

SUBMISSION TO THE INQUIRY INTO ONLINE GAMBLING AND ITS IMPACT ON THOSE EXPERIENCING GAMBLING HARM

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About

Turning Point is a national addiction treatment centre, dedicated to providing high quality, evidence-based treatment to people adversely affected by alcohol, drugs, and gambling, integrated with world-leading research and education. Turning Point is auspiced by Eastern Health and is formally affiliated with Monash University. Turning Point reduces the harms caused by alcohol, drugs and gambling and promotes recovery through integrated activity that: increases access to support and evidence-based practice using innovative technologies; delivers high quality evidence-based practice and supports health care professionals nationally and internationally to do the same; educates and trains the workforce to deliver programs to a broad range of populations; and underpins policy and practice relevant research and the provision of key national population level data that informs expert comment and policy advice to state and federal governments.

The **Monash Addiction Research Centre (MARC)** brings together world-leading expertise from across Monash University and the sector to provide solutions to the challenges of addiction. MARC draws on the multidisciplinary strengths and capabilities of researchers across the University to develop and test novel, scalable prevention and treatment approaches. MARC's mission is to provide national solutions to addiction, leveraging expertise in basic and social science, clinical, and epidemiological research to develop new knowledge to shape government policy and evidence-based approaches.

1. Summary of recommendations

Turning Point and MARC welcome the opportunity to contribute to the Standing Committee on Social Policy and Legal Affairs' inquiry into online gambling and its impact on those experiencing gambling harm. This submission makes the following recommendations:

1. Refer to concepts of 'harm prevention and minimisation', and 'gambling harm' instead of terms like 'responsible gambling' and 'problem gambler' in all relevant Australian laws, regulations, and policies.
2. Work with states and territories to review and improve processes to gather and assess data to determine the true extent of gambling-related suicide, and to guide suicide prevention strategies and clinical responses related to gambling harms.
3. Develop and implement a best practice suicide prevention model of care for gambling helplines in collaboration with service users, providers, and experts, and upskill the helpline workforce through national, online, skills-based training.
4. Include screening questions for gambling harms in intake assessments as standard, and develop online, skills-based training for mental health practitioners to help them confidently identify and respond to comorbid gambling harms.
5. Develop a *National Strategy to Prevent and Reduce Gambling Harms* to establish a framework for action that informs future program design, monitoring, and evaluation, and a unified approach to prevent and reduce gambling-related harms.
6. Make people experiencing gambling harms a suicide prevention priority population.
7. Invest in gambling treatment services and scalable public education initiatives that tackle stigma, such as the Rethink Addiction campaign.
8. Impose a duty of care on gambling services to take data-driven steps to identify those at risk of gambling harm and reduce gambling harms, including by suspending accounts and determining the source of funds for gambling where indicated.
9. Consider the following options to strengthen consumer protections in the *National Consumer Protection Framework for Online Wagering in Australia*:
 - a. Prohibit the use of credit cards for online gambling, in line with the recommendation of the Parliamentary Joint Committee on Corporations and Financial Services' inquiry into *Regulation of the use of financial services such as credit cards and digital wallets for online gambling*.
 - b. Take measures to protect vulnerable consumers from predatory behaviour by payday lenders.
 - c. Prohibit wagering services from offering any free credit, voucher, reward, or benefit (i.e. bonus bets) to both new *and* existing customers.
 - d. Establish a national, universal pre-commitment scheme with system-wide universal spending caps that operates on all online gambling platforms.
 - e. Pilot the use of pop-up messaging for online gambling services to add to the evidence-base for their effectiveness in reducing gambling harms and inform future policy directions.
 - f. Prohibit 'turnover' requirements for consumers to access deposits.

10. Prohibit in-play betting for all gambling services, including telephone services.
11. Consider how Commonwealth law could be amended to prohibit all forms of betting on esports and video gaming (including but not limited to in-play and telephone betting). Failing this, consider how the law could be clarified to explicitly prohibit in-play betting on esports and video gaming, and amended to ensure in-play telephone betting is captured by this ban.
12. Consider limiting the times during which online gambling services can be accessed.
13. Regulate simulated gambling (e.g. social casino games) and gambling-like activities (e.g. video game loot boxes).
14. Tighten gambling advertising rules to protect children and vulnerable Australians from gambling harms.

2. Background

2.1. Gambling is harming Australians

Australians lost over \$25 billion (or \$1277 per person) on gambling in 2018–19,¹ representing the highest per capita losses in the world.² It is estimated that the accumulated cost of gambling-related harms in Australia in 2021 was \$10.7 billion.³ Australia’s addiction to gambling is so severe it has garnered international attention.⁴

One measure of gambling harms is the Problem Gambling Severity Index. Based on this measure, in 2015, almost 200,000 Australians were identified as experiencing serious harm from gambling, while around 1.4 million experienced some form of gambling harm.⁵ Gambling-related harms can include financial difficulties, relationship strain, and emotional distress.⁶ Indeed, people experiencing gambling problems are up to seven times more likely to attempt or consider suicide, with almost one in five considering suicide in the last twelve months.⁷ For every person directly experiencing serious gambling harm, another six are affected – partners, children, other family and friends, and the broader community.⁸

In 1999, the Productivity Commission found that every year, between 35 and 60 Australians who experienced gambling harm died by suicide and another 2900 attempted suicide.⁹ This study took

¹ 'Loss' is defined as the amount wagered less the amount won by people who gamble (i.e. it is the gross profit of gambling services). Queensland Government Statistician’s Office, *Australian Gambling Statistics, 1993-93 to 2018-19, 36th Edition* (Summary Tables, 28 April 2021) 1, 4, 5 <<https://www.qgso.qld.gov.au/statistics/theme/society/gambling/australian-gambling-statistics>>.

² Stephen Letts, 'Chart of the Day: Are Australians the World's Biggest Gambling Losers? You Can Bet On It', *The Age* (online, 20 November 2018) <<https://www.abc.net.au/news/2018-11-20/australians-worlds-biggest-gambling-losers/10495566?nw=0&r=HtmlFragment>>.

³ Rethink Addiction and KPMG, *Understanding the Cost of Addiction in Australia* (Report, 2022).

⁴ Michael Miller, 'In Australia, Slot Machines Are Everywhere. So Is Gambling Addiction' *The Washington Post* (online, 26 April 2022) <<https://www.washingtonpost.com/world/2022/04/26/australia-gambling-addiction/>>; Adam Baidawi, 'Australians Are the World's Biggest Gambling Losers, and Some Seek Action' *The New York Times* (online, 4 April 2018) <<https://www.nytimes.com/2018/04/04/world/australia/australians-gambling-betting-machines.html>>.

⁵ Roger Wilkins, *The Household, Income and Labour Dynamics in Australia Survey: Selected Findings from Waves 1 to 15* (Report, 2017) 82 <https://melbourneinstitute.unimelb.edu.au/data/assets/pdf_file/0010/2437426/HILDA-SR-med-res.pdf>.

⁶ Erika Langham et al, 'Understanding Gambling Related Harm: A Proposed Definition, Conceptual Framework, and Taxonomy of Harms' (2015) 16(80) *BMC Public Health* 1, 6.

⁷ Heather Wardle et al, *Problem Gambling and Suicidal Thoughts, Suicide Attempts and Non-Suicidal Self-Harm in England: Evidence from the Adult Psychiatric Morbidity Survey 2007* (Report, No 2.1, 17 May 2019) 5 <<https://eprints.gla.ac.uk/239071/>>.

⁸ Belinda Goodwin et al, 'A typical problem gambler affects six others' (2017) 17(2) *International Gambling Studies* 276, 283.

⁹ Productivity Commission, *Australia's Gambling Industries* (Inquiry Report, No 10, 26 November 1999) 26 <<https://www.pc.gov.au/inquiries/completed/gambling/report>>.

place before online gambling became widely accessible, and since then little research has been conducted to better understand gambling-related suicides. For the Australian population, gambling spending and losses have increased since 1999, so it is likely that even more Australians are now at risk of gambling-related harms and suicide.

Gambling-related suicides are likely grossly underestimated. Police investigations conducted on behalf of the coroner collect information from family and friends to determine possible factors influencing a person's death. However, because online gambling is less obvious than in-person gambling and many people hide their addiction, families are often unaware of the deceased's gambling, so police might never uncover this information.¹⁰ Just as coronial investigations often conduct toxicological screens to identify substance use as a contributing factor to suicide, it would be similarly informative to examine bank or gambling activity statements to determine if a person's spending showed signs of gambling harm that could be related to their suicide.¹¹

2.2. Unique harms of online gambling

Online gambling is growing at a faster rate than all other gambling modes,¹² with participation rates more than doubling in Australia between 2010/11 (8%) and 2019 (17%).¹³ People who gamble online are more likely to experience a gambling problem than those who gamble only at physical venues.¹⁴ Indeed, one in three people who gamble online experience gambling harms, making them twice as likely to experience harm than those who gamble in-person.¹⁵ Online gambling may be especially harmful due to unique features that separate it from physical gambling: online gambling is available anywhere, anytime; it is immersive, easily accessible by children, uses only electronic payment, allows privacy and anonymity, and users can engage on multiple gambling platforms at the same time.¹⁶ Prevalence rates of harmful drinking are also higher amongst people who gamble online.¹⁷

Online gambling is paradoxical in that it is both highly visible due to the ubiquitous advertising that dominates our media landscape, and at the same time invisible, as it often occurs in private.¹⁸ It is harder to notice when someone is experiencing online gambling harm as they are likely to do so using their smartphone, as opposed to in-person gambling, where a person may be absent from home or work. Indeed, when gambling is concealed due to perceived stigma and shame,¹⁹ it is often

¹⁰ Suicide Prevention Australia and Financial Counselling Australia, *Gambling and Suicide Prevention: A Roadmap to Reduce Harm* (Report, 9 September 2022) 3, 14 <<https://www.suicidepreventionaust.org/gambling-and-suicide-prevention-a-roadmap-to-reduce-harm/>>.

¹¹ Ibid 27.

¹² Sally Gainsbury, 'Online Gambling Addiction: The Relationship Between Internet Gambling and Disordered Gambling' (2015) 2(2) *Current Addiction Reports* 185, 185.

¹³ Nerilee Hing et al, *The Second National Study of Interactive Gambling in Australia (2019-20)* (Report, 2021) 10 <<https://www.gamblingresearch.org.au/publications/second-national-study-interactive-gambling-australia-2019-20>>.

¹⁴ Mark Griffiths et al, 'Internet Gambling, Health, Smoking and Alcohol Use: Findings from the 2007 British Gambling Prevalence Survey' (2011) 9 (February) *International Journal of Mental Health and Addiction* 1, 6.

¹⁵ Hing et al (n 13) 10, 14.

¹⁶ Nerilee Hing et al, 'Maintaining and Losing Control During Internet Gambling: A Qualitative Study of Gamblers' Experiences' (2015) 17(7) *New Media and Society* 1075, 1077.

¹⁷ Griffiths et al (n 14) 5.

¹⁸ Hing et al (n 16).

¹⁹ Nerilee Hing et al, *The Stigma of Problem Gambling: Causes, Characteristics and Consequences* (Research Report, September 2015) 19 <<https://responsiblegambling.vic.gov.au/resources/publications/the-stigma-of-problem-gambling-causes-characteristics-and-consequences-351/>>.

only *gambling services* who know for certain that gambling harm is taking place, and yet people are typically not contacted until they are experiencing significant gambling harm.²⁰

2.3. Australians support greater regulation of gambling

Most Australians believe there are too many opportunities to gamble, and that gambling should be discouraged: three quarters support the implementation of stricter gambling regulations such as pre-commitment, around half believe that the current restrictions on gambling are not adequately enforced,²¹ and according to a recent Resolve Strategic poll, 62% want gambling companies to be banned from sponsoring sport.²²

3. The effectiveness of current counselling and support services to address online gambling harm

3.1. Model of care and training needed for gambling helplines

Turning Point has been delivering state and national telephone and online counselling services for gambling, such as *Gambler's Help* and *Gambling Help Online*, for almost two decades. The helpline receives calls from all over Australia, including regional and remote areas, usually outside of business hours when other services are not available. Most callers are also new to treatment, frequently in crisis due to recent gambling losses, and have few other options for support.

Our helplines provide 24/7 support and care to Australians who present in crisis and at increased suicidal risk related to their gambling and associated mental health issues. Stigma and geography are barriers to help-seeking, but helplines overcome these barriers by allowing people to access anonymous support anytime and anywhere in Australia. Despite the common co-occurrence of gambling and suicidality,²³ there is currently no evidence base or established best practice model of care in Australia to address suicidal behaviour in people contacting gambling helplines. This means that while helpline counsellors are well-versed in delivering care to people experiencing gambling harms, their ability to provide best practice suicide prevention is limited, resulting in missed opportunities to effectively intervene and provide much needed ongoing support.

Likewise, crisis support helplines who often engage with Australians presenting with suicidal thoughts are not specially trained to respond to gambling, while financial counselling helpline staff are not skilled or supported to enquire about suicide. Consequently, many callers experiencing both gambling harm and suicidality are not adequately supported, despite suicide prevention being identified as a national priority. When people are struggling with both gambling and poor mental health, as is often the case, frequent referrals for issues that are treated separately but are in fact

²⁰ For the purposes of this submission, 'gambling services' is taken to have the same meaning as the *Interactive Gambling Act 2001* (Cth). Steve Cannane and Kyle Taylor, 'A Gambler Had His Betting Account Frozen After Losing Millions - Then Another Two Companies Came Knocking', *ABC News* (online, 9 July 2020) <<https://www.abc.net.au/news/2020-07-09/gambler-who-lost-millions-says-he-was-targeted-by-betting-groups/12409910>>.

²¹ Ian McAllister, 'Public Opinion Towards Gambling and Gambling Regulation in Australia' (2013) 14(1) *International Gambling Studies* 146, 156.

²² David Crowe, 'Voters Want Gambling Banned From Sports Sponsorship, Not Fossil Fuels: Poll', *The Age* (online, 2 November 2022) <<https://www.theage.com.au/politics/federal/crowe-sports-sponsorship-20221102-p5bv0n.html>>.

²³ Wardle et al (n 7) 31.

closely related can cause people to fall into a cycle of disjointed care, and they may disengage from help-seeking altogether.²⁴

The development and implementation of a best practice suicide prevention model of care for gambling helplines, created in collaboration with service users, providers, and experts, is much needed. To upskill the helpline workforce, we must also develop national, online skills-based training. Taken together, these measures will increase the capacity of helplines to prevent and respond to suicidal behaviour related to gambling harms.

3.2. Embed gambling harm identification and health and support services

People experiencing gambling harms are grossly over-represented in primary care, alcohol, and other drug, and/or mental health treatment settings, with up to 30% of treatment seekers experiencing gambling problems. Evidence suggests that gambling problems typically precede and predict the onset of other mental health conditions, which can complicate treatment plans and hamper treatment outcomes, particularly if they are not identified and treated.²⁵ Indeed, among consumers of mental health services, over 50% of those that gamble experience gambling harm.²⁶

Despite this, only 10% of clinicians are aware of screening and assessment tools for gambling harm, and most gambling screening that does occur is on an ad hoc basis, when patients disclose gambling activities or exhibit signs of financial difficulty.²⁷ Furthermore, the frequency at which mental health clinicians ask patients about their gambling at all is inconsistent, with only 21% asking almost always or often, while 40.6% report never or rarely asking about gambling.²⁸

When asked why they do not screen for gambling problems, clinicians explained that doing so is not an organisational requirement, gambling is not part of standard intake assessments, and they lack knowledge about and training in gambling harm screens.²⁹ To address these gaps in service delivery and improve treatment outcomes for people experiencing mental health conditions and gambling harms, standard intake assessments should include screens for gambling harms by default, and online, skills-based training for health practitioners should be developed to help them confidently identify and respond to comorbid gambling harms.

3.3. National Strategy to Prevent and Reduce Gambling Harms

More research is needed to build on the limited evidence base for gambling harm intervention efficacy.³⁰ For example, the Victorian Auditor General's Office found in March 2021 that the Victorian Responsible Gambling Foundation, which funds academic research to guide gambling harm prevention and early intervention initiatives, does not know whether these initiatives are effective

²⁴ *Gambling and Suicide Prevention* (n 10) 8.

²⁵ Dan Lubman et al, *Problem Gambling in People Seeking Treatment for Mental Illness* (Report, 3 July 2017) 3 <<https://responsiblegambling.vic.gov.au/resources/publications/problem-gambling-in-people-seeking-treatment-for-mental-illness-61/>>.

²⁶ *Ibid* 8.

²⁷ *Ibid* 5.

²⁸ *Ibid* 79.

²⁹ *Ibid* 80.

³⁰ Lindsay Blank et al, 'Interventions to Reduce the Public Health Burden of Gambling-Related Harms: A Mapping Review' (2021) 6(1) *The Lancet Public Health* 50, 62.

at reducing gambling harm because they have no outcomes-based framework guiding program design, monitoring, and evaluation.³¹

A National Strategy to Prevent and Reduce Gambling Harms should be developed to establish a framework for action that informs future program design, monitoring, and evaluation, and a unified approach to prevent and reduce gambling-related harms. The Strategy should include clear priorities and opportunities for action, support government and non-government sectors to work together, and agreed targets to reduce gambling harms.

3.4. People experiencing gambling harms should be a suicide prevention priority population

Responding to gambling harms should be a national suicide prevention priority. Stigma and shame associated with gambling harms and addiction are detrimental to mental health and this contributes to suicidal ideation. Despite one in two people seeking treatment for mental health conditions also experiencing gambling harms,³² gambling harms and addiction are either not included or get only a passing mention in national suicide prevention strategies or plans. To our knowledge, the same is currently true for all state and territory suicide prevention strategies and plans. Gambling harms not being viewed as a mental health priority could be due to the management of treatment services for gambling not falling under the remit of health or mental health portfolios, but other areas of government such as justice, liquor, and gaming.

3.5. Tackle stigma to promote help-seeking

Treatment services for gambling being poorly coordinated and under-resourced is not the only reason Australians aren't accessing treatment for gambling harms. Stigma plays a big role in people delaying reaching out for help.³³ Scaling successful anti-stigma initiatives such as the Rethink Addiction campaign for alcohol, other drug, and gambling harms, can tell the real stories of addiction, break down stigma, and challenge negative public attitudes that limit help-seeking. Addiction is only one part of someone's story. By tackling stigma and treating gambling addiction like any other health condition, we can promote help-seeking and reduce the risk of gambling-related suicide.

4. Strengthen consumer protections

4.1. Third party and self-exclusion schemes

The evidence-base for consumer protection tools is limited, especially for third-party exclusion schemes. Third-party exclusion schemes place responsibility on individuals and come with privacy and relationship risks. For example, families report that it is difficult to document sufficient harm to trigger a third-party exclusion and to remain anonymous when doing so.³⁴

³¹ Victorian Auditor General's Office, *Reducing the Harm Caused by Gambling* (Report, March 2021) 3, 28 <<https://audit.vic.gov.au/report/reducing-harm-caused-gambling?section=33780--appendix-b-acronyms-and-abbreviations>>.

³² Lubman et al (n 25) 142.

³³ Charles Livingstone and Angela Rintoul, 'Gambling Related Suicidality: Stigma, Shame and Neglect' (2021) 6(1) *The Lancet Public Health* e4, e4.

³⁴ Alliance for Gambling Reform, *Self and 3rd Party Exclusion from Gambling Venues* (Position Statement, 24 September 2020) 3 <<https://www.agr.org.au/policy submissions>>.

The new national self-exclusion register *BetStop* will allow people to exclude themselves from all online gambling services for a minimum of 3 months, permanently deleting all existing betting accounts and prohibiting them from opening new ones.³⁵ When this technology becomes available, its success will hinge upon the requirement for licenced interactive wagering services to prominently advertise *BetStop* and make it easy for people to sign up with as few taps or clicks as possible.³⁶

While the forthcoming national self-exclusion register is welcome, it alone is not enough to ensure adequate consumer protection. The following sections (4.2 to 4.6) outline several steps that could be taken to better protect vulnerable Australians experiencing gambling harms and living with gambling addiction.

4.2. Impose a duty of care on gambling services

The onus to prevent or reduce gambling harms is wrongly placed on vulnerable people struggling with gambling instead of the gambling services that exploit them for profit. This needs to change, starting with the language we use. The concepts of “responsible gambling” and “problem gamblers”, and codes of conduct that operationalise them, do not reduce gambling harms, but rather shift responsibility from gambling services to those experiencing gambling harms.

The burden of responsibility for limiting gambling harms must shift from individuals to the gambling industry through a duty of care that requires gambling services to 1) inquire into an individual’s means to spend significant amounts, 2) determine the provenance of funds, and 3) advise people when their pattern of gambling is consistent with that of someone experiencing gambling harm and provide them with support options.

4.3. Strengthen the National Framework

The *National Consumer Protection Framework for Online Wagering in Australia* (the Framework) was established in November 2018 in response to the rapid growth in availability and accessibility of online gambling and the Commonwealth Review of Illegal Offshore Wagering. The Framework’s ten minimum consumer protection measures relate specifically to online gambling, addressing issues such as staff training, account closure protocols, and activity statements. It also outlines the agreed principles relating to each measure and sets out a timeline for when they will be implemented. While the Framework has made it easier to regulate online wagering by consolidating state and territory codes and regulations into a single, nationally consistent framework,³⁷ existing protection measures could be strengthened to better protect people from gambling harms.

4.3.1. Measure 1 – Prohibition of lines of credit

Measure 1 of the Framework, in accordance with Part 2B of the *Interactive Gambling Act 2001* (Cth), prohibits *interactive wagering services* from providing or offering new or existing customers lines of

³⁵ ‘BetStop - the National Self-Exclusion Register’, *Australian Communications and Media Authority* (Web Page, 11 July 2022) <<https://www.acma.gov.au/betstop-national-self-exclusion-register>>.

³⁶ *Interactive Gambling Act 2001* (Cth) ss 61JP(1-2)

³⁷ Department of Social Services, *National Consumer Protection Framework for Online Wagering in Australia* (Policy Statement, 3 May 2022) <<https://www.dss.gov.au/communities-and-vulnerable-people-programs-services-gambling/national-consumer-protection-framework-for-online-wagering-national-policy-statement>>.

credit, with some exceptions.³⁸ In the interest of reducing gambling harms, the Parliamentary Joint Committee on Corporations and Financial Services' inquiry into *Regulation of the use of financial services such as credit cards and digital wallets for online gambling in Australia* recommended the prohibition of credit cards for online gambling³⁹ (the use of credit cards at in-person gambling venues is already prohibited).⁴⁰

4.3.2. Measure 2 – Payday lenders

Measure 2 of the Framework restricts *interactive wagering services* from promoting on their website or referring customers to small amount credit providers (payday lenders) to finance their gambling. Additionally, service providers must not share customer information with credit providers. While promotion of small amount credit contracts by *interactive wagering services* is prohibited, the credit providers themselves are still allowed to promote loans intended to finance gambling.⁴¹ Payday lenders often charge exorbitant fees and leave many people further indebted and financially worse off than before.⁴² Taking out loans with payday lenders to finance one's gambling can cause significant harm and as such, more needs to be done to stop credit providers from engaging in predatory behaviour that targets this vulnerable group.

4.3.3. Measure 4 – Restrictions on inducements

Measure 4 of the Framework restricts interactive wagering service providers from offering credit, voucher, reward, or other benefit (e.g. 'bonus bets') as an incentive to open an account or refer another person to do so. All states and territories agreed to enact this measure within 6 months of the commencement date of the Framework (26 November 2018), however, to our knowledge only New South Wales, South Australia, Western Australia, and Victoria have done so.⁴³

While offering bonus bets to existing customers is permitted, of concern are reports of providers depositing large sums of money into the betting accounts of 'VIP customers' to encourage them to continue gambling.⁴⁴ Offering bonus cash, 'free' bets, cashback on losses, or other similar enticements can increase overall consumption or engagement with wagering services, as people 'shop around' for the best incentives by making several accounts with multiple providers to access them.⁴⁵ Despite often being promoted as 'risk-free', bonus bets can also encourage impulsive and

³⁸ *Interactive Gambling Act 2001* (Cth) pt 2 15D.

³⁹ Parliamentary Joint Committee on Corporations and Financial Services, Parliament of Australia, *Regulation of the Use of Financial Services Such as Credit Cards and Digital Wallets for Online Gambling in Australia* (Final Report, November 2021) ix <https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Corporations_and_Financial_Services/Onlinegambling/Report>.

⁴⁰ *Gaming Machine Act 2004* (ACT) pt 10 154; *Gaming Machines Act 2001* (NSW) pt 4 47(c); *Gaming Machine Act 1995* (NT) pt 5 91; *Gaming Machines Act 1992* (SA) pt 5 51B; *Gaming Machine Regulation 2002* (QLD) pt 3 8(b); *Gaming Control Act 1993* (Tas) pt 5 94; *Gambling Regulation Act 2003* (Vic) sub-div 3.5.33Q; *Gaming and Wagering Commission Act 1987* (WA) pt V 63.

⁴¹ For example, Perfect Payday is a small amount credit provider that advertises 'Loans for Gamblers' and outlines various loan types that it describes as the 'best options for borrowers that want a way out of a gambling debt'. 'Loans for Gamblers', *Perfect Payday* (Web Page) <<https://www.perfectpayday.com.au/loans-for-gamblers/>>.

⁴² 'Payday Loans', *Moneysmart* (Web Page) <<https://moneysmart.gov.au/loans/payday-loans>>.

⁴³ 'Bonus Bet Offer Terms & Conditions', *Sportsbet* (Web Page, 5 July 2022) 2.1 <<https://helpcentre.sportsbet.com.au/hc/en-us/articles/115004800447-Bonus-Bet-Offer-Terms-Conditions>>; Victoria, *Victoria Government Gazette*, No S 349, 6 July 2022, 4.

⁴⁴ Cannane and Taylor (n 20).

⁴⁵ Nerilee Hing et al, 'The Structural Features of Sports and Race Betting Inducements: Issues for Harm Minimisation and Consumer Protection' (2019) 35 (August) *Journal of Gambling Studies* 685, 697-698.

riskier betting.⁴⁶ Consideration should be given to prohibiting wagering services from offering any free credit, voucher, reward, or benefit to both new *and* existing customers.

4.3.4. Measure 6 – Voluntary opt-out pre-commitment

Measure 6 of the Framework refers to a *voluntary* opt-out pre-commitment scheme for online gambling. Opt-in voluntary pre-commitment systems that operate in physical venues, such as the YourPlay scheme introduced by the Victorian Government, have poor uptake, and are not adequately enforced.⁴⁷ While an opt-out scheme is an improvement, making pre-commitment universal, setting caps on daily, monthly, and yearly spend, and enforcing pre-commitment on all online gambling platforms, could ensure the highest levels of uptake and reduction in gambling harms.

Inquiries in Western Australia, New South Wales, Victoria, and Tasmania have prompted regulators to strengthen consumer protections in physical gambling venues.⁴⁸ For example, since the Victorian Royal Commission into the Casino Operator and Licence, the Victorian Gambling and Casino Control Commission has introduced mandatory pre-commitment for electronic gaming machines at the Melbourne Casino.⁴⁹ And following an investigation into harm minimisation technologies by the Tasmanian Liquor and Gaming Commission,⁵⁰ Tasmania has also recently announced mandatory daily, monthly, and yearly loss limits for electronic gaming machines (\$100, \$500, and \$5000, respectively).⁵¹ This momentum for change has not yet been replicated in the online gambling space.

4.3.5. Measure 7 – Activity statements

Measure 7 of the Framework, which has recently been implemented, requires gambling services to email all customers monthly activity statements.⁵² This could be built upon by piloting the use of pop-up messaging, which cannot be ignored as easily as an email and can be delivered more frequently, providing users with same day or real-time updates.

In the same way that tobacco products come with warning labels that alert consumers to the dangers associated with smoking, alerting people who gamble to the potential harms of gambling as well as the odds of winning, will help consumers make more informed choices.

⁴⁶ Ibid 698.

⁴⁷ Ludwig Kraus et al, 'Self-Exclusion from Gambling: A Toothless Tiger?' (2022) 13 (September) *Frontiers in Psychiatry* 1, 10.

⁴⁸ WA Government, *Perth Casino Royal Commission* (Final Report, 24 March 2022)

<<https://www.wa.gov.au/government/publications/perth-casino-royal-commission-final-report>>; Parliament of NSW, *Inquiry under section 143 of the Casino Control Act 1992 (NSW)* (Report, 1 February 2021) <https://www.parliament.nsw.gov.au/la/papers/Pages/typed-paper-details.aspx?pk=79129>>; Ray Finkelstein, *Royal Commission into the Casino Operator and Licence* (Final Report, 15 October 2021) <<https://www.rccol.vic.gov.au/>>; Tasmanian Liquor and Gaming Commission, *Investigation of Harm Minimisation Technologies: Facial Recognition and Player Card Gaming* (Report, June 2022) <<https://www.treasury.tas.gov.au/liquor-and-gaming/community-interest/public-consultation/harm-minimisation-technologies>>.

⁴⁹ 'Nation-Leading Reforms To Hold Casino To Account', *Victorian Government* (Media Release, 2 August 2022)

<<https://www.premier.vic.gov.au/nation-leading-reforms-hold-casino-account>>.

⁵⁰ *Investigation of Harm Minimisation Technologies* (n 48).

⁵¹ 'Nation-Leading Card-Based Gaming With Pre-Commitment a First in Tasmania', *Tasmanian Government* (Media Release, 15 September 2022) <https://www.premier.tas.gov.au/site_resources/2015/additional_releases/nation-leading-card-based-gaming-with-pre-commitment-a-first-in-tasmania>.

⁵² Alicia Bridges, 'Betting Companies Required to Provide Gamblers With Financial Statements, But Ex-Punter Says It's Not Enough', *ABC News* (online, 6 August 2022) <<https://www.abc.net.au/news/2022-08-06/gambling-companies-issue-activity-statements-on-wins-and-losses/101305102>>.

These warnings could be delivered through pop-up messages. Pop-up messages displayed during online gambling sessions prompt people to consider their gambling behaviours,⁵³ and have been shown to reduce time spent gambling.⁵⁴ On electronic gaming machines, where players have pre-committed to a certain amount of money and then been informed that they have reached their limit through a pop-up message that also asks them if they wish to continue playing, participants who received the monetary limit pop-up reminder adhered to their limit more often than those who did not view a pop-up message.⁵⁵ A meta-analysis evaluating the effectiveness of pop-up messages found that pop-up messages significantly influenced people's gambling behaviours amongst the 18 studies they analysed.⁵⁶ The use of pop-up messages may improve current messaging methods, which usually appear on a separate webpage or screen as static text, as pop up messages on electronic gaming machines were recalled more frequently and the contents of their messages were remembered more accurately than the same messages displayed as static text.⁵⁷

Piloting the use of pop-up messaging for online gambling services would add to the evidence-base for their effectiveness in reducing gambling harms and inform future policy directions.

4.3.6. Add new measure – Prohibition of turnover requirements to access deposits

Some people struggling with gambling may deposit more into a betting account than what is needed for a current bet as a way of budgeting what they are prepared to gamble in a given period of time. However, due to 'turnover' requirements set by gambling services,⁵⁸ withdrawals cannot be made unless the funds have been used to place a bet, essentially making any deposits into a betting account non-refundable. In other words, people cannot withdraw their own money from a betting account once they have deposited it. People should have free access to their own money and not be required to gamble it just because it is being held in a betting account. Turnover requirements are unreasonable and should be prohibited.

4.4. Prohibit all forms of in-play betting

A quarter of Australians who participate in sports-related online gambling place in-play bets.⁵⁹ In-play or live betting is when bets are placed after a sporting event has begun. It allows for fast-paced, continuous gambling, encourages increased betting frequency, and impairs self-control, factors

⁵³ Self-appraisal messages included: "have you spent more money than you intended?" and "are you trying to recover the money you lost previously while playing?"

⁵⁴ Julia Caillon et al, 'Impact of Warning Pop-Up Messages on the Gambling Behavior, Craving, and Cognitions of Online Gamblers: A Randomized Controlled Trial' (2021) 12 (July) *Frontiers in Psychiatry* 1, 7.

⁵⁵ Melissa Stewart and Michael Wohl, 'Pop-Up Messages, Dissociation, and Craving: How Monetary Limit Reminders Facilitate Adherence in a Session of Slot Machine Gambling' (2013) 27(1) *Psychology of Addictive Behaviors* 268, 270.

⁵⁶ Benjamin Bjørseth et al, 'The Effects of Responsible Gambling Pop-Up Messages on Gambling Behaviors and Cognitions: A Systematic Review and Meta-Analysis' (2021) 11 (January) *Frontiers in Psychiatry* 1, 14.

⁵⁷ Sally Monaghan and Alex Blaszczyński, 'Impact of Mode of Display and Message Content of Responsible Gambling Signs for Electronic Gaming Machines on Regular Gamblers' (2010) 26 (September) *Journal of Gambling Studies* 67, 75.

⁵⁸ For example, Sportsbet states on their website that funds cannot be withdrawn unless they have been used to place a bet, "which means if you deposit \$50 you'll need to bet \$50 before you can withdraw the balance out of the account". Similarly, Ladbrokes' terms and conditions specify that "you must turn over any deposited funds at least once before you can withdraw them". 'How much money do I need to turnover before I can withdraw?', *Sportsbet* (Web Page) <<https://helpcentre.sportsbet.com.au/hc/en-us/articles/115007208927-How-much-money-do-I-need-to-turnover-before-I-can-withdraw->>; Ladbrokes, *Terms and Conditions* (Document, 4 October 22) 11.1 <<https://www.ladbrokes.com.au/rules-terms-and-conditions>>.

⁵⁹ Australian Communications and Media Authority, *Online Gambling in Australia: Findings from the 2021 ACMA Annual Consumer Survey* (Report, 17 February 2022) 1 <<https://www.acma.gov.au/publications/2022-02/report/online-gambling-australia-snapshot>>.

which exacerbate gambling harm.⁶⁰ People who bet in-play experience significantly greater gambling harm, as measured by higher scores on the Problem Gambling Severity Index.⁶¹

In-play betting is prohibited by the *Interactive Gambling Act 2001* (Cth).⁶² However, the Act currently excludes telephone betting from the list of *prohibited interactive gambling services*,⁶³ which allows *regulated interactive gambling services* to invite users to make in-play bets almost entirely through online means, but to finalise them over the phone so they are counted as telephone bets and are technically legal. Given the potential for gambling harms posed by in-play betting, all forms of it should be prohibited, including telephone in-play betting.

4.5. Prohibit betting on esports and gaming

Esports refer to global events where professional gamers competitively play video games for a large audience that watches either in-person at often sold-out arenas, or through a live online video stream. These esports can be online forms of live sports such as soccer or motor vehicle racing, or they can be multiplayer, battle arena style games where players compete to eliminate one another or achieve some other objective.⁶⁴

The fast-growing esports audience is expected to increase by 47% in 5 years, from 435.7 million people in 2020 to 640.8 million in 2025.⁶⁵ Advertisers also see the potential profit to be gained from these audiences, with sponsorship revenue alone expected to reach more than US\$837 million by the end of 2022.⁶⁶ The rapid emergence of esports has led to the construction of purpose-built esports stadiums and several universities have established esports-related academic programs.⁶⁷

Betting on esports is not lawful in South Australia, as they are not on the list of betting contingencies (a contingency is an approved betting event in South Australia under the *Authorised Betting Operations Act 2000*).⁶⁸ To our knowledge, the Northern Territory is the only Australian jurisdiction to explicitly authorise esports betting, with a list of select esports approved as events or contingencies under the *Racing and Betting Act 1983*.⁶⁹

Many online gambling platforms allow users to bet on the outcomes of esports matches and tournaments before they have begun, as well as in-play (in which case to our knowledge, bets are

⁶⁰ Andrew Harris and Mark Griffiths, 'The Impact of Speed of Play in Gambling on Psychological and Behavioural Factors: A Critical Review' (2018) 34 (June) *Journal of Gambling Studies* 393, 395, 407.

⁶¹ Sally Gainsbury, Brett Abarbanel and Alex Blaszczyński, 'The Relationship Between In-Play Betting and Gambling Problems in an Australian Context of Prohibited Online In-Play Betting' (2020) 11 (October) *Frontiers in Psychiatry* 1, 5.

⁶² *Interactive Gambling Act 2001* (Cth) ss 8A, 10B.

⁶³ *Interactive Gambling Act 2001* (Cth) s 5(3).

⁶⁴ Daniel Funk, Anthony Pizzo and Bradley Baker, 'eSport Management: Embracing eSport Education and Research Opportunities' (2018) 21(1) *Sport Management Review* 7, 8.

⁶⁵ Newzoo, *Global Esports & Live Streaming Market* (Report, 19 April 2022) 31 <<https://newzoo.com/insights/trend-reports/newzoo-global-esports-live-streaming-market-report-2022-free-version#>>.

⁶⁶ *Ibid* 7.

⁶⁷ Funk, Pizzo and Baker (n 64) 10.

⁶⁸ *Approved Betting Contingencies Notice 2020* (SA) sch 1.

⁶⁹ 'Bookmaker Licenses and Permits: Declared Event or Contingency to be a Sporting Event', *Northern Territory Government* (Web Page, 7 January 2022) <<https://nt.gov.au/industry/gambling/licences/bookmaker-licences-and-permits/declared-sporting-events-for-bookmaking>>.

finalised over the telephone as with in-play betting on live sports).⁷⁰ Consideration should be given to how Commonwealth law could be amended to prohibit all forms of betting on esports and video gaming (including but not limited to in-play and telephone betting). Failing this, consideration should be given to how the law could be clarified to explicitly prohibit in-play betting on esports and video gaming and amended to ensure in-play telephone betting is captured by this ban.

4.6. Consider limits on trading hours

Consumer protections could also be strengthened by limiting the times during which online gambling websites and apps can be accessed, in the same way physical gambling venues can only operate for a certain number of hours a day,⁷¹ and alcohol can only be delivered at specific times.⁷² Importantly, any time restrictions to online gambling should be for specific times and consistent across all platforms so that users cannot simply switch to another platform. Such ‘venue-hopping’ currently occurs at physical gambling venues, the opening hours of which are only limited by the number of hours of operation each day (rather than specific trading hours), enabling venues to stagger their trading hours and allowing people to effectively gamble 24 hours a day.⁷³

5. Regulate simulated gambling and gambling-like activities

5.1. Social casino games

Social casino games (a form of simulated gambling)⁷⁴ replicate the experience of gambling activities such as poker, other table games, and electronic gaming machines, but are played with in-game credit (such as virtual chips/coins), which can be free or purchased, with the purchase of in-game credit often supporting longer periods of uninterrupted or enhanced play.⁷⁵ In this way, social casino games are essentially online casinos where people can spend their own money but cannot withdraw

⁷⁰ For example, Ladbrokes allows customers to ‘live bet’ on esports such as *Counter Strike: Global Offensive*. Customers can view the live odds on the website, and once they are ready to place their in-play bet, they are provided with a phone number and a ‘fast code’ which they must quote along with their full name in order to finalise the wager over the phone. Similarly, Unibet displays match odds for esports games on their website after play has begun, and presents customers with a message informing them that “this event has started. Phone [phone number] to place a bet.”

⁷¹ ‘Gaming Machine Shut Down Periods’, *Liquor and Gaming NSW* (Web Page) <<https://www.liquorandgaming.nsw.gov.au/operating-a-business/running-your-business/managing-gaming-machines/gaming-machine-shutdown-periods>>; ‘Accessibility of Gaming Machines’, *Department of Justice and Community Safety* (Web Page, 27 June 2022) <<https://www.justice.vic.gov.au/justice-system/laws-and-regulation/accessibility-of-gaming-machines>>.

⁷² Varies by state and territory. See NSW and SA as examples. ‘Alcohol Delivery Laws’, *Liquor and Gaming NSW* (Web Page, 24 June 2021) <<https://www.liquorandgaming.nsw.gov.au/resources/alcohol-delivery-laws>>; *Liquor Licensing Act 1997* (SA) pt 3 div 2 sub-div 2 38(1)(b).

⁷³ Nerilee Hing and John Haw, *The Influence of Venue Characteristics on a Player’s Decision to Attend a Gambling Venue* (Research Report, March 2010) 67 <<https://www.gamblingresearch.org.au/publications/influence-venue-characteristics-players-decision-attend-gambling-venue>>.

⁷⁴ Simulated gambling is a broad term used to refer to several simulated interactive gambling activities that are structurally similar or identical to real-world forms of gambling, but a real-money payout is not possible. Real-world currency, however, can still be used to engage with simulated gambling. These include social casino games, which are the focus of this discussion, but also simulated gambling that occurs within video game gameplay (for example, winning a poker game to progress to the next level) and demo or practice games offered by commercial gambling websites/apps as a way to try them out. Daniel King et al, ‘Adolescent Simulated Gambling via Digital and Social Media: An Emerging Problem’ (2005) 31 (February) *Computers in Human Behavior* 305, 305; Nerilee Hing et al, ‘Adolescents Who Play and Spend Money in Simulated Gambling Games Are at Heightened Risk of Gambling Problems’ (2022) 19 *International Journal of Environmental Research and Public Health* 10652; 1-15, 10, 12.

⁷⁵ Sally Gainsbury, Alex Russell and Nerilee Hing, ‘An Investigation of Social Casino Gaming Among Land-Based and Internet Gamblers: A Comparison of Socio-Demographic Characteristics, Gambling and Co-Morbidities’ (2014) 33 (April) *Computers in Human Behavior* 124, 124 <<https://doi.org/10.1016/j.chb.2014.01.031>>.

their winnings.⁷⁶ In other words, while people can pay to continue playing once they have lost all of their virtual coins, it costs game developers nothing when people ‘win’.

Experts have suggested that even though social casino game winnings cannot be withdrawn as real money, they provide the same feeling of winning as in-person pokies.⁷⁷ Winning causes a rush of dopamine to be released in the brain that makes people feel happy, and so the behaviour is repeated to replicate this feeling.⁷⁸

Social casino games are usually promoted through online social networking sites and are very popular, with some estimates suggesting that there are four times as many social casino gamers than online gamblers.⁷⁹ Indeed, the global social casino games market is expected to reach \$8.7 billion USD (\$13.4 billion AUD) in value in 2026.⁸⁰ This kind of simulated gambling has the potential to cause significant harm, especially when players are prompted to use their own money to purchase virtual chips, with reports of people losing hundreds of thousands of dollars playing social casino games that mimic electronic gaming machines.⁸¹

5.2. Loot boxes

Like social casino games, loot boxes are highly lucrative, with \$15 billion USD in global loot box revenue in 2020 expected to exceed \$20 billion USD by 2025.⁸² Loot boxes are prize packs purchased with real currency or in-game credit that contain virtual game content or rewards. Loot boxes give players a gambling-like experience because the contents of a loot box is randomly assigned, unknown at the time of purchase (only revealed when the box is ‘opened’), and has value both within the game⁸³ and outside of it.⁸⁴ For example, loot box contents such as “skins” are in-game cosmetic upgrades that are often rare and highly sought after by players, have value outside of the game as they can be traded on online marketplaces for real-world currency. As a result, they are also used as wagers on professional esports matches.⁸⁵

⁷⁶ Daniel King, *Online Gaming and Gambling in Children and Adolescents - Normalising Gambling in Cyber Places* (Literature Review, September 2018) 26 <<https://responsiblegambling.vic.gov.au/resources/publications/online-gaming-and-gambling-in-children-and-adolescents-normalising-gambling-in-cyber-places-479/>>.

⁷⁷ Rachel Rasker, ‘What are social casino games, and why do people become addicted?’, *ABC Everyday* (online, 28 February 2022) <<https://www.abc.net.au/everyday/social-casino-games-and-why-people-become-addicted/100861446>>.

⁷⁸ *Ibid.*

⁷⁹ Hyoun Kim, ‘Social Casino Games: Current Evidence and Future Directions’, *Gambling Research Exchange Ontario* (Evidence Summary, 2017) 1 <[https://www.greo.ca/Modules/EvidenceCentre/files/Kim_\(2017\)_Social_casino_games_-_Current_evidence_and_future_directions.pdf](https://www.greo.ca/Modules/EvidenceCentre/files/Kim_(2017)_Social_casino_games_-_Current_evidence_and_future_directions.pdf)>.

⁸⁰ *Global Social Casino Games Market (by Type, Genre, Platform & Region): Insights & Forecast with Potential Impact of COVID-19*, Konzept Analytics (Report, 2022) <<https://www.researchandmarkets.com/reports/5574817/global-social-casino-games-market-by-type>>.

⁸¹ Hannah Walsh, ‘Woman Jailed After Stealing Nearly \$1M to Play Gaming App That Never Paid Out’, *ABC News* (online, 8 February 2022) <<https://www.abc.net.au/news/2022-02-08/mackay-woman-jailed-over-1-million-dollar-gambling-fraud/100804306>>; Lydia Feng, ‘Calls For ‘Social Casinos’ to be Regulated as Australians Lose Thousands in Growing Industry’ *ABC News* (online, 4 January 2020) <<https://www.abc.net.au/news/2020-01-04/calls-for-casino-app-to-be-regulated-as-users-spend-1000s/11831094>>.

⁸² Juniper Research, *Loot Boxes ~ Levelling Up For New Legislation* (White Paper, March 2021) 4 <<https://www.juniperresearch.com/whitepapers/loot-boxes-levelling-up-for-new-legislation>>.

⁸³ Wen Li, Devin Mills and Lia Nower, ‘The Relationship of Loot Box Purchases to Problem Video Gaming and Problem Gambling’ (2019) 97 (October) *Addictive Behaviors* 27, 27.

⁸⁴ Juniper Research, *In-Game Gambling ~ The Next Cash Cow for Publishers* (White Paper, 2018) 2 <<https://www.juniperresearch.com/whitepapers/in-game-gambling-the-next-cash-cow>>; Li, Mills and Nower (n 83) 28.

⁸⁵ *In-Game Gambling* (n 83).

5.3. The case for greater regulation

Social casino games, other simulated gambling apps/websites, and video game loot boxes are currently poorly regulated, so they are easily accessible by children and young adults. Prior to the advent of online and simulated gambling, exposure to gambling could only occur through traditional, age-restricted in-person gambling venues. Now, it is much easier for young children to be exposed to simulated gambling and gambling-like experiences.⁸⁶

Simulated gambling may initiate engagement with real gambling. In one study, one in five adults reported migrating to real-money gambling as a result of playing social casino games,⁸⁷ and in another more than a quarter of people who played social casino games had migrated to real-money online gambling 6-months later.⁸⁸ Importantly, those people who made micro-transactions (paying for in-game credit with real money) were 8 times more likely to migrate to real-money online gambling.⁸⁹ Young people aged 12 to 17 who play social casino games are also more likely to take part in real-money gambling (such as pokies, sports betting and casino table games), and as time and money spent playing simulated gambling games increases their risk of engaging in behaviours associated with a gambling harm also increases.⁹⁰ Given this, it is notable that commercial gambling services such as Caesars Entertainment have partnered with and purchased simulated gambling companies.⁹¹

Of concern is that social casino game designers utilise 'dynamic game balancing', whereby odds change mid-game based on whether the player is winning or losing so that they never become bored (for example, if a player has lost multiple times, the odds will change so that they begin winning more often).⁹² This may cause social casino gamers to believe that commercial gambling will reap the same rewards, which is misleading and could lead to gambling-related harm.⁹³

The relationship between loot box purchasing and the experience of gambling harm is emerging. In a nationally representative sample of Danish children aged 12 to 16, 44% had paid to open a loot box.⁹⁴ Similarly, a 2020 UK Gambling Commission survey found that 46% of 11 to 16 year old gamers have paid for video game loot boxes.⁹⁵ In a separate survey of young gamers aged 13 to 24 years old conducted by the UK Gambling Health Alliance, 24% of young gamers said they think they have an addiction to loot boxes, 44% reported frustration and anger over feelings they have been cheated or ripped off when the contents of loot boxes are not what they hoped for, and one in ten reported

⁸⁶ 'Is it gambling or a game?', *Australian Institute of Family Studies* (Research Snapshot, April 2016) <<https://aifs.gov.au/research/research-snapshots/it-gambling-or-game>>.

⁸⁷ Sally Gainsbury et al, 'Migration from Social Casino Games to Gambling: Motivations and Characteristics of Gamers Who Gamble' (2016) 63 (October) *Computers in Human Behavior* 59, 62.

⁸⁸ Hyoun Kim et al, 'Do Social Casino Gamers Migrate to Online Gambling? An Assessment of Migration Rate and Potential Predictors' (2015) 31(4) *Journal of Gambling Studies* 1819, 1825.

⁸⁹ *Ibid* 1826.

⁹⁰ Hing et al (n 74) 6, 12.

⁹¹ 'Caesars Entertainment Acquires Playtika', *Mergr* (Web Page, 2021) <<https://mergr.com/caesars-entertainment-acquires-playtika>>.

⁹² Nelson Rose, 'Should Social Casino Games Be Regulated?' (2014) 18(2) *Gaming Law Review and Economics* 134, 135.

⁹³ *Ibid* 136.

⁹⁴ Søren Kristiansen and Majbritt Severin, 'Loot Box Engagement and Problem Gambling Among Adolescent Gamers: Finding from a National Survey' (2020) 103 (April) *Addictive Behaviors* 1, 3.

⁹⁵ Gambling Commission, *Young People and Gambling - Official Statistics* (Data Tables, October 2020) T1111 <<https://www.gamblingcommission.gov.uk/statistics-and-research/publication/young-people-and-gambling-2020#files>>;

borrowing money they couldn't afford to pay back in order to purchase loot boxes.⁹⁶ Video game players who spend more to open loot boxes score more highly on measures of gambling harm than both those who spend less⁹⁷ and who do not spend money on them at all.⁹⁸

High volume loot box purchasing may be causing significant harm to a small subset of video gamers. In a secondary analysis of almost 8000 loot box purchasers using six open access datasets, those who spent more than \$100 USD per month (or local equivalent) comprised 5% of the sample, yet made up half of the revenue generated from loot boxes.⁹⁹ One third of gamers in this high-spending group were also classified as having a gambling problem.¹⁰⁰ Similarly, another study looking at loot box spending patterns of Chinese players of *Counter Strike: Global Offensive*, a popular video game, found that the top 10% of spenders accounted for almost 60% of all loot box revenue produced by the sample of over 386,000 players.¹⁰¹

Several jurisdictions and companies have adopted measures to help protect young gamers who purchase loot boxes by improving transparency around the odds of winning desirable rewards:

- The Belgian Gaming Commission found that paid loot boxes constituted gambling because they contain a game element, require a wager of value which can be lost or won depending on the perceived value of the loot box contents, and involve chance. As such, it recommended they be subject to the same restrictions and regulations as traditional gambling.¹⁰²
- China requires gaming companies to publish the probabilities of obtaining rewards in loot boxes.¹⁰³
- Google Play requires that any game distributed on the platform that contains purchasable, randomised virtual rewards such as loot boxes must disclose the odds of receiving these rewards prior to purchase.¹⁰⁴
- Sony, Microsoft, and Nintendo, who respectively produce the popular consoles PlayStation, Xbox, and Switch, have also required that all publishers of games that can be played on these consoles must disclose the odds of obtaining loot box items.¹⁰⁵

⁹⁶ Gambling Health Alliance, *What is the Financial Impact of Loot Boxes on Children and Young People?* (Short Report, 2020) 5-6 <<https://www.rsph.org.uk/about-us/news/over-1-in-10-young-gamers-get-into-debt-because-of-loot-boxes.html>>.

⁹⁷ David Zende, Rachel Meyer and Harriet Over, 'Adolescents and Loot Boxes: Links with Problem Gambling and Motivations for Purchase' (2019) 6(6) *Royal Society Open Science* 1, 9.

⁹⁸ Kristiansen and Severin (n 94) 4.

⁹⁹ James Close et al, 'Secondary Analysis of Loot Box Data: Are High-Spending "Whales" Wealthy Gamers or Problem Gamblers?' (2021) 117 (June) *Addictive Behaviors* 1, 3.

¹⁰⁰ Ibid.

¹⁰¹ David Zende, 'How Do Loot Boxes Make Money? An Analysis of a Very Large Dataset of Real Chinese CSGO Loot Box Openings' (2020) (preprint) 1, 8.

¹⁰² Belgian Gaming Commission, *Loot Boxes* (Research Report, April 2018) 9-10 <<https://www.gamingcommission.be/en/publications/reports>>.

¹⁰³ Leon Xiao et al, 'Gaming the System: Suboptimal Compliance with Loot Box Probability Disclosure Regulations in China' (2021) 1, 4.

¹⁰⁴ 'Payments', Play Console Help (Policy Centre Web Page, 2022) 7 <<https://support.google.com/googleplay/android-developer/answer/9858738>>.

¹⁰⁵ 'Video Game Industry Commitments to Further Inform Consumer Purchases', *Entertainment Software Association* (News Announcement, 7 August 2019) <<https://www.theesa.com/news/video-game-industry-commitments-to-further-inform-consumer-purchases/>>.

6. Tighten advertising restrictions to protect children and people experiencing gambling harms

6.1. Predatory industry tactics are targeting children and other vulnerable people

Children are frequently exposed to gambling ads and 91% recall seeing them while watching sport.¹⁰⁶ As a result, they are well acquainted with gambling companies, and brand familiarity is strongest for *online* gambling services, reflecting the ubiquity of these advertisements.¹⁰⁷ Indeed, three quarters of children aged 8 to 16 are able to name at least one sports betting brand, while a quarter can name four or more,¹⁰⁸ and 75% of children perceive sports betting as a normal part of sport.¹⁰⁹ Many young people believe advertising has played a vital role in the normalisation of gambling.¹¹⁰

People experiencing gambling harms and living with gambling addiction are also vulnerable to harms related to gambling advertising. Those with higher scores on the Problem Gambling Severity Index more often report seeing social media gambling ads and because of exposure to those ads, feeling an increased desire to gamble, or increasing their gambling.¹¹¹ Indeed, more than a quarter of people experiencing gambling harm report that seeing gambling ads on social media exacerbates their struggles with gambling.¹¹²

6.2. Gambling advertising is rampant and insidious

Our lax gambling advertising rules have enabled gambling advertisements to run rampant across Australian television, radio, print, and online media, and are wholly inadequate considering the harm caused by gambling and the risks posed to children and vulnerable Australians experiencing gambling harms.

There was an average of 948 gambling ads on free-to-air TV every day in 2021, with 148 ads airing between the traditional family viewing time of 6:00–8:30pm. This equates to almost one gambling ad every minute during this time slot.¹¹³ The frequency of gambling ads has increased by 153% since 2016¹¹⁴ and now surpasses alcohol advertising spend, representing a considerable effort by the gambling industry to ramp up its advertising.¹¹⁵ Gambling companies spent \$287.2 million on

¹⁰⁶ Hannah Pitt et al, “It’s Just Everywhere!” Children and Parents Discuss the Marketing of Sports Wagering in Australia’ (2016) 40(5) *Australian and New Zealand Journal of Public Health* 480, 483.

¹⁰⁷ Ibid 482-483.

¹⁰⁸ Samantha Thomas et al, *Child and Parent Recall of Gambling Sponsorship in Australian Sport* (Research Report, May 2016) 3 <<https://responsiblegambling.vic.gov.au/resources/publications/child-and-parent-recall-of-gambling-sponsorship-in-australian-sport-67/>>.

¹⁰⁹ Pitt et al (n 106).

¹¹⁰ Christian Nyemcsok et al, ‘Young People’s Reflections on the Factors Contributing to the Normalisation of Gambling in Australia’ (2021) 45(2) *Australian and New Zealand Journal of Public Health* 165, 168.

¹¹¹ Sally Gainsbury et al, ‘Exposure to and Engagement with Gambling Marketing in Social Media: Reported Impacts on Moderate-Risk and Problem Gamblers’ (2016) 30(2) *Psychology of Addictive Behaviors* 270, 273.

¹¹² Ibid.

¹¹³ ‘948 Gambling Ads Daily on Victorian Free to Air TV in 2021, Up 253% from 2016’, *Victorian Responsible Gambling Foundation* (Media Release, 29 April 2022) <<https://responsiblegambling.vic.gov.au/about-us/news-and-media/948-gambling-ads-daily-on-victorian-free-to-air-tv-in-2021/>>.

¹¹⁴ ‘Gambling Advertising’, *Responsible Gambling Foundation* (Web Page, 3 June 2022) <<https://responsiblegambling.vic.gov.au/resources/gambling-victoria/gambling-advertising/>>.

¹¹⁵ Ibid.

advertising in Australia in 2021, however, this figure is an underestimate as it does not include in-stadium advertising and sponsorships.¹¹⁶

When aired during sports coverage or as part of another sports-related program (for example, a 'footy show'), these ads are often difficult to detect as they are embedded into the actual broadcast, appearing as infomercial style segments that feature show hosts and professional players who promote game odds or special offers.¹¹⁷ This kind of advertising by stealth further reinforces the idea that betting and sport are inseparable from one another.

6.3. Close advertising loopholes and gaps to protect children

During the broadcast of live sport, current legislation only prohibits gambling advertising during play. During breaks in play, such as half time, gambling advertisements are allowed so long as they do not include the promotion of odds. Between the hours of 5:00am and 8:30pm, no gambling ads or promotion of odds are allowed five minutes before, during, and five minutes after the live sports broadcast has ended. Despite these rules, gambling services are still allowed to advertise through signage inside venues like the MCG (and hence viewed on television), and after 8:30pm gambling ads during live sport have free reign.¹¹⁸ Sports leagues like the AFL also freely sign sponsorship deals with companies like Sportsbet.¹¹⁹

Aside from live sports coverage, gambling ads are also prohibited during 6:00–8.30am and 4:00–7:00pm during the broadcast of programs rated G, C and P,¹²⁰ and between 5:00am–8:30pm for any other programs targeted specifically at children. Notably, gambling advertising is still permitted during news and current affairs programs, which are often viewed during dinner time or while children are still awake and with their families.¹²¹ These time-based restrictions wrongly assume that children are not watching television after 8:30pm, and that they are only viewing programming that is G, C and P rated. The advertising block out during school hours also does not consider school holiday periods, children who may be at home from school due to illness, or children who are not yet of school age.

6.4. Self-regulation of social media advertising is inconsistent

Compared to television or radio ads, where people must make the effort to seek out promoted apps or websites, advertising viewed through a smartphone or computer enables people to access the gambling service with a single click.¹²² In the UK, gambling advertisers are spending five times more

¹¹⁶ '948 Gambling Ads Daily' (n 113).

¹¹⁷ Lisa Milner et al, 'Embedded Gambling Promotion in Australian Football Broadcasts: An Exploratory Study' (2013) 46(2) *Communication, Politics & Culture* 177, 189.

¹¹⁸ 'Gambling Ads During Live Sport on Broadcast TV and Radio', *Australian Communications and Media Authority* (Web Page, 15 October 2021) <<https://www.acma.gov.au/gambling-ads-during-live-sport-broadcast-tv-and-radio>>.

¹¹⁹ Sam McClure, 'The AFL's 'Engine': How Gambling Money Underpins Footy', *The Age* (online, 12 March 2022) <<https://www.theage.com.au/sport/afl/the-afl-s-engine-how-gambling-money-underpins-footy-20220214-p59wa7.html>>.

¹²⁰ These classifications apply to television and refer to the following: G-classified programs must not contain any material that is unsuitable for children, C refers to programs designed specifically for children younger than 15, and P refers to programs designed for preschool aged children. Australian Communications and Media Authority, *Guide to Children's Television Classification: C & P Programs* (Classification Guide, December 2020) 4 <<https://www.acma.gov.au/sites/default/files/2020-12/Guide%20to%20childrens%20television%20classification.pdf>>.

¹²¹ 'Gambling Ads During Children's Programs', *Australian Communications and Media Authority* (Web Page, 21 October 2020) <<https://www.acma.gov.au/gambling-ads-during-childrens-programs>>.

¹²² Brett Arbanel et al, 'Gambling Games on Social Platforms: How Do Advertisements for Social Casino Games Target Young Adults?' (2017) 9(2) *Policy and Internet* 184, 194-201.

on online ads than television, indicating that it is a more profitable investment to target these audiences.¹²³

While gambling companies have adapted to new and emerging technologies to market their online gambling platforms, laws and regulations that should protect people who use technology like social media have failed to keep up. Industry self-regulation has resulted in inconsistent social media gambling advertising policies. For example:

- Meta’s advertising policy requires individual users who wish to advertise online gambling on Meta (in-person gambling is not covered by this policy and can be advertised without permission from Meta) to request written permission which specifies the URLs ads will link to and what countries/territories will be targeted. It prohibits advertisers from targeting people under the age of 18.¹²⁴
- Twitter’s policy allows both online and in-person gambling advertisements so long as they are targeted to countries where gambling advertising is legal. In some specific instances of gambling targeted to the Australian market, such as sports betting and in-person casinos, restrictions apply and advertisers are directed to contact Twitter in order to seek authorisation.¹²⁵
- Google Chrome’s ad personalisation option allows users to opt-out of gambling ads by choosing the ‘see fewer’ function, but the website feature notes that it cannot guarantee that the user will not see *any* ads of this nature.¹²⁶
- TikTok’s general advertising policy prohibits all forms of gambling advertising.¹²⁷ It also specifies that in Australia and New Zealand, fantasy sports, bingo, and other related gambling ads, as well as ads that feature gambling branding, are prohibited. Despite this, TikTok is piloting the introduction of sports betting advertising with an Australian sports betting company following their lobbying efforts.¹²⁸ This move would likely cause harm to many young people using the app (28% of TikTok users are aged 16 or under).¹²⁹

A consistent policy approach to limit and regulate gambling advertising on social media would be beneficial.

6.5. Advertising rules should reflect potential harms

Tobacco products are subject to comprehensive and stringent advertising laws because they are proven to cause significant harm. Advertising that encourages people to buy or use tobacco is

¹²³ GambleAware, *Gambling Companies Spend £1.2 Billion Marketing Online, Five Times More Than on Television Ads* (Press Release, 24 November 2018) <<https://www.begambleaware.org/sites/default/files/2020-12/2018-11-24-gambling-marketing-online-five-times-tv-ad-spend.pdf>>.

¹²⁴ ‘About Meta’s Advertising Policy on Online Gambling and Gaming’, *Meta* (Web Page, 2022) <<https://en-gb.facebook.com/business/help/345214789920228?id=434838534925385>>;

¹²⁵ ‘Gambling Content’, *Twitter* (Web Page, 2022) <<https://business.twitter.com/en/help/ads-policies/ads-content-policies/gambling-content.html>>.

¹²⁶ ‘Ad Personalisation’, *Google* (Web Page) <<https://adssettings.google.com/>>.

¹²⁷ ‘TikTok Advertising Policies - Industry Entry’, *TikTok* (Web Page) <<https://ads.tiktok.com/help/article?aid=9550>>.

¹²⁸ ‘TikTok Advertising Policies: Industry Entry - Oceania’, *TikTok* (Web Page) <<https://ads.tiktok.com/help/article?aid=10005239>>.

¹²⁹ ‘Nearly 2.5 million Australians using TikTok – up over 850,000 (+52.4%) during first half of 2020’, *Roy Morgan* (Press Release, 14 October 2020) <<https://www.roymorgan.com/findings/nearly-2-5-million-australians-using-tiktok-up-over-850000-52-4-during-first-half-of-2020>>.

prohibited in writing, images, audio, video, symbols, on the internet or in other electronic media, in films, or on products.¹³⁰

Italy has taken a similar blanket approach, prohibiting all advertising for gaming or betting that involves cash prizes in 2018, including sports sponsorships.¹³¹ In 2021, Spain prohibited gambling advertising by privately owned companies on radio and television, while state lottery and gambling advertisements can only be broadcast between 1:00am and 5:00am. The Spanish rules also prohibit gambling advertising in stadiums and outdoors, and gambling companies can no longer sponsor sports clubs, stadiums, or competitions.¹³²

Gambling causes harm and yet it is advertised almost 1000 times a day on television alone.¹³³ Gambling advertising is arguably often predatory in nature and seeks to normalise gambling as a family activity. For example, this year's Stakes Family Day at the Flemington Racecourse in Victoria was promoted as a fun-packed day for children and families and featured horse races sponsored by Neds and Keno.¹³⁴ As another example, the Melbourne Racing Club website promotes a membership specifically for children aged 0 to 11.¹³⁵

This targeting of children is particularly concerning because it exposes them to gambling environments (where people may be gambling excessively and experiencing gambling harm) from a young age. Almost a quarter of adults seeking treatment for gambling addiction recall one or more parents experiencing gambling harm, and more than a third report gambling when they were children, often with their parents.¹³⁶ Similarly, children who grow up around excessive gambling that is normalised or encouraged are susceptible to gambling harm as adults.¹³⁷ Likewise, adolescents who perceive their parents to have a gambling problem are seven times more likely to meet criteria for a gambling problem as adults.¹³⁸

7. Conclusion

Online gambling is associated with a range of social, economic, and health related harms, especially when it comes to vulnerable Australians struggling with gambling, children, and young people, who are at increased risk of gambling harms. A holistic response to gambling harms is needed, including a best practice suicide prevention model of care for gambling helplines and mental health practitioners, a *National Strategy to Prevent and Reduce Gambling Harms*, and strengthened

¹³⁰ 'Tobacco Advertising Bans', *Department of Health and Aged Care* (Web Page, 5 January 2022) <<https://www.health.gov.au/health-topics/smoking-and-tobacco/tobacco-control/tobacco-advertising-bans>>.

¹³¹ 'Italy introduces blanket ban on gambling advertisements', *Withersworldwide* (Blog Post, 17 July 2018) <<https://www.withersworldwide.com/en-gb/insight/italy-introduces-blanket-ban-on-gambling-advertisements>>.

¹³² 'Spain banishes private gambling advertising from all media', *Yogonet Gaming News* (News Blog, 31 August 2021) <<https://www.yogonet.com/international/news/2021/08/31/59058-spain-banishes-private-gambling-advertising-from-all-media>>.

¹³³ '948 Gambling Ads Daily' (n 113).

¹³⁴ 'C. F. Orr Stakes Family Day', *Melbourne Racing Club* (Event Web Page, 12 February 2022) <<https://mrc.racing.com/calendar/2022-02-12/cf-orr-stakes-family-day>>.

¹³⁵ 'Clip Clop Club: Join Now', *Melbourne Racing Club* (Web Page, 2022) <<https://mrc.racing.com/membership/membership-packages/clip-clop-club>>.

¹³⁶ Nicki Dowling et al, *Children at Risk of Developing Problem Gambling* (Report, May 2010) 162, 165 <<https://www.gamblingresearch.org.au/publications/children-risk-developing-problem-gambling>>.

¹³⁷ Lise Saugeres, Anna Thomas and Susan Moore, 'It Wasn't a Very Encouraging Environment': Influence of Early Family Experiences on Problem and At-Risk Gamblers in Victoria, Australia' (2014) 14(1) *International Gambling Studies* 132, 138.

¹³⁸ Ken Winters et al, 'A Prospective Study of Youth Gambling Behaviors' (2002) 16(1) *Psychology of Addictive Behaviors* 3, 6.

consumer protections. In-play betting for traditional sports and esports should also be prohibited in all its forms, including telephone betting, and potentially harmful simulated gambling and gambling-like activities should be regulated. Finally, gambling advertising rules must be tightened to protect children and people experiencing gambling harms.