



AFP

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4 March 2011

The Hon James Wood AO QC
Chairperson
NSW Law Reform Commission
Level 13, Swire House
8-12 Chifley Square
SYDNEY NSW 2000

Dear Mr Wood

Thank you for your correspondence of 6 January 2011 regarding a NSW Law Reform Commission review of the coverage of criminal law in relation to cheating and gambling. You requested information about the perceived incidence of cheating, the kinds of activities that constitute cheating, the extent of prosecution and conviction and the appropriateness of the current legislative and common law frameworks. My response is as follows.

AFP's national role

Nationally, the AFP responds to referrals from the Australian Communications and Media Authority (ACMA) and the Department of Broadband, Communications and the Digital Economy, regarding alleged breaches of the *Interactive Gambling Act 2001 (Cwlth)* (the IG Act).

Referrals brought to the AFP's attention are evaluated in accordance with its Case Categorisation and Prioritisation Model (CCPM). This ensures that the AFP's resources are directed to the matters of highest priority. The major elements considered are:

- the incident type and the effect on Australian society
- the importance both to the client and to the AFP in terms of the roles assigned to the matter by the Government
- the resources required by the AFP to undertake the matter.

In 2010 the AFP considered six referrals in relation to breaches of the IG Act that were all related to interactive gambling advertisements of an overseas-hosted gambling service. None of these referrals were accepted for investigation as they did not meet the required threshold under the AFP's CCPM.

The AFP can assist to coordinate information sharing between Australian police agencies and international law enforcement agencies. For example, one of the referrals in 2010 that was not investigated further involved a site hosted overseas. The AFP provided relevant information about the site to the local law enforcement body through Interpol.

Gambling and cheating in the ACT

The AFP also deals with allegations of contravention of ACT gambling and cheating legislation in its role as community policing provider for the ACT.

From 1 January 2000 to 31 December 2010, eleven contraventions of the *Casino Control Act 2006 (ACT)* and *Gaming Machine Act 2004 (ACT)* were reported to ACT Policing. These were:

- five incidents of entering a casino after being excluded from entering or remaining in the casino contrary to ss. 86(1) of the Casino Control Act
- two incidents of interfering with the operation of a gaming machine
- two incidents of interfering with reward payout of gaming machine (s. 129 of the Gaming Machine Act)
- one incident of possessing casino gaming equipment (s. 94 of the Casino Control Act)
- one incident of cheating using a trick (s. 108 of the Casino Control Act).

As at the date of this letter, there is one relevant matter before the ACT Magistrates Court. The defendant is an employee of a betting operator alleged to have placed bets on a personal account after a betting event had completed. The defendant is alleged to have done this on 500 occasions since early 2003, netting around \$1.4 million. There is no specific contravention of gambling or betting laws and so the defendant has been charged under s. 326 of ACT Criminal Code with 'obtaining property by deception'.

Challenges and areas for possible reform

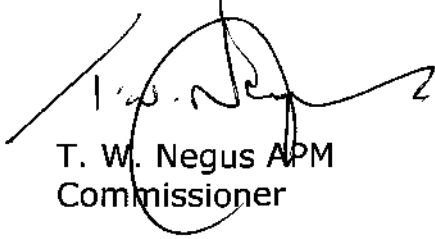
Given the limited number of referrals for 'cheating' the AFP has no suggestions regarding legislative change. However, there are a number of challenges.

One such challenge for the AFP is that cheating and gambling referrals are not prioritised for further investigation. This is because cheating and gambling offences are of a lower priority than competing operations in the AFP's case management system.

A further challenge is the inconsistency between ACMA's role censoring internet material and the AFP's role enforcing federal gambling and cheating laws. For example, ACMA can deem internet material (such as a gambling website) 'prohibited', but the AFP does not currently have a role.

If you require any further information please do not hesitate to contact my office.

Yours sincerely

A handwritten signature in black ink, appearing to read 'T. W. Negus', is written over a circular stamp. The signature is fluid and cursive, with a long horizontal stroke extending to the right. The circular stamp is partially obscured by the signature.

T. W. Negus APM
Commissioner