



Australian Government
Department of Health



Australian Sports Wagering Scheme

Discussion Paper

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Glossary of Terms

TERM	DESCRIPTION
ACMA	Australian Communications and Media Authority
ASADA	Australian Sports Anti-Doping Authority
ASWS	Australian Sports Wagering Scheme
Event controller	Event Controlling Body
IGA	Interactive Gambling Act
Macolin Convention	Council of Europe Convention of the Manipulation of Sports Competition
NISU	National Integrity of Sport Unit
Product agreements	Product Fee and Integrity Agreements
SBOM	Sport Betting Operational Model
Sports controller	Sports Controlling Body
Wagering provider	Wagering Service Provider

1 Introduction

1.1 Background

All sports in Australia – from the smallest niche events to the largest codes – are being challenged by a range of 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 requiring a robust and nationally coordinated response across sports, governments, regulators, the wagering industry, law enforcement and other stakeholders.

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 fully implemented by all jurisdictions, leading to a divergence in regulatory approach to sports wagering between the Commonwealth, State and Territories. This results in jurisdictional, regulatory and contractual conflicts, divergence and inconsistency in the development of sports wagering markets.

Increasing accessibility and popularity of global online wagering platforms (including the use of virtual private network and blockchain technologies) and the ease of access to, and attractiveness of, offshore wagering services providers has greatly increased the challenges involved in designing an effective, efficient and trusted regulatory ecosystem for sports wagering.

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 reiterated its commitment to comprehensively protect the integrity of Australian sport for the benefit of the entire Australian community and sought strong partnership with key sports integrity stakeholders to develop a sustainable framework and funding model.

The Government agreed with 22 of the recommendations; agreed in-principle with 12 and agreed in-principle for further consideration with a further 15. Two recommendations were agreed in part and one recommendation was noted. One of the recommendations agreed to in-principle was to subject the regulation of sports wagering to an Australian Sports Wagering Scheme (ASWS). This shall have the effect of streamlining current processes and providing clarity, transparency and consistency of the regulatory regime at a national level.

We elaborate on the ASWS model in the next section. The ASWS will be the key focus in the rest of this Discussion Paper.

1.2 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, in the form of an ASWS.

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 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 controllers and wagering providers.

In addition to these objectives, the ASWS also has ambitions (linked to recommendations in the Wood Review) related to the development of a Suspicious Activity Alert Scheme and a national 'data pool' of sports wagering data.

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 different regulatory approaches may impose on the sector; targeting the highest priority risks to sports integrity; and pursuing regulatory design options commensurate with the harms and issues the ASWS is intended to address¹.

2. Proportionality and consistency of regulation

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 tailored to the severity of the risk, harm or non-compliance; 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 a National Sporting Organisation 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 to appropriate authorities.

¹ While the ASWS does not focus on problem gambling *per se*, the design of the ASWS will take steps to avoid conflicts with harm minimisation measures designed to address problem gambling as much as possible. As a Commonwealth program, where the ASWS can be used to strengthen responses to problem gambling, while continuing to meet its sports integrity protection goals, these will be considered.

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 flexible regulatory approach able to reduce the regulatory burden for mature organisations; provide technical assistance for less mature organisations and adjust regulatory settings to meet emerging risks and issues.

For example, the accreditation requirements for Wagering Service Providers (hereafter referred to as wagering providers) 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 betting related risk to sports integrity is not covered by existing State and Territory requirements, the accreditation requirements for wagering providers under the ASWS may be amended to cover this risk.

Related to this principle is the issue of flexibility in regulation. A lack of flexibility can cause issues if there are gaps or uncertainties with respect to application of the regulatory framework to new and emerging sports wagering. For example, there is a lack of clarity as to the extent to which e-sports could, or should, be captured by current sports wagering regulation.

In thinking about the ASWS reform, the Department of Health has engaged Frontier Economics to develop and assess ASWS options in consultation with stakeholders and developing a Regulatory Impact Statement (RIS) for the eventual ASWS.

1.3 Areas outside scope

This discussion paper is focussed on the ASWS. There are number of areas having clear interdependencies with the ASWS; however these are outside scope with respect to the options developed for the ASWS. These comprise:

- Online in-play wagering
- Criminalisation of match-fixing
- Offshore wagering
- Racing.

While outside scope, these topics certainly have relevance to the ASWS RIS and any impacts on these areas will be considered as part of the options assessment in the RIS. It is noted some areas, such as anti-doping, would form part of the broader integrity framework.

1.4 Overview of the RIS process

The purpose of a RIS is to undertake a rigorous process to reach an evidence-based policy solution to an issue with a clear rationale for government intervention and problem with the current situation.

Guidance for undertaking a RIS is provided by the Office of Best Practice and Regulation with the Australian Government Guide to Regulation² being a key point of reference. One instructive section of this guidance distils the requirements for a RIS down to seven key questions:

1. What is the policy problem you are trying to solve?
2. Why is government action needed?
3. What regulatory options are you considering?

² The Department of the Prime Minister and Cabinet (2014), The Australian Government Guide to Regulation

4. What is the likely net benefit of each option?
5. Who will you consult and how will you consult them?
6. What is the best option from those you have considered?
7. How will you implement and evaluate your chosen option?

This discussion paper provides a draft of addressing questions 1-3 with a high-level consideration of question 4. Further detail on the next steps and timeframes for the RIS are provided in section 6.

1.5 About this discussion paper

This Discussion Paper aims to provide a starting point for a collaborative process to developing the options for the ASWS to be assessed in the Regulatory Impact Statement. This Discussion Paper includes a series of questions we are seeking feedback on. The Discussion Paper will be available for public consultation through the Department of Health Citizen's Space platform: <https://consultations.health.gov.au/>.

The remaining sections of this discussion paper set out the following:

- Section 2 sets out the base case, which is the current state of sports wagering services
- Section 3 discusses the problems associated with regulating sports wagering services
- Section 4 outlines options for the ASWS
- Section 5 outlines the benefits being sought by the ASWS
- Section 6 identifies next steps
- Appendix A provides a more detailed discussion of current state and territory regulation of sports wagering.

2 Base Case

This section discusses a suitable base case for sports wagering regulation in Australia i.e. the scenario in the absence of the ASWS.

While the base case may not necessarily refer to the *status quo* set of arrangements in general, it is suitable in this instance to use the status quo as a comparator in thinking about regulatory options and the associated pros and cons in the lead up to developing the RIS.

We provide an overview of the base case in Section 2.1, discuss the five key topics surrounding the base case in Sections 2.2 – 2.6 as well as a list of other noteworthy topics in Section 2.7.

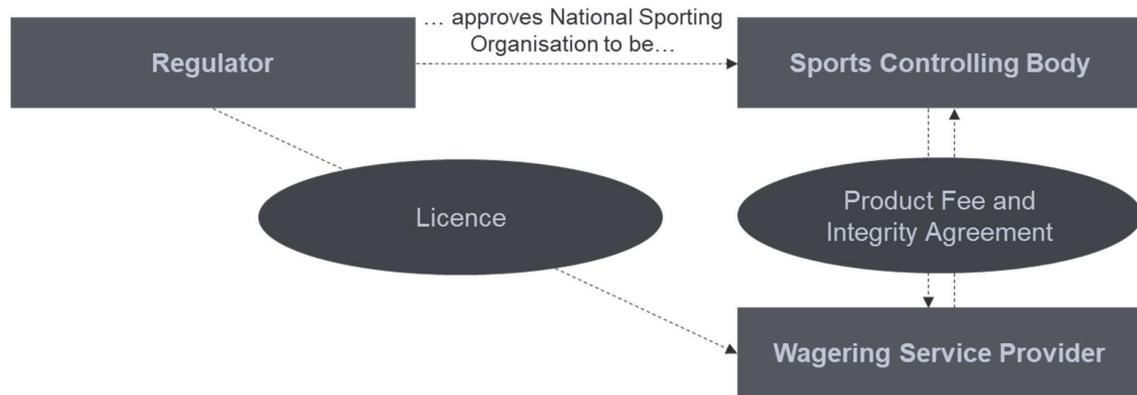
2.1 Overview of sports wagering regulation in Australia

Sports wagering, as a subset of gambling, is heavily regulated in Australia. At the Commonwealth level for sports wagering services, there are two key elements, the *Interactive Gambling Act 2001* (IGA) and the Sports Betting Operational Model (SBOM). It should be noted sports wagering services are exempted from the former unless their services are offered through online platforms or by telephone. With regard to the latter, this was a policy recommendation (this sub-section looks at the SBOM as a framework while section 2.1.1 looks at uptake in practice).

More information on the SBOM and IGA are set out in Box 1 and Box 2 respectively. For the purposes of understanding the base case, it suffices to say the IGA has the effect of prohibiting online in-play betting on sport, but otherwise does not concern itself with the regulation of sport wagering services, which are regulated through relevant jurisdictions.

The SBOM describes a governance arrangement as depicted in Figure 1 but leaves the implementation to the states and territories who have their respective regulatory regimes with respect to gambling and wagering. As such, the extent to which sports wagering services are regulated ultimately varies across states and territories. We discuss the implementation of the SBOM in the next section.

Figure1: SBOM governance model



Box 1: Sports Betting Operational Model

Following the endorsement of the National Policy on match-fixing in 2011, the SBOM is a system of cooperative partnerships between sporting organisations and wagering providers.

A key aspect of the SBOM is the tripartite governance arrangement distributing responsibility for maintaining the integrity of sports wagering across:

- National Sporting Organisations that, on demonstrating their ability and resourcing to monitor, report and manage integrity threats, are granted sports controlling body (hereafter referred to as sports controller) status and become responsible for authorising betting contingencies on their sports and are eligible to enter into product fee and integrity agreements (hereafter referred to as product agreements) with wagering providers. This product agreement enables the sports controller to charge a product fee based on wagering on their sport.
- wagering providers that, seeking to offer wagering markets on sports, are obligated to establish and maintain partnerships with sports controllers, reporting and sharing information/data and paying of a product fee, if required, to sports controllers.
- the relevant regulator, which retains regulatory powers over wagering providers for wagering licences, and is empowered to assess the effectiveness of National Sporting Organisations integrity frameworks and essentially deem them ineligible to charge a product fee if integrity obligations have not been met. Co-recognition of sports controller status among regulators across Australia is also intended.

Recognising the manner in which states and territories may implement the National Policy may differ, additional provisions anticipated (but not required) by the National Policy include:

- those relating to information sharing between the sports controller and wagering providers (particularly in aid of identifying participants who may be placing bets in contravention of a sport's code of conduct, or breach of contract with the sport).
- international information sharing for multinational sporting events.
- provisions allowing for relevant regulators to have the right of approval in relation to sport betting (on contingencies and events more generally) and to impose conditions and seek information from sports controllers and wagering providers.

Section 2.1.1 outlines the implementation of the SBOM in practice.

Source: Report of the Review of Australia's Sports Integrity Arrangements (2018)

Box 2: Interactive Gambling Act

The IGA establishes a general offence of offering an interactive gambling service to a consumer physically located in Australia and identifies particular services as excluded from that general prohibition, including wagering on a sporting event operator is licensed in an Australian state or territory. The IGA does not permit online wagering on a sporting event after the event has begun (online in-play betting).

The IGA operates concurrently with state and territory law relevant to the availability or offering of online wagering services and is not intended to exclude state and territory legislation capable of concurrent operation. The IGA does not limit or restrict in any way the capacity of state and territory governments to renew existing interactive gambling licences or approvals with respect to wagering, or to issue further licences or approvals as appropriate.

The Australian Communications and Media Authority (ACMA) is empowered to act as a regulator, enforcing the provisions of the IGA. More recently, ACMA has taken steps such as website blocking to disrupt offshore wagering operators providing wagering services to Australian citizens contravening the IGA.

In addition to the Commonwealth overlay of the IGA, the Commonwealth has legislation relevant to wagering providers as regular commercial entities, such as Goods and Services Tax requirements, reporting obligations for currency and transactions, income and business taxes and general responsibilities as employers.

Source: Report of the Review of Australia's Sports Integrity Arrangements (2018)

State and territory regulation of sports wagering

While all states and territories have regulatory regimes with respect to gambling and wagering, the extent to which each jurisdiction has enacted legislation dealing directly, or in any detail, with sports wagering varies. Victoria and New South Wales have the most developed and stringent regulations when compared to South Australia and the Northern Territory, while more limited progress was recorded for ACT, Queensland, Tasmania and Western Australia. We note, in practice, most sport events would at least partially occur in Victoria or New South Wales. Sports controllers licensed by these jurisdictions are likely to be well-recognised by most wagering providers including those licensed outside Victoria and New South Wales.

Considerable regulatory complexity in the domestic sports wagering market stems from the varying ways jurisdictional regulatory schemes are formulated and the advent of online wagering. Each jurisdiction can regulate, in various ways, the following activities:

- sports wagering services provided by wagering providers licensed in that jurisdiction
- online sports wagering services available within that jurisdiction provided by wagering providers licensed in other jurisdictions
- sports wagering services provided by any wagering providers where a sports controller has been approved and an event under the control of that sports controller takes place partially or wholly within that jurisdiction.

The key characteristics of SBOM implementation to the extent that they apply in Victoria, New South Wales, Northern Territory and South Australia are summarised in Table 1. More details can be found in Appendix A.

Table 1: Summary of SBOM implementation

KEY INFORMATION	VIC	NSW	NT	SA
Legislation to implement SBOM	Yes	Yes	No, depends on licensing regime for online betting	No, depends on licensing regime
Relevant document	Gambling Regulation Act 2003 (VIC)	Betting and Racing Act 1998 (NSW); Betting and Racing Regulation 2012 (NSW)	N.A.	N.A.
Relevant regulator	Victorian Commission for Liquor and Gambling Regulation	Liquor and Gaming New South Wales	Northern Territory Racing Commission	Consumer and Business Services
Requirements on National Sporting Organisations to be sports controller	Yes, including data sharing	Yes, including data sharing and measures to prevent, investigate and prosecute	No	No
Requirements on licensed wagering providers	Only allowed to offer sports events declared by VIC regulator For sports events wholly or partially held in VIC and declared by VIC regulator: required to enter into product agreements with sports controllers	Required to seek approval from NSW regulator to offer any contingencies Required to enter into product agreements with sports controllers	Via online gambling licence	Via licence for SA based wagering providers. Through recognition of interstate license for an Interstate Betting Operator
Requirements on inter-state wagering providers	For sports events wholly or partially held in VIC and declared by VIC regulator: required to enter into product agreements with sports controllers	For sports events in NSW: required to enter into product agreements with sports controllers	No	Require authorisation by SA regulator Only allowed to offer sports events determined by SA regulator
Required provisions in product agreements	Data sharing; fee disclosure	Data sharing; measures to prevent, investigate and prosecute; funding of sports controllers	N.A.	N.A.
Extra-territorial application of regulations	Yes	Yes	No	Yes

*Note: ACT, Western Australia and Tasmania have been excluded since they have not implemented the SBOM
Source: Report of the Review of Australia's Sports Integrity Arrangements (2018)*

2.2 Accreditation of bodies

In this section, we discuss the roles in regulating sports wagering services and the key issues in the base case:

- Regulators
- Sports controllers
- Wagering providers

Regulators

Regulators for sports wagering services are typically the same government bodies appointed to the role of regulating gambling services in general. Our understanding is formal legislation has only been enacted in Victoria and New South Wales as part of implementing the SBOM, appointing the Victorian Commission for Liquor and Gambling Regulation and Liquor and Gaming New South Wales respectively to the role of regulating sports wagering services. Without implementing the SBOM, South Australia's Consumer and Business Services Division (Attorney-General's Department) licenses wagering providers, while the Northern Territory Racing Commission regulates online wagering providers. Similar government bodies are also appointed to oversee gambling services in general in ACT (Gambling and Racing Commission), Queensland (Queensland Office of Liquor and Gambling Regulation), Tasmania (Tasmanian Liquor and Gaming Commission) and Western Australia (Western Australian Department of Racing, Gaming and Liquor).

Sport controllers

Sport controllers are National Sporting Organisations recognised by the implemented SBOM to suitably influence and enforce integrity matters with respect to specified sporting events.³ The extent to which jurisdictions consider National Sporting Organisations' suitability differs between Victoria and New South Wales but generally following similar themes:

- Sports controllers are also required to be well-resourced to administer and enforce integrity of events under their control through mandatory monitoring, investigation, acting and reporting on suspected corrupt behaviour.
- Product agreements to set out requirements for information sharing with respect to monitoring and enforcement (New South Wales requires product agreements to set out measures to prevent, investigate and assist with prosecution of corrupt behaviour),
- Product agreements to set out disclosure of funding arrangement and fees chargeable by the sports controllers.

The concept of sports controllers are less relevant in the local contexts of Northern Territory, South Australia and other jurisdictions. Wagering providers licensed in these jurisdictions would, however, need to enter into product agreements with sports controllers due to the extra-territorial reach of the Victoria and New South Wales legislations with respect to events held wholly or partially in Victoria or New South Wales where a sports controller for the event has been declared/approved by the Victoria and New South Wales regulators.

With respect to broader sports integrity (i.e. elements not specifically related to wagering), Sport Australia have a key role through their requirements for approved National Sporting Organisations. These requirements relate to member protection policies and anti-doping policies.

³ This can lead to situations such as in basketball where Basketball Australia is the sport controller by virtue of being the governing and controlling body and integrity management authority for the sport, but they do not operate the National Basketball League. This issue will be considered as part of this RIS.

Wagering providers

Wagering providers are entities offering wagering services to bettors. There are various types of wagering providers, namely sports bookmakers (e.g. Sportsbet), betting exchanges (e.g. Betfair) and totalisator operators (e.g. the TAB):

- Sports bookmakers offer bets to bettors at odds set by the bookmakers themselves. They generate revenue when customers lose bets and make losses when customers win bets.
- Betting exchanges are an online platform enabling customers to bet against each other on events at known prices set by bettors. Bettors can either back (i.e. bet that the contingency will win) or lay (i.e. bet that the contingency will lose) an outcome on an event. Betting exchanges generate revenue via commission charged on a customer's net winnings on a betting market.
- Totalisator operators do not offer fixed odds bets. Instead, they operate a system where winning bettors share the pool of bets collected from all bettors and they continuously update the final dividend for winning bets prior to the event. They generate revenue by taking a set percentage of the amount of pooled bets before making distributions to winning bettors. Totalisator betting markets are not offered on sporting contingencies in Australia.

In the base case, wagering providers are required to be licensed in at least one jurisdiction. Having done so, a wagering provider would be able to offer wagering services for inter-state events subject to restrictions imposed by the local regulator. We note that the regulatory obligations and burden on licensees varies across states. Victoria and New South Wales regulators (respectively) require wagering providers to enter into product agreements in order to offer wagering services in specifically defined markets (to be discussed in the next section). South Australia wagering providers licensing requirements consider, inter alia, the extent of the relationship between the licensee applicant and sports controllers, including any integrity arrangements. The Northern Territory currently has no requirement for wagering providers to enter into product agreements, although licensing conditions replicate elements of the SBOM.

2.3 Recognition of markets and contingencies

For the purposes of this study, markets refer to the range of sports wagering services offered by wagering providers on Australian and international sport events. Markets are made up of contingencies taking many forms including win/place options, spread bets or points starts, table and season outcomes and multiple types of 'spot bets', etc.

In thinking about markets, wagering providers would consider both the groups of bettors they are able to access and the sets of contingencies for which they can offer wagering services. Bettors would approach markets by first thinking about the contingencies to wager on. However, bettors do not dictate markets since their choices for wagering are a constrained outcome of wagering providers' ability to access them and offer contingencies. As such, we discuss markets and contingencies in the base case from the perspective of wagering providers.

Wagering providers licensed in a given jurisdiction are able to offer betting contingencies in the same jurisdiction and offer contingencies taking place wholly or partially in that jurisdiction, subjected to local regulations. These are summarised in Table 2.

Table 2: Summary of recognition of markets and contingencies by state/territory

STATE/TERRITORY	RECOGNITION OF MARKETS AND CONTINGENCIES
NSW	Wagering providers required to enter product agreements with sports controllers, where a sports controller exists, and only offering contingencies approved or declared by the regulator
VIC	Wagering providers required to enter product agreements with sports controllers, where a sports controller exists, and only offering contingencies approved or declared by the regulator
NT	List of declared sports. Wagering providers can offer any contingencies on these sports subject to the game or fixture not being restricted to persons under the age of 18 years
SA	List of approved betting contingencies by sport
ACT	List of declared sporting events and classes of events e.g. basketball is an event and the Australian National Basketball League is a class of event
QLD	Unclear. We would appreciate feedback on the approach in QLD to inform the RIS.
TAS	List of declared sports. wagering providers can offer any contingencies on these sports
WA	Unclear. We would appreciate feedback on the approach in QLD to inform the RIS.

Source: *Respective state and territory regulators*

When it comes to accessing bettors or offering contingencies for sports events taking place wholly or partially in another jurisdiction, wagering providers face different levels of restrictions to access markets. For illustration, let us consider wagering providers licensed in New South Wales and South Australia attempting to access bettors and offer contingencies taking place in each other’s jurisdiction. To access bettors in South Australia, the New South Wales wagering providers would require authorisation by the South Australian government on certain conditions⁴. In terms of contingencies, the New South Wales wagering providers could only offer contingencies approved by the South Australia regulator. The South Australia wagering providers on the other hand is able to access New South Wales bettors freely without extra NSW state specific restrictions. However, it will be required to enter into product agreements with sports controllers in order to offer contingencies taking place wholly or partially in New South Wales. The difference in restriction to market access means that wagering providers are able to logically decide which jurisdiction they prefer to be licensed in by taking into account commercial considerations including the degree of market access it would enjoy in terms of bettors and contingencies. We understand that most current wagering providers are licensed with the Northern Territory.

⁴ Conditions include (i) providing information on its activity in South Australia in annual reports; (ii) compliance with legal requirements of the licensing jurisdiction; (iii) compliance with South Australian advertising and responsible gambling codes of practice, including those designed to prevent betting by minors. Source: Report of the Review of Australia’s Sports Integrity Arrangements (2018).

2.4 Information sharing

The objective of information sharing in sports wagering services regulation is to support monitoring, detection and execution of investigation and enforcement actions with respect to integrity matters.

The implemented SBOM in Victoria and New South Wales are such that product agreements are minimally required to provide for the sharing of information between sports controllers and wagering providers for the purposes of protecting and supporting the integrity of sports and sports wagering. However, the SBOM does not go into the detail of the following operational requirements, which may be important to giving effect to a successful framework and to some extent require harmonisation with respect to:

- Timeliness and granularity of data sharing.
- Permissibility of data sharing with respect to data privacy laws.
- The extent of assessment to be carried out by wagering providers prior to data sharing, *i.e.* to what extent are wagering providers required to invest in detection and monitoring resources as opposed to providing data to sports controllers who will carry out the assessment.
- The role third party data provider companies (e.g. Sportradar, Genius Sports) can play with respect to monitoring and detection and hence data sharing both within and beyond product agreements.

At present the key authority with respect to data sharing is the Sports Betting Integrity Unit at the Australian Criminal Intelligence Commission. They have functions with respect to data collection, use and sharing.

From a wagering providers and sports controller perspective, data providers currently play an important role both with respect to providing the statistics required to create betting markets and in offering services to identifying suspicious betting patterns.

2.5 Intervention and enforcement

Arguably, the licensing regimes in place in Victoria, New South Wales, South Australia and Northern Territory suggest that respective regulators or sports controllers are likely to intervene and take enforcement actions for sports integrity matters (e.g. match-fixing involving wagering providers). However, the extent and manner in which these regulators are able to effectively do so depends on the powers conferred by the respective legislations or regulations. From our understanding, the party responsible for intervention in practice varies between being the regulator, sports controller or the law enforcement, depending on the case.

The SBOM implemented in Victoria and New South Wales enhances intervention and enforcement capabilities with respect to integrity matters through minimum requirements for product agreements to provide for sharing of information between sports controllers and wagering providers, which improves detection and operational feasibility and timeliness of enforcement actions (discussed in the previous section). Further, New South Wales also requires product agreements to specify measures to be used to prevent, investigate and assist in the prosecution of any match-fixing or other corrupt behaviour related to betting on the sporting event, further enhancing the ability for intervention. The sports controller accreditation process creates an incentive for sports to equip themselves with the right resources, procedures and powers to carry out intervention and enforcement actions or minimally monitor and detect corrupt behaviour, in order to meet the criteria of monitoring and influencing integrity matters. However, the levels of incentive introduced in Victoria and New South Wales are likely to differ and could be better calibrated or harmonised to enhance the effectiveness of intervention.

It is important to recognise the limitations of the existing SBOM model too. It only applies to approved sports controllers and only events they control. As such, the SBOM does not have complete coverage of sports betting integrity risks.

2.6 Revenue and funding

Revenue and funding are important aspects of regulatory design. However, they are often structured as required after a preferred regulatory design is chosen and are not likely to dictate or influence the selection of a preferred regulatory option.

We briefly discuss the base case revenue and funding in this section bearing in mind they may be revised partially or in full depending on the final regulatory design for the ASWS to meet key principles.

Sports

From a sports wagering perspective, the key revenue stream is through product agreements to sports controllers. Sports controllers are able to enter into more product agreements with more wagering providers, and by doing so may receive more revenue, which is consistent with the understanding more costs are incurred by them to detect and enforce integrity matters in more events against more wagering providers.

Product agreements are not necessarily the only source of funding to sports from sport wagering. Some sports may also obtain revenue from the sale of advertising and/or broadcasting rights to wagering providers.

It is noted sports may also receive Government funding. At present 65 are funded by the Australian Government for various purposes largely focussed around elite sport and increasing participation in sport.⁵ At present none of this funding is allocated solely with respect to integrity.

Wagering service providers

Wagering service providers are on the opposite side of the equation with respect to revenue. Clearly, it is the wagering providers that makes payments to a sports controller with respect to a product agreement. In addition to this, a key expense on wagering providers is the recently introduced point of consumption tax on sports wagering. All states and territories except the Northern Territory have introduced a point of consumption tax on wagering on sports and racing. These are summarised in Table 3.

It is noted that, in addition to point of consumption taxes, Australian wagering providers pay the following:

- Annual licence fees and wagering taxes to regulators. For example, a betting exchange operator licensed by the Northern Territory Racing Commission is required to pay an annual licence fee of \$242,000, as well as wagering tax at 10% of the operator's gross profit, capped to \$605,000 per annum. It is noted that, on 1 July 2020, the capped amount will change to \$1,240,000
- Product fees to all major racing bodies in Australia
- Goods and Services Tax (GST).

⁵ Based on Australian Sports Directory. Available at: https://www.sportaus.gov.au/australian_sports_directory?sq_content_src=%2BdXJsPWh0dHAIM0EIMkYIMkZtYXRyaXhzc2lmcmVwb3J0LmF1c3BvcnQuZ292LmF1JTJGbn3JnYW5pc2F0aW9ucyUzRnBhZ2UIM0QxJT12c29ydE9yZGVyJTNEbmFtZV9hc2MmYWxsPTE%3D [accessed 24 April 2020]

Table 3: Point of consumption tax by state and territory

STATE/TERRITORY	DATE INTRODUCED	POINT OF CONSUMPTION TAX RATE
NSW	1 Jan 2019	10% of revenue
VIC	1 Jan 2019	8% of revenue
NT	N/A	N/A
SA	1 Jul 2017	15% of revenue
ACT	1 Jan 2019	15% of revenue
QLD	1 Oct 2018	15% of revenue
TAS	1 Jan 2020	15% of revenue
WA	1 Jan 2019	15% of revenue

Source: NISU research

2.7 Other issues

Beyond the five key issues discussed in the previous sections, we discuss the following areas surrounding the base case, which, while outside the direct scope of the ASWS, do have varying degrees of relevance:

- Criminalisation of match-fixing
- Offshore wagering

Two other issues worthy of brief mention are racing and consumer protection. Racing is outside the scope of the ASWS though it is noted they experience similar integrity risks with respect to wagering. With respect to consumer protection, this is largely managed by states and territories while a National Consumer Protection Framework for Online Wagering is being implemented by the Federal Department of Social Services. Betting turnover going offshore also further undermines important initiatives such as the National Consumer Protection Framework for Online Wagering.

2.7.1 Criminalisation

A key commitment under the National Policy⁶ in 2011 was for all states and territories, separately, to enact legislation creating specific offences in their respective jurisdictions to criminalise match-fixing behaviours. Except for Western Australia and Tasmania, states and territories have responded to implement the commitment to legislate, with specific new laws being similar in effect.

Base case criminalisation of corrupt conduct relating to sports wagering is summarised in Table 4.

Apart from corrupting sports events, the new laws (except for Victoria) also criminalises the disclosure and use of inside information for betting purposes. Inside information⁷ refers to information that is not generally available in the public domain, but if it were generally available, would be likely to influence a person who would bet on the event in their betting decisions. Unlike corrupt conduct, the possession and use of inside information does not alter or influence the result of the sports event. The penalties for criminal conduct relating to inside information

⁶Sport and Recreation Ministers' Council, 'National Policy on Match-Fixing in Sport' (as agreed on 10 June 2011).

⁷ See NSW Crimes ACT for insider information definition <https://www.legislation.nsw.gov.au/~pdf/view/act/1900/40/whole>

are shorter than that of corrupt information and in some instances regarded as summary offences and thus subjected to the application of a six-month limitation period. Base case criminalisation of the disclosure and use of inside information in sports wagering is summarised in Table 5.

More recently in 2019, the Australian Government has proposed to establish a set of Commonwealth match-fixing offences as a commitment to continue working with state and territories to foster greater consistency and complementarity between Commonwealth subnational frameworks. Behaviours subject to the offences include:

- Corrupting a sporting event
- Facilitating the corruption of a sporting event
- Concealing conduct or arrangements that are corrupt or are intended to corrupt a sporting event
- Using corrupt conduct information or inside information.

Measures have also been proposed for subnational governments to identify responsible regulatory authorities and place obligations on wagering providers to prevent conflict of interest and misuse of inside information as well as to report irregularities.

These proposed offences and measures are targeted to be presented to the Parliament in 2020.

Table 4: Base case criminalisation of corrupt conduct in sport

	VIC	NSW	NT	SA	ACT	QLD
Specific match-fixing or corrupt conduct	Yes	Yes	Yes	Yes	Yes	Yes, specific to match-fixing
Facilitating match-fixing or corrupt conduct	Yes	Yes	Yes	Yes	No	Yes
Encouraging to conceal conduct	Yes	Yes	Yes	Yes	No	Yes, but slightly different
Betting with corrupt information	Yes	Yes	Yes	Yes	Yes	Yes
Maximum penalty	10 years					

Source: Report of the Review of Australia's Sports Integrity Arrangements (2018)

Table 5: Base case criminalisation for disclosing or using inside information in sports wagering

	VIC	NSW	NT	SA	ACT	QLD
Inside information offence	No	Yes	Yes	Yes	Yes	Yes
Maximum penalty	N.A.	2 years				
Limitation period	N.A.	6-month	6-month	6-month	None	None

Source: Report of the Review of Australia's Sports Integrity Arrangements (2018)

2.7.2 Offshore wagering

There has been huge growth in sports wagering beyond Australia, particularly in Asia, which allows wagering on Australian sports and hence raises the risks of match-fixing to Australia. Unregulated offshore wagering represents a particular concern in relation to the manipulation of sports competitions.

Firstly, the lack of transparency in many unregulated offshore markets means those seeking to profit from the manipulation of Australian sports competitions can potentially avoid detection by wagering through those offshore platforms. This is exacerbated by offshore wagering providers creating or tolerating anonymous betting customers and funding channels. Second, when Australians engage in wagering on unregulated offshore online platforms, sports controllers, law-enforcement agencies and regulators lose visibility of this wagering activity, making it harder to effectively monitor wagering markets for possible match-fixing or other unlawful activity and, therefore, the ability to review and determine whether matches or betting contingencies have been tainted by manipulation is reduced. Third, offshore wagering service providers are unlikely to co-operate with Australian sports controllers on investigations into potentially corrupt matches or betting contingencies. Fourth, it results in a loss of product fees payable to sports controllers, which could have been directed to integrity issues in Australia, and also tax leakage for government.

In addition, while Australian wagering providers are heavily regulated and are legally required to offer comprehensive responsible gambling tools to customers, it is unclear whether offshore wagering operators face the same requirements. For example, some Australian wagering providers offer a range of responsible gambling tools to bettors, such as deposit and loss limit options, time-out functionality, self-exclusion functionality, account closure options, self-assessment tools and a detailed responsible gambling webpage. In addition, they also run daily reports, seeking to identify 'red flag' behaviours by customers (e.g. a sudden increase in deposit sizes by a customer).

Unless a system for ongoing monitoring of the conduct of players and others associated with each particular sport and of wagering markets is in place including a capacity to gather, collate and assess data and intelligence, the manipulation of sports competitions can be difficult to detect. As noted above, in recent times, ACMA has taken steps (such as website blocking) to disrupt offshore wagering operators providing wagering services to Australian residents in contravention of the IGA. However, it is unclear whether these initiatives are sufficient to address problems posed by offshore wagering providers, particularly as the IGA does not regulate the provision of these services to non-Australian based customers.

There are several strong attractions for Australian consumers to bet with offshore wagering operators, including:

- the availability of better odds, given offshore wagering operators do not pay Australian levies, including licence fees and taxes, or product fees to sports controllers.
- the ability to bet online in-play on sport, which is cannot be offered by Australian wagering providers⁸.
- the ability to bet with complete anonymity. Many offshore wagering operators (e.g. Cloudbet) don't complete 'know your customer checks' and allow Australian consumers to deposit via bitcoin and other cryptocurrencies.
- the ability to access 'credit arrangements' (which have been banned in Australia for a number of years).

Australia has taken steps towards a stronger effort to combat manipulation of sport competitions via unregulated or illegal offshore wagering channels affecting sports integrity in Australia, most recently as a signatory to the Macolin Convention in 2019.

This has the effect of fostering stronger international collaboration to develop better capability to combat integrity risks.

The Macolin Convention

In February 2019, the Australian government signed the Macolin Convention, the only multi-lateral treaty aiming to prevent, detect, punish and discipline the manipulation of sports competitions, as well as enhance the exchange of information and national and international cooperation between the public authorities concerned and with sports organisations and sports betting operators⁹.

Australia is an active participant in the Macolin Convention and already engages formally with other national platforms.¹⁰ By engaging formally with the Macolin Community, Australia is empowered to create a fully effective national platform to enhance detection of, and nationally coordinate responses to, sports competition manipulation and obtain formal ongoing access to international counterparts.

Questions on Discussion Paper

Is the base case presented in this section accurate? Are there any gaps, if so please provide details.

Are there any forthcoming changes to the base case (i.e. policy changes which are in the process of being implemented)?

⁸ It should be remember in-play wagering is offered through telephone or on premises facilities; the ban is on on-line provision of these services.

⁹ See <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/215>

¹⁰ The network of platforms is also referred to as the Group of Copenhagen and comprises: Australia, Belgium, Bulgaria, Cyprus, Denmark, Finland, France, Greece, Italy, Norway, Poland, The Netherlands, Portugal, Sweden, Switzerland, Spain and United Kingdom.

3 Problem

3.1 Problem identification

As noted in Section 1, before recommending regulation or changes to existing regulations, we must identify a clear policy problem we think regulation can solve. In doing so, we must also identify why government is best placed to solve this problem. This usually requires an analysis of market failure.

Market failure arises where the normal commercial interactions of suppliers and consumers would not result in the kinds of outcomes we expect from functioning competitive markets. The main outcome we expect is efficiency, which broadly describes how well society is putting its resources to use.

There are a number of possible sources of market failure. Identifying them is not straightforward, because there is already regulation of sports wagering in place. The problems we currently observe are also a function of regulations that might not be achieving their objectives. In section 3.2, we describe what we think are the key sources of market failure in sports wagering in the absence of any government regulations relating to sports integrity. In section 3.3, we then go on to describe the problems existing with the current regulatory framework and why that framework does not solve the problems as effectively as it could.

We further note that, for the moment, we are assuming:

1. There is a consumer protection framework to address problems of problem gambling and harm minimisation. While regulating for sports integrity may affect consumer protections, it is not the central goal of such regulation.
2. There are aspects of sporting integrity and manipulation of sporting events not related to wagering. This can include doping and other forms of deceitful activity. This is not the focus of sports wagering regulation.

3.2 Possible market failures in sports wagering and the rationale for government intervention

The Wood Review identifies two key motives driving competition manipulation. The first of those motives is wagering-related corruption, which is the focus of the ASWS. The Wood Review identifies the motivation to manipulate comes with the opportunity to secure a pecuniary (monetary) benefit from a sports wagering provider or other party.

The key participants in sports wagering markets are:

- Sports wagering providers
- Bettors
- Organisers of sports events
- Sports participants.

In well-functioning markets for sports wagering:

- Bettors place bets on outcomes of sports events, including events within matches such as the number or timing of goals in a match. These may be placed with sports bookmakers or with a betting exchange.

- Sports bookmakers would assess the likelihood of uncertain sports outcomes and offer prices reflecting the probabilities of those outcomes. The probabilities add to more than one so that the wagering providers would expect to earn a profit.¹¹
- Sporting outcomes on which wagers are placed would have integrity, bets would be priced fairly to reflect the actual uncertainty of outcomes and costs of transacting for bettors and sports wagering providers would be low (efficiency).
- Competition between sports bookmakers would keep the level of prices and profits to normal commercial levels, reflective of risks involved.

On the whole, the evidence suggests markets in which sports wagering services are supplied in Australia are currently reasonably competitive¹² and efficient, with relatively few incidents of sports integrity threats such as match or spot-fixing. This is also consistent with the international literature showing sports wagering providers generally produce markets with efficient prices.¹³ This provides some indication the current regulatory frameworks addressing integrity threats are at least somewhat effective, and (as per the Wood Review) the primary concerns are about the costs of regulation and emerging threats. However, in designing regulatory change the question we must first consider is whether integrity threats would become more prominent in the absence of the current regulations, such that they would undermine the efficiency of such markets.

3.2.1 The core integrity problem

As identified in this discussion paper, there are a range of state and federal regulations addressing sports integrity and wagering. If we assumed there was an absence of any specific wagering-integrity regulation, commercial arrangements would determine patterns of sports betting and sports integrity arrangements.

In such circumstances, wagering markets are likely to be subject to integrity concerns because:

- there are strong financial incentives to profit from use of information obtained from manipulation of outcomes via sports participants (see **Box 1**)
- sports bookmakers (or betting exchange participants) can partially, but not fully, protect themselves from parties exploiting this information (see **Box 1**)
- while sports bookmakers and betting exchanges have incentives to pay organisers of sports to develop and enforce integrity policies (by increasing the cost to sports participants of manipulating outcomes), commercial negotiations by themselves are not likely to lead to an optimal level of sports integrity (see **Box 2**).

Ultimately, commercial arrangements alone are not likely to eliminate or minimise sports integrity threats. The detriment from inefficient markets flows directly to bettors that pay higher 'prices' for wagering than they would otherwise, but there are further collateral detriments likely to arise for sports organisations and ultimately, participants, as the integrity of outcomes is important to spectating and participation in a sport.¹⁴

¹¹ That is, if the event happened multiple times with stochastic (random) outcomes. A simple example of this follows. Consider an outcome within a match with equal likelihood, such as one decided by a coin flip. In this instance, a sports bookmaker would assess that bettors are equally likely to take a bet on either outcome since a coin flip is equally likely to show up 'heads' or 'tails'. By offering bettors winnings of no more than two dollars (i.e. a dollar in profit) for every dollar or wager on either outcome, e.g. \$1.90, the sports bookmaker earns a profit (in the case of the example, \$0.10) for every pair of bettors who placed bets on different outcomes. The sports bookmaker may occasionally make a loss if there are more bettors on one side of the bet and that side wins, but for a large enough number of events this will not happen if the coin flip is fair. While betting contingencies tend to be more complex than the example, the general principle of offering odds that result in profit margins on average remains relevant.

A betting exchange operates slightly differently. Betting exchanges are platforms connecting parties wishing to take a position on both sides of a bet (to lay or back). An exchange earns revenue from facilitating those transactions, using a percentage of the value of transactions that occur.

¹² See discussion in *Application by Tabcorp Holdings Limited [2017] ACompT 1*, in which the combination of Tatts and Tabcorp was assessed.

¹³ Anastasios Oikonomidis, 'Weak Form Efficiency And Pricing Dynamics In A Competitive Globalised Market Setting', University Of Southampton Faculty Of Business And Law School Of Management, Ph. D thesis.

¹⁴ See the Wood Review, Chapter 1.

Box 1: Corrupt conduct information as a source of market failure

The Wood Review noted wagering-related corruption occurred where a sporting competition is manipulated to secure a pecuniary benefit from a wagering providers. The pecuniary benefits arise from taking advantage of information gained from knowledge of corrupt activities.¹⁵

Corrupt conduct information is likely to cause market failure because it results in a material inefficiency. If wagering providers face an increased probability of dealing with parties having corrupt conduct information, wagering providers will rationally either:

- (i) increase their prices or spreads, for example, from \$1.90 to \$1.85 for an even chance outcome or
- (ii) undertake other actions to reduce their exposure to losses, which includes limiting bet sizes, passing risks to other wagering providers and/or refusing to serve certain markets or contingencies.

These effects are reflective of ‘adverse selection’ arising in markets with asymmetric information. If wagering providers expect bettors are more likely to have corrupt conduct information, their actions to mitigate those risks will further discourage genuine bettors. While these mitigation measures can work to some extent, they worsen terms offered to remaining bettors and limit the amount of betting compared to a well-functioning market. Nor do mitigation measures fully address other problems associated with sports integrity, such as reputational damage to the sport.

Corrupt conduct information used in betting is not the same as information held by ‘informed’ bettors. Informed or ‘sharp’ bettors undertake extensive analysis of sporting events and betting markets to identify profit opportunities. These opportunities can arise from incorrectly priced markets, or from arbitrage opportunities across bookmaker’s differing odds, but do not use information generated from within sports that is not generally available.

The problem of damaging inside information is more likely where the benefits are high and the costs are low. Particularly susceptible sports wagering markets are therefore those where (i) fixing outcomes has a low chance of detection, and (ii) players’ wages are relatively low and if (iii) there is less ‘sporting glory’ or benefit from high achievement.¹⁶

Source: Harris, Trading & exchanges, Chapter 13, 2001

¹⁵ This is sometimes called ‘inside information’, which the Macolin convention describes as ‘...information acquired or possessed by persons who were able to obtain it only because of their position vis-à-vis a particular athlete, sport or competition, which may be used especially for the purpose of manipulating a sports competition or to bet on the competition with an advantage.’ Macolin convention, at 64.

¹⁶ David Forrest, ‘Sport and gambling’, in *Handbook on the Economics of Sport*, Chapter 4, p. 44.

Box 2: The role of negotiated integrity agreements

Commercial arrangements between sporting organisation and sports wagering providers could result in agreements to promote sporting integrity. This is because markets lacking integrity do not maximise profitable wagering opportunities for sports wagering providers and bettors.

Relying on commercial arrangements to ensure sports integrity is not likely to be sufficient. The main reason is commercial arrangements raise issues of 'free riding'. Suppose one wagering provider agrees with a sporting body to pay a fee for sports integrity functions. Other wagering providers will benefit from such an agreement but will have no incentive to contribute to any costs of the wagering provider or sporting body. As a consequence, such agreements will tend to be under-provided or under-financed.

There is also a link to offshore wagering. Even if Australian wagering providers could reach agreements with domestic sports to pay for integrity, the higher cost base may make offshore wagering providers relatively more attractive. The free riding element is therefore also relevant in an international context, and would likely exacerbate existing problems created by unregulated offshore wagering.

The model applied to racing is instructive in this regard. Compared with sports, racing is much more reliant on wagering revenues to produce its product. Capturing the value created by wagering providers has consequently been more important to ensure integrity and improve the racing product overall. This in part seems to explain the move to monopoly totalisators; monopolies both raise funds because of a lack of competition but also solve the free-riding problem. Through the middle part of the 20th century, various states held Royal Commissions that recommended the introduction of off-course totalisator betting agencies. For example, the Victorian Report of the Royal Commissioner into off-course wagering (1959) found that, of the proposed methods for regulating off-course wagering, the totalisator would be best placed to protect the integrity of the racing industry and generate revenue for the state of Victoria and the racing clubs.

Source: Australian Competition Tribunal, Re: Proposed acquisition of Tatts Group Limited by Tabcorp Holdings Limited, 2017 (ACompT 5)

3.2.2 Further problems arising from a lack of integrity in sports

The foundational elements of market failure in wagering described above are that, in the absence of any regulation, use of corrupt conduct information would hinder the efficient operation of sports wagering markets. However, the problems arising from a lack of integrity in sports extends beyond the direct impact on the relevant sports wagering markets. A number of related problems includes:

- Reputational damage to sports from instances of trading on inside information or match fixing with that purpose. This may have further effects of reducing sports attendances, the economic viability of the sporting organisation and sports participation. Examples include Taiwanese baseball¹⁷ and soccer leagues in Singapore and China.¹⁸

¹⁷ As a result of a number of match-fixing scandals, the number of professional teams had fallen from a high of seven to just four, which saw their combined attendance drop 45% between 2004 and 2008. See <https://www.latimes.com/world/asia/la-fg-taiwan-baseball-snap-story.html>.

¹⁸ <https://www.bbc.com/news/world-asia-pacific-12936084>

- Governments fund participation in sports and sporting bodies directly; the Wood Review estimated that the Australian Government provides more than AU\$300 million funding to sport in 2016-17.¹⁹ Funding sports with integrity problems may reduce the perceived benefits to government and society from participation.
- A lack of sports integrity via match fixing can be connected to other forms of criminal conduct such as corruption, organised crime and money laundering.²⁰

Collectively, these harms serve as the government’s rationale for intervention to regulate sports wagering in Australia.

3.2.3 What kinds of regulation can be justified?

The discussion above provides some clear directions for the key elements of a regulatory system for sports wagering. The primary objective of sports wagering regulation should be to make markets for the provision of wagering services operate more effectively, by reducing the occurrence of actions undermining sports integrity.

In this context, regulation can (and, as addressed in Section 3.3, already attempts to):

- increase the costs of engaging in behaviour undermining sporting integrity or match fixing activity (e.g. through criminalisation)
- facilitate the provision of agreements between wagering providers and sports to promote and fund sports integrity and avoid ‘free riding’ (e.g. through authorisation of bodies that bear responsibility for integrity in their sports and can negotiate product fee and integrity agreements)
- reduce the benefits from engaging in behaviour that undermines sporting integrity or match fixing activity (e.g. through limiting betting opportunities via regulation of market contingencies)
- increase the ability of parties to detect behaviour that undermines sporting integrity (e.g. through requirements of authorised wagering providers to share data relating to wagering activity).

3.3 Problems with the current regulatory framework

Regulations to promote sports integrity have been put in place in states and territories across Australia to varying extents as outlined in section 2. These regulations were designed to follow the foundations of the sports betting operational model. Actual implementation has, however, differed across jurisdictions, with varying levels of implementation and of different methods of implementation evident. For example, treatment of criminalisation of match-fixing differs across states and territories and the Australian Government is now in the process of implementing a set of Commonwealth match-fixing offences partly to address this inconsistency.

The inconsistencies in regulatory framework across states and territories introduces further complications to the effectiveness of regulations. More generally the current regulatory framework faces challenges regarding relevance. We outline these problems in this section.

3.3.1 Lack of coordinated approach to identifying integrity risks

The current regulatory framework lacks a coordinated and whole-of-market approach to monitor, detect and enforce sports integrity risks in the context of manipulation of sports wagering markets. There are three components to the coordination problems.

First, identifying integrity risks includes several aspects and begins with gaining access to comprehensive information allowing the identification of the manipulation of sports wagering markets. We note wagering

¹⁹ Wood Review, p. 30.

²⁰ Wood Review, p. 46.

providers typically monitor their own markets while some sports controllers may rely on private sports security agencies to monitor sports integrity in wagering markets²¹. However, there is no harmonised approach across Australia, or across sports, to sharing of data for this purpose. In some jurisdictions, wagering providers are obliged via product agreements to share information with sports controllers, but this is not uniform across jurisdictions and information sharing requirements are not prescribed by jurisdiction regulators. This results in sports controllers having inconsistent access to information and sports controllers without sports controlling body status most likely not having access to any data.

Second, jurisdictions apply different qualification requirements for sports applying to become sports controllers with respect to the resources to ensure sports integrity. This allows sports to focus its monitoring and enforcement resources in jurisdictions with more stringent requirements. This in turn dilutes the identification of integrity risks in jurisdictions that already have less stringent controls. Standardising the requirements across Australia would likely improve the overall efficacy of identifying integrity risks.

Finally, the responsibility for enforcing sports integrity often appears to be siloed between bodies (e.g. sports controllers, law enforcement and potentially regulators). This hinders a harmonised approach to enforcement, and can result in mixed incentives to report manipulation of sports wagering markets. Sports controllers identifying manipulation of wagering markets in its sports face recognition for being an effective monitor, but also face adverse consequences from negative publicity for its sport. Distorted incentives may then hinder enforcement by law-enforcing bodies, *i.e.* the police. Clearer delineation of roles played in the regulatory framework will help to create the right incentives to report any compromise of risk integrity for enforcement.

3.3.2 Compliance arising from inconsistencies

Inconsistencies in regulatory frameworks across jurisdictions results in both inefficiencies inefficacies and duplications. This is not ideal for regulating wagering providers and betting contingencies cutting across jurisdictional boundaries. They also introduce friction for both wagering providers and sports controllers. We discuss these complications in turn.

Inefficacies

Inconsistency in permitted contingencies across jurisdictions introduces barriers for businesses in some states and administrative burden in terms of ensuring customers have access to the correct contingencies. Without a simple and clear framework, it is also more difficult for sports controllers, regulators or other whistle-blowers to confidently detect unlawful contingencies, which undermines community-led effort to monitor and enforce fair sports wagering and protect sports integrity.

This inconsistency also breeds uncertainty surrounding extra-territorial reach of regulations from certain states. For example, if a wagering provider licensed in the Northern Territory offers wagering services for a declared 'sport betting event' held in NSW but have not entered into a product agreement with a sports controller, it is unclear what recourse would be available to the NSW regulator to require a product agreement to be entered into.

Lastly, inconsistencies affect sports controllers. In applying to become sports controllers, National Sporting Organisations in different states face similar but non-identical qualification requirements in different states, introducing excess administrative burden with no clear benefits.

²¹ The Report of the Review of Australia's Sports Integrity Arrangements (2018) suggests that a number of Australian sports, law-enforcement and government agencies have engaged Sportradar's services, including the AFL, NRL, Cricket Australia, the National Integrity of Sports Unit and the Australian Federal Police.

Duplications

In some instances, interstate wagering providers face dual sets of obligations from regulators. For example, a Victorian wagering provider offering contingencies to bettors in South Australia would be restricted by the list of approved sport betting events declared by the Victorian regulator and the list of declared activities for betting published by the South Australian regulator. In many cases, these are duplicate regulatory controls have no incremental impact apart from administrative burden.

3.3.3 Challenges faced in terms of relevance

Apart from the challenges posed by inconsistencies across a generally fragmented approach, the current regulatory framework faces other challenges. We discuss three such challenges in this section.

National Sporting Organisations may not be the most influential controlling body in all cases

The current accreditation scheme for sports controllers focusses on National Sporting Organisations but not private owners of sporting events. This assumes National Sporting Organisations are universally best placed to influence sports integrity in the sports. In most cases, this may be true since National Sporting Organisations have the authority under their policies to investigate and sanction their participants for breaches of their rules and policies related to integrity. National Sporting Organisations are also generally well placed to promote the sports, which has the effect of increasing benefit from high achievement both in terms of financial reward and non-pecuniary benefits (i.e. 'sporting glory'). However, there are instances where private owners and not National Sporting Organisations are best placed to influence these factors or should at least have a clear role in sports integrity. For example, private promoters of major combat sports events in Australia may be better placed to manage sports integrity risks than the National Sporting Organisation. In such cases, a National Sporting Organisation could face difficulties meeting the requirement to be accredited as the sports controller or be unable to better influence the sports relative to the private owner.

Need for flexibility to cater for an evolving market

Like most regulatory frameworks, the current approach struggles with the need for flexibility to cater to a rapidly evolving market. Sports betting as an activity is a dynamic space. One example is the transition into an online activity (even without the influence of regulatory inconsistencies) with the proliferation of betting markets available, which increasingly include lower tier sport where there is likely to be a lower chance of detection of match-fixing, wages may be low and there's less chance of 'sporting glory'. Such structural shifts challenge the adequacy of existing regulatory frameworks.

The introduction of new sports markets also introduces similar challenges. For instance, the increasing popularity of new activities like e-sports can pose new challenges such as whether this should be included under sports integrity regulation, or what kind and level of data sharing is necessary, *etc.*

Issues posed by offshore betting

Current regulations in Australia (specifically, the provisions set out in the IGA) have disrupted but not stopped illegal offshore wagering operators from offering markets to Australian-based customers. While it is illegal for offshore wagering operators (not licensed in Australia) to provide wagering services to Australians, enforcement against offshore operators is challenging. As noted above, ACMA has taken steps²² (such as website blocking) to address the issue, but some operators continue to provide services into Australia.

²² <https://www.acma.gov.au/publications/2019-09/report/action-interactive-gambling-january-march-2019>

Also, offshore wagering providers are not required to share betting information with sports controllers for integrity purposes.

Further, regulations do not come without cost. Regulatory burden imposed by the current regulatory framework raises costs for wagering providers who are likely to then pass on these costs to bettors by way of less attractive odds and poor payout ratios. This also has the effect of increasing the attractiveness of offshore betting as a substitute given, they do not face these costs and may be able to share the benefits with customers in the form of better odds/prices.

3.4 Other issues

There are various other issues relating to areas outside the direct scope of the ASWS. These include:

- Inconsistencies in the extent to which match-fixing in sports wagering is criminalised across states and territories. This may create perverse incentives for sports integrity breaches to be focussed in those jurisdictions with a more lax approach to criminalisation.
- There may be problems with sports integrity not related to sports wagering. Sports without wagering markets may still be manipulated by athletes, coaches or officials for personal gain (for example prize money) or other ulterior motives.
- Problem gambling is an issue affecting sports wagering, along with all forms of gambling. There are multiple bodies in Australia providing support schemes aimed at problem gamblers. These include the Victorian Responsible Gambling Foundation and NSW Gambling Help.

Questions on Discussion Paper

Do you agree with the problems identified in this section?

What are the most important problems for you as a stakeholder?

Are there any gaps or better examples than those provided in this section? Do you have any data which provides evidence of a problem e.g. administrative cost of obtaining and maintaining sports controller status in Vic and NSW?

4 Options

4.1 Structure of options

The structure of the options follows the key areas covered in the problem identification and the base case. Options are structured around:

- Accreditation of bodies
- Recognition of markets and contingencies
- Data sharing

For clarity, the accreditation of bodies has been split into three elements which are:

- Accreditation of sports
- Accreditation of wagering providers
- Product fee integrity agreements

Under each area, we have outlined two to three options. These options can be broadly characterised as:

1. Streamlining the current regulatory framework or deregulation
2. A central option making some changes to strengthen the current regulatory framework
3. An option with an extensive reworking of the regulatory framework

As part of the assessment of options in the RIS, these options will all be compared to the base case.

These options have been developed to align with the objectives for the ASWS and the principles of regulation (see section 1.2). It should also be noted a RIS is required to consider a range of options. Given this, some suggested options have been included to ensure sufficient breadth can be considered even though they present potential conflict with the objectives for the ASWS. This will be picked up in the assessment of options in the RIS.

Some options may require transitional measures before full implementation. This will be considered as the options are developed further across the RIS process.

Box 3: Sport Integrity Australia

Sport Integrity Australia will consolidate the integrity functions of the NISU, Sport Australia and ASADA into one agency. From commencement on 1 July 2020, Sport Integrity Australia will cohesively draw together, develop and nationally coordinate all elements of the sports integrity threat response. This will include acting as a single point of contact for athletes, sporting organisations, sports wagering providers and other stakeholders for matters relating to sports integrity. Sport Integrity Australia will provide direct assistance to small and emerging Australian sports lacking capacity to deal with integrity issues. More broadly, Sport Integrity Australia will perform the role of the national platform as outlined in the Wood Review.

Further, it is foreshadowed Sport Integrity Australia will:

- support National Sporting Organisations (and potentially event controllers) in identifying the sports integrity risks associated with their sport and
- inform a bespoke integrity policy framework and capability development and support from Sport Integrity Australia.

It is anticipated Sport Integrity Australia will build on the existing integrity policy suite currently spread across NISU, Sport Australia and ASADA.

4.2 Suggested options

4.2.1 Accreditation of sports controllers

Option 1: Streamlining the current regulatory framework

This option adopts an approach to the accreditation of sports controllers consistently across jurisdictions, while seeking opportunities to streamline and/or provide additional guidance in order to make the process less onerous or ambiguous for sports controllers.

In this option, the accreditation of sports controllers will continue to be undertaken by state and territory regulators. The option includes mutual recognition of sports controller accreditation across jurisdictions. That is to say, a sports controller obtaining accreditation in Vic would have that accreditation recognised across all states and territories.

In this option Sport Integrity Australia will have a more general role for assuring the integrity of sports. This would include Sport Integrity Australia providing assistance with due diligence, threat and sport capability assessments of the sports for jurisdictions to use in the approval process. This may lead to Sport Integrity Australia identifying sports requiring capability support as part of an annual assessment.

Option 2: Some changes to the current regulatory framework

This option focusses on moving the accreditation of sports controllers to the Federal level.

Under this option the accreditation of sports controllers moves to Sport Integrity Australia with requirements largely similar to the current requirements by Vic and NSW. This option effectively makes Sport Integrity Australia the regulator in the SBOM model.

Sport Integrity Australia will coordinate with other Federal agencies to streamline information requirements and limit the duplication of information sports controllers need to supply. An example of this option would be to leverage off the information provided to Sport Australia for the accreditation of National Sports Organisations.

Option 3: Extensive reworking of the regulatory framework

As for option 2, option 3 moves accreditation of sports controllers to the Federal level. It also adds tiering to the sports controller accreditation. Tiering means requirements are better linked to the integrity risks posed by the level of sports wagering on the sport, the integrity threats posed by sports wagering on competition and the ability of a sports controller or event controller to manage that threat. In addition, an event controller accreditation is added to cover occasional or one-off sports events taking place in Australia such as the F1 and boxing events.

With respect to the tiering of sports controller accreditation, the proposal for the tiers are outlined in Table 6. For sports that do not have existing sports wagering markets, they would fall outside this tiering. Instead, they could be a National Sporting Organisation recognised by Sport Australia and receiving assistance from Sport Integrity Australia.

Table 6: Proposed tiering of sports controllers and event controllers

TIER	DESCRIPTION OF TIER
1	<p>Tier 1 would be for National Sporting Organisations and event controllers of events where wagering markets exist but where these entities do not have the capacity or capability to effectively manage wagering threats.</p> <p>Within this tier, Sport Integrity Australia would be responsible for approving the wagering market and setting contingencies in collaboration with the respective National Sporting Organisation and event controller. Any accredited wagering providers would be able to offer a market for sporting competitions and events of the controlling bodies 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 National Sporting Organisation or event controller.</p> <p>This tier would be the most substantial departure from the current sports controller accreditation model. It would primarily cater to event controllers with one-off or limited events and competitions and National Sporting Organisations that are considering developing a commercial betting market but do not currently have adequate integrity and/or commercial infrastructure in place. National Sporting Organisations or event controllers in this tier are required to implement a minimum standard wagering integrity framework, most likely consisting of approved match-fixing policy and education programs.</p>
2	<p>Tier 2 are those National Sporting Organisations and event controllers that have entered into commercial agreements with wagering providers in order to create a commercial betting market for their sports by demonstrating to the regulator they have the appropriate capability to manage wagering threats.</p> <p>This Tier would largely reflect the current sports controller-wagering providers environment, where the number and extent of the commercial arrangements remains a function of negotiation between sports controllers and wagering providers with minimal government regulation and oversight of their terms.</p> <p>All sports controllers that currently have product agreements in place with wagering providers would be classified as Tier 2.</p>

Sport Integrity Australia will conduct annual assessments of National Sporting Organisations and event controllers and their related competitions to assess their wagering threat and capability to manage wagering threat and ASWS compliance. This could result in a National Sporting Organisation and event controller for the same sport being assigned to different tiers.

It is noted a potential complicating factor to this tiering is with respect to wagering on lower level competitions within a sport, for example state based competitions. It may be possible for the controlling body of the event to become an event controller with the consent of the National Sporting Organisation. This could lead to second-tier sport wagering being in a different tier to top-tier sport wagering on the same sport. We seek feedback in this area as we appreciate there is a trade-off between taking an approach which is sensitive to differing risk factors without wishing to weaken the position of National Sporting Organisations.

4.2.2 Accreditation/licensing of wagering providers

Option 1: Streamlining the current regulatory framework

This option would promote a consistent approach to the licensing of wagering providers across states and territories with mutual recognition between jurisdictions. This is intended to address inconsistencies between the current licensing requirements in the NT, Vic and NSW.

As part of this option, Sport Integrity Australia would work with jurisdictions to embed sport integrity more formally in the licensing of wagering providers. This would include data sharing and a suspicious activity alert system (the form of this is interdependent on the option progressed with respect to information sharing).

Option 2: Some changes to the current regulatory framework

This option would include all the elements in Option 1 with the licensing of wagering providers continuing to be at a jurisdictional level.

In addition, this option would include Sport Integrity Australia accrediting existing licensed wagering service providers as sports wagering service providers. This accreditation would have three distinct elements:

- Recognition of state and territory regulator licensing of wagering providers
- Requirements relating to product agreements (specifics depend on the option progressed with respect to product agreements)
- Information sharing (specifics depend on the option progressed with respect to information sharing).

Option 3: Extensive reworking of the regulatory framework

This option would see all licensing of wagering providers moved to a Federal level. Sport Integrity Australia would license wagering providers for sports wagering in Australia with similar requirements to State requirements at present. This licensing by Sport Integrity Australia would also include requirements relating to product agreements and information sharing as per Option 2.

4.2.3 Product agreements

There are two options proposed for product agreements rather than the three options proposed for the other areas.

Option 1: Streamlining the current regulatory framework

This option would keep product agreement requirements at the jurisdiction level with no specific regulatory change. Sport Integrity Australia would work with sports controllers, wagering providers and State regulators to streamline the current process. This may potentially include providing guidance documents or producing a standard product agreement, which could be used as a starting point for sports controllers and wagering providers entering into an agreement.

Option 2: Changes to the current regulatory framework

This option moves the development of requirements for a product agreement to Sport Integrity Australia. Sport Integrity Australia would create a standard product agreement (excluding the commercial arrangement), which would form the minimum requirements for a product agreement between a sports controller (or potentially event controller) and a wagering provider. Additional elements of the product agreement over and above the minimum

requirements would be permitted provided they are mutually agreed by the two parties subject to the product agreement.

Minimum requirements, which could be included in the ASWS regulations, would be:

- **Information sharing/requests** (including that to Sport Integrity Australia), which could go into detail about thresholds to be met before information sharing is requested (i.e. where a sport reasonably suspects a breach etc). This would include ASWS suspicious activity alert system reporting requirements.
- **Determination of bet types** (depending on what contingency process is used) – a minimum standard may allow the Commonwealth to suspend markets.
- **Reporting requirements** to Sport Integrity Australia regarding real time/weekly/monthly/quarterly reports (frequency to be determined) for data analysis, fees and tax purposes and detection of breaches of the product agreement by either party (e.g. offering non-approved contingencies, failure to share information etc).

Sport Integrity Australia would approve/endorse a product agreement to ensure its alignment with minimum requirements.

4.2.4 Recognition of markets and contingencies

There are two options proposed for the recognition of markets and contingencies rather than the three options proposed for other areas. Given the nature of markets and contingencies, and the requirement for deregulatory options to be considered as part of a RIS, Option 1 is a deregulatory option rather than a streamlining option.

Option 1: Deregulatory option

In this option, wagering contingencies would be agreed between wagering providers and accredited sports controllers (and event controllers, should they be implemented), with no involvement or oversight of any regulatory body.

As part of this option, Sport Integrity Australia would provide advice with respect to the integrity risks of different contingencies.

A variant on this option would allow better matching of risks with competencies if a tiered system of sport accreditation was selected. In this instance, wagering contingencies would be agreed between wagering providers and Tier 2 accredited sports controllers (and event controllers). For Tier 1 sports controllers, contingencies would be determined by Sport Integrity Australia.

Options 2: Changes to the current regulatory framework

This option centres on having national consistency in approved wagering contingencies. The proposed approach is for a collaborative approach by Sport Integrity Australia, wagering providers and sports controllers with consolidated input from jurisdictional regulators focussed on harm minimisation. This model would seek an agreed position from all jurisdictional regulators in order to assure national consistency.

4.2.5 Information sharing

The options for information sharing cover two distinct types of information:

- Transactional market data on sports wagering – to provide Sport Integrity Australia with the ability to proactively identify suspicious activity across sports and wagering providers

- A suspicious activity alert system – reactive reporting of suspicious behaviour by wagering providers, and sports controllers. This suspicious activity alert may be via a contracted bet monitor, through wagering providers analysis of their own data, or non-market information.

Option 1: Streamlining the current regulatory framework

Under this option, there would be no regulatory requirement for ongoing transactional market data to be provided. For the purposes of ensuring appropriate data privacy and engaging relevant stakeholders, Sport Integrity Australia could request transactional information in response to information received from wagering providers or sports controllers indicating suspicious or irregular activity.

Information from wagering providers and sports controllers deemed of interest to other stakeholders (in relation to wagering threats), such as the volume of bets registered for a particular competition, an unusual change in odds, the geographical location of persons placing irregular bets, or rumours about manipulation received from a competition would be provided to Sport Integrity Australia. This would represent a centralising of any current requirements from state and territory regulators.

Option 2: Some changes to the current regulatory framework

Under this option information from wagering providers and sports controllers would be provided to Sport Integrity Australia on an ongoing, non-real time basis (frequency to be determined) to assist in identifying suspicious activity across sports and wagering providers.

This option includes a suspicious activity alert system. The suspicious activity alert system, operated by Sport Integrity Australia, would:

- Receive initial reports of irregular or suspicious wagering, or information indicating manipulation of sporting events. This information should come from individual wagering providers, sports controllers or other similar entities.
- Following initial assessment of the irregular or suspicious activity, should the report meet a relevant threshold, it would broadcast an alert to other wagering providers.
- Wagering providers would be expected to then review their wagering markets for similar activity and respond to it within a short period (precise period to be determined).
- On receiving and reviewing reports from all wagering providers, Sport Integrity Australia would then decide on further action and provide relevant information and assistance to law enforcement, sports controllers, regulators and others as appropriate.

Option 3: Extensive reworking of the regulatory framework

This option comprises a real-time National Platform operated by Sport Integrity Australia with access to wagering providers' source data. This option also includes a suspicious activity alert system following largely the same process as Option 2. The key distinction for Option 3 is suspicious activities detected by wagering providers are to be reported to Sport Integrity Australia in real-time.

We note the Government Response to Wood Review recommends 'the National Platform to have the authority to nationally suspend wagering markets where significant risk of match-fixing is identified.' It has yet to be decided if this will form part of this option.

Questions on Discussion Paper

Do the options presented in this section address the problems outlined in Section 3?

Are the options clearly described? If not, please describe the areas that may be missing.

Are there any other policy options or refinements to these policy options which you think should be considered? If so, please explain what they are, and the advantages and disadvantages compared to the proposed option.

Specific queries with respect to options presented in this section:

Accreditation of sports bodies, Option 3. Do you have any specific comments on how the tiering of sports bodies could fit with wagering on second tier sport? We are keen to reach an arrangement that doesn't weaken the position of National Sporting Organisations while allowing different events within a sport that have different risk profiles to be treated distinctly.

Information sharing, Option 2: For the non-real time sharing of data would the best way to obtain this view through an Application Programming Interface (API)? Please could you provide a rationale for your position?

Information sharing, Option 3: This option offers the potential for a two-way flow of data. We are keen to hear your thoughts on what this two-way flow might look like, what could be appropriate and what the benefits such an approach may be.

5 Benefits

In this section, we provide a high-level discussion of various benefits a well-designed ASWS can deliver for sports, wagering providers, regulators and Australian consumers. The purpose is to provide an indication of the categories of direct and indirect benefits targeted through the ASWS and how they could be considered from the perspectives of various stakeholder groups. It serves as a guide for the assessment of options leading up to the Regulatory Impact Statement. While we think this list is comprehensive for its purpose, the list of broader potential benefits is non-exhaustive. At this stage, we have not attempted to evaluate these benefits in detail. This is a task that will subsequently be undertaken and incorporated in the Regulatory Impact Statement.

Some direct benefits include:

- **Benefits of a harmonised system.** One key aspect of the ASWS is a harmonised system for the accreditation of sports and wagering providers and recognising markets and contingencies across jurisdictions. In principle, harmonisation eliminates additional costs associated with understanding jurisdiction-specific rules and complexities arising from cross-jurisdictional contingencies. This delivers better operational efficiency for wagering providers as offering contingencies is likely to involve less cost and risks. Likewise, the same cost savings applies for the accreditation of sports through streamlined processes, having to handle a single agency and its processes. Similar to wagering providers, a harmonised system also allows sports to understand the regulatory system more easily. These cost savings typically relate to internal efficiencies *i.e.* they take place within operators and are of direct benefit to them. In particular, compliance cost savings from harmonisation are most likely to eventuate for cross border operators. This assumes the harmonisation is in and of itself efficient *i.e.* it does not create unnecessary costs such as over-prescription.
- **Benefits of a coordinated approach.** A coordinated approach orchestrated by Sport Integrity Australia can improve oversight of match fixing and illegal conduct. Sport Integrity Australia can apply a bird's eye view of all matters surrounding sports integrity and determine areas requiring more resources or specific needs faced by certain sports. This provides the flexibility to adopt a risk-based approach to integrity, focusing its resources on sports with higher risks while approaching sports with more mature sports wagering markets with a lighter touch. The enhanced effectiveness of oversight can in turn reduce the occurrence of match fixing behaviour whose frequency we have established to have an inverse relationship with ease of detection. Reduction in match fixing represents a reduction of situations where sportsmen are put in situations of harm.
- **A more efficient sports wagering market.** Another direct effect of the ASWS is increased commercial viability for wagering providers. Apart from eliminating additional costs due to a harmonised system, a reduction in likelihood of match fixing reduces the risks of wagering providers facing compromised contingencies. Wagering providers will be more able to price odds to reflect their assessment of the contingencies without accounting for risks of match fixing (which can result in poorer odds for bettors).

The ASWS can bring about other broader potential benefits in the longer term:

- **Better participation and spectatorship in sports.** Incidences where sports integrity is compromised generally erodes Australians' trust in, and perception of, sports. This in turn impedes efforts to promote sports and encourage Australians to participate in sports. Improving sports integrity supports better participation and spectatorship in sports, leading to more revenue for sports, welfare from consumers and follow on health benefits.
- **Capability building across sports.** Having Sport Integrity Australia as the main party overseeing sports integrity allows it to centrally plan how capability in other bodies overseeing sports integrity across sports can be developed. This includes identifying core skills and competencies relevant to sports integrity (*e.g.* data analytics, enforcement, investigation, *etc.*), coming up with a plan to develop them internally as well as for the broader sports bodies, and considering structured plans to engage different sports on their needs and capabilities. These can be useful to ensuring good outcomes in sports integrity, especially for sports with small

or nascent integrity functions. The overall effect is a more efficient path towards building confident in sports and viable sports wagering scene across sports.

- **Influencing offshore wagering.** Effective management of offshore wagering and removing illegal practices reaching into Australia's borders requires international collaboration. Having a coherent and effective ASWS internally will increase the capabilities of Australian bodies governing and enforcing sports integrity. This provides precedents, best practices and workable frameworks Australia can export and influence practices in other jurisdictions. While this does not guarantee success with eradicating offshore wagering and illegal practices, it is a good starting point with promises of more benefits for sports in Australia.
- **Lower reputational risks.** Enhanced sports integrity across Australia can lead to lower incidences of match fixing. This represents a lower reputational risk associated with government funding for sports where the general expectation is for sportspeople to conduct themselves with integrity.

Questions on the Discussion Paper

Do you agree with the benefits identified in this section given the scope of the ASWS?

Are there any gaps or better examples than those provided in this section?

6 Next Steps

6.1 RIS process and timeframes

After receiving feedback on the Discussion Paper, the next step for the ASWS process will be to develop the Regulatory Impact Statement. This will build on the base case, problems, options and benefits sections from the Discussion Paper with revisions based on feedback as required. In addition, there are three key elements to be developed as part of the Regulatory Impact Statement:

- Assessment of options (see section 6.1.1)
- Funding (see section 6.1.2)
- Implementation (see section 6.1.3).

Preliminary findings for each of these elements will be presented in a first draft Regulatory Impact Statement, which will be released publicly for comment. They will then be amended based on feedback received with a final Regulatory Impact Statement then being submitted to the Office of Best Practice Regulation for approval.

6.1.1 Assessment of options

Two distinct analyses will be undertaken on options for the ASWS in the Regulatory Impact Statement.

Cost-benefit analysis

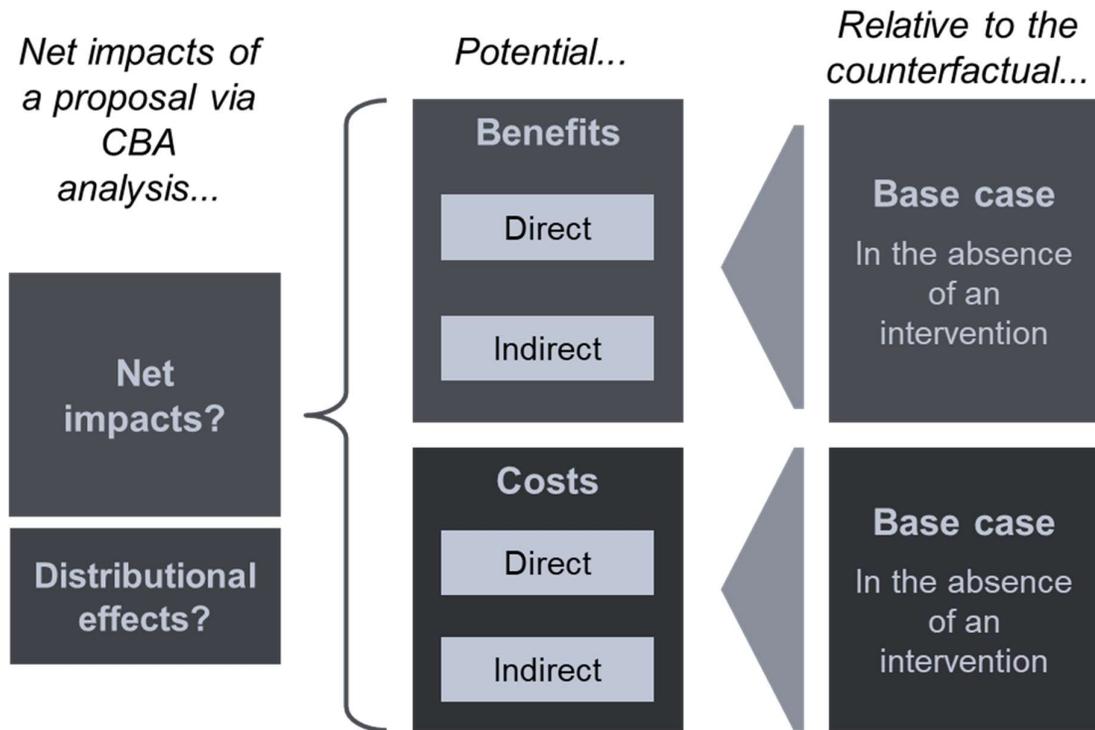
Cost-benefit analysis (CBA) is a methodology comparing the costs associated with a potential intervention with the benefits. It is typically used to compare options in order to identify a preferred option. The analysis is incremental i.e. looks at additional costs and benefits over and above a base case (the absence of an intervention). CBA analysis is always triple bottom line, that is to say it assesses the incremental economic, environmental and social impacts.

As per the Office of Best Practice Regulation's *CBA Guidance Note* 'a CBA involves a systematic evaluation of the impacts of a regulatory proposal, accounting for all the effects on the community and economy, not just the immediate or direct effects, financial effects or effects on one group.'²³ That is to say, the scope of the CBA is to assess the impacts of a potential intervention, either direct or indirect, from the point of view of society.

The process for a CBA is set out in Figure 2. For the purposes of the ASWS we expect to be assessing packages of options as a whole, i.e. a package across all four areas outlined in Section 4.

²³ Office of Best Practice Regulation (2016), Cost-Benefit Analysis Guidance Note

Figure 2: CBA process

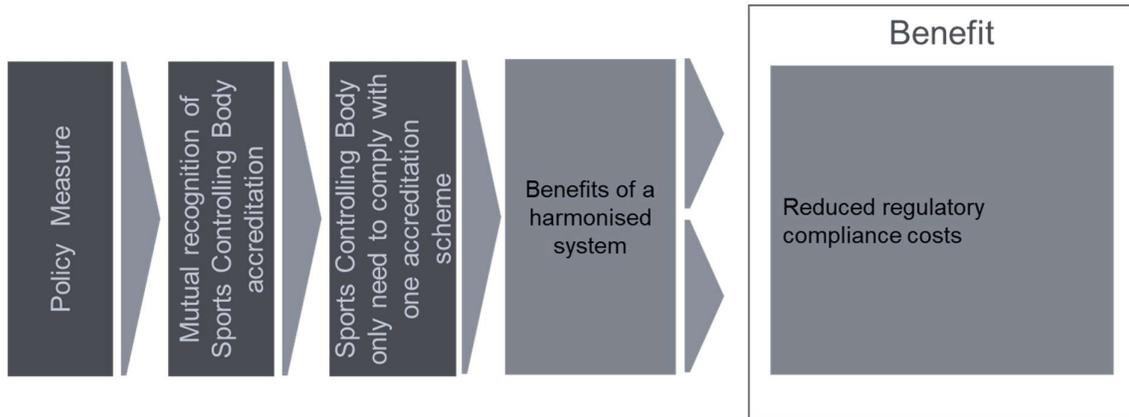


The key steps for undertaking the CBA on the ASWS include:

- Confirming the policy options to be assessed and the base case.
- Defining the appraisal period, which should be the life of the proposed regulation.
 - The Office of Best Practice Regulation’s *CBA Guidance Note* suggests that an appraisal period of 20 years is commonly appropriate for an appraisal period. Therefore, it is proposed the CBA to be conducted for the ASWS will be appraised over a 20-year period.
- Logic mapping to identify the benefits associated with each policy option.
- Gathering information on the likely costs and benefits.
- Undertaking the analysis.
- Feeding results into the broader Regulatory Impact Statement process.

Logic mapping is a key step in the CBA process. This is where the analysis moves from a high-level discussion of benefits (as per section 5) to relating specific policy measures to benefits. In essence, the logic chain of effects starts from a policy measure, identifies in an intermediate implication and then an outcome. In most cases, it will be an outcome, rather than an intermediate impact, that is valued in the CBA. Figure 3 includes an example of a policy measure mapping to a single benefit. When thinking about options as a whole, it is likely there will be both multiple policy measures contributing to the same benefit and policy measures contributing to more than one benefit. Given this, logic mapping is an important step in the CBA process to avoid double counting of benefits.

Figure 3: Example program logic chain



Costs associated with each package of policy options will also be considered at this point. At this stage, these are expected to fall into three broad categories:

- Costs to regulators
- Costs to wagering providers
- Costs to sports controllers.

Once potential costs and benefits have been identified, the next step is to undertake a data and evidence gathering task to inform the CBA. The key elements of this step include:

- Data provided by stakeholders in responses to this Discussion Paper.
- A literature scan to seek secondary data on the benefits and costs of sports wagering regulation either in Australia or abroad.
- Targeted consultation with stakeholders to fill any specific data gaps.

The CBA will then be undertaken using the available data. This analysis will be fully compliant with the Office of Best Practice Regulation’s *CBA Guidance Note*. In addition to an analysis of a central case for each package of policy options, analysis will also undertake a sensitivity analysis (which focuses on the change in costs and benefits if key areas of uncertainty, or assumptions, are varied).

The output of the CBA (dependent on sufficient quantitative data to be able to place a monetary value on the key costs and benefits) will be a number of summary metrics including the cost-benefit ratio and net present value for each package of policy options. Any impacts which have been assessed qualitatively will be presented alongside quantitative CBA results.

Questions on Discussion Paper

Do you agree with the key steps for undertaking the cost-benefit analysis as outlined in this section? If not, please explain why.

Do you have any information on the costs and benefits for this analysis? If so, please provide this information.

Commonwealth Regulatory Burden Measure Analysis

The Commonwealth Regulatory Burden Measure has been developed by the OBPR to estimate the magnitude of compliance costs associated with a change in regulation.²⁴ This analysis is focused on estimating the cost of businesses, community organisations and individuals complying with regulation.²⁵ A key component of the Regulatory Burden Measure analysis is therefore the collection of input data to inform this cost estimation.

As with the CBA, this data has been obtained from:

- Information provided in response to the Discussion Paper
- Information provided by the Department of Health
- Data arising from the consultation with selected key stakeholders.

As with the CBA, the Regulatory Burden Measure focuses on the incremental impact, rather than the total impact, which is important because there are some costs related to existing reporting requirements. This analysis therefore quantifies additional costs over and above any status quo costs.

The key outputs of the Regulatory Burden Measure is a present value of the regulatory burden for each package of policy options (based on a 10-year appraisal period) and an average annual regulatory burden.

Questions on Discussion Paper

Do you have any information on the regulatory burden costs related to existing regulatory requirements? If so, please elaborate on the components and quantum of the costs including whether the costs are one-off or ongoing.

6.1.2 Funding

The Government is committed to comprehensively protecting the integrity of Australian sports for the benefit of the Australian community. This will require a strong and ongoing partnership with key sports integrity stakeholders. It will be critical the beneficiaries of Sport Integrity Australia's services, including states and territories, sports and wagering providers, work with the Government to develop a sustainable funding model to support Australia's national sport integrity response into the future. To this end, the Regulatory Impact Statement, in consultation with stakeholders, will be used to determine a funding strategy for the preferred option. At this stage, the funding could come from either the Commonwealth Government, a user-pays model with payments for services potentially coming from state governments, sports controllers and wagering providers, or a mixture of the two.

Funding options will be developed and qualitatively assessed in the draft Regulatory Impact Statement.

6.1.3 Implementation of ASWS

Following the selection of a preferred option, consideration will be given to the practicalities of implementing the ASWS. This relates to responding to the final RIS question in the Australian Guide to Regulation: 'how will you implement and evaluate your chosen option?'

Elements covered in section will include:

- A high-level timeframe of key steps for the implementation of ASWS.
- Discussion of implementation challenges.
- Assessment of implementation risks.

²⁴ OBPR, Regulatory Burden Measurement Framework, 2016.

²⁵ The scope of this analysis does not include change in cost to government (either state or federal)

- Transitional arrangements to move into the ASWS (if required).
- A description of how performance of policy will be evaluated post-implementation.

6.2 Timeframes and consultation

The broad timeframes for the ASWS Regulatory Impact Statement and implementation of the ASWS are:

- First draft RIS released for comment – mid 2020
- Final RIS – end of 2020
- ASWS comes into force – July 2021.

Box 4: Consultation with COVID-19 restrictions on movement and group meetings (accurate as of 24th April 2020)

Given current government requirements with respect to the COVID-19 virus, consultation for this RIS will be via teleconferences or videoconferences with key stakeholders. Formal submissions on this Discussion Paper and the first draft RIS will continue as originally planned.

Should you wish to be involved in consultation via teleconferences or videoconferences then please let us know in your response to this Discussion Paper.

Appendix A: State and territory regulation of sports wagering

Victoria

The Victorian legislative regime, contained in Part 5 of Chapter 4 of the *Gambling Regulation Act 2003* (Vic.), provided the framework for the development of the SBOM in the National Policy, overseen by the Victorian Commission for Liquor and Gambling Regulation.

At the highest level, the Victorian scheme prohibits a wagering provider²⁶ from offering a wagering service on an event designated as a ‘sports betting event’ held wholly or partially within Victoria, unless the wagering provider has entered into a product agreement with the relevant sports controller (if one exists). This applies to both Victorian and interstate licensed wagering providers.

‘Sports betting events’²⁷ are a designated subset of a larger pool of ‘approved betting events’,²⁸ on which Victorian-licensed wagering providers may shape wagering markets. A Victorian-licensed wagering provider is permitted to offer betting on ‘approved betting events’, whereas interstate wagering providers may offer betting on events approved by the licensing jurisdiction, subject to compliance with the product agreement requirements.

The *Gambling Regulation Act 2003* is prescriptive about what must be established for a sport to be recognised as an sports controller,²⁹ and requires that product agreements provide for (as a minimum): the sharing of information for the purposes of protecting and supporting the integrity of sports and sports wagering; and the disclosure of whether a fee is to be paid by the wagering provider to the sports controller and, if so, how the fee is calculated.³⁰

The *Gambling Regulation Act 2003* seeks to ensure that sports controllers have adequate systems to ensure the integrity of events as well as the expertise, resources and authority necessary to administer and enforce those systems. It requires sports controllers to monitor, investigate and then report suspected corrupt behaviour to the Victorian regulator through mandatory reporting requirements.³¹

In Victoria, consumers are able to access sports wagering through wagering providers licensed in Victoria, as well as online and telephone, through wagering providers licensed in another jurisdiction.

Victorian-licensed wagering providers must comply with all Victorian regulations, including that wagering may only be offered on ‘approved betting events’, a subset of which are ‘sports betting events’. The Victorian authority can approve any event for betting purposes whether ‘wholly or partly within or outside Victoria’.

A wagering provider licensed in any other state or territory, but providing online wagering services to Victorians, operates on the authority conferred by the licensing jurisdiction, and is not limited by requirements that a betting event be an ‘approved betting event’ under the Victorian scheme.

However, the Victorian scheme prohibits any wagering provider from offering wagering services in Victoria or elsewhere on an event held wholly or partially in Victoria and declared as a ‘sports betting event’ unless an agreement is in place with a relevant sports controller (if one exists).

Thus, the Victorian scheme has extraterritorial application for events held wholly or partially in Victoria which applies only to those sporting events that have been declared sports betting events by the Victorian regulator. In

²⁶ In the *Gambling Regulation Act 2003* (Vic.), referred to as a ‘sports betting provider’ (Section 4.5.1), and defined broadly as a person who, in Victoria or elsewhere, provides a service that allows a person to place a bet on a sports betting event.

²⁷ *Gambling Regulation Act 2003* (Vic.) s 4.5.9.

²⁸ *Op. cit.* s 4.5.6.

²⁹ *Op. cit.* Division 4 Part 5 Chapter 4.

³⁰ *Op. cit.* Chapter 4.

³¹ *Op. cit.* Division 7 Part 5 Chapter 4

addition, the Victorian Commission for Liquor and Gambling Regulation can prohibit a wagering provider from offering contingencies on an event wholly or partly held in Victoria. The Minister for Liquor and Gaming Regulation can also prohibit a wagering provider from offering a contingency on an event regardless of whether it is held wholly or partially in Victoria.

New South Wales

In New South Wales, the SBOM is implemented through the *Betting and Racing Act 1998* (NSW) and the *Betting and Racing Regulation 2012* (NSW). Liquor and Gaming New South Wales is the appointed regulator in NSW.

At the highest level, the *Betting and Racing Act* prohibits a wagering provider³² from offering wagering services in New South Wales or elsewhere on a sporting event (or class of sporting events) held wholly or partially in New South Wales unless the wagering provider has a product agreement in place with the relevant sports controller (if an sports controller exists).

In this respect, the New South Wales legislation has broader application by referring to a ‘sporting event’ in its ordinary meaning, compared to the Victorian scheme, which refers to a ‘sports betting event’, as defined in the Act and prescribed by the relevant authority.

The scheme specifies what must be established by the National Sporting Organisation for approval as an sports controller (or at least, considered by the minister in approving sports controller status), and includes (in a similar, but less prescriptive way than the Victorian scheme) the need to consider:

- the degree to which the applicant controls, organises or administers the event
- the means by which the applicant can ensure the integrity of the event
- the expertise and resources of the applicant
- whether the approval of the applicant is in the public interest.³³

The scheme also sets out some minimum requirements for product agreements, which are more prescriptive than those in Victoria³⁴, product agreements must:

- set out the measures that will be used to prevent, investigate and assist in the prosecution of any match-fixing or other corrupt behaviour related to betting on the sporting event
- provide for funding to go to the sports controller *for the purposes of implementing some or all of those measures* [emphasis added] (unless the sports controller does not want any such funding)³⁵
- provide for the sharing of information between the sports controller and the wagering provider.

In New South Wales, consumers are able to access sports wagering through wagering providers licensed in New South Wales, as well as online, through wagering providers licensed in another jurisdiction.

New South Wales-licensed wagering providers must comply with all New South Wales regulations including that wagering *may only be offered* on a declared betting event by a wagering provider with a declared betting event authority. A wagering provider must apply to the New South Wales regulator for an event, including a sporting event (wherever the event may be held), to be prescribed as a declared betting event.

A wagering provider licensed in any other state or territory, but providing online wagering services in New South Wales, is seemingly not required to have any particular authority to provide services to New South Wales

³² In the Act, referred to as a ‘betting service provider’, which is defined broadly as: ‘a bookmaker, a person who operates a totalizator or a person who operates a betting exchange’, Section 4.

³³ *Betting and Racing Regulation 2012* (NSW) – Part 3A – Sports Controlling Bodies.

³⁴ *Betting and Racing Act 2012* (NSW) s 18A(3).

³⁵ In contrast, the Victorian scheme does not specify that funding be for the implementation of integrity measures.

residents, and is not limited by New South Wales requirements that a betting event be a 'declared betting event' pursuant to the New South Wales scheme.

The New South Wales scheme does, however, require that an interstate betting service provider be licensed, and have an integrity agreement in place with the relevant sports controller, with respect to *any* sporting event or class of sporting events held wholly or partly in New South Wales (if an sports controller for that event exists).

It would appear that this requirement of the New South Wales scheme has extraterritorial application for sporting events held wholly or partially in New South Wales. For instance, a wagering provider licensed in the Northern Territory offering a wagering market in Western Australia on an event held in Sydney may commit an offence if the wagering provider does not have an agreement in place with an sports controller recognised for that event.

It is unclear to what extent the above requirement can be given effect in circumstances where, for instance, a Northern Territory-licensed bookmaker offers online wagering services to a person in Western Australia on an AFL match held in Victoria. Leaving aside relevant Victorian legislation for the moment, given that such an AFL match would be part of a class of sports betting events held partly in New South Wales,³⁶ section 18C of the *Betting and Racing Act 1998* (NSW) would seemingly prohibit a betting service provider (licensed in any Australian jurisdiction) from offering any betting service on such an AFL match in the absence of an integrity agreement, regardless of whether this was a requirement of any of the three jurisdictions with a stronger nexus to the events.

The Northern Territory

The Northern Territory has not enacted legislation to implement the SBOM. However, requirements of the National Policy are embedded in licence conditions imposed by the Northern Territory Racing Commission (NTRC) as the body responsible for regulating sports bookmakers³⁷ and betting exchange operators in the Northern Territory.

The Northern Territory is seemingly the only Australian jurisdiction in which a purely 'online wagering licence' is available – in all other jurisdictions, it appears that provision of online wagering services is associated with a regular bookmaker's licence granted or registered with a racing controlling body. Due to favourable business conditions, the NTRC is the primary regulator (at the jurisdictional level) of a number of the major online wagering providers in Australia. Currently there is no requirement for interstate wagering providers to have integrity agreements with sports controllers responsible for sporting events held in the Northern Territory.

The Northern Territory is currently undertaking a review of the Racing and Betting Act 1983 which regulates thoroughbred and greyhound racing, oncourse bookmakers and online wagering operators. The proposed regime has the following high-level features³⁸:

- The regulatory roles which apply across different product segments and providers would be consolidated under a Gambling Regulation Commission.
- The licensing regime is not provider or product-specific³⁹, i.e. a harmonised licence across different providers such as bookmakers, betting exchanges, totalisator operators and internet gaming providers. Where specific requirements are necessary as exceptions to the rule, they will be prescribed in separate sections of the regulations or other documents (e.g. licence or Conduct Code) in a targeted manner.
- Licensees are required to have their registered offices and place of business in the Northern Territory and conduct a substantial amount of its business operations in the Northern Territory.

³⁶ Betting and Racing Act 1998 (NSW) s18C(3) and (5).

³⁷ The differences between sports bookmakers (e.g. Sportsbet, BetEasy, Ladbrokes etc.) and betting exchange operators (e.g. Betfair) are discussed in section 2.2 of this paper.

³⁸ Review of the Racing and Gambling Act (November 2018), HWL Ebsworth Lawyers

³⁹ With some exceptions, e.g. Racecourse gambling licence.

- No change to the roles played by controlling bodies though we note that controlling bodies referred to in the proposed regime pertains to racing.
- Contingencies are defined broadly as any contingencies as long as they are not exclusive right to another licensee or prohibited by Commonwealth law, in order to remain technology-neutral and not impede product innovation.
- There is no mention of any requirements for sports controllers or events controllers beyond racing, nor obligations for licensees to enter into product agreements and share information for monitoring and enforcement purposes.

South Australia

South Australia has not implemented the SBOM, but has a licensing regime pertaining to wagering providers. In addition to regulation applying to wagering providers licensed in South Australia, the Government of South Australia also authorises interstate wagering providers to provide services to South Australians on conditions, including:

- annual reports are provided regarding activity in South Australia
- the operator continues to comply with legal requirements of the licensing jurisdiction
- the operator complies with South Australian advertising and responsible gambling codes of practice, including those designed to prevent betting by minors.

The South Australian regulator (Consumer and Business Services) also publishes a schedule of approved betting contingencies, with which the authorised interstate wagering providers must comply. This schedule of approved betting contingencies is currently in the process of being suspended.

In South Australia while there is no formal requirement for integrity agreements between wagering providers and sports controllers (as South Australia has not formally enacted the SBOM), the South Australian scheme does require consideration as to, *inter alia*, the extent of the relationship between the licensee applicant and the 'body controlling the event', including any integrity arrangements.