ADDISONS

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# Gambling Law & Regulation Newsletter

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# Overview

Welcome to the August 2017 edition of Addisons Gambling Law & Regulation Newsletter. This Newsletter is produced in advance of the 2017 Australasian Gaming Expo and the further consideration by the Australian Senate of the Interactive Gambling Amendment Bill which, if passed, will represent the most significant change to Australia's regulatory regime related to online gambling since the law came into force in 2001.

Accordingly, this Newsletter focusses on issues relating to interactive gambling and the more restrictive regulatory regime that will exist in Australia in relation to online gambling.

Many of the recent developments that have occurred in 2017 are set out in this Newsletter and include:

a) A summary of the effect of the Interactive Gambling Amendment Bill and its implications for offshore online gambling operators; see Update on the Australian Interactive Gambling Amendment Bill 2016 – What Happens Now and What Does it Mean for Offshore Online Gambling Operators Looking to Australia?

b) The new GST regime that applies to the offshore supply of digital services to Australian consumers, which came into effect on 1 July and the manner in which it applies to the online gambling sector; see Devil in the Detail: Australia's GST Laws Overhauled to Apply to the Offshore Supply of Digital Products and Services to Australian Consumers from 1 July 2017 – What Does this Mean for the Offshore Online Gambling Industry?

c) The introduction of a point of consumption tax for wagering operators. As highlighted in an article that appeared in the NT News on Friday 4 August[1], the point of consumption tax that came into effect in South Australia, and may come into effect in other Australian State and Territories on 1 July 2017, will have significant economic implications for Australia's sports bookmaking sector; see Pay Where You Play: Introduction in Australia of a Point of Consumption Tax for Wagering Operators.

d) Increased restrictions in respect of the broadcast of gambling advertisements during live sports broadcasts. Earlier this year, the Australian Government announced a series of measures to address concerns that have been expressed for some time about the prevalence of gambling advertising during sports broadcasts. With the support of the media and the licensed online sports bookmakers, a number of restrictions will be brought into effect: see The Odds are in Favour of Prohibiting Gambling Advertisements During Live Sports Broadcasts.

e) As part of the review of Australia's regulatory regime relating to online gaming, the federal Government announced its intention to introduce harmonised regulations relating to the consumer protections that should be afforded to consumers of online wagering services. This is contemplated in The National Consumer Protection Framework: An Analysis of the Regulatory Impact Statement and its Effect on Australian Online Wagering.

We also highlight in the Newsletter two growth areas in the Australian gambling sector, including:

[1] http://www.ntnews.com.au/news/opinion/high-stakes-for-betting-industry/news-story/dde4eb1f7ab433fb85fec3efccae2d3a.

i. Secondary lotteries, see The Lottoland Effect: The Rise and Risk of Secondary Lotteries in Australia.

ii. Binary options, see Branching out into Binary Options? You Might Have Double Trouble.

There have been a considerable number of other developments in the gambling sector other than in relation to online gambling. For example:

- The proposed merger between Tabcorp and Tatts Group has been the subject of a determination by the Australian Competition Tribunal. The decision of the Tribunal to grant authorisation to a proposed merger is the subject of applications to the Federal Court (to be heard later this month) for review by each of the Australian Competition and Consumer Commission (ACCC) and CrownBet.

  Even though there is some doubt whether the decision of the Federal Court will be handed down in 2017, Tabcorp has announced recently that it is proceeding to take steps to implement the merger, on the basis that the Tribunal's decision is not reversed. Despite this, there remains a level of uncertainty whether the merger will be completed.

- The Queensland Government announced on 1 August that the proposal to construct a $3 billion casino on the Gold Coast had been rejected. This followed submissions by ASF Consortium to construct a high rise casino and hotel development following a joint initiative of the Queensland Government and the Council of the City of the Gold Coast that sought investment from the private sector to develop tourist infrastructure on the Gold Coast. The announcement by the Queensland Government was not expected, with some commentators suggesting that it would have negative consequences for the Queensland Government's proposals to seek expressions of interest for the development of casinos in other parts of Queensland.

- The conviction of various Crown Resorts personnel of gambling offences in a Chinese Court following their arrest by the Chinese authorities in 2016. These arrests were followed by announcements by Crown Resorts to focus their businesses on their Australian casino interests and has also had a significant adverse impact on their financial results due to the decrease in VIP visitors from overseas.

- The fine of $45,000,000 imposed on Tabcorp in respect of anti-money laundering offences following a prosecution brought by AUSTRAC.

We trust you will enjoy this edition of our Gambling Law & Regulation Newsletter.

If you have any queries or wish to discuss any of the matters set out in this Newsletter or otherwise relating to gambling regulation in Australia or elsewhere, please do not hesitate to contact any of Addisons Media and Gaming Team.

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# Update on the Australian Interactive Gambling Amendment Bill 2016 – What happens now and what does it mean for offshore online gambling operators looking to Australia?

Authors: Jamie Nettleton, Karina Chong and Joseph Abi-Hanna

## Introduction

Australia's reform of the regulatory environment relating to online gambling has been underway for some time. The proposed amendments to the key Federal gambling legislation are in their final stages of review by the Australian Parliament and are likely to be passed in the next Parliamentary session.

## Overview

On 10 November 2016, the *Interactive Gambling Amendment Bill* 2016 (the **IGA Amendment Bill**) was introduced into the House of Representatives of the Australian Federal Parliament by the Hon. Alan Tudge MP, Federal Minister for Human Services. The IGA Amendment Bill proposes to amend Australia's key online gambling legislation, the *Interactive Gambling Act* 2001 (Cth) (the **IGA**).

The amendments contained in the IGA Amendment Bill follow the Final Report (**Final Report**)[1] of the Review of Illegal Offshore Wagering conducted by the Hon. Barry O'Farrell (**O'Farrell Review**) and reflect the Federal Government's position as set out in its response to the recommendations made in the Final Report (the **Government Response**).[2]

The purpose of the IGA Amendment Bill is to clarify the provisions of the IGA regarding illegal offshore gambling and give greater enforcement powers to the Federal regulator, the Australian Communications and Media Authority (the **ACMA**).

On 8 February 2017, the IGA Amendment Bill was passed by the House of Representatives (the **House**) and introduced to the Senate on 9 February 2017. On 21 March 2017, the Senate approved one substantial amendment to the IGA Amendment Bill to introduce a prohibition on the use of credit in relation to online betting. On 21 June 2017, the House did not accept the Senate's amendment and proposed a new amendment relating to the credit betting prohibition in its place.

At the time of writing, the Senate is yet to consider the latest version of the IGA Amendment Bill with the House's most recent amendment. It is unlikely to do so until the next time Parliament sits, being the week commencing 8 August 2017. An overview of the key features of the IGA Amendment Bill for offshore gambling operators is set out below.

*1. Requirement to be licensed in Australia*

The IGA Amendment Bill defines "regulated interactive gambling services" and "prohibited interactive gambling services". The principal distinction between these two categories of services is that no party is permitted to provide a prohibited interactive gambling service to persons present in Australia, while regulated interactive gambling services can be provided, but only by operators who are licensed in Australia and authorised to provide the relevant services under the terms of their licence.

Previously, certain services classified under the IGA Amendment Bill (e.g. excluded wagering and lotteries services) were exempt from the definition of a "prohibited interactive gambling service" and, therefore, were not prohibited by the IGA (save in respect of in-play

[1] A copy of the Final Report can be accessed at https://www.dss.gov.au/communities-and-vulnerable-people/programmes-services/gambling/review-of-illegal-offshore-wagering.

[2] A copy of the Government's Response can be accessed at: https://www.dss.gov.au/communities-and-vulnerable-people/programmes-services/gambling/government-response-to-the-2015-review-of-the-impact-of-illegal-offshore-wagering. For further detail, please see our Focus Paper on the O'Farrell Review and the Government Response: http://bit.ly/2cQVd33.

and instantaneous lotteries provided online, both of which will remain prohibited by the IGA).

These "excluded" services (among others) are now classified as "regulated interactive gambling services" subject to being provided by an Australian licensed operator. Hence, the IGA now makes it clear that only those exempt services which are regulated interactive gambling services fall outside the scope of the prohibition in section 15 of the IGA.

The IGA Amendment Bill amends section 15 of the IGA so that, where an operator provides a prohibited interactive gambling service to customers in Australia, that operator will be subject to both a criminal offence and a civil penalty.

The IGA Amendment Bill introduces a new section 15AA. This will make it an offence to provide to persons present in Australia a regulated interactive gambling service unless the provider of the service holds a licence under the laws of an Australian State or Territory and provides the services in accordance with that licence. In a manner similar to the prohibition in section 15, section 15AA provides that an operator who breaches this prohibition is subject to both a criminal offence and a civil penalty.

Under both sections 15 and 15AA, a person commits a separate offence for each additional day that a contravention occurs. The penalty for contravention by a corporate entity is $5.25 million for a criminal offence provision and $7.9 million for a civil offence provision, for each day a contravention takes place.

Accordingly, the IGA Amendment Bill confirms that the supply of online gambling services to persons present in Australia is prohibited unless the operator holds a licence under the laws of an Australian State or Territory. It also affirms the principle that an online gambling service licensed in Australia will not be in breach of the IGA by offering services conducted in accordance with that licence to Australian customers located outside of the State or Territory in which it is licensed. This principle confirms the decision of the High Court of Australia (Australia's highest court) in *Betfair Pty Ltd and Another v Western Australia* (2008) 244 ALR 32.

*2. ACMA – the new civil penalty regime and enforcement capabilities*

*ACMA Enforcement Tools*

The IGA Amendment Bill grants the ACMA greater powers to enforce the IGA. These powers arise from:

a) a more stringent civil penalty regime. The ACMA will have a range of enforcement tools at its disposal including the right to issue formal warnings and infringement notices, to impose civil penalties and to seek injunctions; and

b) the creation of a process which enables complaints to be made to the ACMA about the supply and promotion of any unlicensed or prohibited interactive gambling services, and a procedure enabling the ACMA to conduct investigations in relation to these complaints.

*ACMA Register*

The IGA Amendment Bill compels the ACMA to set up a register of legitimate or "eligible interactive gambling services" (broadly, gambling services which are not in breach of the prohibition in section 15AA). This register will be capable of access by the public on the ACMA website. Accordingly, the register will not include those online gaming operators such as online poker or casino games operators which cannot obtain an Australian licence to provide services to Australian customers.

*ACMA Notification Powers*

The IGA Amendment Bill also amends the *Australian Communications and Media Authority Act 2005* (Cth) (the **ACMA Act**). This will enable the ACMA to disclose information relating to prohibited or regulated interactive gambling services to:

a) the Department of Immigration and Border Protection who may place the names of executive officers of organisations who contravene the IGA on a "Movement Alert List" with the aim of restricting their travel to, or from, Australia; and

b) international regulators of operators licensed by that regulator who may be in breach of the IGA through supplying interactive gambling services to persons present in Australia. The objective is to raise global awareness of the IGA and encourage foreign regulators to provide enforcement assistance.

**What does this mean for offshore gambling operators?**

The amendments strengthen the prohibitions in the IGA which target the supply of online gambling services by offshore gambling operators to persons present in Australia. This is demonstrated by the significant penalties that have been introduced and the enhanced powers and enforcement tools granted to the ACMA in respect of contraventions of the IGA.

The immediate impact of these amendments is to clarify to offshore gambling operators that the supply of online gaming services (including online casino games and online poker services) to persons present in Australia without a licence granted under the laws of an Australian State or Territory, is prohibited by Australian law. Currently, no gambling regulator in any Australian State or Territory will grant a licence to enable these kinds of online gaming services to be provided to persons located in Australia. Accordingly, if passed, the IGA Amendment Bill will confirm that the provision of those online gambling services to persons present in Australia is prohibited.

Importantly, the Australian government has indicated that the prohibitions have always been in force and the amendments enacted by the the IGA Amendment Bill merely clarify the position. On 20 March 2017, during debate in the Senate, Senator Fifield (the Minister for Communications) made it clear that the IGA Amendment Bill was *"not expanding the range of gambling products in Australia. The [IGA Amendment] Bill is simply clarifying the services that are currently permitted under Commonwealth, State and Territory laws."*[3] Hence, in the Minister's words, the amendments will simply *"maintain the status quo and uphold the original intent of the Interactive Gambling Act."*[4]

**Proposed Amendment to the IGA Amendment Bill**

On 21 June 2017, the House of Representatives disagreed with the amendment proposed by Senator Xenophon of the Nick Xenophon Team and passed by the Senate in March 2017 which sought to ban the provision of credit betting to Australian consumers (the **NXT Amendment**). In place of the NXT Amendment, the Government proposed an amendment to introduce the ban on the provision of credit betting to Australian consumers, but with two exceptions (the **Government Amendment**).

The Government Amendment introduces an exemption to the ban on the provision of credit for gambling service providers with an annual wagering turnover of less than AUD $30 million. If a provider belongs to a corporate group, the annual online wagering turnover globally of the entire corporate group (including holding companies and subsidiaries) will be taken into account in determining whether the provider has an annual wagering turnover of less than AUD $30 million. This means that the majority of Australian gambling service providers will still fall outside the exemption, as the global wagering turnover of a related corporate group is likely to exceed $30 million.

Accordingly, it is likely that most Australian online gambling service providers will be prohibited from providing credit to customers. As indicated by Minister Tudge in brief discussions of the Government Amendment by the House, this exemption is intended to apply to "trackside bookmakers".[5]

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[3] Commonwealth, *Parliamentary Debates*, Senate, 20 March 2017, 108 (Mitch Fifield).
[4] Commonwealth, *Parliamentary Debates*, Senate, 21 March 2017, 108 (Mitch Fifield).
[5] Commonwealth, *Parliamentary Debates*, House of Representatives, 22 June 2017, 40 (Alan Tudge).

Any company which contravenes this prohibition may be found to have committed a fault-based offence or a civil penalty offence. A penalty of $525,000 (500 penalty units) or a civil penalty of $787,500 (750 units) can be imposed if such offences are committed.

**The National Consumer Protection Framework**

In parallel with the progress of the IGA Amendment Bill in Parliament, the Australian government is currently conducting a consultation process with the aim of establishing a National Consumer Protection Framework (**NCPF**) to afford greater protection to those consumers of online gambling services who may be vulnerable to problem gambling. The NCPF will focus on responsible gambling measures including self-exclusion and voluntary pre-commitment mechanisms.

On 28 April 2017, the Gambling Ministers of the Commonwealth, the States and the Territories of Australia agreed in-principle to eleven measures to enhance the protection of Australian consumers engaged in online gambling.

For further information about the National Consumer Protection Framework and the Government's consultation process, please see our Focus Paper: The National Consumer Protection Framework: An analysis of the Regulatory Impact Statement.

**Inquiry into Online Poker**

Separately to the debate in relation to the IGA Amendment Bill, on 13 June 2017, Senators Leyonhjelm and Bernadi moved a Notice of Motion in the Senate to convene an inquiry into online poker in Australia (the **Motion**). The Motion proposes that the Senate's Environment and Communications Reference Committee (the **Committee**) conduct an inquiry into:

a) the participation of Australians in online poker;

b) the nature and extent of any person or social harms and benefits arising from participation in online poker; and

c) whether the current regulatory approach, in particular, the recently amended *Interactive Gambling Act* 2001 (Cth), is a reasonable and proportionate response to those harms and benefits.

Perhaps surprisingly, there was no debate on the Motion in the Senate and the Motion was passed with the support of the Greens, the Nick Xenophon Team and the Australian Government (although the Motion was opposed by the opposition, the Australian Labor Party).

Accordingly, the matters specified in the Motion were referred to the Committee for inquiry (the **Inquiry**). The Committee is due to report on its Inquiry on 14 September 2017 and held a public hearing in Sydney on 1 August 2017.

It is unclear at this stage what, if any, impact the Inquiry will have in respect of the progress of the IGA Amendment Bill or whether the Inquiry may give rise to further proposed amendments, separate to those already proposed in the IGA Amendment Bill.

**Next Steps - What Happens Now?**

On 21 June 2017, the House returned the amended version of the IGA Amendment Bill (which incorporated the Government Amendment) to the Senate for further consideration. While the Senate has acknowledged that the House has made an alternative amendment to the IGA Amendment Bill relating to credit betting, the Senate has not commenced debate on this amended version of the IGA Amendment Bill and it will not sit again until 8 August 2017.

During this next sitting period, the Senate may accept, reject or modify the amended IGA Amendment Bill. However, it is unlikely that this version of the IGA Amendment Bill will be the subject of significant debate or further amendments in the Senate, as it was passed by the House without any opposition and with support from the two leading parties, being the Government and the Labor Opposition. On the basis that each party acts in a consistent manner when the IGA Amendment Bill is considered by the Senate and the Senate does

not make any further amendments, the IGA Amendment Bill will be passed by both Houses of Parliament and will progress to Royal Assent.

If this occurs, the majority of the amendments in the IGA Amendment Bill will come into effect 28 days after it receives Royal Assent. The prohibition on providing credit betting to Australian consumers will come into effect 6 months after the IGA Amendment Bill receives Royal Assent to give companies and consumers the opportunity to implement the prohibition. Effectively, companies will have 6 months to ensure that they no longer offer credit betting to consumers.

However, in the unlikely event that the Senate does not agree with this version of the IGA Amendment Bill (which contains the Government Amendment), it is likely that there will be further debate until both Houses agree to an identical version of the IGA Amendment Bill.

While it appears likely that the IGA Amendment Bill will be passed in some form soon, the timing is uncertain at this stage. What is clear is that the debate relating to the manner of regulation of online gambling in Australia is far from over. It is this uncertainty with which gambling companies will need to grapple in the years to come.

# Branching out into binary options? You might have double trouble

Authors: Daniel Goldberg, Jamie Nettleton and Michelle Wibisono

If you are in the business of offering derivatives, you probably know that binary options are a form of derivative, and that you need a licence from the Australian Securities and Investments Commission (**ASIC**) to offer them in Australia.

But what if you run a gambling business and want to offer 'non-financial' binary options as betting products? You might find your business under double regulation. Read on to find out how this may come about and what you can do about it.

**What are binary options?**

Binary options are a relatively new type of product. They are viewed as highly speculative and risky – effectively no more than a bet or gamble. In the financial world, they are a type of option used to predict the short-term movements of an index, currency or asset price, such as the price of a share or commodity. Unlike traditional options, binary options often have very short expiry periods (even expiring in minutes or hours) and they do not give the holder the right or obligation to buy or sell the underlying asset on expiry.

Binary options are based on a "yes/no" proposition, for example: will a certain company's shares be trading above $30 in an hour's time? Assume the customer thinks the answer is "yes", and therefore buys the binary option. (If the customer thinks "no", he or she would sell the binary option.) At the end of the hour, when the binary option expires, if the share price is above $30, the customer has correctly predicted the price movement. The customer receives a fixed cash payout. This payment is usually a percentage of the cost of the option, together with the initial outlay, less fees associated with the option.[1] However, if the share price is $29, the customer has made the wrong prediction. The customer loses the entire amount paid for the option.

Hence the 'binary' name: there is either a correct prediction (leading to an earning of a fixed cash payout) or a wrong prediction (and loss of the amount invested).

**How are binary options regulated by ASIC?**

ASIC regulates financial products, and the financial services that relate to them, under the *Corporations Act 2001* (Cth) (**Corporations Act**). The Corporations Act has a rigorous and complex financial services licensing regime which applies to financial services businesses.

Under the financial services licensing regime, any person who provides financial services, such as offering financial products, must hold an appropriate Australian financial services licence (**AFSL**) issued by ASIC. Alternatively, persons must be authorised by an existing licence holder who already holds an appropriate AFSL to provide the financial services, or be exempted from the licensing requirements.

The financial products caught by this regime include 'derivatives'. ASIC considers that binary options (in the sense described above) are 'derivatives'. A 'derivative' is an arrangement in relation to which the following are met[2]:

a) a party to the arrangement must, or may be required to, provide a particular kind of consideration to someone else at some prescribed future time; and

b) the amount of the consideration (or value of the arrangement) is ultimately determined, derived from, or varies by reference to (wholly or in part) the value or amount of something else. This "something else" can be of any nature whatsoever and does not have to be deliverable, e.g. an asset, a rate, an index or a commodity.

[1] The fees may comprise the amount paid for the binary option, plus any brokerage fees or other fees charged by the platform or exchange on which the binary option is traded.
[2] Subject to certain exemptions, e.g. certain arrangements involving the sale of tangible property and a contract for the future provision of services.

ASIC has been surveilling binary option providers and has announced that, "Our future focus will be on whether binary option providers are appropriately licensed." It has taken action to restrain unlicensed persons from offering binary options.[3] It has also been actively warning investors against buying binary options from unlicensed providers.[4] Recently, it has indicated that it would be targeting unlicensed providers of binary options through mobile apps.[5]

**What if you want to offer binary options based on 'real life' events?**

Binary options are not necessarily limited to financial products and could be based on non-financial products. They could be used to bet on 'real life' events, like the results of a sporting match or an election result.

If you were to offer this type of binary option in Australia, you would expect to be regulated by gambling laws in the various Australian jurisdictions. But the surprising news is that you might also be regulated under the financial services licensing regime mentioned above. This is because the definition of 'derivatives' is wide enough to include this type of binary option.

In other words, you could theoretically be regulated under **both** gambling law and the financial services licensing regime, so you might need both an appropriate gambling licence and an AFSL.

**Do you need a gambling licence to offer binary options in Australia?**

Ordinarily you would, but generally you don't if you have an AFSL that permits you to offer binary options. This reflects a general legal principle in Australia that, provided you conduct the relevant activity under an appropriate AFSL granted under the *Corporations Act*, you do not need a gambling licence for the same activity.

However, while strictly you may not need a gambling licence, you might nevertheless consider seeking one if you wish to promote yourself as a service provider of the highest integrity.

Remember also that this principle does not apply in reverse: a gambling licence will not avoid the need to hold an AFSL to offer binary options.

**What do you need to do before you offer binary options?**

Your starting assumption should be that your offers of binary options would be regulated by ASIC under the financial services licensing regime. This means you would need to:

- apply to ASIC for an appropriate AFSL that covers derivatives;
- get authorisation from an existing AFSL holder who is appropriately licensed to offer binary options; or
- ask ASIC for relief from the licensing requirements so as to allow you to offer binary options without an AFSL or authorisation.

We can help you navigate a situation where you potentially face double regulation. Speak to us to find what you need to do to comply with the *Corporations Act*, ASIC's requirements and gambling laws if you plan to offer binary options.

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[3] See http://asic.gov.au/about-asic/media-centre/find-a-media-release/2016-releases/16-218mr-asic-crackdown-on-unlicensed-retail-otc-derivative-providers/ and http://asic.gov.au/about-asic/media-centre/find-a-media-release/2016-releases/16-246mr-asic-warns-investors-about-titantradecom/.

[4] See http://download.asic.gov.au/media/3893837/pwn-2016-3-published-9-6-2016.pdf, http://download.asic.gov.au/media/3853832/pwn-2016-2-13-5-2016.pdf and http://www.asic.gov.au/about-asic/media-centre/find-a-media-release/2015-releases/15-024mr-asic-warns-of-opteck-and-other-unlicensed-binary-option-providers/.

[5] See http://asic.gov.au/about-asic/media-centre/find-a-media-release/2017-releases/17-257mr-asic-targets-unlicensed-binary-option-mobile-apps/.

# The odds are in favour of prohibiting gambling advertisements during live sports broadcasts

Authors: Jamie Nettleton and Shanna Protic Dib

On May 6 2017, the Australian Government announced its proposal to place restrictions on gambling advertisements during the live broadcast of sporting events. The restrictions form part of the Government's broader Media Reform Package, which was introduced in the 2017-2018 Federal Budget.

The Media Reform Package proposes changes to the framework of Australia's media industry, including changes to the restrictions on the ownership and control of media companies, broadcasting licensing fees, the anti-siphoning scheme, the source of media content and restrictions on gambling advertisements.[1]

Of particular importance to the gambling industry is the proposed restrictions relating to gambling advertisements during the live broadcast of sporting events on television, radio and online. For some time now, corporate bookmakers have been aware of the public concern surrounding various aspects of the gambling industry.

In fact, several leading corporate bookmakers have established an industry body, Responsible Wagering Australia (**RWA**), to advocate for regulatory reforms in the gambling industry. In recent times, RWA has focused much attention on the controversy surrounding gambling advertisements and has called for advertising restrictions during live sports to address significant community concerns about the increasing exposure and accessibility to gambling that advertisements provide.

### Overview of the restrictions to gambling advertisements during live sports broadcasts

The regulatory controls relating to gambling advertisements during the broadcast of live sports events are currently contained in the media sector's self-regulated Television and Radio Codes of Practice[2].

The Australian Government has announced that there will be a restriction on all gambling advertisements during live sports events broadcast between 5:00pm and 8:30pm. The restriction will apply to all television, radio and online broadcasts aimed at Australian audiences, including 'catch up' services and live online streaming services.

The scope of these restrictions, however, is limited to the prohibition of gambling advertisements in live broadcasts of sports events during a period that commences at the time that is five minutes before the scheduled start of play, and which ends at the time which is five minutes after the conclusion of play or 8:30pm, whichever is earlier.

In addition, the restrictions will extend beyond the parameters of current regulations and will prohibit the broadcast during live sports broadcasts of on-screen gambling promotions and sponsorships, and updated odds.

### Implementation and enforcement of the restrictions

While the restrictions on gambling advertisements form part of the Australian Government's broader Media Reform Package, which will be legislated, the restrictions on gambling advertisements are unlikely to be introduced by statute.

Industry bodies are able to develop Codes of Practice in consultation with the Federal Regulator, the Australian Communications and Media Authority (the **ACMA**) under Section

[1] For more information, please see Senator Mitch Fifield's media release of 6 May 2017: http://www.mitchfifield.com/Media/MediaReleases/tabid/70/articleType/ArticleView/articleId/1352/Major-reforms-to-support-Australian-broadcasters.aspx.

[2] Please see Commercial Television and Radio and Subscription Television Codes of Practice: http://www.acma.gov.au/theACMA/About/The-ACMA-story/Regulating/broadcasting-codes-schemes-index-radio-content-regulation-i-acma.

123 of the *Broadcasting Services Act 1992* (Cth), in order to bring effect to industry regulations.

The Australian Government has consulted recently with the Australian media industry to determine the process for implementing the restrictions.

It is expected that traditional media platforms with well-established broadcasting Codes of Practice (i.e. commercial television, subscription television and commercial radio) will amend their Codes of Practice to incorporate the proposed restrictions and give effect to the restrictions by March 2018.

The ACMA will maintain full regulatory powers for enforcing the restrictions in line with current practice. As such, any amendments made to industry Codes of Practice to incorporate the restrictions will carry full regulatory weight, as they will constitute legally binding measures registered with the ACMA.

The proposed restrictions are the first in Australia to consider prohibitions in respect of online services. The industry has not previously regulated online services and the application of the restrictions to online platforms is unclear at this stage. While the Australian Government has not provided any guidance as to how or when the restrictions will take effect, it has indicated that it will continue to consult with the digital media industry to determine the most effective implementation and enforcement options for the restrictions.

In amending the codes of practice, various practical issues will need to be taken into account, including:

- what type of content distribution will be considered a 'broadcast' for the purposes of the restrictions;
- how the new restrictions will operate in practice noting the several time zones that exist in Australia; and
- how the new restrictions will identify what online content targets an Australian audience.

# Devil in the detail: Australia's GST laws overhauled

## GST has applied the offshore supply of digital products and services to Australian consumers since 1 July 2017 – what does this mean for the offshore online gambling industry?

Authors: Jamie Nettleton, Arthur Davis, Cate Sendall and Karina Chong

With effect from 1 July 2017, Australia's goods and services tax (**GST**) laws were significantly overhauled. The amendments to the A New Tax System (Goods and Services Tax) Act 1999 (the **GST Act**) have resulted in offshore suppliers of digital products, rights or services to Australian consumers that satisfy the turnover threshold requirement, having to register for GST and comply with various GST reporting and payment obligations. This will include offshore gambling operators who continue to provide services to Australian customers. Supplies of digital products to businesses registered for GST in Australia will not be subject to GST.

The operators of electronic distribution platforms (**EDPs**) which make offshore supplies of digital products and rights to Australian consumers will be treated as the supplier for the purposes of the GST Act. In other words, the operator of the platform will be subject to the GST liability and obligations.

The exemption from the requirement to pay goods and service tax (**GST**) for imports of goods which have a value of less than AUD $1,000 (**low value goods**), which was to be removed at the same time as the introduction of GST on digital supplies, will now be effective from 1 July 2018.

For further information about the background to these GST amendments, please see our previous Focus Paper on the matter titled: The "Netflix Tax" – Australian Government moves forward with proposals to extend GST to digital goods and services. What does this mean for the offshore online gambling sector?[1]

**What are the changes?**

*1. Supply of online services and digital products*

As stated above, from 1 July 2017, overseas-based suppliers of services and digital products to Australian consumers will be required to register for GST and comply with GST reporting requirements if they meet the registration turnover threshold. This includes overseas-based suppliers of gambling services.

Suppliers will meet the registration turnover threshold if they:

- record AUD75,000 or more from sales to Australian consumers over a 12 month period (i.e. current GST turnover); or
- are projected to record AUD75,000 over the next 12 months (ie projected GST turnover).

GST turnover is the gross sales revenue of a business excluding, for example, sales not connected with Australia and sales not connected to an enterprise that is run by the business. In the case of most gambling supplies (e.g. online casino services or bookmakers), the gross sales revenue on which GST is payable is calculated on the difference between the amount of wagers taken by the operator of the game and the prizes paid by it. In other words, if the margin on gambling supplies to Australian consumers by offshore suppliers is (or is likely to be) more than AUD75,000 per year, those suppliers will

[1] http://www.addisonslawyers.com.au/knowledge/The_-Netflix_Tax-_–_Australian_Government_moves_forward_with_proposals_to_extend_GST_to_digital_goods_and_services-_What_does_this_mean_for_the_offshore_online_gambling_sector859.aspx.

be required to register for GST. In the case of poker games, the calculation of gross revenue may differ from other gambling supplies. In addition, GST is payable on incidental supplies, such as joining fees.

*2. Supply through an electronic distribution platform*

An EDP is a service, including a website, internet portal, gateway, store or market place (for example, the Apple iTunes store, eBay or the Google Play store) that allows suppliers to make supplies available to end consumers, delivered by means of electronic communication.

The amendments to the GST Act extend the role played by EDPs in the collection of GST. Currently, the EDP rules shift the responsibility and liability for GST in relation to supplies made through the EDP from the individual suppliers (or content developers) to the operator of the EDP.

The amendments extend these rules further to apply to the supply of digital products that are **offshore supplies** to Australian consumers. This means that, as with all other supplies which are made through EDPs, the operator of the platform is treated as the supplier of the relevant digital products and the operator will be subject to GST liability and obligations if the operator controls one or more "key elements" of the supply to the recipient, such as where:

- the supplier is not identified on the relevant documents, such as an invoice;
- the operator authorises billing;
- the operator authorises delivery of the supply; and
- the operator sets the terms and conditions of supply.

The Australian Government considers that this model is appropriate as the operators of EDPs are generally larger entities and better placed to comply with the various GST registration, collection and reporting obligations than the individual suppliers and content developers who make their products available for sale on the platforms.

**When will GST registration be required?**

Supplies of low value goods, services and digital products to Australian recipients by offshore suppliers will only be taxable if the supply is to an "Australian consumer" and the $75,000 threshold is exceeded (or is likely to be exceeded) in a year. Whether the value is likely to be exceeded will be determined by historical sales in the last 12 months. An Australian consumer is an Australian resident that is not registered for GST. Where such supplies are made, the offshore supplier will be required to register for GST and comply with the GST reporting requirements.

**When will GST registration not be required?**

An offshore supplier which supplies digital products, services or low value goods to Australian consumers (or other supplies which are subject to GST) where the gross sales revenue in respect of these supplies is less than the AUD75,000 threshold per year, will not be required to register for GST.

An offshore supplier will also not be liable for GST on supplies to Australian consumers if:

a) it takes **reasonable steps** to obtain information as to whether the recipient is an Australian consumer; and

b) after taking those steps, it reasonably believes the recipient is not an Australian consumer.

A draft Australian Taxation Office (**ATO**) ruling[2] (**Draft Ruling**) on this issue states that reasonable belief can be formed that a recipient is not an Australian consumer when:

- the recipient does not satisfy the residency element; or
- the recipient does not satisfy the consumer element.

If a business believes that a recipient is not an Australian consumer because the recipient holds an ABN, this belief will only be deemed to be reasonable if the recipient's ABN has been disclosed to the business and the recipient has provided a declaration or other information which indicates they are registered for GST.[3]

The results of KYC automated checks undertaken by offshore online gambling operators may be considered adequate proof that a recipient is not an Australian resident if the checks include two items of evidence (which is not contradictory) and which indicates the recipient is resident outside Australia.

**What does this mean for overseas online gambling businesses?**

The amendments to the GST Act will primarily impact overseas companies which conduct their businesses online, including overseas gambling operators who make their products available online to Australian consumers. Included, for example, are providers of online casino-style games and apps to Australian residents based outside Australia, as well as overseas providers of other gambling services such as online sports betting operators providing their services to Australian residents (notwithstanding the other legal implications of this conduct under the *Interactive Gambling Act 2001* (Cth). In other words, even though the amendments to the IGA proposed to the government have not yet come into effect, any suppliers of online gambling services to Australian residents will need to consider carefully whether these GST obligations will apply to them after 1 July 2017.

**Where do we go from here?**

Offshore suppliers of online gambling products and services to Australian consumers should consider promptly whether registration for GST is required and, if so, whether they wish to, for example:

- register for GST; or
- continue to make supplies to Australian consumers without registering for GST (and risk enforcement action); or
- discontinue supplies to Australian consumers.

The ATO is developing "simplified" registration and administration procedures for foreign suppliers who would not have had to register for GST in Australia, but for these amendments. The ATO has announced that it will use a phased approach for registration in the simplified GST system.

*Phase 1 commencing 26 June 2017*

Foreign suppliers will be able to register for simplified GST by accessing an online platform called "the simplified GST system" via a portal on the ATO's website.[4] Once registered, foreign suppliers will be issued with an ATO Reference Number (**ARN**), which is used to identify foreign suppliers in the ATO's systems and can be used as an identifier on invoices. Although registration cannot take place before 26 June, offshore providers may now apply for an ARN to assist with registration.

The information required when registering is likely to be the registration details of the entity, tax reference number, authorised contacts and the start date of the GST registration

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[2] Draft Goods and Services Tax Ruling: GSTR 2017/1 available here: https://www.ato.gov.au/law/view/document?LocID=%22GST%2FGSTR20171%2FNAT%2FATO%22&PiT=99991231235958.
[3] Draft Ruling at 95.
[4] This platform can be used to register, lodge and pay GST.

*Phase 2 commencing 30 September 2017*

From 1 October 2017, foreign suppliers will be able to lodge and pay GST using the platform.

At this stage, it is not clear how the ATO will enforce compliance with the new laws. The ATO has indicated that it will be "monitoring" and working with international agencies, as well as auditing taxpayers and prosecuting, where appropriate. However, we are unsure as to how enforcement will occur in practice.

# The Lottoland Effect: the rise and risk of secondary lotteries in Australia

Authors: Jamie Nettleton and Nicola Austin

Lottoland launched in Australia in January 2016, becoming the first "secondary lottery" product licensed by an Australian government.

By enabling Australian customers to bet on the outcome of lotteries conducted both in Australia and overseas, Lottoland has been a disruptor in the gambling sector and challenged traditional distinctions between "lotteries" and other forms of gambling. Lottoland's services in Australia have proved particularly attractive to other onshore and offshore online gambling operators, who see the potential for secondary lottery products in the mature Australian market to be highly lucrative.

**How can secondary lotteries be offered lawfully in Australia?**

Under Australian gambling law, a secondary lottery product is a *bookmaking* service and, at present, any secondary lottery operator wishing to conduct business legally must obtain a bookmaking licence from a relevant State/Territory gambling authority which, in turn, must recognise the relevant lottery as an approved betting contingency.

In particular, the Northern Territory Racing Commission lists domestic and international lotteries as an approved betting contingency for its licensed sports bookmakers. This is the manner which enables Lottoland, a Northern Territory licensed sports bookmaker, to offer its services to Australian customers.

Despite being licensed, a secondary lottery operator is not permitted to provide its products to customers located in South Australia due to an express prohibition in the *Lottery and Gaming Act 1936* (SA) against the provision and advertising of products involving betting on the outcome of lotteries.

*Other legal considerations*

Like other gambling operators in Australia, secondary lottery operators will be subject to:

- Australian taxes, including the wagering tax imposed by the relevant regulator and the point of consumption tax in effect in South Australia, and likely to be rolled out Australia-wide.[1]
- advertising codes, in particular the Association of Australian National Advertisers Code of Practice for Wagering Advertising and Marketing.[2]

**What are the risks?**

*Tatts Challenge*

Since Lottoland entered the Australian gambling market in 2016, the conduct of secondary lotteries has been subject to considerable scrutiny by both Tatts Group Ltd (Australia's publicly listed monopolist lottery operator) and newsagents, whose business is reliant upon revenue derived from the sale of lottery tickets.

Despite speculation that the provision of secondary lotteries would be the subject of a direct challenge by Tatts, no such claim has been brought to date.

However, the risks of conducting a secondary lottery in Australia were highlighted in the intellectual property infringement claim brought by Tatts against Lottoland in August 2016, which was settled in December 2016.

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[1] For more information on how the "point of consumption" tax might affect your business, please refer to our article entitled *"Pay Where You Play: Introduction in Australia of a Point of Consumption Tax for Wagering Operators*".
[2] For more information regarding how this Code may apply to you, please refer to our article entitled "*AANA Wagering Code Decisions – Trends in Complaints and Enforcement*" in the Gambling Law & Regulation Newsletter, January 2017.

Tatts claimed that Lottoland had infringed intellectual property rights held by Tatts in its branding and content developed in association with the lotteries it conducts throughout Australia.

The terms of the orders made by the Federal Court of Australia recognised the significant distinction between the business models of Lottoland (a betting operator) and Tatts (a lottery operator), and emphasised the need to highlight this distinction in the branding and promotion of secondary lotteries in Australia.

*Regulatory Creep*

There is no doubt that the conduct of secondary lotteries by Australian licensed operators will be subject to regulatory overview. From a PR perspective, concern surrounding the conduct of secondary lotteries (and particularly the activities of Lottoland) focussed most recently on the effect of secondary lotteries on the livelihood of newsagents, and link Lottoland to a decline in State lottery revenue.

In January 2017, Senator Pauline Hanson, the leader of the One Nation party, introduced in the Australian Federal Senate a proposal to amend to *the Interactive Gambling Amendment Bill* 2016 to ban betting on the outcome of lotteries (and other variant products) in Australia. While Senators from other parties indicated their support in principle for the proposed amendment, with the suggestion that the issue be revisited in the future and a comment by Senator Xenophon (the anti-gambling activist senator) that he would support a private members bill to this effect, the amendment was ultimately rejected by Parliament in this instance.

We anticipate that the legality of secondary lotteries will be revisited in the course of debate in Australian Parliaments in the near future.

**The future of secondary lotteries**

Although it has encountered some hurdles along the way, Lottoland has been immensely successful in the Australian market. Most recently, it announced a deal with William Hill Australia, which will allow customers to bet on lottery results through William Hill's Australian website.

While the risks of regulatory creep loom large, interest in secondary lotteries from both customers and competitors has not waned.

# Pay where you play: Introduction in Australia of a point of consumption tax for wagering operators

Authors: Jamie Nettleton and Shanna Protic Dib

## Overview

Since 1 July 2017, betting operators that provide betting services to persons in South Australia have been liable to pay a point of consumption tax (**POC Tax**).

The POC Tax was introduced by an amendment to the *Authorised Betting Operations Act 2000* (SA) (**the Act**) to provide a framework for regulating the payment of tax by betting operators on revenue generated from persons located in South Australia. This tax is in addition to other taxes and fees payable by the betting operator.

*What is the point of Consumption Tax?*

A betting operator is liable to pay the POC Tax on revenue generated from bets placed in South Australia. The POC Tax is payable at a rate of 15% of the amount of net State wagering revenue in excess of $150,000 (GST inclusive).

The *net State wagering revenue* of a betting operator is the total amount of all bets made by persons located in South Australia with the betting operator (his amount includes any fees, commission or other amounts associated with making the bet or using the service) ***less*** the total amount of all winnings paid (or payable) to customers in South Australia.

The POC Tax will apply to *all* bets placed in South Australia. This includes bets placed on horse, harness and greyhound racing, sporting events such as football or cricket, or any other bet placed such as on the outcome of the Academy Awards.[1]

*Who is a betting operator for the purposes of the Act?*

A betting operator that is liable to pay the POC Tax will include:

1. a betting operator that is licensed in Australia, and registers under the Act as an "authorised betting operator".
2. any other person who earns revenue as a result of accepting bets from persons located in South Australia.

*Payment of Tax*

A betting operator that is considered liable for payment of the POC Tax under the Act must register with the Independent Gambling Authority (the **Authority**) in accordance with the *Authorised Betting Operations Regulations 2016* (the **Regulations**).

The Regulations distinguish between the obligations of licensed bookmakers and all other betting operators in respect of the procedure that a betting operator must follow for the payment of the POC Tax.[2]

A licensed bookmaker (being a bookmaker licensed in South Australia) with a *net State wagering revenue* in South Australia in excess of $150,000 for the financial year is required to lodge a return and make tax payments annually, within 21 days after the end of the financial year. All other betting operators are required to lodge a return and make tax payments, within 21 days after the end of the month.

For those betting operators liable to make monthly tax payments, the first POC Tax payment must be made within 21 days after the end of the month in which the betting operator's *net State wagering revenue* for that financial year exceeds $150,000. A betting operator must make aggregate payments for each subsequent month. However, tax is

[1] Under South Australian law, only certain categories of bets may be made by persons resident in South Australia, for example Racing, Soccer, Cricket Events, Elections and the Academy Awards.
[2] For further information, please see: https://www.legislation.sa.gov.au/LZ/C/A/AUTHORISED%20BETTING%20OPERATIONS%20ACT%202000.aspx.

payable only in the subsequent months when there is a net gain in a betting operator's *net State wagering revenue.*

*Enforcement*

In the event a betting operator fails to comply with the POC Tax obligations, the Authority may take enforcement action at its discretion. Under the Act, the Authority may (among other things) censure the operator, impose a maximum fine of $100,000 on the operator, vary, suspend or cancel the operator's licence, or prohibit the betting operator's service in South Australia for any period of time.[3]

*What next?*

South Australia is the first jurisdiction in Australia to introduce a POC Tax.

It is not surprising that many Australian interstate betting operators do not agree with the introduction of the POC Tax, and have taken the view that the introduction of the POC Tax punishes South Australian customers. In response, many betting operators have indicated an intention to dilute, or even in some cases cease, the provision of their services in South Australia.

For example, Sportsbet and CrownBet have reduced their promotion of South Australian racing to decrease the amount of revenue generated from bets placed in South Australia.

However, the South Australian Government has defended its position, indicating that the POC Tax has been introduced in an attempt to support harm minimisation efforts, as well as national consumer protection. The Act stipulates that the Commissioner of State Taxation in South Australia will contribute an amount of $500,000 of the government's taxation revenue collected from the POC Tax into the Gamblers Rehabilitation Fund each financial year.

Victoria, New South Wales and Western Australia have expressed their support of South Australia's POC Tax, with each government contemplating expressly the implementation of a POC Tax framework similar to that imposed in South Australia. In particular, the Western Australian Government has stated that their efforts to implement a POC Tax are intended to stop betting providers from shifting their taxation liabilities to jurisdictions with lower tax obligations, and allow revenue to be distributed to jurisdictions in which bets are placed.

After the Senate approved various amendments to the *Interactive Gambling Amendment Bill* 2016 (Cth)[4], Treasurer Scott Morrison met with representatives from each State and Territory in March 2017 to discuss a nationally consistent approach to a POC Tax for online gambling. The Federal Government has indicated that agreement has been reached among the State and Territory Governments to begin preparing a proposal for a national framework for online gambling taxes. Even though the Federal Government has stated that the South Australian framework will provide a basis which the Federal Government may use to develop and implement a national POC Tax, further consideration of the policy framework is taking place with the State and Territory Governments following which they are likely to consult with the Federal Government.

[3] For further information, please see: https://www.legislation.sa.gov.au/LZ/C/A/AUTHORISED%20BETTING%20OPERATIONS%20ACT%202000.aspx.
[4] For further information, please see our focus paper on the Interactive *Gambling Amendment Bill 2016* (Cth): Update on the Australian Interactive Gambling Amendment Bill 2016 – What Happens Now and What Does it Mean for Offshore Online Gambling Operators Looking to Australia?

# The National Consumer Protection Framework: An analysis of the regulatory impact statement and its effect on Australian online wagering

Authors: Jamie Nettleton and Mia Corbett

## Overview

In April 2016, the Australian Federal Government proposed to introduce a National Consumer Protection Framework relating to online wagering (**NCPF**) in accordance with the recommendations of the 2015 Review of Illegal Offshore Wagering (**O'Farrell Review**). Australia does not currently have a nationally consistent consumer protection framework in place which relates specifically to online wagering. Instead, consumer protection relating to wagering which addresses harm minimisation issues in Australia is regulated differently in each State and Territory. This causes difficulties for Australian licensed wagering operators conducting business on a national basis.

## Background

On 25 November 2016, and 27 April 2017 (**April Meeting**), the Ministers of all Australian states and territories met to consider the measures to be included in the NCPF. Addisons outlined these measures in our Focus Papers; *"A National Consumer Protection Framework for Australian Online Licensed Wagering Operators: Proposed Changes*"[1] , and *"Australia – Release of Report on Illegal Offshore Wagering – Another Missed Opportunity for Reform of Australia's Prohibitions on Online Gambling?"*[2] .

## The Consultation Paper

Following the April Meeting, the Federal Department of Social Services released a Consultation Regulation Impact Statement (**RIS**)[3] which outlines the proposed options for addressing nine of the eleven measures that the state and territory ministers agreed will form part of the NCPF.

The RIS proposes multiple options for the implementation of each of the proposed measures which are outlined in the Schedule to this Focus Paper. The options range from a continuance of the current regime, to the full implementation of regulations on a consistent national basis. These regulations will impact principally on Australian licensed wagering operators, who will bear the costs for the implementation of the NCPF. Those measures which are most onerous are likely to be subject to a transitional period.

At this stage, it is not clear if these measures will be introduced by federal legislation.[4] However, it is the Government's objective that these measures be introduced in each state and territory.

The establishment of a national regulator is not proposed by the RIS. Also unclear is the extent to which these measures will incorporate the existing regulatory framework.

## Who will be affected?

The RIS proposes that the NCPF will apply only to licensed wagering operators, including to the extent that those operators offer telephone betting services.[5] Under the proposed model NCPF set out in the RIS, operators who offer land based wagering services which

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[1] http://www.addisonslawyers.com.au/knowledge/assetdoc/64d9c2c6ba51c2de/2023180_1%20Gambling%20Law%20&%20Regulation%20January%202017.pdf.

[2] http://www.addisonslawyers.com.au/knowledge/assetdoc/821875d2bb2fa7f0/1796775_1%20Australia%20%E2%80%93%20Release%20of%20Report%20on%20Illegal%20Offshore%20Wagering.pdf.

[3] The full text of the RIS is available at: https://engage.dss.gov.au/illegal-offshore-wagering-consultation-regulation-impact-statement/illegal-offshore-wagering-consultation-regulation-impact-statement-consultation-paper/.

[4] It is proposed that measures 3 and 9 listed in the Schedule to this Focus Paper will be implemented by the *Interactive Gambling Amendment Bill 2016* currently before the Senate.

[5] The RIS includes "telephone betting" in the definition of online gambling.

incorporate services provided online, for example, via terminals in retail betting shops, pubs, clubs and hotels, will be exempt from the NCPF.

**Other Changes**

The RIS suggests that a separate process will be implemented by the Federal Government to address advertising restrictions during the broadcasting of live sporting events. The Government has announced that these measures will be introduced as part of the media reform package announced by the Minister for Communication on 6 May 2017.[6]

As part of the announcement relating to the RIS, it is proposed that a nationwide gambling research project be undertaken to assist with the development and evaluation of informed policy responses to gambling and its impact in Australia. It is intended that this project will be conducted under a partnership agreement between the States and Territories. On 14 July 2017, the Federal Minister for Human Services and Victorian Minister for Consumer Affairs, Gaming and Liquor Regulation announced a jointly funded $300,000 research investment to analyse wagering industry data for the purpose of developing a predictive algorithm that can detect people displaying harmful betting patterns. The project will be managed by the Victorian Responsible Gambling Foundation.

The Federal Government also renewed its commitment to Gambling Research Australia, a separate initiative, on 1 July 2017.

**Timeline for Implementation**

Following the consideration of submissions, it is likely the Ministers will consider the preferred option for each measure under the national framework at a meeting to take place in September 2017.

If you would like information about how the NCPF may affect your business, please contact a member of Addisons Media and Gaming team.

[6] The effect of the Government's media reform package on wagering advertising is addressed in our Focus Paper: *The Odds are in Favour of Prohibiting Gambling Advertisements During Live Sports Broadcasts*.

**SCHEDULE**

| | *MEASURE* | *OPTION 1* | *OPTION 2* | *OPTION 3* | *OPTION 4* |
|---|---|---|---|---|---|
| 1 | National self-exclusion register | No changes to current regulatory regime | A standardised approach for providing self-exclusion options across all jurisdictions | Establishment of a national self-exclusion register | N/A |
| 2 | Voluntary opt-out pre-commitment scheme | No changes to current regulatory regime | A standardised approach for providing a voluntary opt-out pre-commitment scheme | A voluntary opt-out pre-commitment scheme offered through a centralised system | N/A |
| 3 | Prohibition of lines of credit offered by wagering providers | No changes to current regulatory regime | A ban on lines of credit, with an exemption for on-course bookmakers; transitional arrangements | A ban on lines of credit, with exemptions for VIP and professional punters and on course bookmakers; transitional arrangements | A ban on lines of credit for all customers; transitional arrangements |
| 4 | Harmonised regime for offering inducements to participate in gambling activities | No changes to current regulatory regime | Ban on sign-up offers; a revised definition of inducements; requirement to opt-in to receive inducement offers | Prohibition on offering all inducements | N/A |
| 5 | Requirement to provide activity statements | No changes to current regulatory regime | A standardised approach to providing activity statements to customers | Standardised activity statements from a centralised system | N/A |
| 6 | Consistent responsible gambling messaging and counselling services | No changes to current regulatory regime | Consistent generic messaging | Consistent generic messaging and dynamic messaging (specific to a customer's gambling activity) | N/A |
| 7 | Staff training | No changes to current regulatory regime | Prescribed learning objectives | Mandatory approved program | N/A |
| 8 | Reducing the 90 day verification period | No changes to current regulatory regime | Reduction to a 21 day timeframe | Reduction to a 14 day to 72 hour timeframe | Mandatory verification prior to any wagering activity |
| 9 | Prohibition of links between online wagering operators and payday lenders | No changes to current regulatory regime | No advertising, referral or provider of customer information to SACC providers | A harmonised approach to prohibition including prohibition on payday lenders to loan money for online wagering purposes | N/A |