
K Advertising

K.1 Advertising has two sides

The term advertising covers a range of activities undertaken by businesses to promote sales of their products. It covers traditional ‘ads’ on television, radio, print media and the internet, as well as commercial arrangements for editorial coverage of their products. Other examples of advertising mediums include the use of poster, billboards, flyers, mail out campaigns and sponsorship of sport and cultural events.

Advertisements can serve several valuable functions for gamblers:

- they can inform them about the characteristics of a business’s products, prices and location
- they can promote competition, as consumers are aware of their capacity to choose between multiple suppliers. This is particularly important if new entrants to a market are trying to attract customers from incumbent businesses with market power (which is relevant to wagering and online gambling)
- by building up ‘brand’ identification, they create strong incentives for businesses to provide high quality services to avoid losing the market value of such branding. For example, a lapse in probity would be costly for a casino’s brand value, and provides an additional motivation for high standards beyond those resulting from regulatory oversight.

Nevertheless, advertising also poses risks for consumers, which can sometimes justify regulation. The main rationales for regulation of gambling advertisements are to ensure that they are not misleading or deceptive and that they are consistent with societal norms and values. In addition, like alcohol, gambling is subject to a range of other restrictions because of its potentially harmful effects and the particular vulnerabilities that people may face when gambling. These restrictions are premised on concerns that:

- advertising may exacerbate commonly held misperceptions about gambling, undermining people’s ability to gamble within responsible limits
- advertising can normalise the perception of gambling, thereby encouraging more people to gamble

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- children are particularly susceptible to advertising
 - advertising could undermine efforts by people who have impulse control problems with their gambling.

Inquiry participants have raised several specific concerns about gambling advertising (box K.1):

- marketing of some gambling products may deceive or mislead consumers
- inconsistent and burdensome regulations
- gambling advertising can exacerbate gambling problems
- whether advertising undermines social norms.

Box K.1 Participants' concerns about gambling advertising

A range of inquiry participants raised concerns about existing advertising undertaken by parts of the gambling industry. For example, the Gambling Impact Society (NSW) stated

There needs to be a reduction in advertising a 'dream' without the benefit of truthful information. The majority of those who gamble will in fact lose money and people need to understand that more gambling leads to progressively more losses over time. We have reduced advertising for liquor and tobacco we need similar approaches for gambling. (sub. 59, p. 4)

Some participants were particularly concerned that at risk groups may be explicitly or inadvertently targeted by some forms of advertising.

Current research suggests that older women may be a vulnerable subgroup of problem gamblers due to a complex interaction of individual and social factors, including the characteristics of the games and the gambling setting. ... Social factors that may increase the risk of problem gambling amongst this group are gambling industry marketing strategies, including advertising and EGM design, which target older women as gambling consumers. (Victorian Local Governance Association, sub. 75, p. 14)

Youth have been identified as being particularly at-risk for the development of gambling problems and it is essential that the impact of advertising on this vulnerable population be carefully evaluated. (sub. 58, Sally Monaghan, p. 2)

A recent study found that 42 per cent of youths reported that gambling advertisements make them want to try gambling and 40 per cent of young people cited advertising as the primary reason for gambling. (Clubs Australia, sub. 164, p. 32)

Because of its addictive nature, we would like to propose that gambling advertising, in all its forms, be banned. Young children see TV advertisements promoting the 'Lotto life', and can be unduly influenced by the messages which they see. (Women's Christian temperance Union, sub. 6, p. 1)

Concern has also been raised about the in commentary advertising of odds during sporting events. In particular, participants were concerned about the potential impact such advertising could have on children.

During the 2008/09 cricket season, Channel Nine promoted Betfair sporting odds during their broadcasts. Betfair was also featured as the sole sponsor on the boundary line, providing the company with television exposure whenever a 'four' was hit. (Clubs Australia, sub. 164, p. 32)

When criticising the Commissions draft recommendation to liberalise internet gambling, the NSW Shadow Minister for Hospitality and Tourism, Racing and Major Events also commented on the problematic prevalence of sports betting advertising.

The saturation media advertising, ground signage, sports and racing commentator advertorial content, incentives and enticements for new gamblers, credit card gambling by telephone or the internet, are but a few of the abuses to the principle of responsible gambling already evident. (sub. DR379, p. 2)

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Box K.1 (continued)

A number of industry participants also raised concerns about the regulation of gambling advertising. Typically these concerns relate to the variations in the regulation of differing forms of gambling advertising or the cross jurisdictional inconsistency in regulations.

Also of concern is the 'line of credit' offered by online wagering agencies and complimentary 'start up' amounts which are used to entice people to play, along with advertising on mainstream media, which is banned for gaming machines. (sub. DR374, RSL and Services Clubs Association, p. 12)

In advertising and these other promotional activities we would again like to see a mechanism adopted to ensure that cross-jurisdictional (competitive) consistency is created and preserved for the national wagering market. (sub. 241 Australian Bookmakers Association, p. 16)

But in most jurisdictions, the differential regulation of gambling advertising reflects the difference in the potential for harm to arise from each type of gambling. Based on their explanation of gambling advertising restrictions, it is clear that the NSW Government has included the potential scope for harm from different forms of gambling when developing their regulations.

Current NSW legislation generally prohibits the advertising or promotion of gaming machines.

The policy objectives of these provisions is to limit 'at risk' gamblers' awareness of the availability of gaming machines. The intent of any advertising is to encourage consumers to 'purchase/use' the product by raising their awareness of the product. In this case the product is gaming machines.

Advertisements for products other than gaming machines, while permitted, are subject to various controls. For example, advertisements for wagering, lotteries and the Sydney casino must not transgress community standards, encourage a breach of the law, or depict children, while those for wagering products and the casino must not promote the consumption of alcohol while gambling. Relevant legislation also limits the portrayal of the outcomes of gambling, and requires that advertisements for wagering, lotteries and the casino contain reference to the G-line (NSW) service. (sub. 247, p. 33)

BetSafe also suggested that the introduction of some of the draft harm minimisation proposals may negate the need to prohibit advertising of EGMs.

For example in NSW, there is a statutory prohibition against the external advertising of gaming machines. This would no longer be appropriate in an environment where internet gambling was widely advertised. It would be more appropriate to allow both industries to advertise their products and impose the same precommitment and other responsible gambling restrictions on each. (sub. DR345, p. 10)

Existing rules on gambling advertising

An extensive array of rules already guides how gambling products can be advertised in Australia. In some jurisdictions, gambling advertising is subject to government

rules that can be either mandated or legislated (table K.1), an industry code of conduct, an advertising industry code and — depending on the form of the advertising — also a media code of conduct (table K.2). This array of regulations, guidelines and codes covering gambling advertising will be referred to as the advertising rules.

Table K.1 Regulations that cover gambling advertising

<i>Regulator</i>	<i>Legislation</i>
Victoria The Victorian Casino and Gambling Authority www.vcga.vic.gov.au	<i>Gaming Machine Control ACT 1991, Gaming Machine Control (Advertising) Regulations 2001. Repealed by the Gambling Regulation ACT 2003 on 1 July 2004, Gambling Legislation Amendment (Problem Gambling and Other Measures) Act 2007</i>
NSW Department of Gaming & Racing www.dgr.nsw.gov.au	<i>Gaming Machines ACT 2001 Gaming Machines Regulations 2002</i>
ACT ACT Gambling and Racing Commission www.gamblingandracing.act.gov.au	<i>Gambling & Racing Control ACT 1999 Gambling and Racing Control (Code of Practice) Regulations 2002</i>
Queensland Office of Gaming & Regulation www.olgr.qld.gov.au	<i>Gaming Machine ACT 1991</i>
South Australia Office of the Liquor & Gambling Commissioner www.olgc.sa.gov.au	<i>Gaming Machines ACT 1992 [name of venue] Advertising Code of Practice 2001</i>
Tasmania Gaming Operations Branch www.tas.gov.au Tasmanian Gambling Industry Group	<i>The Gaming Control ACT 1993</i>
Northern Territory Northern Territory Racing Gaming & Licensing Commission www.nt.gov.au/ntt	<i>NT Gaming Control ACT, NT Gaming Machine ACT</i>
Western Australia The Department of Racing Gaming & Liquor www.olgr.wa.gov.au	<i>The Gaming Commission ACT 1987</i>

Source: Australian Institute for Primary Care (2006, p. 36).

Table K.2 Industry gambling codes that deal with advertising

<i>Jurisdiction</i>	<i>Industry</i>	<i>Code</i>	<i>Industry Body</i>
NSW	Clubs	Club code of practice	ClubsNSW
Victoria	Clubs	Victorian Clubs Code of Conduct	Clubs Victoria
Northern Territory	All gambling operators	Code of Practice for Responsible Gambling	Responsible Gambling Advisory Committee
Western Australia	Racing	Responsible Wagering Code of Practice	Racing and Wagering Western Australia
Queensland	All gambling	Queensland Responsible Gambling Code of Practice	Queensland Office of Gaming Regulation
Victoria	Casino	Responsible gaming code of conduct	Crown
Victoria	Clubs and Pubs	Responsible gambling Code of Conduct	Tabcorp and Tatterstalls
Tasmania	Casino, clubs, hotels, Taskeno and TAB outlets	Advertising Code of Ethics	Tasmanian Gambling Industry Group
Western Australia	Casino	Responsible gambling code of practice	Burswood Entertainment Complex
South Australia, Northern Territory, Queensland	Racing	Responsible Gambling – UniTab policy	UniTab
All areas in Australia where signatories operate	Lottery products (draw and instant lottery products)	Lottery Blocs Code of Practice	
Victoria	Lottery products (Tattersall's and their agents)	Tatts Responsible Gambling Code of Conduct	Tattersall's
Victoria	Lottery products (Intralot and their agents)	Responsible Gambling Code of Conduct	Intralot
Northern Territory	Casino	Responsible Advertising Code of Practice	SkyCity Darwin
NSW and Victoria	Racing	Tabcorp Responsible Gambling Code of Conduct	Tabcorp
National	Internet based wagering	Tabcorp Responsible Gambling Code of Conduct	Tabcorp
National	Commercial Free to Air Television	2010 Commercial Television Industry Code of Practice	Code registered with the ACMA
National	Advertising Industry	AANA Code for Advertising & Marketing Communications to Children	Australian Association of National Advertisers
National	Pay Television	Codes of Practice 2007 Subscription Broadcast Television	Australian Subscription Television and Radio Association

Scope for deceptive or misleading gambling advertising

Competitions

Some quizzes, competitions and auctions — subsequently referred to as competitions — may be marketed in a way (or assume a form) that misleads consumers. The common element of these competitions is that people pay a fee for an opportunity to win a prize. They can involve elements of skill, but all involve a large element of chance. Such competitions have been increasingly marketed on television and the internet — with entry typically through premium mobile phone message services. The specific concerns about these competitions include:

- it is not clear they are subject to oversight or approval by gambling regulators
- the rules of the games and the cost are not always clearly stated, which can result in unexpectedly large bills
- they are targeted at minors and other vulnerable groups
- there appears to be an absence of probity checks on some competitions.

Both the Australian Competition and Consumer Commission (ACCC) and the Australian Communications and Media Authority have attempted to address questionable practices in this field through:

- the development of a new industry standard requiring more explicit notification before customers are subscribed to a premium message service
- extensive descriptions and examples of questionable competitions on the ACCC website and on the government ‘scamwatch’ website
- the ACCC taking action against a range of companies running questionable competitions.

However, most of the ACCC actions have dealt with competition issues, such as providing accurate information to consumers, but not regulation of the games themselves.

In the draft report, the Commission sought views on the need for additional regulatory oversight of these activities and, if necessary, who should provide such oversight. Several participants supported greater regulatory oversight of such competitions (Uniting Care Australia, sub. DR387; Council of Gamblers Help Services, sub. DR326; and Canberra Southern Cross Club, sub. DR319). The Council of Gamblers Help Services also stressed the need for the regulations to fall under the federal government because ‘delivery of these gambling forms will not be

confined to state borders, rendering state based regulation at best questionable’ (sub. DR326, pp. 15–6).

Nevertheless, as observed by the Northern Territory Government and the Tasmanian Department of Health and Human Services, competitions and similar forms of gambling are not entirely unregulated. For instance, many competitions and quizzes are already regulated under provisions for trade promotions. The Northern Territory Government also indicated that online wagering (for example through pay television) ‘can easily be managed within the wagering regulatory scheme’:

While quizzes and competitions remain promotions in the marketing sense the existing framework for regulation would seem to be adequate. It would benefit from a clearer harmonisation program but that is underway. More formalised gaming and gambling activity in these environments can be properly regulated by State and Territory jurisdictions (sub. DR410, p. 2)

However, the Tasmanian Department of Health and Human Services saw the possibility for a more cooperative and comprehensive approach to competitions and similar forms of gambling:

Where the gambling is national, or cross jurisdictional a new entity would be appropriate. This might be a new national regulator. Alternatively, utilising a cooperative model, the jurisdictions could fund one state to provide national oversight and recommendations to the states for (common) regulatory response. Considering the relative ease with which the states provided a national response for the online counselling facility by building on Victoria’s requirements and then cost-sharing, the latter response appears to be quite feasible. The facility was organised through the Gambling Working Party which is set up under Community and Disability Services Ministers' Conference. (sub. DR370, p. 5)

Given some of the gaps in existing regulations, especially in relation to gambling supplied nationally, there are benefits in a more coherent approach, though involving cooperative arrangements by jurisdictions, rather than any new national regulator (chapter 8).

Accurate and sufficient representation of gambling services

Where gambling advertisements are permitted in Australia, regulations or codes of conduct require that gambling advertising is not misleading or deceptive (FAHCSIA 2009b). In particular, most jurisdictions explicitly prohibit overstating the chances of winning. Yet some participants are concerned that these provisions are not very effective, arguing that gambling advertisements can meet the formal provisions, while still providing a misleading impression of the chances of winning.

For example, the Hunter Council on Problem Gambling noted:

Much of the current advertising of gambling ‘products’ uses language that encourages the individual to play, without providing the balance of information relating to the odds of play or responsible gambling. For example, Lotto advertisements are known to sprout messages such as ‘You’ve got to be in it to win it’, ‘You could spend the rest of your life’, ‘Scratch me happy’, yet do not provide a balance of information relating to safe and responsible use of their product. (sub. 111, p. 3)

The Gambling Impact Society of New South Wales suggested that ‘There needs to be a reduction in advertising a ‘dream’ without the benefit of truthful information’ (sub. 59, p. 4).

To address this, the Inter Church Gambling Taskforce suggested the wider adoption of the Queensland gambling advertising standards (sub. 220), which states:

Advertising and promotions will not encourage the public to gamble by directly or indirectly misrepresenting the probability of winning a prize. Winning will not be presented as the probable or likely outcome in each playing instance or session of play. Advertising and promotional campaigns which show winning should be shown with a balance of winning and non-winning play images. (Queensland Office of Gaming Regulation 2005 p. 6)

The goal of showing a ‘balance of winning and non-winning play images’ is compelling, given consumers’ already exaggerated perceptions of the likelihood of winning. But giving effect to that goal faces several obstacles, in particular, the ambiguities about what would constitute images compliant with the regulations. That said, the Queensland Government’s experiences may help guide other jurisdictions about what may be practical.

On a lesser note, some gambling suppliers provide information about games that may reinforce faulty cognitions. In particular, some lotteries provide the history of past winning numbers (for instance, the state government-owned SA Lotteries and NSW Lotteries — figures K.1 and K.2). Of greater concern, both sites have a tool that allows gamblers to generate a set of numbers based on the most common and the least common numbers drawn. The provision of this information may well reflect demands from gamblers, however, it creates an incongruity. On the one hand, governments promote education programs to teach children that numbers drawn in lotteries or gaming machines are randomly drawn, with the history of past wins or losses being irrelevant. On the other hand, governments permit (and sometimes themselves provide) information to consumers based on the false premise that numbers are *not* randomly drawn. That may not pose much of a problem for those engaged in lotteries, but it may encourage false beliefs that carry over to other riskier gambling forms, with potential implications for regulation (chapter 8).

Figure K.1 SA Lotteries

The screenshot shows the SA Lotteries website interface. At the top, there is a banner with the SA Lotteries logo and the slogan "Dreams live here." Below the banner is a navigation menu with links: Home, Games, Results, Easisplay Club, Agencies, Responsible Play, Winners & Community, News, About Us, and Contact Us. A search bar is located in the top right corner.

The main content area is titled "Number Frequency" and contains a search form. The search form has a dropdown menu for "Select the game" set to "Lotto - Monday & Wednesday". Below the dropdown are radio buttons for "Drawn" with options "Most" (selected) and "Least". A "Search" button is positioned below the radio buttons.


Below the search form, a message states: "Your search for **most drawn** numbers for **Lotto - Monday & Wednesday** returned the following results:" followed by a table of results. The table has three columns: "Numbers", "Total number of times the number has been drawn from Draw 2508 to 2902", and "Number of weeks elapsed since number last drawn".

On the right side of the page, there is a sidebar with a "Number Frequency" section containing links: "Latest Draw Broadcasts", "Most Recent Results", "Past Results", "Number Frequency", "Results Services", and "Subscribe".

Numbers	Total number of times the number has been drawn from Draw 2508 to 2902	Number of weeks elapsed since number last drawn
45	93	0
35	85	4
24	83	14
27	81	3
2	81	8
31	80	9
32	78	8
26	78	3
10	77	23
38	77	0

Data source: Screenshot from <http://www.salotteries.com.au/Results/Frequency.aspx?p=46> (accessed on 9 February 2010).

Figure K.2 NSW Lotto



Prize Offer: \$2,000,000.00
Next Draw: Wed 10/02/2010

LIVE A Lotto LIFE

Number Frequency: Monday/Wednesday/Saturday Lotto

Lotto
Monday
From 20 August 90 to 15 April 2004 including supplementary number

1	2	3	4	5	6	7	8	9
127	147	124	115	122	144	129	122	117
10	11	12	13	14	15	16	17	18
128	117	135	138	141	121	116	137	136
19	20	21	22	23	24	25	26	27
120	120	128	120	150	115	133	132	122
28	29	30	31	32	33	34	35	36
137	128	117	130	146	128	125	134	144
37	38	39	40	41	42	43	44	
117	147	123	121	146	118	131	156	

Wednesday
From 20 August 90 to 15 April 2004 including supplementary number

- > Latest Results
- > How To Play
- > Prices
- > Entry Form
- > Syndicate Planner
- > Number Frequency
- > Systems Prize Table
- > Game Odds
- > Game Rules
- > 2009 Luck Map

RESULTS AND NEWS EMAIL SERVICE

LOG IN

REGISTER NOW

Data source: Screenshot from http://www.nswlotteries.com/lotto/sub_numberfreq_static.html (accessed 9 February 2010).

Harm minimisation and gambling advertising

Empirical evidence suggests that gambling advertising can have adverse effects on susceptible people, but not for many others. A detailed review of studies (Binde 2007) found that:

- not all advertising increased gambling, either because of ineffective marketing or because the main purpose of the advertising was to divert demand away from other gambling services
- the combined effect of gambling advertising is a small to moderate increase in gambling expenditure

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- a proportion of people with gambling problems (with estimates ranging from 5 to 20 per cent) are likely to substantially increase their gambling expenditure in response to advertising
 - people who do not suffer gambling problems are less likely to substantially increase their gambling expenditure
 - children are more likely to recall advertising than adults.

In a follow up study, Binde (2009) interviewed a small sample (25) of problem gamblers in Sweden to explore the impact of gambling advertising on their behaviour. Most indicated that advertising had little or no impact on their desire to gamble or on the amount they actually gambled.

Other groups can also be particularly susceptible to gambling advertising. For example, a Canadian study found 42 per cent of youth reported that gambling advertisements made them want to try gambling and that 11 per cent of males and 3 per cent of females sometimes or often gambled after seeing an advertisement (Derevensky et al 2007, p. 27).

Gambling advertising and children

Several issues need to be distinguished when considering children and gambling advertising.

First, some people argue that children should not be exposed to gambling because of its inconsistency with social norms (Women's Christian Temperance Union, sub. 6, PokieWatch, sub. 119). This is a fraught area as it is hard to establish the legitimate boundaries of social values — especially in a society where people have diverse views about many moral issues. There is certainly no consensus that gambling is bad:

- gambling is a widely accepted and legal recreational pursuit in Australia, and most children would be aware of this
- in practice, many parents do not conceal their own gambling from their children, so it is, in any case, a normalised activity
- television coverage of horse racing carnivals in Australia have for decades typically included segments quoting the odds for various horses.

Secondly, there is the clearly legitimate concern that advertising does not encourage underage gambling or encourage the development of faulty cognitions that promote hazardous gambling when children become adults (Clubs Australia, sub. 164, Monaghan, sub. 58, Victorian Local Governance Association, sub. 75). These

concerns — if likely to be significant — could reasonably be reflected in regulations about advertising content and the accessibility of minors to advertising.

Existing codes of advertising practice reflect some of the above concerns, though it is not clear whether social norms or potential harm is the principal driving force.

The stipulation that gambling advertising should not be targeted at children can be found in almost every industry code and some gambling regulations in every Australian jurisdiction. For example, the advertising Code of Practice in South Australia states:

(2) The gambling provider will ensure that, when it advertises its gambling products, the advertising—

(a) is not directed at minors; (OLGC, 2008, p. 3)

The code of practice for lottery providers in Australia also prohibits targeting advertising to minors.

1.1 Advertising will be conducted in a responsible manner in accordance with relevant advertising requirements contained within the respective lottery industry legislation, lottery licences, the Trade Practices Act, regulations and codes of practice (including the World Lottery Association Best Practice Marketing/Communications Guidelines and the Australian Association of National Advertisers Code of Ethics), and will not:

1.1.3. Be targeted towards minors or people not of legal lottery playing age in each jurisdiction; (Lottery Blocs, 2009, p. 3)

The recently revised *2010 Commercial Television Industry Code of Practice* (FreeTV Australia, 2009) attempts to provide practical guidance on how to avoid advertising gambling to children. That code, which has effect from March 2010, directs that:

Except for a commercial broadcast in a news, current affairs or sporting program, a commercial relating to betting or gambling must not be broadcast in G classification periods Monday to Friday, nor on weekends between 6.00am and 8.30am, and 4.00pm and 7.30pm.

A commercial relating to betting or gambling does not include:

A commercial relating to such things as Government lotteries, lotto, keno or contests (FreeTV Australia, 2009, p. 33).

However, it is notable that the above code provides exemptions for government lotteries, lotto and keno, and for commercial broadcasts in a news, current affairs or sporting program. The first exemption appears inconsistent with the code of practice for lottery providers. The second exemption appears to be inconsistent with the general principles concerning exposure to gambling by children. That inconsistency may be becoming more marked as the frequency of in-commentary gambling

promotions during televised sport increases (through, for example, continuously posted odds and the conspicuous identification of betting agencies).

There are several ways to address these inconsistencies. One would be a prohibition on advertising on gambling in any form of media highly accessible to children, or an approach that addresses inappropriate content, but not the availability per se of advertising. As a practical matter, restrictions on gambling advertising during nominated children's TV watching times (see above) do not cover all periods when children customarily watch TV, and yet extending times to those conforming to observed patterns of behaviour might mean an almost universal bar on such advertising. Similarly, given the demand for news reporting and for live televised sporting events, a prohibition on implicit advertising (say through sponsorship logos on football jumpers) might sometimes effectively act as a prohibition on sponsorship.

More sweeping changes to limit advertising that *could* reach children would have to make a case:

- that there were genuine risks of harm from incidental exposure (as compared with exposure to inappropriate material, where the case for regulation is strong). That case does not appear to be supported by much evidence
- for stricter regulation based on community norms, but the desirability of this should be left in the political arena.

Consistency in advertising restrictions

While jurisdictions have adopted common principles for regulating the content of gambling advertisements, the actual regulations vary significantly across different gambling forms. (Participants had divergent views on the appropriateness of such regulatory variations — box K.2.)

Box K.2 **Should uniform advertising standards be applied?**

Industry participants do not share a united view on whether the same advertising restrictions should be applied to all forms of gambling. For example Clubs Australia — whose members have limited opportunity to advertise gambling under current arrangements — notes that:

Advertising is another area where lax regulation has not only led to gross discrepancies in the restrictions on different gambling formats but put Australians at risk. (sub. 164, p. 32)

In contrast, Tatterstalls provides an argument against uniformly stringent advertising standards.

There is certainly no published research evidence which suggests that lottery advertising can be linked to an increase in problem gambling behaviour (due to the inherent attributes and nature of the product). (sub. 87, p. 7)

The main concern raised by Betfair is that they should have to work within the same regulations as any other firm involved in racing.

A uniform national advertising code of practice should be implemented across the online and offline wagering industry. (sub. 181, p. 4)

A number of other participants have based their position on societal risk factors. The Women's Christian Temperance Union of Western Australia supports the prohibition of all gambling advertising as a means of limiting future harm (sub. 6).

- Jan McMillan and Sally Monaghan noted concerns around gambling sponsorship and advertising during sports telecasts (sub. 223, sub. 58). Sally Monaghan then argues for a range of uniform national advertising standards to reduce the chance of children being exposed to gambling messages.

Typically, governments have adopted more stringent regulations for gambling forms with the greatest potential for harm (for example, see IPART 2004, pp. 53–55). In particular, advertising for electronic gaming machines is typically the most restricted while lottery products tend to be the least restricted.

As noted by the Council of Gamblers help Services:

Jurisdictional bans on EGM advertising support the view that some gambling forms carry high potential for harm and therefore should not be promoted. (sub DR326, p. 32)

However, there are some (typically small) inconsistencies in the treatment of EGMs across jurisdictions. While, advertising for EGMs is generally not permitted in most jurisdictions, New South Wales allows advertising of EGMs in trade magazines and both New South Wales and Victoria allow venues to send advertising material to members that contain images of EGMs. In South Australia, clubs and hotels who comply with an Industry Responsible Gambling Agency Agreement are exempted from some advertising regulations (South Australian Government, sub. 225). Only

Tasmania has no existing restrictions on EGM advertising — but is about to introduce them as part of its next mandatory code.

The appropriate rules for racing and sports betting advertising is an emerging area of contention. The changes to advertising rules appear to have been triggered by the High Court challenge by Betfair to the Western Australian wagering regulations (chapter 16).

Although, traditionally, advertising restrictions have made it difficult for wagering operators to attract customers from outside the jurisdiction in which they are licensed. However, as a result of the Betfair decision most states and territories have removed, or are in the process of removing, restrictions on advertising by wagering providers not licensed in that jurisdiction. (ACCC, 2009, p. 28)

But as Tabcorp indicated, the resulting period of regulatory uncertainty contributed to a dramatic increase in wagering advertising.

In September 2008, governments in both NSW and Victoria indicated that the advertising restrictions applying in those states would be repealed, and, until such time as they were repealed, existing laws would not be enforced. This opened the door to an advertising onslaught from corporate bookmakers during the 2008 Spring Racing Carnival. (sub. 229, p. 14)

From a consumer perspective, the capacity for new entrants, such as Betfair, to advertise is likely to be an important driver of competition. (This will also be true for domestic suppliers of online poker if this market is liberalised as recommended by the Commission.) Incapacity to tell consumers about a new product or to attract them away from incumbents could prolong the costs of existing market power. That consideration has to be weighed against any concerns that the advertising has adverse effects on gamblers. Again a prime question may not be the existence of advertising or promotions per se, but their content. Australian states and territories are presently reviewing advertising controls for wagering products — and should balance both considerations when determining the appropriate regulatory stance.