



Australian Government

Department of Communications and the Arts

# The operation of the Prohibition of Advertisements of Interactive Gambling Services under the *Interactive Gambling Act 2001*

## 2015 Report

November 2016

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# Report on the operation of the prohibition on interactive gambling advertisements

## Reporting requirement

Section 61FE of the Interactive Gambling Act 2001 (IGA) requires the Minister for Communications to cause to be prepared a report of any contraventions of the prohibition on interactive gambling service advertisements. The prohibition is established under Part 7A of the IGA.

The report must detail the number and nature of any contraventions in the preceding 12 months and any action taken by the Minister or Commonwealth Agency in response to each contravention. The current report details complaints that have been made in relation to the advertising prohibition under Part 7A of the IGA.

## Reporting period

1 January 2015 to 31 December 2015.

## Background

Part 7A of the IGA makes it an offence to publish, broadcast or datacast an interactive gambling service advertisement in Australia subject to certain exceptions. This offence, which carries a maximum penalty of \$21,600 for individuals and \$108,000 for corporations, extends to all forms of media, both electronic and non-electronic, including advertising via the internet, broadcast services, print media, billboards and hoardings. Some examples of advertising which are excluded from the offence provisions are set out below:

- Incidental or accidental advertising is permitted and is not covered by the offence provisions in Part 7A.
- Political advertising is excluded from the meaning of an interactive gambling service advertisement for the purposes of Part 7A and consequently is not included in the advertising ban.
- A number of gambling services are excluded from the definition of an 'interactive gambling service', for example excluded wagering and excluded lottery services. The advertising ban does not apply to such excluded services.

The regulatory framework established by the IGA also makes it an offence to provide certain interactive gambling services to customers physically located in Australia. This offence, which carries a maximum of \$360,000 per day for individuals and \$1.8 million per day for corporations, applies to all interactive gambling service providers, whether based in Australia or offshore.

In addition to the offence provisions, the IGA establishes a complaints scheme whereby Australian residents or companies trading in Australia are able to complain to the Australian Communications and Media Authority (the ACMA), if they believe that Australians can access prohibited internet gambling content. The ACMA is required to investigate the complaint subject to certain exceptions and must refer Australian-hosted prohibited internet gambling content to the Australian Federal Police (AFP) or a state or territory police force if it considers the complaint should be so referred. If the prohibited internet gambling content is hosted overseas, the ACMA is required to notify the suppliers of filters listed in Schedule 1 of the Interactive Gambling Industry Code and internet service providers. The ACMA may also refer overseas-hosted prohibited internet gambling content to the AFP or a state or territory police force where they believe it appropriate.

Unlike the complaints scheme for prohibited internet gambling content under Part 3 of the IGA, the Department of Communications and the Arts (the Department) has undertaken responsibility for receiving and investigating complaints in relation to potential breaches of the prohibition relating to broadcasting, datacasting or publishing an interactive gambling service advertisement.

The Department receives and coordinates complaints under Part 7A of the IGA about advertising and conducts initial investigations into the alleged breaches. Following an initial assessment of the complaint based on the information available, the Department forms a view whether there is potentially a breach of the advertising prohibition within the IGA. If a potential breach is found, the matter is referred to the AFP for further investigation. The AFP determines its priorities in relation to the investigation of matters referred to it.

## Outcomes

The Department considered five complaints in relation to potential breaches of the advertising prohibition of interactive gambling services between the period of 1 January 2015 and 31 December 2015.

Of these complaints, three were closed due to the URLs having been previously referred to the AFP for further investigation, and two were closed due to the URLs being inactive at the time of investigation.

The nature and outcome of these five complaints are listed in Table 1.

Table 1—complaints received—1 January 2015 to 31 December 2015

	<b>Date complaint received</b>	<b>Nature of complaint</b>	<b>Details of the complaint</b>	<b>Action by Commonwealth Agencies</b>
1	6-Jan-16	Interactive gambling advertisements of gambling services via marketing materials (a pamphlet) received in the mail.	That marketing materials (pamphlets) contained material that may be interactive gambling service advertisements in contravention of Part 7A of the <i>Interactive Gambling Act 2001</i> .	Complaint closed by the Department as the URL was already under investigation at the time of receipt.
2	22-Jan-16	Interactive gambling advertisements of gambling services via marketing materials (a pamphlet) received in the mail.	That marketing materials (pamphlets) contained material that may be interactive gambling service advertisements in contravention of Part 7A of the <i>Interactive Gambling Act 2001</i> .	Complaint closed by the Department as the URL was already under investigation at the time of receipt.
3	19-Mar-16	Interactive gambling advertisements of gambling services via marketing materials (a pamphlet) received in the mail.	That marketing materials (pamphlets) contained material that may be interactive gambling service advertisements in contravention of Part 7A of the <i>Interactive Gambling Act 2001</i> .	Complaint closed by the Department as the URL was already under investigation at the time of receipt.
4	2-Apr-16	Interactive gambling advertisement of Australian-hosted online gambling services accessed through links on a website.	That a website contained links to interactive gambling services in contravention of Part 7A of the <i>Interactive Gambling Act 2001</i> .	Complaint closed by the Department as the URL was inactive.
5	7-Apr-16	Interactive gambling advertisement of Australian-hosted online gambling services accessed through links on a website.	That a website contained links to interactive gambling services in contravention of Part 7A of the <i>Interactive Gambling Act 2001</i> .	Complaint closed by the Department as the URL was inactive.