



Australian Government
Department of Health



Australian Sports Wagering Scheme

Approach Paper

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Background and Context

Background

All sports in Australia – from the smallest niche events to the largest codes – are being challenged by a range of mounting integrity threats. These include the increasing sophistication and incidence of doping, the globalisation of sports wagering particularly through rapidly growing illegal online gambling markets, the infiltration and exploitation of the sports sector by organised crime, corruption in sports administration and participant protection issues.

Sports integrity matters are now beyond the control of any single stakeholder. They are complex, globalised and connected, forming a complicated threat matrix exposing vulnerabilities that require a robust and nationally coordinated response across sports, governments, regulators, the wagering industry, law enforcement and other stakeholders.

In particular, sports wagering is an increasingly diverse, fragmented and digitally disrupted area of regulatory challenge. Designing an effective, efficient and trusted regulatory ecosystem for sports wagering – building on and making sense of the various stakeholders, reviews and conventions that have contributed to this issue in recent years – is a key challenge for Australian sport.

National Policy on Match-Fixing in Sport

These challenges were considered through the 2011 National Policy on Match-Fixing in Sport (the National Policy), which represented a commitment by the Commonwealth, State and Territory governments to work together to address the issue of inappropriate and/or fraudulent sports betting and match-fixing activities with the aim of protecting the integrity of sport. However, the National Policy has not been implemented by all jurisdictions, leading to a divergence in regulatory approach to sports wagering between the Commonwealth, State and Territories.

Victoria and New South Wales, for instance, enable Wagering Service Providers (WSPs) to enter into Product Fee and Integrity Agreements (PFIAs) with Sports Controlling Bodies (SCBs), thereby facilitating a collaborative process to determine which markets can be offered for those sports. Most corporate WSPs are licensed in the Northern Territory¹ but generally have an online presence in other States and Territories; and historically single-jurisdiction TABs are increasing their national presence.

As sporting events, WSPs, SCBs and indeed the location of the individual placing the sports wager cut across all jurisdictions, this has led to jurisdictional, regulatory and contractual conflicts, divergence and inconsistency in the development of sports wagering markets.

In addition, the increasing accessibility and popularity of global online wagering platforms (including the use of virtual private network and blockchain technologies); the ease of access to and attractiveness of offshore WSPs; and evolving links between sports wagering and serious and organised crime has greatly increased the challenges involved in designing an effective, efficient and trusted regulatory ecosystem for sports wagering.

¹ The Northern Territory has partially implemented the National Policy through WSP licensing conditions.

The Wood Review

In this context, then Minister for Sport, the Hon. Greg Hunt, announced a review of Australia's sports integrity arrangements led by the Hon. James Wood AO QC (the Wood Review) on 5 August 2017. The Wood Review formed part of the development of Australia's National Sport Plan – Sport 2030 and was publicly released on 1 August 2018.

The Wood Review's focus was to develop an understanding of the nature and level of the threats to sports integrity in Australia, to identify and assess current sports integrity capability and any current weaknesses, and to propose a nationally coordinated response.

The Wood Review presented 52 recommendations for consideration. The Commonwealth Government's response to the Wood Review identified agreement with 22 of the recommendations; agreement in-principle with 12 and 15 agreed in-principle for further consideration. Two recommendations were agreed in part and one recommendation was noted.

The Australian Sports Wagering Scheme

Following the Commonwealth Government's response to the Wood Review, the Department of Health (the Department) was charged with developing a regulatory response to safeguard the integrity of Australian sport; streamline the sports integrity aspects of sports wagering regulation at a national level; and provide a smart, light touch regulatory framework sufficient to meet the serious, growing threats to sports integrity.

In alignment with the recommendations of the Wood Review, this regulatory response is known as the "Australian Sports Wagering Scheme" (ASWS).

Objectives of the ASWS

The Department in conjunction with State and Territory wagering regulators and other key stakeholders, will develop a regulatory framework, the ASWS, to regulate "sports integrity aspects" of sports wagering to achieve better sports integrity outcomes within Australia.

The objectives of the ASWS are to:

- Streamline "sports integrity aspects" of sports wagering regulation to provide clarity, transparency and consistency at a national level and ensure that sports wagering occurs in a framework that protects the integrity of sport;
- Strengthen the link between Commonwealth Government funding and sport integrity outcomes;
- Encourage the development of sporting organisations, and facilitate sporting organisations' access to revenue streams from wagering on their sport;
- Develop a robust integrity framework for national sporting organisations, event controlling bodies and wagering service providers;
- Establish a Suspicious Activity Alert Scheme to enable real-time receipt and dissemination of alerts and integrity risks; and,
- Make available a national "data pool" of all sports wagering data.

Approach Paper

This approach paper is intended to outline the Department’s approach to designing the ASWS. This paper canvasses the key principles, processes and issues that will be considered in the design of the ASWS, and is intended to inform all relevant stakeholders of the regulatory design approach.

Other Matters

As mandated by Government, out of scope for the consideration in the initial design of the ASWS is:

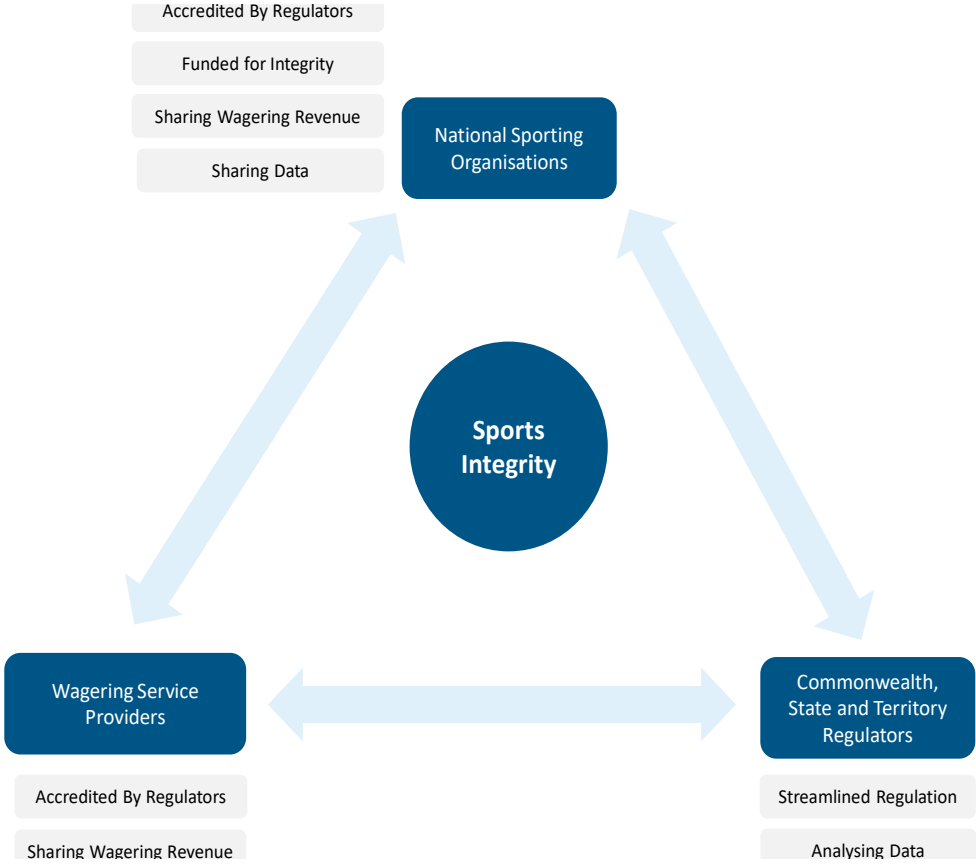
- Online in-play
- Cash betting
- Events not defined as “sports” for the purposes of the Wood Review including horse racing

The Taskforce will continue to work with Government to assess these items and the impact and future design of the ASWS.

Principles

In meeting the objectives of the ASWS, the regulatory design process will be focused on how the key relationships in sports wagering between regulators, sporting bodies, WSPs and bettors can be supported to safeguard the integrity of Australian sport; and reduce the varied administrative burden that occurs through over-regulation, and the involvement of serious and organised crime and unregulated WSPs:

Figure 1.1: Focus of ASWS Design



The design of the ASWS will align with the following principles:

1. Risk-Based Regulation

The design of the ASWS will be undertaken through a **risk-based approach** in dealing with the regulatory harms and issues the ASWS is intended to address. This will involve consulting widely with affected stakeholders to understand the potential risks, burdens and costs that different regulatory approaches may impose on the sector; targeting the highest priority risks to sports integrity; and pursuing regulatory design options that are commensurate with the harms and issues the ASWS is intended to address.

2. Proportionality and Consistency of Regulatory Action

The design of the ASWS will also consider how regulation (and associated regulatory actions such as compliance and enforcement) can be undertaken in a **proportionate and consistent manner**. This will involve designing regulatory actions that can be tailored to the severity of the risk, harm or non-compliance that may occur; ensuring these actions are conducted in a fair, proportionate and consistent manner; and ensuring impacted stakeholders are provided with advice, support and assistance in navigating the ASWS.

For example, the technical non-compliance of an NSO with an element of their accreditation under the ASWS may be remedied through the provision of technical assistance – not through a punitive enforcement action. In contrast, instances of serious non-compliance involving organised crime in sports betting may be investigated under a criminal standard and referred for prosecution.

3. Responsiveness to Changing risk and harms

The design of the ASWS will also be **responsive to the changing nature of risks and harms in sports betting**. This will involve designing a regulatory approach that can be flexible in reducing the regulatory burden for mature organisations; providing technical assistance for less mature organisations and adjusting regulatory settings to meet emerging risks and issues.

For example, the accreditation requirements for WSPs under the ASWS may be designed to be principles-based and primarily based on the recognition of existing State and Territory approvals. However, where an emerging risk to sports integrity is not covered by existing State and Territory requirements, the accreditation requirements for WSPs under the ASWS may be amended to cover this risk.

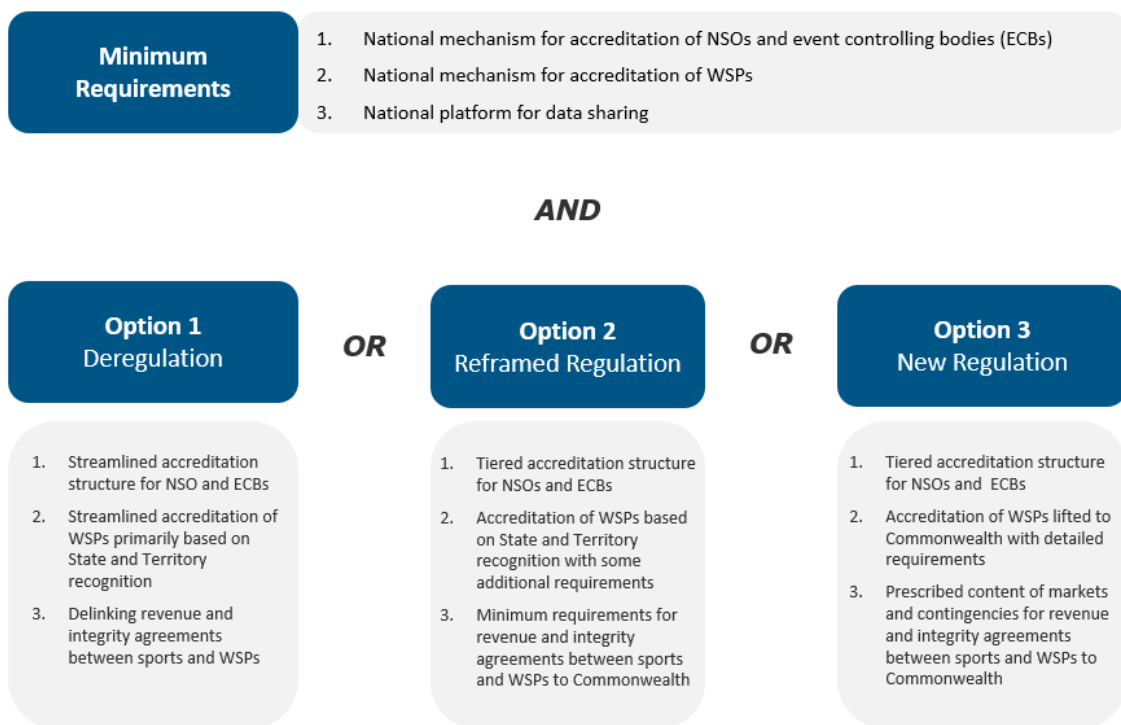
Regulatory Approaches

In aligning with these regulatory principles, the Australian Government has identified three potential approaches for the design of the ASWS. These approaches are underpinned by several minimum requirements that must be met in order to achieve the objectives of the ASWS, but otherwise outline several viable approaches to the regulatory design of the ASWS.

These approaches involve consideration of areas where a harmonised national approach led by the Commonwealth could reduce jurisdictional divergence and complexities; using opportunities to remove redundancy and pain points in the administration of the law; and using technology (particularly for data sharing) to enable the effective administration of the scheme.

These three regulatory approaches should be viewed as **indicative**, and will be presented in more depth and detail through the development of an early assessment regulatory impact statement (RIS) (refer to ASWS Design Process below). **The final design of the ASWS may or may not reflect one or more of these approaches.**

Figure 1.2: Regulatory Approaches



Option 1 | Deregulation

In keeping with the Australian Government’s approach to regulatory design, regulation is not being considered as the default policy option in meeting the objectives of the ASWS. A deregulatory approach to the ASWS would aim to resolve some of the jurisdictional complexities of accreditation for sporting organisations by creating a single, streamlined accreditation structure for the accreditation of bodies; and recognising WSPs at a Commonwealth level primarily through mutual recognition of existing State and Territory approvals.

This model may remove the requirement for WSPs to enter into revenue and integrity agreements with accredited sporting bodies and allow for sports betting markets to develop organically. Under this model, WSPs would likely see substantial benefits through the loosening of restrictions in which markets and contingencies can be offered; the removal of the requirement to share wagering revenue with accredited sporting bodies; and reduced administrative overhead in managing multiple revenue and integrity agreements across sports and jurisdictions.

However, NSOs would face substantial disruption through the removal of revenue and integrity agreements, as they would lose a revenue stream that supports their integrity operations. In particular, the larger sporting codes that have built mature integrity functions primarily funded through revenue and integrity agreements would face a significant degree of disruption to their integrity operating model.

Option 2 | Reframed Regulation

The reframed regulation design option would involve rebalancing the relationship between Commonwealth, State and Territory regulators. This would involve increasing the Commonwealth’s role in accrediting WSPs

for entry into the sports wagering ecosystem – though still relying on State and Territory approval of WSPs as a baseline – and uplifting minimum requirements for revenue and funding agreements between accredited sporting bodies and WSPs to the Commonwealth level.

This design option would also shift SCB and ECB accreditation to a mandatory requirement to enter the ASWS. In recognition of the additional burden this would create (especially for the significant number of smaller NSOs that do not currently have SCB status and/or do not wish to develop betting markets for their sports), SCB accreditation would be split into three tiers:

Table 1.1: Tiers of SCB Accreditation

Tier	Description
1	<p>Tier 1 would be for NSOs and ECBs that do not wish to develop betting markets for their sports. This Tier would have the lowest level of integrity requirements but would apply to all NSOs that do not seek Tier 2 or Tier 3 status. These requirements would largely mirror the existing governance requirements imposed by the Australian Sports Commission, and be supported by the provision of technical assistance to smaller NSOs in meeting these requirements.</p>
2	<p>Tier 2 would be for NSOs and ECBs that wish to develop a limited betting market for their sport, but do not have the capacity, capability or desire to enter into commercial agreements with WSPs at the time of their accreditation.</p> <p>Within this tier, the Commonwealth regulator would be responsible for approving the wagering market and setting contingencies. Any accredited WSP would be able to offer a market for sporting competitions and events within this tier (within the limitations enforced by the Commonwealth). There would be a limited, Commonwealth-defined access to wagering revenue generated by the sport or event that is provided to the NSO or ECB.</p> <p>This tier would be the most substantial departure from the current SCB accreditation model and would primarily cater to ECBs with one-off or limited events and competitions and NSOs that are considering developing a commercial betting market but do not currently have adequate integrity and/or commercial infrastructure in place.</p>
3	<p>Tier 3 would be for NSOs and ECBs that wish to enter into commercial agreements with WSPs in order to create a commercial betting market for their sports.</p> <p>This Tier would largely reflect the current SCB-WSP environment, where the number and extent of commercial remains a function of negotiation between SCBs and WSPs with minimal government regulation and oversight of their terms.</p>

The recognition of NSOs and ECBs within a tiered framework would provide clarity, transparency and consistency at a national level for all NSOs and ECBs entering the ASWS; strengthen the link between government funding and sports integrity outcomes (particularly for Tier 1 NSOs); provide a space for smaller NSOs to develop limited betting markets within Commonwealth-defined limits; and preserve extant commercial arrangements between SCBs and WSPs.

However, because ECBs are not currently accredited, there a risk to the willingness of these organisations to enter into the ASWS through SCB accreditation. In the absence of mandated entry into the system, and without a primary reliance on government funding, these organisations may determine that the risks and burdens of entry into the ASWS would outweigh the benefits.

Option 3 | New Regulation

The new regulation design option would centralise the regulation of sports wagering at the Commonwealth level. This would involve uplifting the regulation of NSOs, ECBs and SCBs to the Commonwealth and introduce a role for the Commonwealth in regulating sports wagering markets and contingencies.

In particular, this approach would centralise the disallowance of contingencies with the Commonwealth, in order to drive enhanced consistency. Because this model largely preserves the existing arrangements, WSPS would continue to see substantial risks, burdens and costs in administering sports betting markets between sporting codes, jurisdictions and commercial agreements.

ASWS Design Process

The design of the ASWS is expected to be completed by October 2020, with the regulatory framework of the ASWS (and associated operational measure) expected to be live in July 2021.

The design of the ASWS will involve timely, substantive and in-depth consultation with interested parties. This consultation will involve both structured engagement with expert advisory groups and opportunities for all interested parties to be involved in the design of the ASWS.

Consultation with expert advisory groups will be structured through the following bodies:

- The **Australian Sports Wagering Scheme Advisory Group** is constituted by representatives from Commonwealth, State and Territory regulators, sporting organisations, TABs and corporate WSPs. This Group will provide ongoing advice on the overall design of the ASWS.
- The **Sports Wagering Senior Officials Working Group** is constituted by representatives from Commonwealth, State and Territory regulators. This group will provide ongoing advice on the potential regulatory and funding models from the perspective of all levels of government.

In addition to regular engagement with these groups, all interested parties (including members of the public) will be provided regular opportunities to comment on the proposed ASWS through the release of a discussion paper and Regulatory Impact Statements.

The regulatory design process will be informed by the Commonwealth’s approach to regulatory design articulated in the Australian Government Guide to Regulation² and involves a structured approach to identifying issues, developing Regulatory Impact Statements (RIS) and implementing the ASWS as a regulatory scheme.

Table 1.2: ASWS Process

Indicative Timeframes and Milestones	Description
March 2020 – April 2020 Release of the ASWS Discussion Paper	A discussion paper will be developed outlining the key areas of the ASWS (such as the design of accreditation framework, the sharing of data and the ASWS funding model) will be released to drive stakeholder consultation.
May 2020 – July 2020 Release of first draft of RIS	The first draft of the RIS will be developed to articulate the proposed design and implementation of the ASWS, and provide an opportunity for stakeholders to comment on the ASWS.
August 2020 – September 2020 Release of second draft of RIS	The second draft of the RIS will be developed to articulate the proposed ASWS for government approval.
October 2020 ASWS Policy Authority	Following government approval processes, the ASWS will have policy authority established by October 2020.
November 2020 – June 2021 ASWS Operational Measures	The structures supporting the implementation of the ASWS (such as any required legislative and regulatory changes, stand-up of a new regulator and/or design of operational documents) will be developed.

² Available at <https://www.pmc.gov.au/resource-centre/regulation/australian-government-guide-regulation>

Indicative Timeframes and Milestones	Description
July 2021 ASWS Live	The ASWS (and any associated regulatory and funding changes) will operate from 1 July 2021.

Development and release of ASWS Discussion Paper

To assist in meeting the objectives of the ASWS and in alignment with the principles articulated above, an ASWS Discussion Paper will be developed and published. The Discussion Paper will identify the potential design options for the ASWS (including, if applicable, non-regulatory options); an assessment of the benefits obtained through these regulatory models against the burden and costs they may impose; and the evidence base for these assessments.

The Discussion Paper will be released through the Department’s Consultation Hub (available at <https://consultations.health.gov.au/>). The Consultations Hub will identify the channels by which interested parties can make comments and submissions on the Discussion Paper.

The ASWS Discussion Paper will address 5 key topics, summarised in the following table.

Table 1.3: ASWS Key Topics

Key Topic	Description
1. Accreditation of Bodies	This section will canvass models for accrediting entities involved in the sports wagering ecosystem (particularly for sporting organisations and WSPs). This will involve consideration of the regulatory costs, burdens and unintended consequences inherent in the accreditation of organisations – including the potential weakening of legitimate markets through overly burdensome requirements that may drive bettors to less regulated options.
2. Recognition of Markets and Contingencies	This section will canvass options for recognising wagering markets (and the contingencies available in these markets) between sporting organisations and WSPs. This will involve consideration of the current model for recognising markets under PFIA between accredited Sports Controlling Bodies and WSPs as well as alternate recognition models (such as centralised approval of contingencies or withdrawing regulations on market formation).
3. Data Sharing	This section will canvass potential data sharing arrangements between sporting bodies, WSPs and regulators to support the rapid identification and response to confirmed sport wagering integrity threats. This will involve consideration of the current data sharing arrangements through the Sports Betting Integrity Unit (SBIU), and the ways in which this model could be evolved to potentially support real-time monitoring.
4. Intervention and Enforcement	This section will canvass market intervention models (including possible suspension of betting markets) and risk-based, proportionate enforcement mechanisms to support compliance with the ASWS.

Key Topic	Description
5. Revenue and Funding Model	This section will canvass potential models for funding the ASWS and supporting Australia's national sport integrity response into the future (including taxation, fees and/or charges-based models).

Development and release of a Regulatory Impact Statement

Following the receipt of comments and submissions on the ASWS Discussion Paper, a RIS will be developed, consulted on and submitted to the government for approval. The RIS will identify the preferred design option for the ASWS; an assessment of the benefits obtained through this model against the burden and costs it may impose; and the evidence base for the RIS.

ASWS Policy Authority

Following government approval, the policy authority of the ASWS will be established by October 2020. This will involve the drafting and approval (subject to parliamentary processes) of the underpinning regulation of the ASWS.

ASWS Operational Measures

With policy authority established, the operational implementation of the ASWS will commence in November 2020 prior to the ASWS becoming live in July 2021. This will likely involve the establishment of a new regulatory agency (to be called Sports Integrity Australia) Sport Integrity Australia will be responsible for the administration of the ASWS, and the administrative arrangements to enable the stand-up of this agency and the ASWS.

ASWS Live

The ASWS (including any regulatory requirements and obligations) will be live on 1 July 2021. This may involve the staggered implementation of regulatory changes under the ASWS prior to the 1 July 2021 live date and could also involve grandfathering arrangements and transitional provisions for NSOs, SCBs, WSPs and other organisations already involved in sports integrity and sports wagering markets.