

**Submission by
Sportsbet Pty Ltd**

to

**Re:think
Tax Discussion Paper**

June 2015

The logo for Sportsbet.com.au is displayed on a blue rectangular background. The word "sportsbet" is written in a bold, italicized sans-serif font, with "sports" in white and "bet" in yellow. Below it, ".com.au" is written in a smaller, white, italicized sans-serif font.

sportsbet
.com.au

Executive Summary

An expanding digital economy will be a significant contributor to Australia's future economic prosperity. The role that our taxation system plays in maintaining that prosperity by ensuring foreign businesses supplying digital products and services to Australians are subject to the Australian GST law and pay their fair share along the way will ensure Australian businesses in the digital economy don't fall significantly behind their global competitors.

Sportsbet strongly agrees with the Treasurer's statement that it *'is plainly unfair that a supplier of digital products in Australia has to charge GST and an off-shore supplier does not.'*¹ Accordingly, Sportsbet strongly endorses in this regard the Government's insistence on a level playing field between domestic and offshore service providers and encourages the Government to introduce its proposed changes to the GST law with effect from 1 January 2016. To achieve the objective of a level playing field it is also necessary to remove any antiquated and unnecessary regulatory burdens on Australian businesses, to ensure Australian businesses may be competitive in the digital global market place.

This submission addresses:

- recognised inequities in the GST law which currently enable illegal offshore wagering operators to escape the liability to pay GST to the Australian Government. This provides offshore operators with a significant competitive advantage over licensed Australian online wagering service providers (**WSPs**) and creates significant leakage in GST revenue to Government from these services;
- necessary refinements to the proposed changes to the GST law announced as part of the May 2015 Federal Budget; and
- current regulatory burdens on Australian WSPs compared to offshore operators under the Federal *Interactive Gambling Act 2001 (IGA)* which is forcing Australian punters to bet with illegal offshore operators and resulting in significant loss of Government GST revenue.

The above is leading to significant and predictable consequences:

- As recognised at page 150 of the Australian Government's *Re:Think, Tax Discussion Paper (Discussion Paper)*,² the growing trend in online gambling with illegal offshore operators able to avoid paying GST threatens Australian economic activity, as well as gambling revenues for Governments at both the Federal and State level;
- Jobs in this promising area of the digital economy are unnecessarily transferring away from Australia towards these offshore operators, contributing to the decline in the Federal Government's revenue base as acknowledged in the Discussion Paper, *'Income tax levied on individuals comprised 39.2 per cent of total tax revenue in 2012'*³;
- GST revenue to government from these services is being lost as activity transfers to offshore operators;
- The millions of Australians who enjoy a punt are being exposed to unscrupulous offshore operators that have little or no regard to basic responsible gambling and consumer protection measures. In stark contrast, Sportsbet and other WSPs have extensive harm minimisation and consumer protection programs in place, which are the product of considerable investment, product innovation and collaboration with government and gambling research academics.

¹ Hon Joe Hockey MP, Treasurer of the Commonwealth of Australia, *Strengthening our taxation system*, Media Release, 11 May 2015

² *Re:Think, Tax Discussion Paper*, March 2015, Pg 150

³ *Re:Think, Tax Discussion Paper*, March 2015, Pg 17

- With every dollar Australian punters bet offshore it is jeopardising the integrity of Australia racing and sport because, unlike Australian WSPs, illegal offshore wagering operators do not contribute to sport and racing through 'product fees'⁴ and do not share betting information with Australian racing and sports codes to protect the integrity of those codes.

KPMG reports that the illegal online gambling market is expected to grow at an average annual rate of 6.3% to 2.4 billion in 2021 - 22.⁵ Of that amount, illegal offshore wagering operators currently achieve estimated revenue of approximately \$400m a year from Australian punters and this is resulting in over \$40m in GST leakage per annum as well as significant foregone product fees for Australian racing and sports controlling bodies.

This figure will continue to grow rapidly with:

- approximately 2,500 illegal offshore operators, in Asia alone, targeting and offering an established and extremely popular mode of wagering in the global sports-betting industry known as *online in-play (or 'live') wagering*⁶ to Australian customers⁷; and
- thousands of other illegal offshore gambling operators offering 'interactive gambling services' including poker to Australians.⁸

Currently, the IGA restricts online in-play betting being offered to Australians by WSPs (the **in-play restriction**) but in-play betting can be provided on other platforms legally via a telephone call or in land-based venues (TABs) and is also being offered online by illegal offshore wagering operators. The in-play restriction imposes a significant regulatory and costly burden on Sportsbet (and other Australian WSPs) compared to offshore wagering operators. Removing the in-play restriction would reduce operating costs alone by approximately \$3.5m per year for Sportsbet and by tens of millions for Australian online WSPs collectively. There is strong support for removing the in-play restriction for the benefit of the integrity of Australian sport and protection of Australian consumers, including from the Coalition of Major Professional and Participation Sports (**COMPPS**) and leading Australian gambling researches and academics, including Dr Sally Gainsbury.

Positively, the proposed changes to the GST laws announced as part of the May 2015 Federal Budget aimed at levelling the playing fields for suppliers of digital products provide an opportunity for the government to tackle illegal offshore wagering operators and promote fairness by reviewing Australian wagering regulation and moving to modernise Australia's law.

Sportsbet recommends the following five policy initiatives to address the threat of illegal offshore wagering operators, as well as help further grow Australia's digital economy:

1. Ensure that the proposed changes to the GST law will apply to illegal offshore wagering operators such that those illegal operators will be required to pay GST in respect of wagers placed by Australian punters, ***irrespective of the wagering operator's Australian GST turnover.***

⁴ In Australia, WSPs are legally obliged to pay race fields' fees and product fees to each peak racing body (i.e. thoroughbred, harness racing, and greyhound) and sports controlling body respectively in return for the right to offer wagering services on events/markets approved by those bodies.

⁵ *Estimating the potential size of online tournament poker and in-play wagering markets in Australia*, KPMG, November 2012, Pg 4

⁶ Online in-play betting is where a punter places a bet on the internet *after* the event has commenced, e.g. betting on the outcome of an AFL or State of Origin Game at half-time. It is important to distinguish online in-play betting from 'micro-betting' (also known as 'spot betting'), e.g. ball-by-ball betting in cricket. Sportsbet strongly supports the current position that only markets on sports approved by the relevant sports controlling body can be bet on, as they are best placed to determine the integrity risks for their game.

⁷ Presentations at the *Victorian Police Integrity Symposium* in 2014.

⁸ The Joint Select Committee on Gambling Reform (2011) suggested more than 2000 gambling websites were available to Australians, figures backed up by the 2014 *Interactive Gambling Report*, which indicated a figure in excess of 2300 illegal operators.

2. Accelerate the introduction of the proposed changes to the GST law announced as part of the May 2015 Federal Budget such that those changes apply with effect from 1 January 2016 (rather than the current proposed start date of 1 July 2017).
3. Reject proposals recommending any additional point of consumption tax on Australian businesses that already pay their fair share of tax.
4. Energise the *Illegal Offshore Wagering Working Group* initiative announced by the government⁹ to tackle the growing scourge of illegal offshore operators to minimise GST leakage and protect Australian punters and the integrity of Australian racing and sport.
5. Remove the IGA in-play restriction and adopt a *platform-neutral* approach that recognises the significant technological advancements and convergence of digital platforms, which has occurred since the IGA's inception in 2001. Lifting the in-play restriction would significantly contribute to a sizable portion of the growing \$400m+ in revenue currently being achieved by offshore operators in respect of amounts wagered offshore by Australians each year (which results in GST leakage exceeding \$40m) being redirected to Australian licensed WSPs with the attendant economic benefits for Australia, e.g. wagering revenue redirected to Australian licensed WSPs would be subject to GST.

Sportsbet's contribution to the Australian economy

Sportsbet is an industry-leading digital e-commerce business in the online wagering sector with more than one million Australian customers. Sportsbet accounts for approximately 23% of Australia's online wagering market and is a member of the industry peak body, the Australian Wagering Council (**AWC**).

We are strongly committed to responsible gambling and protecting Australian consumers and have extensive harm minimisation and consumer protection programs in place, which are the product of considerable investment, product innovation and collaboration with government and gambling research academics.

Sportsbet invests tens of millions of dollars each year developing new and innovative technology and products and supporting budding new web, program and app designers. We're leading the digital development of world class IT solutions including recent initiatives such as:

- **Live streaming of Victorian thoroughbred racing:** In March 2015 Sportsbet launched a groundbreaking initiative with Racing Victoria whereby Sportsbet streams live all Victorian thoroughbred races across Sportsbet's digital platforms to drive revenue for the sustainability of the Victorian thoroughbred racing industry and allow our customers to watch live racing on their devices, anywhere, anytime.
- **Cash Card:** In November 2014, Sportsbet launched a *Sportsbet Cash card* that allows customers to immediately transfer their winnings onto their Sportsbet Cash card via our digital platforms to enable our customers to access their winnings faster.

We make a solid contribution to the Australian economy through the employment of over 600 highly skilled professionals across our Melbourne, Sydney and Darwin offices. We're consistently adding 70-80 new staff a year and have budgeted for similar growth over the next three years. We are also acquiring additional office space at our Melbourne and Sydney offices to accommodate this growth.

⁹ Hon Kevin Andrews MP, *National Group to Target Illegal Offshore Wagering*, Media Release, 30 October 2014

Sportsbet pays State and Federal taxes on the same basis as other Australian bricks and mortar and digital businesses, namely, GST, fringe benefit tax, payroll tax and income tax. Between 2011 and 2014 these taxes totalled \$91.4m, which amounts to around 15% of revenue.

Combined with product fee contributions to Australian racing and sports controlling bodies (see below in this section), this brings Sportsbet's total product fee and tax contribution to \$188m during this period. Taken together, this amounts to around 30% of revenue.

In addition to taxes and product fees, Sportsbet is responsible for significant economic activity in the form of:

- Over six hundred jobs and hundreds of third party supplier engagements
- State and Territory licensing fees
- Significant advertising spend including across multiple digital platforms; and
- Hundreds of thousands of dollars in sponsorships from regional thoroughbred race clubs such as the Ballarat Turf Club, Devonport and the Gawler and Barossa Jockey Club to main stream professional sporting clubs such as the NRL as well as NRL clubs the Sydney City Roosters and Newcastle Knights, and AFL Clubs Richmond and Collingwood.

In Australia, WSPs are legally obliged to pay race fields' fees and other product fees (hereafter, collectively **product fees**) to each peak racing body across Australia and sporting code in return for the right to offer wagering services on those events (**Product Fee Agreements**).

Product Fee Agreements are at the cornerstone of protecting and enhancing the integrity of the Australian racing industry and sport, and operate to ensure the financial viability of those codes. They have several key benefits, including:

- providing a significant, multi-million dollar source of funding to the racing industry and Australian sporting codes;
- sharing information on any unusual or suspicious betting activity and assisting in the development of integrity programs which combat the risk of corruption and race/match fixing; and
- significantly easing the financial contribution required by State Governments to fund these important community activities and industries.

Sportsbet has made a significant contribution in product fees to the racing codes and sports controlling bodies between 2011 and 2014 (4 years) of \$96.6m across Australia, comprising:

- \$90.8m to racing bodies; and
- \$5.8m to sports controlling bodies.

More information about Sportsbet and our strong commitment to responsible gambling can be found at **Annexure 1**.

Negative economic, social and integrity impacts of Offshore Illegal Wagering Operators

In stark contrast to Australian WSPs, illegal offshore wagering operators currently do not pay any GST in Australia. Moreover, they do not enter into Product Fee Agreements with Australian sport and racing bodies and therefore pay nil product fees and do not have information sharing arrangements in place with those codes to protect the integrity of Australian racing and sport. Australian consumers are also at risk by betting with illegal offshore operators who have next to no responsible gambling and consumer protection measures.

Details of the negative economic impacts for Government tax revenue and product fees to racing and sport can be found below.¹⁰

Table 1 below illustrates the fundamental negative economic, social and integrity impacts offshore illegal wagering operators have on Australia and serves to highlight the importance of appropriate wagering regulatory reforms to ensure the millions of Australians who enjoy having a punt are channelled to bet with Australian licensed WSPs.

Table 1 - Comparing Australian licensed online WSPs and Illegal Offshore Wagering Operators

Online regulatory wagering landscape	Australian licensed online WSPs	Illegal Offshore Wagering Operators
<i>Economic Impacts</i>		
Pay taxes to Australian Government (e.g. GST, income tax)	✓	✗
Pay product fees to Australian racing and sports controlling bodies	✓	✗
Pay State & Territory licensing fees in Australia	✓	✗
Invest heavily in developing new and innovative technology and products in Australia	✓	✗
<i>Social Impacts</i>		
Promote employment in Australia	✓	✗
Contribute to the community through sponsorships across Australia	✓	✗
Share wagering information with Australian racing and sports controlling bodies to protect and enhance the integrity of sport	✓	✗
<i>Consumer Protection</i>		
Offer sophisticated robust responsible gambling measures and programs	✓	✗
Offer consumer protection measures and programs	✓	✗

¹⁰ See Pg 9 of submission under section titled *Growing leakage of GST and product fees from Offshore Illegal Wagering Operators*

The Australian gambling landscape and the growing threat of illegal offshore wagering operators

Only gambling operators that have a licence to operate as a monopoly should pay gambling taxes to Government

The tax rates paid by Australian monopoly gambling providers reflect the substantial benefits that they enjoy from being granted licences to operate as a monopoly in particular States and Territories, removing all forms of competition enabling them to operate highly profitable businesses.

In respect of wagering (as distinct from the broader gambling industry, e.g. casinos and pokies), monopoly retail wagering operators pay wagering taxes because they enter into monopoly licencing arrangements with State and Territory Governments that provide competition free income and monopoly rights and benefits, albeit also not immune from the threat of illegal offshore wagering operators. Over 50% of wagering revenue in Australia is earned via retail outlets and is competition-free.

By contrast, Australian online WSPs such as Sportsbet must compete in a highly competitive *global* online wagering marketplace and are prevented from offering their products in these bricks and mortar retail markets under the current exclusive monopolistic regimes in place across Australia.

Given the borderless nature of the internet, if Australian online wagering consumers do not find the products and prices they require in the locally regulated online market, they will seek alternative products offshore. Blanket gambling prohibition does not work in the digital age.

Any difference in fees paid by traditional wagering operators and licensed online WSPs is a result of the fee paid by retail monopolies to retain their monopoly rights to the bricks and mortar retail business.

Licensed online WSPs such as Sportsbet are already taxed equivalently to traditional retail operators by making a substantial contribution to Government by way of Federal taxes (including GST), State and Territory licencing fees and product fees.

As previously outlined, Sportsbet has contributed \$188m in government taxes and product fee contributions in the past four years alone, amounting to around 30% of revenue. Illegal offshore wagering operators make no contribution at all to Government revenues.

Annual gambling spend by Australians

Australians spend in excess of \$1.2 billion per annum on online gambling and KPMG reports that spend by Australians into the illegal online gambling market is expected to grow at an average annual rate of 6.3% to 2.4 billion in 2021 - 22.¹¹

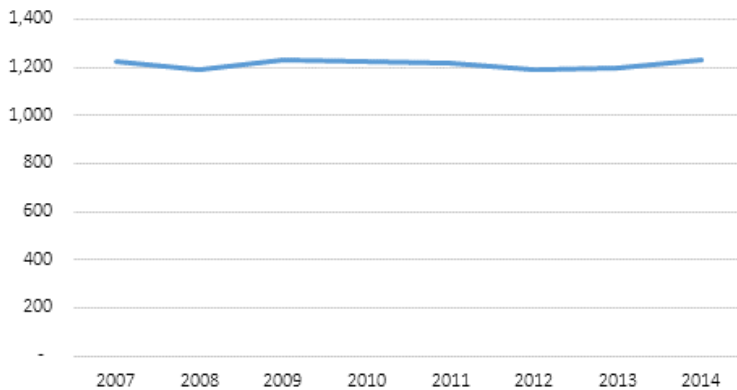
Of that amount, offshore operators currently enjoy revenue of approximately \$400m a year in respect of amounts wagered by Australian punters and this is resulting in over \$40m in GST leakage per annum to the Government as well as significant product fees for Australian racing and sports controlling bodies. This GST leakage will continue until the recently announced changes to the GST law take effect, as illegal offshore wagering operators continue to escape the liability to pay their fair share of GST. This means that the current intended start date of 1 July 2017 for the changes to the GST law will result in continued GST leakage exceeding \$80m during the intervening period.

¹¹ *Estimating the potential size of online tournament poker and in-play wagering markets in Australia*, KPMG, November 2012, Pg 4

There is a perception among some that wagering, particularly sports betting in Australia, has ‘exploded’ in the last few years. However the breakdown of Australia’s official gambling statistics¹² clearly demonstrates that is not the case. In fact there has been only nominal moderate growth and real spend per adult has been flat for the period from 2007 to present and in line with the growth in population.

Figure 1 below highlights that there has been no change over the past five years in real wagering spend per capita.

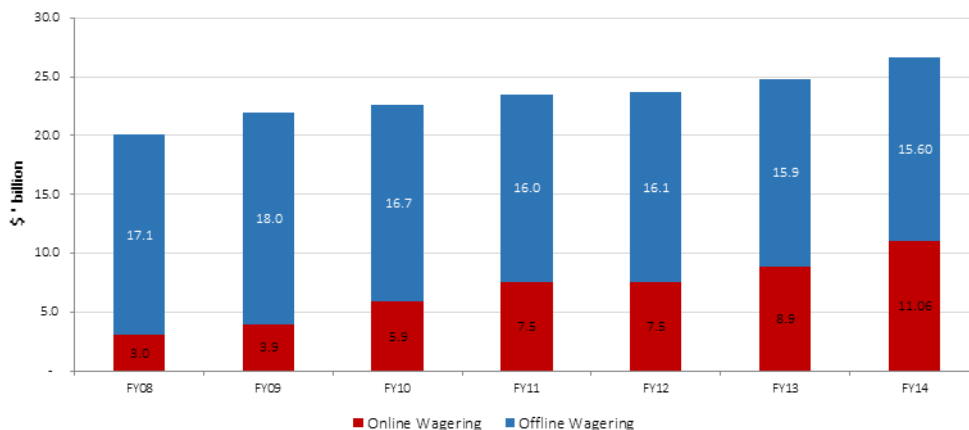
Figure 1 - Real Wagering Spend per Capita



While there has been only moderate growth in wagering turnover from 2007, there has been a material shift in the betting channels where that spend is occurring. Improved technology and better innovation has seen a shift from the more traditional wagering channels (i.e. retail outlets, on-course and phone operator) to online channels such as the Internet and smart phones and tablet devices.

Figure 2 below shows total wagering turnover from 2008 to 2014 and the relative contributions of the on-course, retail, phone operator and internet channels and illustrates the growth in the internet and mobile channel and the decline in the retail and phone channels.

Figure 2 – Australian Wagering Industry Turnover by Channel



¹² Australian Gambling Statistics (AGS), 30th Edition, 1987–88 to 2012–13, <http://www.qgso.qld.gov.au/products/reports/aus-gambling-stats/>, accessed 20 May 2015

Sports betting accounts for 2.3% of Australia's total gambling expenditure, with betting on racing (thoroughbred, harness and greyhounds) accounting for 13.3%.

Growing leakage of GST and product fees from Offshore Illegal Wagering Operators

Offshore wagering spend by Australians and the associated Government GST revenue and product fee leakage is expected to increase rapidly going forward (see discussion below) as illegal offshore operators increase their focus on targeting Australian consumers. This GST leakage will continue at least until 1 July 2017 and possibly beyond unless the Government takes appropriate action to force illegal offshore wagering operators to pay their fair share of GST.

The Discussion Paper notes that GST is Australia's third-largest tax source.¹³ In Victoria, GST revenue is forecast to be \$12.8bn in 2015-16.¹⁴ Clearly, it is in the collective Governments' interest to take action, as flagged, to reduce the increasing threat of GST leakage from Australians wagering with offshore operators and to take that action as quickly as possible. Therefore, Sportsbet strongly encourages the Government to minimise this GST leakage by ensuring that already-announced changes to the GST law intended to level the playing field for digital suppliers will take effect from 1 January 2016 (rather than the current intended start date of 1 July 2017). We note that the start date of 1 January 2016 would be in line with the intended start date for changes to the income tax anti-avoidance laws. Further, Sportsbet strongly encourages the Government to expand the reach of the proposed changes to the GST law to ensure that illegal offshore wagering operators will be required to report GST, irrespective of their GST turnover.

The estimated \$400m in revenue being enjoyed annually by illegal offshore operators in respect of amounts wagered by Australian punters is expected to grow rapidly with approximately 2,500 illegal offshore operators, in Asia alone, targeting and offering online in-play (or 'live') wagering to Australian customers¹⁵ along with thousands of other illegal offshore gambling operators offering interactive gambling services including poker to Australians.¹⁶

All estimates clearly demonstrate the significant and growing size of the illegal offshore gambling market:

- the 2010 *Productivity Commission Report* estimated \$1 billion was lost annually to illegal offshore operators;
- the Department of Broadband, Communications and the Digital Economy found in its *Final Report – Review of the Interactive Gambling Act (DBCDE's 2012 Review of the IGA)* estimated Australia's interactive gambling spend was \$1.6 billion, with 60% spent with illegal offshore operators¹⁷;
- a 2012 report by KPMG which - assuming no changes to the current legislative and regulatory environments - estimates that the illegal online gambling market is expected to grow at an average annual rate of 6.3 per cent to \$2.4 billion in Australian in 2021-22;
- Global Betting and Gaming Consultants (2014) estimated, internationally, the online gambling market is expected to reach US\$50 billion by 2017; and

¹³ *Re:Think, Tax Discussion Paper*, March 2015, Pg 134

¹⁴ Victorian Government 2015-16 Budget Paper 5: Statement of Finances, Pg 163

¹⁵ Presentations at the *Victorian Police integrity symposium* in 2014. Online in-play wagering and its relevance to the Australian wagering regulatory landscape is discussed below.

¹⁶ The Joint Select Committee on Gambling Reform (2011) suggested more than 2000 gambling websites were available to Australians, figures backed up by the 2014 *Interactive Gambling Report*, which indicated a figure in excess of 2300 illegal operators.

¹⁷ *Final Report of the Review of the Interactive Gambling Act 2001*, p29

- the Joint Select Committee on Gambling Reform (2011) suggested more than 2000 illegal gambling websites were available to Australians, figures backed up by the *2014 Interactive Gambling Report*, which indicated a figure in excess of 2,300 illegal operators.

There are countless examples of the increasing scourge of offshore illegal wagering operators targeting Australian residents and the serious economic, social and integrity threats such operators pose to Australia, such as the recent AFP and QLD police investigations into the alleged illegal activities of Vanuatu-based operator, Betjack.¹⁸

Why are Australians increasingly being targeted by Offshore Illegal Wagering Operators and betting offshore?

Australians are increasingly being targeted by illegal offshore wagering operators and betting offshore for two primary reasons:

1. **Illegal offshore wagering operators do not pay their fair share in GST and product fees to the Australian government and racing and sports bodies which places them at a competitive advantage over Australian licensed WSPs**

The fact that illegal offshore wagering operators do not pay their fair share in GST to the Australian Government and do not contribute to product fees to racing and sports bodies places them at a significant and unfair competitive advantage over Australia's highly regulated licensed online WSPs in the global marketplace and enables them to offer more favourable prices (higher odds) and more attractive products.

There is only limited product loyalty in the online wagering industry and consumers can easily and do compare prices and switch providers. Although Australians have demonstrated that they would prefer to transact with regulated onshore WSPs, given the borderless nature of the internet, if online wagering consumers do not find the products and prices they require in the locally regulated online market, they will seek alternative products offshore.

Alarming, a representative survey of Australian consumers who hold a betting account with an online WSP has found that 1 in 5 (20%) Australian punters have opened an account and bet with an offshore operator. Moreover, in 2014, leading gambling researcher, H2 Gambling Capital, estimated in excess of 20% of Australian expenditure on online wagering goes to offshore operators.

2. **Illegal offshore wagering operators are able to offer Australians in-play betting on a platform neutral basis without the regulatory burden of the IGA in-play restriction**

The in-play restriction in the IGA means that Australians who enjoy online in-play betting, which is an established and extremely popular mode of wagering in the global sports-betting industry, are forced to bet with unregulated or illegal offshore wagering operators. This places licensed Australian WSPs at a significant competitive disadvantage to offshore operators.

Thousands of illegal offshore operators provide this product to Australian consumers every day and despite the IGA in-play restriction being in operation for 15 years there have been no prosecutions for companies who offer this service to Australians, let alone other forms of interactive gambling. The Coalition Government has committed to cutting the regulatory burden on Australian businesses and is seeing significant results with decisions to remove red tape resulting in estimated savings to

¹⁸ Nino Bucci, Patrick Bartley, Nick McKenzie, Police Raid Vanuatu Bookmaker with Melbourne Underworld Links, *The Age*, 18 May 2015, <http://m.theage.com.au/victoria/police-raid-vanuatu-bookmaker-with-melbourne-underworld-links-20150518-gh3ivb>, Accessed 19 May 2015

Australian businesses of around \$2.45 billion.¹⁹

The online in-play restriction imposes significant regulatory and administrative burden and costs on Sportsbet (and the Australian wagering industry more widely), including:

1. **Increased operational costs** – telephone bets represent significant additional costs relating to labour, training, infrastructure, call recording technology (all telephone calls, 24/7) and call recording storage (for seven years). Allowing in-play bets online would reduce operating costs by approximately \$3.5m per year for Sportsbet.
2. **Betting slip disputes** – telephone bets result in increased costs associated with the investigation and resolution of betting slip disputes with customers.
3. **Bet abandonment** – Sportsbet is forced to abandon approximately 2.5% of telephone bets due to the waiting time to place a bet, and as there is no online alternative for in-play bets, this represents revenue leakage and a poor customer experience. From January to April 2015, Sportsbet’s customers spent a total of approximately 1,300 hours waiting to talk to an operator regarding an in-play bet; and
4. **Regulatory uncertainty & burden on industry** – The uncertainty in the regulatory landscape and the interpretation of the IGA have resulted in Australian licensed online WSPs recently investing in complex technical product development initiatives including the conversion of text to voice technology and automated voice technology, such as William Hill’s ‘Click to Call’ and Ladbrokes’ ‘Quick Call’, which are now being investigated by the Australian Communications and Media Authority.²⁰

What initiatives can the Federal Government adopt to address the threat of illegal offshore wagering operators and further grow Australia’s digital economy?

Positively, the proposed changes to the GST laws announced as part of the 2015 Federal Budget aimed at levelling the playing field for suppliers of digital products provide an opportunity for the Government to tackle illegal offshore wagering operators and promote fairness by reviewing and modernising Australian wagering law.

Sportsbet recommends the following five initiatives to address the threat of illegal offshore wagering operators as well as help further grow Australia’s digital economy:

1. Ensure that the proposed changes to the GST law will apply to illegal offshore wagering operators such that those illegal operators will be required to pay GST in respect of wagers placed by Australian punters, ***irrespective of the wagering operator’s Australian GST turnover***.

¹⁹ Warren Entsch MP, *Coalition decisions to cut red tape now total \$2.45 billion*, Media Release, 18 March 2015

²⁰ Rick Wallace, *ACMA probes online sidestep of live bet ban*, The Australian, 8 May 2015, <http://www.theaustralian.com.au/sport/acma-probes-online-sidestep-of-live-bet-ban/story-e6frg7mf-1227344383949>

2. Accelerate the introduction of the proposed changes to the GST law announced as part of the May 2015 Federal Budget such that those changes apply with effect from 1 January 2016 (rather than the current proposed start date of 1 July 2017).
3. Reject any point of consumption tax on Australian businesses that already pay their fair share of tax.
4. Energise the *Illegal Offshore Wagering Working Group* initiative announced by the government to tackle the growing scourge of illegal offshore operators to minimise revenue leakage and protect Australian punters and the integrity of Australian racing and sport.
5. Remove the IGA in-play restriction and adopt a *platform-neutral* approach that recognises the significant technological advancements and convergence of digital platforms, which has occurred since the IGA's inception in 2001.

Each of these Government initiatives is discussed in turn below.

1. Ensure that the proposed changes to the GST law will apply to illegal offshore wagering operators such that those illegal operators will be required to pay GST in respect of wagers placed by Australian punters, irrespective of the wagering operator's Australian GST turnover

A strong and prosperous economy should be a fair economy that promotes healthy competition among businesses, and an opportunity to grow Australian jobs.

Sportsbet applauds the Treasurer's announcement of rather than introducing new taxes, the Federal Government will focus on levelling the playing field for Australian businesses by mandating that foreign businesses supplying digital products and services pay their fair share of GST.²¹

With the offshore wagering spend expected to increase rapidly going forward as illegal offshore operators increase their focus on targeting Australian consumers, lost GST revenue will become an even greater cost for government.

To minimise the future loss of GST revenue, Sportsbet strongly encourages the Government to ensure that the proposed changes to the GST law will apply to illegal offshore wagering operators. This may require further changes to ensure that wagers placed with offshore operators constitute taxable supplies and are within the scope of the Australian GST law.

Sportsbet strongly recommends that the Government put in place an appropriate compliance regime to force illegal offshore wagering operators to comply with their Australian GST obligations. Where offshore operators try to avoid their Australian GST obligations, the Australian Taxation Office must be given appropriate resources to enforce compliance by these operators.

Sportsbet also recommends that the Government should extend the reach of the proposed changes to the GST law such that all offshore wagering operators accepting wagers from Australians should be required to report GST in respect of those wagers, irrespective of the wagering operator's Australian GST turnover. This additional measure is considered an essential step to properly level the playing field between Australian licensed WSPs and all illegal offshore wagering operators.

²¹ Second Reading of the Appropriation Bill (No. 1) 2014-15, Treasurer

2. Accelerate the introduction of the proposed changes to the GST law announced as part of the May 2015 Federal Budget such that those changes apply with effect from 1 January 2016 (rather than the current proposed start date of 1 July 2017)

As noted above, offshore operators currently achieve estimated margins of approximately \$400m a year in respect of amounts wagered by Australian punters (representing more than \$4 billion in economic activity) and this is already resulting in over \$40m in GST leakage per annum to the Government *as well as* the loss of significant product fees for Australian racing and sports controlling bodies. This GST leakage will continue until the recently announced changes to the GST law take effect, as illegal offshore wagering operators continue to escape the liability to pay their fair share of GST. In this regard, we note that the current intended start date of 1 July 2017 for the changes to the GST law will result in increased GST leakage exceeding \$80m during the intervening period.

Given the current GST leakage situation, Sportsbet recommends that the Government take appropriate steps to minimise this GST leakage as soon as possible. Accordingly, Sportsbet recommends that the changes to the GST law already announced by the Government should take effect from 1 January 2016, rather than the current start date of 1 July 2017. We also note that this recommended start date of 1 January 2016 is in line with the start date for the new measures to income tax anti-avoidance laws which were announced at the same time as the GST law changes.

3. Reject any point of consumption tax on Australian businesses that already pay their fair share of tax

The Tax Taskforce may be aware of the proposal by the South Australian Government in its *State Tax Review Discussion Paper*²² (**South Australian State Tax Review**) to move to taxing online gambling based on 'place of consumption' rather than 'place of supply'.

Sportsbet expects that now that the Government has announced changes to level the GST playing field for suppliers of digital products, the Government will not proceed with any changes to tax online gambling by reference to the 'place of consumption' as the additional GST revenue collected may then be redistributed to the States.

However, for completeness, Sportsbet still wishes to register its strong opposition to the South Australian Government's proposal to the extent it might apply to Australian-licensed online WSPs who already pay their fair share of direct and indirect taxes to Australian governments and racing and sporting bodies as it would have severe and unintended consequences for residents on many levels, as well as other key stakeholders in the racing, sporting and wagering industry.

The POC tax reform option is premised on two fundamental misconceptions which are summarised below.

First misconception: *The UK POC tax is an appropriate reference point for South Australian State Tax Review*

The UK POC tax regime is a poor point of reference for three key reasons.

First, prior to the UK POC tax regime commencing in December 2014, tax was imposed on a point of supply basis which meant that most online gambling activity went untaxed given the vast majority of operators who offered services to UK residents were licensed outside of the UK, e.g. Gibraltar, Alderney and Isle of Man. So, for practical purposes, the implementation of the POC tax at 15% of gross profits for UK operators merely increased the tax rate faced by UK operators from zero (0%) to 15%. By contrast, in Australia online WSPs

²² *State Tax Review Discussion Paper*, 2015, www.yoursay.sa.gov.au/yoursay/tax-review-in-south-australia

such as Sportsbet must, in addition to product fees, pay income tax, GST and PAYG taxes. To this end, Australian online WSPs pay around 30% of their revenue in the form of GST and product fees.

Second, Australia has a recognised ‘sports betting right’ enshrined in legislation which gives racing and sports bodies control over what bet can be offered on their ‘product’ and requires Australian WSPs to pay substantial product fees to them for the right to offer bets on those markets. No similar obligation exists internationally, or in the UK.

Third, the UK is a unitary system where taxation is only imposed at Federal level and no VAT is payable on revenue under the UK POC tax.

Table 2 below highlights the three fundamental reasons why the UK’s experience in introducing a POC tax is not a helpful or sensible point of comparison in Australia.

Table 2 - Comparing the UK and Australian wagering landscapes

Online regulatory wagering landscape	UK	Australia
Prior to December 2014 UK POC tax - online WSPs who took play from UK / Australian residents (as the case may be) already paid a suite of taxes to that Government, e.g. income tax, GST and PAYG taxes	✘	✔
Recognised sports betting right where online WSPs must pay product fees to racing and sport in order to offer wagering on their product	✘	✔
Multi-tiered government and taxation system with multiple taxation points	✘	✔

The net result of this is that UK operators had and do have a far greater capacity to absorb a decrease in revenue due to the imposition of a POC tax due to their significantly lower taxation burden. Sportsbet understands that, at a consolidated level, AWC members would effectively be making a loss if a POC tax resembling the UK model was introduced.

Second misconception: *It is sensible or equitable to increase tax neutrality between traditional and monopoly retail operators (traditional WSPs) and online WSPs*

As outlined above²³, Australian online WSPs compete in a highly competitive *global* wagering marketplace as compared to retail operators who have been granted a licence to operate as a monopoly in that State. The granting of such a licence, like the South Australian Government has to SA TAB, should result in SA TAB returning higher wagering taxes to the South Australian Government as the SA TAB is able to benefit in the additional \$446 million in turnover, competition free.

²³ See Pg 7 of submission under *The Australian gambling landscape and the growing threat of illegal offshore wagering operators*

3. Energise the Illegal Offshore Wagering Working Group initiative announced by the government to tackle the scourge of illegal offshore operators to minimise revenue leakage and protect Australian punters and the integrity of Australian racing and sport

We applaud the Federal Government's initiative to establish the *Illegal Offshore Wagering Working Group* to tackle the growing scourge of illegal offshore operators targeting Australians.

We urge the Government to forge ahead with this important initiative in consultation with relevant stakeholders, including the leading Australian licensed online WSPs. Curbing this illegal activity will provide Australian WSPs with a more even playing field and significantly minimise growing GST leakage. It will also protect the integrity of Australian racing and sport as well as protect Australian punters.

4. Remove the regulatory burden on Australian businesses of the IGA in-play restriction and adopt a platform-neutral approach

As previously outlined, the IGA currently prohibits Australians from placing 'in-play' bets using the internet but allows it over the phone or in person. The IGA in-play restriction should be removed and a platform neutral approach adopted. This is essential to recognise the significant technological advancements and convergence of digital platforms which has occurred since the IGA came into operation in 2001. Lifting the in-play restriction would significantly contribute to a sizable portion of the \$400 million in margins currently being achieved annually by offshore operators in respect of amounts being wagered by Australians being redirected to Australian licensed WSPs with the attendant economic benefits for Australia.

The in-play restriction in the IGA is not working and there is strong support among policy makers, gambling research academics and Australia's major sports

There is overwhelming evidence that the IGA has been grossly ineffective in preventing offshore-based gambling operators from providing prohibited services to Australians. This includes the:

- 2015 *Harper Competition Policy Review* which noted the AWC's contentions in relation to the anti-competitive nature of the IGA and agreed that gambling regulations should be included in a new round of regulation reviews to ensure that they are not unduly restricting competition;
- 2014 *Interactive Gambling' report*, commissioned by Gambling Research Australia, which found the IGA lacks effectiveness, illustrated in particular by high participation rates by Australians on prohibited overseas-based online services;
- 2013 DBCDE's *Final Report – Review of the Interactive Gambling Act* which acknowledged that while the primary objective of the IGA is to reduce harm to problem gamblers and to those at risk of becoming problem gamblers, evidence suggests that it is making only a very minor contribution to this objective and that the IGA may in fact be exacerbating the risk of harm because of the high level of usage by Australians of prohibited services which may not have the same protections that Australian licensed online gambling providers are required to have²⁴; and
- 2010 Productivity Commission *Inquiry Report into Gambling* which recommended that Australian licensed operators be allowed to offer online in-play betting to Australian customers.

²⁴ Final Report of the Review of the Interactive Gambling Act 2001, p6

The recommendation in the DBCDE's Report on the Review of the IGA to update the IGA to remove the ban on licensed Australian WSPs offering online in-play betting is also strongly supported by leading Australian gambling researcher and academic, Dr Sally Gainsbury, who states:

'The DBCDE recommendation to adopt a 'platform neutral' approach that makes no distinction in the way that bets are placed is an important step for consistent gambling policy. Regulation of in-play wagering should be consistent across online operators, via telephone and land-based outlets. This is consistent with the recommendations of the Joint Select Senate Committee on Gambling Reform.

*The recommendation to permit in-play betting on the final outcome of sports events and on exotic bets (that is pre-defined events within an event) is appropriate given that these types of bets are currently permitted over the telephone and at physical venues. Given the substantial in-play betting market held by offshore operators, legalising this form of betting in Australia is essential in encouraging operators to become regulated within Australia. This regulatory change is also important to enable legal wagering sites to compete with offshore operators and operators that have land-based venues.'*²⁵

In relation to in-play betting with illegal or offshore gambling providers, the CEO of Cricket Australia, James Sutherland said:

*'It's very significant. The first thing for us is all about integrity. It's all about making sure that the public's faith in the game, the confidence in the game about it being a fair contest is the absolute priority and that's what we are focused on. When you talk about in-play betting, one of things that perhaps isn't so well understood is that people can bet in-play in Australia, but they do it offshore. So it follows that if it is something that people are able to do here in Australia, then we should create some sort of framework around it to make it protected and protect it from those who want to get to the game in a way that be inappropriate or reduce that faith in the fair contest. That's where COMPPS has come to a position of supporting in-play betting and working down that path with government and others to get the end result.'*²⁶

[International experience and best practice demonstrates removing the in-play restriction is prudent to ensure the government collects the tax revenue it deserves and Australian consumers and sports are protected by betting in a highly regulated environment](#)

While regulation on a state-by-state basis has been relatively effective for many years for traditional land-based gambling which is located in defined geographic areas, it is not effective for the online wagering industry. In the latter, technology means there are no geographic boundaries and requires a different regulatory framework than traditional land-based gambling. Online sports betting is a *global industry* and online in-play wagering is a highly popular established form of betting around the world.

It is imperative that the Government take account of how Australians interact with the global online market because if a wagering product or service is or becomes prohibited or unviable for domestic operators to offer, Australians will still be able to, and do, readily access the same products online through unregulated overseas websites which do not meet Australia's stringent regulatory requirements for consumer protection and harm minimisation, nor contribute to protecting the integrity of Australian sport and racing.

The international experience strongly points to the fact that the jurisdictions that implement a strict regulatory regime for the provision of online gambling services have been more effective in protecting consumers than those that have imposed a blanket ban on online in-play wagering. Many Governments in major western countries over the past decade around the world including the UK, Italy, France and Denmark have decided that in order to protect their citizens from the perils of problem gambling and preserve the

²⁵ Submission by Dr Gainsbury from the Centre for Gambling Education and Research, Southern Cross University to the Department in response to the Department's Interim Report on the review of the IGA dated 25 June 2012, pp 25-26.

²⁶ James Sutherland, CEO Cricket Australia, 12 June 2012

integrity of sport, the most effective public policy measure is to permit this form of wagering under a regulated onshore licensing regime.

Sportsbet contends that lifting the in-play restriction will not only reap the Government benefits in terms of minimising growing GST leakage (by encouraging punters to place wagers with Australian WSPs rather than illegal offshore wagering operators who do not pay GST) and product and wagering fees, but address a serious regulatory burden for Australian online WSPs. It is imperative that the Government provides a regulatory framework for wagering that encourages Australian consumers to interact with Australian WSPs.

Concluding remarks

The Government has a real opportunity through the *Illegal Offshore Wagering Working Group* and the recently announced changes to the GST law to take action against illegal offshore wagering operators who are not *'paying their share along the way'* and jeopardising Australia's burgeoning digital economy, the integrity of sport and Australians who may be at risk of problem gambling.

Equally importantly, the Government has an additional opportunity to modernise the IGA by removing the in-play restriction in light of significant technological advancements and convergence of digital platforms and match worldwide best practice regulation while reducing red tape for Australian online WSPs.

Removing the in-play restriction and adopting a platform neutral approach to in-play betting under the IGA to permit it through Australian-based licensed WSPs will strengthen the integrity of Australian sport and ensure that Australians receive protection in the form of appropriate harm minimisation and consumer protection measures, which are not available through illegal offshore wagering operators.

Sportsbet echoes calls from the AWC in calling on the Tax Task Force to support the recommendation in the *2012 Review of the IGA* to modernise the IGA with respect to in-play betting in accordance with the principle of platform neutrality.

Evening the playing field rather than increasing taxes will allow Sportsbet and other Australian businesses to continue be at the forefront of the new digital economy, and will contribute to a prosperous and sustainable Australian economy.

Sportsbet thanks the Task Force for the opportunity to make this submission and welcomes the opportunity to discuss any of the matters raised.

Annexure 1 – More about Sportsbet and our strong commitment to responsible gambling and consumer protection

More about Sportsbet

Sportsbet is Australia's largest online bookmaker with over 1 million customers.

Sportsbet is licensed in the Northern Territory and is wholly owned by Paddy Power plc, which is publicly listed on the Ireland and London stock exchanges. Sportsbet employs more than 600 Australians across three States.

Sportsbet offers wagering products on a range of activities to customers across Australia on the internet via Sportsbet's home page (www.sportsbet.com.au), mobile and tablet devices, as well as via telephone operator. Sportsbet's major wagering product is racing (thoroughbred, harness and greyhound). Sportsbet also offers wagering on a wide variety of sports (e.g. NRL, AFL, tennis, etc) and certain novelty markets (e.g. the outcome of a reality television show).

Sportsbet is a member of the AWC the peak body that represents the interests of a number of prominent independently operating wagering companies which are licensed in Australia.

Sportsbet's strong commitment to responsible gambling consumer protection

Although it is vital to minimise the prevalence of problem gambling, it is important to recognise that Australian research has consistently found that problem gambling affects between 0.5%-1% of the population.²⁷

Of that group, based on robust research, (including the above mentioned research), the Productivity Commission has estimated that 75%-80% of problem gamblers are directly related to the use of poker machines.²⁸ Anti-gambling advocates acknowledge that poker machines are the primary source of problem gambling in Australia. According to Independent Senator Nick Xenophon:

*"We know that the predominant cause of gambling addiction in this country is poker machines."*²⁹

It follows that the incidence of problem gambling is extremely low in the online wagering environment and significantly lower again compared to poker machines.

In 'one of the most comprehensive research projects undertaken into problem gambling anywhere in the world' for a period spanning eight years, the QLD Government Household Gambling study did not find any increase in the prevalence of problem gambling over the period 2001 to 2009, the period over which we have experienced a significant increase in online wagering. In fact, the studies indicated a decline in problem gambling prevalence over this time, although noted that the decline was not statistically significant.³⁰

Sportsbet is strongly committed to responsible gambling and people gambling within their means. We use a wide range of responsible gambling measures which go over and above the obligations imposed on Australian licensed WSPs under state and territory-based laws, regulations, codes of practice and advertising standards.

²⁷ The Productivity Commission estimated that there were between 0.5 and 1.0% of Australian adults with a significant gambling problem and a further 1.4% to 2.1% of Australian adults that are at a moderate risk of problem gambling: Productivity Commission, Inquiry Report on Gambling (2010), p. 5.1.

²⁸ Ibid

²⁹ Senate, Hansard, 5 March 2014

³⁰ Queensland Government's Household Gambling surveys for the period 2001, 2003-04, 2006-07 and 2008-09.

These measures include:

- *Voluntary pre-commitment* - where customers can set a daily, weekly or monthly deposit limits when opening an account and update this at any time – subject to a cooling-off period before a change to increase a betting limit. Voluntary pre-commitment encourages responsible gambling by ensuring customers spend within their means up to a maximum amount which they have pre-determined.
- *Self-exclusion* - Customers can self-exclude for a nominated period. Sportsbet customers have the ability to self-exclude themselves from betting with Sportsbet, which enables persons who may be at risk of problem gambling to take proactive steps to ensure Sportsbet closes their account and does not take bets from them.
- *Spend-tracking facilities* - Sportsbet customers can track their wagering spend via their account statements, which ensure that customers can access this information at any time in order to monitor their wagering activities to ensure it is within their limits.
- Specialised responsible gambling officers and the implementation of mandatory training on responsible gambling practices for all staff.
- Responsible marketing of gambling, including compliance with the Australian Association of National Advertisers Code of Ethics.
- Support for industry self-regulation and restrictions such as the ban on broadcasting of live odds and advertisements during play and the ban on online pokies, and strongly advocates for an industry-wide self-exclusion database.
- The implementation of a cash withdrawal card so that customers can immediately withdraw money from their account, removing any hindrance or restrictions for customers to access their funds.
- 'Cash out' betting feature – Sportsbet now offers customers the choice to 'cash out' of their bet before the end result if they are inclined to take either a handsome profit if the odds of their original bet have shortened (improved) but they're inclined not to take any chances or, alternatively, to take a portion of their original bet back if they change their mind or don't like the way the outcome of their bet is looking.