

27 January 2011

Ms Lauren Judge  
Acting Executive Director  
NSW Law Reform Commission  
GPO Box 5199  
SYDNEY NSW 2001

ACMA file reference: ACMA 2011/228

Dear Ms Judge,

### **Gambling Review**

Thank you for your invitation, dated 19 January 2011, for the ACMA to provide information to the NSW Law Reform Commission's 'Cheating at Gambling' review, detailing the work undertaken by the Australian Communications and Media Authority (the ACMA) in relation to the *Interactive Gambling Act 2001* (the IGA).

#### Background

##### *Interactive Gambling Act 2001*

The IGA has offences for:

1. the provision of certain types of interactive gambling services to customers in Australia;
2. the provision of such interactive gambling services by Australian-based operators to customers in designated countries; and
3. publishing, broadcasting or datacasting interactive gambling service advertisements.

Under the IGA, the ACMA is responsible for investigating complaints about alleged prohibited interactive gambling content and for registering industry codes of practice dealing with interactive gambling matters.

##### *Internet Industry Association code of practice*

In 2001, the Internet Industry Association registered a code of practice with the ACMA. This identifies the process by which the ACMA should contact industry accredited internet filters providers, to block Australian customers from accessing prohibited interactive gambling, that is hosted overseas.

##### *2010 Commercial Television Industry Code of Practice*

The ACMA can also investigate complaints about compliance with relevant provisions in the *2010 Commercial Television Industry Code of Practice* regarding the permitted times for the broadcast of general gambling and betting advertisements that are not otherwise prohibited.

### Provision of interactive gambling services

Under the IGA, it is an offence to intentionally provide online interactive gambling services that are accessible by customers in Australia.

The IGA provides the ACMA with jurisdiction to investigate complaints about alleged prohibited online gambling content if it is hosted overseas. If it is hosted in Australia the ACMA must not investigate the complaint.

#### *Overseas content*

Where the ACMA undertakes an investigation and identifies prohibited online gambling content, hosted overseas, it must notify the content to industry accredited internet filters providers for blocking, in accordance with the Internet Industry Association code of practice, registered under the IGA. The ACMA may also refer the content to the Australian Federal Police.

#### *Australian content*

The IGA directs the ACMA not to investigate complaints about alleged prohibited online gambling content that is hosted in Australia. Rather, if the ACMA considers the complaint warrants further action, it must refer it to a state or territory police force, or the Australian Federal Police for complex complaints.

#### *Complaints received by the ACMA during 2009-10*

During 2009-10 the ACMA received 46 valid complaints under the IGA in respect of the provision of online gambling services. Of these complaints, three investigations resulted in the location of prohibited internet content. Each of the services identified was located outside Australia.

### Advertising interactive online gambling services

Under the IGA, it is an offence to publish, broadcast or datacast advertisements for interactive gambling services in Australia.

The IGA does not specify which agency is responsible for investigating alleged breaches of the advertising provisions. This role currently lies with the Department of Broadband, Communications and the Digital Economy although these matters may be referred by that agency to the Australian Federal Police and the ACMA.

#### *Complaints referred to the ACMA during 2009-10*

In March 2010, the Department of Broadband, Communications and the Digital Economy referred two matters to the ACMA for investigation. These related to the broadcast of interactive gambling services advertisements by commercial television broadcasting licensees. In October 2010, the ACMA found the licensees had broadcast interactive gambling service advertisements in contravention of section 61DA of the IGA and as a consequence, had breached the condition of their commercial television licences set out at section 61FD(1) of the IGA.

### Broadcasting and the 2010 Commercial Television Industry Code of Practice

The *2010 Commercial Television Industry Code of Practice* includes provisions regarding the times that commercials relating to betting or gambling may be broadcast. Code 6.14 provides that betting or gambling advertisements must not be broadcast in G classification periods on Monday to Friday between 6.00-8.30am and 4.00-7.00pm nor on weekends between 6.00-8.30am and 4.00-7.30pm. Some exemptions apply to permit lotto advertisements or tourism commercials incidentally depicting gambling or betting.

*Complaints received by the ACMA during 2009-10*

**Australian  
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[www.acma.gov.au](http://www.acma.gov.au)

Since the commencement of the Code, the ACMA has received 4 complaints about commercials relating to betting or gambling broadcast on free to air television. All four complainants have been advised of the code complaint process, set out in the *Broadcasting Services Act 1992*, which requires a complaint to be made to the broadcaster in the first instance. These complaints may be brought to the ACMA for investigation if complainants consider their response from the licensee inadequate.

Please don't hesitate to contact Jenny Allen, Senior Policy Officer, Broadcasting Standards Section on [REDACTED] should you require any further information regarding this submission.

Yours sincerely,



**Elizabeth Press**

Manager, Broadcasting Standards Section