

ESSA response: Review of
Australia's Sports Integrity
Arrangements
Consultation

September 2018



ESSA response: Introduction

- ESSA (Sports Betting Integrity)¹ is an international betting integrity association that represents many of the world's largest regulated sports betting operators. Those companies are licensed and operate within various regulatory frameworks around the world. That commercial enterprise is currently conducted through around 60 retail and online brands (Fig. 1), including many globally recognised household names and a number of businesses operating in Australia.

Figure 1: ESSA Members' Retail and Online Betting Brands²

| | | | | | |
|-------------|------------------|-----------------|------------------|----------------------|-----------------|
| 32Red sport | Betsafe | Crystalbet | Kroon | Sportingbet | Tonybet |
| 888sport | Betsson | Easybet | Ladbrokes | Sportium | Triobet |
| Bet365 | Betstar.com.au | Eurobet | Ladbrokes.be | Sportsbet | TVG |
| Betano | BetStars | Europebet | Ladbrokes.com.au | Stanleybet | Unibet |
| Bet-at-home | BetVictor | Expekt | Nordicbet | Star Casino (sports) | veikkaushuone |
| Betboo | bkfon.ru | Fanduel | OddsKing.com | Star-Typ Sport | Vernons |
| Betclac | Bookmaker.com.au | Fonbet | Paddy Power | Stoiximan | William Hill |
| Betdaq | bwin | Gamebookers | Racebets | Tonybet | William Hill US |
| Betfair | Cashpoint | Gamesys | Sky Bet | Sportingbet | XTIP |
| Betfred | Coral | Gioco Gigitalle | Sporting Index | Sportium | |

- ESSA's principal goal is to protect its members, consumers and partners, such as sports bodies, from corruption caused by the manipulation of sporting events and associated betting. The association combats this corruption with evidence-based intelligence principally obtained from its monitoring and alert system which identifies suspicious activity on its members' markets.
- To support this, ESSA has established information sharing memorandum of understanding (MoUs) with regulators, law enforcement and sports bodies through which the association and its members disseminate information on suspicious betting. That includes crucial information on consumer identities, locations and other transactional data which is not available via other non-regulatory authority platforms, but which is central to investigative activities.
- ESSA releases quarterly integrity statistics covering its members' betting markets. In 2017, the association's monitoring and alert platform identified and reported 266 cases of suspicious betting activity to the relevant regulatory and sports governing authorities.³
- To complement our detection activity, the association engages in mitigating actions with a range of partners, notably a player betting education programme with EU Athletes since 2010.⁴ ESSA is currently involved in four European Commission funded anti-match-fixing projects:
 - Anti Match-Fixing Top Training (AMFTT);⁵
 - Training to Protected Reporting from Professional and Grassroots Sports (T-Preg);⁶
 - Against match fixing - European Research & Education Program;⁷ and
 - PROtect Integrity Plus.⁸
- The association is a key player in the fight against betting related match-fixing globally and acts for the regulated betting sector at key national and international match-fixing policy discussion

¹ <http://www.eu-ssa.org/>

² Gamesys and OddsKing sports betting brands are not yet active. List includes new members and brands added in 2018 and is correct as of 8 August 2018.

³ <http://www.eu-ssa.org/wp-content/uploads/ESSA-2017-annual-integrity-report.pdf>

⁴ http://www.eu-ssa.org/wp-content/uploads/Eu-Athletes_Erasmusfunding_2015_FINAL.pdf

⁵ https://eacea.ec.europa.eu/sites/eacea-site/files/compendia_erasmus_sport_2016.pdf (pages 248-49)

⁶ https://eacea.ec.europa.eu/sites/eacea-site/files/sport_compendium_2017.pdf (pages 264-265)

⁷ https://eacea.ec.europa.eu/sites/eacea-site/files/sport_compendium_2017.pdf (pages 240-241)

⁸ https://eacea.ec.europa.eu/sites/eacea-site/files/sport_compendium_2017.pdf (pages 234-235)

forums. In particular, ESSA holds seats on betting policy working groups run by the International Olympic Committee (IOC), European Commission and the Council of Europe, amongst others.

7. ESSA is committed to working in partnership with key stakeholders to address potential betting-related integrity issues. We therefore welcome the report of the Review of Australia's Sports Integrity Arrangements⁹ to which ESSA provided evidence, both written¹⁰ and orally, and where we note the positive references to the association and its activities in the Panel's final report. ESSA also provided evidence to the Impact of Illegal Offshore Wagering Review (2015) review.¹¹
8. The association therefore appreciates the opportunity to provide comments to the Australian Government's consultation on the Panel's report, its findings and recommendations on behalf of our members, notably those with licensed online sports betting operations in Australia.

Consultation Question: Chapter 2 - The current national and international sports integrity threat environment and foreseeable future challenges

Please provide any comments you have in relation to Chapter 2 of the Review. This may include, but should not be limited to:

- support for the key findings and recommendations
- any matters you disagree with
- any additional comments

National and International Sports Betting Integrity Threats

9. The Panel has set out a valuable explanation of the key issues facing Australia and the protection of its sporting and regulated betting sectors from corruption through the manipulation of sporting events. As one of the parties that helped to develop the Council of Europe Convention on the Manipulation of Sports Competitions, ESSA supports and promotes the adoption of the Convention's definition of the manipulation of sport¹² as highlighted by the Panel in its report, and which encompasses both betting and sporting related match-fixing.
10. The Panel rightly highlights the increasing global availability of sports betting services both through regulated and unregulated channels and via a range of platforms, most notably online, which has facilitated cross border commerce. The availability of unregulated betting services has been widely recognised as the principal vehicle for corrupt activity and the manipulation of sport. Law enforcement bodies such as INTERPOL and Europol have stated that match-fixing is not primarily focused on regulated, but unregulated operators, mainly in based in Asia.¹³
11. ESSA concurs with the Panel that this is in part due to the operational activities of unregulated operators with higher pay-out rates attractive to consumers as a result of having no taxation or regulatory commitments. The lack of any meaningful regulatory oversight is detrimental to the integrity of those markets and enhances the ability of criminals to engage in corrupt activity. Recent data compiled for ESSA (Fig. 2) calculates the global sports betting market (including horse racing) at \$2.1tn in turnover, generating 143bn in Gross Gambling Revenue (GGR).¹⁴

⁹ <http://www.health.gov.au/internet/main/publishing.nsf/Content/the-review-of-australias-sports-integrity-arrangements>

¹⁰ <http://www.eu-ssa.org/wp-content/uploads/Aus-National-Sports-plan-con.-July-2017-FINAL.pdf>

¹¹ <http://www.eu-ssa.org/wp-content/uploads/Australian-gambling-review-Nov-2015-FINAL.pdf>

¹² Article 3 <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/09000016801cdd7e>

¹³ Interpol Match-fixing in Football Training Needs Assessment 2013 (Page 11) & <https://www.europol.europa.eu/content/results-largest-football-match-fixing-investigation-europe>

¹⁴ GGR = gross gambling revenue (stakes minus prizes/pay outs).

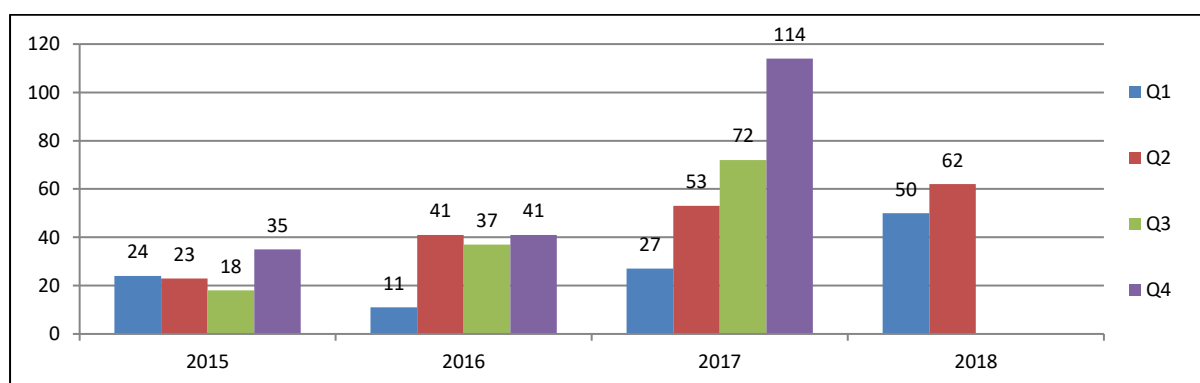
Figure 2: Global Sports Betting Market 2017 (\$bn)

| 2017 (\$bn) | Regulated Market | Unregulated Market | Total Market |
|------------------------------|------------------|--------------------|--------------|
| Turnover | 593 | 1,513 | 2,107 |
| Gross Gambling Revenue (GGR) | 67.5 | 75.7 | 143.2 |
| GGR Margin (%) | 11.4% | 5.0% | 6.8% |

Source: H2 Gambling Capital, 2018

12. It is important to note that the unregulated market represents over 70% of global sports betting turnover, but only just over 50% of GGR, underlining that sector’s capacity to conduct their business under a consumer attractive lower operating margin than regulated companies. That provides unregulated operators with a significant competitive edge over regulated operators, notably in jurisdictions with relatively high levels of taxation and other levies such as Australia.
13. The recent growth in global betting has been driven by the online channel and this is forecast to continue. The regulated betting market (including horse racing) has grown at a 5-year compound annual growth rate (CAGR) 2012-17 of 6%; however, within this, it is important to note that online growth of 11% has significantly outpaced land-based growth of 4%. Indeed, while both land-based and online GGR have grown, the share of online GGR has increased from 30% in 2012 to 37% in 2017; this is forecast to reach c.42% by 2022.
14. The unregulated market will also undoubtedly continue to grow significantly through both retail and online channels, notably the latter. ESSA agrees with the report’s synopsis, underpinned by the evidence from the Australian Criminal Intelligence Commission (ACIC), that under the current regulatory arrangements the outflow of money from Australian consumers to offshore unregulated bookmaking platforms will continue to increase for the range of reasons listed.¹⁵
15. In particular, because those unregulated platforms are easily accessible and provide highly competitive and extensive betting markets compared to the current regulatory limitations and restricted product conditions in Australia. Offshore unregulated betting operators will therefore continue to pose serious financial, regulatory and integrity challenges to the Australian market.

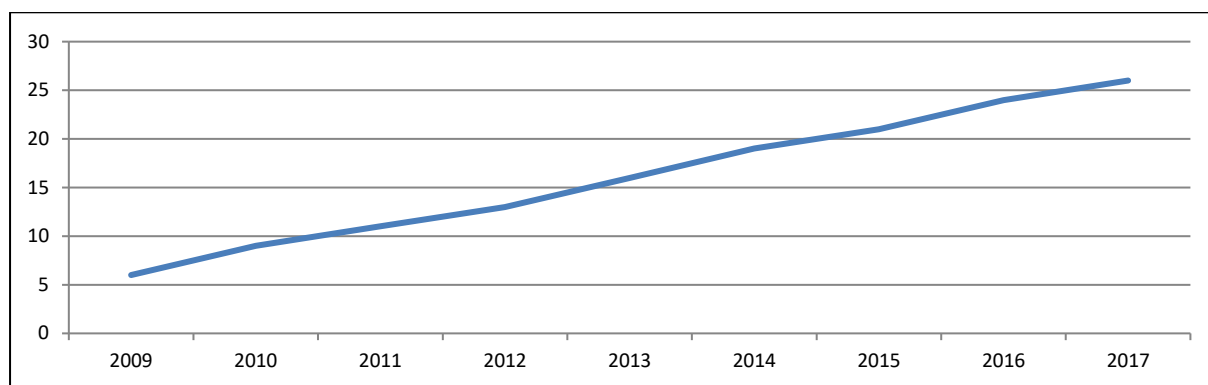
Figure 3: ESSA Suspicious Betting Alerts by Quarter 2015 - Q2 2018



16. There has been a notable growth in suspicious betting alerts identified on our alert platform and reported by the association and its members in recent years (Fig. 3). However, ESSA’s membership has grown substantially during that period and mergers and acquisitions have also significantly increased the global betting market share of our members (Fig. 4); the market and integrity coverage from one year to the next cannot therefore be deemed directly comparable.

¹⁵ <http://www.health.gov.au/internet/main/publishing.nsf/Content/the-review-of-australias-sports-integrity-arrangements> Report of the Review of Australia’s Sports Integrity Arrangements - Pages 47 & 48.

Figure 4: ESSA Membership Growth 2009-17



17. Three alerts relating to sporting events occurring in Australia were reported to the relevant authorities in 2017 (there were none in 2015 or 2016). ESSA also signed an information sharing memorandum of understanding (MoU) with the state of Victoria Police in January 2018¹⁶ - the association has similar arrangements with regulators, sports and law enforcement bodies around the world¹⁷ - as a response to potential future integrity challenges relating to Australia.

Consultation Question: Chapter 3 - Combating manipulation of sports competitions

Please provide any comments you have in relation to Chapter 3 of the Review. This may include, but should not be limited to:

- support for the key findings and recommendations
- any matters you disagree with
- any additional comments

Council of Europe Convention

18. A cohesive, well-resourced national capability to address betting related corruption in sport is an essential component of any effective integrity policy. ESSA therefore agrees with the Panel's key recommendation that Australia become a party to the Council of Europe (CoE) Convention on the Manipulation of Sports Competitions for the range of reasons highlighted in the report, and which will deliver both national and international benefits in the fight against match-fixing.

19. The association, which as the Panel's report notes was heavily involved in the development of the Council of Europe Convention and its promotion of national integrity platforms,¹⁸ supported this approach in our submission to the National Sports Plan Consultation.¹⁹ Moreover, and as the Panel also proposes, we again endorse the position that: "Regardless of whether Australia ratifies the Convention, we promote the establishment of a similar national platform with powers to intervene where suspicious betting has been identified."²⁰

20. To that end, and to ensure the success of that system, it is important that Australian regulated betting operators are involved as key stakeholders in any national betting integrity discussions. It is also suggested that any national platform consider engaging a wider international audience in its policy discussions, noting that betting related match-fixing is a cross-border global issue.

¹⁶ <http://www.eu-ssa.org/wp-content/uploads/SIU-ESSA-press-release-Jan-2018.pdf>

¹⁷ http://www.eu-ssa.org/news_and_events/

¹⁸ <http://www.health.gov.au/internet/main/publishing.nsf/Content/the-review-of-australias-sports-integrity-arrangements> - Page 69

¹⁹ <http://www.eu-ssa.org/wp-content/uploads/Aus-National-Sports-plan-con.-July-2017-FINAL.pdf>

²⁰ <http://www.eu-ssa.org/wp-content/uploads/Aus-National-Sports-plan-con.-July-2017-FINAL.pdf> Paragraph 8

ESSA would be delighted to discuss, on behalf of its licensed international sports betting operators, an information sharing arrangement with any future Australian national platform.

Criminalisation of Match-Fixing

21. As part of the national approach promoted by the Panel, it has recommended that “the Australian Government establish national match-fixing offences”²¹ and a range of possible measures be considered to support that, such as telecommunication intercept powers.²² As the party that corruptors primarily seek to defraud, regulated operators support practical and proportionate actions that identify and prosecute such criminal acts. Indeed, as the European Commission Expert Group on Match-Fixing report quite rightly identified, such sanctions play “a key role in the fight against match-fixing” both as a deterrent and punishment.²³
22. A 2012 report for the European Commission mapped the criminal law provisions covering match-fixing in EU Member States. It found that, similar to the position in Australia, the “European legal landscape is not uniform” and that provisions differ greatly regarding the act to be criminalised as well as the scope, objective and subjective elements of the offences or relevant sanctions.²⁴ It noted that whilst some countries focus on general offences of corruption or fraud, others have implemented sports specific offences, contained either in their criminal codes (Bulgaria, Spain), sports laws (Greece, Cyprus) or special criminal laws (Italy, Portugal).²⁵
23. Such national law provisions have been employed to positive effect and have resulted in successful match-fixing prosecutions, sometimes involving a range of offences. This is the case in the UK, for example, where the Gambling Act 2005 provides for an offence of cheating²⁶, but where other existing criminal offences can also be applied where appropriate. The latter was used by the UK judiciary in the Pakistani cricket fixing case, imposing sentences for conspiracy to accept and make corrupt payments that were longer than the maximum two-year sentence that could be imposed under the Gambling Act for cheating at gambling.²⁷
24. A number of countries such as Germany,²⁸ Russia,²⁹ Ukraine,³⁰ Latvia,³¹ Cyprus³² and New Zealand³³ have moved to enacted specific match-fixing offences within their criminal legislation. However, as the Panel’s report highlights, it is also important “to draw a distinction between conduct that is punishable under the Criminal Law, and that which is more properly dealt with by sporting organisations themselves.”³⁴
25. Indeed, as the British Gambling Commission points out: “Pursuing a criminal sanction will not always be possible, and often will not be the most effective or efficient approach to take.”³⁵ The European Commission Expert Group highlights that sports governing bodies can prosecute and sanction participants who breach their rules, and that such actions are generally less resource intensive than police investigations and are as such an important tool in this area.³⁶

²¹ <http://www.health.gov.au/internet/main/publishing.nsf/Content/the-review-of-australias-sports-integrity-arrangements> - Pages 79

²² <http://www.health.gov.au/internet/main/publishing.nsf/Content/the-review-of-australias-sports-integrity-arrangements> - Pages 82

²³ <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=28471&no=1> Page 18

²⁴ http://www.keanet.eu/docs/study-sports-fraud-final-version_en.pdf Page 2

²⁵ Ibid.

²⁶ http://www.legislation.gov.uk/ukpga/2005/19/pdfs/ukpga_20050019_en.pdf Section 42

²⁷ <http://www.bbc.co.uk/news/uk-15573463>

²⁸ <http://www.dw.com/en/german-parliament-passes-law-against-match-fixing/a-37881179>

²⁹ http://rapsinews.com/legislation_news/20130724/268304784.html

³⁰ <http://futbolgrad.com/ukraine-passes-anti-corruption-law-to-fight-match-fixing/>

³¹ http://news.xinhuanet.com/english/2015-10/07/c_134688098.htm

³² <http://cyprus-mail.com/2017/12/01/match-fixing-bill-voted-law/>

³³ <https://www.baldwins.com/news/new-zealand-enacts-new-law-to-deal-with-match-fixing>

³⁴ <http://www.health.gov.au/internet/main/publishing.nsf/Content/the-review-of-australias-sports-integrity-arrangements> Report of the Review of Australia's Sports Integrity Arrangements - Page 81

³⁵ <http://live-gamblecom.cloud.contensis.com/PDF/Betting-integrity-decision-making-framework.pdf> Page 4 &

<https://www.unodc.org/documents/corruption/Publications/2017/UNODC-IOC-Study.pdf> Page 14

³⁶ <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=28471&no=1> Page 19

26. From ESSA's perspective, whether an explicit legislation and offence is necessary, in addition to existing criminal offences, is an issue for each government to determine within its justice framework. What is vitally important is that suitably robust criminal sanctions are available and applied consistently and with due vigour, and that any new provisions are developed with key stakeholders in an open and transparent manner, employing an evidence-based approach.

Regulation and Taxation of Sports Betting

27. The Panel rightly highlighted that ESSA's submission to the National Sports Plan consultation praised the Australian approach to integrity stating that: "Australia developed a National Policy on Match-Fixing in Sport in 2011 and should be commended for its proactive approach in this regard; ESSA supports much of the content of that policy." However, the following line of ESSA's submission (not provided in the Panel's report) further commented that "we oppose the sports betting right and the ban on online in-play betting" currently in place in Australia.³⁷
28. These commercially burdensome policies aligned with other fiscal practices, notably gambling tax, have contributed to a framework that has significantly reduced the competitiveness of Australian regulated operators compared to their offshore counterparts, with resulting consumer migration, lost revenues and an associated detrimental impact on integrity.
29. The Government itself notes that: "Australians are losing between \$64 million and \$400 million every year betting in illegal offshore sites, and this means tax revenue is also lost."³⁸ Whilst the Government contracted Review of Illegal Offshore Wagering Report (2015) advised that "online in play wagering in Australia in 2014 was valued at \$218.1 million, almost all of which was conducted offshore. This is expected to grow significantly to over \$600 million by 2020."³⁹
30. Those issues have been further highlighted in a recent report on "Betting restrictions and online wagering in Australia", commissioned by the Federal Government's Department of Social Services and produced by the Australian Gambling Research Centre (AGFC).⁴⁰ In addition to direct taxation, that report also notes that: "One of the most significant issues identified by industry stakeholders as impacting on the profitability of operators was product fees."⁴¹
31. Furthermore that: "Australian operators are paying on average 2.5% of turnover or between 20 and 30% of Gross Gambling Revenue (GGR) to Australian racing and sporting bodies for the rights to run books on their products, unlike operators in other jurisdictions who do not pay product fees."⁴² The AGFC report rightly points out that: "Given that online gambling operators generally run with relatively narrow profit margins of around 3–4%, this is a significant impost."⁴³
32. An "operator reported that they had had to reduce their racing turnover by approximately 60% in order to remain viable and to do this they had to limit the dollar amount of the wagers they accepted"⁴⁴ as a direct result of product and integrity fees. To this, operators also have the added commercial constraints from a range of taxes, notably the goods and service (GST)⁴⁵ and state enforced point of consumption gambling tax, in addition to company tax. GST and sports product fees alone are calculated to account for 25% of operators' revenue,⁴⁶ our members calculate that at least another 10% will be added to this from new point of consumption taxes.

³⁷ <http://www.eu-ssa.org/wp-content/uploads/Aus-National-Sports-plan-con.-July-2017-FINAL.pdf> Paragraphs 5 & 6

³⁸ <https://www.dss.gov.au/communities-and-vulnerable-people/programmes-services/gambling>

³⁹ https://www.dss.gov.au/sites/default/files/documents/04_2016/review_of_illegal_offshore_wagering_18_december_2015.pdf Page 51

⁴⁰ https://www.dss.gov.au/sites/default/files/documents/11_2017/final_report_-_betting_restrictions_report.pdf

⁴¹ https://www.dss.gov.au/sites/default/files/documents/11_2017/final_report_-_betting_restrictions_report.pdf Page 41

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ <https://www.ato.gov.au/Business/GST/In-detail/Your-industry/GST-when-conducting-gambling-activities/>

⁴⁶ http://assets.yoursay.sa.gov.au/static/tax_review/Sportsbet.pdf Page 2

33. The sizeable Australian product fee and integrity agreements (PFIAs), sometimes referred to as a sports betting or organisers' right, require licensed wagering service providers (WSP) to: a) agree a fee with the relevant Australian sport before that WSP can offer betting on related sporting events; and b) allows sports to determine which events, and which contingencies associated with those events, are authorised for wagering services by licensed WSPs.
34. In essence, the sports betting right facilitated through the PFIAs allows unregulated Australian sports bodies to control the scope and availability of products offered by licensed betting operators in Australia's regulated betting market, and where integrity is employed as a key argument justifying that approach. The European Commission contracted a study to analyse the effectiveness of this model as an integrity measure in 2014.⁴⁷ The report, which assessed the approaches adopted in France and the Australian State of Victoria, is highly critical of the model as an effective integrity measure and lists numerous practical and legal obstacles.⁴⁸
35. This includes commercial concerns regarding the establishment of a legal monopoly granted to sports organisers creating a dominant position and associated restriction of services and trade issues.⁴⁹ It also emphasises that the model's administrative costs "will always be considerable. This is evident from the experiences with both the French and the Victorian enforcement mechanism" further questioning its suitability.⁵⁰
36. Unsurprisingly, very few jurisdictions have adopted this model. Those that have, notably France and certain Australian states, are widely deemed as failing markets with high fiscal costs and which attract limited numbers of operators, thereby stifling competition and resulting in a significant proportion of consumers seeking more attractive offshore gambling services.
37. The authors of the European Commission report examining the French and State of Victoria approaches advised that other countries have understandably "opted to obtain the claimed [integrity] benefits of the right to consent to bets through other regulatory means".⁵¹ We note the Panel's statement that, desirably, the income derived from product fees should be used by Australian sports to establish a sufficient internal integrity capacity, but where it concluded that "to what extent this is currently the case we were unable to ascertain."⁵² The necessary for product and integrity fees are currently being widely criticised and rejected by state legislators in America, following the repeal of the Professional and Amateur Sports Protection Act.⁵³
38. The Italian and UK models are notable alternate integrity protection approaches and where their respective regulators' centralised systems are financed via betting operator licence fees. The Italian regulator, AAMS, employs its own sports betting monitoring system with all of its licensed betting operators' servers linked to it so that every bet can be recorded, monitored and validated. Unusual betting patterns are sent to the respective sports for investigation.⁵⁴ Whilst the British Gambling Commission requires all of its licensed betting operators to notify and share information with the relevant sports and the regulator of any suspected or attempted betting fraud and any breach of a sport's rule.⁵⁵

⁴⁷ Open Call for tender EAC/18/2012, Study on sports organisers' rights in the EU Terms of reference

⁴⁸ <http://www.ivir.nl/publicaties/download/1353>

⁴⁹ Page 151 http://ec.europa.eu/sport/news/2014/docs/study-sor2014-final-report-gc-compatible_en.pdf & Page 147 http://ec.europa.eu/sport/news/2014/docs/study-sor2014-final-report-gc-compatible_en.pdf

⁵⁰ Page 152 & 154 http://ec.europa.eu/sport/news/2014/docs/study-sor2014-final-report-gc-compatible_en.pdf

⁵¹ Ibid.

⁵² <http://www.health.gov.au/internet/main/publishing.nsf/Content/the-review-of-australias-sports-integrity-arrangements> - Page 73

⁵³ <https://calvinayre.com/2018/09/18/business/west-virginia-betting-integrity-fee-push/> & <https://eu.usatoday.com/story/sports/2018/05/14/supreme-court-sports-betting-paspa-law-new-jersey/440710002/>

⁵⁴ Page 152 & 154 http://ec.europa.eu/sport/news/2014/docs/study-sor2014-final-report-gc-compatible_en.pdf

⁵⁵ British Gambling Commission licensing conditions and codes of practice section 15.1 http://www.gamblingcommission.gov.uk/gambling_sectors/betting/operating_licence_holders_-_wh/information_that_must_be_provi/reporting_suspicious_bets_to_s.aspx

39. In addition, there must also be a significant question as to whether it is appropriate to permit self-regulating sporting bodies any degree of control over regulated betting markets, especially given the on-going commercial issues and conflicts that are inherent in this matter. Senior representatives of sporting bodies and clubs around the world have been implicated and/or convicted of involvement in both betting and non-betting (or sporting) related match-fixing, notably in Italy, Turkey, South Africa and Brazil.⁵⁶ Not to mention the wider recent high-level corruption investigations regarding FIFA and the IAAF⁵⁷.
40. A report for the European Parliament's Special Committee on Organised Crime, Corruption and Money Laundering (CRIM) in 2012 determined that "strong ties have been detected between the football establishment and criminal organisations".⁵⁸ The PFI model and the ability to determine betting markets could therefore be deemed questionable from the simple perspective that it potentially gives controlling power over betting markets to those unregulated persons and organisations that might be involved in corrupting those markets.
41. The British Gambling Commission has, quite understandably, determined that it "could not delegate a decision to a sports governing body as to the activities on which licensed betting operators could lawfully take bets."⁵⁹ The Panel has rightly highlighted that the PFI mechanism in Australia "can give rise to a real or perceived conflict of interest for sporting organisations. This arises from the fact that the size of the product fees that are payable are related to the number of contingencies for which wagers are approved, and on which revenue is earned."⁶⁰
42. Stakeholders have also highlighted "that sports have an interest in approving markets for financial gain and may discount integrity risks on that basis" and of "SCBs using approval of such markets as a lever in negotiating fees."⁶¹ In light of this, ESSA supports the Panel's proposal that a "National Platform should have responsibility for determining, and reviewing from time to time, a schedule of contingencies authorised for sports wagering. This schedule should be determined in cooperation with SCBs and SWSPs."⁶² It would be far preferable that the scope and availability of betting be determined by an independent authority than sports bodies.
43. Indeed, this would bring Australia in line with the approach adopted in most other jurisdictions that license and regulate betting. ESSA believes that the assessment of risk and product availability is an issue for national legislators and regulatory authorities to ultimately determine, and where all stakeholders should be involved in evidence-based policy discussions regarding the associated betting market framework, as the Panel proposes in its report. The British Gambling Commission has long taken such an approach and employs data from one of the largest and mature betting markets in the world, determining policy on risk-based regulation.
44. In its October 2013 position paper, it highlighted that it is "familiar with methods used in other countries to promote betting integrity such as restricting the types of bets offered or approving sports governing bodies' rules before allowing betting on those sports."⁶³ The British gambling regulatory authority importantly noted that it "has the power to impose such restrictions. However, the Commission does not consider, based on the available evidence, that such intrusive or resource intensive methods are warranted or would be effective".⁶⁴

⁵⁶ <http://news.bbc.co.uk/sport1/hi/football/europe/5215242.stm>, <http://www.bbc.co.uk/news/world-europe-13914118>, <http://www.bbc.co.uk/news/world-europe-18681119>, <http://www.bbc.co.uk/sport/0/football/22042549> & <http://sports.ndtv.com/football/news/169887-brazil-football-chiefs-hit-with-match-fixing-fines>

⁵⁷ <http://www.bbc.co.uk/sport/0/athletics/34765444> & <http://www.bbc.co.uk/news/world-europe-32897066>

⁵⁸ <http://www.europarl.europa.eu/document/activities/cont/201209/20120925ATT52303/20120925ATT52303EN.pdf>

⁵⁹ Paragraph 4.7 <http://www.gamblingcommission.gov.uk/pdf/Integrity%20in%20sports%20betting%20-%20issues%20paper%20-%20consultation%20-%20May%202007.pdf>

⁶⁰ <http://www.health.gov.au/internet/main/publishing.nsf/Content/the-review-of-australias-sports-integrity-arrangements> – Page 86

⁶¹ <http://www.health.gov.au/internet/main/publishing.nsf/Content/the-review-of-australias-sports-integrity-arrangements> – Page 86

⁶² Ibid.

⁶³ <http://www.gamblingcommission.gov.uk/pdf/Protecting%20betting%20integrity.pdf> Paragraph 3.6

⁶⁴ Ibid.

45. The Gambling Commission reassessed its policy position as recently as September 2016, noting restrictions on the type of bets regulated betting operators can offer to consumers “are not warranted at this time. Taking such action may also increase the risk that bettors would be driven to seek to place bets via grey and black markets, over which we have no oversight.”⁶⁵ As the Gambling Commission notes in its policy paper, it works closely with all stakeholders, and especially its regulated operators, to analyse and manage the risks to sports betting integrity.
46. ESSA welcomes and supports the British Gambling Commission’s evidence-based policy position of allowing its licensed operators to offer all types of bets across every sporting event as a means to protecting the integrity of sporting events. In doing so, we also wish to highlight that is fundamental to the viability of regulated betting operators and their markets that they are able to offer a wide range of products; imposing restrictions invariably leads to consumers seeking banned products through other markets, including unregulated channels.
47. Indeed, most successful gambling frameworks, notably characterised by high channelling rates of consumers to licensed operators, do not impose significant betting product restrictions; regulated operators are able to offer a wide range of products and services, whilst employing risk-based security systems to monitor their markets. This includes the availability of in-play betting through all platforms, including online. The Gambling Commission has stated that: “Despite the concerns raised about the risks to integrity from in-play betting there is limited evidence to show that the risks are greater than those associated with pre-event betting.”⁶⁶
48. Where betting product restrictions are enforced, there is no evidence to suggest that the sporting events taking place in those jurisdictions are any less susceptible to corruption, often perpetrated through unregulated channels offshore. ESSA therefore supports the Panel’s recommendation that consideration be given to allowing online in-play betting through Australian licensed operators. It will provide the authorities with increased taxable revenues and a wider consumer transaction and market monitoring, permitting “a more effective identification of potential wagering-related match-fixing or other forms of sports corruption”.⁶⁷
49. However, whilst allowing online in-play betting will go a significant way to improving the current framework in operation in Australia, both from a fiscal and integrity perspective, it should not alone be seen as a panacea to the key issue of consumers migrating to more commercially attractive services offshore. The current burdensome fiscal framework as a whole undoubtedly has a significant detrimental impact on the amounts and types of bets Australian licensed operators are able to offer to consumers and the attractiveness of those services.
50. The adoption of a model that reflects the international availability and dimension of sports betting products, and is not over-burdensome from that perspective, is of paramount importance. The evidence from European markets shows that a burdensome fiscal framework, notably for online betting, is counterproductive to market maximisation. As such, whilst we strongly support the Panel’s recommendation regarding online in-play betting, we also believe that a wider examination of interrelated issues such as the impact of taxation and product and integrity fees would be beneficial when addressing the migration of consumers offshore.
51. Those issues will not be fully resolved until such time as Australian policy properly reflects global sports betting fiscal and regulatory frameworks. Until that time, offshore unregulated betting operators will continue to pose serious financial, regulatory and integrity challenges to the Australian market. ESSA nevertheless hopes that the Australian Government will take the necessary and positive step of reversing its ban on online in-play betting, which will significantly

⁶⁵ Ibid.

⁶⁶ <http://live-gamblecom.cloud.contensis.com/PDF/In-running-betting-position-paper.pdf>

⁶⁷ <http://www.health.gov.au/internet/main/publishing.nsf/Content/the-review-of-australias-sports-integrity-arrangements> - Page 14

improve the competitive position for Australia licensed operators in relation to offshore businesses, and which brings with it a range of important fiscal and integrity benefits.

52. ESSA understands that any revision of the current approach to certain issues, in particular gambling taxation and sports' product and integrity fees, will be challenging and may be resisted by some stakeholders. Nevertheless, until such significant fiscal burdens are suitably addressed it is difficult to envision a situation whereby Australian licensed operators will be able to compete with operators regulated in other jurisdictions, and where such heavy fiscal burdens are not imposed, let alone the sizeable unregulated market. That in turn will continue to limit the Australian market's coverage and hinder the impact of any national integrity policy.

Consultation Question: Chapter 6 - A National Sports Integrity Commission

Please provide any comments you have in relation to Chapter 6 of the Review. This may include, but should not be limited to:

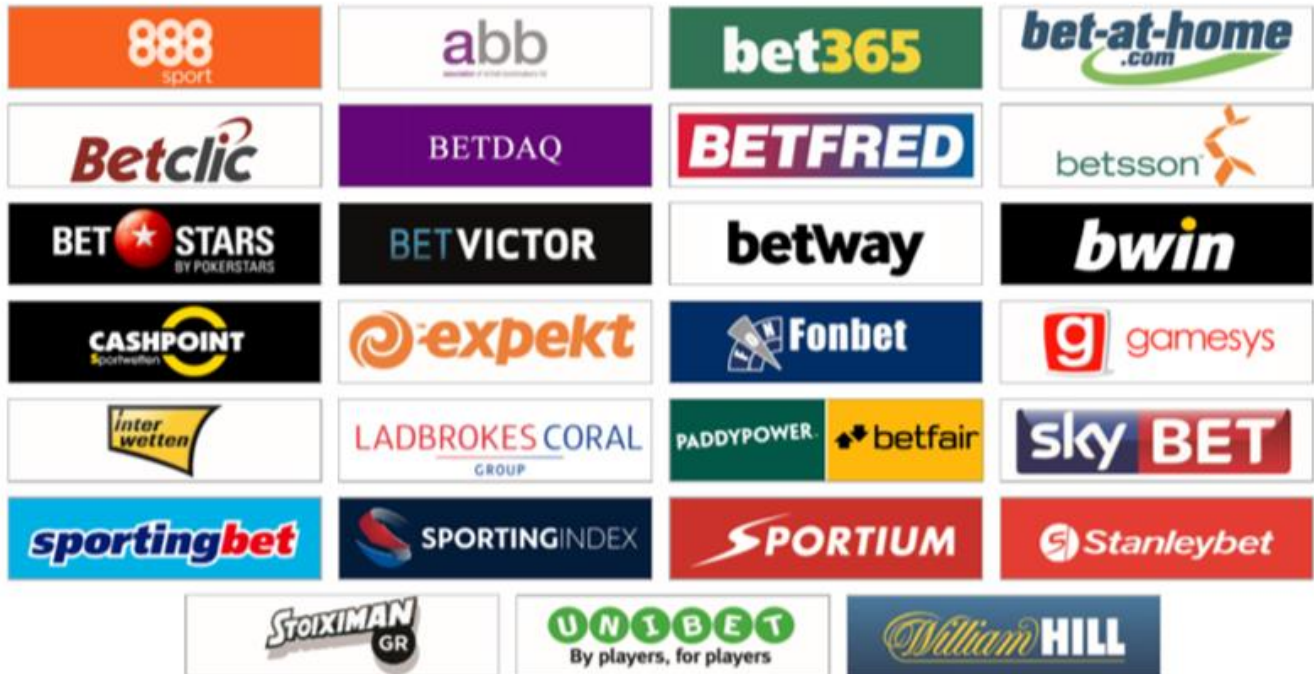
- support for the key findings and recommendations
- any matters you disagree with
- any additional comments

National Sports Integrity Commission

53. There are a range of potential benefits, as the Panel has identified, from a coordinated and centralised integrity policy and the establishment of a National Sports Integrity Commission (NSIC), acting as Australia's National Platform, as promoted in the CoE Convention. The NSIC is envisaged to include a Sport Betting Integrity Unit (SBIU) to receive, assess and disseminate information relating to suspicious betting activity and associated enforcement action. This is similar to the role and activities of the Sports Betting Intelligence Unit (SBIU) within the British Gambling Commission.⁶⁸ That body works closely with the UK licensed betting industry, law enforcement and sports bodies to identify and investigate potential threats to the integrity of betting markets and sporting events. We believe that this stakeholder engagement is a necessary and essential component of any successful national integrity approach and should form the cornerstone of the NSIC model. ESSA would be in broad support of the Panel's approach on that basis and subject to further details on the operation of the NSIC and SBIU.

⁶⁸ <https://www.gamblingcommission.gov.uk/news-action-and-statistics/Match-fixing-and-sports-integrity/Sports-Betting-Intelligence-Unit.aspx>

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