



Australian Government

**Department of Broadband,
Communications and the Digital Economy**

2008 REPORT

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

REPORT ON THE OPERATION OF THE PROHIBITION ON INTERACTIVE GAMBLING ADVERTISEMENTS

REPORTING REQUIREMENT

Section 61 FE of the *Interactive Gambling Act 2001* (IGA) requires the Minister for Broadband, Communications and the Digital Economy 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 report is required to be prepared as soon as practicable after each 31 December. The current report details complaints that have been made in relation to the advertising prohibition within Part 7A of the IGA.

REPORTING PERIOD: 1 January 2008- 31 December 2008

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 \$13,200 for individuals and \$66,000 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 \$220,000 per day for individuals and \$1.1 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 (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 (the Code) and internet service providers (ISPs).

The Code was developed by the Internet Industry Association, as provided for by the IGA, and deals specifically with the issue of overseas sourced material. The Code requires ISPs to make available to their customers the approved filters listed in Schedule 1 of the Code. 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 Broadband, Communications and the Digital Economy has 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 one matter in relation to potential breaches of the advertising prohibition of interactive gambling services between the period of 1 January 2008 and 31 December 2008. This matter did not warrant referral to the AFP due to insufficient supporting information. The nature and outcome of this matter is listed in Table 1.

TABLE 1: COMPLAINTS RECEIVED

Date complaint received	Nature of complaint	Details of the complaint	Action by Commonwealth Agencies
24 October 2008	Interactive gambling advertisements by overseas-hosted interactive gambling services.	That advertising for interactive gambling services was broadcast in Australia.	No further action due to insufficient information available.