

Mr Peter Tonagh  
Chair  
Australian Subscription Television and Radio Association (ASTRA)  
5 Thomas Holt Drive  
NORTH RYDE NSW 2113

Sportsbet Pty Ltd  
GPO Box 4755, Melbourne VIC 3001

ABN 87 088 326 612  
Tel +61 3 8631 6000 • Fax +61 3 9654 1999

c/o [admin@astra.org.au](mailto:admin@astra.org.au)

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Dear Mr Tonagh,

**RE: Review of the provisions relating to the broadcast of gambling and betting commercials and the promotion of odds in live sport in the Subscription Television Broadcasting and Narrowcasting Codes of Practice (the Codes)**

Thank you for the opportunity to provide a submission into the review of the provisions relating to the broadcast of gambling and betting commercials and the promotion of odds in live sport in the Subscription Television Broadcasting and Narrowcasting Codes of Practice (**Codes**).

Sportsbet recognises that this review has primarily been driven by the Australian Government's announcement in May this year, to introduce further restrictions on gambling advertising during live sports programs.<sup>1</sup>

Sportsbet strongly supports the Australian Government's gambling advertising reforms which are taken to include:

- Restrictions on gambling advertising during live sports programs during children's hours;
- A ban on gambling advertisements from five minutes before a live sports event commences, during the event and for five minutes after the event has concluded;
- The restrictions will apply between 5.00am and 8.30pm; and
- The Government intends that the new restrictions will be in effect by 30 March 2018, including platforms with well-established Codes of Practice such as Subscription Television Broadcasting and Narrowcasting.

**Sportsbet would also like to acknowledge the significant community support for reducing gambling advertising and the updated codes of practice need to reflect those expectations.**

Notwithstanding some incorrect perceptions that the volume of wagering advertising had led to an explosion in wagering and problem gambling, Sportsbet and the industry witnessed a clear and growing response from the community that the level of wagering advertising and its visibility to minors was too great.

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<sup>1</sup> Minister for Communications, Media Release, Major reforms to support Australian Broadcasters, 6 May 2017: <http://www.mitchfield.com/Media/MediaReleases/tabid/70/articleType/ArticleView/articleId/1352/Major-reforms-to-support-Australian-broadcasters.aspx>  
Australian Government, Department of Communications and the Arts, Fact Sheet: Gambling Advertising, 2017: [https://www.communications.gov.au/sites/g/files/net301/f/factsheet\\_gambling\\_advertising.pdf](https://www.communications.gov.au/sites/g/files/net301/f/factsheet_gambling_advertising.pdf)

Sportsbet therefore recognised the need to work alongside the Australian Government and took a lead role to reduce the volume of wagering advertising and visibility of wagering advertising by minors. We expect the reforms, if properly complied with, will go a long way in addressing community and Government expectations.

To this end, Sportsbet believes there are parts of the Codes that could be amended to better reflect the Australian Government's stated objectives. Sportsbet therefore recommends:

**1. REMOVING THE PROPOSED EXEMPTION FOR BETTING ADVERTISING DURING LONG FORM LIVE SPORTING EVENTS (CLAUSE 3)**

Clause 3 proposes to add an exemption to the Codes that *"does not prevent Betting Advertising during a Long Form Live Sporting Event"*. The exemption would allow one commercial to be shown in any two hours, in scheduled and unscheduled breaks.

Sportsbet does not support this exemption and believes the proposed carve-out to allow betting advertising in long form sporting events is inconsistent with the Australian Government's intent to *"provide a clear and practical zone for families and children to watch live sports"*.<sup>2</sup>

**2. REMOVING THE PROPOSED EXEMPTION FOR SUBSCRIPTION TV CHANNELS WITH VERY SMALL AUDIENCES**

Clause 14<sup>3</sup> proposes to add an exemption to the Codes *"that channels with average audience share of 0.5% or less should be exempt from the new restrictions"*.

Sportsbet does not support this exemption and believes the proposed carve-out for so-called small audience share channels is inconsistent with the Australian Government's intent to *"provide a clear and practical zone for families and children to watch live sports"*.<sup>4</sup>

Such proposals must take into consideration the impacts across other platforms. For example, Clause XVIII of the Commercial Television Industry Code of Practice's Proposed Gambling Provisions state:

*"To the extent that exemptions are granted or made in relation to other platforms, the same exemptions will be deemed to apply to licensees"*.<sup>5</sup>

A cursory analysis of average audience shares suggests that in 2016 ABC Me, an Australian children's public digital television multichannel owned by the Australian Broadcasting Corporation could fall into this category. Perversely, this would mean under the proposed exemption ABC Me would be exempt from restrictions on betting advertising during live sports. The central purpose of implementing the Government's stipulated position is to

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<sup>2</sup> Minister for Communications, Media Release, Major reforms to support Australian Broadcasters, 6 May 2017: <http://www.mitchfield.com/Media/MediaReleases/tabid/70/articleType/ArticleView/articleId/1352/Major-reforms-to-support-Australian-broadcasters.aspx>

<sup>3</sup> Also cited as Clause (11) in Part B: Detailed Explanatory Notes on the Gambling Provisions

<sup>4</sup> Minister for Communications, Media Release, Major reforms to support Australian Broadcasters, 6 May 2017: <http://www.mitchfield.com/Media/MediaReleases/tabid/70/articleType/ArticleView/articleId/1352/Major-reforms-to-support-Australian-broadcasters.aspx>

<sup>5</sup> Refer: Part B – Proposed Gambling Provisions, Appendix 3: Restrictions on Promotions of Odds and Commercials relating to Betting and Gambling which are broadcast during a Live Sporting Event, Clause XVIII, pg.9.

provide a clear zone for families and children to watch live sports regardless of the popularity of their viewing preferences.

### 3. PROPOSED EXEMPTIONS FOR LIMITED LOCATIONS, LIMITED AUDIENCES AND VARIOUS COMMERCIAL PREMISES

Clause 16(c)<sup>6</sup> proposes to provide a range of carve-outs for limited locations, limited audiences and various commercial premises.

Sportsbet is concerned that these carve-outs could lead to unintended consequences and therefore recommends further consideration by the Australian Communications and Media Authority (ACMA). One of the possible unintended consequences that ACMA should have regard to in the drafting is that children will still have a level of access to certain Subscription Narrowcasting Services, in particular hotels.

### 4. TIGHTENING THE DEFINITION OF BETTING ADVERTISING<sup>7</sup>

The Codes propose to clarify the definition of *Betting Advertising* to make it clear that it does NOT include, for example:

- Fantasy sports betting products; and
- Entertainment or dining facilities at places where betting or gambling take place.

These exceptions are entirely inconsistent with the Australian Government's intent to "*provide a clear and practical zone for families and children to watch live sports*".<sup>8</sup>

Our significant concerns with these proposed carve-outs are, among others, that:

- Fantasy sports that are run by gambling operators provides those operators with an ability to advertise their brands. Further, fantasy sports can involve a player wagering a stake against other players by contributing to a pool of money that is paid out to the winner; and
- Some gambling operators offer products such as rewards and loyalty programs that are integrated with casinos and other entertainment complexes, which makes commercials relating to entertainment and dining facilities effectively a gambling operator brand advertisement.

It is imperative that the definition of *Betting Advertising* be amended by removing exemptions relating to fantasy sports betting products and entertainment/dining facilities where betting or gambling take place as absent that it would simply result in these forms of gambling advertising being heavily and immediately substituted from the commencement date of the updated Codes which is contrary to community expectations and the Government's announcement in May 2017.

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<sup>6</sup> Also cited as Clause 13(c) in Part B: Detailed Explanatory Notes on the Gambling Provisions

<sup>7</sup> There appears to be an error in the Subscription TV Code where the explanatory note cites a "sports tipping" carve-out but the actual amendment to the definition of a "Betting Advertisement" doesn't. If a carve-out is intended, then Sportsbet does not support such an exemption for sports tipping competitions.

<sup>8</sup> Minister for Communications, Media Release, Major reforms to support Australian Broadcasters, 6 May 2017: <http://www.mitchfield.com/Media/MediaReleases/tabid/70/articleType/ArticleView/articleId/1352/Major-reforms-to-support-Australian-broadcasters.aspx>

## 5. TIGHTENING THE DEFINITION OF INCIDENTAL ACCOMPANIMENT

The Codes propose to expand the definition of *Incidental Accompaniment* to include “*the official sponsors of the competition, event, match, team*”. Sponsorship statements essentially have the same effect as a betting or gambling commercial and have increased prominence when they are placed within the program itself and outside of a commercial break. Sportsbet opposes this carve-out and recommends the definition of *Incidental Accompaniment* remove the reference to “*official sponsors of the competition, event, match, team*”.

Sportsbet also observes some slight differences in the examples listed concerning the definition of “Play” between the Subscription Television Broadcasting and Narrowcasting Codes, Commercial Radio Code and Commercial Television Code. Sportsbet would support a common definition applying across all platforms.

As you are aware, concurrent consultations are occurring to implement the Australian Government’s gambling advertising reforms across other platforms including the Online Content Services Bill 2017 (**Online Bill**).

Importantly, the Online Bill provides the Communications Minister with new powers to direct ACMA to apply these gambling advertising reforms in full and on-time should “*existing broadcast industry codes of practice not be amended through the normal code-making processes*”.

Sportsbet supports this provision which provides the Australian Government with an important safety-net that ensures the proposed gambling advertising restrictions are implemented as intended and are consistent with community expectations.

By way of background, Sportsbet is the leading online wagering provider in Australia accounting for 24 per cent of Australia’s online wagering market.<sup>9</sup> We are an industry-leading digital e-commerce business with over two million Australian customers and 714 employees.

Sportsbet is a proud member of Responsible Wagering Australia (RWA), the independent peak body for the Australian online wagering industry. The RWA has also lodged a submission on the Codes and accordingly, Sportsbet strongly supports the RWA’s submission and we support their recommendations in full.

If you have any questions or need any further information, please do not hesitate to contact me on 0412 094 069 or [ben.sleep@sportsbet.com.au](mailto:ben.sleep@sportsbet.com.au).

Yours faithfully,



Ben Sleep  
Chief Financial Officer and Regulatory Affairs Director, Sportsbet

CC:  
Senator the Hon Mitch Fifield, Minister for Communications

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<sup>9</sup> Based on the percentage of gross win.