Public Health Association of Australia submission on a National Consumer Protection Framework for online wagering in Australia: consultation regulation impact statement

Contact for recipient:
Illegal Offshore Gambling Taskforce
Department of Social Services
PO Box 9820
Canberra ACT 2601
E: IOWT.Secretariat@dss.gov.au
T: (02) 6146 4103

Contact for PHAA:
Michael Moore – Chief Executive Officer
A: 20 Napier Close, Deakin ACT 2600
E: phaa@phaa.net.au T: (02) 6285 2373

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Contents

Introduction ........................................................................................................................................ 3

The Public Health Association of Australia .................................................................................. 3
Vision for a healthy population ................................................................................................. 3
Mission for the Public Health Association of Australia .......................................................... 3
Preamble ........................................................................................................................................ 3

PHAA Response to the Consultation Regulation Impact Statement ........................................ 4

A National self-exclusion register .............................................................................................. 4
A voluntary, opt-out pre-commitment scheme ........................................................................ 4
Prohibition of lines of credit ....................................................................................................... 5
Offering of inducements consistent with responsible gambling ........................................... 5
Activity statements on demand and on a regular basis ............................................................ 5
Reducing the current customer verification period .................................................................... 6
Pay day lenders .......................................................................................................................... 6

Conclusion .................................................................................................................................... 7
PHAA submission on National Consumer Protection Framework for online wagering in Australia

Introduction

The Public Health Association of Australia

The Public Health Association of Australia (PHAA) is recognised as the principal non-government organisation for public health in Australia working to promote the health and well-being of all Australians. It is the pre-eminent voice for the public’s health in Australia. The PHAA works to ensure that the public’s health is improved through sustained and determined efforts of the Board, the National Office, the State and Territory Branches, the Special Interest Groups and members.

The efforts of the PHAA are enhanced by our vision for a healthy Australia and by engaging with like-minded stakeholders in order to build coalitions of interest that influence public opinion, the media, political parties and governments.

Health is a human right, a vital resource for everyday life, and key factor in sustainability. Health equity and inequity do not exist in isolation from the conditions that underpin people’s health. The health status of all people is impacted by the social, cultural, political, environmental and economic determinants of health. Specific focus on these determinants is necessary to reduce the unfair and unjust effects of conditions of living that cause poor health and disease. These determinants underpin the strategic direction of the Association.

All members of the Association are committed to better health outcomes based on these principles.

Vision for a healthy population

A healthy region, a healthy nation, healthy people: living in an equitable society underpinned by a well-functioning ecosystem and a healthy environment, improving and promoting health for all.

Mission for the Public Health Association of Australia

As the leading national peak body for public health representation and advocacy, to drive better health outcomes through increased knowledge, better access and equity, evidence informed policy and effective population-based practice in public health.

Preamble

PHAA welcomes the opportunity to provide input to a National Consumer Protection Framework for Online Wagering in Australia. The reduction of social and health inequities should be an over-arching goal of national policy and recognised as a key measure of our progress as a society. The Australian Government, in collaboration with the States/Territories, should outline a comprehensive national cross-government framework on promoting a healthy ecosystem and reducing social and health inequities. All public health activities and related government policy should be directed towards reducing social and health inequity nationally and, where possible, internationally.
A National self-exclusion register

PHAA supports the recommendation of the O’Farrell Review for Option 3 - Establishment of a national self-exclusion register: a centralised system approach.

The online environment presents a challenge for problem gambling with an ever-increasing number of operators available and accessible at all hours, from anywhere, with a few simple clicks from a phone. Motivated problem or at-risk gamblers who want to minimise the risks and decrease the harm caused by their gambling need to be provided with a simple and effective platform for doing so. While single operator exclusion may be effective for land-based gambling venues, it is unrealistic to expect someone to voluntarily exclude themselves from multiple online platforms individually. With online gamblers more likely than land-based gamblers to be at risk gamblers, it is essential that mechanisms are established which are simple and effective. A centralised, national online system would be most beneficial, in its immediacy.

A voluntary, opt-out pre-commitment scheme

The PHAA supports Options 3: a voluntary, opt-out pre-commitment scheme offered through a centralised system.

This approach would provide the highest level of protection for gamblers, with limits binding across all operators. Similar to the exclusion register, in the online space, a pre-commitment schemes must be able to work across all operators nationally to maximise its effectiveness.

The risk that gamblers will move to offshore sites will exist no matter what system is implemented. However, a national centralised system may be made attractive to consumers through its security compared with illegal or offshore sites with unknown security. The protection offered by regulation of the system may be an advantage rather than a disadvantage for consumers wary of online scams and frauds.

Consumers could transfer the funds of their pre-commitment amount into a secure, nationally regulated gambling account in their name, and then operators would use that account to withdraw funds from for placing bets, and deposit funds to for distribution of winnings. The security of requiring operators to deposit winnings into a secure, nationally regulated account may be seen as an added benefit of using the pre-commitment scheme.
Prohibition of lines of credit

PHAA supports option 4 – banning lines of credit for all customers, with transitional arrangements.

The strongest consumer protections should be applied in the risky area of online gambling. As noted in the RIS, at risk gamblers themselves would like stronger protections applied. One of the arguments for having exemptions from a prohibition on lines of credit is that it is more convenient for VIP or professional gamblers. However, if a ban is applied to all other gamblers, then there will have to be criteria applied to the exemption, with a level of evidence required, as suggested in the RIS. This level of evidence must be sufficient to ensure that only those consumers who are able to repay the credit and do not engage in problem gambling are able to receive a line of credit. The process of providing evidence of being a VIP or professional gambler would therefore make the argument of convenience redundant, since the provision of evidence will itself be inconvenient – likely more so than a simple transfer of funds.

Using a harm minimisation approach, regulation should aim to make it more difficult, rather than easier, to gamble in an irresponsible and harmful way. If lines of credit on gambling sites are banned, other sources of lines of credit will still be available to gamblers. However, in requiring a separation between the two actions (obtaining credit and placing a bet), the incentives decrease and the level of active and conscious decision making involved increases.

Application of a ban to all consumers, regardless of ‘status’ is also the most equitable approach.

Offering of inducements consistent with responsible gambling

PHAA supports option 3 – banning all inducements: most stringent consumer protection approach.

Online gambling is growing rapidly, while the evidence base for policy is still emerging. In this situation, a precautionary approach should be taken. As noted in the RIS, the available evidence suggests that inducements are likely to move gamblers from land-based to the riskier online formats, increase the number of bets and time spent betting, and to increase the number of sites visited and used for gambling. All of these elements increase the risk of problem gambling. This taken in combination with complex terms and conditions and a lack of transparency around inducements, indicates a clear need for increased regulation.

Activity statements on demand and on a regular basis

PHAA supports option 3 – standardised activity statements from a centralised system.

The provision of regular, clear information about betting activities should be routinely distributed to consumers, as well as being available upon request. These statements should provide a balance and transaction history, similar to banking statements, with updated balance for each transaction, and a summary of credits (separated into deposits and winnings) and debits (bets and losses) on the front page.
Statements should be routinely provided monthly, as well as being available upon request. The production and distribution of a statement could also be triggered automatically by a pre-commitment level being reached.

The nationally regulated gambling account system (from the pre-commitment) could be used to readily produce these statements, across all providers. This would provide a clear overview for consumers of their gambling activity, which would be much more difficult to reconcile from separate statements from multiple providers, especially if the distribution cycles of the providers were not aligned.

Reducing the current customer verification period

PHAA supports both option 3 – reduction to a 14 day to 72 hour timeframe; and option 4 – mandatory verification prior to any wagering activity.

Customer verification periods are necessary for ensuring the protection of consumers and minimising occurrence of underage and problem gambling. As such, it should be mandatory that the verification checks are complete prior to the services being accessed. Allowing accounts to be opened and bets to be placed while identification is still being verified largely defeats the purpose of the checks. Online wagering operators should not be granted exemptions under AML/CTF Rules.

However, with technology available currently, identity checks should be able to be completed more quickly than is allowed for in current regulations. Reducing the timeframe will help to balance the removal of the exemptions, ensuring protection of consumers without undue delays incentivising choosing illegal offshore sites.

Pay day lenders

PHAA supports option 3 – prohibiting links between online wagering operators and payday lenders: a fully harmonised approach, including prohibiting payday lenders to loan money for online wagering purposes.

As noted in the Banks et al (2014) report cited in the RIS, pay day lending (SACC) is becoming more commonly accessed, and accessed specifically for gambling purposes. The risks for at risk gamblers of increased harm from this combination is clear, and therefore the connection should be dissolved wherever possible.

Banning advertising of SACC on online gambling websites and any form of partnership or referral system between SACC providers and gambling providers, and prohibiting SACC providers from lending money for the purposes of online wagering (or gambling in general) will assist to break the links between the two.

These measures are required in combination with the ban on provision of lines of credit on gambling sites. Each measure needs the others to ensure its effectiveness.
Conclusion

PHAA strongly supports the creation of a National Consumer Protection Framework for Online Wagering in Australia. The increase in online gambling and the risks associated with it, demand harm minimisation measures with a precautionary approach, while the evidence based catches up to this fast growing industry. We are particularly keen that the following points are highlighted:

- The strongest levels of consumer protection should be adopted
- The minimisation of harm requires effective self-exclusion and pre-commitments, banning of lines of credit, and a complete disconnection between SACC and online gambling
- A regulated, national secure gambling account structure would facilitate self-exclusion, pre-commitments, and regular and transparent statements of gambling activity to consumers, while providing some added protection from fraudulent sites.

The PHAA appreciates the opportunity to make this submission and the opportunity to contribute to a National Consumer Protection Framework for Online Wagering in Australia.

Please do not hesitate to contact me should you require additional information or have any queries in relation to this submission.

David Templeman
President
Public Health Association of Australia

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