



Justice and Community Safety Directorate
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Submission into Limiting child and youth exposure to gambling advertising in the ACT

To the Directorate

Responsible Wagering Australia (**RWA**) is the peak body representing the Australian licensed online wagering industry. Our members include Australia's major online wagering service providers (**WSPs**): bet365, Betfair, PointsBet, Sportsbet, and Unibet. RWA advocates for sensible and evidence-based regulations that promote consumer protections which do not result in unintended consequences such as driving consumers to illegal offshore providers. Our members are committed to maintaining high standards of safer gambling and other consumer protections.

We thank the ACT Government for engaging on the 'Limiting child and youth exposure to gambling advertising in the ACT - Options for reform' consultation (the **Discussion Paper**). RWA and its members hold significant concerns with the issues and proposals raised in the Discussion Paper, in particular:

- RWA **does not support** the introduction of a specific authorisation requirement for WSPs operating in the ACT. Given the robust regulatory and licence requirements interstate WSPs already adhere to that apply nationally, as well as comprehensive consumer protection standards in operation under the National Consumer Protection Framework (**NCPF**) for Online Wagering, a specific authorisation requirement in the ACT is unnecessary, would only add complexity and regulatory duplication for industry, and would not achieve any additional consumer protection outcomes above and beyond those already provided by existing regulatory and licence requirements.
- RWA **strongly recommends** the ACT Government not to proceed with any localised wagering advertising reforms outside of a nationally agreed and consistent framework.
- RWA **strongly recommends** that any wagering advertising reforms should be implemented at the federal level to ensure consistency and effectiveness across all jurisdictions. Given that the Discussion Paper itself acknowledges gambling advertising as a national issue, the current proposal appears premature, particularly in light of recent federal developments on wagering advertising since the release of the Discussion Paper.

RWA and its members support the consistent application of regulatory and harm minimisation measures across the broader gambling industry, rather than a fragmented approach across multiple jurisdictions. Aligning with a national framework will ensure that any measures introduced are consistent across jurisdictions, avoiding discrepancies and unintended consequences for customers, governments and WSPs.

A new interstate authorisation requirement is unnecessary, will not achieve any new or enhanced outcomes for consumers, and only add to regulatory complexity

RWA has significant concerns regarding the proposal for the ACT Government to introduce an authorisation requirement for interstate WSPs intending to operate in the ACT. This would not strike the right balance between regulatory outcomes and burden, thus undermining a key objective of the ACT Government's 'Better Regulation' agenda, and ultimately to the detriment of consumers.

The authorisation requirement for interstate operators, including a requirement to apply the ACT Code of Practice, would not result in any increase in consumer protections. This is due to several existing regulatory and licence requirements from other state or territory jurisdictions, and existing Commonwealth requirements, already providing consumer protections above and beyond what the ACT Code of Practice would require.

The Northern Territory Racing and Wagering Commission, which licenses RWA members and the majority of online WSPs, has robust processes and protections in place through the Northern Territory (NT) Code of Practice for Responsible Service of Online Gambling and licence requirements that ensure NT licensed bookmakers continue to offer the safest form of gambling in Australia to all customers, no matter where they reside or engage with NT-licensed operators. For example, obligations placed on WSPs under the NT Code of Practice to identify problem gambling 'red flag' behaviours goes above and beyond harm minimisation obligations in the ACT's Code of Practice.

In addition to NT regulatory and licence requirements, all WSPs must comply with advertising standards in the Australian Association of National Advertisers Code of Ethics and the Wagering Advertising Code. All Australian wagering customers are additionally protected by a range of consumer protection standards captured under the NCPF.

Initiatives implemented nationally for online wagering as part of the NCPF include:

- The **National Self-Exclusion Register (BetStop)** allows individuals to exclude themselves from all WSPs in Australia with a single registration.
- The **nationwide prohibition on the use of credit cards** for online wagering ensures that consumers are unable to gamble online using credit.
- **Identity pre-verification** obligations require WSPs to verify the identity and age of customers using trusted, independent sources before customers can register an account and access WSP services.

A regulatory approach requiring interstate WSPs to gain authorisation to operate in the ACT would create a significant resources burden and compliance challenge for the ACT Gambling & Racing Commission, leading to a hampered ability to effectively undertake compliance activity and thus ultimately undermining regulatory objectives.

The costs associated with authorising and regulating operators would be significant, especially given the small size of the jurisdiction and when taking into account the ACT Gambling & Racing Commission would be required to regulate the growing number of small online WSPs who do not pay point of consumption tax as they fall below the tax-free threshold. Importantly, inflated regulatory costs that are borne by industry would ultimately impact government revenue as consumer expenditure would shrink, as WSPs would provide devalued odds to defray regulatory costs. The ACT could also see poorer consumer outcomes resulting from the material risk of market consolidation and reduced competition, ultimately limiting consumer choices and in turn driving up costs for customers, potentially pushing them towards unregulated offshore operators.

When states and territories align under a unified framework, outcomes are more effective, equitable, and easier to implement. RWA advocates for the importance of national consistency in regulatory frameworks, a principle effectively demonstrated by the NCPF. The NCPF has shown over several years of existence that industry and government collaboration to implement robust and consistent nationwide consumer protection measures is the best model to deliver consumer protection outcomes. This unified approach has enhanced consumer safeguards across industry because of a clear and consistent set of standards for all Australian customers.

Reforms to wagering advertising must occur at the federal level, not unilaterally by the ACT Government in conflict with any federal requirements

RWA and its members recognise community sentiment and acknowledge that the status quo in gambling advertising is unsustainable. Our members support balanced reforms to reduce child and youth exposure to gambling advertising. A nationally consistent approach to advertising regulation is critical for reforms to achieve intended policy outcomes. Inconsistencies across state, territory and federal jurisdictions creates a fragmented regulatory approach, leading to inefficiencies and unintended consequences that undermine the goal of protecting vulnerable groups, including children.

Imposing localised gambling advertising regulations in a small jurisdiction like the ACT presents significant challenges, particularly given that media buying often occurs on a national or regional level. Broadcast coverage in the ACT is not confined to the territory; it is part of a regional network that includes audiences in parts of regional NSW. This overlap makes it impractical to enforce ACT-specific regulations, as broadcast content cannot be easily segmented for different audiences within the same media market.

Applying inconsistent regulations would create operational difficulties for broadcasters, who would either need to reprogram content for the ACT or risk non-compliance with local laws, leading to inconsistent enforcement. Without a nationally consistent regulatory framework, ensuring compliance would become highly complex, likely resulting in enforcement challenges and undermining the intended protections for ACT residents.

To achieve meaningful reform, RWA supports the following key principles within a national framework:

- **Balancing restrictions across advertising mediums and assets:** Regulatory reforms that limit advertising must be applied in a balanced manner across all advertising mediums and assets. A balanced approach prevents the mere shifting of advertising spend or volume from one medium to another, undermining the effectiveness of restrictions in reducing children's exposure to advertising.
- **Consistent application of regulatory and harm minimisation measures across gambling forms:** Reforms should encompass all forms of gambling, including land-based operations, lotteries, and online keno. A consistent approach to advertising from the gambling industry as a whole is required to meet the objective to reduce children's exposure to gambling advertising.
- **Ban on above-the-line inducement advertising:** RWA supports the implementation of a nationally-consistent ban on above-the-line inducement advertising, adopting the New South Wales model as a framework that is tried, tested, and proven effective. This approach should be applied uniformly to both online and retail wagering operators nationally, ensuring that all sectors of the industry are held to the same standard.

Reform objectives require a holistic approach covering all forms of gambling

The Discussion Paper substantiates the need for gambling advertising reform by referencing statistics from an Australian Institute of Family Studies study from March 2023, which found that:

- 73 per cent of Australian adults gambled at least once in the past 12 months,
- 38 per cent gambled at least weekly, and
- 46 per cent were classified as being at risk of gambling harm.

However, the Discussion Paper does not openly and transparently acknowledge that these statistics encompass not just online wagering but all forms of gambling, including lotteries, poker machines, and land-based casino games. Yet the proposed reforms do not take a holistic or balanced approach to gambling advertising but instead target only online wagering.

Australians engage in other forms of gambling at materially higher rates compared to online sports and racing betting, emphasising the need for applying balanced advertising reforms across gambling sectors which are not currently captured by advertising reform proposals but engage in advertising, such as retail venues and online keno and online lotteries.

A recent Australian National University (ANU) study¹ revealed that the most popular gambling activity in 2024 was purchasing lottery tickets, with 46.8 per cent of Australia's adult population participating in this form of gambling. Sports betting and racing betting were reported at only 14.7 per cent of the adult population. Moreover, the ANU study highlights a high prevalence of online lottery and keno participation with 45 per cent of lottery activity now occurring online.

Lotteries and online keno are increasingly advertising across channels, at all times across the day and week, increasing the risk of exposure for children and vulnerable people. Lotteries and keno advertising on broadcast television still does not carry the consistent gambling warning messaging required by the Federal Government for online wagering.

In the context of the rates of which Australians are engaging in land-based gambling and online lotteries and keno, the policy basis for their exclusion from advertising restrictions is not clear, particularly when the Federal Government is considering applying other consumer protection measures which already exist for online wagering (such as credit card bans and customer pre-verification) on online keno and foreign matched lotteries.

In the absence of a holistic approach that encompasses all forms of gambling, the next generation of potential wagerers will be driven towards categories that can advertise, such as online keno or lotteries, or worse still, play offshore with illegal operators - none of which have the consumer protections provided in online wagering.

Meaningful consultation must include balanced alternative solutions

We strongly encourage the ACT Government to halt any consideration of unilateral reforms to advertising and collaborate closely with the Federal Government and other states and territories to ensure that any advertising reforms are part of a cohesive national strategy that delivers consistent outcomes and avoids unintended consequences.

However, in the instance the ACT Government progresses any reform process, it is essential that any reform process, particularly one as impactful as changes to gambling advertising, is underpinned by genuine consultation with both the community and key stakeholders. Presenting only two options in the Discussion Paper for consideration significantly limits the scope for meaningful input on alternative approaches. Such a narrow framework does not allow for the exploration of potentially more balanced and effective solutions that could better achieve the desired outcomes without unintended consequences.

Recent polling by Freshwater Strategy² highlights that the majority of respondents (57 per cent) prefer more measured alternatives to this issue. This data underscores the importance of offering a broader range of options during the consultation process, allowing for a more nuanced understanding of public sentiment and the potential impact of various regulatory approaches.

¹ July 2024, *Gambling participation in Australia 2024: Trends over time, and profiles associated with online gambling*, Suomi et al.

² August 2024, *Australian Financial Review/Freshwater Strategy poll*

Conclusion

RWA appreciates the opportunity to contribute to this process and look forward to working with the Justice and Community Safety Directorate to develop effective and balanced regulations that safeguard Australian consumers while supporting a sustainable gambling industry. Should you require any further information about these issues, please contact Mr Mike Websdane, Head of Strategy and Operations, at mike.websdane@responsiblewagering.com.au.

Yours sincerely,



Kai Cantwell
Chief Executive Officer

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