

THE COALITION OF MAJOR PROFESSIONAL AND PARTICIPATION SPORTS INCORPORATED

SUBMISSION TO THE DEPARTMENT OF SOCIAL SERVICES

INQUIRY INTO THE IMPACT OF ILLEGAL OFFSHORE WAGERING



EXECUTIVE SUMMARY

COMPPS consists of the following organisations:

- Australian Football League (**AFL**);
- Australian Rugby Union (**ARU**);
- Cricket Australia (**CA**);
- Football Federation Australia (**FFA**);
- National Rugby League (**NRL**);
- Netball Australia (**NA**); and
- Tennis Australia (**TA**).

Each of these sports is the governing body and custodian of a major professional sport in Australia. They are collectively referred to either as “**the sports**” or “**COMPPS members**” throughout this submission.

They play a huge role in developing, promoting and presenting sport in Australia from the grass roots through to the international level.

They are not-for-profit bodies and are responsible for the long-term development and sustainability of their sports. Between them, they have 8.95 million participants and 16,000 clubs.

COMPPS members provide a wide range of public benefits through a self-funding business model. A large portion of the revenue of COMPPS members is devoted to enhancing, promoting and developing sport for all Australians both at national and community level.

One of COMPPS’ roles is to provide a collective response on behalf of its member sports where their interests are aligned. In addition to this collective submission, one or more sports may lodge individual submissions.

Illegal offshore wagering represents a present and direct threat to the integrity and product fee revenue of Australia sports. The Interactive Gambling Act 2001 (**the Act**) has failed to prevent Australians from wagering with unregulated operators outside of Australia’s strong regulatory system that is based upon harm minimisation, consumer protection and integrity.

Sports are in an entirely different position to the racing industry, since one of the working impacts of the Act is to create an integrity blind spot in the area of online, in-play wagering on sports. Online in-play wagering is not permitted on sports. Demand for those wagering services is prohibited from being met by regulated, Australian operators that have integrity and product fee agreements (Integrity Agreements) with all major sports.

This anachronistic prohibition does not exist for wagering on racing and despite the comparatively limited ability and demand to be in the run (e.g. races run for one or two minutes, compared with a five-day cricket Test), Australian-licensed wagering operators are permitted to facilitate in-the-run betting on racing, whilst demand for online in-play wagering on sport can only be met through illicit channels.

Ultimately, the COMPPS members are calling for a **platform-neutral approach** to wagering services under the Act as they relate to sports betting.

This approach recognises that Australian customers are presently betting online during play on Australian sports through illicit channels and seeks to allow that demand to be satisfied by Australian operators. It is respectfully and strongly submitted that this will lead to an improvement in integrity measures for Australian sports, and better harm minimisation and consumer protection outcomes for consumers.

ONLINE SPORTS BETTING

Each of the seven COMPPS member sports conducts matches on which betting takes place and the bulk of sports betting in Australia (excluding horse racing) takes place on these sports. The intellectual property of the sports is being used. They are major stakeholders in this debate.

Sports betting has increased in recent years, both in terms of the dollar value of betting and the type of bets that can be placed on sports. Rapid technological advances have enabled Australians to access offshore gambling services.

Online in-play sports betting with offshore betting operators on the COMPPS' sports is illegal in Australia. It does, however, take place on all Australian sports in flagrant breach of the provisions of the Act.

IN-PLAY BETTING

It is important to highlight that “**in-play betting**” in this case refers only to allowing Australian wagering operators to continue to offer bet types during play that are currently available before play commences, such as ‘match odds’ (which player or team will win) or handicap/line markets. For example, once the first ball of a Test match has been bowled or the ball has been bounced to start an AFL match, online betting is not permitted.

Importantly, under the existing Integrity Agreements between the sports and Australian betting operators, the sports have a right of veto over “bet types”. This ensures that the betting markets being offered by the Australian-licensed wagering operators are agreeable to the respective sport.

THE FOCUS ON INTEGRITY AND REGULATION

Since sports betting commenced in Australia, **the major focus** of the COMPPS members has been **ensuring that their sports remain free from betting related integrity issues**.

The sports take great pride in the fact that professional sport in Australia has an excellent record in relation to dealing with betting related integrity issues. There have been very few instances of match fixing or inappropriate betting related behavior. Where these have occurred, they have been dealt with very effectively.

COMPPS members have numerous recognised integrity risks posed in various forms (of which betting integrity is one) and, consequently, installed integrity departments and/or officials that work collaboratively with Australian-licensed wagering operators to ensure that sporting events, and the wagering conducted on them, take place to the highest standards of integrity. For example, there are 14 employees working in the AFL's Integrity Department. This important work will be strengthened in circumstances where Australian wagering operators are permitted to service in-play wagering, and all COMPPS members are confident that they are adequately

resourced to monitor such activity. Several sports work with their international federation to provide consistent integrity protocols and investigative resources.

Online sports betting and technological developments have created new issues for professional sports. However, given there are no standardised measures of online gambling participation and the ability of Australians to access overseas wagering websites, it is ultimately difficult to ascertain the precise number of consumers participating in online gambling and the dollar value of the amounts that are bet.

That said, as a general principle, **the strong preference of the sports is that all betting on their sports takes place in a regulated environment where they are able to put in place mechanisms that enable them to react to suspicious, illegal or corrupt practices.**

The sports rely heavily on **information sharing arrangements** under Integrity Agreements with Australian betting operators **to alert them to suspicious activity and which grant sports certain rights over bet types.** They also value **the Australian regulatory regime** that sees regulators operating in each state and territory. Additionally, sound **relationships with police forces** at state and federal level have been established as a result of the information sharing mechanisms.

However the information sharing arrangements with Australian betting operators only go so far as one of the measures that sports can use to protect the integrity of Australian sport. This is because traditionally, the COMPPS members have been unable to enter into such information sharing agreements with offshore betting providers, as there is no statutory requirement compelling such betting operators to do so. As a result, in addition to the financial impact of lost taxation and product fee revenue, the COMPPS members obviously do not benefit from any information sharing mechanisms or the right to monitor and enforce betting market restrictions with these offshore providers. They also do not have control over bet types. Consequently, Australian sports and regulators have no access to suspicious betting data and have no means of tracking illegal activity in betting that takes place in the offshore unregulated markets. Illustrative of these limitations, Cricket Australia has previously approached the offshore provider "SBO Bet" solely seeking information on betting volumes (i.e. no specific information on customers or contributions of royalties was sought) on particular cricket events. Not only did Cricket Australia fail to receive the requested information, it did not receive any substantive response or elicit any form of engagement from SBO Bet in relation to this benign information request.

Accordingly, **any amount** of betting that takes place with offshore betting operators poses a relatively higher risk to maintaining the betting integrity of a sport when compared to betting that takes place on the regulated Australian betting market. It follows that the preference of the COMPPS members is that the wagering activity of all Australians on their sports, regardless of the mode of access, should take place with regulated betting operators in Australia who are subject to the regulatory regimes that are in place in the States and Territories.

It follows further that they are opposed to any features of the sports betting landscape that propagates a system that allows betting on Australian sports to take place overseas without the benefit of regulation and Integrity Agreements. Currently, due to the existence of offshore betting operators servicing Australian customers, the prohibition contained in the Act preventing Australian licensed sports betting providers from offering online in-play sports betting to consumers located in Australia is at best partial, and at worst, seriously ineffective.

The preference of the COMPPS members is to endorse a system, which includes the appropriate regulation of online sports betting providers.

THE PROHIBITION ON ONLINE IN-PLAY BETTING ON SPORT

In light of the above, the COMPPS members believe that an important measure to combat the existing threat of offshore-unregulated betting operators is to **remove the current prohibition on online in-play sports betting**. They believe that lifting the prohibition will increase the likelihood that Australian consumers will choose to gamble with licensed and reputable Australian sports betting operators and reduce the betting that is being driven offshore by the current prohibition.

Importantly, the COMPPS members highlight that they believe that lifting the prohibition will not result in another form of gambling being made available to Australian consumers. Rather, it simply legitimises a mode of access for Australian consumers that is already being made available to them by offshore, unregulated betting providers and in the Australian racing industry.

To clarify this point the current regulatory framework allows Australian consumers to place in-play bets legitimately as follows:

MODE OF DELIVERY	PRE-EVENT	IN-PLAY
Telephone	✓	✓
Online	✓	X (currently only available through unregulated offshore betting operators)
Terrestrial	✓	✓

To support the notion of platform neutrality, the COMPPS members suggest that logic dictates that if in-play betting itself was an insidious threat to the betting integrity of sports, it could have been prohibited in all forms. This did not occur at the time of enactment of the Act. Further, if the mere accessibility to in-play betting increases the incidence of problem gambling, again, it should be prohibited in all forms. This again did not occur at the time of enactment of the Act.

Importantly, as the above table illustrates, allowing online in-play betting in Australia is not an additional form of gambling being made available to the public, rather, it would provide a platform-neutral approach to the existing forms of gambling that are being offered by regulated Australian betting operators and it would place sport in a similar position to racing in terms of access to betting technology.

SPECIFIC QUESTIONS ASKED IN THE REVIEW

1. What are the factors that lead people to use illegal offshore wagering operators?

Professional sports are concerned that the operation of the Act, and specifically the prohibition on online in-play betting creates circumstances where the illegal offshore wagering environment is more attractive to consumers than Australian wagering operators.

Just as is taking place in other sectors of the service economy, consumer will be advancing at a faster rate than regulators, and in the case of online wagering, technology has progressed ahead of legislation that was drafted long before the maturation of the Australian wagering marketplace.

Digital disruption and technological convergence were hardly considered when the Act was passed in 2001, but are both now blurring previously firm lines between countries and between platforms, and the emergence of smartphones and tablets has accelerated these issues.

From the palm of their hand, Australian customers can access services (in this case wagering) that are provided from anywhere in the world, and their use of those services is driven, not by the location of the provider, but by the specific offering or features that the customer is seeking. For example, COMPPS members are already aware of punters utilising proxy servers to bet online live in-play with offshore betting providers.

COMPPS members are aware of offshore betting providers such as Pinnacle Sports and SBO Bet that are attractive and popular among Australian customers because they ignore the prohibition on online in-play wagering on sport. Further to this, such operators are able to offer more competitive odds, since they are making no taxation or product fee contributions in Australia.

2. What do you consider are the impacts of illegal offshore wagering and associated financial transactions on the Australian economy, legitimate Australian wagering businesses, sporting organisations and the integrity of Australian sport, and consumers?

Illegal offshore wagering represents a direct threat to the integrity of Australian sport.

Sports rely heavily on the Integrity Agreements that they have in place with wagering operators in the Australian-regulated environment and these agreements cannot, and do not, exist with illegal offshore operators.

Integrity Agreements with Australian operators also importantly include the ability for sports to derive a product fee from wagering on their events, and this is expended to defray the increased costs associated with monitoring betting activity and implementing anti-corruption programs on their sport. More importantly, incorporating online in-play sports betting within the ambit of these Integrity Agreements ensures that sports are armed with the integrity protections that exist in such agreements (e.g. information accessibility and ability to veto unacceptable betting markets).

Where customers choose to interact with illegal offshore operators, an integrity blind spot is created, since that wagering activity is hidden from the sports' integrity bodies and Australian law enforcement authorities. These customers are also wagering without the consumer protection and harm minimisation safeguards that exist with all Australian-licensed operators, and have no recourse in cases of non-payment of winning bets or other disputes with disreputable operators. Accordingly, where such measures are viewed as integral for the protection of consumers, maintaining a prohibition that results in Australian consumers turning to offshore, unregulated operators does not assist with the effectiveness of the current consumer protection measures.

3. What measures could be implemented to improve the enforcement of the Interactive Gambling Act 2001 and any other relevant legislation (Commonwealth, state and territory) including any enhancements to presently existing prosecution, investigation and complaints handling processes? What legislative, prosecutorial, investigative or complaint handling measures have been implemented in international jurisdictions that may work in the Australian context?

COMPPS is aware of various proposals including those contained in the Final Report of the 2012 Review of the Act conducted by the Department of Broadband, Communications and the Digital Economy (**the IGA Review**).

While not directly related to amendments of the Act, the betting integrity of sports can be strengthened through the implementation of further State and Territory legislation similar to those currently existing in Victoria and New South Wales, where sports betting providers are obliged to hold Integrity Agreements with sports governing bodies that address:

- compulsory integrity related matters;
- implementing satisfactory information sharing arrangements; and
- incorporating any revenue sharing arrangements.

Introducing such nationally consistent statutory obligations would complement the lifting of the online in-play betting prohibition. It would strengthen the Australian regulatory environment at the same time as customers are encouraged to wager within that environment as opposed to off-shore. In this regard, the current and future objectives of such State and Territory legislative instruments can be framed with reference to the already existing National Policy on Match Fixing, where State and Territory governments in conjunction with the Commonwealth government have agreed to pursue:

- a nationally-consistent approach to deterring and dealing with match-fixing in Australia;
- information sharing arrangements and highly efficient networks between governments, major sports, betting operators and law enforcers;
- consistent code of conduct principles for sports; and
- active participation in international efforts to combat corruption in sport including an international code of conduct and an international body.

Any changes to the restriction on on-line in play gambling on sport may in fact be an opportunity to revisit the National Policy on Match Fixing to determine what matters should be strengthened from a national perspective.

While sport and racing have different approaches to several of the issues facing this Review, there is common ground in some areas. The sports come together from time to time to share information that they have collected as to intelligence from within their sport in relation to suspicious betting activity.

A concept of a centralised **National Sports Intelligence Commission** (the Commission) has been suggested as a means of complementing the functions of the AFP, State and Territory police and other relevant enforcement agencies such as AUSTRAC and ACMA who would retain their responsibilities for enforcement of the law. That said, it is essential that the establishment of a Commission does not impinge on the sovereignty of the sports to conduct and manage their own affairs but complements their ability to do so. Save for suggesting that the concept be developed, the sports reserve all of their rights.

4. Are there non-legislative options, such as technological and financial innovations, that could be implemented to limit the access to illegal offshore wagering sites by Australian based customers? What non-legislative measures have been used in international jurisdictions that may work in the Australian context?

The IGA Review and other recent reports have considered financial transaction blocking and other non-legislative measures. Other parties that will make submissions to this Inquiry are better qualified to comment on the range and efficacy of such measures and any new initiatives that might be adopted to suit the Australian wagering environment.

It follows that COMPPS supports all reasonable measures to reduce the use by Australian consumers of illegal offshore websites and is interested in considering a suite of legislative, technological and financial measures that might be adopted to achieve this objective.

We note, however, the limited efficacy of these measures where they have been adopted in other countries and the ability of offshore operators to adapt to any changes made in Australia. We suggest that it will be a continuing battle to plug holes and keep ahead of the illegal operators.

From a sports perspective, COMPPS submits it is time to recognise that Australians are betting during play on sport, and to take steps to bring this wagering activity within the Australian regulatory system, and importantly within the integrity reach of sports.

That said, to achieve best practice, we suggest that the true strength of any updated regulatory framework will be its ongoing enforceability against persons or entities that fail to uphold the standards and comply with the obligations dictated by the framework.

Any measures that are implemented should:

- take into account commercial sensibilities of the industry operators and regulators (to the extent they are relevant);
- be studied and/or assessed to ensure their viability as an effective measure; and
- minimise the compliance costs imposed on third-party operators in the industry (e.g. financial institutions, internet service providers).

5. What approaches could be implemented to encourage offshore wagering providers to comply with Australian laws, and would this require measures to assist in ensuring domestic providers would not be operating at a disadvantage to offshore providers?

It is clear that the prohibition-based approach of the Act has failed to keep pace with rapid technological developments and movement in the online wagering marketplace since passage of the Act in 2001.

The ease with which Australian customers interact with illegal offshore operators and the flagrancy with which those operators breach the Act suggest a customer-focussed solution is preferable to persisting with, or expanding, failed prohibitions.

COMPPS members broadly support the aims and the recommendations of the IGA Review that sought to incentivise wagering operators and customers to conduct their activity within the Australian regulatory system and importantly within the integrity reach of Australian sport.

The most important of these is the removal of the prohibition on online in-play betting which is currently driving wagering activity away from legitimate channels that are within the integrity reach of Australian sport and subject to high standards of harm minimisation and consumer protection.

The anachronistic prohibition on betting on a sporting event after it has commenced was included in the Act on responsible gambling grounds, and suggestions at the time that the prohibition would drive wagering activity offshore were dismissed by then Communications Minister the Hon. Richard Alston, who said:

“Australian customers will be cautious about using offshore services, in any case, because these services are often unregulated and there is no guarantee of payouts being honoured.”

Whilst the Minister was correct to identify the danger of wagering with offshore operators, the opposite is true of Australian customers who are presently betting during play with offshore operators, and the justification for the prohibition on responsible gambling grounds has been dismissed since the passage of the Act.

In its 2009 position paper on in-running betting, the United Kingdom Gambling Commission found that “in-running betting is a popular and legitimate form of gambling” and also found no evidence that this form of betting poses a specific identifiable risk to problem gambling or integrity. Accordingly, in circumstances where online in-play wagering is occurring through illegitimate channels among Australians, and that the betting method itself poses no specific or increased harm, bringing this wagering activity onshore by enabling locally-regulated operators to offer this service will lead to an overall improvement in integrity and harm minimisation for Australian consumers.

6. Are there education and awareness initiatives that could be implemented by industry, consumer groups or government to alert Australians to the risks associated with offshore gambling operators?

The IGA Review recommended that ACMA publish and maintain a list of prohibited Internet gambling providers, accompanied by information discouraging their use.

There exists a risk that drawing attention to the illegal offshore wagering marketplace could have the counterproductive impact of increasing its visibility among Australian consumers. COMPPS believes that all measures to encourage legitimate local operators to service Australian customers should be employed.

7. What initiatives could be used to alert offshore gambling providers to Australian interactive gambling provisions?

This issue was well covered in the IGA Review and COMPPS has no specific expertise that would allow it to provide further information.

For further information please contact me on 0400 115 487, at mspeed@compps.com.au or at:

Mr Malcolm Speed
Executive Director
The Coalition of Major Professional and Participating Sports
Suite 1108
530 Little Collins Street
Melbourne VIC 3000

Yours sincerely



Malcolm Speed
Executive Director