



SUBMISSION TO

NSW LAW REFORM COMMISSION

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CHEATING AND GAMBLING

Wesley Community Legal Service is a N.S.W. community legal centre established in 1994 that now provides a specialist gambling legal service for consumers. Our role is:

- To provide legal advice, information and support to problem gamblers, families and others affected by problem gambling;
- To provide court representation for persons charged with gambling-related crimes;
- To provide education and training to relevant service providers such as RGF-funded problem gambling services on legal issues relating to problem gambling;
- To provide advice and advocacy on regulatory issues relevant to problem gambling.

The Issue

The growing sportsbetting industry has greatly exacerbated the problem of dishonest manipulation of sporting events by the creation and marketing of wagering products involving micro-events within sporting competitions.

What motivates people to cheat?

The sportsbetting industry is guilty of creating an unreal betting environment where punters form the belief that they can beat the odds and make a profit from their wagering activity.

People in the sporting and racing industries are very familiar with the problem of cheating. A number of sanctions already exist, including bans on future participation in the sport, public shaming, financial penalties etc. However, these sanctions have not been overly successful in eliminating cheating or even keeping it to a modest level.

So people may be motivated to cheat because:

- Of greed due to the easy money to be made;
- They are problem gamblers and cheat to repay their gambling debts or get revenge on their bookmaker;
- They think they can get away with it;
- They think “everybody is doing it”;
- They don’t consider the consequences of being caught.

Cheating takes place in a wide range of levels of sophistication. Also there is a wide-range of wrongdoing, from those who mastermind sophisticated scams, to those who may merely be guilty of turning a blind eye.

The need for legislative reform

The current provisions of the Unlawful Gambling Act provide an inadequate tool for the prosecution of cheats. In particular, the use of the word “fraudulent” provides a significant obstacle to securing a conviction. There are many forms of cheating that may not always be fraudulent.

Section 42 of the UK Gambling Act appears to provide a preferable formula for prosecution of persons who cheat.

However, it is doubtful whether section 42(3) is of assistance. It attempts to clarify what cheating can include, rather than leaving the interpretation of the term to the wisdom of the courts.

Section 42 of the UK Gambling Act does not appear to cover situations where a sportsperson would perform below their best efforts with the intention of producing a sporting result that may have been bet on by punters with some

connection to them. We would suggest that the cheating offence be broadened to incorporate interference with the normal process of a sporting or racing event which may have an impact on the financial returns available to punters. So there would be an offence that specifically applies to sportspeople and jockeys who behave below their best performance with the intention of having an impact on the outcomes of those who wager.

An insider trading offence?

Investigation should be given to the extent to which participants in the sporting and racing industry, or the bookmaking industry, should be able to use information gained in the course of their employment for financial gain. We consider that a criminal offence should be available to restrict the use of these sportspeople and gambling industry people of their insider knowledge for financial gain. However, there is a lack of clear boundaries between what knowledge and behaviour is acceptable and what is not.

Will a legislative response solve the problem?

No, but well-publicized prosecution action taken against high-profile fraudsters should succeed in restraining the level of fraud.

The most important message to communicate to the sporting and punting community is the fact that significant resources are being committed to the detection and prosecution of cheating activities and that an adequately tough set of sanctions are being applied.

However, because of the high level of problem gambling in the sporting community, many will be tempted to get involved in cheating activities, even when there are harsh sanctions and rigorous enforcement. Parallels can be drawn with the use of drug addicts to import drugs into Australia. Desperate people take more risks and sportspeople have a high prevalence of problem gambling.

Worse, the provision of credit by bookmakers can exacerbate the problems of sportspeople who fall into debt. These sportspeople are greatly at risk of the

temptation to cheat, to repay their gambling debts or get revenge on bookmakers who they consider have wronged them.

Who should bear the cost of gambling fraud prevention and prosecution?

Increasingly, suspicions of cheating are first raised by bookmakers, who are very sensitive to irregular betting activity. Also, bookmakers are the group who have the most to gain from the suppression of cheating. An increasing percentage of wagering on New South Wales sporting events occurs in the Northern Territory and other places outside of New South Wales, so in effect, New South Wales is meeting the cost of regulation without a commensurate return to the State by way of wagering taxes. It would be worth considering the ways in which the bookmakers outside this State could contribute financially to the cost of policing and prosecuting cheating regulation.

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