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Licensed Broadcasting

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Submission to the review of issues related to Commonwealth interactive gambling regulation

This is a brief submission in relation to the above enquiry from the Convergent Communications Research Group, a cross disciplinary research team based at the University of Adelaide. We are aware that there have been numerous state and federal government enquiries into issues related to interactive gaming that have discussed many of the questions raised by the review in great detail. This submission limits itself to stressing a few key points.

Introductory comments

On the basis of anecdotal evidence¹ and some but not all surveys,² online gambling does seem to be a growing social problem. Prohibition in this field is not currently working and probably could never be completely effective. However regulation (even with a “player protection” orientation) may be seen as an endorsement of an unwanted activity. This is a key dilemma, but the government must make some choice even if that choice is the lesser of a number of evils.

¹ at a forum on Internet gambling held on 26 March 2003 held as part of “Problem Gambling Awareness Week” in Adelaide, Paul Bellringer from Gamcare in the UK reported a very rapid rise in people reporting with internet gambling problems in the UK over the last 12 months

² eg some studies have shown a steady rise in internet gambling since the introduction of the ban, with varying numbers of punters reported, up to one estimate from Accenture of 2.1 million – as reported in Katrine Nicholas, “Gambling ban fails to stop online punters”, The Australian Financial Review Weekend April 6-7 2002 p14. However other (admittedly earlier) surveys have indicated that less than 2% of Australians on line use the net for gambling, and 94% of all Australians have no interest in trying: see “Internet gambling, don’t fence us in” 5 elawpractice magazine (August 2001) 22 at 24

General comments about the Act

The current *Interactive Gambling Act 2001*:

- is arguably even less effective and less used (based on the low numbers of complaints to the ABA as reported in the briefing paper) than the present internet censorship controls (*Broadcasting Services Amendment (Online Services) Act 1999*). It provides no real control of interactive gambling sites operating from offshore locations via the internet. The key problems are obviously jurisdictional, but the filtering lists that are the current system's only real response to off shore sites are rarely adopted by users (and presumably even less commonly adopted by the problem gamblers whom they might otherwise "assist");
- contains significant cutouts for existing betting activities³ that are hard to reconcile (on in-principle grounds as opposed to protection of pre-existing vested interests). Indeed we note that some other submissions to this enquiry are advocating further relaxation of some of those cutouts, for example to permit real time sports betting after commencement of a fixture;⁴
- has been criticised by many as being hypocritical in its coverage (banning supply of services from Australia to Australians, but not to others unless a reciprocal/recognised regulatory regime is in place), a criticism that seems warranted to us.

Finally, we query whether, if there is to be regulation of this area, the ABA is the appropriate body to be responsible for administering it. It would seem that in the short term it has been shoe-horned into handling complaints about such services because the government adopted a prohibitory model very similar to that deployed in relation to internet censorship under the Broadcasting Services Act.

Comments on the feasibility of blocking access

ISP level blocking may be easier in this field than in the area of censorship, due in part to the relatively smaller number of gambling sites, which are mostly professional,⁵ and have a need for payment processing. CSIRO has of course issued a

³ Eg in particular (but not limited to) the exclusions for: wagering services including betting on a horse race, harness race, greyhound race or sporting event, or any other event, series of events or contingency, where the bet is placed prior to the event commencing; excluded lottery services; excluded gaming services provided to customers in a public place; and services that have a designated broadcasting or datacasting link

⁴ Eg The TAB submission to permit "In-The-Run" wagering options

⁵ Although apparently there are a number of "free" gambling services that may pose a problem if they inculcate gambling behaviour particularly in younger users.

number of reports on this and related topics.⁶ However, ISP level blocking would impose significant costs, may make small Australian ISPs even less viable than they already are (due to increased compliance costs), and represents a considerable intrusion on individual freedom which might be characterised by some as constituting inappropriate “nanny state” behaviour, or as paving the way for future and more pernicious use of such blocking techniques. Further, ISP level blocking is not bullet proof as there are many routes around it at a technical level.

Comments on the feasibility of payment blocking

Blocking payment options (eg blocking credit card processing) for net gambling are not easy given the international payments clearance processes and other legal issues. As the DCITA paper indicates, the issues are complex and there is a danger of controls being ineffective or having unintended side effects. No doubt the government is already aware of the recent US General Accounting Office report of December 2002 “Internet Gambling: An Overview of the Issues” GAO-03-89⁷ which outlines in more detail some of the issues connected with payment blocking. There would also be many potential routes around payment blocking as service providers generated or took advantage of other payment schemes that evaded its reach (cf all the technical routes around ISP level blocking).

Prohibition vs Regulation (and the limitations of Player Protection)

However, despite the above comments indicating the difficulties with access or payment blocking, if this area is perceived to be enough of a problem,⁸ then perhaps a series of controls aimed at degrading the ability of the bulk of the population to reach such sites or blocking normal payment methods might be justifiable.

If a regulatory⁹ rather than the current prohibitory approach is taken, then the nature of likely activity by inveterate gamblers needs to be taken into account in the design of player protection strategies. The potential benefits of technology for consumer protection mechanisms are easily oversold and the worth of these mechanisms would need to be realistically evaluated from the perspective of a problem gambler looking

⁶ See eg CSIRO powerpoint “Blocking Gambling on the Internet” by Paul Greenfield, CSIRO Mathematical and Information Sciences (available at www.noie.gov.au/projects/confidence/Archive/gambling/block/Internet%20Blocking.PPT). See also on the topic of filtering and blocking and techniques of evasion more generally the other CSIRO reports: “Access Prevention Techniques for Internet Content Filtering prepared for the National Office for the Information Economy” (available at <http://www.noie.gov.au/publications/NOIE/consumer/CSIROfinalreport.html>); and “Effectiveness of Internet Filtering Software Products” – a more recent report prepared for NetAlert and the ABA (available at <http://www.aba.gov.au/internet/research/filtering/index.htm>)

⁷ available at <http://www.gao.gov/new.items/d0389.pdf>

⁸ which in our view would require further research to determine and we note that the DCITA submission indicates that further “analysis of the incidence of problem” is required

⁹ Eg along the lines advocated for example in the late 1990s by State Government Gambling Ministers.

to ignore or circumvent such mechanisms to enable them to access such services at will without restriction.

Most of the benefits of such strategies commonly advocated by those with a pro-regulatory stance are illusory. For example, provision for timeouts on gamblers accessing accounts would easily be circumvented by multiple personalities or the use of multiple providers; and on-screen warning signs would be clicked through by a gambler with no regard to their content. Effective control of underage betters, another prospect offered up by proponents of a regulated player protection system, is also much more problematic in practice than touted as there are no truly secure age verification measures available.

Convergent Services – delivery of interactive gambling using new services and platforms

Other things that need to be taken into account include: delivery of such services not just to PCs but also to mobile phones¹⁰ and other wireless devices, and the use of such devices as payment methods. Any additional regulation would obviously need to attempt to pay due regard to these technological developments. There may, however, be significant differences between the potential impact of different modes of interactive gambling that may make some more potentially pernicious than others and so require a more tailored than simply “technology neutral” response.

Other problems for the future

As a possible example of a second-generation problem that may require a differential rather than technology neutral response, consider the need to deal with enhanced ‘immersion’ problems that may emerge from virtual reality or augmented reality technologies, leading to a greater level of addiction or separation from reality on the part of gamblers. There is already anecdotal evidence¹¹ that some players experience

¹⁰ Gambling services over mobile links are already on offer in many jurisdictions. Note also the emergence of lobby groups such as the European based Mobile Entertainment Forum, which has specifically targeted gambling regulations as an area for focus: “Driving the development of sensible rules that protect consumers of all ages whilst ensuring commercial success is key to the industry's growth and innovation. Mobile services' regulation suffers from a degree of confusion, with multiple regulations, laws, rules and agencies involved, giving rise to overlapping or conflicting mandates. In the past, the industry has not driven the process of regulation and the results have not always provided the most satisfactory environment for business. In response, the MEF's regulatory initiative is intended as a tool for the mobile entertainment community to provide direct input into progressing and streamlining industry guidelines and regulation” (available at <http://www.mobileentertainmentforum.org/activities-initiatives.html>). These MEF comments are restated here to reinforce the complexity of the area as well as the growing breadth of industry groups looking to lobby to enable interactive gaming services

¹¹ Comments by Paul Bellringer from Gamcare (UK) at a forum on Internet gambling held on 26 March 2003 held as part of “Problem Gambling Awareness Week” in Adelaide

a higher level of immersion in the gaming experience even when using existing PCs (as opposed to more conventional poker machines).

Gambling - a social problem that requires proper research and primarily social & educational responses

A number of issues raised above and elsewhere (in previous reports and in current submissions) cry out for additional research and literature reviews to provide a proper basis for framing responses. This process of review will need to be ongoing as the technologies, services and payment methods continue to evolve.

Finally, our view is that these problems are essentially social problems that require dealing at that level and will never be sufficiently dealt with if approached simply at a legal or technical level (ie through new laws or blocking of computer access). Attempting to tackle these social issues, through education and other means, is of course, complex and will not provide a quick fix or complete solution. However it is ultimately the best line of defence.

It is critical that existing programs aimed at tackling problem gambling generally are given additional resources and adequately researched information to cope with this new twist to the problem and contribute to minimising or managing its future impact. Simply acting retrospectively to assist problem gamblers is insufficient – we must be concentrating on programs directed at minimising the future development of new problem gamblers.

Thank you for the opportunity to contribute this submission. We wish the government all the best in its contemplation of appropriate responses to this admittedly very difficult area.

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