



Review of Provisions Relating to the Broadcast of Gambling and Betting Commercials and the Promotion of Odds in Live Sport in the Commercial Television Industry Code of Practice

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Financial Counselling Australia (FCA) is the peak body
for financial counsellors in Australia

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About Financial Counselling Australia

FCA is the peak body for financial counsellors in Australia. We support financial counsellors and provide a voice on national consumer issues. We advocate on behalf of the clients of financial counsellors for a fairer marketplace that will prevent financial problems in the first place.

What Financial Counsellors Do

Financial counsellors provide information, support and advocacy to people experiencing financial difficulty. Working in community organisations, their services are free, independent and confidential. Financial counsellors are required to hold, or to obtain, a Diploma in Financial Counselling. They need knowledge of a wide range of areas of law and policy, including consumer credit law, debt enforcement practices, the bankruptcy regime, industry hardship policies and government concession frameworks.

Financial counsellors also document their experiences and highlight issues that have a negative impact on their clients. Either individually, or through FCA, they consult with industry, government and other stakeholders and to encourage practices that prevent financial and consumer problems in the first place.

The main causes of financial difficulty are unemployment, illness and relationship breakdown. Financial counsellors also assist many people trying to make ends meet on very low incomes.

About Gambling Financial Counselling

There are 50 specialist gambling financial counselling positions in Australia, although generalist financial counsellors also see clients with gambling issues. Some clients with issues with gambling seek help to stop gambling; others initially seek help to deal with their debts and may later seek support to stop gambling.

Some people see a financial counsellor when they are unable to meet ordinary living expenses or are struggling with gambling-related debt. Family members impacted by a problem gambler's losses may also seek assistance from financial counsellors to attempt to safeguard family assets, get help in dealing with debt collectors, and to formulate a harm minimisation plan. For some clients, bankruptcy is an option. Financial counsellors work closely with therapeutic gambling counsellors. Sadly, financial counsellors regularly see suicidal clients.

Executive Summary

Factsheet: Gambling Advertising, October 2017 (communications.gov.au)

The Turnbull Government will introduce further restrictions on gambling advertising during live sports programs during children's hours on commercial and subscription broadcasters, the Special Broadcasting Service (SBS) and online platforms. Our changes will establish a clear safe-zone during which parents can have confidence that their children will not be exposed to gambling advertisements.

Why is the Government making this change?

The Government acknowledges community concern that regular exposure to gambling advertisements during live sport could normalise gambling in the eyes of children. There is community support for reducing gambling advertising as existing rules are not meeting community expectations about appropriate safeguards.

The Government will give effect to further restrictions on gambling advertisements during live sports programs shown before 8:30pm on commercial television and radio, subscription television and radio, the SBS and online platforms. Gambling advertisements will not be able to be shown from five minutes before a live event commences, during the event and for five minutes after the event has concluded. The restrictions will apply between 5:00am and 8:30pm.

Financial counsellors see the significant harm caused by gambling losses and related debts. The demographic of harm appears to be changing with increasing numbers of young people presenting with financial difficulty and gambling related debts. We welcome the government's announcement regarding the introduction of a 'clear safe zone' for families to watch sports events. This is a solid short-term measure until such time as a comprehensive approach to gambling advertising is proposed. We note that it is not just children that are harmed by gambling advertising. Young adults, particularly those with an interest in sports and gaming are particularly susceptible to online betting and monetized gaming which is increasingly resembling gambling.

Based on the proposed changes to the Commercial Television Industry Code of Practice (**Code**), we have identified a number of concerns. Primarily, we are concerned that the proposed changes are not in line with the intent of the Government. Specifically, the following considerations should be addressed:

1. Exemption provided to long form sporting events undermines the proposed new time zone

Clause 3 of Appendix 3 of the Code provides for an exemption around 'long form sports events' and offers gambling companies the opportunity to advertise once every two hours in breaks during such events. This is contrary to the intent of government for families to have a 'clear safe-zone during which parents can have confidence that their children will not be exposed to gambling advertisements'. This exemption therefore undermines the new restricted time period of 5:00 am to 8:30 pm.

Further, while the exemption only provides for one advertisement to be broadcast every two hours, the section is not clear as to whether that is intended to be one advertisement in total or one advertisement per gambling company every two hours. If the exemption were open to one advertisement per company, the considerable number of companies that will inevitably take up this opportunity will result in a significant amount of advertising occurring during the restricted time. FCA opposes this clause, as it will lead to young people being exposed to gambling advertising during sporting events. All exemptions weaken the Code's efficacy.

2. Amendment to definition of 'commercial relating to betting or gambling' is too restrictive. The definition must stay broad to anticipate new types of gambling promotions.

The proposed amendment to alter the definition of 'commercial relating to betting or gambling' must not exclude fantasy sports, sports tipping competitions and betting on the outcome of lotteries. The reasons for this are:

- a. We know that fantasy betting harm looks exactly the same as gambling harm, because it is gambling harm (from the US experience).
- b. Many of the online gambling companies own or have alliances with fantasy betting products or businesses.
- c. The businesses provide cross-referrals to each other. We see that when someone closes an account with an online gambling company, advertisements for these allied forms of gambling pop up in their inboxes.
- d. Even innocuous sounding footy tipping sites provide referrals to gambling products. In fact, prizes include credits with online gambling companies. Further, punter's clubs or

any business providing tips and getting kickbacks from the gambling industry, are part of the gambling industry.

Exclusions in definitions create loopholes and distort the efficacy of the harm prevention attempts. In the US, online sports betting was effectively made unlawful. However, at the time the fantasy gambling industry argued that it was a game of skill, not luck and therefore should be exempt. What was a small sector has now become the terrain of multi-billion dollar fantasy betting companies. Fantasy betting is gambling and these companies must be licensed in Australia. All these forms of gambling can be just as harmful as the more established gambling products and should not be exempted on the basis of being danger free “light hearted and fun” elements. Neither fantasy sports or sports tipping competitions should be excluded from the proposed amendments. In fact, there should be discretion to easily add new or emerging forms of gambling, as innovation is guaranteed, or even better a broad definition of gambling that will capture new forms. All forms of gambling should be included in this definition, or any product with referral pathways or linkages to gambling should not be allowed to advertise. We’re seeing a huge increase in affiliate marketing, who have the incentive of trailing commissions. They market themselves as tipping sites, but they are clearly promoting gambling. Not only must the Code not provide ‘carve-outs’, it needs to broadly anticipate that new businesses will spring up to fill legislative gaps. Anything that has any link with gambling referrals or marketing pathways, must not be allowed to advertise in the clear safe-zone.

3. Amendment to definition of ‘incidental accompaniment’ is too broad.

The proposed amendment to the definition of ‘incidental accompaniment’ should not include ‘the official sponsors or the competition, event, match, team’. Sponsorship statements will be perceived by minors as gambling advertising. When a weather report, or sports segment is ‘brought to you by [gambling company]’ – with a tagline, it has the effect of normalising gambling. We do not support this inclusion in the definition. The proposed restrictions on advertising should also include sponsorship statements.

4. Final Points

While FCA supports the implementation of these amendments, with due consideration given to the issues put forward, we would strongly support a phase out of all gambling advertising on commercial television. A process similar to that implemented regarding the tobacco industry,

where public health advertisements replaced those promoting smoking, would provide for a transition for industry in terms of revenue.

Further, the sanctions and penalties handed down when breaches occur are inadequate to properly address these serious issues. Removing the advertisement does not reverse the exposure, nor does it adequately discourage future recurrence. Instead, there should be a number of enforcement mechanisms available to properly deter companies from acting in this way again. There must be a responsive dialogue between television stations, the Australian Communications and Media Authority and the regulators who license the gambling companies to ensure that some responsibility is placed on companies purchasing the advertisement space. For example, if a gambling company purchase advertising space during the restrictive time zone, outside of what is permitted, then a complaint should automatically be placed with the regulator responsible for that gambling license.

FCA appreciates the opportunity to comment on the proposed amendments to the Code. If we can be of any further assistance, please contact Ellie Dwyer on 03 8554 6979 or ellie.dwyer@financialcounselingaustralia.org.au