)

Financial impacts:

s47C

Legal/Legislative impacts:

s42

Stakeholder Implications:

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Consultation: See paragraphs 6-7 above.

Media Opportunities: N/A

Attachments:

Attachment A: Online Gambling Inquiry – Agency Responsibilities for each Recommendation

Attachment B: Comparison of Recommendation 26 and the Private Member Bills

Attachment C: Letter to Senator Hanson-Young – 21 June 2023

Attachment D: Standard Media Index Gambling Advertising Data – As at December 2022

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Cleared By: Pauline Sullivan
Position: First Assistant Secretary
Division: Online Safety, Media and Platforms
Ph: s22(1)(a)(ii)
Mob: s22(1)(a)(ii)
Cleared Date: 5 July 2023

Contact Officer: s22(1)(a)(ii)
Branch: Media Industry & Sustainability
Ph: s22(1)(a)(ii)
Mob: s22(1)(a)(ii)

Instructions for MPS: Nil

Do you require a signed hardcopy to be returned: No

Responsible Adviser: s22(1)(a)(ii), s22(1)(a)(ii)

PDMS Distribution List: Marisa Purvis-Smith, Shervin Rafizadeh, Maggie Lloyd, Richard Windeyer, Pauline Sullivan, s22(1)(a)(ii), s22(1)(a)(ii), s22(1)(a)(ii), s22(1)(a)(ii), s22(1)(a)(ii), s22(1)(a)(ii)

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Attachment A: Online Gambling Inquiry – Agency Responsibilities for each Recommendation

No.	Recommendation	Responsible Agencies
1	The Committee recommends that responsibility for online gambling harm reduction is held by a single Australian Government Minister.	Lead: Department of Social Services Support(s): DITRDCA, Department of Health
2	<p>The Committee recommends that the Australian Government, with the states and territories, develop a comprehensive national strategy on online gambling harm reduction. The strategy should be based on public health principles and include measures that:</p> <ul style="list-style-type: none"> • prevent gambling harm from occurring • intervene early when there is risk of harm • provide appropriate treatment and support for those experiencing harm • include measures to protect the most vulnerable that are developed with communities to ensure they are culturally safe and linguistically appropriate. <p>The national strategy should be in place within twelve months, allowing that implementation would be progressive.</p>	Lead: Department of Social Services Support(s): Department of Health
3	<p>The Committee recommends that, as the priority of the national strategy and with the cooperation of the states and territories, the Australian Government:</p> <ul style="list-style-type: none"> • establish national regulation and a national online gambling regulator with the sole purpose of reducing harm and with responsibility for all licencing and regulation • levy online wagering service providers (WSPs) to fund the national strategy harm reduction measures for which the Australian Government has responsibility. 	Lead: Department of Social Services Support(s): Department of Health, DITRDCA (licensing, regulation and levy could go under IGA so we would have a role).
4	The Committee recommends that the Australian Government develop and fund an ongoing, online gambling public education campaign with national advertising and marketing, particularly online. All gambling-related public education resources should be made available on the Australian Government’s Student Wellbeing Hub and by the Office of the eSafety Commissioner to help promote awareness of gambling harm to young people and offer strategies to limit exposure.	Lead: Department of Social Services Support(s): Department of Health; DITRDCA (Office of eSafety Commissioner)
5	<p>The Committee recommends that the Australian Government:</p> <ul style="list-style-type: none"> • resource the Australian Institute of Family Studies’ Australian Gambling Research Centre to take on an additional role as a national clearinghouse for gambling research • provide ongoing funding for gambling research, in particular: <ul style="list-style-type: none"> ○ research to develop a set of standard indicators of risk and harm that can be applied in regulation and policy 	Lead: Department of Social Services Support(s): Department of Health

No.	Recommendation	Responsible Agencies
	<ul style="list-style-type: none"> ○ prevalence studies on online gambling harm across both licenced and illegal gambling platforms and websites ○ research into vulnerable groups ○ research into best practice interventions, treatments and supports ○ research about gambling-related suicides. 	
6	<p>The Committee recommends that:</p> <ul style="list-style-type: none"> • national regulation requires online WSPs to disclose de-identified customer data on gambling participation, risk indicators, interventions and harm to the regulator and approved researchers on a consistent and systematic basis • the Australian Government conduct a feasibility study of Spain, France and other jurisdiction's data vault facilities with the aim of implementing a system that provides real-time operator data to the regulator and approved researchers. 	<p>Lead: Department of Social Services Support(s): DITRDCA, Department of Health/Sports Integrity Australia</p>
7	<p>The Committee recommends that the Australian Government develop and implement:</p> <ul style="list-style-type: none"> • technological solutions and resources to quickly and more effectively block offshore gambling websites including skin gambling websites and mirror sites • a protocol for blocking transactions to known illegal gambling operators, in cooperation with Australian banks and other payment system providers • stronger sanctions for companies and known individuals who profit from illegal gambling. 	<p>Lead: DITRDCA (tech solutions / sanctions already under IGA); Treasury (financial blocks) Support(s): ACMA, AGD</p>
8	<p>The Committee recommends that the Australian Government lead the development, with international organisations and other countries, of multilateral agreements that:</p> <ul style="list-style-type: none"> • improve international cooperation to combat illegal online gambling across borders • aim to reduce gambling harm and protect public policy and research from gambling industry interference. 	<p>Lead: DITRDCA (MI&S) Support(s): ACMA, AGD (if AFP enforcement considered); Department of Social Services (research).</p>
9	<p>The Committee recommends that the levy for online gambling harm reduction support the national regulator to work with all jurisdictions on best practice prevention, detection, early intervention, treatment and rehabilitation programs for people experiencing gambling harms, including:</p> <ul style="list-style-type: none"> • better training for staff working in health, community and financial counselling services, and crisis and gambling helpline staff, to identify gambling harms, comorbid issues and suicide risk, to minimise stigma, and to provide best practice treatment and support • support for Aboriginal and Torres Strait Islander community-controlled health organisations and other organisations that assist culturally and linguistically diverse clients or patients 	<p>Lead: Department of Social Services Support(s): Department of Health</p>

No.	Recommendation	Responsible Agencies
	<ul style="list-style-type: none"> increased availability of integrated treatment services enhanced referral pathways to specialist treatments and peer-based support services, including at the end of a self-exclusion period the development and implementation of screening tools for gambling harm in all mental health and drug and alcohol assessments. 	
10	The Committee recommends that the Australian Government develops industry guidelines for the banking and financial sector, online WSPs and other relevant organisations to educate staff about gambling harm. The guidelines should include protocols for the referral of customers experiencing gambling harm who are at risk of suicide.	Lead: Department of Social Services Support(s): Treasury, Department of Health
11	The Committee recommends that the Australian Government, in cooperation with the states and territories, establish a national data collection program on gambling harms and suicides. Data should be systematically collected from health and other practitioners and support services that interact with people who experience gambling harm, including emergency departments and coroners. The data collection should include de-identified customer data provided to the regulator by online WSPs.	Lead: Department of Social Services Support(s): Department of Health
12	The Committee recommends that the multi-stage evaluation of the National Consumer Protection Framework for Online Gambling (NCPF), due to commence in 2023, includes an investigation into whether the small consumer credit contract sector is complying with its responsible lending obligations to customers who gamble.	Lead: Department of Social Services Support(s): Treasury
13	The Committee recommends that the Australian Government work with the Australian Banking Association to develop a set of minimum gambling consumer protection standards for implementation by all banks, including a block on gambling merchant categories for self-excluded individuals using BetStop. If agreement is unable to be reached, minimum standards should be mandated in legislation.	Lead: Treasury Support(s): DITRDCA (MI&S); ACMA; Department of Social Services.
14	The Committee recommends that, in developing national regulation, the Australian Government conduct a risk assessment of available payment methods. Payment methods that do not minimise the risk of criminal activity and gambling harm should be prohibited from being used for online gambling.	Lead: AGD/AUSTRAC; Treasury Support(s): DITRDCA (MI&S) (crypto will be in credit card bill)
15	The Committee recommends that national regulation should require customers' identities to be verified prior to the commencement of online gambling.	Lead: Department of Social Services (underway) Support(s): ACMA (in relation to BetStop)
16	The Committee recommends that the Australian Government prohibit all online gambling inducements and inducement advertising, and that it do so without delay.	Lead: DITRDCA (advertising) Support(s): Department of Social Services (inducements under NCPF)
17	The Committee recommends that the evaluation of the NCPF:	Lead: Department of Social Services (part of NCPF evaluation) Support(s): Nil

No.	Recommendation	Responsible Agencies
	<ul style="list-style-type: none"> analyse deidentified customer data to determine whether voluntary pre-commitment is working to reduce harm examine the strengths and weaknesses of universal, mandatory pre-commitment systems overseas, in comparison to Australia's current voluntary system, and undertake further reforms if it can be demonstrated that an alternative approach will drive improved outcomes overall. 	
18	The Committee recommends that national regulation impose a customer duty of care on online WSPs. An online WSPs' compliance with this legal duty should be assessed against a set of standard indicators of risk and harm.	Lead: Department of Social Services Support(s): AGD (legal duty), DITRDCA (MIS, if regulated through the IGA)
19	The Committee recommends that the Australian Government should investigate the benefits and feasibility of requiring online WSPs to apply a standard behavioural algorithm to reduce online gambling harm.	Lead: Department of Social Services Support(s): Department of Health, DITRDCA (MIS, if regulated through the IGA)
20	The Committee recommends national regulation require online WSP staff to undertake research-informed training that demonstrates a sound awareness of the legal obligations and guidelines for practice in responsible service of online gambling. Staff should also undertake annual refresher training.	Lead: Department of Social Services Support(s): Department of Health
21	The Committee recommends national regulation prohibit commissions being paid to staff or any third party involved in the referral or provision of online gambling to an individual.	Lead: DITRDCA (considered promotion / advertising; commission for illegal services prohibited under IGA) Support(s): Department of Social Services
22	The Committee recommends that national regulation include provisions to prevent the proceeds of crime from being used to fund online gambling. A legal taskforce should be established as soon as practical to develop these provisions.	Lead: AGD (AUSTRAC /AFP) Support(s): Nil
23	The Committee recommends that the national regulator be provided with a broad suite of powers to monitor online gambling, ensure compliance and enforce the law. Penalties should be severe enough to be a genuine deterrent to multinational corporations breaching their legal obligations.	Lead: Department of Social Services Support(s): DITRDCA
24	The Committee recommends that the Australian Government establish an appropriately resourced national online gambling ombudsman, to sit within the national regulator.	Lead: Department of Social Services Support(s): DITRDCA
25	The Committee recommends the Australian Government consult with industry and people who gamble to determine minimum bet limits for online wagering for inclusion in national regulation.	Lead: DITRDCA (could be under IGA) Support(s): Department of Social Services
26	<p>The Committee recommends the Australian Government, with the cooperation of the states and territories, implement a comprehensive ban on all forms of advertising for online gambling, to be introduced in four phases, over three years, commencing immediately:</p> <ul style="list-style-type: none"> Phase One: prohibition of all online gambling inducements and inducement advertising, and all advertising of online gambling on social media and online platforms. Removal of the exemption for advertising online 	Lead: DITRDCA (MI&S) Support(s): ACMA

No.	Recommendation	Responsible Agencies
	<p>gambling during news and current affairs broadcasts. Prohibition of advertising online gambling on commercial radio between 8.30-9.00am and 3.30-4.00pm (school drop off and pick up).</p> <ul style="list-style-type: none"> Phase Two: prohibition of all online gambling advertising and commentary on odds, during and an hour either side of a sports broadcast. Prohibition on all in-stadia advertising, including logos on players' uniforms. Phase Three: prohibition of all broadcast online gambling advertising between the hours of 6.00am and 10.00pm. Phase Four: by the end of year three, prohibition on all online gambling advertising and sponsorship. <p>Gambling advertising on dedicated racing channels and programming should be exempt from the ban.</p> <p>Small community radio broadcasters should be exempt from further restrictions until December 2025.</p>	
27	The Committee recommends that the National Classification Scheme be consistently applied to games available from online app stores, such as the Google Play Store, Apple App Store and the Steam Store.	Lead: DITRDCA (Classification) Support(s): Nil
28	The Committee recommends that the Australian Government develops and implements a public information campaign that educates all consumers, in particular parents, caregivers, teachers and young people, on all elements of simulated gambling. The campaign should be informed by research and publicly evaluated.	Lead: DITRDCA (Classification) Support(s): Department of Social Services
29	The Committee recommends that the Australian Government commissions research into an effective simulated gambling warning label. The label should be incorporated into the National Classification Scheme.	Lead: DITRDCA (Classification) Support(s): Nil
30	<p>The Committee recommends that the Australian Government convene a working group to develop and implement minimum consumer protections for interactive games and make suggestions for legislative mechanisms to implement tighter controls on simulated gambling and its advertising. The working group should consider whether games containing loot boxes that can be purchased for money or simulated gambling should have:</p> <ul style="list-style-type: none"> spending controls as a default function transparent odds and drop rates for items algorithmic loot box features disabled as a default setting, allowing players to opt in. <p>The Australian Government should conduct a review of the implementation of these protective measures and consider legislative options if minimum consumer protections are not being consistently applied.</p>	Lead: DITRDCA (Classification) Support(s): Department of Social Services
31	The Committee recommends that a legislative review of the national regulator (Recommendation three) be conducted, two years after commencement and then every five years subsequently. The review should consider developments in research about the risk of harm from simulated gambling, gambling-like elements in games and the gambling of in-game items, particularly to children and young people, and the effectiveness of regulatory responses to these issues overseas.	Lead: Department of Social Services Support(s): DITRDCA, Department of Health

Attachment B: Comparison of Recommendation 26 and the Private Member Bills

Committee Proposed Approach	Opposition Bill (BSA)	Pocock Amendment to Opposition Bill (BSA)	Zoe Daniel Bill (BSA)	Rebekha Sharkie Bill (IGA)
Phase 1 – December 2023				
Prohibition of all:				
a) online gambling inducements; and	Not addressed.	Not addressed.	Not addressed.	Not addressed.
b) inducement advertising.	Not addressed.	Addressed in part. Total ban on all advertising on broadcasting and streaming services, to commence 6-months after Royal Assent.	Addressed in part. Total ban on broadcast television and radio, and related television streaming services (BVODs, Kayo).	Addressed in part. Total ban on all advertising on television, print, radio and online, to commence 6-months after Royal Assent.
Prohibition of all advertising of online gambling on social media and online platforms (online platforms does not include streaming services ¹).	Not addressed.	Not addressed.	Not addressed.	Addressed. Total ban on all advertising on television, print, radio and online, to commence 6-months after Royal Assent.
Removal of the exemption for advertising online gambling during news and current affairs broadcasts.	Not addressed.	Addressed. Total ban on all advertising on broadcasting and streaming services, to commence 6-months after Royal Assent.	Addressed. Total ban on broadcast television and radio, and related television streaming services (BVODs, Kayo).	Addressed. Total ban on all advertising on television, print, radio and online, to commence 6-months after Royal Assent.
Prohibition of advertising online gambling on commercial radio between 8.30-9.00am and 3.30-4.00pm (school drop off and pick up).	Not addressed.	Addressed. Total ban on all advertising on broadcasting and streaming services, to commence 6-months after Royal Assent.	Addressed. Total ban on broadcast television and radio, and related television streaming services (BVODs, Kayo).	Addressed. Total ban on all advertising on television, print, radio and online, to commence 6-months after Royal Assent.
Phase 2 – Early 2024				
Prohibition of all online gambling advertising and commentary on odds during and an hour either side of a sports broadcast.	Addressed. Ban gambling advertisements 1 hour before, during, and 1 hour after live sporting events on broadcasting and streaming services, to commence on the day of Royal Assent.	Addressed. Total ban on all advertising on broadcasting and streaming services, to commence 6-months after Royal Assent.	Addressed. Total ban on broadcast television and radio, and related television streaming services (BVODs, Kayo).	Addressed. Total ban on all advertising on television, print, radio and online, to commence 6-months after Royal Assent.
Prohibition on all in-stadia advertising, including logos on players' uniforms.	Not addressed.	Not addressed.	Not addressed.	Not addressed.
Phase 3 – December 2025				
Prohibition of all broadcast online gambling advertising between the hours of 6.00am and 10.00pm.	Not addressed.	Addressed. Total ban on all advertising on broadcasting and streaming services, to commence 6-months after Royal Assent.	Addressed. Total ban on broadcast television and radio, and related television streaming services (BVODs, Kayo).	Addressed. Total ban on all advertising on television, print, radio and online, to commence 6-months after Royal Assent.

¹ See paragraph 5.140 in the *You win some, you lose more* report, available at: https://www.aph.gov.au/Parliamentary_Business/Committees/House/Social_Policy_and_Legal_Affairs/Onlinegamblingimpacts/Report

Committee Proposed Approach	Opposition Bill (BSA)	Pocock Amendment to Opposition Bill (BSA)	Zoe Daniel Bill (BSA)	Rebekha Sharkie Bill (IGA)
Phase 4 – December 2026				
Prohibition on all online gambling advertising and sponsorship.	Not addressed.	Addressed in part. Total ban on broadcast television and radio, and related television streaming services (BVODs, Kayo). Does not ban on other mediums (including social media, websites, stadiums, jerseys, billboards, etc).	Addressed in part. Total ban on broadcast television and radio, and related television streaming services (BVODs, Kayo). Does not ban on other mediums (including social media, websites, stadiums, jerseys, billboards, etc).	Addressed in part Total ban on all advertising on television, print, radio and online, to commence 6-months after Royal Assent. Does not ban out of home mediums (stadiums, jerseys, billboards etc.)
<u>Proposed exemptions</u>				
Gambling advertising on dedicated racing channels and programming should be exempt from the ban.	Not addressed	Not addressed.	Not addressed	Not addressed.
Small community radio broadcasters should be exempt from further restrictions until December 2025.	Addressed in part. Ban does not apply to community broadcasters.	Addressed in part. Ban does not apply to community broadcasters.	Addressed in part. Ban does not apply to community broadcasters.	Addressed. Total ban on all advertising on television, print, radio and online, to commence 6-months after Royal Assent.

Summary of Private Member Bills

Zoe Daniel Bill

- On 22 May 2023, Zoe Daniel (Member for Goldstein) introduced the [Broadcasting Services Amendment \(Prohibition of Gambling Advertisements\) Bill 2023](#).
- The Bill would amend the BSA to ban gambling advertisements on broadcast television and radio, and related television streaming services (i.e. BVODs).
- The ban would commence 6-months after Royal Assent.
- On 14 June 2023, Zoe Daniel moved a motion to suspend standing orders to give priority for her Bill. The motion was not agreed to.

Opposition Bill

- On 14 June 2023, Senator Henderson (Senator for Victoria) introduced the [Broadcasting Services Amendment \(Ban on Gambling Advertisements During Live Sport\) Bill 2023](#). This followed the announcement by Opposition leader Peter Dutton in his Budget Reply speech on 11 May 2023.
- The Bill would amend the BSA (under the codes for broadcasters and Schedule 8 for streaming services) to ban all gambling advertisements during live sporting events on television and radio broadcasting, and live streaming of sporting events. The ban would commence one hour before the scheduled start of the match and end one hour after its conclusion.
- The Bill would commence on the day of Royal Assent.
- The Bill was debated in the Senate on 21 and 22 June 2023.
- Senator Pocock (Senator for ACT) has proposed amendments to the Bill which would see a full ban applied to broadcast and online services under the BSA, and would commence 6-months after Royal Assent.

Rebekha Sharkie Bill

- On 19 June 2023, Rebekha Sharkie (Member for Mayo) introduced the [Interactive Gambling Amendment \(Ban on Gambling Advertisements\) Bill 2023](#).
- The Bill would amend the IGA to ban advertising of a licensed interactive wagering service that is a gambling service.
- This will prohibit television, print, radio and online advertising of interactive gambling services such as telephone and online gambling.



The Hon Michelle Rowland MP

**Minister for Communications
Federal Member for Greenway**

Senator Sarah Hanson-Young
Senator for South Australia
Parliament House
CANBERRA ACT 2600

senator.hanson-young@aph.gov.au

Dear Senator, *Sarah*

I appreciate the time we had last week to discuss the Government's work on gambling harm minimisation and for you sharing your own perspectives and those of the Greens Party.

The Albanese Government is committed to ensuring online gambling takes place within a robust legislative framework with strong consumer protections.

Like many Australians, we are concerned about the extent and impact of gambling ads, and more broadly, the harms online gambling can cause. This is why the Government moved swiftly to establish a House of Representatives Inquiry into online gambling and its impact on those experiencing gambling harm, to inform the Government's consideration of what further reforms are required. I understand the Committee is finalising the report this week and its release is imminent.

Set out in the Committee's terms of reference is that they are to inquire into the adequacy of the current gambling advertising restrictions (including in relation to broadcast television and radio), as well the impact of social media. That is why we are awaiting the final report and the full suite of evidence, findings and recommendations it provides, before proposing changes.

When we do act in this area, we want to ensure our approach is comprehensive. I assure you our response will consider the multiple channels over which advertising is delivered – which includes television, radio and livestreaming, but also social media and online where these advertisements can be most pervasive.

As we discussed during our meeting, the Government considers the Coalition bill is incomplete, not least because it does not consider these multiple channels. Nor does it consider research from the Australian Communications and Media Authority (ACMA), which found there was a 50% increase in the total volume of gambling spots on television and radio following the introduction of the last set of gambling ad restrictions in 2018. This research

The Hon Michelle Rowland MP
PO Box 6022, Parliament House Canberra
Suite 101C, 130 Main Street, Blacktown NSW 2148 | (02) 9671 4780

demonstrates we need to carefully consider the flow-on effect of time-based restrictions, yet these are the restrictions the Coalition now proposes to expand.

Over recent weeks, I have been working with my department to prepare for the release of the report, including considering the levers available to me in my portfolio, as well as the role of states and territories in any reforms. This will allow the Government to respond effectively once we receive the report.

While we prepare for the release of the report, work continues to progress other important gambling harm minimisation initiatives. The Government is working with the states and territories to strengthen classification of gambling-like features in video games, including loot boxes and simulated casino games; we will soon consult on our draft legislation to ban credit cards for online gambling; and the Minister for Social Services has brought together state and territory ministers for the first time since 2017 to discuss what comes next to address gambling harms. I also look forward to setting a commencement date for BetStop, the National Self-exclusion Register, in coming weeks.

We understand reform to gambling advertising is important to the community and your constituents. We will continue to progress our work on harm minimisation to protect Australians who are vulnerable to gambling harms and look forward to working with you on this important agenda over the coming weeks.

Yours sincerely

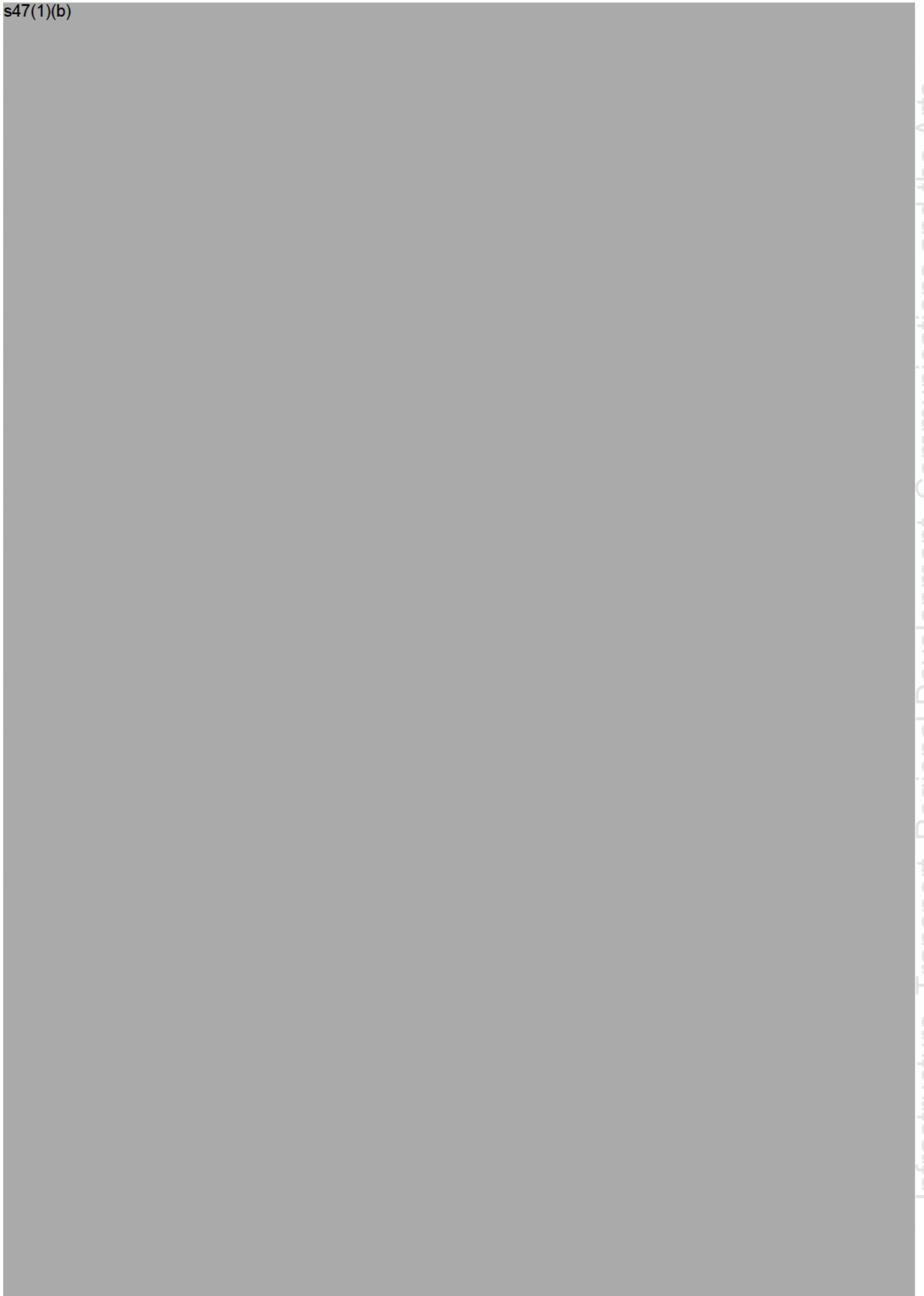


Michelle Rowland MP

21 / 6 / 2023

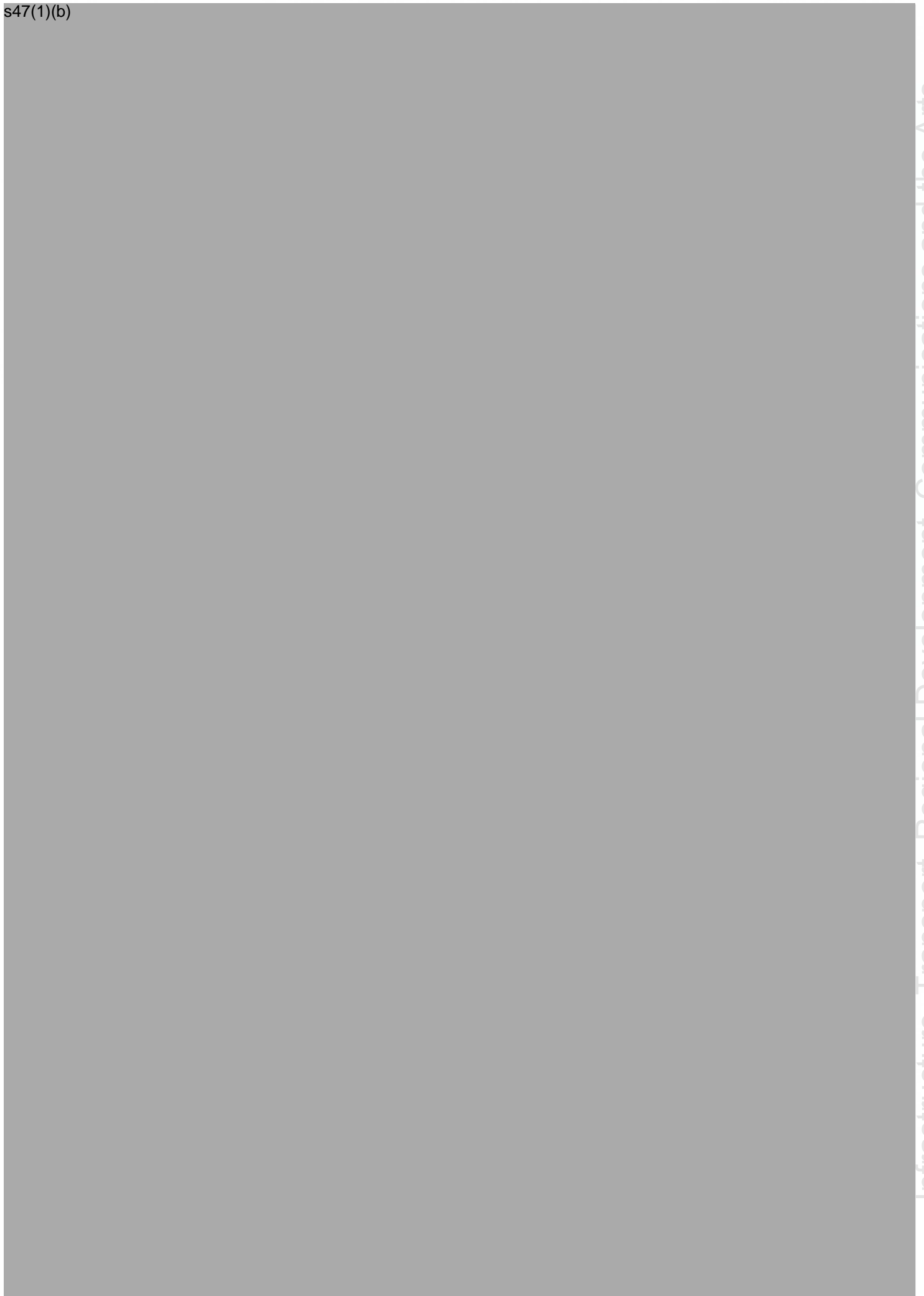
cc the Hon Amanda Rishworth MP, Minister for Social Services

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