



A U S T R A L I A N
W A G E R I N G
C O U N C I L

SUBMISSION

QLD Criminal Code
(Cheating at Gambling) Amendment Bill
2013

March 2014



AUSTRALIAN
WAGERING
COUNCIL

SUBMISSION: QUEENSLAND CRIMINAL CODE (CHEATING AT GAMBLING) AMENDMENT BILL 2013

1. INTRODUCTION

The Australian Wagering Council (**AWC**) welcomes the opportunity to make this submission to the Queensland Parliament's Legal Affairs and Community Safety Committee in relation to the introduction of the Queensland Criminal Code (Cheating at Gambling) Amendment Bill 2013 (**the Bill**).

In light of recent adverse reports of alleged incidents of corruption for financial gain, both domestically and internationally, the AWC acknowledges and applauds the collaborative and positive approach taken to creating a nationally consistent legislative framework to deal with cheating at gambling in sport by all state and territory jurisdictions.

As such, the AWC strongly supports the Bill, which amends the Criminal Code to protect the integrity of sport by prohibiting cheating at gambling in sport.

In doing so, the AWC notes the jurisdictional challenges that arise due to the global nature of the internet and the difficulties involved in enforcing any laws relating to online activities, which originate overseas. However, the establishment of criminal offences, which make match-fixing, race-fixing and other forms of gambling-related corruption in sport illegal in Australia, is an important and essential step in protecting the integrity of Australian sport.

The proposed legislative framework sets specific criminal penalties for four new offences in relation to corrupting the betting outcomes of events or event contingencies on which it is lawful to place bets and for other purposes.

New South Wales, Victoria, South Australia, the Northern Territory and the Australian Capital Territory have each passed legislation in this regard. This Bill will fulfill Queensland's obligations to do likewise to effectively deter those individuals or organized crime syndicates who may be tempted to or actively seek to engage in corrupt activities from doing so.

The Bill will instill greater public confidence in the integrity of sporting outcomes and will contribute to the expectation that gambling on sport will be unencumbered by corrupt influences.

In turning to the substantive provisions of the Bill it is noted that:

1. Queensland has not followed the New South Wales approach of distinguishing between the use of "corrupt conduct" information and "inside" information – the latter of which carries the lesser penalty in New South Wales of two years imprisonment.
2. The definition of "corrupt betting conduct" in the Queensland Bill is similar to that

used in the Victorian legislation in regards to corrupting the “betting outcome” (or in the Queensland case “outcome of betting”) of an event or contingency.

Given the aborted prosecution in Victoria for alleged “court siding” at the Australian Open¹ the AWC would support the clarification by the Queensland Parliament that the meaning of “corrupt betting conduct” in the Bill refers only to conduct that affects the ultimate result or determination of a betting contingency, with that conduct being linked to the outcome of some element of the sporting event in question (for example, the winner of the first set in a tennis match, the last try scorer in a game of rugby union). A betting outcome is only corrupted where conduct occurs that distorts the result of the betting market upon which a wagering operator pays out.

In the Victorian case, the Office of Public Prosecution laid charges based on the belief that by placing wagers prior to a live score update/television pictures being made available to the public, a person has engaged in conduct that corrupted a betting outcome – presumably by taking better odds on a player than would be available after the result of an individual point/game had been broadcast. This was contrary to the intention of the legislation which seeks to prevent match or spot fixing.

2. ABOUT THE AWC

The AWC is the peak industry body representing the online wagering and sportsbetting industry in Australia.

The following prominent independently operating companies in Australia are members of the AWC:

- Betfair
- bet365
- Betchoice (operating as Unibet)
- Eskander’s Betstar
- Ladbrokes.com.au
- Sportsbet (including its subsidiary IASbet.com)
- Sportingbet Group Australia (which includes Sportingbet, Centrebet and Tom Waterhouse.com)

AWC members provide a recreational and social experience for over 2 million Australians balancing the legitimate right of customers to wager on racing and sporting events (free of corruption and gambling-related cheating) with the provision of effective consumer protection and harm minimisation measures.

The regulated online wagering and sportsbetting industry employs more than 1000 Australians, pays in excess of \$100 million in product fees per annum and over \$100 million per annum in taxes.

¹ <http://www.theaustralian.com.au/sport/tennis/courtsiding-tennis-betting-charge-dropped-against-british-man/story-fnbe6xeb-1226846823981>

AWC members also make a significant investment into racing and sport through sponsorship of various sporting teams, sporting codes, race events and clubs in Queensland and around Australia.

The AWC was established in October 2012 to raise awareness amongst key stakeholders of the online wagering and sportsbetting industry's contribution to enhancing the integrity of racing and sport and to promoting responsible gambling.

Through policy leadership and advocacy, the AWC provides a united industry approach to issues that impact the continuing sustainability of the Australian-based licensed online wagering and sportsbetting operators.

In this regard, cheating in gambling has the potential to cause disruption to the business activities of AWC members who rely on the assured integrity of sporting events to conduct their business activities.

The Productivity Commission² identified that sportsbetting represented just 1.2 percent and racing 13.8 percent of Australia's \$19 billion total gambling spend in 2008 – 2009. In comparison, 55 percent was spent playing the 'pokies' in clubs and hotels, 18.2 percent on casino gaming and 12 percent on lotteries, pools and keno. Whilst being only a relatively small percentage of total gambling in Australia, sportsbetting is experiencing growth at the expense of racing as existing wagering customers substitute betting on racing with betting on sport.

AWC members have a zero tolerance approach to corruption in racing and sport. Their business interests are closely aligned with those of government regulators, sports controlling bodies and enforcements agencies to ensure that sport is free of corruption and all forms and opportunities of cheating at gambling in sport are prohibited.

Left unchecked, corruption will devalue the integrity of sport, undermine public confidence in the honesty of the betting markets and reduce the ability for the industry to deliver positive social, recreational and economic returns back to the Queensland community.

The ability of Australian-based licensed online wagering and sportsbetting operators to deliver enhanced sports integrity benefits together with further measures which will strengthen the capacity to protect the integrity of sport and the gambling market are outlined in the remainder of this submission.

3. ABILITY TO DELIVER ENHANCED SPORTS INTEGRITY BENEFITS

3.1 The Transparency Of Account-Based Betting

Australian-based licensed online wagering and sportsbetting operators offer only account-based operations. Cash is not accepted - unlike traditional wagering platforms such as on-course bookmakers and physical TAB outlets. Such account-based technology provides AWC members with a complete audit trail on every bet placed on every event and provides for the immediate identification of customers.

² Australian Productivity Commission Report on Gambling 2010

AWC members have a mandatory requirement that every customer must meet stringent identity checks in line with the Federal Government's anti-money laundering and counter-terrorism body AUSTRAC. It is also a condition that all customers allow their identities and personal information (including betting details) to be disclosed to approved regulators as required.

The transparency of the account-based model thus avoids many of the risks associated with anonymous cash-based wagering and provides significant advantages in controlling and detecting attempts to corrupt the outcome of sport, launder money or to engage in cheating.

Local wagering providers are able to provide an "early-warning" for a sport if suspicious betting patterns are detected with many of the high profile investigations into betting-related sports corruption having been initiated by online wagering providers flagging concern about suspicious betting patterns.

Compliance programs are robust and systems are at the forefront of technology allowing AWC members to rapidly identify and expose any dishonest or deceptive behavior, suspend any suspicious betting and readily exchange relevant information to sports controlling bodies and law enforcement agencies. This capacity to move rapidly also protects the business continuity of AWC members and protects legitimate customers in the event of unusual betting patterns being identified.

Encouraging customers to wager with Australian licensed account-based operators is one of the most effective ways of keeping Australian sport and racing free of corrupt activities, which in turn, minimises any potential for cheating in gambling.

3.2 Commitment To Integrity

AWC members have a long-standing commitment to ensuring their integrity obligations are fulfilled to protect sporting outcomes in Australia.

These integrity obligations includes:

- Conducting regular audits of their customer databases to determine if prohibited participants (such as officials, administrators, coaching staff and players) have placed bets;
- Developing industry standards for information exchange with sports, governments and law enforcement agencies about unusual bets and suspicious betting patterns;
- Developing national integrity agreements with sports controlling bodies to ensure binding agreement about the type of bets permitted by the sport and other integrity requirements as specified by that sporting body;
- Entering into similar information sharing agreements in the case of a transgression of rules or suspicious behaviour with racing bodies around Australia; and
- Contributing a direct financial return by way of product fees to respective sporting organisations to fund measures to strengthen the fight against corruption, fraud, match-fixing and the manipulation of sports events;

3.3 Negotiating Integrity Agreements With Sports Controlling Bodies (SCBs)

Sports controlling bodies (**SCBs**) and Australian wagering operators share a mutual interest in protecting the integrity of Australian sport. AWC members work collaboratively with

sporting bodies to ensure that any areas of vulnerability or potentially fraudulent betting activity are identified to ensure the integrity of sport is enhanced.

Sportsbetting integrity controls have been strengthened with sporting codes in Australia implementing a number of progressive measures including the creation of integrity units together with policies and processes capable of monitoring and managing integrity concerns in their respective codes.

AWC members have entered into product fee and integrity agreements with the major SCBs to exchange information, advise of any suspicious betting patterns and to provide sports with a share of the revenue generated from betting on their events. The collaborative relationship between wagering operators and sporting control bodies can assist in uncovering alleged corruption with AWC members providing assistance to the sporting bodies in any investigations that may be undertaken.

SCBs that have signed agreements with AWC members include:

- The Australian Football League
- The National Rugby League
- The Australian Rugby Union
- Cricket Australia
- Football Federation of Australia
- Tennis Australia
- Netball Australia

These negotiated integrity agreements and product fee arrangements ensure sports controlling bodies have access to betting information and retain a central role in determining and controlling the number and types of betting markets that can be offered on their specific sport. This means the sport can veto bet types where they have identified that the result could be or perceived to be improperly manipulated.

3.4 Commitment To Education and Public Awareness

Given the serious nature of match-fixing offences and the maximum penalties that may now be imposed, it is also essential that those who bet on sport are acutely aware of their actions and responsibilities.

As such, AWC members have the online capacity to contribute to increasing awareness of the consequences of cheating by displaying relevant and up-to-date information prominently on their websites and via direct online communication to thousands of customers across all state and territory jurisdictions in Australia. Consumer protection measures, harm minimization tools and responsible gambling messages are currently delivered in such a manner using the online environment by AWC members.

AWC members ensure that their employees partake in training and education as to the seriousness of match-fixing offences and are aware of, and comply with all policies appropriately when identifying and dealing with incidences of suspected match-fixing and cheating in gambling.

With the majority of professional sporting codes in Australia being administered at a national level, education programs for athletes, administrators and other sporting participants will also be made more effective by the uniformity of the legislation across all jurisdictions.

4. STRENGTHENING THE CAPACITY TO PROTECT THE INTEGRITY OF SPORT AND GAMBLING IN SPORT

4.1 Providing Competitive Markets To Encourage Australians To Bet With Australian Operators

With the increasing proportion of wagering and sportsbetting being delivered through a global market (enhanced by the communication advances of the internet) it makes no sense from either a commercial or a social policy perspective, especially in protecting the integrity of sport, to force the re-direction of Australian gamblers to overseas gambling providers and SP bookmakers - who have limited concern about the protection of the integrity of Australian sport, contribute no tax revenue nor pay any product fees to sport.

As such, maintaining a competitive and a well-regulated online wagering market that encourages Australians to bet with reputable and licensed Australian-based online wagering operators is one of the most effective ways of ensuring Australian sport is free of corruption and match-fixing.

Industry data shows an overall decline in the percentage of wagering turnover estimated to be going offshore reduced from 37.7 percent in 2003 to 13.8 percent in 2011. This positive shift of turnover wagered by Australians from illegal, offshore websites to licensed, domestic wagering operators has been driven by the competition, innovation, improved product and promotional activities by Australian licensed wagering and sports betting operators.

Also of concern to licensed wagering operators is the proliferation of Australian SP bookmakers continuing to offer cash-based and illegal betting operations. For example, despite the huge risks, Port Botany dockworkers allegedly took \$1 million in illegal bets with running SP bookmaking services on Sydney's waterfront.³

Having this wagering turnover onshore and with licensed and regulated wagering operators provides significant benefits to maintaining the integrity of racing and sports in Australia.

4.2 Permitting In-Play Betting To Strengthen The Integrity Of Sport

The final report of the Interactive Gambling Act 2001 (**IGA**) (Cth) Review⁴ identified that the integrity of Australian sport would be greatly enhanced by amending the IGA in accordance with the IGA review recommendation to permit licensed Australian-based sports-betting companies to offer online, in-play betting.⁵

In-play betting using the internet is currently prohibited in Australia under the Interactive Gambling Act 2001 (**IGA**) (Cth) but it does not prohibit Australian customers from accessing such services through unregulated offshore websites. In-play betting is also not prohibited using the telephone (through an operator) or at land-based venues such as TABs.

The Final Report expressly recognised that Australians are betting in-play with unlicensed offshore operators and in doing so is putting the integrity of Australian sport at risk:

³ The Sydney Morning Herald, 16 January 2013

⁴ DBCDE's Final Report of the Review of the Interactive Gambling Act 2001, released on 13 March 2013, page 29

“It is already the case that major online gambling providers based overseas and unlicensed in Australia, are specifically targeting the Australian market. In doing so, they are also taking advantage of the opportunities to provide ‘in-the-run’ wagering services. This places these services at a distinct advantage over Australian based services, as well as potentially undermining the scope of Australian sports bodies from receiving payment for their products and putting the integrity of Australian sports at risk.”⁶

The Coalition of Major Professional and Participant Sports (COMPPS) also supports the introduction of online in-play betting from integrity of sport perspective with the CEO of Cricket Australia, Mr James Sutherland stating:

“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 inplay betting and working down that path with government and others to get the end result.”⁷

4.3 Support for Banning Micro-Betting Across All Wagering Platforms

AWC members do not offer betting on events that are open to manipulation and only offer betting markets on events and event contingencies where they are approved by a SCB.

Micro or exotic betting which involves placing a bet on an incidental aspect of a sporting contest was the source of “spot fixing” allegations involving the Pakistani cricket team and similar allegations in a 2013 National Rugby League (NRL) game.

The AWC supports the IGA Final Review recommendation, that micro-betting should be prohibited across all wagering platforms with the ban extending to telephone and physical retail outlets where micro-betting is currently permitted.

4.4 Providing Transaction Blocking and Internet Filtering Capacities

Amending the IGA to provide transaction blocking between Australian consumers and unlicensed online gambling service providers together with internet filtering facilities will better protect the integrity of betting on sport.

The IGA should be amended to provide a safe harbour for financial institutions that choose to voluntarily block financial transactions between Australian consumers and unlicensed online gambling service providers (or any intermediaries involved in such transactions) should be provided as part of their services to customers

⁶ Department’s Final Report on the review of the IGA, pages 112-113.

⁷ James Sutherland, CEO Cricket Australia, 12 June 2012

The list of prohibited gambling service providers should be identified and published by the Australian Communications and Media Authority (**ACMA**) and should be drawn to the attention of financial institutions by the federal department with responsibility for the IGA.

Internet Service Providers (**ISPs**) should be required to implement Internet Protocol (**IP**) blocking for illegal/unregulated websites based on list of Uniform Resource Locators (**URLs**) provided by and updated by the ACMA.

4.5 Ensuring sustainability of Australia's licensed online wagering and sportsbetting industry.

The global nature of the internet means that should a wagering or sportsbetting product become prohibited or unviable, Australians are still able to access the same products online through risky unregulated overseas websites who have little regard for the integrity of sport and which are beyond the reach of legislation (such as proposed in this Bill), regulation, potential product fees and taxation revenues.

Imposing prohibitions or overly burdensome regulations on licensed and reputable online Australian wagering and sportsbetting operators, such as onerous advertising restrictions, is also highly likely to have the unintended consequences of putting licensed domestic wagering providers at a significant competitive disadvantage to offshore illegal operators

This in turn will compromise the integrity of Australian sport because unregulated offshore websites do not fall under the auspices of Australian regulators nor have integrity agreements with major sporting bodies that require licensed operators to monitor and report on betting activity that is directly linked to the integrity of sport.

The size and instances of illegal betting on cricket and other sports within countries, such as India and Pakistan, is evidence that the prohibition of gambling leads to very poor outcomes in respect of non-transparency and rampant corruption of both gambling and sport.

4.6 Strengthening Deterrence And Enforcement Provisions For Unregulated/Illegal Websites

The AWC supports strengthening the deterrence and enforcement provisions in relation to unregulated/illegal websites in the following ways:

- There should be provisions that allow for Directors or those acting for unregulated/illegal websites to be issued with a notice of contravention of the IGA.
- ACMA should publish the list of known and blocked illegal/unregulated websites including information about the dangers of illegal/unregulated websites and the placement of names of principals/directors of illegal/unregulated websites, which do not cease operation, should be placed on a movement alert list.
- ACMA should be responsible for administering civil penalties for the provision of prohibited gambling services hosted in Australia including:
 - Issuing civil (including pecuniary) penalties
 - Issuing take-down notices
 - Applying to the Federal Court for injunctive relief
 - Using discretionary powers to action complaints and investigations

5. CONCLUDING COMMENTS

It is essential for the long-term sustainability of the Australian-based licensed online wagering and sportsbetting industry that a lawful, transparent and safe Australian betting market is preserved and the risk of match-fixing and associated fraudulent activity in sport and in gambling is limited.

The Criminal Code (Cheating at Gambling) Amendment Bill 2013 is strongly supported by the AWC and its members whose business objectives are closely aligned with those of government regulators, sports controlling bodies and law enforcement agencies to ensure sport is free of corruption and cheating at gambling in sport is prohibited.

The Bill will instill greater public confidence in the integrity of sporting outcomes and the integrity of the Australian sportsbetting market.

It will send a clear message to those individuals and organised crime syndicates who may be tempted to cheat at gambling in sport that any conduct which corrupts betting outcomes will not be tolerated.

It will create consistency of criminal offences across all states and territory jurisdictions to ensure fraudulent gambling-related activity will be prosecuted wherever it occurs in Australia.

Importantly, the increased assuredness of the integrity of sporting outcomes and the preservation of lawful betting markets will enhance the continued ability of the licensed wagering and sportsbetting industry to deliver positive social, recreational and economic benefits to Queensland and its residents.

MARCH 2014