

Banning the use of credit cards for online wagering - Regulation Impact Statement

Addendum in relation to the Interactive Gambling Amendment (Credit and Other Measures) Bill 2023

September 2023

## Outline

The Interactive Gambling Amendment (Credit and Other Measures) Bill 2023 (the Bill) amends the *Interactive Gambling Act 2001* (the Act) to capture the recommendations from the [Parliamentary Joint Committee on Corporations and Financial Services inquiry into the Regulation of the use of financial services such as credit cards and digital wallets for online gambling in Australia](https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/024756/toc_pdf/RegulationoftheuseoffinancialservicessuchascreditcardsanddigitalwalletsforonlinegamblinginAustralia.pdf;fileType%3Dapplication%2Fpdf) (PJC Inquiry). In November 2021, the PJC Inquiry recommended that the Government implement legislation to ban online gambling service providers of wagering, gaming and other gambling services (with the exception of lotteries) from accepting payment by credit cards, including via digital wallets.

The PJC Inquiry report concluded that the current exemption under the Act that permits independently issued credit cards to be used for online wagering is a ‘glaring omission in the current regulatory system'.[[1]](#footnote-1) The [Government response](https://www.infrastructure.gov.au/sites/default/files/documents/aus-gov-response-parliamentary-joint-comm-corps-financial-services-regulation-financial-services-online-gambling-may2023.pdf) to the PJC Inquiry was tabled in both Houses in the week beginning 9 May 2023.

On 24 March 2023, the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department) provided the Office of Impact Analysis with a certification that the PJC Inquiry report is an independent review equivalent to an Impact Analysis (IA), as allowed under the Australian Government Guide to Regulation.

This IA addendum provides further information in regards to the Bill and an estimate of the regulatory costs associated with prohibiting the use of credit cards for online wagering.

### Overview of Bill

As part of the Australian Government’s commitment to minimising harms associated with online gambling, amendments were made to the Act to:

* prohibit the use of credit cards, credit related products (including digital wallets) and digital currency (such as cryptocurrency) as payment methods for licensed Australian interactive wagering services, or other methods determined by the Minister by way of a (disallowable) legislative instrument;
* create a new criminal offence and civil penalty provisions related to the ban;
* provide the Australian Communications and Media Authority (ACMA) with enhanced powers to enforce the new and existing civil penalty provisions under the Act.
* introduce a six month transition period;
* revise the definition of ‘credit’ under the Act; and
* require the Minister to cause a review of the ban and related measures 2 years from commencement

The proposed new credit and digital currency ban under the Bill will not capture or relate to:

* debit cards (such as Debit Visa Card and Debit Mastercard);
* lottery services (profit and not-for-profit lotteries); and
* ‘prohibited interactive gambling services’ and ‘unlicensed interactive gambling services’ as these services are already illegal under sections 5 and 15AA of the Act respectively.

### Consultation

In August 2023, the Department undertook targeted consultation with stakeholders on the exposure draft Bill and the estimated regulatory costs. Stakeholders included financial institutions, wagering and lottery operators, harm reduction advocates, academics, Commonwealth agencies and states and territories. Stakeholders were supportive and no changes were made to the Bill from the consultation exposure draft.

Stakeholders support the blocking of Bank Identification Numbers (BINs), viewing this as the most effective mechanism currently available, although consider there will be implementation issues to be resolved between wagering providers and their banks. Some wagering stakeholders called for the Commonwealth to establish a new online wagering Merchant Category Code (MCC) in the longer term, which could assist the Government’s efforts to address illegal offshore wagering.

While the Bill does not set out the technical mechanism to implement the ban, it is expected that wagering providers will block credit payments by using BINs, at least initially, although they may use other methods. A BIN is the first four to six numbers on a payment card which identifies the financial institution that issued the card. Blocking BINs has been successfully deployed by Australian casinos and poker machine venues to stop credit card withdrawals from ATMs since the early 2000s, and was used in the United Kingdom to implement its credit card ban for online gambling in April 2020.

## Impacts

This addendum anticipates that the implementation of the ban by blocking BINs will have a significant financial impact on wagering providers and their banks and payment providers, although these sectors overwhelmingly support the ban and have not raised any concerns about the related costs.

### Individuals

There is clear public support for a ban on the use of credit for online wagering. Research released by the banking peak body, the Australian Banking Association, has found that over 80 per cent of Australians believe gambling with credit cards should be restricted or banned.[[2]](#footnote-2)

The impact of the ban on individuals will be minor because the vast majority of consumers would use existing alternative payment methods available to them, or take the time to apply for a debit card which can be used for online wagering.

The ban will have a positive financial impact for individuals at risk of gambling harms. It is estimated that around 15-20 per cent of online wagering is currently done with credit cards and this cohort of customers is more susceptible and vulnerable to harms that arise from gambling.[[3]](#footnote-3) Access to credit for online wagering, combined with the ease of gambling using a digital device, such as a mobile phone, can result in large amounts of debt accumulated in a short period of time. Gambling transactions are typically treated as cash advances, and usually incur a higher rate of interest compared to regular purchase transaction rates, which increases the burden of any losses.

### Banks and payment providers

Neither banks nor payment providers provided quantifiable figures during the consultation process. As such, the Department considers the likely impacts of the ban for banks and payment providers would be less interest and fees associated with credit card transactions, costs associated with providing merchant support to wagering providers on BIN databases, and updating customers about the new requirements.

On fees and interest, the banking sector has informed the Department that the ban would be a significant benefit to customers, and there is a strong argument that revenue loss may be offset by reducing the time and effort banks invest in assisting customers impacted by gambling harms.

Currently, several financial institutions in Australia do not permit gambling using credit cards, including Macquarie Bank, Citibank, Suncorp and the Bank of Queensland. The four major banks (Westpac, Commonwealth, National Australia Bank, and ANZ) give customers the option to restrict or completely block spending on gambling with their credit or debit cards.

The Department has committed to a 6 month transition period to give wagering providers and financial institutions time to prepare for and implement changes necessary to ensure compliance with the new requirements. The Bill also provides for a review 2 years from Royal Assent to test the effectiveness of the ban.

### Wagering providers

The Department understands that the key burden on wagering providers to implement the ban would be a decrease in revenue, undertaking discovery/testing with payment providers regarding BINs, changes to their websites, payment systems and processes, terms and conditions, internal audits, staff training, record keeping, and update customers that credit cards cannot be used for online wagering. Banks or card issuers would be responsible for providing BIN lists to wagering providers.

Based on feedback from consultation, the Department understands that the initial costs for wagering providers associated with implementing the ban through BIN blocking may range between $50,000 to $1.5 million (depending on the size of the business), and ongoing costs may range between $50,000 and $500,000, based on a 10-year default duration in keeping with the Regulatory Burden Measurement Framework.

## Compliance

The Bill creates a new criminal offence (500 penalty units) and new civil penalty provisions (750 penalty units) and sets out the relevant evidentiary requirements and due diligence defences. The maximum penalty for commission of the new civil penalty provision under subsection 15C(3A) would be 750 penalty units ($234,750, based on one penalty unit value of $313).[[4]](#footnote-4) The high penalty amount is intended to have a deterrent effect, which the Department considers appropriate in the circumstances.

The Bill also expands the ACMA’s compliance and enforcement powers to include receiving enforceable undertakings and giving remedial directions to enforce the new and existing civil penalty provisions under the Act, similar to other legislation administered by the ACMA, including the *Broadcasting Services Act 1992*.

## Related reforms

The Bill aligns with the Government’s broader commitment to minimising gambling harms, including:

* the launch of BetStop, the National Self-Exclusion Register for online wagering, on 21 August 2023, which allows people to self-exclude from all telephone and online gambling for 3 months up to a lifetime, which is the final measure of the National Consumer Protection Framework for Online Wagering;
* the introduction of 7 new evidence-based advertising taglines to replace ‘gamble responsibly’;
* a requirement for monthly activity statements to provide consumers with meaningful statements of their online wagering activity; and
* the introduction of nation-wide staff training to give staff tools to assist a consumer when they are identified as potentially experiencing harm from gambling.

The Government is also working with state and territory governments to update the classification rules for online and video games to protect children from exposure to simulated gambling.

## Future reforms

The Government is also considering the regulation of illegal offshore wagering in the context of its broader response to the recent recommendations of the House of Representatives Standing Committee on Social Policy and Legal Affairs’ inquiry into online gambling and its impacts on those experiencing gambling harm. The PJC Inquiry examined whether blocking MCCs might be used to address illegal offshore operators.

For now, blocking BINs is favoured over banning gambling related MCCs, for the following reasons:

* would limit the regulatory burden for banking, financial and payment sectors;
* blocking MCCs could inadvertently capture newsagents and lotteries sold by charitable organisations; and
* could be implemented quickly - negotiating at the global level for a new MCC for charitable lotteries may take up to 2 years.

## Conclusion

Overall the Department considers the regulation impact caused by the Bill is appropriate and consistent with the recommendations of the PJC Inquiry. It is also consistent with the Australian Government’s commitment to minimise the significant gambling harms experienced by Australians and reduce societal harms arising from interactive wagering services through the use of credit cards and credit related products.

1. Report of the Parliamentary Joint Committee on Corporations and Financial Services inquiry into the Regulation of the use of financial services such as credit cards and digital wallets for online gambling in Australia, November 2021, p.34. [↑](#footnote-ref-1)
2. [Australian Banking Association: Every Customer Counts - Consultation Report - Use of credit cards for gambling transactions](https://www.ausbanking.org.au/wp-content/uploads/2020/12/Every-Customer-Counts_Consultation-Report-Use-of-Credit-Cards-for-Gambling-Transactions.pdf), December 2020, p.19. [↑](#footnote-ref-2)
3. Refer to submission to PJC Inquiry from Responsible Wagering Australia: <https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Corporations_and_Financial_Services/Onlinegambling/Submissions> and Tabcorp’s evidence recorded in PJC Committee Hansard, 3 September 2021. [↑](#footnote-ref-3)
4. Penalty unit current as at 1 September 2023. [↑](#footnote-ref-4)