

Victorian Inter-Church Gambling Taskforce



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ASTRA Code Review
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Submission to the review of ASTRA's review of the provisions relating to the broadcast of gambling and betting commercials and the promotion of live odds in live sport in the ASTRA Code of Practice

The Victorian Inter Church Gambling Taskforce and the Alliance for Gambling Reform welcome this opportunity to provide comments on the proposed amendments to the Subscription Television Broadcasting and Narrowcasting Codes of Practice in relation to gambling and betting commercials during the telecast of sporting events in Australia. The submitting bodies have been concerned by the growing level of gambling advertising on free-to-air television and sees it as contributing to the prevalence of gambling harm associated with sports betting.

Viewers who choose to bet on live sports broadcasts can access betting outlets without exposing others, especially children and other vulnerable groups such as young men and others who have been harmed by addiction. People experiencing harm from gambling are being deprived of the opportunity to watch live sports broadcasts without the fear of temptation to gamble, because of the exposure to gambling advertising.

The Code and the statutory context in which it operates

Gambling advertising is currently regulated via broadcast industry codes of practice, the *Interactive Gambling Act 2001* (Cth), a range of State and Territory regulations, and via the self-regulatory framework for advertising established by the Australian Association of National Advertisers. Comparatively, there are few regulatory requirements on commercial radio and subscription television (largely limited to the promotion of betting odds during live sports events), and none on competing online services such as Telstra TV.

The submitting bodies note that Commercial Radio Australia and Free TV are looking to introduce similar restrictions on gambling advertisements similar to that of the ASTRA amendments. However, the submitting bodies believe in order to ensure a clear regulatory framework and level playing field between various forms of media, the Commonwealth Government should put in place legislation to enforce an overarching set of gambling promotion restrictions on broadcasting services. In light of this, the submitting bodies tentatively support certain amendments outlined in the current *Communications Legislation Amendment (Online Content Services and other Measures) Bill 2017* (Cth) which go some way to achieving this.

Further, there seems to be a styling issue with the way in which Appendix A has been drafted. Throughout the document there are inconsistencies with headings being given a corresponding clause number. For example, the first heading, entitled '*Betting Advertising during a Live Sporting Event*', is not numbered, while the heading *Betting Advertising – Long Form Live Sporting Events* has been numbered as Clause 3. While this may seem like a

minor styling issue, it does create ambiguity with regards to the interpretation of some of the clauses, especially clauses that provide exemptions to XX. Take Clause 6 as an example, which states that “Clause 3 applies to each sporting even or game in a Long Form Live Sporting Event...”. Because the sections have continued numbering (i.e. Clauses 4 and 5), it is unclear what is meant in Clause 5 when referring Clause 3. The submitting bodies recommend that Appendix A be re-drafted in order to remove the ambiguity around the numbering of the clauses.

The overall purpose of the Code: A lack of focus on other vulnerable groups affected by gambling advertising

The submitting bodies welcome amendments to the Code that will ban gambling commercials five minutes before and after play is scheduled to start for a live sporting event in Australia. However, the submitting bodies believe the restriction should start from the time the broadcast starts from the sporting facility, so if the broadcast starts half an hour from the ground before the event starts the ban on gambling advertising should start from then.

Further, the submitting bodies are concerned about the decision of ASTRA (and other media industry groups) to allow gambling advertisements during live sporting events between 8:30pm and 5:00am. The policy motive for this is because the above timeslot is said to be when children will unlikely be watching live sporting events.

Therefore, the overall purpose for the amendments seem only to focus on protecting children from the effects of gambling advertising during live sporting events. While the protection of children from such advertisements is certainly a community concern, it is not the only concern that many in the community feel about this issue. Many within the community would like to see an outright ban on gambling advertisements as they see it as also affecting people who are vulnerable to the effects of gambling advertising.

Various studies have highlighted a growing culture of gambling, particularly amongst young adult males who are also disproportionately at risk of gambling harm.¹ Furthermore, studies have shown that, amongst people harmed by their gambling, gambling advertising increased their already high participation in gambling and made it harder for them to commit to reducing or abstaining from gambling.²

The submitting bodies note that in order to register an industry groups code of practice, the ACMA must be satisfied the code reflects appropriate community standards.³ The submitting bodies are concerned that by only focusing on the harmful effects of gambling advertising on children, ASTRA is failing to reflect appropriate community standards in the Code.

¹ Thomas, S., Lewis, S., McLeod, C., & Haycock, J. (2012b). 'They are working every angle'. A qualitative study of Australian adults' attitudes towards, and interactions with, gambling industry marketing strategies. *International Gambling Studies*, 12(1), 111-127; Delfabbro, P. (2012). *Australasian gambling review* (5th ed.). Adelaide: Independent Gambling Authority.; Williams, R., West, B., & Simpson, R. (2012). *Prevention of problem gambling: A comprehensive review of the evidence and identified best practices*. Ontario: Ontario Problem Gambling Research Centre; Deans E. G., Thomas S. L., Daude M. & Derevensky J. (2017), 'The influence of marketing on the sports betting attitudes and consumption behaviours of young men: implications for harm reduction and prevention strategies', *Harm Reduction Journal* 14, 5; and Deans E. G., Thomas S. L., Daude M., Derevensky J. (2016), 'The role of peer influences on the normalisation of sports wagering: A qualitative study of Australian men', *Addiction Research and Theory* 25(2), 103-113.

² Binde, P. (2009). Exploring the impact of gambling advertising: An interview study of problem gamblers. *International Journal of Mental Health and Addiction*, 7(4), 541-554;

³ Section 123(4)(b)(i), *Broadcasting Services Act 1992*

If subscription television operators were serious about allaying community concern relating to gambling advertising they would reflect this in the stated purpose of the Code. The submitting bodies are of the view that ASTRA should include an outright ban on gambling advertising during all live sports broadcasts. This is not a new concept. For example, in 2011 the Parliamentary Joint Select Committee on Gambling Reform recommended a total ban on the promotion of live odds, both at venues and during the broadcast of a sporting event. The Committee noted the concern in the community about gambling advertising (a Newspoll survey of 1,200 Australians found that 42% believed that giving live odds during sports coverage should be illegal).⁴

Recommendation 1

The ban on gambling advertising should start from the time the broadcast of the event starts or five minutes before the start of the sporting event, whichever is longer.

Recommendation 2

In order to reflect the community's concern about the harmful effects of gambling on children and other vulnerable groups, ASTRA should introduce a ban on all gambling advertising during live sports broadcasts, with a view to banning all wagering advertising on subscription television.

Children

The submitting bodies believe we all have a responsibility for our nation's children, to nurture a healthy approach to sport as both participants and spectators. We are concerned that gambling advertising by wagering corporations is promoting to our children the message that gambling is an integral and desirable part of sport.

We believe that gambling advertising is in fact 'grooming' Australian children to become the next generation of online gambling consumers, normalizing gambling on sports events as an integral part of the whole sporting experience with little protective messaging being delivered.

According to a 2005 Australian study for young people, early exposure to gambling increases the chances of engagement in harmful gambling in later life.⁵ One study has found that exposure to advertising has a significant impact on gambling behaviour among those aged 16-19 years as exposure to gambling advertising accounted for increases in gambling behaviour, including problematic gambling.⁶ Another study has shown that problem and pathological gambling in adolescence (and early adulthood) is fourfold higher when compared to adulthood.⁷

Children are being provided a distorted view about gambling when viewing live broadcasts as they do not have the capacity to understand the associated risks. Broadcasting of gambling advertising can entice children to participate in the gambling experience, even without financial outlay. Researchers argue that gambling is portrayed inaccurately in the

⁴ Crossman Communications, 'Australians say no to marketing by sports betting agencies', Media Release, <http://crossmancommunications.com.au/?p=772> (accessed 24 October 2011), as quoted by the Parliamentary Joint Select Committee on Gambling Reform's Inquiry - Interactive and online gambling and gambling advertising Interactive Gambling and Broadcasting Amendment (Online Transactions and Other Measures) Bill 2011 (second report)

⁵ M. Hume and G. Mort, 'Fun, Friend, or Foe: Youth Perceptions and Definitions of Online Gambling', *Social Marketing Quarterly*, **17**, **1**, (2011), 109-133.

⁶ Fried, B., Teichman, M., & Rahav, G. (2010). Adolescent gambling: Temperament, sense of coherence and exposure to advertising. *Addiction Research and Theory*, **18**, 586-598

⁷ M. Hume and G. Mort, 'Fun, Friend, or Foe: Youth Perceptions and Definitions of Online Gambling', *Social Marketing Quarterly*, **17**, **1**, (2011), 116.

media to the extent that it normalises gambling and fails to highlight the potential effects of harmful gambling. Since the results are not broadcast in the same manner – children are not necessarily seeing the balanced reinforcement of the gambler not always winning.⁸

In an Australian qualitative study (from a sample of 175 respondents aged 10-30) it was found the potential hazards and dangers of online gambling are overlooked, ignored and or naively underestimated by youth who gamble. The majority of this youth cohort clearly defines gambling as a game, as fun, and as social. Early game playing that offers reward and satisfaction is viewed as contributing to the gambling culture and the gratification cycle witnessed with excessive gamblers. Potential addiction, financial loss and negative social impacts are overlooked, unknown, or ignored in this group.⁹

Whilst the proposed amendments to the Subscription Television Industry Code of Practice are seen as a step in the right direction by the submitting bodies, they are inadequate to protect people being harmed by their gambling and, in particular, to protect children from the risks of being enculturated into gambling activities while watching sports broadcasts. The marketing around sports betting is deliberately designed to appeal to a broad range of consumer emotions and cognitions, in much the same way that tobacco packaging was said to work for tobacco companies. For example there is a heavy use of team colours and advertisements that are said to dramatise the emotional features of gambling – making a clear link to the experience of sport, the exotic sights and sounds of gambling, the anticipation of competition and the joy of winning.¹⁰

The submitting bodies believe that the current amendments will have limited impact in protecting children from gambling advertising. This is because many children will still be exposed to gambling promotions after 8:30pm, when the restriction on gambling advertisements will be relaxed. Many sports in Australia, especially AFL, the rugby codes, and cricket, do not finish until well after 10pm. For example, it is estimated 39,000 minors typically watch each live sports broadcast in Australia, and around 50,000 minors watch a Friday night NRL game. Further, AFL is one of the three most watched television programs by children under 14 years, with some televised sports attracting a larger audience of children than do dedicated children's programs.¹¹

Recommendation 3

Given how many children watch live sports events after 8:30pm, ASTRA should prohibit gambling advertising throughout live sporting events.

Exemption for Long Form Sporting Events

The submitting bodies oppose the exemption for gambling advertising for long form live sporting event, given the amount of children watching these events for long periods of time,

⁸ Derevensky, J., Sklar, A., Gupta, R., & Messerlian, C. (2010). An empirical study examining the impact of gambling advertisements on adolescent gambling attitudes and behaviours. *International Journal of Mental Health and Addiction*, 8(1), 21-34; Hing, N., Vitartas, P., & Lamont, M. (2013). Gambling sponsorship of sport: An exploratory study of links with gambling attitudes and intentions. *International Gambling Studies*, 13(3), 281-301; Hing, N., Vitartas, P., Lamont, M., & Fink, E. (2014b). Adolescent exposure to gambling promotions during televised sport: An exploratory study of links with gambling intentions. *International Gambling Studies*, 14(3), 374-393

⁹ M. Hume and G. Mort, 'Fun, Friend, or Foe: Youth Perceptions and Definitions of Online Gambling', *Social Marketing Quarterly*, 17, 1, (2011), 129.

¹⁰ McMullen, Dr John, Submission to the Joint Select Committee on Gambling Reform in Australia, 2011, Page 4

¹¹ ORC International, 'Marketing of Sports Betting and Racing: A study commissioned by Gambling Research Australia', May 2015, page 44

and that there is no apparent rationale for such an exemption other than the desire of the revenue from such advertising to the subscription television broadcasters.

The submitting bodies are particularly concerned about exposure of children to gambling advertising during sports such as cricket and sporting tournaments such as the Olympics and the Commonwealth Games. While such promotions only occur once during most long form sporting events, this combined with gambling advertisements within the field of play can lead to a saturation of gambling advertisements over a long period of time.

To use Rugby 7's, Rugby 10's and Rugby League 9's as an example, broadcasts for a tournament can be televised between 10am-8:30pm for full day's play on the east coast (or in Auckland for Rugby League 9's). This means that children may be exposed to the promotion of gambling during the telecast of the tournaments, as well as exposed to gambling advertisements on billboards within the field of play. Children could watch a promotion of gambling and also be exposed to gambling advertising within the field of play for lengthy periods of time.

This form of product saturation is best highlighted by a cricket match in 2014 after the tragic death of Philip Hughes. Memorials and tributes had been set up at the ground in his honour. One of these involved bats and caps lined up just behind the boundary rope. The camera repeatedly returned to this memorial during the match broadcast, frequently zooming in for close-ups, during which surrounding advertising for Bet365 (and the Commonwealth Bank) could clearly be seen.¹²

This exposure of gambling advertising to children during long form sporting events is particularly concerning given the amount of children who watch major tournaments such as the Olympics and the rugby tournaments. For example the NRL Auckland Nines were three out of the top five pay TV programs for month of February, rating between 181,000 – 200,000 people per telecast.¹³ It is estimated that around 1.4 million people participated in rugby league in 2015.¹⁴ Given that research has shown that adolescents are just as likely as adults to have watched professional sporting events in the last 12 months (84%),¹⁵ as well as what we know about the prevalence of children watching AFL and rugby league matches, it is not unreasonable to conclude that a large number of children would watch rugby tournaments such as the Auckland Nines and thus be exposed to gambling advertisements for long periods of the day.

Further, if such a tournament was played under the new amendments, children could be exposed to the promotion of live odds once throughout the day, plus possible hours of play which show gambling advertisements placed on the ground and in the stadium, as well as on commercials during scheduled breaks after 8:30pm. This can hardly be seen said to reflect community concerns about the exposure of Australian children to gambling advertising.

¹² See ORC International, 'Marketing of Sports Betting and Racing: A study commissioned by Gambling Research Australia', May 2015, page 84

¹³ OzTam data as quote in the article 'Glenn Dyer's TV ratings: a trashy start to the ratings season'. <https://www.crikey.com.au/2015/02/02/glenn-dyers-tv-ratings-a-trashy-start-to-the-ratings-season/> (accessed 18 December 2017)

¹⁴ National Rugby League, Annual Report, https://www.nrl.com/siteassets/documents/nrl-annual-report_2015.pdf (accessed 18 December 2017), page 90

¹⁵ Sproston, K. Hanley, C. Brook, K. Hing, N. and Gainsbury, S. (2015) Marketing of sports betting and racing. Gambling Research Australia. p143 as quote in the Victorian Responsible Gambling Foundations response to the Discussion Paper on the proposed AANA Wagering Advertising & Marketing Communication Code, Dec 2015, page 6.

Recommendation 4

ASTRA should remove the exemption from gambling advertising restrictions on long form sporting events.

The effect of the Code in Western Australia, South Australia and the Northern Territory

The submitting bodies are concerned with the scope in which the Code is to be applied, specifically the exemption found in Clauses 2 and 4 which states that the restrictions are only to be applied based on the Australian Eastern Standard Time (AEST) or Australian Eastern Daylight Time (AEDT). The submitting bodies believe that this will unfairly discriminate against viewers in the central and western states of Australia.

The effect of Clause 2 will mean that gambling commercials will be shown earlier than 8:30pm in these states. A live telecast of an AFL match which is being played after 8:30pm in one of the eastern cities will mean that children and other vulnerable groups susceptible to the effects of gambling advertising in the central and western states of Australia will be exposed to more gambling advertisements than that of the residents of eastern Australia. In the case of viewers in WA, they could be exposed to an additional three hour time period in which gambling advertisements are broadcast.

The submitting bodies take note of the explanation given in the explanatory notes provided by ASTRA which state that this exemption is necessary because subscription in television operates by way of a national signal, and therefore, unlike other modes of media cannot alter its advertisements by way of local stations, such as commercial television.

The submitting bodies note that on 23 November 2017 the Chair of ASTRA stated that "ASTRA is committed to working with Government to ensure the new Code restrictions meet the Government's policy intent and provide appropriate community safeguards."¹⁶ If that is the case, then surely subscription television providers should commit to not screening gambling advertising before 8:30 pm anywhere in Australia, which would mean that children in the Eastern States may not be exposed to gambling advertising while watching sports broadcasts before 10:30 pm or 11:30 pm depending on the time of year. This in itself is a desirable outcome.

It is disturbing that ASTRA sees that there is a market for gambling advertising in which it needs to compete with other media outlets for its members to get their share of the gambling advertising dollar. Further, if there is a clash between more advertising dollars for ASTRA members and the best interests of children, it is disappointing to see ASTRA prioritising the money for its members over the interests of children.

Recommendation 5

ASTRA should remove exemptions from the Code that apply AEDT and AEST timzones to the restriction in the Code as they unfairly discriminate against viewers in the central and western states of Australia.

The submitting bodies oppose Clause 11, which exempts beIN SPORTS 1-3, ESPN, ESPN 2, Eurosport and EPL club team channels on the basis these channels have small audiences. The Government announcement was that children would be protected from exposure to gambling advertising. This was not qualified to say that media outlets where a smaller number of children might be watching would be exempted. The data in the

¹⁶ ASTRA Media Release, 'ASTRA consultation on provisions to restrict gambling advertising during live sports coverage', 23 November 2017

consultation paper itself demonstrates that over 10% of the audience watching the channels to be exempted are children. Further, ASTRA's logic is undermined by the fact that existing gambling advertising restrictions in the Code currently apply to these channels and will continue to do so. So that begs the question, if these channels were already subject to the existing gambling advertising restrictions, what possible reason is there not to continue to apply consistent gambling advertising restrictions across all channels?

Recommendation 6

The gambling advertising restrictions be applied to all subscription television channels without exception.

The submitting bodies are deeply concerned that the Code amendments seek to exempt advertising and promotions for "fantasy sports and sports tipping competitions" from the definitions of "Betting Advertising" and "Betting Advertisement". Many of the fantasy sports are connected with the same multinational corporations that provide other forms of sports wagering allowing them the opportunity to do brand cross promotion on the websites where the fantasy sports are located and to which advertisements on subscription television will drive them. Further, recent work by Dylan Pickering at the University of Sydney found that 9.8% of people gambling on daily fantasy sports reported decreased productivity and 6.5% reported that it put a strain on their relationships. Thus, fantasy sport is not without potential harms.

Further, contrary to the consultation paper, there are an estimated 1.65 million Australians who participate in daily fantasy sports, hardly making them "niche products".¹⁷

Recommendation 7

Promotions and advertising for fantasy sports and sports tipping competitions should remain as included in the definition of "Betting Advertising" and "Betting Advertisement".

The submitting bodies oppose the inclusion of references to "the official sponsors of the competition, event, match or team" as being "Incidental Accompaniment". Such promotion continues to link sport and gambling in the minds of children exposed to such gambling promotion.

Recommendation 8

As per the existing Code, references to "the official sponsors of the competition, event, match or team" should be considered to be gambling advertising under the definition of "Betting Advertising" and "Betting Advertisement" in the Code.

The submitting bodies are concerned that "Live Sporting Event" is limited to "a live-to-air broadcast of a sports event" and believe the definition should be extended to capture any replay of a sports event in full within a 24 hour period. This means that if a sporting event is happening overseas at 3 am in the morning Australian time and then it is replayed in Australia at 7:30 am it would be captured by the restrictions.

Recommendation 8

The definition of "Live Sporting Event" should be extended to capture any replay of a sports event in full within a 24 hour period.

¹⁷ Dylan Pickering, 'What the rise of daily fantasy sports will mean for problem gambling', The Conversation, 5 July 2017, <https://theconversation.com/what-the-rise-of-daily-fantasy-sports-will-mean-for-problem-gambling-79998>

The submitting bodies oppose the exemptions for Subscription Narrowcasting Services from the gambling advertising restrictions in hotels and short term accommodation, which are places where children may be present.

Recommendation 9

Clause 16 be modified to remove the exemption for gambling advertising on Subscription Narrowcasting Services in hotels and short term accommodation.

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