

**PRODUCTIVITY COMMISSION INQUIRY INTO
GAMBLING**

Submission by:

AUSTRALIAN BOOKMAKERS ASSOCIATION

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EXECUTIVE SUMMARY

The Australian Bookmakers Association (ABA) is the representative body for Australian on-course bookmakers on issues of national impact. The association is made up of the delegates of the various State and Territory bookmaking associations and is empowered to implement policies that are agreed as being in the interests of the members of those associations.

We are pleased to make a contribution to this important national review.

In our submission we comment on the current trends and issues facing the racing and sports wagering and wider gambling industries in Australia.

Key themes in our submission include the relative long-term decline in race wagering market share of the gambling industry and the pressing need for regulatory reforms to properly support the increasingly 'national' nature of the wagering market.

We also provide comments concerning the issues of problem and responsible gambling within the Australian wagering industry and specifically review a number of harm minimisation proposals that have been put forward in other submissions.

In an economic sense the ABA is strongly of the view that the current national wagering market is inefficient. Complex and protectionist regulatory arrangements at both government and racing industry levels in most jurisdictions are the primary reason. This has ultimately deterred consumer activity and has produced distortions in jurisdictional based demand.

More than any other factor this regulatory-led market failure has inhibited the overall growth of race wagering and by extension racing industry revenue growth.

As with many other forms of commerce, Australian punters are increasingly seeking convenient methods of transacting via telecommunications, especially the internet. This trend has fundamentally changed the competitive environment for wagering and has amplified the inconsistencies in regulation among the various jurisdictions.

These inconsistencies need to be addressed, especially for smaller bookmakers who are more "captive" to their local (often non-competitive) regulatory conditions.

In NSW the recent independent "Cameron" report to government on the state of the wagering industry has clearly identified the overly restrictive regulatory arrangements in that jurisdiction and has recommended significant de-regulation. Cameron's findings clarify the weakness of restrictive and protectionist policies, which have resulted in the lowest growth wagering performance (NSW TAB and NSW bookmakers) in the nation*.

The ABA supports the view that a national approach is now needed to achieve a consistent regulatory, operational and financial framework for the wagering industry. We believe that an appropriate body such as the Productivity Commission itself or the ACCC should be instructed to further review these potential future arrangements.

In support of this initiative the ABA has at its most recent national conference formally endorsed a National Bookmaker Levy Framework that would if implemented impose a viable and consistent level of product fees to the racing industry on all betting transactions across the nation.

The model also recognises the importance of small scale on-course bookmakers who play a vital role in the traditional racing environment at meetings held each day across Australia. These fielders should be encouraged via an appropriate turnover threshold discount, to viably continue their on-course operations which ultimately add to the public attraction of such race meetings, big or small.

In summary we believe that the ABA's national model is a far superior model to the current inconsistent, fragmented and contested race field fee schemes being implemented at the present time. We would welcome the Productivity Commission's or ACCC's review and findings in respect of the proposal.

With regard to other general regulatory arrangements, we believe that many state and territory governments and racing industry controlling bodies have acted in perceived self interest in perpetuating the anti-competitive restrictions that still apply to the bookmaking sector.

Flawed attempts to "support" the totalisator (TABs) in order to maximise revenues from betting have worked against the prospect of fair competition by other wagering providers. In some cases problem gambling and integrity concerns have been falsely provided as the policy imperatives for such restrictions.

The ABA submits that the maximisation of racing industry revenues from wagering does not require the TABs to be protected from competition. Most are now 'for profit' corporations owned by shareholders rather than by governments or the racing industry itself, and should be given no special competitive advantages.

In any event, and as currently evidenced in NSW, the worst performing TABs are often operated in jurisdictions where consumers' betting choices are the most restricted*. As in other Australian industries, consumer access to a broader range of competitive providers and product options is a better way to grow overall participation and industry revenues.

On a similar theme, the simplistic statements put forward by certain interests on the comparative revenue generating merits of totalisator betting versus fixed odds bookmaking should be carefully scrutinised. The two betting forms are quite different, often appeal to different customer types, and are not as easily substituted as proponents of the totalisator would have the industry believe.

The proposition that bets placed with bookmakers actually diminish potential industry revenues is patently false as evidenced again in the recent independent "Cameron" report in NSW which exploded the myth that competitive low margin betting options should be discouraged. As with other Australian industries (e.g. transport, telecommunications, etc) competition always drives overall consumer demand, and differential pricing and access fees for lower margin operators can usually be productively applied.

The Commission might therefore approach sceptically a number of the recommendations put to this review by our competitors and detractors. Many are motivated by sectional competitive considerations rather than genuine concern for industry welfare or social policy reforms. A number of proposals put forward (e.g. bans on credit, credit cards, tote odds, rebates and inducements) would disproportionately impact bookmakers' commercial viability and appear to fit this description.

Moving to current Federal Government gambling policy, we would comment that its current online gambling legislation has failed to properly achieve some of its stated objectives. These include the failure to restrict access to internet gaming and the imprecisely targeted impacts of the current 'in-run' sports betting restrictions.

Finally, we are very concerned that the public debate on gambling in general and online wagering in particular has recently been manipulated by various groups for self interested reasons.

Good public policy demands that decisions of government be made on the basis of accurate data and reputable research and with a sceptical eye to the proposals of vested interests.

The Productivity Commission's last review reflected this best practice approach. Its landmark report also recognised the need to balance the significant and measureable consumer benefits of gambling against the social costs incurred by some participants.

We welcome the conduct and findings of this latest review.

*[*Refer Australian Racing Board Fact Book 2007/8. NSW TAB experienced lowest 'last 5 years' totalisator turnover growth in nation; tables 77-84]*

Section 1: Australian Bookmakers Association (ABA) – role overview

1.1 Role of the ABA

The Australian Bookmakers Association (ABA) is the representative voice of the Australian on-course bookmaking industry on issues of national impact.

The ABA is made up of the state and territory delegates of the various registered bookmakers associations in each jurisdiction.

Its major objectives are to protect the interests of the state associations and their members and to protect and promote the public image of bookmakers as an integral and wholesome part of the Australian Racing Industry.

Its Mission Statement encourages bookmakers in their wagering activities to:-

- commit to excellence in service and strive for continued service improvement;
- demonstrate responsibility and maintain accountability;
- look to constant innovation to ensure best practice;
- treat clients and each other with respect and honesty;
- be enthusiastic towards the continuing improvement of relations with the wagering community;
- maintain client confidentiality and strive for customer loyalty; and
- meet or exceed client demands.

Importantly the ABA has created a Code of Wagering Practice that has been formally adopted by its member delegates. The Code, among other things, sets strict standards for the responsible advertising and delivery of wagering products and services by bookmakers.

A copy of the ABA's Code of Wagering Practice is attached as an annexure to this submission.

1.2 Key Trends and Statistics

The on-course bookmaking sector of the national racing and wagering industry has experienced a decline in both licensee numbers and betting turnovers over the past two decades.

Annexure 1 attached to this submission provides a snapshot of the key statistical trends in the largest Australian State (by population) – New South Wales.

The NSW trends are generally indicative of bookmaking trends in all other jurisdictions with the exception of the Northern Territory and (to a lesser degree) the Australian Capital Territory.

Those jurisdictions have taken a more competitive view of wagering regulation that has enabled bookmakers to adopt a flexible range of operating arrangements and product types, generally at lower taxation and product fee rates than elsewhere in the nation.

As a result the major bookmakers in the Northern Territory (often referred to as “the corporate bookmakers”) have flourished via in large part their attractiveness to interstate punters who choose to transact with them via telephone and internet betting channels.

They have successfully created new wagering activity as well as gaining a ‘transferred’ component of existing activity in other jurisdictions. It is important to note that the TAB in the Northern Territory (and the ACT for that matter) has in the same period experienced one of the highest totalisator growth rates in the nation. Bookmaker activity has not cannibalised the tote.

The position for bookmakers licensed elsewhere in Australia is much different, with turnovers continuing a long term trend of decline.

A summary snapshot of (latest publicly available) bookmaker betting growth statistics in each jurisdiction over the past 5 years appears as follows:

**Table 1: ‘5-Year’ Bookmakers Turnover Growth Rate Comparison
2003 through 2008**

Jurisdiction	Turnover Growth (5-year total)
Northern Territory	171%
ACT	10%
Victoria	- 6%
South Australia	- 6%
Tasmania	- 10%
New South Wales	- 20%
Western Australia	- 30%
Queensland	- 33%
<i>National overall</i>	<i>47%</i>
[Source: Australian Racing Board Fact Book 2007/08. Tables 77-84]	

In respect of the negative growth rates experienced in all 6 Australian States, the decline in on course bookmaking - generally long term - can primarily be attributed to a combination of the following 4 factors:

- Declining race meeting attendances (outside of major and “one-off” meetings);
- Racing’s overall loss of gambling market share to alternative forms of gambling;
- Restrictive licensing and regulatory conditions in most jurisdictions; and
- Some degree of ‘transferred’ activity to larger corporate bookmakers.

Declining racecourse attendances have reduced the available 'customer market' for traditional on-course fielders.

It is generally acknowledged that attendances in all 3 racing codes have been in decline since the 1970's. Contributing factors include the availability of alternative leisure pursuits, access to legal off-course betting (i.e. TABs as from the 1960s), and the off-course telecast of live racing in various forms commencing in the 1980's.

In more recent years the recorded overall attendance numbers have been static, however there is evidence to suggest that this is representative of increases in 'carnival' or 'one-off' meeting attendances (including in regional areas the country cup or annual picnic meetings), at the expense of regularly held 'normal' meetings.

The attendances experienced at traditional Saturday and mid-week metropolitan thoroughbred meetings, for example, would fit this scenario of gradual decline.

With regard to racing's loss of gambling market share, this (continuing) 30 year or more trend has been well documented and is further referenced in part 2 of this submission. To an extent the trend has been accentuated by the other factors cited here. However the major impact has undoubtedly been the increasing access to, and consumer preference for, poker machine gaming that now dominates the Australian gambling market.

Despite declining on-course attendances and competition from gaming, the declines in bookmaking in most jurisdictions have been accentuated by overly restrictive regulatory arrangements which have effectively deterred punters – especially those "off-course" - from easily doing business with licensees in those states.

The nation-wide allowance of telephone betting with bookmakers in the mid-1990's had a short term (positive) impact, however regulatory constraints remained high to protect off-course TAB turnovers.

Off-course punters seeking competitive returns and more convenient and attractive betting arrangements and products soon began to do business with accessible interstate operators – especially the bookmaking firms located in the Northern Territory.

The attractiveness of this option was further enhanced by the emergence of internet betting in the late-1990's. Again the Northern Territory led the way with flexible operational arrangements and allowance of a greater range of betting options.

There is some evidence that part of the NT bookmaking growth has been the result of transferred bookmaking activity from other jurisdictions. However new growth has predominantly been created as supported by the extent (47%) of overall national growth in the past 5 years (refer Table 1).

This is further supported by the (independent) views of Credit Suisse* in their analysis of statements made to the NSW "Cameron" review concerning the corporate bookmaking sector.
*(*Ref. Credit Suisse - company analysis on Tabcorp Holdings. Sept 2008)*

This "gap" in regulatory arrangements still exists today in most jurisdictions, although a number of jurisdictions are now (slowly) moving towards deregulation of some restrictions.

We will comment more on these matters later in this submission. However it is worth noting here that the "Cameron" review has ultimately recommended the unwinding of many of the current competitive restrictions on bookmaking in NSW.

1.3 Bookmakers Role in the Racing Industry

The ABA and its state and territory association affiliates are vitally concerned with the general health and viability of the Australian Racing Industry. The livelihoods of our constituent bookmakers are inextricably linked to the success of the Industry in attracting and maintaining participants and enthusiasts who are ultimately encouraged to place wagers on its events.

In a circular funding flow, the Racing Industry is in turn largely reliant on revenues obtained from wagering operators to finance its activities.

In addition, the presence of on-course bookmakers fielding at race meetings has been an attendance drawcard, with many racegoers seeing this as an important factor in their decision to attend the meeting.

Further, it has been acknowledged that the availability of a strong and vibrant fixed odds betting market, as created by both on-course and off-course bookmakers, effectively drives additional wagering activity through the TABs totalisator (“tote”) pools.

The bookmakers’ markets – via opening odds and price fluctuations thereafter – provide a valuable guide to TAB punters as to the professionally assessed winning probabilities (odds) of each runner, as well as where the “bigger” money is being placed. This information is in turn ‘used’ by many TAB punters in placing their respective bets into the tote pools. Without a reliable bookmakers market as a guide many of these tote bets would not be made.

Traditionally, all licensed wagering operators (including the TABs) have paid operating fees – in a variety of forms - to the Racing Industry in their ‘home’ jurisdiction. Such fees were paid to the ‘local’ industry, irrespective of the actual location of the race that was the subject of the bet made.

For example, a bookmaker fielding at the Randwick racecourse in Sydney would pay all fielding and operating fees to the NSW Racing Industry (ie. via the race club and/or state controlling body), even though some of the bets accepted may have been placed on an interstate race – for example held at Flemington in Victoria.

Some critics of this arrangement have argued that it is economically inefficient as it provides no direct return to the race club or state controlling body that conducts the actual race being wagered on.

Other detractors point to the ‘uneven’ financial imposts decreed by various jurisdictions. Lower fees and taxes applied in certain jurisdictions work in favour of their wagering licensees who could in turn offer better odds to attract interstate customers betting via phone or internet.

In the last few years this traditional way of collecting fees for the Racing Industry has been amended via the gradual introduction by most State Governments of “race fields” legislation and associated wagering fees.

Under these new arrangements all wagering operators (TABs, bookmakers, and betting exchanges) are required to remit fees on each bet taken to the racing control body in the jurisdiction where the race in question was conducted. In the above example therefore the Randwick bookmaker would now pay a fee on the bet made on the Flemington race to the Victorian racing control body (Racing Victoria Ltd).

Whilst these new arrangements should theoretically support more efficient distributions within the Racing Industry, early problems have developed due to differential fee models being developed by certain state governments and/or controlling bodies.

At the time of writing this submission there are a number of legal challenges underway in a number of jurisdictions, brought by various bookmaking and totalisator operators. The details of these challenges are too complex for discussion here, however they predominantly relate to the construction of the fee models imposed (e.g. revenue v turnover basis) by certain state bodies.

The final outcome of these challenges is hard to predict, however there appears to be a strong case for some overarching form of review that ensures fees are levied consistently and equitably across operators and jurisdictions. Such a move would properly recognise that the market for wagering is now inevitably national rather than state-based, due to advances in communications technology and recent legal decisions concerning cross-border competition.

There is also a need to recognise the important role and contribution made to the racing industry by traditional small scale bookmakers who are a major drawcard in attracting attendances to race meetings. We believe that any national scheme adopted should recognise this contribution via appropriate turnover thresholds applied to the contributions of these fielders.

As a step towards recognition of the need for a national contribution model applicable to all bookmakers the ABA at its latest national conference has formally endorsed a draft scheme which could be implemented nationally. This National Bookmakers Levy Framework would, if implemented, impose a viable and consistent level of product fees payable to the racing industry on all betting transactions across the nation. A copy of this model is attached as an annexure to this submission.

In overview the ABA is strongly committed to ensuring that the Racing Industry receives fair and adequate revenue returns from all wagering providers. However it is imperative that such fees are consistently imposed across the nation to ensure that externally imposed distortions in pricing are minimised. Our proposed National Bookmakers Levy Framework would achieve these objectives.

It is also vital that there is a “check” on unfettered Racing Industry power to set such product fees in a manner that reduces wagering market competition.

This is a difficult balance to achieve, which is why the ABA recommends that the issue of a “national model” be further reviewed by an appropriately qualified Federal Government agency prior to further measures being progressed (see section 4.1).

Section 2: Observations re. key trends in the gambling industry

2.1 Wagering vs Gaming Expenditure and Growth Rates

We note that your Issues Paper (Figure 3, pg 14) highlights the continuing national trend towards expenditure on forms of gaming (predominantly gaming machines) at the market-share expense of wagering (on live racing and sports events).

This is a long-term trend that has been evident now for at least 40 years. As your charts show, gaming machine expenditure now accounts for approx 59% of the national gambling market whereas racing's share continues to contract to approx 12%.

A major contributing factor has in our view been the extension, by all Australian jurisdictions except Western Australia, of the poker machine franchise to hotels.

Sports betting remains a very small component of the national gambling market (at less than 2%), however is experiencing higher growth rates off a very low base.

The above market description is in stark contrast to the position in the 1970's where racing's share of total gambling was almost 50%. Clearly based on this trend there is a huge challenge for racing as a significant industry to maintain its competitive position in the years ahead.

The ABA believes that a significant factor in the relative decline in racing betting interest has been the overly complex and restrictive regulatory approach by governments and industry bodies to stewardship within the sector.

To an extent these restrictions (on products, market access, advertising, etc) are now being re-examined in the light of the successful 2008 challenge by 'betfair' (v WA Government) in the High Court of Australia.

However more work is needed to clear up outdated and commercially damaging impediments to competition and innovation that have contributed to the stagnation of racing betting within the majority of Australian jurisdictions for many decades.

The recently released "Cameron" report on the NSW wagering industry – which provides a clear endorsement of deregulation in that State – is a vital step forward in that jurisdiction. Recently announced deregulatory moves in Victoria are also a productive step towards greater competition in the wagering market.

2.2 Internet Gambling Growth

Reports concerning strong growth in online racing and sports wagering expenditure should be considered in the context of the (flat) overall wagering market. Strong growth has been experienced in online distribution channels generally (including via TAB internet services), and via 'corporate' bookmaking operators typically licensed in the Northern Territory.

In the same period (i.e. since the late 1990's) overall wagering expenditure has remained relatively flat and has continued to be outstripped by expenditure on gaming options.

In essence, much of the growth in online wagering has come from straight transfers from the retail and telephone betting sectors. This is not a unique phenomenon as there are many other businesses within the economy where consumers have found advantages in transacting online rather than through other traditional channels.

Neither should it be reason for concern or the application of special policies or restrictions. We would argue that an internet bet on a race or sporting event is no different to a telephone bet, and little different to a 'retail' bet, and should be similarly dealt with from a public policy and regulatory perspective. We will make specific comments on this area later in this submission.

Whilst online wagering growth can be demonstrated to be largely "transferred" betting from less preferred traditional channels, we note that *online gaming* growth by Australians is likely to be significant, though (being illegal) difficult to measure.

Although not of direct interest to our constituents, we note that the continuing promotion, availability and apparent popularity of illegal online gaming options via overseas gambling operators appears to represent a significant public policy failure by Australian governments.

This issue is also further explored later in this submission.

2.3 A Changing (National) Wagering Market

The Australian wagering market is undergoing a period of dramatic change.

The changes are being driven by competitive pressures that are the result of both technological change and (in some cases) supportive state and territory government policy delivering deregulation, new products and market access.

The emergence of 'corporate' bookmaking and Betfair's licensing and ultimate legal recognition are both a product and further driver of such changes.

In the case of the latter company's recent win in the High Court of Australia, there will inevitably be additional ramifications for Australian state and territory governments and racing industry bodies who have sought to limit competition within their local wagering markets.

Whilst the exact nature of the predicted reforms is yet to become evident, it appears likely that many previously imposed limitations on cross-border telephone and internet wagering trade will be judged as unconstitutional and will be required to be unwound.

Inevitably there will be competitive pressure on long-term monopoly arrangements which have traditionally underwritten the majority of racing industry funding in each jurisdiction.

We see this as an opportunity for bookmakers and the broader racing industry rather than a threat. This is not a unique part of the economy. Deregulation and enhanced competition between operators will in our view provide a platform for overall wagering and racing revenue growth not possible under previously protected markets.

Competitive driven innovation, marketing, new products and changes to Racing's revenue collection methodology are all productive elements that should lead to overall industry growth and the demise of its long term "flat line" performance trend.

Section 3: Problem and Responsible Gambling issues

3.1 Latest Developments – Wagering

Much has happened in the wagering industry since the Productivity Commission's last major report on gambling in 1999. All operators have been subject to a range of new responsible gambling requirements imposed by State and Territory Governments and regulators.

These have typically included advertising and promotions restrictions, help service advertising and website links, problem gambling warning displays, staff education and training programs, self exclusion systems and additional product approval review.

In addition many operators have adopted a range of additional voluntary measures including responsible gambling codes of practice and customer activated pre-commitment limit setting mechanisms for a range of options including betting turnover, losses, and account top-up and credit card transfers.

The ABA has for example created a 'National Code of Practice for Australian Bookmakers for the Responsible Provision of Wagering Services'. This code has been formally adopted by its relevant state and territory association delegates for adherence by all member bookmakers.

A copy of this Code is attached as an annexure to this submission.

In overview the ABA believes that current responsible gambling measures within the wagering sector are appropriate in attempting to minimise harm arising from problem gambling.

We would propose however that, wherever possible, all such measures be implemented consistently so as to avoid any uneven regulatory arrangements which may weaken consumer protections and/or provide uneven commercial impacts in certain jurisdictions.

3.2 Additional Comments re: Online Betting

We also note that various other studies and research projects on problem gambling issues have been completed since the Commission's initial review.

Whilst not wishing to directly enter the debate on the relative 'dangers' of certain forms of gambling over others, we note that latest reputable 'prevalence' studies continue to point to gaming machines as posing the most risk in terms of problem gambling.

(*e.g. AC Nielsen report for NSW Government – "Prevalence of Gambling and Problem Gambling in NSW, 2006. pg 9").

Interestingly, this significant community survey and review found that there was little evidence to support the view that online wagering was presenting a new or significant problem gambling risk. Whilst noting that findings were indicative only due to the small sample size, the survey found that in relation to online racing betting (quote): "Results suggest that problem gamblers do not bet by phone or internet at all." (pg 96).

In addition, a recent Canadian study on the internet gambling published by the University of Lethbridge* has reportedly found that Australian online gamblers spend less on average (based on median results) than those in other countries*.

(*Wood & Williams: "Internet Gambling Prevalence, Patterns, Problems and Policy Options" 2009).

In general however extreme care should be taken in extrapolating results from studies such as this one that have used very low sample sizes.

As a final comment on this issue, the Productivity Commission might form its own view as to why certain sections of the gaming industry have recently chosen to publicly highlight online forms of wagering as requiring special government policy focus in terms of problem gambling issues.

Section 4: Current Key Topics in Wagering Industry

4.1 Need for National Regulatory Consistency

The high levels of inconsistency in regulations (both operational and financial) imposed by the various state and Territory Governments, present direct and or indirect problems for most Australian bookmakers.

Interstate betting activities have increasingly involved our members in compliance requirements and (more recently) actual licensing approvals with interstate government and industry regulatory authorities. Newly introduced sports and 'race fields' legislation in many jurisdictions are examples of these extended cross-border regulatory impacts.

In addition, the wagering market is increasingly a national one due to newer technologies (esp. the internet) that allow punters to bet conveniently with operators located throughout the country.

As discussed previously however, the efficient and competitive operation of this national market is often impacted by inconsistent state and territory level regulations. This in turn results in commercial disadvantages for certain operators located in less 'favourably' regulated jurisdictions.

The ABA suggests that mechanisms be considered to simplify and provide consistency in respect of regulation of the wagering industry on a national scale.

In this respect we would support the recommendation submitted by the Australian Internet Bookmaking Association (AIBA) that the need for a nationally consistent wagering industry framework be referred for further specific review by either the **Productivity Commission or the ACCC**.

4.2 Credit Betting

We note that some sectional interests have suggested that all forms of offering or providing credit to wagering clients should be prohibited.

Such a ban would have a significant (negative) commercial impact on the bookmaking sector and individual consumers of our services.

The provision of 'credit' to known clients has been a longstanding service provided by bookmakers. Its origins date back to the commencement of on-course bookmaking, with the intent of enabling larger punters the convenience and security of cash-free transacting whilst at a race meeting, and/or alleviating the need to travel to and from the racecourse carrying large amounts.

Settlement was typically finalised (either way) at an agreed point in time in the near future, with long term debt by the punter usually avoided due to the associated collection risks.

The practice remains very relevant to modern day bookmaking, with the benefits of convenience and personal security still the main factors.

Bookmakers remain very conservative in offering the service to well known and established clients only, and are very aware of requirements to deal with clients fairly and ethically – which if breached may jeopardise the prospects of collection in any contested settlement.

Whilst there have been a number a instances of bankruptcy due to unpaid debts owed to bookmakers, we are not aware of any data, studies or evidence that links credit betting with increased problem gambling incidence rates. Any ban is certain to commercially impact bookmakers, large and small, as well as the vast majority of clients who avail themselves of such services in a responsible manner.

We note that Mr Alan Cameron in his recently completed independent review of NSW wagering has made a number of specific comments and recommendations to government concerning the provision of credit by wagering operators. He has not identified the need to ban the practice, but has recommended some limitations (e.g. that it not be offered by TABs).

The ABA is cautiously supportive of these recommendations, but due to the competitive implications involved would request to be consulted in any further consideration of the issue.

The use of *credit cards* in wagering operations is a somewhat different matter that requires separate clarification and comment.

It should be noted that credit cards are an integral mechanism for betting account establishment and top-up transactions in the telephone and internet betting context. Due to the lack of convenient alternatives, credit cards make up a very sizeable share of overall 'remote' wagering funds transfers in this country and elsewhere in the world.

There would be dire competitive and commercial consequences for the many bookmakers (big and small) and corporate wagering businesses involved if this traditional payment facility was in some way withdrawn.

We note that critics of the online wagering industry have been particularly vocal on this issue. We suspect that many of these are motivated by competitive rather than social impacts considerations.

As a consequence of any ban many telephone and internet wagering customers could be expected to transfer their betting activities to offshore providers if credit card restrictions were applied within Australia. Equally such offshore providers would take the opportunity to increase their marketing efforts to Australian customers to take advantage of this situation.

Alternatively we are advised that the machinations of e-commerce would allow many wagering customers to circumvent a ban by diverting funds to betting accounts via e-wallets and other similar services.

Finally, we note that recently conducted research on problem gambling (including the AC Nielsen Prevalence Study in NSW) has not identified any particular concerns in this specific area. We therefore do not believe that the negative criticisms of either credit or credit card usage in respect of wagering activities are soundly based.

Regulatory intervention at this point would not only cause unnecessary commercial damage to the industry, but would also inconvenience the vast majority of responsible consumers without a sound public policy basis for doing so. At the very minimum, more data and research should be conducted prior to any firm position being taken on the issue.

4.3 Advertising, Promotions, Inducements and Rebates

The advertising of gambling in general and race and sports wagering specifically has been the subject of recent legal and regulatory developments, as well as continuing to attract negative comment from many anti-gambling advocates.

Anti-competitive advertising restrictions, which were aimed at preventing 'interstate' wagering operators advertising in certain jurisdictions, have now been lifted in all jurisdictions courtesy of recent legal decisions.

In respect of the responsible gambling issue, the ABA notes that there are a substantial number of regulatory restrictions, in addition to voluntary industry codes, already in place throughout the nation that ensure that gambling is promoted in an appropriate and ethical manner.

In NSW the Government has recently moved to impose additional restrictions on the advertising by betting operators of free bets or account top-ups. Although the ABA understands the intent of this legislation, it has added a further competitive hurdle for NSW operators, as interstate operators do not currently face these restrictions. Nationally consistent standards are ideally preferred.

Certain racing industry interests have used this review to call for Federal Government intervention to ban rebates and inducements by wagering operators. There is little additional detail provided as to the intended definitions and reach of such restrictions, however we again suspect that their primary motive may be to reduce the promotional capacities of larger 'corporate' type bookmakers who are increasingly in direct competition with the TABs.

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.

4.4 Tote odds betting

The ability of bookmakers to offer a bet that is priced at the same payout dividend at the totalisator remains a divisive issue within the industry.

The discussion has often centred on the TABs exclusive rights to provide tote pricing, however there has been some misunderstanding of the key differences between the actual conducting of a tote as opposed to matching a tote price. These are very different propositions, as a tote will always deliver a fixed profit to the operator versus the unknown commercial outcome of a bookmaker's bet at an equivalent tote price.

The ABA's position on this form of betting is that there needs to be a national solution which is applied consistently across all jurisdictions. The current state-by state arrangements which allow the practice in some jurisdictions only is creating competitive disadvantage for bookmakers in those states (including NSW) that ban the practice.

It is important to note that the "Cameron" review in NSW looked closely at the issue and recommended such a national approach. If no consistent position can be achieved Cameron recommended that the current ban in NSW be lifted so as to end the competitive disadvantage suffered by bookmakers in that State.

The ABA is supportive of such a pragmatic approach on a national basis.

4.5 Problems with the Interactive Gambling Act

The Federal Government's Interactive Gambling Act 2001 contains 2 major flaws in our view. They are as follows:

- *Online gaming prohibitions ineffective*

The primary intent of the legislation was, as we understand, to prevent Australian residents being offered and taking part in internet based gaming options such as casino and poker machine games.

The Act appears to have failed in this endeavour, as there are continuing reports of significant gambling activity by Australians with offshore internet gambling operators.

A recent media report in the Sydney Morning Herald ("Red Hot Poker" – News Review pg 3, 4th April 2009) is indicative of this situation.

In this report the founder of the Australian National Poker League, which organises poker games in pubs and clubs, claims his organisation has a membership of "over 200,000", of which 50% are (according to NPL's research) also playing online poker for cash.

Note that the NPL represents only one segment of the Australian poker market and the broader online (casino) gaming consumer base.

As offshore-linked gaming has clearly not been effectively halted, the primary impacts have been on gambling participants (who are continuing to play in less reputable / regulated jurisdictions), and on potential Australian-licensed operators who have been excluded from the 'local' market.

- *Online sports betting "in-run" over-reach*

Although racing and sports wagering were appropriately excluded from the prohibitions (due in part to their pre-existing status as widely available and regulated Australian products), the 'claw-back'

prohibition of certain forms of *online sports betting* was poorly handled from both a public policy and practical perspective.

As we understand it the policy makers were concerned that “high-rapidity” types of online betting would be offered on various sports events, especially those broadcast live on television or other electronic media.

A typical (negative) scenario painted was one of punters betting on the outcome of each ball bowled in a cricket match.

Whilst the final form of the legislation did effectively prohibit such gambling via online means, it also ‘captured’ other unobtrusive types of bets such as those made during a sporting event on the ultimate outcome of the event, game or match.

We view this as ‘overreach’ in terms of achieving the stated objective – i.e. the prohibition of high rapidity online sports bets.

This part of the Act has produced an unnecessary commercial impediment within the wagering sector, which is shared by a number of our bookmaking constituents.

In addition, offshore licensed operators are understood to be exploiting certain elements of the so-called ‘in-run’ prohibition via offering such services to Australian wagering customers, apparently out of effective regulatory ‘reach’ of Australian authorities.

The ABA recommends that the current “in-run” prohibitions be reviewed to legalise types of betting during sporting events that do not fit a reasonable definition of “high rapidity” gambling.

As a guide we would refer you to our Code of Practice annexure to this submission which categorises those types of “micro-betting” contingencies that wagering operators should be prevented from offering.

Section 5: *Recommendations - What should be done at a Federal level ?*

5.1 Oversight to ensure national regulatory consistency

As discussed in 4.2 there is currently a lack of consistency between Australian States and Territories in respect of regulation of the wagering industry. In what is inevitably becoming a ‘national’ market due to advancing technology, this provides fertile ground for economic inefficiencies and social policy failures.

The ABA does not propose to have a clear solution to this problem. However we would support the recommendation made by the Australian Internet Bookmakers Association that the issue of nationally consistent wagering arrangements be specifically reviewed either by the Productivity Commission or the ACCC.

The ABA would seek to be involved or consulted in such a process.

5.2 Amendments to Interactive Gambling Act

As discussed in section 4.1 the ABA believes that the current Interactive Gambling Act contains a number of policy flaws that the Government should address.

These are as follows:

- *“In –Run” sports betting prohibitions should be re-defined to focus on intended ban on high rapidity betting, as opposed to other standard in-play options.*
 - The ABA would be available to assist in advising government as to a more focussed approach to bet types that are considered inappropriate to allow online versus those that should be exempt.
 - A “do-nothing” approach by Government will in our view continue to restrict the Australian wagering industry without sound policy foundation. It will also result in more Australian’s choosing to gamble with offshore-licensed gambling sites on these types of bets.
- *The current ban on all forms of internet gaming should be re-considered in light of its failure to prevent Australians from taking part with unregulated offshore operators.*
 - Although this is not a matter of direct impact to our constituents, the ABA is concerned that ineffective prohibitions on gambling are too readily imposed when local regulated alternatives are a better policy option.

ANNEXURE 1

NSW Bookmaking Sector

Licence Numbers and Racing Betting Turnover 1974-2008

	Co-op members	Bookmakers	Bookmaker Turnover \$M total
1974	827	1048	440.2
1975	858	1036	549.9
1976	896	1035	590.0
1977	946	1016	601.7
1978	868	1110	665.6
1979	793	1060	732.5
1980	789	1113	896.4
1981	788	1052	965.5
1982	795	1054	1,084.4
1983	762	1031	1,055.8
1984	799	1036	1,085.1
1985	771	964	1,076.2
1986	782	942	1,166.2
1987	760	872	1,330.0
1988	696	850	1,241.0
1989	651	798	1,382.0
1990	641	794	1,353.5
1991	595	728	1,236.4
1992	571	682	1,060.7
1993	590	620	869.3
1994	592	683	780.1
1995	562	556	833.8
1996	507	511	691.7
1997	452	462	610.2
1998	402	418	610.9
1999	373	384	588.2
2000	333	342	488.8
2001	303	312	483.8
2002	294	306	475.2
2003	287	305	604.8
2004	278	296	668.4
2005	270	288	628.2
2006	266	285	583.1
2007	268	287	597.8
2008	268	287	522.6

(Source: NSW Bookmakers' Co-operative Limited Annual Reports and NSW OGLR)

ANNEXURE 2

National Code Of Practice For Australian Bookmakers For The Responsible Provision Of Wagering Services.

Industry Accord

Objectives

1. To develop and promote guidelines and programmes for the responsible delivery of wagering product, and the advertising and marketing of the Bookmaking industry.
2. To enhance the development of the Bookmaking industry throughout all member bodies.
3. To responsibly provide services that will enable wagering to be a socially rewarding leisure and entertainment activity.
4. To assist those patrons who experience wagering related difficulties with information on, and direction to, appropriate support services.
5. To enhance the public perception of the Bookmaking industry.
6. To comply with Government policy relevant to the Bookmakers.
7. Australian Bookmakers' Association (ABA) to continue to be the body to integrate and require State Associations to develop generic initiatives for the provision of responsible gambling nationally.

Code of Practice

The Code of Practice is a voluntary code of self-regulation and is to be read in conjunction with the relevant legislation, regulation and rules of the racing codes and sports betting authorities in each State and Territory.

The handling of any complaints related to the Code is not intended to replace any policies or procedures that may exist as part of the above legislation, regulation and rules.

Regulatory Compliance

All Bookmakers will abide by the rules and regulations of the Government and the controlling bodies in the jurisdiction in which they propose to do business. All Bookmakers must be issued with a bona fide licence from the controlling body in their jurisdiction and operate under the authority and within the scope of that licence.

Probity

The respective Bookmaker Associations in each jurisdiction shall ensure the financial and character bona fides for all Bookmakers for whom they provide fidelity guarantees or, where applicable, ensure that obligations to Government Authorities are met.

Seal of Approval

ABA, through its State Bookmaker Associations, will institute a "Seal of Approval" as approved by the Minister which will allow Bookmakers to acknowledge and display, in a visible manner, their support for fair, honest and responsible wagering. The Seal is to be a logo that can be recognised by clients, whether they are face to face punters or operating via the Internet.

Complaint resolution procedures

The effective resolution of complaints is a major objective of the Bookmaking Industry Code of Practice.

Each Bookmaker will ensure that they:

1. Co-operate with the Controlling Bodies in the resolution process.
2. Maintain adequate procedures for receiving and responding to both oral and written complaints, and
3. Respond promptly to all complaints and make every reasonable effort towards their resolution.

Advertising

A Bookmaker must not publish any wagering-related advertising that:

1. encourages a breach of the law, or
2. depicts children wagering or involved in any other form of gambling, or
3. is false, misleading or deceptive, or
4. suggests that winning will be a definite outcome of participating in wagering activities, or
5. suggests that participation in wagering activities is likely to improve a person's financial prospects, or
6. promotes the consumption of alcohol while engaging in wagering, or
7. is not conducted in good taste and decency.

State Bookmaker Associations may require in Bookmaker written advertisements the inclusion of a statement advising of the availability of counselling services.

A Bookmaker must not offer or supply any free or discounted liquor as an inducement to participate in any wagering activity conducted at a racecourse.

Privacy

All wagering providers must be scrupulous in the maintenance of privacy issues in respect of customer transactions.

Financial Transactions

All wagering providers must comply with relevant legislation regarding financial transactions, including the Financial Transaction Reports Act, which is administered by AUSTRAC.

Code of Practice Review

The participants recognise that the Code of Practice may require review due to changing circumstance.

Bookmaker Industry Code of Practice

Harm Minimisation

Bookmakers agree to provide wagering services in a manner that encourages responsible wagering patterns and behaviour.

General

Bookmakers will: -

1. Comply with statutory obligations and refuse access by minors.
2. Provide unrestricted access by clients to their own wagering account records.
3. Endorse warning messages regarding the effects of excess gambling and notices advising how to access problem gambling counselling agencies.
4. Improve customer information to assist in responsible wagering.
5. Agree not to offer propositions unless they have a probability of occurring.
6. Advise their clients of their credit betting policy.
7. Not accept bets by credit card on-course.

Additional requirements for On-Line Wagering operators

On-Line operators agree to the following points: -

1. Internet sites to contain up to date links to Australian agencies providing assistance for problem gamblers.
2. Access by minors to be prevented by ID checks and the use of devices such as PINs and access passwords.
3. Monitor daily transfer from credit cards.
4. Bookmakers must abide by the restrictions contained in Credit Card Merchant contracts.
5. Bookmakers agree to offer their services on an opt-in basis to assist customers to wager responsibly, which could include features such as: -
 - Offering pre-committed loss limits to clients.
 - Increases in loss limit parameters to incorporate a 7-day cooling-off period.
 - Decreases in loss limit parameters to be effective immediately.
6. All Internet sites will not have entrapment systems and will facilitate easy exit from their site.
7. The Bookmaking Industry has a moratorium on micro-event wagering and Bookmakers agree to seek approval from ABA before offering bet-types that may be considered micro-event propositions.
8. Bookmakers using the "Seal of Approval" agree to the withdrawal or addition of any micro-event bet-type approved by ABA.

Exclusion

1. Self exclusion to be strictly enforced by each wagering provider based on an individual request by the client to that provider.
2. Subject to judicial order, third party exclusion will be strictly enforced by each wagering provider.
3. Each excluded person to be given direction to counselling services.

Training

1. Copies of the Code of Practice to be made available to Bookmakers' Staff.
2. Bookmakers to ensure staff are aware of the requirements of the Code of Practice.
3. Bookmakers and their customer service staff to receive training in the responsible provision of wagering services.
4. Each State to develop an accredited training course.

General

To support the local community as part of a commitment to the provision of responsible gambling services.

Addendum

Controlling Bodies for the issuance of Bookmakers Licences

Australian Capital Territory	Racing & Sports	ACT Gambling & Racing Commission
New South Wales	Racing	Racing NSW
		Harness Racing NSW
		Greyhound Racing NSW
	Sports Betting	NSW Office of Liquor, Gaming & Racing
Northern Territory	Racing & Sports	NT Department of Racing, Gaming & Licensing.
Queensland	Racing & Sports	Queensland Thoroughbred Racing Board
South Australia	Racing & Sports	Independent Gaming Authority
Tasmania	Racing & Sports	Dept. of Infrastructure, Energy & Resources - Racing Division
Victoria	Racing & Sports	VIC Government Bookmaker & Bookmakers' Clerks
		Registration Committee
Western Australia	Racing	WA Betting Control Board
		Western Australian Turf Club
		Western Australian Trotting Association
		Western Australian Greyhound Association
		Sports Betting WA Betting Control Board

Bookmaker Associations (Fidelity) and Bonding Authorities

Australian Capital Territory	Racing	NSW Bookmakers' Co-operative Ltd
	Sports	ACT Gambling & Racing Commission
New South Wales	Racing & Sports	NSW Bookmakers' Co-operative Ltd
Northern Territory	Racing & Sports	NT Department of Gaming, Racing & Licensing
Queensland	Racing & Sports	Queensland Bookmakers' Association Ltd
South Australia	Racing & Sports	Independent Gambling Authority
Tasmania	Racing & Sports	Tasmanian Bookmakers' Association
Victoria	Racing & Sports	Victorian Bookmakers' Association Ltd
Western Australia	Racing	Bookmakers Fidelity Pty Ltd [managed by WA Bookmakers' Association (Inc)]
	Sports	WA Betting Control Board

Written Gambling Advertising

Regulations in NSW state that Bookmakers written gambling advertising must contain the following statement in capital letters:

IS GAMBLING A PROBLEM FOR YOU?

CALL G-LINE (NSW)
COUNSELLING SERVICE

1800 633 635

Micro-event Wagering

In determining whether a proposition offered is micro-event wagering or 'traditional' wagering the ABA Internet Betting Committee will use a number of criteria: -

- Will the outcome of an event offered within a sporting event have a significant impact on the outcome of the event itself?
- Is the determination of the probability of the outcome fundamentally skill-based?
- Will the punter have ample time to assess the probabilities, and the odds being offered, between when the proposition is first offered and when betting on the event is expected to close?
- Are wagers on a proposition accepted via multiple distribution methods, e.g. face-to-face or telephone as well as online? Propositions that can only be offered via an online medium, e.g. Internet or iTV, will be deemed micro-event wagering and therefore prohibited.

Examples of **prohibited** micro-event wagering propositions (by any method) are as follows:

Toss of a coin (at anytime but highlighted for its use at the start of sporting events).

Tennis

- Will the next serve be in or out?
- Will the next serve be an ace?
- Will service be broken next game?

Football

- (AFL) Will player kick the goal (from a mark)?
- (AFL) Will the next score be a goal or a behind?
- (AFL) Which team will score the next goal (6 points)?
- Rolling bet opening/closing/re-opening every 30 seconds or every minute
- (Rugby) Will there be a penalty kick for goal in next 5 minutes?
- (League) Number of tackles in next five minutes over/under X?

Cricket

- Will the next ball be hit for a boundary?
- What will be the number of runs off the next over?
- Will there be a wicket next over?

Soccer

- Will player successfully take a penalty kick?
- Rolling bet opening/closing/re-opening every 30 seconds or every minute
- Will there be a corner in the next 3 minutes?
- Will there be a goal in the next 5 minutes?

Basketball

- Turnover or score this possession?
- Rolling bet opening/closing/re-opening every 30 seconds or every minute
- Which team will be the first to ten points?

Motor

- Next lap faster (or slower) than previous lap?

20.03.03

Annexure 3

ABA National Bookmaker Levy Framework – Media Release 3 December 2008

AUSTRALIAN BOOKMAKERS' ASSOCIATION PTY. LTD.

(Formerly ARBAC Pty Ltd.)

A.C.N 066 699 607

ACT Bookmakers' Association
NSW Bookmakers' Co-operative Ltd.
Queensland Bookmakers' Association
South Australian Bookmakers' League Inc.
Tasmanian Bookmakers' Association
Victorian Bookmakers' Association Ltd.
W.A. Bookmakers' Association Inc.

Chairman: Jack Ashman
Executive Officer: Tim Ryan 0419 857 926
Address: 198 Pitt Street
Sydney NSW 2000

Email: bookies@citytatts.com.au
Telephone: 02 9267 7605
Facsimilie: 02 9267 4147
www.australianbookmakers.com.au

Media Release National Race Field Levies

At the Australian Bookmakers' Association (ABA) Conference held in Hobart December 1-2 Delegates expressed their concern at the termination of the "Gentlemen's Agreement" regarding the future of Racing Industry funding as a consequence of the recent or impending introduction of differing Race Fields levies from state to state.

There is no national consensus on this issue, each State (and even Racing Codes within a State) is seeking to generate revenue from bookmakers' use of their racefields product via the imposition of turnover levies, or levies based on gross profit. This has resulted in the commencement of legal proceedings against various Racing Authorities with further proceedings likely to be commenced in the near future.

The ABA, which principally represents **on-course** bookmakers, considers this situation is diverting Racing Authorities from their real function, i.e. to manage and improve Australian racing product, and thus the ABA urges the Racing Ministers and the Australian Racing Board attending the National Conference this week to consider the adoption of a National Bookmaker Levy Framework on which bookmakers' racefields levies to local racing and interstate authorities are based.

Importantly this Framework incorporates the legal principles established in a recent High Court decision; continuing the support of local racing where bookmakers operate; ensuring the significant intangible contribution oncourse bookmakers make to the health and vitality of racing; provides for payments to racing by large corporate bookmakers; and provides a compromise to the differing approaches to racefields levies being charged by racing authorities.

By **unanimous decision**, state representatives of the ABA resolved the following Framework:

At the commencement of each (racing) year, bookmakers elect to pay a Bookmaker Levy from one of two options:

1(a) 0.33% on turnover less than or equal to \$5 million p.a. for each State racing product, payable to the local racing authority or race club where the bookmaker operates, and

1(b) 1.00% on turnover greater than \$5 million p.a., payable product source; or

2) 10% of gross profit p.a., such levy to be determined net of GST and the results of bets back.

The majority of oncourse bookmakers' wagering activities will fall under the (per state) threshold of \$5 million p.a. which in effect provides for continuation of the "Gentleman's Agreement" for those bookmakers. There are significant benefits for both local racing and state racing authorities in doing so as the burden of compliance and collection costs of levies outweighs any benefit when compared to current arrangements.

This also has an important parallel in the mutuality of how official bookmakers' prices are created at the 'local' venue and used by bookmakers at all other racecourses through the Australian Prices Network – it is critical that bookmakers operate under a uniform set of costs in setting their markets.

The ABA considers this Framework to be fair and reasonable, acceptable to corporate bookmakers, and will generate the appropriate levels of revenue the Australian Racing Industry is seeking to obtain from wagering operators generally.

Should you have any queries on the Media Release, please contact Mr. Lyndon Hsu (Chairman of the Victorian Bookmakers' Association) on 0407 885 703 or Mr. Tim Ryan (CEO of the ABA) on 0419 857 926.

Dr C.J. (Jack) Ashman
Chairman