

BETFAIR AUSTRALASIA

**SUBMISSION TO THE PRODUCTIVITY
COMMISSION INQUIRY INTO
GAMBLING - 2009**

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EXECUTIVE SUMMARY

Betfair operates a fixed odds wagering business. It provides products through a betting exchange platform, where punters effectively bet against one another. Technically, Betfair operates in a similar way to a bookmaker – accepting bets from customers, but only doing so where it is immediately and fully able to offset the risk of those bets against requests for bets from other customers.

The wagering landscape in Australia is undergoing a period of unprecedented change. Not since the introduction of totalisator betting several decades ago have there been so many risks, and opportunities, for governments, regulators, consumers and the industries for whom wagering is an important direct or indirect source of income. Technology has led to an international market for gambling products, forever altering the wagering landscape. Racing is no longer the dominant gambling product in Australia and is becoming increasingly marginalised as a mainstream gambling product, particularly in the global online environment. The quality of Australian racing as a product is world class and Australia's racing administrators are entitled to operate in a regulatory regime that allows racing to compete on its merits for a share of the global gambling dollar. Racing's long-term sustainability is not well served by the prohibition of particular betting types or funding mechanisms.

For the first time, the range of non-government beneficiaries from wagering are not limited to participants in the racing industry. The major professional sports are demanding a seat at the table in negotiations for a fair return from betting companies offering markets on their products. More importantly, many of them are seeking access to betting records to protect their competitions from gambling-related corruption. It's an area that poses at least as big a risk to the integrity of sport as it does to the racing industry. Corruption requires the same degree of attention as doping in order to effectively protect the credibility of sporting competitions among the general public – whether they are gamblers or not.

Betfair welcomes the opportunity to make this submission to the Productivity Commission's inquiry into Gambling. The essence of Betfair's submission is that State and Federal Governments should consider adopting regimes that favour regulation over prohibition and promote the movement of consumers towards account-based betting, so that issues surrounding integrity and problem gambling can be managed effectively. This should be accompanied by a series of minimum harm minimisation initiatives for account-based wagering operators – including the mandatory offering of loss limits, deposit limits and immediate self-exclusion mechanisms for customers.

Betfair make a series of recommendations throughout this submission. Those recommendations are set out below for convenience. The basis for them is outlined in more detail in the body of this submission.

- 1. Regulators should move towards a system where all offcourse wagering (including through retail outlets) is conducted solely through accounts.*
- 2. All account-based wagering operators should offer deposit and loss limits for customers and adopt self-exclusion policies.*
- 3. Self-exclusion from one Australian gambling operator should apply across the board.*

4. *A uniform national responsible gambling message should be adopted, including a national responsible gambling telephone number and website, to be published where practicable with all gambling advertisements.*
5. *Inducements to customers open accounts should be permitted, provided they are reasonable in the circumstances.*
6. *Customers of account-based wagering operators should continue to be permitted to deposit funds to their accounts through credit cards, provided such deposits are within any deposit limits set by the customer.*
7. *Customers should be permitted to deposit or withdraw funds from an account-based betting agency using any of the banking facilities available to them for online retail transactions, including credit cards.*
8. *A uniform national advertising code of practice should be implemented across the online and offline wagering industry.*
9. *The Interactive Gambling Act should be amended to allow licensed Australian wagering operators to offer in-play sports betting online to customers present in Australia.*
10. *The ban on interactive gaming (other than wagering, which is permitted) should be lifted in the case of licensed Australian operators.*
11. *A cooperative national framework should be adopted by the States and Territories to regulate account-based gambling.*
12. *Wagering operators should be given restricted access to identity databases such as Medicare records, Motor Vehicle Registries, passport information and births, deaths and marriages registries for the purposes of verifying the identity of customers in accordance with federal legislative requirements.*

INTRODUCTION

About Betfair

Betfair is the world's largest betting exchange. It offers fixed odds betting, much like a bookmaker, but its customers set their own odds and effectively bet against each other. Betfair acts as the counter-party to every customer transaction. Customers can only bet with money they have in their account.

Betfair operates in a number of countries. It has more than 2.5 million customers worldwide, 80,000 of whom are in Australia and New Zealand. Betfair's Australian operations are regulated by the Tasmanian Gaming Commission under the *Gaming Control Act (Tas) 1993*.

Betfair Australasia is a 50-50 joint venture between Crown Limited (ASX listed) and Betfair Limited (an unlisted UK company with a number of large institutional shareholders). Betfair's Australasian operations are based in Hobart, where more than 100 staff are employed in a state-of-the-art data centre. The company also has corporate operations in Melbourne and other staff in Sydney and Brisbane.

Betfair's local operations have generated around \$55 million in revenue since the company began operating under an Australian licence in 2006. More than 80,000 customers in Australia and New Zealand have placed bets on markets regulated under Betfair's Australian licence. Table 1 shows gross revenue generated from betting on Australian racing and sporting events.

Table 1

YEAR	REVENUE
YEAR 1 (TO JAN 07)	\$14 million
YEAR 2 (TO JAN 08)	\$17 million
YEAR 3 (TO JAN 09)	\$24 million

Approximately 27% of the revenue generated during the period of Betfair's licence has come from customers residing outside Australia.

How a betting exchange operates

A betting exchange operates in a similar way to a stock exchange. Using sophisticated technology, Betfair administers markets where punters effectively bet against each other. For each transaction one punter is required to 'back' a result and another is required to oppose that outcome by placing a 'lay' bet. Punters are not aware of the identity of their opponents, but Betfair and its regulators have the capacity to view the transactions of every customer. Betfair's revenue is generated by a commission of between two and five per cent on a punter's net winnings only.

A number of demonstrations of betting with Betfair, including making a back and lay selection, can be found at <http://www.betfair.com.au/demo/>.

The betting exchange model offers participants a number of advantages over traditional wagering products such as bookmakers and totalisator operators. Because betting exchanges have lower costs, and carry no transactional risk to the operator, they are able to offer a “lower price” to the customer. This “price of wagering” is sometimes referred to as the “takeout rate” or margin. In the case of Betfair’s racing product offerings, this lower price makes racing more competitive with other low-margin forms of gambling such as poker machines, casinos, sports betting and online poker.

WAGERING REGULATION AND PROBLEM GAMBLING

1. Probity

All Betfair employees, directors and associates undergo strict probity checks by the Tasmanian Gaming Commission. Employees are required to hold licences in order to work for Betfair's Australian operation.

Betfair has a strict requirement that every customer verify his or her identity. All users, whether based in Australia or elsewhere have to meet stringent identity checks in line with the Federal Government's anti-money laundering and counter-terrorism body AUSTRAC. Betfair uses the same identity verification test as financial institutions and various other organisations (this test is similar to the previous '100 point identity test'). It is a condition that all Betfair customers allow the company to disclose their identities and personal information (including betting details) to approved government and non-government regulators. Betfair has agreements in place with a range of sporting and racing authorities, who've agreed to protocols on the use and storage of personal information.

Every bet placed on Betfair can be tracked to a particular customer. The site records every detail, down to each click of the mouse. It can trace every dollar in and out of the exchange, and all bets can be linked directly to the end customer and their end bank account.

Unlike traditional wagering platforms such as bookmakers and the TABs, Betfair does not accept cash, nor does it allow customers to obtain credit. Betfair only permits customers to place bets if they have opened an account. There are a number of advantages in offering account-based betting, the key one being that Betfair is always aware of who has placed a bet and is therefore able to enforce loss limits and help with integrity-management efforts in racing and sport

The account-based model avoids many of the risks associated with anonymous cash-based wagering. It provides significant advantages in controlling and detecting attempts to launder money or to engage in deceptive conduct and it allows for more effective programs for responsible gambling – as will be explained in more detail further into this submission.

For a comprehensive outline of the process involved in opening betting account with Betfair, see Appendix 1.

2. Integrity

Gambling poses similar risks to the integrity of sport as doping. But unlike the approach used to eradicate doping - where there are stringent and uniform rules in place and regulatory bodies have the right to test athletes for prohibited substances – sporting regulators have been frustrated in their attempts to guard against gambling-related corruption, mainly because of a lack of cooperation by the wagering industry. With the exception of recently introduced legislation in Victoria, sporting bodies have traditionally had no right to access betting records or customer details held by betting agencies offering markets on their sports.

It is critical to the ongoing of viability of Betfair's business that there is confidence in the integrity of racing and sport. Betfair has invested heavily in technology and human resources to help guard

against gambling-related corruption on its platform. One of the strongest weapons for protecting integrity is transparency – both in terms of publicly available information (such as volumes traded at particular prices over time) and the more sensitive information that Betfair makes available to regulators, including but not limited to the personal information of customers.

Racing stewards across all codes and in all jurisdictions have real time access to transactions taking place on their races through the Betfair platform. Information-sharing agreements with racing control bodies give stewards access to the personal details of Betfair’s customers if required. Much of that information is available to stewards live, before a race has been run. No other wagering operator in Australia has the ability (or has shown a willingness) to track, analyse and share information on wagering activity with regulators to the same extent as Betfair.

Betfair’s audit trail is complemented by information-sharing agreements with racing and sports industry bodies worldwide. Betfair pioneered these agreements. Among the sporting bodies that have signed information sharing agreements with Betfair are:

- Australian Football League
- National Rugby League
- Australian Rugby Union
- Cricket Australia
- Football Federation of Australia
- Tennis Australia
- PGA Tour of Australasia
- ATP Tour
- International Cricket Council
- FIFA

A complete list of information-sharing agreements entered into by Betfair globally is attached at Appendix 2.

Betfair has entered into a number of similar information sharing agreements with racing bodies around Australia (and the world) pursuant to new race fields legislation which is further explained in the ‘Racing Industry Funding’ section below.

Dishonest or deceptive behaviour is possible on every wagering platform. The best deterrent to this type of behaviour is transparency. An account based system that requires the identity of customers to be verified enables betting operators to quickly identify and expose perpetrators and pass on relevant information to authorities. Wagering operators should be required to enter into information sharing agreements with racing and sporting bodies to enable such bodies to obtain access to all relevant betting data in respect of their sport.

3. Problem Gambling and Harm Minimisation

Betfair takes problem gambling very seriously and is strongly committed to all reasonable measures to reduce the prevalence of harm from gambling addiction. The company considers itself the industry leader on harm minimisation. It's twice been named the Socially Responsible Operator of the Year (2006 and 2007) at the annual eGaming awards in the UK.

All Betfair staff members who deal directly with customers are required to complete an induction course on responsible gambling. The site itself has a suite of measures in place to deal with problem gambling. They include the ability for customers to impose loss limits and deposit limits on a daily, weekly or monthly basis. Customers are also offered the option of excluding themselves from betting or a third party can intervene to exclude a punter from the site. The minimum period for self-exclusion is six months, but customers are free to set their own, longer periods of exclusion. Customer accounts can be reactivated only after a 'self exclusion review' is conducted by Betfair.

Statistics compiled by Betfair show that self-exclusion has been embraced by punters facing difficulties. Of the 10,378 accounts that have been temporarily excluded from betting activity since the function came into effect in October 2005, only 910 are now active on the site. A recent snapshot of account activity shows that over a 20 week period, more than a quarter of self-excluded customers chose to exclude for a second time – meaning they are permanently banned from using the site.

Betfair's existing harm minimisation measures (e.g. loss limits, deposit limits and self exclusion) are now being proposed by problem gambling groups as a way to tackle the growing problem of poker machine addiction. The use of smart cards would merely see the adoption of measures that have long been applied by Betfair.

Betfair's website maintains links to relevant responsible gambling websites across Australia as well as the national gambling helpline. In addition, all of Betfair's print and online advertising contains responsible gambling messages and the gambling helpline telephone numbers. As part of their approach to lifting advertising restrictions, the state-based gambling regulators have made many of these responsible gambling measures compulsory. Betfair agrees in principle to this stance, but disagrees with one aspect of the approach: the state-based regulators require their own specific messages to be used. This places wagering operators in the position of having to include a number of different responsible gambling messages in the same advertisement. Betfair believes that a national responsible gambling message should be adopted by the states and territories and that this should be used in conjunction with the national gambling helpline telephone number. A uniform message would be more appropriate from the perspective of harm minimisation.

RECOMMENDATIONS:

- *Regulators should move towards a system where all offshore wagering (including through retail outlets) is conducted solely through accounts.*
- *All account-based wagering operators should offer customers the ability to set deposit and loss limits and to self-exclude.*
- *Self-exclusion from one Australian gambling operator should apply across the board.*

- *A uniform national responsible gambling message should be adopted, including a national telephone number and website address.*

ACCOUNT-BASED WAGERING ISSUES

Inducements to open accounts

Wagering operators, like any other legal business, have the right to advertise their services responsibly. The offering of inducements is common practice for all types of businesses and as such, operators in what is a highly competitive market should be permitted to offer inducements to open a betting account - provided such offerings are responsible. Setting monetary limits on inducements would be one way of ensuring this.

The increasing level of competition in Australia's online gambling market has seen the proliferation of promotions offering inducements to new customers. Betfair does not believe that a reasonable inducement (such as a free bet), of itself, encourages problem gambling. However, Betfair believes that inducements to open accounts should be limited by what is reasonable in the circumstances. Inducements such as \$50 free bets, free football jumpers and the like would fall within this scope.

Betfair reiterates comments elsewhere in its submission about the benefits of account-based betting from an integrity-management and problem gambling perspective.

RECOMMENDATION: Inducements to customers open accounts should be permitted, provided they are reasonable in the circumstances.

Account Funding

Customers have a range of options for depositing money into their accounts. Some of the popular methods are direct bank transfer, BPAY and the latest bank transfer mechanism, known as Poli. But as is the trend with most web-based retail purchasing, Betfair's customers overwhelmingly use credit cards - the most efficient and convenient way of depositing funds. In contrast to Betfair's cash-based competitors, problem gambling concerns are reduced through measures such as deposit and loss limits. The banning of credit card deposits to account-based wagering providers would severely curtail the shift from the risky cash-based wagering channels to the safer, more secure account-based system.

Betfair is also of the view that customers should be permitted to withdraw funds directly to their credit card. This provides a closed loop for credit card transactions that will reduce the opportunity for fraudulent use of credit cards.

RECOMMENDATIONS:

- 1. Customers of account-based wagering operators should continue to be permitted to deposit funds to their accounts through credit cards, provided such deposits are within any deposit limits set by the customer.*
- 2. Customers should be permitted to deposit or withdraw funds from a wagering account using any of the banking facilities available to them for other (non-gaming) online retail transactions.*

Advertising by Gambling Companies

With the recent repeal of advertising restrictions, wagering companies are now subject to a number of state-based advertising codes of practice. Betfair is of the view that a uniform national advertising code of practice be implemented across the wagering industry. Betfair does not believe there's a need to prohibit advertising where it can be seen by minors. The legal age for gambling is 18 and there are significant barriers preventing minors from access to gambling, particularly online.

During the 2008/09 cricket season, Betfair entered into arrangements with Cricket Australia and Channel Nine to conduct advertising. This included on-ground advertising and 'plugs' during the cricket commentary. Betfair was informed by the Advertising Standards Board that it had received complaints regarding the advertising on the basis it was aimed at minors and did not meet the prevailing community standards. Betfair responded to these claims and a copy of this response is attached at Appendix 3. The Advertising Standards Board found that Betfair's advertising did not breach the AANA Advertiser Code of Ethics or the AANA Code of Advertising and Marketing Communications to Children. The formal decision of the ASB is also attached at Appendix 3.

RECOMMENDATION: A uniform national advertising code of practice should be implemented across the online and offline wagering industry.

INTERACTIVE GAMBLING ACT

1. In-Play Betting

In-play betting allows punters to continue wagering during the course of an event. For many punters, this type of betting is crucial for hedging bets to seek a guaranteed return from an event. Betfair and other Australian wagering operators are permitted to accept online in-play bets from customers who live in overseas jurisdictions such as New Zealand, South Africa and much of Europe. But due to an anomaly in the *Interactive Gambling Act 2001* (Cth) (“Interactive Gambling Act”), Australian residents are banned from betting in-play using the Internet.

The following table demonstrates in a general sense what is/is not permitted under the Interactive Gambling Act and the anomaly therein:

	Pre-play	In-play
Telephone betting – sport	✓	✓
Telephone betting – racing	✓	✓
Online betting – sport	✓	x
Online betting – racing	✓	✓

Betfair believes restrictions on in-play betting have extended beyond their intended scope, which was to prevent micro-betting. The practicality of banning punters from betting in-play using the internet has effectively been rendered obsolete due to the convergence of telephone and internet technologies. Betfair also believes the restrictions limit the funding opportunities available to Australia’s major professional sports and place local licensed wagering operators and punters at a material disadvantage to their overseas counterparts.

Australia is the only jurisdiction in the world that allows online wagering on sport but at the same time prevents punters from using the internet to place in-play bets. To put it another way, except in Australia, wherever it is legal to place a wager over the internet, it is also legal to do so in-play on a racing or sporting event.

Telephone betting is impractical for Australian customers trying to limit risk, particularly in circumstances where an event hangs in the balance (e.g. a tie-break in tennis or the final few holes of a golf tournament). By the time an Australian customer telephones to make an in-play transaction, the odds will often have changed (through weight of money coming from overseas customers who are betting online). The opportunity to trade out of an existing “position” has thus been missed.

Across Betfair’s global business, online in-play betting accounts for the majority of volume on most sporting events. On soccer markets such as the UK Premier League, about 75 per cent of bets are

made in-play. On tennis, about 90 per cent of bets are made in-play. A significant amount of these bets are “trading” bets where customers are closing out positions and limiting risk. The availability of an in-play betting option gives punters (particularly sophisticated ones, who are the most likely to use online wagering services) the ability to better manage their risk.

The UK Gambling Commission recently conducted an exhaustive review of in-play betting across Europe, where it has been used by punters for a number of years. Attached as Appendix 4 is the Gambling Commission’s position paper released in March 2009. Amongst other matters, the Commission concludes that in-play betting doesn’t require special regulatory treatment – that is, treatment in isolation of other types of betting which occur before an event begins. Furthermore, the Commission found no evidence to suggest that in-play betting posed a specific, identifiable risk in relation to problem gambling.

An added difficulty for licensed Australian online wagering companies such as Betfair is that many overseas online gambling companies do not block Australians from betting online in-play on sport. Because there is no law against someone in Australia betting online in-play on sport (the prohibition is directed solely at the operator) there is a large incentive for Australians to bet with these overseas operators. As a result, licensed Australian wagering operators are permanently losing the business of punters who are lured to these sites by offering in-play sports betting online. This means that transactions are not regulated in Australia, there is no requirement to place appropriate social harm minimisation measures in place and no taxes or product fees are returned to governments or sporting bodies.

Since the Act came into effect seven years ago, there’s been an increasing degree of convergence between telephones and the internet (and indeed between the locations of customers). Technological advancements have seen telephones develop into mobile computers, capable of streaming a wide range of data and vision from the internet. And with computers now able to be used for live voice and video streaming (as well as a raft of other interactive applications) there are few practical differences between mobile telephony and the internet.

RECOMMENDATION: The Interactive Gambling Act should be amended to allow licensed Australian wagering operators to offer in-play sports betting online to customers present in Australia.

2. Online Interactive Gaming

Poker has undergone a phenomenal rise in popularity in recent years, and as a result, more and more poker and other card game players are turning to the web. It is illegal to offer online poker to Australian residents, but that hasn’t prevented several large international operators from creating an enormous customer base here – assisted by promotional activities using high profile Australians and cross-selling through “play for free” sites. It is estimated that more than \$300 million is bet by Australians annually on online poker – and it’s a figure that is rapidly growing. All revenues flow directly offshore without any tax being paid in Australia. Furthermore, players are gambling in a largely unregulated environment, with little protection offered to players in terms of fraud, security or harm minimisation. The ban on offering interactive gaming to Australians has had very little effect on curtailing the enormous growth of that sector of the market in Australia. Betfair advocates

an approach based on regulation, rather than attempts to prohibit the activity. Only through regulation can effective player protection initiatives be enforced in the online environment.

RECOMMENDATION: The ban on interactive gaming (other than wagering, which is permitted) should be lifted in the case of licensed Australian operators.

AUSTRALIA'S REGULATORY ENVIRONMENT

Betfair believes the current state-based system of gambling regulation in Australia is inadequate and there's a need for a co-operative framework. There are too many disparities between the various jurisdictions. Betfair is strongly of the view that a national approach be taken in regard to regulation – particularly in relation to integrity management, operator probity and harm minimisation.

Betfair is of the view that there is a need for a more efficient way of processing identity checks for new customers. All gambling companies in Australia are reporting entities under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) ('AML/CTF Act') and therefore have obligations to AUSTRAC. One such obligation is the requirement to verify the name, residential address and date of birth of all new customers to a particular standard. Betfair currently provides customers with two options to verify their identity:

- Physical verification – customers can attend Australia Post or participating newsagents and provide identity documents such as driver's licence and passports;
- Electronic verification – customers can provide their details and Betfair will attempt to match their details against a number of databases including the Australian Electoral Roll and other publicly available databases.

Betfair is the only wagering company to have been provided direct access to the Australian Electoral Roll by the AEC. Betfair has to continue meet stringent obligations in respect of the use of this database.

Electronic verification is the most efficient method to verify a customer's identity. The more databases that are available, the more likely that an online company can process accurate results and avoid situations of identity theft. Betfair is of the view that databases such as: Motor vehicle registries, Death, Births and Marriage registries, Medicare records and passport information should be made available to reporting entities under the AML/CTF Act for the sole purpose of verifying the identity of customers.

RECOMMENDATIONS:

1. *A cooperative national framework should be adopted by the States and Territories to regulate account-based gambling.*
2. *Account-based wagering operators should be given restricted access to identity databases such as Medicare records, Motor Vehicle Registries, passport information and births, deaths and marriages registries for the purposes of verifying the identity of customers.*

RACING AND SPORTS INDUSTRY FUNDING

Racing

Licensed wagering operators in Australia have traditionally covered racing throughout the country but have paid all product fees and taxes to the States where they are licensed. For example, the QLD TAB paid taxes to the QLD Government and product fees to the QLD racing industry. Like every other operator, they paid no product fees to interstate racing bodies, despite generating revenue off the back of their product.

The funding model originated with the advent of the state-based TABs. It was widely referred to as the 'Gentleman's Agreement'. In effect, each jurisdiction permitted wagering operators to accept bets on each other's racing without the requirement to pay product fees. The arrangement existed regardless of the channel through which bets were taken (i.e. retail off-course, retail on-course, telephone or internet).

Betfair has been at the forefront of calls to do away with the Gentleman's Agreement and replace it with a more equitable model that is better placed to sustain racing into the future. Soon after Betfair's High Court case against the Western Australian government, NSW took a course of action that has effectively seen the abolition of the Gentleman's Agreement. The effect of this action is that all wagering operators now have to contribute product fees directly to the racing bodies that control the products. Betfair supports the principles behind this new funding model. It's an arrangement that allows the racing industries in each state to properly reap the rewards of their own products. Furthermore, it gives racing bodies a strong incentive to provide a better quality product.

The table shown in Appendix 6 summarises the product fees that are being imposed (or intended to be imposed) upon wagering operators by Australian racing bodies. We expect both Tasmania and Western Australia to announce their intended course of action in the next few months.

As mentioned above, Betfair supports the concept of this new funding model provided that the fee being imposed is fair and equitable to all wagering operators. Betfair is currently in dispute with Racing NSW and Harness Racing NSW after their decision to impose a fee of 1.5 per cent of turnover for all wagering operators. The dispute is currently before the Federal Court.

The NSW Government recently commissioned a review of wagering in NSW. Attached as Appendix 5 is Betfair's submission to that review, which included a report from The Allen Consulting Group regarding the economic impact that low margin, online wagering operators would have on the industry.

Sport

Betfair has voluntarily entered into Product Fee agreements with all of the major professional sporting bodies in Australia including the AFL, NRL, ARU, FFA, Tennis Australia, Cricket Australia and the PGA Tour of Australasia. Through these arrangements, Betfair has agreed to provide the sporting bodies with a percentage of revenue earned from betting on their sports.

We note that Victoria now has in place sports field legislation (Part 5 of Chapter 4 of the *Gambling Regulation Act 2003*) which requires wagering operators to seek the approval of sporting bodies to offer betting on their sporting events that take place in Victoria.

CONCLUSION

Betfair welcomes the Productivity Commission's inquiry into gambling. We believe wagering in Australia has come a long way in recent years, but that more can be done to improve regulation and to help reduce the prevalence of problem gambling. We would welcome any opportunity to address the Commission's public hearings into gambling and believe we could make a significant contribution to any discussions about the future of wagering – both online and offline – in Australia.