

25 June 2021

Re: Submission on the Inquiry into the regulation of the use of financial services such as credit cards and digital wallets for online gambling in Australia

Thank you for the opportunity to make a submission to the Parliamentary Joint Committee on Corporations and Financial Services in relation to the regulation of the use of financial services such as credit cards and digital wallets for online gambling in Australia.

Executive Summary

The Alliance for Gambling Reform (Alliance) strongly supports the prohibition of gambling with credit, including the use of credit cards, based on the principle that people should not gamble with money they do not have.

The amendments currently proposed in the *Interactive Gambling Amendment Act 2017 Act* simply extend the existing ban on providing or promoting credit for gambling to include third party credit, better aligning the legislation with existing restrictions to onshore gambling, and with the National Consumer Protection Framework's key goal of reducing gambling harm. Gambling with borrowed money is a well-established risk factor for harmful gambling¹, and governments must ensure online wagering services are not putting customers and their families at risk by allowing them to gamble more than they can afford.

We commend this committee's decision to also look into digital wallets, and suggest this should be extended to cover all potential alternative payment methods that may use credit. Digital wallet payments are rapidly increasing in Australia; the Commonwealth Bank noted a 90% increase in digital wallet use in the last year, predicting that they may soon outstrip payments by card.² Digital wallets can easily be coded so that they cannot accept funds from credit cards for gambling purposes. It is essential that the ban on credit be expanded to include all payment methods.

Finally, we support the proposed amendments, noting that consistent, legislated restrictions provide the best mechanisms for reducing gambling harm. We strongly recommend that the committee address the issue from the perspective of outcomes - the prohibition on the use of credit in any form for gambling - rather than the technologies involved, which will change more quickly than legislation can accommodate.

Thank you once again for the opportunity to provide advice to the Parliamentary Joint Committee on Corporations and Financial Services. If you have any questions about this submission, please do not hesitate to contact us.

Yours sincerely,



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Acting Executive Director

¹ Thomas B. Swanton and Sally M Gainsbury (2020) *Gambling-related consumer credit use and debt problems: a brief review*, Current Opinion in Behavioural Sciences 31 <https://www.sciencedirect.com/science/article/pii/S2352154619301019>

² <https://www.commbank.com.au/articles/newsroom/2021/05/digital-wallets-contactless-soar.html>

a. the extent of consumer detriment;

Gambling on credit increases the risk that people will gamble more than they can afford.

The Alliance provided detailed information of the extent of consumer detriment of gambling with credit in our submission on the Inquiry into the *Interactive Gambling Amendment (Prohibition on Credit Card Use) Bill 2020*. In that submission, we highlighted that there are inherent risks associated with gambling with credit, including losing all of ones' assets and then quickly accumulating large sums of unsecured debt. Additionally, credit cards have high interest rates and are therefore an expensive source of debt. When used for gambling, they attract exorbitant cash advance fees which can further exacerbate harm. We learned through the Banking Royal Commission just how much harm can be done when credit is used for gambling.³ The risks associated with gambling with credit are particularly acute for young people, who are actively targeted by the gambling industry and are more likely to get into financial difficulty when using credit due to lower financial literacy.⁴

Furthermore, we described how credit cards are disproportionately used by those experiencing extreme gambling harm. The 2010 Australian Productivity Commission Report found those experiencing high levels of gambling harm were more than four times as likely to use credit cards to obtain cash advances for gambling than low-risk gamblers.⁵ A 2019 UK Gambling Commission report also found 38% of "problem" gamblers* and 30% of moderate risk gamblers had used a credit card for gambling, compared to just 8% of non-problem gamblers.⁶ Similarly, a 2017 UK survey of citizens affected by gambling-related harm found 49% reported using credit cards to fund their gambling; 40% went overdrawn and 27% had taken out payday loans. Most pertinently, 76% of surveyed gamblers had built up debt as a result of their gambling and 44% of affected others built up debt themselves, clearly indicating this harm extends beyond the individual to families and communities.⁷

b. the level of existing voluntary bans by Australian financial institutions;

For decades, Australian financial institutions have considered restricting gambling with credit.⁸ In 2017, 85% of Bank Australia customers surveyed said they would support a block on payments from credit cards to online gambling businesses.⁹ In December 2020, a report by the Australian Banking Association (ABA) found 81 per cent of Australians are concerned about the use of credit cards for gambling, with 27 per cent supporting restrictions, and 54 per cent stating their use

³ *Banking royal commission: Commonwealth Bank offered gambler credit card limit increases*, March 22, 2018
<https://www.abc.net.au/news/2018-03-22/commonwealth-bank-offered-gambler-credit-card-limit-increases/9577654>

⁴ Razen et al, Financial literacy, economic preferences, and adolescents' field behavior, *Finance Research Letters*, Volume 40, 2021, 101728, ISSN 1544-6123, <https://doi.org/10.1016/j.frl.2020.101728>.

⁵ Productivity Commission (2010). *Gambling: Productivity Commission inquiry report (Volume 1)*
<https://www.pc.gov.au/inquiries/completed/gambling-2009/report/gambling-report-volume1.pdf>

⁶ Gambling Commission (2019). *Consultation on gambling with credit cards*.
https://consult.gamblingcommission.gov.uk/author/consultation-on-gambling-with-credit-cards/supporting_documents/Print%20the%20whole%20consultation%20%20gambling%20with%20credit%20cards.pdf

⁷ Nash, E., MacAndrews, N., & Edwards, S. (2018). *Out of luck: An exploration of the causes and impacts of problem gambling*. London: Citizens Advice.
<https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/Out%20of%20Luck.pdf>

⁸ *Online gamblers facing a credit card ban*, August 2, 2002
<https://www.smh.com.au/national/online-gamblers-facing-a-credit-card-ban-20020802-gdfi9d.html>

⁹ *Credit cards and online gambling – your say*, June 29, 2017
<https://www.bankaustralia.com.au/about-us/news/corporate/credit-cards-and-online-gambling--your-say/>

should be banned altogether.¹⁰ Implementation of this measure would not only bring banks inline with other major global financial institutions, like American Express and Citibank, but also comparable jurisdictions like the US and UK.¹¹ Taking a sector-wide approach to gambling ensures an even playing field for all Australian financial institutions.

We acknowledge and commend initiatives in recent years by financial institutions to provide greater tools and services to customers experiencing gambling harm to seek help without shame or stigma, most notably those who now allow customers to block gambling transactions on credit and debit cards.¹² However a uniform, sector-wide approach is still needed to guard against the risk of predatory practices and (often) exploitative tactics used by wagering firms to extract more than people can afford.

c. existing consumer protections;

The Alliance strongly supports the protections outlined in the National Consumer Protection Framework (NCPF), which recognise that a consistent, legislated approach is the most effective mechanism to reduce gambling harm. The proposed amendments restricting the use of credit for online wagering align with the intentions of the NCPF's first measure (to restrict lines of credit for online wagering), and with the NCPF's vision more broadly; to “reduce the harm that can be caused to individuals and their families by excessive or at-risk online wagering”, for which gambling with credit is, as outlined above, a clear risk factor.

Additionally, restricting lines of credit for online wagering would create greater consistency in gambling legislation as a whole, noting that credit cards are banned for all forms of land-based gambling (with the exception of the use of credit cards for lottery tickets or scratch cards at newsagents, where customers frequently buy multiple other items at the same time).

d. the potential for a mandatory industry code;

The Alliance holds the view that industry codes are difficult to enforce and require some legislative scaffolding to be effective. Given that this matter involves the intersection of the finance and gambling sectors, both notorious for failing to adhere to their own voluntary codes, we believe the correct response is enforceable through legislation. The Royal Commission into the Banking Sector revealed countless examples of failings by the banks, and the issue of managing payments online will necessarily involve other financial service providers, some of whom are even less publicly accountable than banks. The UK Gambling Commission's detailed response to submissions to its inquiry, which ultimately led to a ban on credit cards for gambling, highlighted how the finance and gambling industries must work together, to identify other sources of credit and to identify customers gambling beyond their means.¹³ The

¹⁰ *Every Customer Counts, Consultation Report - Use of credit cards for gambling transactions*. ABA (Dec 2020)
<https://www.ausbanking.org.au/wp-content/uploads/2020/12/Every-Customer-Counts-Consultation-Report-Use-of-Credit-Cards-for-Gambling-Transactions.pdf>

¹¹ *Gambling on credit cards to be banned*, January 14, 2020
<https://www.bbc.com/news/business-51103006>

¹² *NAB allows customers to restrict gambling transactions*, February 21, 2020
<https://www.savings.com.au/savings-accounts/nab-allows-customers-to-restrict-gambling-transactions>

¹³ *Changes to licence conditions and codes of practice on the use of credit cards for gambling: Consultation response*, UK Gambling Commission Jan 2020.

Commission recognised that a ban on credit cards was not the only solution to reducing gambling harm, but rejected the submissions from the financial and gambling industries arguing against the ban.

In this context, the Alliance notes that while the Australian Bookmakers Association may have a Code of Practice, it is nearly impossible to find a copy of it. A version was submitted to the 2010 Productivity Commission inquiry into gambling,¹⁴ and at least one bookmaker copies what appears to be part of the code on their website,¹⁵ but it isn't clear if that is the current version of the code. If a peak body of the industry cannot even make its own voluntary code freely available, the Alliance has no confidence that it or its members are actively adhering to it.

It is particularly crucial that legislative prohibitions are aimed at the entire financial sector, in order to capture the multiple ways in which people may access credit - not only through credit cards, but from payday lenders or other mechanisms. As digital payment methods proliferate, gambling service providers will be unable to determine the ultimate source of funds in digital wallets, so that it is reasonable to place responsibility on the finance sector, very broadly defined.

e. regulatory approaches used in other relevant jurisdictions;

In our previous submission, we described some of the research findings presented to the UK Gambling Commission's consultation into gambling with credit regulation. This consultation, which engaged various stakeholders, including individuals, organisations, financial institutions, remote gambling service providers, high street bookmakers, counselling services and counsellors, casino employees, faith groups, e-wallet and digital payment processing services, the Local Government Association and gambling industry trade bodies, concluded that a complete ban on credit cards was the most effective approach to achieve the Commission's aim "to safeguard consumers and the wider public by ensuring that gambling is fair and safe".¹⁶ However, it is clear that currently in the UK, bookmakers are advertising payment by eWallets that receive funds from credit cards. We understand that the UK Advisory Board for Safer Gambling¹⁷ is monitoring developments related to digital wallets in NSW.

The NSW Department of Liquor and Gambling is currently supervising a trial of digital wallets for land-based gambling through poker machines. One of the principles followed for the development of guidelines was that access to credit and credit cards be banned, so that any digital wallet presented for trial must show that the account holder cannot use funds sourced from a credit card for gambling transactions.¹⁸

¹⁴ Appendix 2, <https://www.pc.gov.au/inquiries/completed/gambling-2010/submissions/sub243.pdf>

¹⁵ PalmerBet: <https://www.palmerbet.com/content/helpcentre-responsiblegambling>

¹⁶

<https://www.gamblingcommission.gov.uk/for-gambling-businesses/Compliance/consultation-responses-2020/Changes-to-licence-conditions-and-codes-of-practice-on-the-use-of-credit-cards-for-gambling.aspx>

¹⁷ The UKABSG's submission to the UK Gambling Commission on reducing online gambling harm may contain additional information:

<https://assets.ctfassets.net/j16ev64qyf6l/6wieVJHKT8eWRELY8OrPW/77c3c9a645cfc1a7cf1e2088056bc126/ABSG-advice-on-actions-to-reduce-online-harms.pdf>

¹⁸ The Alliance was consulted as a stakeholder in the lead up to the trial and has been provided with a copy of the guidelines, which are not publicly available.

WA's Wagering and Gaming Commission approved Crown Perth's trial of EFTPOS payments, linked only to debit cards, in July 2020, with a report expected 3 months later.¹⁹ We have been unable to find that report on the Commission's webpage.

Nevada's Gaming Commission revised its regulations in 2020 in order to allow digital wallets and other forms of electronic payment to be used in land-based gambling - principally casinos. As far as we know, that revision was preceded by a workshop and the soliciting of submissions, in the usual way that regulators seek to engage stakeholders.²⁰ Individual apps/digital wallets/eWallets still need approval on a case by case basis.

The regulatory changes involved language that moved from specifying a type of payment method eg card, code, to a more technology neutral term such as "prepaid access instrument" and "debit instrument".²¹ We recommend a similar approach in Australia, to define the desired outcome i.e. gamblers should not be able to gamble with credit, rather than listing specific technologies which may quickly become out of date, or superseded.

The eWallets that have been approved to date in Nevada allow funds to be uploaded from a credit card,²² which the Alliance strongly recommends against in Australia.

The US Supreme Court ruled in 2018 to allow sports betting, however, the legislation to legalise that must be enacted state by state.²³ There is a lack of evidence in that jurisdiction for approaches to use of electronic payment in conjunction with bans on credit.

f. the provisions of the attached draft legislation to amend clause 15C the *Interactive Gambling Amendment Act 2017*; and

The Alliance supports the proposed amendments to clause 15C, acknowledging that removing "(other than by way of an independently issued credit card)" in 15C(1)(b)(ii) more effectively future proofs the legislation to potential technology changes, such as digital wallets and other forms of e-payment that may rely on lines of credit.

Additional amendments

The Alliance has also made detailed technical comments on the previously proposed amendments in our submission to the Senate Standing Committee on the Environment and Communications, [which is available here](#).

Of note is our recommendation that the Environment and Communications Committee consider the consequences of clause 15F in the current Act (and proposed clause 15L), where the application of the Constitutional limits on laws related to property may be causing a perverse

¹⁹ <https://www.gamblingnews.com/news/crown-resorts-takes-cashless-payments-for-test-run-at-perth/>

²⁰ Submissions to Nevada Gaming Commission: <https://gaming.nv.gov/index.aspx?page=52#proposedregamd>

²¹ History of regulatory changes by the Nevada Gaming Commission, Regulation 1, definitions: <https://gaming.nv.gov/modules/showdocument.aspx?documentid=16876>

²² for example, the IGT Resort Wallet™: <https://www.infoplay.info/en/2021-01-07/igt-obtained-nevada-regulatory-approval-for-its-cashless-resort-wallet-solution-how-it-works-video/14929/new/>

²³ <https://www.usatoday.com/story/money/2019/06/23/sports-betting-gambling-states-legal-supreme-court-ruling/1542110001/>

outcome with regard to unjust offers of credit against property collateral, for the purposes of gambling.

Additionally, 15D provides an exemption to the 15C ban on providing credit where the service provider's turnover is less than \$30million p.a. and the service is a telephone betting service in connection with racecourse betting, and the credit is offered via voice calls.

The Alliance draws the Committee's attention to cl15D(1)(b) where this offer of credit can be made to "prospective customers". The principle of banning incentives to open accounts with online gambling service providers has been established within the National Consumer Protection Framework. We argue that 15D(1)(b) allows telephone betting service providers to incentivize the opening of an account through the offer of credit. **This exemption should be removed** - the fact that the telephone betting service must be related to a racecourse based betting service provider does not reduce the concerns around offering incentives to open betting accounts, particularly when this incentive involves the use of money that does not belong to the customer.

We also invite the Committee to consider whether the turnover threshold for allowing this exemption is appropriate, and whether any exemption at all on the offering of credit is consistent with the intent of Part 2B of the Act. The original intent of the exemption was to continue to allow bookmakers who allegedly overwhelmingly offered credit to customers they know to continue that practice. Taking payments for each bet over the phone is cumbersome to both parties, but certainly introduces friction into the transactions. **We argue that 15D should be repealed** as gambling on credit with no written confirmation of the sums involved exposes all parties to the risk of misunderstandings and financial loss. In addition, telephone betting shares some characteristics with online gambling in that the salience of the bet is significantly reduced.

g. any related matters

Not a silver bullet

While we strongly support the prohibition of gambling with credit, we also acknowledge this is not a silver bullet, and more must be done by financial institutions, governments and other regulators in order to reduce the staggering amounts of losses, and the unsustainable level of harm in our community caused by gambling. In particular, the UK evidence shows that people severely impacted by gambling are much more likely to also access multiple forms of credit. The existing bans on offering credit from wagering services, and the proposed credit card bans will not completely eradicate the problem, but they will make a significant positive impact on the horrendous issue of gambling harm in this country. Every initiative is worth trying.

The Alliance acknowledges that many of the regulations related to online or interactive gambling, including the National Consumer Protection Framework, and existing bans on credit, as well as age and identity verification for account holders, are ahead of similar regulations around land-based gambling.

Who we are

The Alliance for Gambling Reform is a national advocacy organisation and registered health charity formed out of an urgent need to address the harmful and unfair impacts of gambling and

its normalisation in Australia. We are a non-partisan alliance of more than 60 organisations who share our objectives of preventing and minimising harm from gambling, and we are entirely funded by individuals, foundations and local governments that do not have any ties with the gambling industry. We take a public health approach to gambling reform, centering those with lived experience of gambling harm at the core of our work based on the principle that those closest to the harm are those closest to the solutions.

***Language disclaimer**

A widely used, standard definition of disordered gambling is that “Problem Gambling is characterised by difficulties in limiting money and/or time spent on gambling which leads to adverse consequences for the gambler, others, or for the community”²⁴. While there is no agreement on definitions of “difficulties” or the scale of “adverse consequences” which would constitute harm, the Alliance believes that any difficulties and any adverse consequences are harmful. We avoid the use of the term “problem gambler” as it is stigmatising and victim-blaming. We recognise the Problem Gambling Severity Index used in clinical settings, but consider that even those gamblers characterised using that system as being at low or medium risk, can in fact experience significant harm. The Alliance aims to prevent or reduce harm from gambling, regardless of the risk factor of individual gamblers, and particularly with regard to their families, carers, colleagues and community, who are also impacted by gambling.

²⁴ Neal, P., Delfabbro, P., & O’Neil, M. (2005). *Problem gambling and harm: Towards a national definition*. Commissioned for the Ministerial Council on Gambling. Prepared by the SA Centre for Economic Studies with the Department of Psychology, University of Adelaide. November 2005.
<http://www.adelaide.edu.au/saces/gambling/publications/ProblemGamblingAndHarmTowardNationalDefinition.pdf>