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Committee Secretary
Joint Select Committee on Gambling Reform
PO Box 6100
Parliament House
CANBERRA ACT 2600

By email: gamblingreform@aph.gov.au

Dear Sir/Madam

INQUIRY INTO INTERACTIVE AND ONLINE GAMBLING AND GAMBLING ADVERTISING

Free TV Australia represents all of Australia's commercial free-to-air television broadcasters. In 2011 commercial free-to-air television is the most popular source of entertainment and information for Australians, with our members providing nine channels of content across a broad range of genres, as well as rich online and mobile offerings, all at no cost to the public.

Free TV welcomes the opportunity to contribute to the Joint Select Committee on Gambling Reform Inquiry into interactive and online gambling and gambling advertising. In particular, this submission addresses the specific areas of gambling advertising, the display of betting odds during match broadcasts and commentators referring to odds during match broadcasts.

Current regulation of gambling advertising

Commercial free-to-air broadcasters take very seriously the need to ensure community standards are met and that the advertising and promotion of betting services is undertaken responsibly.

Under clause 6.14 of the Commercial Television Industry Code of Practice, gambling ads are not permitted to be broadcast during G classification periods¹. In practice, this means that gambling advertisements must not be broadcast between 6.00am and 8.30am on any day, between 4.00pm and 7.00pm on weekdays and between 4.00pm and 7.30pm on weekends. These restrictions do not apply to other media platforms like pay TV.

Free TV is aware of proposals for a review of the gambling advertising restrictions in the Code. However, evidence suggests these provisions are adequately meeting community standards. The Code of Practice has only just been reviewed and of the over 1400 submissions received to the review, only 5 submitters raised concerns regarding betting and gambling advertisements.

Of the 6096 Code of Practice complaints received in the five years to 2011, only 11 related to clause 6.14 of the Code, representing just 0.18% of overall complaints.

Free TV contends that any gambling advertising restrictions apply equally across all media platforms. Otherwise 'regulatory bypass' will occur whereby the affected advertising will simply move to those platforms not subject to regulation.

¹ Except for a commercial broadcast in a news, current affairs or sporting program

In addition, state-specific regulation of advertising is inappropriate. As television programming in Australia is generally determined at a national level, even small discrepancies between states can place a substantial burden on industry.

The Interactive Gambling Act 2001

Advertisements must also comply with the *Interactive Gambling Act 2001*, which makes it an offence to advertise an interactive gambling service. This applies to any material that promotes or gives publicity to an interactive gambling service, interactive gambling services in general, the whole or part of a trademark in respect of an interactive gambling service, or any words closely associated with an interactive gambling service.

Free TV would like to note for the Committee an issue regarding the application of the *Interactive Gambling Act 2001* to overseas-sourced sports programming. In particular, commercial free-to-air broadcasters are concerned about the possible ambiguity in relation to the incidental broadcast of gambling advertisements displayed in the background of live sporting events.

Section 61DB of the Act provides an exception from the prohibition on advertising an interactive gambling service advertisement if:

- a) The person broadcasts the advertisement as an accidental or incidental accompaniment to the broadcasting of other matter; and
- b) The person does not receive any direct or indirect benefit for broadcasting the advertisement (in addition to any direct or indirect benefit that the person receives for broadcasting the other matter).

Broadcasters are increasingly receiving broadcasts of overseas sporting events which feature prominent signage and other advertisements for interactive gambling services. As these broadcasts originate from countries in which the broadcast of such materials is legal, no attempt has been to minimise their display during filming.

For example, the broadcast of the final of the 2010 World Snooker Championship, won by the Australian Neil Robertson, was compiled in the United Kingdom and featured signage for betfred.com in the background of the program. Betfred operates betting shops and online betting but also has links to an online casino. We believe that this kind of signage, insofar as it constitutes an advertisement covered by the Act, is an incidental accompaniment to the broadcast of the primary program matter. It is secondary to the primary program matter and is of lesser importance, and therefore, in our view, satisfies the conditions of para 61DB(a).

Furthermore, as local broadcasters do not receive payment or other benefits for displaying these background advertisements, the caveat at the end of the provision would seem to prevent networks from being disqualified from accessing the exception as a result of any benefits stemming from the broadcast of the sporting event itself.

This type of programming is often shown live or with a short turn-around and there is no opportunity for local networks to remove or 'scrub' the material before broadcast. In relation to the World Snooker Championship final, Network Ten had the rights to broadcast a replay of the event shortly after it was broadcast live on Pay TV. However, given the uncertainty regarding ACMA's potential interpretation, it was decided not to broadcast this event, to the detriment of free-to-air viewers.

Greater clarity is required around how the regulator, ACMA would approach this kind of scenario, given the potential impact on broadcasters' ability to carry such programming. Free TV has raised these issues with the ACMA.

We request the Committee consider this issue as part of its inquiry, given the potential impact on coverage of popular sports. In particular, we recommend the Committee consider the appropriateness of public guidelines regarding the issue of incidental broadcast of interactive gambling advertisements.

Promotion of live odds during match broadcasts

Free TV notes community concern regarding the promotion of betting odds during match broadcasts. On 27 May 2011, the Federal Government announced that it will seek to limit the advertising of betting odds during sports broadcasts on all platforms.

Under the announcement, industry will have 12 months to progress a code of practice addressing live odds promotion. We look forward to working closely with the government and the community on how best to ensure community standards are met in this area.

Free TV welcomes the Government's indication that any new restrictions will apply equally across all media platforms. Viewers are accessing content, including sport, in a variety of ways, from a variety of platforms and on a variety of devices. It is important that all content services are treated equally. Otherwise affected advertising will simply move to those platforms not subject to regulation.

Free TV requests that the Joint Select Committee on Gambling Reform should note the work that is to take place between government and industry on a Code of Practice and ensure any recommendations are consistent with the Government's recent announcement.

Please do not hesitate to contact me if you would like to discuss the issue in further detail.

Yours sincerely


Julie Flynn
CEO