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To bet or not to bet.com.au: the Interactive Gambling Act

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1. Introduction

In July 2001, the provision of Interactive Gambling Services¹ to Australians was prohibited. The *Interactive Gambling Act 2001* (the Act) was the end result of intense political and social debate over concerns about increased accessibility to gambling services and particularly the new opportunities, or rather threats, posed by gambling on new technologies such as the Internet, datacasting and interactive television. As the centrepiece of the Act is the offence of supplying an illegal IGS to an Australian, it is clear that the Act's purpose is to prevent Australians from accessing proscribed services by deterring the provision of the service.

Thus the Act seeks to address the multifarious issues posed by interactive gambling through an "old fashioned" ban. Many commentators, industry groups and commercial operators have criticized this approach as not being feasible, simply unenforceable and a clear example of political opportunism.² Accordingly, this paper considers whether the ban can work and whether it is the most appropriate response to concerns about interactive gambling.

2. The Legislative Framework

Historically the regulation of gambling has been the responsibility of state and territory governments,

with a considerable source of state revenue coming from the taxation of legal gaming enterprises.³ In recent years, state and territory governments have held talks to implement uniform regulation of gambling on the Internet via a licensing regime. This led in 1997 to the production of the *Draft Regulatory Model for Interactive Home Gambling*. However, the Federal Government has intervened in the control of interactive gambling, claiming that the response of the states has been too slow and inappropriate.⁴ Rather than regulating commercial gambling activities to ensure minimum privacy, security and consumer protection standards are achieved, the Federal Government has

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instead indicated that it prefers a policy of prohibition.⁵ As interactive gambling operations use either a carriage service (i.e. Internet), a content service (i.e. broadcasting) or datacasting, the Federal Government has stated that the telecommunications power⁶ justifies its intervention in, and control of, Australia's emerging interactive gambling industry.

2.1 The Moratorium

In April 2000 the Federal Government stated that it intended to investigate the consequences and feasibility of banning IGS. In May of that year the Government introduced legislation which sought to impose a 1 year moratorium on the development of new commercial interactive gambling activities while the National Office for the Information Economy⁷ conducted the study. Following intense scrutiny and debate an amended moratorium bill was passed in December 2000.⁸

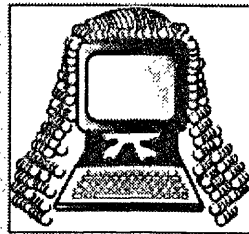
The moratorium was effective from 19 May 2000 and ceased on 18 May 2001. In March 2001, the Government released the NOIE report on the investigation into the feasibility and consequences of banning interactive gambling. The report indicated that it would be very difficult to impose technical barriers to prevent Australians from accessing illegal sites and that the Government had limited scope to censor what Australians accessed on the net. Nevertheless, the Government immediately announced that it would seek to impose a full scale ban on most IGS.⁹

2.2 The Ban

On 5 April 2001, the Government introduced into Parliament the *Interactive Gambling Bill 2001*. Initially the Government sought to prohibit Interactive Gambling Service Providers¹⁰ from supplying any IGS, whether it be a traditional bet on a

horse race or sporting event or a newer kind of gaming or wagering activity such as ball by ball betting on cricket matches or casino style games played on the Internet. However, to get the bill through the Senate, the Government relented on the list of prohibited services and excluded traditional wagering services from the ban. Consequently, it is legal to offer a traditional betting or wagering service on events before they commence over the Internet or other communications device.¹¹

In addition to the creation of the new offence of offering a prohibited IGS, other elements of the *Act* include: a complaints scheme; a prohibition on advertising prohibited IGS; and potentially Ministerial regulations which would declare some contracts unenforceable when the purpose of the transaction was to fund the use of an illegal IGS.



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The fundamental provision in the *Act* is the creation of new offences which prohibit the intentional supply of a prohibited IGS to an Australian or to a citizen of a designated country.¹² These offences have extra-territorial application¹³, but the offences are not as wide as they appear. This is because there is a defence of "reasonable diligence". An IGSP will not be guilty of the offence if they did not know and could not with reasonable diligence have ascertained that the service was being supplied to persons present in Australia or the designated country.¹⁴

Secondly, the *Act* creates a complaints scheme under which members of the public may complain about illegal IGS which they have accessed on the Internet.¹⁵ The ABA is empowered to investigate such complaints and the action taken will depend upon whether the site is hosted within or outside of Australia. If it is found that the service offered is beyond the reach of Australian law, the ABA can request that Internet Service Providers¹⁶ take action under the relevant industry code or standard to try to prevent Australians from accessing the service.¹⁷ ISPs however, will not be criminally liable merely because an illegal site can be accessed through them. It has been acknowledged that this measure will not prevent Australians from continuing to access foreign based IGS.¹⁸

The third element of the *Act* is the prohibition on the advertising of prohibited IGS to Australians on the Internet, in print, broadcasting or datacasting media.¹⁹ More controversial than the advertising ban, is the provision in the *Act* which empowers the Minister to make regulations which would have the effect of declaring that an agreement has no effect to the extent to which it requires the payment of money for the supply of an illegal IGS.²⁰ The effect of such regulations would be that third party credit providers would be unable to recover debts from consumers when those debts are caused through the use of an illegal service. The Minister is required to endeavor to make these regulations in the first 6 months following the *Act's* assent. Thus the *Act* provides a framework for

dealing with illegal IGS by focusing on and penalizing the suppliers of prohibited IGS. The addition of the regulatory power to dishonor debts was rushed through Parliament at a late stage and lacked any real scrutiny. In addition, this amendment attracted the banking lobby to the groups that oppose the ban. It is thus pertinent to assess this *Act* to see if it can achieve any of the desired aims and what its negative effects may be.

3. Arguments for banning interactive gambling

The analysis of the ban prohibiting interactive gambling requires an appreciation of the arguments given to support the ban. Many of the concerns about "live" or "real-world" gambling are identical to the reasons offered in support of the online gambling ban.²¹ Proponents of prohibition argue that interactive gambling is of particular concern because increased accessibility to continuously available gambling services exacerbates many of the problems associated with gambling generally.²²

The debate over prohibition has occurred in many nations, most notably in the USA in the late 1990s over various Federal *Internet Gambling Prohibition Acts*.²³ This debate has been replicated in Australia. The main reasons given in support of prohibition include: the provision of IGS by modern communications devices involves a "quantum leap" in accessibility to gambling²⁴; second, that the personal, social, economic, legal and familial costs associated with problem gambling are too high and will be intensified by increased opportunities to gamble²⁵; third, that interactive gambling provides an increased scope for minors to access gambling services, with young people being particularly vulnerable to certain addictive games and because they have tended to be early adopters of new technology²⁶; fourth, it has been argued that regulators lack the capacity to be able to ensure the probity, fairness and security of IGS²⁷; fifth, the historical and continuing connection between gambling and organised crime has been raised with worries being expressed that the new technology may be used as a front for

criminal acts²⁸; sixth, that new wagering services which allow for "ball by ball" betting will significantly increase the spectre of sports corruption²⁹; finally, that evidence in both Australia and the USA indicates that new forms of gambling expand the total gambling market, rather than replacing older forms of gambling.³⁰

4. Prohibition - can it work?

In assessing a ban on IGS, two questions emerge: firstly, whether the Commonwealth Government can impose a ban on IGS; and secondly, whether the Commonwealth should prohibit interactive gambling.

4.1 Problems with the ban

(a) Jurisdiction

*The question of jurisdiction is the single most significant legal issue confronting the Internet industry.*³¹

The first challenge for prohibition is whether the Federal Government has jurisdiction to impose an effective ban. This problem resides in the conflict between, on the one hand, the traditional legal concept of jurisdiction and, on the other hand, the flexible and borderless nature of the Internet.³² At law, the concept of jurisdiction depends on a state's capacity to exert control over a geographic area. In contrast, the Internet is independent of geographic boundaries. It has been described as "transcend(ing) countries borders"³³ and is simultaneously "multi-national and non-national".³⁴ Accordingly, there is much uncertainty as to whether this issue can be resolved, without a paradigm shift in the dynamic of international law. What is clear, however, is that states often lack a legitimate basis to prosecute those whose sites offend national laws.

In trying to resolve this issue two approaches have emerged. In the USA, courts have sought to extend their jurisdiction to any service provider whose service is available and commercially accessible in the territory.³⁵ This approach was exemplified in the judgment of Ramos J in *People v World Interactive Gaming* 1999.³⁶ Ramos J held that when an Internet gambling service

was used by a resident of New York state, the location of the gambling activity was New York and thus the service was subject to New York state laws. Thus, as the commercial activity took place in New York, it was held to be sufficient presence to give the court personal jurisdiction over the defendant. This judgment has attracted much criticism. Firstly, this argument taken to its logical conclusion would result in IGSP having to comply with the laws of every state and nation where the site can be interacted with.³⁷ This is not only impractical, but is impossible, particularly when international conflicts of law are considered. This approach is detrimental to the development of all aspects of the Internet and e-commerce.³⁸ Additionally, this judgment has been condemned as leading to the domination of American laws over the laws of other independent nations and an attempt to "Americanise" the rest of the world.³⁹ So far this approach has not been accepted by Australian courts. Simpson J in *Macquarie Bank v Berg*, a defamation case, explicitly rejected such an approach saying that it "would exceed the proper limits ... of the power of the court ..." and would illegitimately impose Australian laws on other nations.⁴⁰ A second important issue in the case was that the defendant was not physically connected to the jurisdiction. The problem with this approach is that it results in service providers being able to avoid Australian law through taking advantage of the flexible nature of the Internet by offering IGS, while staying outside of the jurisdictional reach of the state.⁴¹ Under this approach content which is clearly inconsistent with and contrary to Australian law remains accessible to Australians and the Government is impotent to prevent it.

The legislator recognised this fundamental problem of jurisdiction and attempted to deal with the problem by giving the *Act* extra-territorial force. However, this does not remove the second obstacle of bringing a foreign IGSP within the Federal Court's jurisdiction. Thus IGSPs who have no connection to Australia will simply be outside of the reach of the law. Accordingly,

Australians will still be able to access foreign IGS.

The issues of jurisdiction are central to all debates concerning the regulation of the Internet and, as yet, there is no satisfactory solution. Neither the Australian nor the US approach actually resolves the tension of jurisdiction and the Internet, nor do they indicate how to avoid this problem. In drafting the *Act* the Government was aware of the difficulties of jurisdiction. While Simpson J's approach and the approach to extra-territoriality contained in the *Act* is preferable to the US approach, it does render the purported prohibition feeble. Australians will still be able to access gambling services continuously as foreign based services do not fall within the ban.⁴² As the true strength of any legislation is its enforceability, the ban is at best partial and at worst ineffective because of this problem.

(b) Technical difficulties

In analysing the technical difficulties of prohibition two different issues emerge. The first issue is that the nature and structure of the Internet imposes real limits on the capacity of the Government to detect illegal gambling sites and then to be able to enforce the prohibition against offending sites. The second issue which emerges is whether governments can censor Australians' use of IGS through utilising technical barriers to access. These two issues are of significance as they have implications for the effective enforcement of a ban.

(i) Detection and enforcement difficulties

The nature of the Internet and the anonymity that it provides greatly impact upon the state's ability to detect IGS and then to enforce the law even when the service provider has connections with the jurisdiction.⁴³ While the *Act* applies to all individuals and organisations, the domicile of the IGSP is important. Consequently there is a need to determine nationality, yet how to identify the nationality of the owner of a site on the Internet is itself a problem. This is essentially because

the Internet allows individuals to mask their identities, nationalities and geographic location.⁴⁴ Domain names really cannot be used as an indicator of the land base for a site. Merely because a site mentions Australia, or ends with ".au", does not mean that the site has been developed or owned by Australians. Conversely, Australian sites or sites which are connected to Australia may not indicate this connection at all.⁴⁵ Additionally the IP address, which is the unique identifier of a site, is a numeric code which offers no information regarding the source of a site.

The consequence of this for the prohibition of IGS is that the flexible nature of the Internet results in IGSP being able to both shift the physical location of a site and to remain anonymous, thus allowing national laws to be evaded. Secondly, modern encryption devices are extremely sophisticated and allow web site owners to prevent their identity being disclosed. Accordingly, the Government is likely to experience considerable difficulties firstly in detecting illegal sites and secondly in enforcing Australian law.

(ii) Technical barriers

Internationally, some governments have recognised that the problems of jurisdiction and the Internet have limited their ability to control new communications systems.⁴⁶ Instead of seeking to control content through legislation, they have tried to implement technical measures to impose national laws through censoring access to, and the content of, information on the Net.⁴⁷ The Government had considered applying technical measures to detect illegal IGS and then to prevent Australians from accessing these services.⁴⁸

The advantage of a technical approach is that it would allow the Government to install a barrier preventing Australians from accessing illegal content from wherever the gambling service has originated. Thus the Government would not be infringing the rights of individuals outside of the jurisdiction by making them comply with Australian laws. Rather, the Government would be acting as a

monitoring, preventing or limiting the ability of Australians to access proscribed services.⁴⁹

The NOIE study focused upon the technical measures to filter access to IGS.⁵⁰ This was in line with the Government's attitude that it would be possible and desirable to impose technical barriers to prevent the delivery of IGS.⁵¹ The NOIE report confirmed that it may be possible to prevent access, but rejected such measures as undesirable. NOIE rejected the adoption of technical measures to prevent access as they determined that this would impose significant costs.⁵² It was concluded that any of the techniques would reduce the speed of the Internet and would detrimentally affect the quality and development of the Internet as both commercial and information service providers.⁵³ In addition it was stated that the cost of monitoring these activities would increase exponentially and would be prohibitive.⁵⁴ Moreover, they stated that with the rapidity of technological advancement and the incentives to break technical regulation of the Internet, any filtering technique would be continuously subject to attack and become outmoded.⁵⁵ In response, the Government decided the prohibition would not principally use technical measures to filter access to content. In view of this, there is very little scope for the Government to comprehensively and actively censor Internet content.⁵⁶

4.2 Specific deficiencies in relation to overseas IGSPs

In drafting and debating the legislation the Government was aware of the problems that would be encountered in ensuring that overseas operators comply with Australian laws. To try to tackle these problems and to strengthen the efficacy of the *Act*, the Government introduced two measures, the complaints system and the regulations to dishonour debts.

(a) Complaints system

The complaint system is broadly modelled on the complaint system for proscribed Internet content under the *Broadcasting Services Amendment*

(*Online Services Act 1999*)⁵⁷ and is one of the main methods for detecting illegal IGS. The integral elements are: that individuals can complain to the ABA about illegal content on the net; that the ABA can investigate and refer such complaints to the Federal Police; and that the ABA can request that ISPs take reasonable measures under industry developed codes of practice or ABA developed industry standards to try to stop Australians from accessing illegal sites.

The Government used this model because they felt that it has worked effectively and is a world's best practice model.⁵⁸ However, these claims about the complaints system are dubious and the application of the model to interactive gambling is problematic. Firstly, the complaints system only applies to prohibited Internet IGS and not to all forms of illegal IGS. This makes the complaint system very specific and although it appears to deal with present problems, it fails to grasp the potential for other forms of technologies to evade traditional modes of regulation. At present it may not appear that illegal IGS offered via means other than the Internet will be a problem, however that view may not be accurate in the near future. Secondly, there is the issue of whether the complaint system is effective anyway. In the most recent 6 month report on the online content regulatory scheme the ABA received just 290 complaints about prohibited content, with only 105 complaints being referred to the Federal Police about content hosted outside of Australia.⁵⁹ Additionally, the existence of the complaints system has not led to a reduction in the amount of prohibited content that is available for access by Australians. On a practical level, as some IGS are legal and others are not, it is possible that any methods which seek to block illegal IGS, will also block legal IGS when they are offered on the same site. This consequence will be problematic for the development of legal IGS.

These faults add to the view that the provisions are not really about being effective deterrents, but rather are politically opportunistic attempts to make the Government appear to be tackling a serious social problem.

Peter Chen's argument that the *Online Services Act* complaints system "exemplifies symbolic politics"⁶⁰ is equally applicable to the complaints provisions in the *Act*. As Chen has argued:

"symbolic politics is the desire of the decision-maker to appear active on an issue when he or she is not. It is the victory of style over substance".⁶¹

This criticism of style over substance is particularly apt when provisions of the *Act*, such as the complaints system and the dishonour debt regulations are considered.

(b) Dishonour debt regulations

One of the least analysed aspects of the bill when it passed was the provision that empowers the Minister to make regulations which provide that an agreement has no effect to the extent that it requires payment of money for the supply of an illegal IGS. If these regulations are ever to be made the stakeholders that will disproportionately bear this burden are credit providers such as the major credit card companies. There are a number of problems with any potential regulations which seek to use third party credit providers and intermediaries as agents of enforcement. Firstly, credit card companies may have significant difficulties in determining what is and is not an illegal IGS. It is possible that an IGSP, from the same service, will offer both legal and illegal IGS which will have the same service code, thus causing great difficulty for the credit provider to assess whether the provision of credit is acceptable.⁶² Rather than face the risk of extending credit which cannot be recovered, credit providers will cease to provide credit for all IGS regardless of their legality. The potential harm that this would cause specifically to the interactive gambling industry and e-commerce, more generally, will be high.

Second, the provisions have a very high regulatory impact and shift the responsibility for regulating Internet content to credit providers. In turn these commercial enterprises will pass

the burden of the regulation to consumers. Moreover it seems odd and highly inconsistent that on the one hand, the Government has taken extraordinary measures to ensure ISPs will not be liable for inadvertently allowing users to access illegal IGS, but on the other hand, the inadvertent provision of credit for an illegal use would be punished so harshly. It is clear that the finance and banking industries are unhappy about this potential regulation.⁶³ To add to their discontent is the way by which the provisions were passed. There was very little public discussion over these provisions and they are contrary to the NOIE recommendations. In the NOIE report on the consequences and feasibility of banning interactive gambling, it was stated that regulation of this very kind was not appropriate and would, in the long term, be ineffective.⁶⁴

Accordingly, even though the regulatory provisions could give some force to what is largely ineffective legislation, the regulatory measures available to the Government under the *Act* to render unenforceable any agreement in support of an illegal IGS, are problematic. The regulatory impact is too high, is wrongly placed on credit providers and in the long term may be harmful to the development of e-commerce.

4.3 Should the government prohibit interactive gambling

In view of the fact that the ban will be largely ineffective, the question arises whether the Government should nevertheless have prohibition as the centrepiece of its interactive gambling policy. The Government's main argument supporting the ban is that interactive gambling would exacerbate many of the problems associated with problem gambling and that a ban is the only reasonable response. This argument is seriously flawed. Prohibition has never been successful, as all it does is encourage the creation of black markets for the proscribed activity and shifts what are social, economic and psychological problems into the realm of criminality.⁶⁵ Jan McMillen and Peter Grabowsky clearly articulated the real danger of

prohibition when they argued:

"While a regime of prohibition will not suppress gambling entirely, it would certainly dissuade involvement on the part of legitimate gaming operators who would be loathe to jeopardise their land based casinos licences through involvement in prohibited activity. Prohibition might thus be expected to result in laws which are largely unenforceable, and to create a black market in online gambling services."⁶⁶

In the case of interactive gambling the ban is contrary to logic and good sense. This is because, as has already been argued, governments cannot effectively prevent their residents from accessing prohibited IGS. Prior to the Government's announcement that it planned to impose a moratorium in May 2000, very few commentators believed that prohibition was a real option.⁶⁷ Peter James, a leading Internet law practitioner, in 1999 stated that Australia was a world leader in regulating the interactive gambling industry.⁶⁸ In 1998, McMillen, a leading gambling academic, had dismissed the idea of prohibition outright, saying that it was, if not impossible, too difficult to achieve.⁶⁹ These commentators had explicitly acknowledged the dangers of interactive gambling, but instead argued that regulation was the key to harm minimisation. Accordingly, the question of whether the government should ban IGS was regarded as redundant.

Government policy based on prohibition allows the government to ignore the individual consequences which flow from interactive gambling. Instead of addressing the problems, government attention would be focused upon the detection and prosecution of offending sites, which at best would be only a handful of successful prosecutions. Additionally, it would be totally inconsistent for a Government to be on the one hand, prohibiting an act, but on the other hand, ensuring that citizens who legally use foreign sites are properly protected.

Prohibition cannot achieve the desired outcome of addressing the

multifarious problems associated with gambling. The reality is that even with a ban Australians will be able to easily access a plethora of gambling services. In view of this, the path of prohibition is irresponsible as it will ensure that the detrimental and ugly aspects of gambling are able to flourish unchecked by Australian regulators.⁷⁰

5. Conclusion

At the beginning of this paper seven major problems that are either caused by or affected by interactive gambling were listed. In an attempt to address these problems the Federal Government has banned IGSP from providing prohibited IGS to Australians. There are significant problems with this policy. First the Government cannot prevent Australians from using foreign IGS and second, in view of this incapacity, the Government should not adopt a policy of prohibition. Instead of denying the reality that Australians will continue to access IGS, a uniform national approach to regulation should be adopted, as this is the only way to even begin addressing the problems of interactive gambling.

* I would like to thank Joellen Riley for comments and encouragement with an earlier draft of this work.

¹ Subsequently, IGS

² Internet Industry Association (2001) Media Release - Gambling Laws Fail Test of Good Public Policy, 2 July 2001 accessed at <http://www.iaa.net.au/news/010606.html> on 27 July 2001; IIA (2001) Media Release - IIA Releases Gartner Report Showing that Banning Online Gambling is not Technically Feasible, 15 June 2001 accessed at:

<http://www.iaa.net.au/news/010604.html> on 27 July 2001; Stott Despoja, N. (2001) "Second Reading Speech" Hansard p. 24850; Greenblat, E. & Marriner, C. & Schell, J. "A new gambling beast floats on the Internet" Sydney Morning Herald, 5 July 2001; Coroncos, P. "Why the Internet industry opposes the interactive gambling ban", The Australian, 21 June 2001

³ In the financial year ending June 1998 gambling tax revenue as a percentage of total tax revenue averaged across the Australian states and territories was 11.7% (Source: Productivity Commission 1999)

⁴ Alston, R. (2001) *Media Release - Interactive Gambling Ban*, 27 March 2001 accessed at <http://www.dcita.gov.au/cgi-bin/trap.pl?path=5602>; Commonwealth (2000) *Explanatory Memorandum Interactive Gambling (Moratorium) Bill* at 5, accessed at:

- [http://search.aph.gov.au/search/ParlInfo.ASP?action=view&item=0&from=browse&path=Legislation/Old+Bills/Interactive+Gambling+\(Moratorium\)+Bill+2000/Explanatory+memoranda&items=2](http://search.aph.gov.au/search/ParlInfo.ASP?action=view&item=0&from=browse&path=Legislation/Old+Bills/Interactive+Gambling+(Moratorium)+Bill+2000/Explanatory+memoranda&items=2) on 20 February 2001
- 5 Commonwealth, above n4
- 6 *The Constitution* 1900, s.51(v)
- 7 subsequently, NOIE
- 8 *Interactive Gambling (Moratorium) Act* 2000; passed 6 December 2000
- 9 Alston, above n4
- 10 subsequently, IGSP
- 11 *Act*, ss. 3, 8A, 8B
- 12 *Id*, ss 15, 15A
- 13 *Id*, ss 15(5), 15A(5)
- 14 *Id*, s 15(2)
- 15 *Id*, Pt 3
- 16 subsequently, ISP
- 17 *Act*, s. 24
- 18 Alston, R. (2001) "Second Reading Speech" *Hansard* p. 25344
- 19 *Act*, Pt 7A
- 20 *Id*, s. 69A
- 21 Shwarz, J.M. (1999) "The Internet Gambling Fallacy Craps Out", *Berkeley Technology Law Journal*, vol. 14: 1021
- 22 *Id* at 1023; Ellison, C. (2000) "Senate Second Reading Speech" *Hansard* p. 16556
- 23 Senator John Kyl in 1999 introduced into Congress *Internet Gambling Prohibition Act* 1999; to accompany this legislation Representative Bob Goodlatte introduced into the House the *Internet Gambling Prohibition Act* 1999; James Leach introduced the *Internet Gambling Funding Act* on 8 August 2000; and Representative John Conyers introduced into the House the *Comprehensive Internet Gambling Prohibition Act* of 2000. To date, none of these Acts have passed. For commentary on the US debate see: above n21; Kish, S. (1999) "Betting on the Net: an analysis of the government's role in addressing Internet Gambling", *Federal Communications Law Journal* 51(2): 449; Kaitus, M. (1999) "Do not bet on a unilateral prohibition of Internet gambling to eliminate cyber casinos", *University of Illinois Law Review*: 1047
- 24 Productivity Commission (1999) *Inquiry into Gambling* at 50 accessed at <http://www.noie.gov.au>
- 25 Above n21 at 1023; NOIE (2001) *Report of the investigation into the feasibility and consequences of banning interactive gambling* accessed at <http://www.noie.gov.au>
- 26 Above n24; Commonwealth above n4 at 4; Woodley, J. (2000) "Senate Second Reading Speech" *Hansard* p. 18049; Gambaro, T. (2000) "House of Representatives Second Reading Speech" *Hansard* p. 23608; Chapman, G. (2000) "Senate Second Reading Speech" *Hansard* p. 17957
- 27 Above n21; Kish, above n23; McMillen, J. (1998) "Gambling & Australian Society: expanding markets and issues for policy makers" presented at the Conference *Gambling, Technology and Society: Regulatory Challenges for the 21st Century* (AIC: Canberra)
- 28 Clarke, B. (1998) "Techno-gambling: stepping outside the cyber-gambling square" - presented at the Conference *Gambling, Technology and Society: Regulatory Challenges for the 21st Century* (AIC: Canberra); Kish, above n23
- 29 McMillen, above n27
- 30 James, P. (1999) "Internet gaming and the Anatomy of Regulation" accessed at www.allens.com.au/knowl/pubspeak5.htm on 9 March 2001; Janower, C. (1996) "Gambling on the Internet", *Journal of Computer Mediated Communication*, vol 2 (2) accessed at <http://jcmc.huji.ac.il/vol2/issue2/janower.html> on 26 March 2001
- 31 Arasaratnam, N. (1999) "The emerging Internet jurisdictional nightmare" accessed at www.allens.com.au/knowl/pubspeak14.html on 26 March 2001
- 32 *Ibid*; Jew, B. (1999) "Cyber-jurisdiction - emerging issues and conflicts of law when overseas courts challenge your web" accessed at www.gtlaw.com.au/pubs/cyberjurisdictionemergingissues.html on 29 March 2001; Hanley, S. (1998) "International Internet Regulation: a multinational approach", *Journal of Computer and Information Law*, vol. xvi: 997 at 999; Garnett, R. (2000) "Regulating Foreign Based Internet Content: a jurisdictional perspective", *University of New South Wales Law Journal*, vol. 23(1): 227
- 33 Above n31
- 34 Jew, above n32
- 35 Cameron, B. (2000) "Jurisdiction and the Internet", *Computers & Law* 42, p. 13 at 16-17
- 36 1999 WL 591995, July 22, New York Supreme Court
- 37 Above n31
- 38 *Ibid*
- 39 *Ibid*
- 40 [1999] NSWSC 526, 2 June 1999, NSW Supreme Court
- 41 Above n31
- 42 Gliddon, J. (2000) "Gambling on Tap", *Bulletin* August 22: 72 at 73; Lundy, K. (2001) *Media Release - Alston's Each-Way Bet on Wagering* on 28 March 2001, accessed at www.alp.org.au/media/0301/klmsgame280101.html on 29 March 2001
- 43 Jew, above n32
- 44 *Ibid*
- 45 *Ibid*
- 46 China has adopted this approach. The Chinese barriers are so strict that they essentially create China's own Internet, which has little contact with the world wide web. See, Delacourt, J.T. (1997) "The International Impact of Internet Regulation", *Harvard International Law Journal*, 38(1): 207 at 215-218.
- 47 NOIE, above n25
- 48 *Id* at 16-20; 37-52
- 49 *Id* at 37-52
- 50 *Ibid*
- 51 Chapman, above n26
- 52 NOIE, above n25 at 37-52
- 53 *Ibid*
- 54 *Ibid*
- 55 *Ibid*
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