

Submission by Sportsbet Pty Ltd

To the

*May 2016 Draft Report of the
Review of the Australian Communications
and Media Authority*

June 2016

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.

Sportsbet's Submission to the ACMA Review

Sportsbet submitted to the *Review of the Australian Communications and Media Authority (ACMA Review)* by the Department of Communications (**Department**) focusing on one of the 26 communications Acts that the ACMA administers, namely, the *Interactive Gambling Act 2001 (Cth) (IGA)*.

Our submission, in aid of ensuring the regulator keeps pace with changes in technology and mitigates the risks associated with Australians' wagering with illegal offshore operators, recommended the Government adopt two key reforms which will significantly enhance the ACMA's regulatory performance:

- **Reform 1:** amend the deterrence and enforcement measures in the IGA to streamline enforcement provisions and ensure operators of prohibited services are aware of the IGA provisions; and
- **Reform 2:** amend the IGA to adopt a platform neutral approach to in-play betting, in line with leading international regulatory regimes.

We now outline the key aspects of the Draft Report as they relate to Sportsbet's original Submission and recent developments and policy considerations in relation to the ACMA Review.

Key aspects of the Draft Report and relevant policy considerations

Reform 1

The ACMA Review's May 2016 Draft Report considers deterrence and enforcement measures at Draft Proposal 8.

8. That the Interactive Gambling Act 2001 be amended to require the ACMA to:

Handle all complaints relating to interactive gambling services and advertisements; Conduct the same investigation process irrespective of whether the content is hosted in Australia or overseas

Sportsbet supports the streamlined proposed approach of the ACMA in the management of investigations and complaints for reporting prohibited interactive gambling services.

Enforce civil penalties for breaches of the Act

Sportsbet supports civil penalties for breaches of the Act. As we observed in our Submission, Sportsbet considers the inclusion of civil penalties for breaches of the Act would promote a greater level of effective regulation through enforceable civil sanctions. This greater enforcement capacity would likely serve as a far stronger deterrent to non-compliance with the IGA.

The Draft Report also acknowledges the Federal Government's *Review of the Impact of Illegal Offshore Wagering (Wagering Review)* and observes that the Department consulted with the Wagering Review in relation to enforcement measures (albeit understandably the Draft Report does not comment on the Wagering Review as the latter was released just eight days prior to the Draft Report).

Following the release of the Wagering Review, the Government has stated in relation to Recommendation 17 that it will pursue amendments to the IGA to:

- improve and simplify the definition of prohibited activities;
- extend the ambit of enforcement to affiliates, agents and the like;

- include the use of name and shame lists published online to detail illegal sites and their directors and principals and to include the use of other Commonwealth instruments to disrupt travel to Australia by those named;
- allow ACMA, where appropriate, to notify in writing any relevant international regulator in the jurisdiction where the site is licensed;
- allow ACMA to implement civil penalties as proposed by the 2012 review; and
- include a provision that restricts an operator providing illegal services to Australian consumers from obtaining a licence in any Australian jurisdiction for a specified future time period.

Sportsbet supports the implementation of these measures and advocated for their implementation in its submission to the Wagering Review.

Reform 2

Sportsbet's second recommended reform was to amend the IGA to adopt a *platform neutral* approach to in-play betting, in line with leading international regulatory regimes. Despite the Wagering Review being supportive of the policy benefits associated with platform neutrality¹ and recommending that consideration of additional in-play betting products be deferred until the proposed national framework is established and operating, this was not addressed in the Draft Report and the Federal government has in its Response to the Wagering Review said that it believes *"click-to-call" type in-play betting services are breaching the provisions and intent of the IGA*' and *'will introduce legislation as soon as possible to give effect to the intent of the IGA'*.

The Government's short term response on the globally popular mode of in-play wagering is disappointing for a number of reasons. As the Draft Report observes, the emergence of sophisticated consumer devices along with access to fast networks that bring together services and content into a single device able to be always on, connected and available, has led to Australians carrying out more transactions online. This is consistent with the core contention in Sportsbet's Submission where we highlighted that there is strong evidence and support from a wide range of stakeholders including Australia's major sports controlling bodies and leading gambling research academics that due to convergence of previously distinct communication platforms, the single IGA provision which imposes the in-play restriction is now very much outdated and is completely ineffective.

It is clear Australia needs a modern regulatory framework that reflects the internet-age. Consumers expect to be able to transact online and on their mobiles and will continue to bet in-play via the internet with illegal offshore operators until reform is achieved to allow Australian licensed and regulated wagering operators to offer the product.

The cogent policy benefits in a platform neutral approach to online in play wagering which does not discriminate between whether a consumer accesses online services via a computer, retail outlet, smart phone or over a telephone are in many respects irrefutable and supported by a wide range of stakeholders including Australia's major sporting bodies including AFL, NRL and Cricket Australia, The Coalition of Major Professional and Participation Sports (COMPPS) and leading gambling academics such as Dr Sally Gainsbury of Southern Cross University.

¹ The Wagering Review highlights that online in-play wagering on sporting events was a key consideration of the 2012 DBCDE Review of the Interactive Gambling Act 2001 completed by the Department of Broadband, Communications and the Digital Economy, which recommended that the prohibition on in-play wagering on sport be lifted.

Notwithstanding the above, should the Federal Government introduce legislation to amend the IGA as outlined above, any such reform Bill should be applied equally to all operators so that whatever customers are permitted to do in a retail outlet or via a telephone call must be unequivocally allowed in a legal and regulated online environment.

Next steps

Sportsbet appreciates the opportunity to contribute to the Draft Report of the ACMA Review and welcomes further opportunities to participate in the discussion.

Sportsbet looks forward to working with the ACMA, the Department and the Federal Government as we collectively embark on this important reform agenda to mitigate the adverse impacts of Australians wagering offshore, while ensuring that changes made to the existing regulatory environment do not magnify the existing competitive disadvantage Australian licensed online wagering operators face in a global online wagering market by not being able to offer online in-play wagering.

Should the Department wish to discuss this submission in greater detail, please contact:

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