



Australian Government

Department of Communications and the Arts

Mr Wayne Poels
Executive Director
Office of Best Practice Regulation
Department of the Prime Minister and Cabinet
1 National Circuit
Barton ACT 2600

Email: helpdesk@obpr.gov.au

Dear Mr ~~Poels~~ Wayne,

Thank you for your correspondence dated 22 February 2018, in relation to the draft Regulation Impact Statement (RIS) which the Department of Communications and the Arts (the Department) has prepared to assess the regulatory impacts of prohibiting the betting on the outcome of a lottery draw (lottery betting).

Following your feedback, amendments have been made to the RIS as set out below:

The problem

During February and March, the Department consulted with selected industry and state and territory governments seeking advice on the impacts of lottery betting services on taxation revenues and small business, including since the Northern Territory (NT) prohibition came into effect on 30 November 2017. Advice on the percentage of lottery sales which is provided in taxation to states and territories, and to newsagencies and other small business from the sale of official lottery products, has now been included in the RIS.

In respect to claims being made by stakeholders that lottery betting services are risky, because winnings, in particular winnings from major jackpots, are not guaranteed to be paid, the Department did not find any evidence to support this claim and this has been noted in the RIS.

The RIS, however, has also noted that lottery betting services appear to be contrary to the intent of the *Interactive Gambling Act 2001* (IGA). Lottery betting services allow consumers to bet on the outcome of up to 25 lottery draws being conducted around the world on a weekly basis, with the promise of massive jackpots up to hundreds of millions of dollars, which could lead to problem and at-risk gambling. Keno betting services enable consumers to bet rapidly, e.g. every four minutes, on the outcome of keno draws with jackpots of up to \$10 million conducted in overseas jurisdictions. Access to these draws are via websites and smartphone apps and are available for play 24 hours 7 days a week in an unsupervised environment.

The need for government action

There is an option for the Commonwealth Government to not intervene and allow state and territory governments to amend or introduce legislation in their jurisdictions. Tasmanian, Victoria, New South Wales and Western Australia have expressed their intentions to prohibit lottery betting services. South Australia is the only state that currently does not allow any lottery betting services to be provided to its residents. If other states followed the lead of South Australia, the market penetration for lottery betting services in Australia would decrease. The NT prohibited its licencees (where lottery betting providers are licensed) from providing lottery betting services on the outcome of Australian-based lotteries to any Australian resident.

The Commonwealth, however, holds responsibility over interactive gambling policy matters and is best placed to implement a national position in relation to lottery betting services in Australia. This would be consistent with the National Consumer Protection Framework (consistent harm minimisation measures across all states and territories) and the credit betting prohibition in the IGA that came into effect on 17 February 2018. The Australian Communications and Media Authority would be responsible for compliance and can respond to any complaints about lottery betting services being provided by either Australian or international operators.

Impact analysis

Clarification has been made in the RIS to differentiate stakeholder claims from the Department's assessment or position in relation to those claims.

The impact analysis has been amended to reflect the current status quo and also include information obtained from consultations with industry and state and territory government stakeholders. The Department notes that stakeholder responses have indicated that due to limited data availability, it is difficult to quantify the economic impacts of lottery betting services in Australia, including since the Northern Territory prohibition was implemented in November 2017.

The Department has clarified the regulatory burden on industry to include quantified costs (where possible) and clearly described the nature of the burden for Option 2 (preferred option). An estimate of the regulatory burden for each of the options has been included.

Preferred option


The Department has assessed the preferred option (Option 2) and believes the benefits are higher than the costs incurred in prohibiting lottery betting services in Australia. Official lotteries are heavily taxed (over \$1 billion in taxes annually) and regulated, and provide financial benefits to every state and territory in which they operate in. They also provide income to many small businesses across Australia. Official lotteries appear to be at a competitive disadvantage to lottery betting services, which pay considerably less tax and have lighter regulations placed on them. Furthermore, the Department believes that lottery betting services are contrary to the intent of the IGA which aims to minimise rapid style interactive gambling services. As mentioned above, a national prohibition on lottery betting services will ensure consistent regulation across Australia and enable the ACMA to enforce the provisions in relation to local and international operators.

Consultation

The Department has consulted with selected stakeholders from state and territory governments and industry on the impacts and regulation of lottery betting services in Australia. This has informed the majority of the amendments made in the RIS. Industry stakeholders were willing to provide information relating to their sectors but this information is commercial in-confidence. As such specific industry information could not be quoted in the RIS.

I submit the second pass RIS for your formal consideration.

Yours sincerely

A handwritten signature in black ink, appearing to read 'H. Owens', written in a cursive style.

Helen Owens
Assistant Secretary
Content and Copyright Branch

19 March 2018