

AUSTRALIAN GOVERNMENT (OFFICE FOR SPORT)
SUBMISSION TO THE NSW LAW REFORM COMMISSION INQUIRY
‘CHEATING AT GAMBLING’
MAY 2011

INTRODUCTION

Match-fixing in sport and the corruption that flows from it is an emerging and critical issue, for sport and governments alike. Left unchecked, this corruption will devalue the integrity of sport and diminish the acceptability and effectiveness of sport as a tool to develop and support many aspects of our society. It has the potential to undermine public confidence in the integrity of sport, sporting events and the products offered by betting agencies.

The Australian Government has been working with state and territory governments to develop a national framework to deal with match-fixing and is of the view that a nationally consistent approach to dealing with match-fixing, irregular betting and associated corrupt activities is essential.

The objectives of such a national policy would be to:

- Instil public confidence in the integrity of Australian sport and the expectation of sporting outcomes unfettered by external influences;
- Ensure Australia has an appropriately robust anti match fixing and anti-corruption in sport regime which establishes its international credibility to actively participate in international reforms aimed at achieving similar international outcomes.

GENERAL COMMENTS

Need for nationally consistent arrangements

The Office for Sport is strongly of the view that to tackle the issue of match-fixing and related activities requires a consistent regulatory approach across all Australian jurisdictions.

Ultimately, a consistent approach strengthens integrity nationally by limiting the risk of match-fixing and associated fraudulent activity occurring in jurisdictions with less stringent regulations. Further, current arrangements are complex given the differences between legislation in jurisdictions and the rapid increase in online betting which can operate with ease over state and territory borders and internationally.

To strengthen arrangements nationally, the following elements are required in a national policy:

- the development of nationally consistent legislation, to reflect the criminality of match-fixing activity and engagement with law enforcement agencies;
- protocols for monitoring and information sharing;
- protocols for sanctions by sports and referral of criminal activity to law enforcement agencies;
- arrangements for regulating the arrangements between sports and the betting industry;
- codes of conduct for sporting codes which conform to a common set of principles;

- national governance arrangements to oversight and review national policy.

The Office for Sport recognises that there are a range of regulatory options available to achieve a national policy and is working with state and territory governments to identify the most suitable approach with the aim of coming to an agreement this year noting that nationally consistent legislation will take time to achieve.

Comments on the NSW Law Reform Commission consultation paper

In general, the Office for Sport supports the views expressed in the consultation paper.

While we have no specific comments on the draft criminal offence provisions, we support the direction taken in developing an offence of cheating in relation to sports and event betting and strengthening penalties.

The Office for Sport is interested in legislative reform in this area being carried out in a way that is capable of adaption to future national arrangements. The Office supports the position taken in the paper which suggests the development of model clauses that could be adopted by other states and territories. The Office also strongly supports the position in the paper in regard to the importance of substantial uniformity in relation to any measures that are directed to securing the integrity of sporting contests and associated gambling activities.

The Office for Sport recognises the need to engage through Attorney's General on matters relating to criminal offences and penalties, law enforcement and investigative powers.

Joint Select Committee on Gambling Reform

Also relevant to the proposals in the consultation paper is the inquiry being conducted by the Joint Select Committee (the Committee) on Gambling Reform. This inquiry is examining issues relating to the regulation of online gambling, and gambling advertising including consideration of the issue of match-fixing as a result of the availability of online betting. Terms of reference for the inquiry can be found at:

http://www.aph.gov.au/Senate/committee/gamblingreform_ctte/interactive_online_gambling_advertising/tor.htm

In addition, Senator Nick Xenophon has stated he will refer a forthcoming bill relating to the regulation of online gambling and gambling advertising to the committee, and this will be considered as part of the inquiry.

NOTES

Note: The comments above represent the views of the Office for Sport (Department of the Prime Minister and Cabinet) and not the Australian Government as a whole.

The views of the Department of Broadband, Communication and the Digital Economy are provided in the attachment.

ATTACHMENT

The following comments have been provided by the Department for Broadband, Communication and the Digital Economy (DBCDE).

‘whether existing law adequately deals with cheating at gambling in relation to betting on sports and other events and gaming’

Interactive Gambling Act 2001

The Department for Broadband, Communication and the Digital Economy has policy responsibility for the *Interactive Gambling Act 2001* (IGA) which aims to limit the provision of prohibited online gambling services to Australians and to, therefore, minimise the scope for problem gambling among Australians. The IGA is not designed to address issues dealing with corruption or cheating in sports betting and other events and gaming which occur online. It is understood however that the increasing popularity of online gambling services may provide greater opportunities for match fixing and other forms of corrupt gambling behaviour.

Among other things, the IGA proscribes the provision of prohibited online gambling services to customers in Australia and the advertising of such gambling services. The IGA is designed to regulate the provision of both Australian and overseas based prohibited online gambling services.

Online gambling services prohibited under the IGA include:

- online casino-style gaming services of chance, such as online poker machines and roulette;
- online casino-style gaming services of mixed skill and chance, such as online poker card games; and
- ‘in play’, ‘ball by ball’ or ‘contingency’ betting online after a sporting event has commenced.

The IGA does allow some forms of more traditional gambling services to be undertaken online which are subject to State and Territory legislation. These gambling services include online wagering on:

- a horse race;
- a harness race;
- a sporting event;
- the outcome of an event or contingency; and
- lotteries not including scratch lotteries, instant lotteries, keno-style lotteries or bingo.

Telephone betting services are also permitted under the IGA. A telephone betting service is defined in the IGA as ‘a gambling service provided on the basis that dealings with customers are wholly by way of voice calls made using a standard telephone service’.

The IGA does not contain provisions to deal with cheating or corruption in sports betting or online gambling. Such matters have been left to State and Territory regulation. Section 69 of the IGA provides that it is ‘not intended to exclude or limit the operation of a law of a State or Territory to the extent that that law is capable of operating concurrently’ with the IGA. In other words, a online service which is not prohibited under the Commonwealth IGA may be still subject to State or Territory law.

The Department notes that it does not have policy responsibility for issues relating to cheating on sports betting and through online gambling.

Gambling advertising on commercial television

Gambling advertising on free-to-air commercial television is regulated under the Commercial Television Industry Code of Practice 2010 (the Code) established under *the Broadcasting*

Services Act 1992. Under the Code, gambling advertisements are permitted to be aired: during any news or sporting programs; at any time outside of G classification periods Monday to Friday; and before 6.00 am, between 8.30 am and 4.00 pm, and after 7.30 pm on weekends. Advertisements relating to such things as government lotteries, lotto, keno or contents; or facilities at places where betting or gambling may take place (such as clubs) are not subject to these requirements.

Under the Code, digital multichannels (such as ONE HD) do not have G classification periods, and therefore gambling advertisements can be shown at any time on a digital multichannel except on weekends, where the same requirements apply as per primary channels.

‘proposed specific cheating offence in relation to sports and event betting’

DBCDE notes that the proposal to adopt provisions relating to cheating offences for sports and event betting should be capable of operating concurrently with the IGA, as mentioned above. It also notes the jurisdictional challenges that arise due to the global nature of the internet, and the difficulties involved in enforcing any laws relating to online activities which originate overseas. The Department notes that this is an issue currently being grappled with by many other countries in addition to Australia.