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**Title:** Submission to the Select Committee on Information Technologies in relation to on-line gambling

**Subject:** e-commerce gamblinge-commerce gambling

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# 1. Contents


**1. ..... 2**

**1. CONTENTS ..... 2**

**2. TERMS OF REFERENCE ..... 2**

2.1. TERMS FROM THE COMMITTEE'S WWW SITE ..... 2

**3. THE NATURE, EXTENT, AND IMPACT OF ON-LINE GAMBLING IN AUSTRALIA ..... 3**

3.1. BACKGROUND ..... 3
3.2. WHAT IS ON-LINE GAMBLING? HOW IS IT REGULATED? ..... 3
3.3. ON-LINE GAMBLING IS A SUBSET OF E-COMMERCE ..... 4
3.4. EXPORT AND REVENUE POTENTIAL OF ON-LINE GAMBLING ..... 5
3.5. PROBLEM GAMBLING ..... 5

**4. THE FEASIBILITY OF CONTROLLING ACCESS TO ON-LINE GAMBLING, ESPECIALLY BY MINORS ..... 5**

4.1. NON-ANONYMOUS ..... 5
4.2. ACCESS BY MINORS ..... 6
4.3. CONTROLLING ACCESS TO PROBLEM GAMBLERS ..... 7
4.4. MONEY LAUNDERING ..... 7

**5. THE ADEQUACY OF STATE AND TERRITORY REGULATIONS IN RELATION TO ON-LINE GAMBLING ..... 8**

5.1. THE FEASIBILITY OF CONTROLLING ACCESS TO ON-LINE GAMBLING, ESPECIALLY BY MINORS ..... 8
5.2. PHYSICAL LOCATION OF GAMBLING PROVIDER ..... 8
5.3. PERFORMANCE OF STATES AND TERRITORY REGULATION ..... 8

**6. THE NEED FOR FEDERAL LEGISLATION ..... 9**

6.1. ALTERNATIVE TO STATE AND TERRITORY REGULATION ..... 9
6.2. OFFSHORE GAMBLING PROVIDERS ..... 9
6.3. WHY IS FEDERAL LEGISLATION BEING CONSIDERED? ..... 9
6.4. COMPETITION UNDER EXISTING REGULATION AS AN ALTERNATE TO FEDERAL LEGISLATION ..... 10
6.5. FEDERAL GOVERNMENT ROLE IN ON-LINE GAMBLING ..... 11

**7. PRODUCTIVITY COMMISSION ..... 11**

7.1. AUSTRALIA'S GAMBLING INDUSTRIES - DRAFT REPORT ..... 11


# 2. Terms of reference

## 2.1. Terms from the Committee's WWW site

*The Senate Select Committee on Information Technologies has resolved to conduct an inquiry into online gambling in Australia.*

*The Committee will examine:*

*a. the nature, extent and impact of online gambling in Australia;*

*b. the feasibility of controlling access to online gambling, especially by minors;*

*c. the adequacy of State and Territory regulations in relation to online gambling; and*

*d. the need for federal legislation.*

*The Committee invites interested persons or organisations wishing to express their views in relation to this matter to lodge written submissions with the Secretary, Senate Select Committee on Information Technologies, Parliament House, Canberra ACT 2600, by Friday 30 July 1999.*




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# 3. The nature, extent, and impact of on-line gambling in Australia

## 3.1. Background

3.1.1. This paper summarises some thoughts relating to the nature extent and impact of on-line gambling in Australia. The paper does not attempt to be provide a projection of market size or describe in detail the nature, extent and impact of on-line gambling. WWWagering & Gambling Consultants believe adequate the Committee will be inundated with (a) various projections and have expert analysis of its own commissioned to undertake projections of market; and (b) find as a matter of fact the nature on-line gambling.

## 3.2. What is on-line gambling? How is it regulated?

3.2.1. Telephone competitions. 0055, etc entry into "*classic catches*", etc and the myriad of other so called "competitions". The reality is that the product is beamed into homes via free-to-air television and the lottery is entered by telephone. This is interactive at-home gambling by players in foreign[1] lotteries.

3.2.2. Competition lottery regulation is evolving from less than well-regulated trade promotions where purchase of a product would place a consumer in the draw for a secondary prize. Competitions are becoming more focussed on the prize and less on the business product thus increasing the "gambling" nature of the activity.

3.2.3. Lotteries. Other lotteries telephone potential players in their homes, without invitation, promoting entry into lotteries held in foreign jurisdictions. These lotteries often also use the postal service as an off-line communications medium.

3.2.4. Lottery regulation, in Australia, has evolved from self-regulated Government instrumentalities and community organisations. Lottery regulation seems to remain a lesser priority than casino or gaming machine regulation.

3.2.5. Wagering. Similarly, telephone-betting account with TABs have been operating for more than 30 years. The results are beamed into homes via television and radio; players participate in the gambling event by telephone. This activity has expanded to include bookmakers and non-racing sports events.

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1 "Foreign" means the gaming jurisdiction is "foreign" from the players' jurisdiction. In Australia that has often meant inter-state lotteries.



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3.2.6. Wagering, in Australia, has predominantly evolved from self-regulated horse racing industry. Colourful examples of problems relating to the integrity in racing industries have historically been tolerated by the Australian public and Governments apparently satisfied that the level of regulation remains adequate.

3.2.7. Casinos. Casino came on to the scene very late in the process following significant public and political debate. Casino gaming has been tolerated subject to extensive scrutiny as to the past, present and ongoing probity of all concerned and the integrity of every aspect of each commercial dealing associated with the casino licence.

3.2.8. Some jurisdictions placed social restrictions on casino gaming - for example EFTPOS machines isolated from gaming areas.

3.2.9. Community gaming machines. Mostly, gaming machines have been recently introduced recently when State and Territory Governments were satisfied that technology was sufficient to assure the integrity of the industry. New South Wales (NSW) being the exception and currently in the process of installing a statewide monitoring system.

3.2.10. Social considerations are widely considered to be inadequate in relation to community gaming machine industry. Some jurisdictions allowing EFTPOS machines beside gaming machines and hotels to compete equally with community organisations (clubs[2]).

## 3.3. On-line gambling is a subset of e-commerce

3.3.1. E-commerce gambling is merely a subset of e-commerce generally. The current and growing industry is already providing real jobs in Australia developing secure e-commerce gambling solutions. The same solutions are required for secure e-commerce generally. It happens that gambling is leading broader e-commerce industry development.

3.3.2. Many of the "problems" identified with e-commerce gambling are problems faced by e-commerce generally: eg. customer confidence, customer identification, customer assurance, customer privacy, usage beyond social norms, etc.

2 It is the authors view that the community benefit associated with club profits derived from gaming machines is often understated or over looked.



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## 3.4. Export and revenue potential of on-line gambling

3.4.1. This paper will not provide projections relating to the potential size of the e-commerce gambling market. Conservatively there is the potential for Australian jurisdictions to collectively double gambling revenue from physical gambling activity within a very short period of time. This is an unambiguous direct benefit to the Australian economy.

3.4.2. A major secondary benefit is the increase in e-commerce gambling provides skills throughout Australia relating to e-commerce generally. These skills should be the type of skills and e-commerce should be the type of industry encouraged within Australia. These are skills for the future of trade and commerce.

## 3.5. Problem gambling

3.5.1. Problem gambling will be discussed further when Chapter 17 of the Productivity Commission draft report *Australia's Gambling Industries* is reviewed. Chapter 17 of this report specifically relates to *Policies for new technologies*.

# 4. The feasibility of controlling access to on-line gambling, especially by minors

## 4.1. Non-anonymous

4.1.1. The principles of on-line gambling are that gambling and financial transactions are not anonymous.

4.1.2. There are sophisticated technological solutions which, the Committee may determine, should be utilised to enhance the level of customer identification. Current controls are commensurate with risk, cost of exposure versus cost of countermeasures. It is anticipated that as technological solutions become more readily accessible then they will be utilised.

4.1.3. The positive identification of customers is essential to minimise money laundering, problem gambling, and access by minors.

4.1.4. Offshore gambling providers, located outside of current Australian State and Territory regulatory jurisdiction, may not be subject to these controls.

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## 4.2. Access by minors

4.2.1. Current countermeasures to the threat of access by minors are based, in part, on the notion that there must be an incentive to win money (or something of financial value) for there to be an incentive to gamble. By removing the likelihood of the ability to collect winnings it is generally accepted that minors will be sufficiently discouraged as to not attempt to gamble by on-line means.

4.2.2. At the same time it is important for e-commerce industry to be able to respond and enable spontaneous participation by potential customers. If there is an extended process prior to doing business (gambling in this instance) then the customer will probably be lost.

4.2.3. A solution (and there are many) is that registration details must provide name, address, credit card and date-of-birth. These details may only be changed with substantial evidence. The rationale is that:

a. credit cards will only be issued to adults - since contracts for credit with minors are unenforceable;
b. the address provides a cross reference against the electoral role and possible telephone book for out-of-band confirmation of registration; and
c. name, to which a non-negotiable cheque (or international equivalent) will be made in the event redemption from account.

4.2.4. These controls could be enhanced if financial institutes provide "name" checks with credit card authorisations. Thus enabling a positive link through each step of the process.

4.2.5. The Productivity Commission report states (in part):

*Notwithstanding such perceptions, underage access is not an insurmountable problem with internet gambling, even in an uncontrolled environment. The motivation and capacity for unsupervised and regular gambling by minors on the internet is weak:*

- *A minor cannot make any financial gain if money is won (unless the parent endorses the gambling). A consumer under the age of 18 can only legally obtain a credit card as a secondary card holder on an adult's account. If a minor uses an adult's credit card or account details to gamble, the winnings are paid by cheque, or credited to the account holder and cannot be accessed by the minor.*
- *The minor would also need to know a password to access the gambling supplier.*
- *Gambling by a minor can be easily detected by parents. Money for gambling withdrawn from accounts or credit cards will be listed on account statements.*

*There will be a small group of technologically astute minors who will be able to gamble on the internet without parental consent. However, this is not a unique problem. Some children look like adults and can gain admission to casinos, TABs and hotels to gamble. Some venues act irresponsibly and admit underage clients. An ACOSS study into Young People, Gambling and the Internet (1997), revealed that from its sample there were 14-16 year olds who regularly placed bets at the races, and*



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*minors that occasionally or regularly played gaming machines in clubs. If anything, the statistics on child gambling (chapter 15) suggest that current levels of entry to physical gambling venues is likely to be much more prevalent than their future access to online gambling.*

4.2.6. Offshore gambling providers, located outside of current Australian State and Territory regulatory jurisdiction, may not be subject to these controls.

## 4.3. Controlling access to problem gamblers

4.3.1. Unlike physical gambling activities where in some instances EFTPOS machines are located beside electronic gaming machines, on-line gambling has technology enforced expenditure limits. These limits have configurable defaults - subject to regulatory supervision - which may be reduced by customers. Controls exist which restrict expenditure on a per day, per week and/or per month type basis.

4.3.2. Players are able to self-exclude themselves. Under such circumstances business (gambling) will not be allowed for a (configurable period of say) seven days. In the event of three (again configurable) self-exclusions the players account will be permanently revoked with funds paid.

4.3.3. All configurable parameters are subject to regulatory scrutiny.

4.3.4. Offshore gambling providers, located outside of current Australian State and Territory regulatory jurisdiction, may not be subject to these controls.

## 4.4. Money laundering

4.4.1. Federal legislation currently directs gambling providers responsibilities with regard to reporting of financial transactions. The non-cash, non-anonymous nature of on-line gambling simplifies this responsibility.

4.4.2. Offshore gambling providers, located outside of current Australian State and Territory regulatory jurisdiction, may not be subject to these controls. Likewise, physical gambling establishments taking anonymous cash transactions can not hope to have the same ability to report in accordance with the intent of Federal legislation.

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# 5. The adequacy of State and Territory regulations in relation to on-line gambling

## 5.1. The feasibility of controlling access to on-line gambling, especially by minors

5.1.1. The previous section of this report supports the notion that State and Territory regulation in relation to on-line gambling is sufficient.

## 5.2. Physical location of gambling provider

5.2.1. State and Territory regulation is, in the view of WWWagering & gaming Consultants, strictly territorial. The gambling provider must be physically located within the jurisdiction to be subject to the regulatory control of the State or Territory.

5.2.2. The principles of regulating on-line gambling are generally the same as the principles relating to the regulation of physical gambling. The regulator has power if the contract (offer and acceptance) occurs within its jurisdictional boundaries. In the gaming subset of gambling the State or Territory also often has power in relation to the outcome (eg. casinos accepting bets and determining the result).

## 5.3. Performance of States and Territory regulation

5.3.1. State and Territory Government's have demonstrable expertise in regulating the probity and integrity of this type of gambling activity - regardless of the communications medium.

5.3.2. On-line gambling has expanded the role of State and Territory regulators to include the identity of the player, integrity of non-gaming financial transactions[3] and funds, privacy, and the social adequacy of restrictions.

5.3.3. The Northern Territory has enabled a competitive world leading e-commerce industry to commence and operate within its jurisdiction. Queensland, Tasmania, the Australian Capital Territory and possibly Victoria are following suite.

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3 If a customer of a physical casino complained that a chip in his or her control went missing within the casino environment then it would be considered lost property or a theft and a matter for Police and not the gambling regulator. On-line gambling regulation by State and Territory Governments has demonstrated controls commensurate with the additional integrity assurance expected from the regulator.



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5.3.4. The Northern Territory has demonstrated an ability to adequately regulate all aspects of e-commerce gambling. Other jurisdictions are demonstrating a willingness to do the same. There is every reason to believe that other jurisdictions will be able to adequately regulate on-line gambling.

# 6. The need for Federal legislation

## 6.1. Alternative to State and Territory regulation

6.1.1. The alternatives to existing State and Territory regulation include regulation of the communications media and specifically the end functionality of the data transferred over those media or intrusive regulation over how people use technology (functionality) within their homes - perhaps Government could consider the equivalent of a Television Licence and fee for all end users.

## 6.2. Offshore gambling providers

6.2.1. Offshore providers offering services into Australian homes represent a different type of "on-line gambling". This type of gambling (with unknown or no safeguards) is beyond the jurisdiction and expertise of State and Territory gambling regulatory authorities. If regulation of offshore gambling providers is considered necessary then content of the telecommunications medium (satellites, telephone, Internet, private networks, etc) will be necessary.

6.2.2. Australian (state and territory) jurisdictions are unable to regulate with regard to any aspect of a "foreign" gambling provider. These providers shall be referred to as "*unregulated*" gambling providers in this paper.

## 6.3. Why is Federal legislation being considered?

6.3.1. Because a telephone hand piece is replaced by a set-top box or computer and (often) communication is diverted from the public switched telephone network (PSTN) end-to-end to the Internet and more contemporary communications channels; it does not follow that on-line gambling requires Federal legislation. Not unless there is benefit through the greater legislative powers of the Commonwealth - these powers may relate to telecommunications legislation.

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6.3.2. Any attempt to regulate the content of data transferred on the communications media into, out of and within a country must naturally rest with its Federal Government. This type of regulation however, is unrealistic and akin to Don Quixote's attempts to tilt at windmills. The problems faced by on-line gambling are the same problems faced by e-commerce. Any attempt to regulate content of e-commerce transactions could pose significant cost overheads without a corresponding improvement in controls. Such efforts could have a negative impact on e-commerce industry and expertise currently being developed and honed in Australia as a result of e-commerce gambling.

6.3.3. Gambling is at the forefront of e-commerce. General community, policy and government uncertainty about the future of e-commerce generally, brings into question the adequacy of e-commerce gambling because of its current flagship status.

6.3.4. Australian (State and Territory) jurisdictions have demonstrated an ability to regulate with regard to items in the Committee's Terms of Reference where the gambling provider is physically located within their jurisdiction. These providers will be referred to as "regulated" gambling providers in this paper.

## 6.4. Competition under existing regulation as an alternate to Federal legislation

6.4.1. The draft Productivity Commission Report at 17.3 states (in part):

*Other commentators, are more unsure about the commercial potential of internet gambling, because of current uncertainties in internet gambling legislation in the United States and elsewhere, and with the technology itself (discussed later). The Office of Strategic Crime Assessments (1998, p. 2) for example stated:*

> *At a global level, technical difficulties, the lack of a uniform secure payment method, low consumer confidence and other problems are constraining the growth of internet commerce (and gambling).*

6.4.2. Regulated providers have an opportunity to overcome all concerns raised by the Office of Strategic Crime Assessments, "consumer confidence" will be very high. The existing regulation already provides assurances adequate to address potential customers' e-commerce concerns.

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6.4.3. If regulated providers are able to translate "consumer confidence" into "market share" prior to global consumer confidence increasing in unregulated providers; then Australia will consolidate a major export industry. If however, regulated providers in this country are hampered from translating "consumer confidence" into "market share" due to policy and legislative uncertainty; then a significant opportunity will be lost to jurisdictions which do not regulate providers. Australia's opportunity to lead the world in e-commerce may be lost.

6.4.4. From a position of market strength regulated providers will be able to continue to provide better products to the gambling public (both in Australia and globally) further improving its position versus unregulated providers. This could have the effect of leaving unregulated providers with poor products and even less consumer confidence.

### 6.5. Federal Government role in on-line gambling

6.5.1. The Federal Government is able to recognise on-line gambling as being a subset of e-commerce, which within Australia is properly managed and regulated. The Government could then use international trade treaties to ensure open access to electronic commerce - the same as it would all other trade and commerce.

6.5.2. Under this type of legitimate support for a leading Australian industry, the Kyl legislation in the United States of America would be analysed and seen for what it is - protectionist. There is a role for the Federal Government to support Australian e-commerce practitioners in the same way as rural exports are supported in international fora against protectionist policy by foreign Governments.

## 7. Productivity Commission

### 7.1. Australia's gambling industries - draft report

7.1.1. The current draft Productivity Commission report titled Australia's gambling industries in chapter 17 Policies for new technologies provides a good common reference to focus comments relating to on-line gambling. The following table is provided to further discuss, amplify, counter or offer alternatives to some statements in that chapter. Comments are provided in relation to views of the Commission and contributing quotations.

| Productivity Commission | comments |
|---|---|
| *Licensed by the Northern Territory Government and regulated by its Racing and Gaming Commission…* | *Adequacy of State and Territory regulations in relation to online gambling*: This on-line wagering provider is regulated. Its activities are scrutinised in accordance with the provisions of existing legislation. |



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| Productivity Commission | comments |
|---|---|
| | <u>*Need for federal legislation*</u>: Federal legislation can do nothing more in relation to this operator than powers currently available to the Northern Territory. |
| *Prior to betting a client must open a Centrebet betting account. Consumers must be over the age of 18 to bet and proof of identity is required eg. a passport or drivers licence.* | <u>*Feasibility of controlling access to online gambling, especially by minors*</u>: access by minors is controlled. |
| *The majority of Centrebet's clients are offshore — 20 per cent are from Australia, 20 per cent from the United States, 20 per cent from Scandinavia, 15 per cent are from Asia (predominantly Singapore) and 25 per cent are from other overseas countries.* | <u>*Nature, extent and impact*</u>: probably a net exporter generating revenue for Australia in a futuristic market place. |
| *Centrebet's web site was launched in July 1996. Today, it is ranked in the world's top 5 internet sites receiving 20 000 to 100 000 hits every day, or over 20 million hits annually.* | <u>*Nature, extent and impact*</u>: a world leading position in the global e-commerce market place. |
| *About 30 per cent of Centrebet's business is carried out of the internet with 10 000 bets taken over the internet each week. In 1997 Centrebet sales over the internet accounted for 50 per cent of Australia's electronic commerce.* | <u>*Nature, extent and impact*</u>: 50% of Australia's electronic commerce through one single gambling regulated provider demonstrates the notion that gambling is leading electronic commerce in Australia. |
| *Star City said:*<br>*...it is likely that some computer systems will be able to identify hand or finger prints as a way of accessing internet gambling. Parents would, therefore, be able to prevent their children gaining access to online gaming (sub. 33, p. 35).* | <u>*Feasibility of controlling access to online gambling, especially by minors*</u>: Adequate if regulated providers are used. These technologies do nothing to restrict children accessing unregulated providers.<br><u>*Adequacy of State and Territory regulations in relation to online gambling*</u>: State and Territory jurisdictions have controls commensurate with current technology. Federal regulation could do nothing more to enhance the regulation of regulated providers. Unregulated providers would similarly not be under Federal regulation.<br><u>*Need for federal legislation*</u>: Federal legislation could be useful if it could restrict Australian children from communicating with unregulated providers. This regulation is currently not practical.<br>An alternative to such Federal legislation is that regulated providers eventually squeeze unregulated providers out of the market. |
| *On the other hand, the new technologies may create more manipulative environments for gamblers. It is possible that virtual intelligence will be used to manipulate the behaviour of the individual gambler in ways that are far more subtle than existing gaming machines. This reflects the fact that, through electronic trails, the new technologies are able to collect more information about participants than was previously possible in the gambling industry. A computer, for example could record the type of play (and if the person has used a membership card, look closely at the history of the play) and interact with the player accordingly.* | <u>*Nature, extent and impact*</u>: Membership cards are not required since current player interaction is not anonymous. Automated marketing based on customer preferences is a valuable tool for e-commerce generally. The skills derived from e-commerce gambling will carry over into other e-commerce industries. Only with the industry hosted from Australia can those skills be derived by Australian industries.<br><u>*Adequacy of State and Territory regulations in relation to online gambling*</u>: Current regulation ensures that regulated gaming operators cap expenditure limits (daily, weekly, monthly, etc). This control ensures that machine derived intelligent customisation does not flow into socially unacceptable gambling.<br><u>*Need for federal legislation*</u>: Federal legislation should only be considered with broader e-commerce considerations in mind. Marketing in any industry, especially e-commerce industries will determine the market (world) leaders into the next century. |
| *Interactive television can be Provided by combining pay TV with a telephone modem (set-top box) to relay messages back to the service provider or by connecting a computer to a cable modem.* | <u>*Nature, extent and impact*</u>: Similar functionality can be achieved with free-to-air television and a set top box acting as Internet TV.<br><u>*Feasibility of controlling access to online gambling, especially by minors*</u>: Free-to-air television stations currently inundate viewers with gambling opportunities with scant regard to participants' age. This gaming can theoretically continue to grow.<br><u>*Adequacy of State and Territory regulations in relation to online gambling*</u>: Based on current free-to-air television based phone lotteries the adequacy of state and territory regulation may appear inadequate yet it seems to be tolerated by society.<br><u>*Need for federal legislation*</u>: If existing regulation remains |



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| Productivity Commission | comments |
|---|---|
| | ineffective then some regulation may need to be imposed. |
| *… there may also be some other economic benefits - in terms of higher returns on resources in the economy. These arise from the higher productivity of internet gambling providers and their export potential - particularly if, as many suggest, Australian technology and probity regulation provide significant competitive advantages.* | Nature, extent and impact: This is an imposing argument. There can be little doubt in the advantages of Australia developing e-commerce skills.<br><br>Adequacy of State and Territory regulations in relation to online gambling: The Northern Territory in particular but followed by Queensland and others have demonstrated responsible global leadership in relation to the regulation of on-line gambling enabling world leading businesses to commence and operate.<br><br>Need for federal legislation: A competitive regulated industry based in Australia could gain player confidence and market share and relatively squeeze unregulated operators out of the industry. It is widely accepted that early-to-market participants hold significant advantage with regard to establishing market acceptance and share. The existing regulatory regime within Australia provides sufficient competitive environments to enable Australian industry pursue these advantages.<br><br>Federal legislation on currently regulated domestic operators could have the impact of delaying investment and bringing into question the integrity of existing operators due to the need for superseding legislation. These factors could be sufficient to disadvantage incentives currently underway by regulated providers and intending providers and have a negative impact on Australia's e-commerce leading position. |
| *Other commentators, are more unsure about the commercial potential of internet gambling, because of current uncertainties in internet gambling legislation in the United States and elsewhere, and with the technology itself (discussed later). The Office of Strategic Crime Assessments (1998, p. 2) for example stated:*<br>*At a global level, technical difficulties, the lack of a uniform secure payment method, low consumer confidence and other problems are constraining the growth of internet commerce (and gambling).* | Nature, extent and impact: the emerging e-commerce industry (including but not restricted to gambling) is experiencing these factors. Regulated Australian providers are working within existing regulatory frameworks to overcome the difficulties and provide consumer confidence. Unregulated providers are, in the short term at least, having more difficulty gaining consumer confidence.<br><br>Adequacy of State and Territory regulations in relation to online gambling: It is because of the inherent adequacy of the State and Territory regulations that regulated Australian providers currently have a market edge over their unregulated competitors.<br><br>Need for federal legislation: If Federal legislation targeted currently unregulated providers then this could underline the difference between the two industries (regulated versus unregulated) providing greater awareness of the advantageous provided by existing Australian providers. This is probably not a sound reason for the Federal Government to consider regulation; the industry itself should be left to promote its worthiness. |
| *Participants in the inquiry raised a number of problems associated with internet gambling in any unregulated market, including exacerbated problem gambling, accessibility of minors to gambling, supplier integrity, adverse community impacts and a loss of revenue.* | Nature, extent and impact: Little or no concern is given by unregulated providers. Regulated providers however, are forced to address these issues.<br><br>Feasibility of controlling access to online gambling, especially by minors: Unregulated providers may do very little to control access to gambling particularly by minors. Regulated providers however, do control access to minors as a component of the regulated regime under which they operate.<br><br>Adequacy of State and Territory regulations in relation to online gambling: State and Territory regulation currently ensures adequate attention these matters by providers operating from within their jurisdictions. These safeguards are exported to consumers globally. State and Territory regulations however can not address these matters in relation to unregulated offshore providers.<br><br>Need for federal legislation: The ability for Federal legislation to provide protection where it is not currently provided eg. on off-shore unregulated providers is considered impractical.<br><br>The alternative is for a strong regulated market to gain sufficient market share as to dominate unregulated providers. |
| ***Problem gambling***<br>*While problem gambling is an issue for both venue-based and internet gambling the concern is that the characteristics associated with internet gambling make it a particularly troublesome medium. A key aspect of the risks of online gambling is the degree to which it increases accessibility:*<br>*… Other than having determined a payment method, there are no conditions of entry, dress requirements, expectations of patron behaviour or capacity to exclude* | Nature, extent and impact, feasibility of controlling access to online gambling, especially by minors: The report is factually incorrect if it asserts "*… there are no conditions on entry… or capacity to exclude children…*". Current regulated providers perform identity checks, and make payment by non-negotiable cheque to the adult person identified at registration. Out-of-band checks relating to address and electoral role, etc may also assist the registration process. Participants must be registered to "enter". If the registered adult provides his or her password and identification details to a minor then this is a matter for normal parental supervision. The bottom line however, is there is no incentive to gamble since all winnings will only be paid by |



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| Productivity Commission | comments |
|---|---|
| *children. A person can be disorderly, drunk or on drugs, and play at the home casino — so long as they can guide their mouse or still push the keys on their keyboard.* | non-negotiable means to the registered adult.<br><br>*Adequacy of State and Territory regulations in relation to online gambling*: Current controls of regulated casinos are consistent with controls able to be offered with economically available technology. Unregulated providers remain outside of the jurisdiction of State and Territory regulation and may therefore allow children to participate.<br><br>*Need for federal legislation*: The ability for Federal legislation to provide protection where it is not currently provided eg. on off-shore unregulated providers is considered impractical.<br><br>The alternative, to federal legislation, is for a strong regulated market to gain sufficient market share as to dominate unregulated providers. |
| ***Problem gambling***<br>*While problem gambling is an issue for both venue-based and internet gambling the concern is that the characteristics associated with internet gambling make it a particularly troublesome medium. A key aspect of the risks of online gambling is the degree to which it increases accessibility:*<br>*… Games can be multilingual, increasing their accessibility to non-English speaking people.* | *Nature, extent and impact*: It is unclear why the ability of Australian industry to participate with foreign customers in their language should appear under the heading "*problem gambling*" - it perhaps provides an indication that the Commission was predisposed to find gambling a problem. Multilingual trade and commerce should be encouraged and is a benefit of e-commerce industries generally.<br><br>*Adequacy of State and Territory regulations in relation to online gambling*: State and Territory controls currently require all games offered in a foreign language to be identical to English versions of the game. This is considered to be unsustainable in the long term as game types are customised to customers of various ethnic and language backgrounds. So long as adequate translation is available for the purpose of assuring adequate regulation language should not be a barrier. |
| *Other aspects of internet gambling also pose problem gambling risks. First, the fact that all transactions are electronic, combined with the similarity of the games to non-cash computer games, may mean that people are less aware of the amount of money they are spending.*<br>*Second, online casino games - like gaming machines and roulette - are continuous forms of gaming, with high frequency low payoffs. As in their physical counterparts, such continuous forms of gambling present the greatest risks for problem gambling. Online sports betting is less likely to involve problem gambling.* | *Nature, extent and impact*: Greater risks for problem gambling are mitigated by expenditure limits enforced by the technology. Default day, week, and month expenditure limits, which may be decreased by customers, ensure expenditure is automatically controlled by the technology.<br><br>The systems offer an ability for players to "self exclude" themselves - generally for a mandatory seven day period (but configurable). Following three (or other configurable amount) self-exclusions a customer is permanently excluded from playing.<br><br>*Adequacy of State and Territory regulations in relation to online gambling*: These problem gaming mitigation strategies are already in place by regulated gaming providers operating under existing State and Territory regulations.<br><br>*Need for federal legislation*: The ability for Federal legislation to provide protection where it is not currently provided eg. on off-shore unregulated providers is considered impractical.<br><br>The alternative is for a strong regulated market to gain sufficient market share as to dominate unregulated providers. |
| *Technology has removed the reality check or natural barrier which going to the races, or waiting for a croupier, imposes. It enables opportunity to participate uninterrupted in a way which presents a constant, irresistible, financially devastating lure to many. ...We have particular concern because of the ability of patrons to participate in their own home, making those individuals at risk of developing a problem even more at risk (Anglicare, sub. 110, p. 4).* | *Nature, extent and impact*: The author must have limited exposure to the Internet if he or she believes on-line gambling is without "waiting" or is "uninterrupted". Also, many problem gamblers will be controlled by family members within the home.<br><br>*Need for federal legislation*: If the Federal Government shares the concerns of Anglicare it may consider controlling adult behaviour within their homes. State and Territory Governments have not demonstrated a desire to control adults communicating with regulated or unregulated gambling providers. |
| *Since cash is not used for transactions, there will be other evidence of gambling transactions that will be easier for other household members to detect (for example, credit card records and cheque clearances to a gambling venue).* | *Nature, extent and impact*: CORRECT.<br><br>*Feasibility of controlling access to online gambling, especially by minors*: Acknowledged as feasible or at worst with adequate disincentives.<br><br>*Adequacy of State and Territory regulations in relation to online gambling*: Current controls required under existing regulation for regulated providers.<br><br>*Need for federal legislation*: Would have no increased assistance except with the possible exception of increasing the onus on credit card companies to link "name of card" to transaction authority. |
| *Further, if the odds are better for internet gambling, because of lower tax rates and lower technology costs, then this implies that player losses will tend to be smaller (for a given duration and intensity of* | *Nature, extent and impact*: Correct, a positive spin-off for customers.<br><br>*Adequacy of State and Territory regulations in relation to online gambling*: This environment is currently enabled by existing |



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| Productivity Commission | comments |
|---|---|
| *playing), thereby reducing some of the harms.* | regulation - for regulated providers. |
| *Overall, however,* ***the Commission considers it likely that (without harm minimisation measures and appropriate regulation) online gambling will pose significant new risks for problem gambling.*** | <u>*Nature, extent and impact*</u>: Harm minimisation measures are currently in place and demonstrable within existing regulated, online gaming industries. Unregulated providers may not consider harm minimisation strategies.<br><br><u>*Feasibility of controlling access to online gambling, especially by minors*</u>: Restriction of minors from gambling on-line is acknowledged by the Commission as being adequate for existing regulated providers. It is an unknown commodity for unregulated providers.<br><br><u>*Adequacy of State and Territory regulations in relation to online gambling*</u>: Appropriate regulation is demonstrably in place and effective for regulated providers. There is no evidence that unregulated providers operate from within Australia.<br><br><u>*Need for federal legislation*</u>: Federal legislation can do nothing to impact the effectiveness of harm minimisation measures or regulation on existing and emerging regulated providers. Since all unregulated providers are not physically located in Australia it is considered impractical for Australian legislators to attempt to control those providers.<br><br>The alternative, to Federal legislation, is for a strong regulated market to gain sufficient market share as to dominate unregulated providers. |
| ***Accessibility of minors***<br>*Children are banned from physical gambling venues and this can be enforced by on-site gambling operators and staff. However, many participants expressed concerned that internet gambling operators cannot determine the age of gamblers, so that minors could gamble online by using an adult's credit card:*<br>*We have all seen young teens hunched over machines in video parlours, oblivious to their surroundings. This behaviour, in itself, mirrors gambling addiction. While age rules apply in the more formal gambling outlets, I defy any computer, no matter how smart, to be able to detect if a minor is placing bets using their parents' credit facilities (Senator Grant Chapman, sub. 23, p. 6).*<br>*In an online environment of anonymous identity, the ease with which teenagers and children can access internet gambling, coupled with their proclivity for gambling addiction, will exacerbate this worrying trend (Janower 1996).* | <u>*Nature, extent and impact*</u>: The factual evidence is that accessibility to minors is currently enforced and sufficient disincentives are in place to minimise threat likelihood.<br><br>Any casual observance or knowledge of on-line gambling would demonstrate that arcade games are significantly more exciting than gambling simulations. More importantly, parents with credit cards have accompanying parental responsibility. This is a problem for e-commerce generally not e-commerce gambling. A minor performing this activity can not collect winnings under existing regulations, account transactions are reported to the parents on credit card statements.<br><br><u>*Feasibility of controlling access to online gambling, especially by minors*</u>: Restriction of minors from gambling on-line is acknowledged by the Commission as being adequate for existing regulated providers.<br><br>"*In an online environment of anonymous identity…*" is either misrepresenting regulated providers or describing some unregulated providers. There is no question that offshore unregulated providers represent a threat to Australian children.<br><br><u>*Adequacy of State and Territory regulations in relation to online gambling*</u>: Adequate controls are enforced by existing regulation on Australian based providers.<br><br><u>*Need for federal legislation*</u>: Federal legislation could only assist accessibility by minors if it could effect people in their homes or unregulated, offshore providers. The first is politically unlikley, the second technically unlikely.<br><br>The alternative, to Federal legislation, is for a strong regulated market to gain sufficient market share as to dominate unregulated providers. |
| *Notwithstanding such perceptions, underage access is not an insurmountable problem with internet gambling, even in an uncontrolled environment. The motivation and capacity for unsupervised and regular gambling by minors on the internet is weak:*<br>• *A minor cannot make any financial gain if money is won (unless the parent endorses the gambling). A consumer under the age of 18 can only legally obtain a credit card as a secondary card holder on an adult's account. If a minor uses an adult's credit card or account details to gamble, the winnings are paid by cheque, or credited to the account holder and cannot be accessed by the minor.*<br>• *The minor would also need to know a password to access the gambling supplier.*<br>• *Gambling by a minor can be easily detected by parents. Money for* | <u>*Nature, extent and impact*</u>: This is an accurate assessment by the Commission.<br><br><u>*Feasibility of controlling access to online gambling, especially by minors*</u>: The Commission acknowledge adequate control by regulated providers.<br><br><u>*Adequacy of State and Territory regulations in relation to online gambling*</u>: It is under existing regulation that adequate control of regulated providers exists.<br><br><u>*Need for federal legislation*</u>: There is nothing to suggest that Federal legislation will change this already adequate assessment of the Australian industry. |



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|---|---|
| *gambling withdrawn from accounts or credit cards will be listed on account statements.* | |
| ***Supplier integrity***<br>*Integrity concerns about online gambling include security and privacy issues as well as whether operators are providing fair games of chance.*<br>*McMillen and Grabosky (1998) list problems including:*<br>*a gambling site on the other side of the world may or may not be legitimate;*<br>*a gambling service provider may close down a site before paying winnings or returning deposits;*<br>*credit card or account details provided over the internet may be intercepted by a hacker and used fraudulently; and*<br>*there is a potential for invasion of privacy.* | *Nature, extent and impact*: This situation is true of all e-commerce generally it is not restricted to on-line gambling.<br>Assurance is provided to potential customers of current regulated providers.<br>*Adequacy of State and Territory regulations in relation to online gambling*: Assurance under existing regulation is sufficient to address all matters raised by the academics cited in the Commission's report.<br>*Need for federal legislation*: Federal legislation would do nothing to enhance the assurance already provided. The converse may be true if international customers perceived a need for the industry regulation to be overthrown by the federal government then it may question its integrity in the first place.<br>Continued assurance by a well regulated Australian industry, as currently exists, has the potential of gaining sufficient market acceptance as to become dominant in the market thus marginalising unregulated providers unable to provide assurances against the concerns raised. |
| *It is notable that Centrebet, which is outside the jurisdiction of the regulatory authorities of most countries to which its customers belong, has used just these sorts of strategies to secure a competitive advantage through reputation.*<br>*While online gambling providers would find some ways of differentiating their quality from those of unscrupulous operators, this does not mean that this is the most efficient outcome. An appropriate regulatory framework — combined with Credible monitoring and enforcement — may decrease probity risks more efficiently than under an uncontrolled environment. For example, in an unregulated environment, small online providers without a reputation would probably find it hard to secure a long term future, even if their products were innovative and their prices low. A regulatory environment, by more cheaply certifying quality, may therefore provide efficiency benefits for consumers.* | *Nature, extent and impact*: Yes it notable and Centrebets success (50% of all Australian e-commerce, top 10 global Internet site) supports the case put by WWWagering & Gaming Consultants that continued regulation consistent with existing controls will further enhance the Australian industry. The effect could be to marginalise non-Australian providers thus enabling Australia to consolidate its position of global strength in e-commerce gambling with positive implications for e-commerce generally. |
| ***Are adverse impacts on 'off-line' gambling providers a cost?***<br>*Many existing gambling providers are hostile to internet gambling, because they fear that they will lose some of their customers to less highly regulated and taxed online providers (box 17.6).* | *Nature, extent and impact*: This is a reality which every industry must come to grips with. All commerce is currently needing to review the way it does business now that e-commerce is widely available.<br>*Adequacy of State and Territory regulations in relation to online gambling*: State and Territory regulation is able to apply consistent regulation to both physical and on-line gambling activities thus eliminating disputes. In practice the regulation placed on on-line gambling activities is more intrusive than the regulation imposed on physical gambling activities.<br>*Need for federal legislation*: Conversely, if Federal legislation was seen by existing venues as enabling e-commerce gambling then the issue faced by every hotel and club with physical gambling environment would be with the Federal Government not the regional State and Territory Government. |
| ***Taxation***<br>*Similarly, AUSTRAC reported that:*<br>*Internet gambling and the resulting access to offshore gambling sites also has the potential to undermine State and Territory revenues. Estimates from the Office of Strategic Crime Assessments indicate that by the year 2015 the NSW government alone could be losing up to $16 million per annum in taxation revenue through consumers utilising offshore gambling sites (sub. 43, p. 7).* | *Nature, extent and impact*: The Australian industry is likely to produce net exports. Continued growth could even see exports outstrip the vigorous domestic consumption. This would be a substantial direct benefit to Australia. Such a strong on-line gambling sector would provide a good skills base to support a strong e-commerce industry.<br>It is anticipated that some respondents might argue for consistent taxation rates among States and Territories. This is a topic which has been thoroughly considered by WWWagering & Gaming Consultants but is not addressed here as it does not appear to have direct relevance to the terms of reference of the Committee - there is a compelling argument that taxation rates should not be fixed between all States and Territories as per the draft national regulatory agreement.<br>*Adequacy of State and Territory regulations in relation to online* |



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|---|---|
| | *gambling*: Taxation under existing State and Territory regulation is achieved.<br><br>*Need for federal legislation*: The GST represents Federal legislation in place to assure Federal taxation benefit from the regulatory effort of the States and Territories. |
| ***The Commission considers that, regardless of what regulatory approach is taken, there are strong grounds for governments to:***<br>***take measures to warn people of the hazards of offshore online gambling,***<br>***provide information on the internet about gambling help services and gambling sites which meet consumer protection criteria; and***<br>***make available or promote software for providing consumers with greater control over online gambling.*** | *Adequacy of State and Territory regulations in relation to online gambling*: All of this is occurring at the moment under existing State and Territory regulation.<br><br>*Need for federal legislation*: Federal legislation could only reiterate or duplicate existing regulation by State and Territory Governments.<br><br>Continued growth by a well regulated Australian industry, as currently exists, has the potential of gaining sufficient market acceptance as to become dominant in the world market thus marginalising unregulated providers unable to provide assurances against the concerns raised. Governments should continue to facilitate the strong highly regulated Australian providers. |
| ***The Commission considers that some form of regulation of internet gambling, is, in principle, an important objective, and is consistent with the aspirations of other regulations applying to gambling - consumer protection, probity and preservation of revenue.*** | *Adequacy of State and Territory regulations in relation to online gambling*: All of these considerations by the Commission are in place on domestic Australian providers, which are subject to the most thorough regulatory regime in the world.<br><br>*Need for federal legislation*: Federal legislation could only reiterate or duplicate existing regulation by State and Territory Governments.<br><br>Continued growth by a well regulated Australian industry, as currently exists, has the potential of gaining sufficient market acceptance as to become dominant in the world market thus marginalising unregulated providers unable to provide assurances against the concerns raised. Governments should continue to facilitate the strong highly regulated Australian providers. |
| ***To what extent can internet gambling be controlled?*** | *Nature, extent and impact*: This is an IT Senate Committee. WWWagering & Gaming Consultants trust that the Committee will not blindly pursue some of the impractical controls relating to pornography (as described in the popular and technical media).<br><br>The on-line gambling industry in this country is subject to very thorough probity and integrity regulation, with the protection of minors actively addressed. This industry is developing expertise to broader e-commerce which could be a major benefit for Australia, in the next Century and beyond. |
| *Toneguzzo (1998, pp. 5–6) has outlined some possible methods for penalising Australian gamblers who use illegal offshore sites — but these would breach norms about acceptable practice:*<br>*A Government anti-cybercrime computer is designed to stake out the virtual address of offshore cyber-casinos ... It then identifies the owner of the destination packet ... The computer has the audit trail for evidence, and so automatically withdraws $50 000 (or whatever the penalty may be) from the bank account of the line owner as a fine. If the money isn't in the bank the Government could automatically take out a mortgage over the person's house ... Finally, depending on the international agreements Australia has with the country of origin, it launches a cyber-terrorism attack to bring down the offending provider's site, and sends a message to the punter advising of the felony, that the government now owns their house and to have a nice day.* | WWWagering & Gaming Consultants consider that the approach outlined by Steve Toneguzzo is reprehensible. Governments should not be a party to cyber-terrorism in the name of law or policy enforcement - with the exception for a state-of-war.<br><br>Furthermore, WWWagering & Gaming Consultants consider that Mr Toneguzzo has under-estimated the ability of "the State" to identify Internet traffic content. The traffic will consist of fragmented, encrypted packets of instructions. The cost of enforcement will far outweigh the righteous benefits espoused. |
| *A recently published a report on Blocking Content on the Internet by CSIRO found that while technically possible, both packet-level and application-level blocking are not always effective. Specifically, the report found that consumers can overcome blocking by methods such as tunnelling (an IP packet is received inside another IP packet). A further possibility is that black listed sites may develop software to overcome blocking and this would require* | The CSIRO view is consistent with the aforementioned view of WWWagering & Gaming Consultants.<br><br>*Feasibility of controlling access to online gambling, especially by minors*:<br>*Adequacy of State and Territory regulations in relation to online gambling*: Current demonstrable regulation of on-line gaming demonstrates compliance with the CSIRO recommendations. Lasseters Hotel Casino's Internet casino promotes the use os filtering software. |



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| Productivity Commission | comments |
|---|---|
| *counteraction with the development of more sophisticated blocking techniques.*<br>*In the short term, CSIRO recommends the use of filtering software to control conten*<br>*Problems. A wide range of filtering software is available including Net Nanny, Cyber Patrol and Cybersitter. They can operate on an ISP's proxy server or at the customers end. While this approach cannot be guaranteed to prevent every consumer from gambling on illegal sites it is likely to work for the majority of gamblers. In addition the incentive for consumers to overcome the filtering of illegal gambling sites may not be very strong as legal sites would offer similar forms of gambling (albeit probably at lower odds).* | |
| *However, no provisions have been made in the Northern Territory to remit taxation back to participating jurisdictions (although there is scope for the minister to put this in place)* | <u>Nature, extent and impact</u>:<br>The draft regulatory model also proposes a fixed 50% tax rate. A fixed rate between regulatory environments is similar to a trade tariff and 50% is globally unsustainable in the global e-commerce market.<br>A remittance of all tax is required under the model. A State with no regulatory effort is rewarded for doing nothing. A large State has lower cost per domestic population ratio and can therefore sustain regulatory effort from domestic tax collection. A small jurisdiction such as the Northern Territory has a high cost to domestic population ratio. Thus if all revenue was remitted to the origin of the customer then costs could not be met through the domestic tax base.<br>Electronic commerce will globally displace traditional economic centres in a similar manner to the industrial revolution's displacement of agricultural centres and creation of new industrial centres. E-commerce will be hosted where costs are taxes are low and regulatory effort is efficient - an artificially high and returned tax regime will not promote such an environment.<br>In commerce terms the Northern Territory suffers from the tyranny of distance. It has a small domestic population and is a long way from sustainable markets. E-commerce has the potential to remove those barriers. The Northern Territory is to Australia what Australia is to the world.<br>E-commerce will be a major industry for Australia opening up the world population to Australian businesses and removing distances at the speed of light.<br>Would proponents of an externally imposed and returned tax also suggest that Australia rebate taxes collected on e-commerce transactions with Australian companies to our foreign trading partners? I think not! |

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