

AUSTRALIAN PRODUCTIVITY COMMISSION
2009 GAMBLING INQUIRY.

The Commissioners,

Thank you for the opportunity to contribute to this Inquiry and apologies for its late submission.

This submission is directed to the implementation of a recommendation in the Commission's 1999 Gambling Inquiry, viz.

“Internet gambling offers the potential for consumer benefits, as well as new risks for problem gambling. Managed liberalisation – with licensing of sites for probity, consumer protection and taxation – could meet most concerns, although its effectiveness would require the assistance of the Commonwealth Government”.

Specifically and exclusively my submission seeks the legalisation and regulation of Internet Poker by the Commonwealth Government.

I would, at the onset, seek to give further evidence to the Inquiry during hearings held in Melbourne later this year. It is probable, in the light of activity between now and that intended hearing, there will be more evidence to support my submission.

There is before the Commission an extremely detailed and comprehensive submission covering Internet Poker by iBus Media Limited (submission 178). This submission of 37 pages, *inter alia*, accurately explains the mechanism, safeguards and harm minimisation of Internet Poker, which would be superfluous for me to repeat. My submission supports and supplements the iBus submission, and in particular endorses their conclusion that *“from an economic point of view, regulation is more favourable than prohibition. Regulation can increase taxation revenue for the government, create employment, support ancillary industries such as software providers, improve online technology and attract foreign investment”*.

Presently, revenue received from Australian licensed internet wagering sites is paid to State and Territory Governments.

It is proposed that a new licensing regime be implemented under Commonwealth jurisdiction covering **only** Internet Poker. Whether there would be implications for payment of monies by the Commonwealth to States is moot and not covered by this submission. There would be no cannibalisation of existing revenues to the States as Internet Poker is currently not taxed in Australia.

In my submission to the Commission in 1998 under, ***“Poker as an Organised Mainstream Gaming Activity”*** I stated, *“Poker is both a game of skill and an opportunity for social interaction. These attributes occur only in one other casino game, blackjack, and then only as possibility, not as an essential component”*.

I went on to provide an accurate prediction of the growth of poker playing throughout the world. With regard to Australia I stated *“It does not require much imagination to see poker being played across Australia in licensed venues, such as clubs, in a comparatively short time”*.

Specific mention was made to the opening of a purpose built poker room at Crown Casino Melbourne in June 1997 and the potential this had to assist in the growth of poker in Australia. That this has been the case can be seen from the massive increase in players and prize money at Crown, and now at other Australian casinos.

In July 1998 the first Australasian Poker Championship at Crown attracted 74 players with a \$74,000 prize pool. Since then the main yearly event has become known as the “Aussie Millions”.

In 2003 the stakes were raised, in keeping with major overseas championships, to \$10,000 per entry, with a prize pool of \$1.2M.

This year the main event (still \$10K per entry) saw a field of 682 compete for a \$2M first prize.

In total during the 2009 “Aussie Millions” championships some \$13M was paid in prize money, all of which was contributed by the individual players. There were no sponsorship funds to boost the prize pool.

THE MAJOR REASON FOR THE GROWTH IN POKER PLAYING AND THE INCREASE IN PRIZE POOLS THROUGHOUT THE WORLD HAS BEEN DUE TO INTERNET POKER.

By playing in internet satellite championships for small buy-ins, players are able to qualify for entry into higher buy-in championships, up to and including \$10K.

It is my contention, and this viewpoint is shared by every other industry expert I have contacted in this regard, that up to 95% of players at Crown, for instance, are internet players as well as Crown players.

Also in my 1998 submission and evidence before the Commission, I commented on the internet and its implications for the growth of gaming and wagering.

I commend you to read my previous paper and evidence to that Inquiry.

As an indication of that growth, an authoritative IGaming News White Paper dated May 2009 states *“Currently, there are around 600 poker Web sites and 38 poker networks operating from different licensing jurisdictions around the world”*. Throughout Australia there are now organised poker games in hotels and clubs and these are proliferating.

It is appropriate for me to qualify my expertise and background to this submission, so the Commissioners know I have appropriate knowledge and experience to speak with recognised authority on the subject of gambling generally and poker specifically.

I have been an active gambler for over 65 years, so in the vernacular, I have the “feel”, something essential if one is to understand the mind/motivation/thinking of gamblers.

After being a Commonwealth Public Servant for over 25 years, I owned several businesses, worked as a gaming and government relations consultant to many national and international organisations. In 1992 I was responsible for establishing the Australian Casino Association. I was its Executive Director for two years prior to moving to work in various fields of internet gaming, both in Australia and overseas.

Before 1992, and subsequently, I had been a passionate promoter for the adoption of poker as a casino game in Australian casinos. I was instrumental in convincing managements to establish poker rooms in Adelaide, Canberra, Crown Melbourne, and Christchurch casinos.

I worked in United States for the World Series of Poker in the mid 1980's and took the first Australian Poker Team there during that time. I worked with both Binions and Golden Nugget casinos in Las Vegas.

I was President of the National Association for Gambling Studies and responsible for initiating the funding for the first seat of Gambling Studies at the University of Western Sydney (Campbelltown), the first Chair being Professor Jan McMillen. This funding was provided after personal representation to Len Ainsworth, then the owner of what is now Aristocrat Technologies Australia Pty. Ltd.

Poker playing is very much part of my life, often on a daily basis.

To many, poker is seen as just another form of gambling. It is not! Poker players perceive poker as a game of skill, rather than chance, and this has been upheld by courts overseas. One significant and noteworthy feature of poker playing that supports the contention that poker is a game of skill, rather than a game of chance, is the fact that it is impossible to win consistently at poker when affected by alcohol. In all other forms of gambling, which qualify generically as games of chance, alcohol can be consumed without it necessarily being detrimental to the outcome.

An analogy may be made between poker and bridge. Whilst bridge is considered by many as a genteel and acceptable form of entertainment and useful engagement of one's mind, poker has the image of a seedy, disreputable and a lower socio-economic preoccupation. In reality, poker can be seen to be a much more pleasant, socially interacting and entertaining pursuit. One has only to contrast the solemn, sterile, serious atmosphere of the average bridge club with the vibrant, exciting, good-humour of the average poker room.

Both bridge and poker players are using their skills and at all times trying to improve their chances of winning. They do not persist in playing if

they consistently lose. They either study to improve or stop playing. If not, in both bridge and poker, they are “on a hiding to nothing”. In other words, they continue to play because of the challenge of the game. Yet to many, whilst bridge is socially acceptable, poker is not. This bias can also be found in the acceptance of gambling on the stock exchange (often with entrusted funds) but not with the extremely honest, well-regulated Internet Poker games.

Harm minimisation, relative to poker, deserves comment. A salient feature of both live, and Internet Poker, is that both forms of poker require co-operative participation of other players to bring about a result. All players are on show and are observing each other’s actions. Thus someone who does not have the necessary knowledge and skill is immediately identified as foolish. The anonymity when participating in other games such as roulette, blackjack, slot machines, or betting through T.A.B.s, is not available. Inept poker players quickly remove themselves from a situation of ridicule and financial peril. For this reason I believe the instance of problem gambling with poker is not great.

Poker experts agree there is an element of chance in poker, but it is one of the elements of the game that is almost totally discounted by skilled players. This is what differentiates winners from losers.

Poker is basically a mathematical game with the ability of players, through experience, to be able to evaluate accurately and very precisely their odds of winning. Proceeding from this point, to continue to play, is a question of judgement and thus an exercise in skill.

The basic reason, I contend, for the bias against poker – particularly Internet Poker – is ignorance and closed-mindedness by many in authority. As an aside, President Obama is a well-known, active, high stakes poker player.

A further reinforcement to support the skill versus luck issue, has been provided by a study from Cigital Inc. of U.S.A., published in March 2009, of 103 million hands of poker (Texas Hold’Em) played on Internet Poker site, Poker Stars. It found, “*compelling statistics about the way that outcomes of games are largely determined by players’ decisions rather than chance*”.

ONE ESSENTIAL FEATURE OF INTERNET POKER THAT NEEDS TO BE HIGHLIGHTED, TO DISTINGUISH IT FROM ALL OTHER FORMS OF INTERNET GAMING/GAMBLING FOR MONEY, IS THAT THE INTERNET POKER PROVIDERS (I.P.P.s) DO NOT HAVE A FINANCIAL INTEREST IN THE OUTCOME OF TOURNAMENTS OR CASH GAMES.

The I.P.P. is a facilitator of the event similar to say, Betfair. A small fee for tournaments is paid by all players and a commission, or rake, is taken by the I.P.P. from each winning pot.

It is thus absolutely critical for I.P.P.s to have the strictest possible safeguards to ensure the integrity of their operations. They cannot afford to have anything other than total control to prevent hackers, for instance, violating their operations, or themselves fraudulently tampering with software or similar. I.P.P.s literally have EVERYTHING to lose and nothing to gain if their operations are in any way suspect.

Similarly, all reputable I.P.P.s have in place stringent harm minimisation controls which protect players. Measures which can be replicated.

I believe there are several reasons why Internet Poker should be viewed in isolation by this current Inquiry, as follows:

1. Internet Poker Providers are looking to Australia to establish a regime that can be seen as the model for adoption by other countries. Australia has often led the world in legislation and regulation of all forms of gambling and wagering, particularly with regard to Racing, Casinos and Lotteries. The proposed regime would be an opportunity for Australia to be the world leader in the regulated Internet Poker field.
2. United Kingdom, Italy, Malta, and the Isle Of Man have already enacted legislation authorising Internet Poker. Many other countries including France, Denmark, Switzerland and United States, at both the State and Federal levels, are actively examining legislation.

3. Internet Poker Providers want validation and recognition of the probity of their service and are willing and prepared to pay taxes for this privilege. An analogy can be made to the eventual licensing of Betfair and the resultant taxes being paid. It is hoped I.P.P.s would not be required to go through the protracted negotiations and court appearances as did Betfair.
4. Presently there are restrictions in Australia preventing Internet Poker Providers from advertising. The Providers wish to do this, and if allowed, this will not only result in funds being spent in Australia but allow for Australian harm minimisation requirements to be made mandatory, to protect Australian players.
5. Consideration should be given to the introduction of licensing and regulation of Internet Poker only. This can be done simply and effectively rather than part of a general licensing regime which would be far more complex.
6. If 5. was implemented, it could provide a working model to assist in other taxing regimes which might be proposed in Australia.

My contentions appear to be supported by the general recommendations of the Australasian Gaming Council's submission (number 230) to this Inquiry.

It is germane to recall in the lead up to the passing of the Interactive Gambling Act in 2001, the Internet Industry Association, (I.I.A.), representing a broad range of internet interests in Australia, cautioned against an overly prescriptive and prohibitive approach to online gambling.

Noting that prohibition was likely to be unenforceable across jurisdictions, the I.I.A. instead recommended a licensing regime whereby online gambling operations would be permitted to operate in Australia, subject to strict conditions.

These included many of the recommendations of the joint State government approach, the Uniform Standards for the regulation of Interactive Gaming or ‘Aus Model’ which saw many levels of player protections built into a draft regime – protections which the I.I.A. argued could well exceed those applying to equivalent offline gambling.

The consensus amongst industry commentators was that Australia’s unilateral prohibition of activities would simply force users offshore into unregulated jurisdictions where player protections would be considerably lower, or even non-existent.

In relation to children’s access to gambling sites, the Association developed an industry Code of Practice to require I.S.P.s to provide filters to end users which could be configured to prevent minors accessing unsuitable sites. The current range of I.I.A. approved “Family Friendly Filters” still supports this facility. Such filters are also freely available in the marketplace.

The I.I.A. has been consulted in the preparation of this submission and confirms that its views first put in 2001 remain unchanged, that is that it favours regulated controls over outright banning, having regard to the experiences over eight years since the new laws were introduced.

In the words of I.I.A.’s Chief Executive Peter Coroneos: “We’ve obviously been tracking developments in online offerings over the last few years and note that other jurisdictions have opted for a managed liberalisation as a realistic response to interactive services. If the last decade has taught us anything at all, it is that the limits of traditional forms of regulation are entirely evident when it comes to matters of enforcement. Internet users are largely free to go wherever they choose – this has presented a dilemma for policy makers hoping to exercise national controls over a global medium.

In the end, we believe that end user empowerment supported by appropriate legislation and the employment of technological tools remains the most effective means of meeting broad social policy goals.

It recognises the dual realities of being globally connected on the one hand and applying safeguards for the protection of the vulnerable within

jurisdiction. We see nothing to suggest this tension will diminish as the internet continues to proliferate and diversify.

Balanced regulation grounded in a culture of education and empowerment, bolstered by support of industry is definitely the preferred approach”.

I endorse, as part of my submission, Professor Jan McMillen’s recommendation on page 30 of her submission, “*that the Commonwealth should commission an independent review of current regulations for internet gambling, including the **Interactive Gambling Act**, and the conduct of licensed internet wagering and lottery providers*”.

I look forward to the opportunity to be able to amplify and substantiate matters mentioned herein, should it be required by yourselves. In addition, because of the explosive growth in Internet Poker, it is probable there will be more factors that will deserve consideration at that time.

Likewise, an estimate of the potential tax that could be payable by I.P.P.s, should the Commonwealth institute a licensing regime, could be made at the time of the Melbourne hearing. By then a more accurate estimate of the volume of Internet Poker traffic on which such a tax would be payable will be available.

Yours faithfully,

John Beagle.
Canberra.
25 June 2009