

SUBMISSION TO THE DRAFT ONLINE SAFETY (BASIC ONLINE SAFETY EXPECTATIONS) DETERMINATION 2021 CONSULTATION

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19 November 2021, kate.da.costa@agr.org.au*

The Alliance for Gambling Reform (the Alliance) thanks the Department of Infrastructure, Transport, Regional Development and Communications for the opportunity to provide input to the Draft Online Safety (Basic Online Safety Expectations) Determination 2021 Consultation.

The Alliance recognises that the Basic Online Safety Expectations (BOSE) are dependent on the scope of the *Online Safety Act*, and the principal issue we have is that advertising is exempt (cl 13.3). The question may be raised as to whether other forms of marketing, including sponsorship, would currently be covered by the OSA.

The Alliance's position is that Australians of all ages should be able to experience online technologies without their health and wellbeing being at risk. Our basic expectations are that either users of online technologies have the ability to easily filter out content they do not wish to see or hear, or recognized content is prohibited from being delivered via online technologies. The *Online Safety Act* already defines content which should be prohibited, but this is restricted to behaviour of individuals towards others online, or the delivery of clearly offensive or violent material. It does not, perhaps, currently cover harmful industry marketing.

Harmful industries, which include alcohol, tobacco, junk food and gambling, are increasingly under scrutiny for their marketing, in particular ways in which that marketing can impact children.

We wish to bring your attention to recent studies which demonstrate the dangers of gambling advertising generally, and online or interactive advertising in particular. As a public health charity, we approach online safety very conscious of the role of digital technologies as a vector for what is increasingly defined as the commercial determinants of health.¹

Gambling advertising is currently restricted on broadcast TV and radio services, in recognition of the danger of the product. Digital marketing is not subject to these same restrictions. In the case of sports gambling, broadcast ads are currently banned siren-to-siren for live sport, and at various times based on the classification of programs or at times young children might be expected to watch. But these blackouts are limited to 6am-9.30am and 4pm-7pm for G, C and P classified programs, and 5am-8.30pm in programs "principally directed to children".²

Online streaming of live sports has similar in-game gambling restrictions,³ but other than this, the time blackouts applying to TV do not apply to online services.

¹ *Disrupting the commercial determinants of health*, A. Jones, et al, Australia in 2030: What is our path to health for all?, Medical Journal of Australia supplement, vol 214/8, 2021, chapter 5

² <https://www.acma.gov.au/gambling-ads-during-childrens-programs>

³ <https://www.acma.gov.au/gambling-ads-during-live-sport-streamed-over-internet>

There are other restrictions on misleading or socially irresponsible gambling ads, which again do not apply online.⁴ There are online gambling products which are not advertised anywhere except digital platforms. These include illegal offshore gambling products and sites, which can be blocked by ACMA, but the advertising of them is not restricted.⁵

Interactive or online gamblers, using legal platforms, reported seeing wagering advertising and wagering inducements more frequently than non-gamblers.⁶ While this may be a factor of them being more conscious of the content of this marketing, it is likely it is also the product of digital marketing algorithms which deliver gambling related marketing based on the user's activities. Significantly, interactive gamblers also reported that seeing this marketing made them more likely to gamble, or increase their gambling spending.

While the BOSE are directed at all Australians, collectively we all take particular care over the online safety of children. The NSW Youth Gambling Survey 2020⁷ revealed that exposure to gambling advertising was a key predictor of future gambling, and future gambling problems. Of the young people in the survey (aged 12-17), 34.8% reported most commonly seeing gambling advertising in online or social media. While most young people reported negative responses to gambling advertising, a majority reported that the advertising normalised gambling. Those young people who responded positively to the advertising are, sadly, more likely to experience gambling problems in future.

Finally, we wish to make the point that the convergence of online gaming and gambling is increasingly recognized and is the subject of concern in many jurisdictions.⁸ In particular, loot boxes within games which are accessible for children has been identified as a predictor of future gambling problems.⁹ This complex area is not currently captured by the Online Safety Act or the BOSE.

RECOMMENDATIONS:

Recommendation 1: that 'other harmful material' mentioned in the 'expectations' be expanded to include advertising, marketing or sponsorship by the harmful industries of alcohol, gambling, junk food and tobacco.

This will require service providers to make explicit decisions about accepting paid advertising from one or more of these industries, to decide when or how to deliver such advertising or sponsorship, and in particular, whether the delivery of the marketing is in a form that would be suitable for the consumers receiving it. This may include mechanisms to allow consumers to filter out any of this marketing, or to set clear minimum standards for content – for instance, refusing to allow sporting celebrities to be included in promotion of gambling products.

⁴ <https://www.acma.gov.au/misleading-or-socially-irresponsible-gambling-ads>

⁵ <https://www.acma.gov.au/blocked-gambling-websites>

⁶ *The Second National Study of Interactive Gambling in Australia (2019-2020)*, N. Hing et al, for Gambling Research Australia, 2021, p.13, 60-62

⁷ *NSW Youth Gambling Study 2020*, N. Hing et al, prepared for the Responsible Gambling Fund NSW, 2020

⁸ <https://www.responsiblegambling.nsw.gov.au/about-gambling/youth-gambling/the-convergence-of-gaming-and-gambling>

⁹ *Young people who purchase loot boxes are more likely to have gambling problems: An online survey of adolescents and young adults living in NSW Australia*, M. Rockloff et al, *Journal of Behavioral Addictions*, 10 (2021) 1, 35-41 DOI:10.1556/2006.2021.00007

Recommendation 2: The ‘expectations regarding reports and complaints’ should allow for a mechanism for complaints about certain material on one service provider to be expanded to cover any service provider. This may mean a mechanism managed by the Commissioner.

While service providers may have mechanisms to allow end-users to report or make complaints, marketing of harmful products such as gambling are generally spread across several service providers. If a complaint about content is made to one service provider, it might reasonably be expected that the same grounds apply to all service providers.

It may also not be possible for an end-user to identify the service provider. Banner or ribbon advertising that appears in free apps, for instance, can and does carry gambling ads. It is not clear who the service provider is.

Recommendation 3: The Alliance believes that, just as tobacco advertising is almost entirely banned in Australia, on any platform, gambling advertising, marketing and sponsorship should also be banned. This is the easiest way to ensure online safety for all Australians, particularly children and those vulnerable to, or already harmed by, gambling.

WHO WE ARE

The Alliance for Gambling Reform is a national advocacy organisation and registered health charity formed out of an urgent need to address the harmful and unfair impacts of gambling and its normalisation in Australia. We are a non-partisan alliance of more than 60 organisations who share our objectives of preventing and minimising harm from gambling, and we are entirely funded by individuals, foundations and local governments that do not have any ties with the gambling industry. We take a public health approach to gambling reform, centering those with lived experience of gambling harm at the core of our work based on the principle that those closest to the harm are those closest to the solutions.

LANGUAGE GUIDE

A widely used, standard definition of disordered gambling is that “Problem Gambling is characterised by difficulties in limiting money and/or time spent on gambling which leads to adverse consequences for the gambler, others, or for the community”.¹⁰ While there is no agreement on definitions of “difficulties” or the scale of “adverse consequences” which would constitute harm, the Alliance believes that any difficulties and any adverse consequences are harmful. We avoid the use of the term “problem gambler” as it is stigmatising and victim-blaming. We recognise the Problem Gambling Severity Index used in clinical settings, but consider that even those gamblers characterised using that system as being at low or medium risk, can in fact experience significant harm. The Alliance aims to prevent or reduce harm from gambling, regardless of the risk factor of individual gamblers, and particularly with regard to their families, carers, colleagues and community, who are also impacted by gambling.

¹⁰ Neal, P., Delfabbro, P., & O’Neil, M. (2005). *Problem gambling and harm: Towards a national definition*. Commissioned for the Ministerial Council on Gambling. Prepared by the SA Centre for Economic Studies with the Department of Psychology, University of Adelaide. November 2005. <http://www.adelaide.edu.au/saces/gambling/publications/ProblemGamblingAndHarmTowardNationalDefinition.pdf>