



Australian Government

Department of Communications and the Arts

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Dear Mr Saunders

Regulation Impact Statement – final assessment second pass

I am writing in relation to the attached Regulation Impact Statement (RIS) prepared for illegal offshore gambling.

I am satisfied that the RIS addresses the concerns raised in your letter of 19 July 2016 (reference number 20532). Specifically, the RIS contains greater detail in the problem, impact analysis, consultation and net benefit analysis sections.

Problem

This section contains further detail and statistics in relation to gambling in Australia, total gambling losses across all gambling products including racing and sports betting, and the online gambling products used by problem gamblers. In the absence of research or statistics in relation to the recently introduced 'click to call' in-play betting services, the RIS contains advice from responsible gambling organisations such as the Victorian Responsible Gambling Foundation and Financial Counselling Australia on the reasons why rapid-style online gambling products such as in-play betting can have an adverse impact on problem and at-risk gamblers (pgs. 8 - 11).

Impact Analysis

The Impact Analysis section includes the reported amount of revenue spent and the number of consumers using 'click to call' in-play betting services. It also includes the amount of money that is being spent with Australian licensed providers and illegal offshore operators on wagering services, including in-play betting (pgs. 18 - 19).

In relation to ensuring compliance, the RIS asserts that a combination of the new licensing requirement under the IGA, an active regulator and stronger enforcement and awareness raising measures (including a public register of legal wagering sites and notifying international regulators and operators of Australian gambling laws), will see a number of reputable offshore gambling operators either seek a licence with a State or Territory government or cease providing prohibited services, including in-play betting, to Australians. Based on advice from the Attorney-General's Department, the criminal and civil

penalties for contraventions have been set at a high level to act as a strong deterrent. The RIS does note that there will still be practical and legal challenges to enforcing laws against entities with no Australian presence. The indicative costs provided by the Australian Communications and Media Authority (ACMA) to undertake its increased enforcement role has been included in this section.

Consultation

The preferred option was prepared in response to Recommendations 3 and 17 of the 2015 Illegal Offshore Wagering Review (the Review). The Review was informed by 79 written submissions and over 30 consultation meetings conducted by the Hon Barry O'Farrell. The views expressed by stakeholders in the Review on key issues including 'click to call', in-play betting services, impacts on problem gambling and enforcement measures to strengthen the IGA have been included in the impacts analysis and preferred option sections of the RIS. Stakeholders cited include 'click to call' wagering operators, racing, sporting and hospitality representatives, and responsible gambling organisations. A number of the wagering and sporting organisations have advocated for the liberalisation of in-play betting which has been acknowledged in the RIS. However, this does not accord with the Government's response to the Review that it would not expand online betting products in Australia.

On 22 September 2016, the Government released exposure draft versions of the Bill (preferred option), the explanatory memorandum outline and the RIS to industry, responsible gambling and government stakeholders for consultation. Twenty-two submissions were received. Stakeholders were very supportive of the enforcement measures in the Bill. In response to stakeholder comments, a number of amendments have been made to the Bill including:

- the proposed register of illegal interactive gambling services will be changed to a register listing Australian licensed wagering sites. Stakeholders suggested that a list of legal wagering sites will be easier to maintain and will not inadvertently advertise illegal offshore gambling sites that should be avoided due to their limited harm minimisation and consumer protection controls;
- changes to penalty amounts for contraventions of the IGA. It was viewed that there was inconsistency between the criminal and civil penalty amounts and that higher amounts for some contraventions were required to increase compliance;
- enable the Minister for Communications to make a determination, by legislative instrument, of what constitutes a sporting event for the purposes of in-play betting rules under the IGA. This will enable specific rules to be developed for new forms of a current sport or new sports that are developed over time. This change was strongly advocated by industry; and
- further changes to clarify the legality of services under the IGA, including telephone and placed-based betting services.

The consultation also informed a number of revisions to the data and information contained in the RIS, in particular around problem gambling statistics. Please note that the views of stakeholders from the exposure draft consultation process were not directly attributed to the authors as submissions have not been made public at this stage.

Preferred Option / Net benefit analysis

The RIS concludes that the preferred option provides the highest net benefit. This section contains data and stakeholder views that illegal gambling operators cause considerable economic and social burdens, and as such, there is a strong need for the regulatory changes outlined in the preferred option. The RIS shows that a percentage of the amount of money presently going offshore (up to \$400 million annually for wagering) could be returned to industry via gambling revenue, to racing and sporting associations through product fees, and to government via taxes on licensed operators. The number of Australians that inadvertently bet with offshore operators and have to deal with the personal and financial costs

should also decrease. The high rate of problem gambling amongst online gamblers is concerning and measures to protect individuals against offshore providers are likely to benefit the community. The other alternative options in the RIS – maintaining the status quo and greater powers to the Australian Federal Police – have been explored and would not deliver the same level of benefits (pgs 22-25). The enforcement measures under the preferred option will also address any contraventions of the IGA by Australian licensed operators.

The regulatory burden to business, community organisations and/or individuals has been quantified. The preferred option has a regulatory cost of \$58,400 annually on businesses which has been agreed with your office. The Department of Communications and the Arts proposes to use IMR Standard (OBPR ID19650) as the appropriate offset for this cost.

It should be noted that the preferred approach in the RIS is the first stage of the Government's three stage approach to implement the recommendations of the 2015 Illegal Offshore Wagering Review. The enforcement measures to reduce the impact of illegal offshore providers will be complemented by a national consumer protection framework that is currently being developed to ensure strong harm minimisation protections exist for individuals gambling with Australian licensed wagering operators. Thirdly, the Government will consult with internet service providers and financial payment organisations around website and payment blocking mechanisms to further limit the adverse effects of illegal offshore gambling on Australia.

I am satisfied that the RIS now meets best practice consistent with the *Australian Government Guide to Regulation*. I now submit the RIS to the Office of Best Practice Regulation for formal final assessment.

Yours sincerely



Kirsti Haipola
A/g Assistant Secretary
Content and Copyright Branch
28 October 2016