

National Consumer Protection Framework for Online Wagering in Australia – National Policy Statement

26 November 2018



A National Policy Statement of agreed commitments to provide a National Consumer Protection Framework for interactive wagering in Australia, between

- the **Commonwealth of Australia** and
- the **States and Territories**, being:
 - The State of New South Wales
 - The State of Queensland
 - The State of South Australia
 - The State of Tasmania
 - The State of Victoria
 - The State of Western Australia
 - The Australian Capital Territory, and
 - The Northern Territory of Australia.

Foreword:

The borderless nature of the internet presents challenges in providing consistent¹ and effective protections across jurisdictions, for consumers of interactive wagering services in Australia. Given this and other concerns, the Commonwealth Government asked the Hon Barry O'Farrell to conduct a *Review of Illegal Offshore Wagering* (the Review).²

The Review found that online gambling is the fastest growing gambling segment in Australia, with over \$1.4 billion gambled online each year.³ Of concern to all governments is that the rate of online problem gambling in Australia is three times higher than all other gambling platforms.⁴ Further, the Review noted that the regulatory framework for online wagering has been fragmented, inconsistent and has led to increased compliance burdens for interactive wagering service providers in Australia – this can limit the effectiveness of legal protections for consumers.

Addressing these concerns, and as recommended by the Review, the National Consumer Protection Framework for online wagering (National Framework) aims to reduce the harm of online wagering to Australian consumers. To achieve this, the National Framework provides – for the first time – strong, nationally consistent minimum protections for consumers of interactive wagering services licensed in Australia, in line with international best-practice.

This National Policy Statement (Statement) sets out the agreed policy commitments of Commonwealth, state, and territory governments (Australian Governments) that underpin the progressive introduction of the National Framework's measures. The Statement also outlines the agreed implementation arrangements Australian Governments will use to deliver the National Framework.

The National Framework will be regularly reviewed, updated, and refined as part of its continuous improvement, to keep pace with best-practice and the changing gambling environment.

Australian Governments wish to thank all stakeholders for their active engagement in the development of the policies that underpin this National Framework.

¹ See page 18 for the meaning of a 'consistent' consumer protection measure.

² Department of Social Services (19 May 2017), *Council of Australian Governments Consultation Regulation Impact Statement*, Appendix A, accessed 16 October 2017 <<https://engage.dss.gov.au/illegal-offshore-wagering-consultation-regulation-impact-statement/>>

³ Global Betting and Gaming Consultants (GBGC) 2015, *Interactive Gambling Dataset 2015*, GBGC, Isle of Man.

⁴ Hing, N., Gainsbury, S., Blaszczynski, A., Wood, R., Lubman, D. and Russell, A. 2014, *Interactive Gambling, Gambling Research Australia*, 93.

The following parties have confirmed their commitments as expressed in this National Policy Statement, effective on 26 November 2018.

The Hon Paul Fletcher MP
Minister for Families and Social Services
Commonwealth Government

The Hon Paul Toole MP
Minister for Racing
New South Wales Government

The Hon Vickie Chapman
Deputy Premier
Attorney-General
South Australian Government

The Hon Marlene Kairouz MP
Minister for Consumer Affairs, Gaming and
Liquor Regulation
Victorian Government

The Hon Gordon Ramsay MP
Attorney-General
Australian Capital Territory Government

The Hon Yvette D'Ath
Attorney-General and Minister for Justice
Queensland Government

The Hon Peter Gutwein MP
Treasurer
Tasmanian Government

The Hon Paul Papalia CSC MLA
Minister for Racing and Gaming
Western Australian Government

The Hon Natasha Fyles MP
Attorney-General and Minister for Justice
Northern Territory Government

1. Background

On 7 September 2015, the Commonwealth Government asked the Hon Barry O'Farrell to conduct the Review.

The Review investigated the size and scope of the illegal offshore wagering problem and advised on ways to strengthen regulatory enforcement and better protect Australians from harms associated with illegal offshore wagering. The Review was delivered to the Commonwealth Government on 18 December 2015.⁵

The Review noted that one of the most significant changes to the gambling environment in Australia over the past 15 years has been the increased availability of online gambling. Research shows that online wagering is the fastest growing gambling segment, expanding at a rate of 15 per cent annually.⁶ Of concern to all governments is that the rate of online problem gambling in Australia is three times higher than all other gambling platforms.⁷

The Review identified that a key legislative challenge in protecting consumers of online wagering in Australia is the coordination required to align the administration of more than 60 pieces of legislation, related to licencing and or regulating online wagering. As a result, the regulatory framework for online wagering has been fragmented, inconsistent and led to increased compliance burdens for interactive wagering service providers in Australia. This can undermine the effectiveness of the legal protections afforded to consumers both in terms of the efficacy of its protections and the competitive advantage this affords to illegal offshore service providers, which do not provide any guaranteed protections.⁸

The Review also highlighted that Australia's consumer protections for onshore legal interactive wagering services are insufficient to address harm and less robust than global best practice.⁹

On 28 April 2016, the Commonwealth Government publicly released its response to the Review, accepting 18 of the 19 recommendations in full or in-principle and noting one.¹⁰ With respect to the recommendations relating to onshore wagering services, the Commonwealth Government committed to work with state and territory governments to establish a nationally consistent framework of consumer protections in Australia.

⁵ Hon. Barry O'Farrell (18 December 2015), *Review of Illegal Offshore Wagering*, Department of Social Services, accessed 16 October 2017 <https://www.dss.gov.au/sites/default/files/documents/04_2016/review_of_illegal_offshore_wagering_18_december_2015.pdf>

⁶ Hon. Barry O'Farrell (18 December 2015), *Review of Illegal Offshore Wagering*, Department of Social Services, 1, accessed 16 October 2017 <https://www.dss.gov.au/sites/default/files/documents/04_2016/review_of_illegal_offshore_wagering_18_december_2015.pdf>

⁷ Hing, N., Gainsbury, S., Blaszczynski, A., Wood, R., Lubman, D. and Russell, A. 2014, *Interactive Gambling*, Gambling Research Australia, 93.

⁸ Hon. Barry O'Farrell (18 December 2015), *Review of Illegal Offshore Wagering*, Department of Social Services, accessed 16 October 2017 <https://www.dss.gov.au/sites/default/files/documents/04_2016/review_of_illegal_offshore_wagering_18_december_2015.pdf>

⁹ Hon. Barry O'Farrell (18 December 2015), *Review of Illegal Offshore Wagering*, Department of Social Services, 100, accessed 16 October 2017 <https://www.dss.gov.au/sites/default/files/documents/04_2016/review_of_illegal_offshore_wagering_18_december_2015.pdf>.

¹⁰ Commonwealth Government (April 2016), *Government Response to the 2015 Review of the Impact of Illegal Offshore Wagering*, accessed 16 October 2017 <<https://www.dss.gov.au/communities-and-vulnerable-people/programmes-services/gambling/government-response-to-the-2015-Review-of-the-impact-of-illegal-offshore-wagering>>

2. Objective

The objective of the National Consumer Protection Framework for online wagering is to minimise gambling harm related to online wagering activity.

The National Framework's objective will be achieved by removing inconsistencies and associated compliance burdens between Commonwealth, state and territory-based regulations, and ensuring strong protections are made available to consumers of interactive wagering services or maintained where they are already in place, in jurisdictions across Australia. This is intended to deliver a nationally consistent set of agreed minimum consumer protection measures, that:

- apply to interactive wagering service providers, regardless of the Australian jurisdiction in which they are licensed, or offer or provide their services
- afford consumers of licensed interactive wagering services effective safeguards, regardless of the Australian jurisdiction in which they consume these services.

3. Consumer protection measures

The National Framework consists of 10 agreed consumer protection measures. These measures provide a suite of tools available for use by individuals, as well as requirements for interactive wagering service providers, to help mitigate the risk of harm.

The measures are designed to:

- provide consumers with strong, nationally consistent minimum protections, which both prevent and provide support for those experiencing gambling harm
- respect consumer choice by empowering consumers to make more informed decisions about their gambling.

The above aims and objectives will inform future evaluation and refinement of the National Framework.

Scope

The scope of the National Framework and its consumer protection measures is intended to cover all forms of online wagering that is conducted using any telecommunication service, which includes any 'regulated interactive gambling service' that is also an 'excluded wagering service' as defined under the *Interactive Gambling Amendment Act 2017*. Further details are at **Attachment A**.

For the purposes of this Statement, a 'regulated interactive gambling service' that is also an 'excluded wagering service', is referred to as an 'interactive wagering service.' An operator who is authorised under an Australian state or territory law to conduct an interactive wagering service, is an 'interactive wagering service provider.'

Term

The term of the National Framework is ongoing. Australian Governments acknowledge their enduring commitment to apply the National Framework in relation to their policy, and administration of consumer protection measures.

Roles

Australian Governments agree their responsibility is to regulate interactive wagering services in a way that minimises gambling harm. To achieve this, Australian Governments are committed to:

- administering respective consumer protection regulations consistent with the objectives, aims and principles which underpin the National Framework
- ongoing refinement of the measures to ensure the National Framework responds to changes in the regulated environment and emerging evidence about best practice, particularly in the use of interactive technologies for wagering
- actively promoting an awareness and understanding of the National Framework, including by providing information to consumers, the community, industry, and other stakeholders.

Additionally, all governments commit to encouraging interactive wagering service providers to act responsibly and consistently with the harm minimisation objectives of the National Framework's measures.

Interactive wagering service providers have legal obligations to implement consumer protections as part of the services they provide. In line with these obligations, governments will foster an expectation that interactive wagering service providers conduct their business in a manner that minimises harm to their consumers, consistent with the spirit and intent of the National Framework and gambling consumer protections. At a minimum, this expectation should include interactive wagering providers refraining from conduct which undermines the purpose or intended operation of any of the consumer protection measures under the National Framework.

Principles

The National Framework adopts a principles based approach to defining each measure in terms of its core functional requirements. This is necessary to enable its application across various policy and regulatory settings. In addition, and where appropriate, flexibility for variation in the policy principles is accommodated within each measure, including the method of delivery to consumers. This flexibility is particularly important when taking into account differences in wagering business operations, such as that between large online corporate bookmakers who operate largely online compared to that of small on-course bookmakers who may only offer telephone services.

Timeframes

The National Framework will be progressively introduced over the course of 18 months from the National Framework's commencement.

The commencement date for the National Framework is 26 November 2018.

The following table sets out the agreed strong, nationally consistent, minimum consumer protection measures and the date each measure is introduced, and comes into effect by reference to the commencement date for the National Framework.

Trialling and research will further inform the implementation requirements and timing for the relevant measures below.

It should be noted that the commencement and timing of all measures introduced *after* the commencement date for the National Framework, are subject to the enactment of the relevant enabling laws, regulations or licensing requirements.

Table of Agreed Nationally Consistent, Minimum Consumer Protection Measures

Measure	Agreed principles	Implementation timeframes
Introduced before commencement date		
<p>1: Prohibition of lines of credit</p> <p>This measure prohibits the offering or provision of credit by interactive wagering service providers for wagering purposes, with the exception of certain on-course bookmakers.</p>	<ul style="list-style-type: none"> • Credit must not be offered or provided by an interactive wagering service provider to their customer. • An on-course bookmaker, who is an interactive wagering service provider, is exempt from this measure, but only for that bookmaker’s telephone-based betting service. • A review of the operation of the credit betting prohibition (including its exemption) is to be conducted. 	<p>Under the Commonwealth’s <i>Interactive Gambling Amendment Act 2017</i>, this measure took effect on 17 February 2018.</p> <p>The Commonwealth will conduct a review of the prohibition at the end of the 3 year period from the date this measure took effect.</p>
<p>2: Payday lenders</p> <p>This measure discourages the use of small amount credit contracts (payday lending) for online wagering.</p>	<ul style="list-style-type: none"> • Small amount credit contracts must not be advertised or marketed on an interactive wagering service provider’s website. • An online wagering consumer must not be referred to a credit provider to finance their wagering activity. • Information related to an online wagering consumer must not be provided to any credit provider. • The above applies to the affiliated organisations of an interactive wagering service provider, as well as their related body corporate(s). 	<p>Under the Commonwealth’s <i>Interactive Gambling Amendment Act 2017</i>, this measure took effect on 17 February 2018.</p>

Measure	Agreed principles	Implementation timeframes
Introduced 3 months from commencement date		
<p>3: Customer verification</p> <p>This measure reduces the customer verification period to a maximum 14 days for online wagering across all jurisdictions.</p>	<ul style="list-style-type: none"> • Customers must be verified within a maximum 14 day period to continue using an online wagering account. • Interactive wagering service providers must return all deposited funds and close an account immediately if a person is verified as a person under 18 years of age. • Customers are not able to withdraw winnings prior to positive verification of their identity. • The customer verification period will be subject to review 12 months after the commencement date, with a view to informing a commitment to further reducing this period to 72 hours. 	<p>The Commonwealth will amend the Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No.1) to reduce the customer verification period.</p> <p>This measure takes effect 3 months from the commencement date for the National Framework.</p> <p>This measure will be reviewed at the end of the first 12 month period from the date this measure takes effect.</p>
Introduced 6 months from commencement date		
<p>4: Restrictions on inducements</p> <p>This measure prohibits all specified inducements in the applicable jurisdictions.</p>	<ul style="list-style-type: none"> • The offer of any credit, voucher, reward, or other benefit as an incentive to open an account or refer another person to open an account is prohibited. • Any credit, voucher, reward, or other benefit (that is directed at encouraging customers to gamble) that is not part of an approved loyalty program must not be offered in a jurisdiction that only permits such inducements as part of an approved loyalty program. • Winnings from a complementary betting credit or token (i.e. bonus bet) must be able to be withdrawn without being subject to any turnover requirements. • All direct marketing to customers may only be sent to customers who provide their express consent to receive this material. 	<p>State and territory governments will enact this measure through existing laws, regulations, and licenses.</p> <p>This measure takes effect 6 months from the commencement date for the National Framework.</p>

Measure	Agreed principles	Implementation timeframes
	<ul style="list-style-type: none"> • A customer must be able to unsubscribe from receiving direct marketing materials. For direct marketing materials sent electronically, the link to unsubscribe must be functional and easily accessible. • No further direct marketing materials may be sent to a consumer from the time their unsubscribe request is received. <p>The above principles for this measure apply as minimum requirements only. Additional restrictions on inducements may continue to apply, or be enacted, including in relation to its advertisement, by individual jurisdictions.</p>	
<p>5: Account closure</p> <p>This measure ensures that closing/cancelling an online wagering account is readily available, and accessible by all customers.</p>	<ul style="list-style-type: none"> • The process for account closure must be prominent and clearly articulated on the interactive wagering service provider’s website and within each customer’s ‘My Account’ window. • The process for account closure must be simple. • A customer must be able to request the closure of their account via the same channels available to them to place a bet, in addition to via email and telephone. • The account closure process must commence immediately upon receipt of the account closure request and result in the account being closed after all bets have been settled. • A customer must not be encouraged or induced to keep their account open following their request to close their account. However, an interactive wagering service provider may explain the effects of an account closure and ask the customer if the customer wishes to proceed. • An interactive wagering service provider must not directly promote or market to a customer following the closure of the customer’s account. 	<p>State and territory governments will enact this measure through existing laws, regulations, and licences.</p> <p>This measure takes effect 6 months from the commencement date for the National Framework.</p>

Measure	Agreed principles	Implementation timeframes
<p>6: Voluntary opt-out pre-commitment scheme</p> <p>This measure provides consumers with a tool to help them monitor and manage their gambling by pre-committing to deposit limits. These limits would apply on an operator basis.</p>	<ul style="list-style-type: none"> • A voluntary pre-commitment scheme must be easily accessible and effectively promoted to consumers. • A customer must be prompted to set a deposit limit during the account sign-up process. • Limits must be binding. • An interactive wagering service provider must at least offer deposit limits, with other types of limits (e.g. spend limit) optional. • An interactive wagering service provider must not accept further deposits from a customer above the deposit limit set by the customer. • A request by a customer to decrease their deposit limit must be applied immediately. • A request by a customer to increase their deposit limit must not be applied until 7 days after the day the request was received. • All customers must be prompted to set and review their deposit limit yearly at a minimum, including customers who have chosen not to set a limit (with further enhancement considered after trialling and testing). • The prompt must occur at the time of a customer's next bet following each anniversary of the customer's first bet, except where the customer does not have an active betting account on that date. A customer is deemed to have an active betting account if the customer has made a transaction on their betting account within the preceding 12 months. • The prompt must be made via the same channel being used by the customer for placing their bet at the time the prompt is due. 	<p>State and territory governments will enact this measure through existing laws, regulations, and licences.</p> <p>This measure takes effect 6 months from the commencement date for the National Framework.</p> <p>The need to assess the feasibility of a multi-operator pre-commitment scheme will be considered by the Governance Committee, at the end of the 12 month period from the date this measure takes effect.</p>

Measure	Agreed principles	Implementation timeframes
	<ul style="list-style-type: none"> • Customers must be able to choose the time period for their deposit limit from a range of periods, including daily, weekly, fortnightly and monthly. • A customer must be able to set and change their deposit limit via the same channels available to them to place a bet, in addition to being able to set or change their deposit limit in writing. • The availability of the pre-commitment scheme should be promoted beyond initial account sign-up, with education and awareness of the scheme shown on an interactive wagering service provider's website and its promotional material. <p>Governments will assess the feasibility and costs of a centralised pre-commitment system, taking into account the costs and benefits for consumers (feasibility study).</p>	
Introduced 18 months from commencement date		
<p>7: Activity statements</p> <p>This measure ensures customers receive meaningful statements on their wagering activity from each interactive wagering service provider.</p>	<p>Minimum requirements for this measure are set out below, noting they may be refined through trialling and testing.</p> <ul style="list-style-type: none"> • For as long as a customer has an active betting account, an interactive wagering service provider must provide an activity statement to the customer at least once a year, and any other periodic basis as requested by the customer (i.e. monthly, quarterly, or every 6 months). <ul style="list-style-type: none"> ◦ A customer is deemed to have an active betting account if the customer has made a transaction on their betting account within the preceding 12 months. • Activity statements must provide information that is clear and easily understood and include information about: <ul style="list-style-type: none"> ◦ each bet ◦ the account balance 	<p>State and territory governments will enact this measure through existing laws, regulations, and licenses.</p> <p>The Commonwealth has procured a trial of this measure which will be completed within 12 months from the commencement of the National Framework.</p> <p>This measure takes effect 6 months from the completion of trialling and testing of its features. In the interim, state and territory requirements apply.</p>

Measure	Agreed principles	Implementation timeframes
	<ul style="list-style-type: none"> ○ deposits and withdrawals ○ wins and losses ○ the net win/loss for the specified period of the activity statement ○ the date, time and unique transaction identifier (ticket number) of each transaction. ● Activity statements must be accessible by a customer: <ul style="list-style-type: none"> ○ on request at any time by email or telephone and in a format of the customer's choosing (ie. e-statement or paper statement) ○ online via their account at any time (only for those customers who are able to place a bet online). ● Activity statements must not be sent to inactive accounts. An inactive account is an account that has not had a betting activity for more than 12 months. However, activity statements should still be accessible by a customer on request and online via their account at any time. ● Activity statements must be provided free of charge, except where a customer elects for delivery by mail, in which case the costs purely associated with this may be recovered from the customer. ● In addition to activity statements, a record of betting account transactions must also be available: <ul style="list-style-type: none"> ○ immediately at all times via a customer's 'My Account' window for customers who bet online ○ by email or post for customers who bet through other means (eg. via telephone) within 14 days of the customer's request for a copy of their account transactions. 	

Measure	Agreed principles	Implementation timeframes
	<ul style="list-style-type: none"> • The record of betting account transactions must include information about: <ul style="list-style-type: none"> ○ each bet ○ the current account balance ○ deposits and withdrawals ○ wins and losses ○ the current net/win loss ○ the date, time and unique transaction identifier (ticket number) of each transaction. • At a minimum, customers (including a person whose betting account has been closed) should be able to access a record of their account transactions for the preceding 7 years. 	
<p>8: Consistent gambling messaging</p> <p>This measure provides for evidence-based, consistent gambling messaging.</p>	<ul style="list-style-type: none"> • Interactive wagering service providers must provide a set of gambling messages for industry to use in its advertising nation-wide. • The same approved gambling message(s) must be used in connection with any interactive wagering service, including as it relates to the following: <ul style="list-style-type: none"> ○ within their customers' 'My Account' window ○ on their websites and internet applications ○ on direct marketing materials ○ on print and broadcast advertising ○ on any sponsorships and promotional activities. • State and territory governments will be able to tailor the gambling message(s) to their own campaigns. 	<p>State and territory governments will enact this measure through existing laws, regulations, and licenses.</p> <p>This measure takes effect 6 months from the completion of trialling and testing of its features. In the interim, state and territory requirements apply.</p>

Measure	Agreed principles	Implementation timeframes
	<ul style="list-style-type: none"> • Recognising that terminology of messaging is crucial as a consumer protection measure; the approved gambling message(s) will be designed: <ul style="list-style-type: none"> ➤ in collaboration with experts (harnessing new and existing research) ➤ in consideration of the jurisdictions in which they will be displayed ➤ in consideration of the messages being easily understood by the wide range of consumer groups who make up the intended audience. 	
<p>9: Staff training</p> <p>This measure provides for the training of certain staff in the responsible service of online gambling.</p>	<ul style="list-style-type: none"> • All staff involved in the provision of wagering services, or with the capacity to influence the wagering service, must undertake responsible service of gambling training to create a culture of responsible gambling within the organisation. • Of these staff members, online training program must be undertaken by: <ul style="list-style-type: none"> ➤ new staff within one month of commencing work with the interactive wagering service provider but before interacting with a customer about, or influencing, the provision of a service ➤ existing staff within 6 months of the online training program coming into effect. • All staff who have undertaken the approved online training program must undertake an annual refresher training course to refresh content knowledge and information on any recent changes in consumer protection and/or gambling harm. • The approved online training program (including refresher training course) must be industry funded. 	<p>State and territory governments will enact this measure through existing laws, regulations, and licenses.</p> <p>The Commonwealth is facilitating the development of an online national training competency which will be completed within 12 months from the commencement of the National Framework.</p> <p>This measure takes effect 6 months following the completion of an online national training competency.</p>

Measure	Agreed principles	Implementation timeframes
<p>10: National self-exclusion register</p> <p>This measure provides for a national self-exclusion register (NSER) for online wagering. This system ensures that those experiencing gambling harm can immediately exclude themselves from the services offered by all interactive wagering service providers.</p>	<ul style="list-style-type: none"> • The NSER must operate to allow a consumer to self-exclude from all interactive wagering services in a single process. • The NSER must be quick and simple for a consumer to apply to, and must take immediate effect upon registration/sign-up. • The NSER is to be effectively promoted so consumers are educated about self-exclusion and aware of the scheme. • The NSER must be offered across all phone and web-based digital platforms. • The NSER must allow a consumer to choose their exclusion period, ranging from 3 months to permanent exclusion. • The NSER must afford a consumer the option to enter a sponsor (e.g. a friend or family member), who will be notified at the end of their exclusion period. • Information on gambling support, financial and counselling services, and information about land-based self-exclusion tools, must be made available to a consumer at the time a consumer nominates to self-exclude. • Information on gambling consumer protections must be made publicly available and accessible. • An interactive wagering service provider is prohibited from providing any marketing and/or promotional material to a consumer who is registered for self-exclusion, during the period of self-exclusion. • Upon registration for self-exclusion, all funds held in a consumer’s active accounts must be returned to that consumer once all wagers/bets are settled – the account must then be closed. 	<p>The Commonwealth will legislate and regulate this scheme.</p> <p>This measure takes effect 18 months from the commencement of the National Framework, subject to the enactment of enabling Commonwealth legislation, and establishing, trialling and testing a NSER.</p> <p>System functionality will be reviewed at the end of the first 12 month period from the date this measure takes effect.</p>

Measure	Agreed principles	Implementation timeframes
	<ul style="list-style-type: none"> • A process for revoking a consumer’s registration for self-exclusion must be available to consumers. <ul style="list-style-type: none"> ○ A consumer must see a counsellor, and provide evidence of this, as a pre-requisite for revocation. ○ A 7 day cooling off period applies before revocation can take effect. • A consumer seeking to wager online must actively approach each interactive wagering service provider to open a new wagering account after the customer’s exclusion period has ended. • The NSER must be industry-funded. • The NSER will be built with the capability to also exclude consumers on the basis of an interactive wagering service/product. <p>A review of the NSER will be conducted at the end of the first 12 month period of operation to ensure the system is meeting its objectives, and to determine whether any additional in built functionality should be activated.</p>	

4. Implementation

The National Framework will be implemented through a combination of Commonwealth, state and territory laws and regulations consistent with existing roles. This is intended to ensure each measure can be implemented as soon as possible.

Roles

While all Australian Governments collectively share responsibility for implementing the consumer protection measures under the National Framework, each government will determine how best to implement the agreed measures having regard to the legislative framework and regulatory tools available in its jurisdiction and while maintaining, national consistency.

Commonwealth

The Commonwealth Government is responsible for enacting and administering—including monitoring, enforcing, and promoting compliance—the following measures:

- prohibition of lines of credit, pursuant to the
 - Commonwealth's *Interactive Gambling Amendment Act 2017*
- discouraging links with small amount credit contract providers (payday lenders), pursuant to the
 - Commonwealth's *Interactive Gambling Amendment Act 2017*
- customer verification period, pursuant to the
 - Commonwealth's Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No.1)
- national self-exclusion register, pursuant to further amendments to the
 - Commonwealth's *Interactive Gambling Act 2001*.

This aligns with the Commonwealth's jurisdiction over consumer credit, anti-money laundering, and counter-terrorism financing. The Commonwealth also has jurisdiction over matters related to interactive gambling and its prohibition.

States and territories

State and territory governments are responsible for enacting and administering, including monitoring, enforcing, and promoting compliance with, the following measures:

- voluntary opt-out pre-commitment
- offering of inducements
- activity statements
- consistent gambling messaging
- account closures
- staff training.

National consistency

While each government retains control over how a consumer protection measure is implemented, all governments commit to applying a common policy approach to maintaining national consistency as set out below. This is intended to avoid undermining a key purpose of the National Framework.

Taking the current policy approach governing the application of the existing Australian consumer laws in online gambling,¹¹ maintaining consistency with the National Framework, includes:

- repealing or amending any *inconsistent provisions*, those being provisions which conflict, modify or detract from the operation of the National Framework
- repealing *duplicative provisions*, those being provisions which result in the same obligations or requirements being concurrently imposed (however expressed), as those committed to under the National Framework
- monitoring *complementary provisions*, those being provisions which adds to or supplements the protections under the National Framework without duplication.¹²

These same policy principles are set out for the purposes of its broader application to the Australian Consumer Law in [Maintaining consistency with the Australian Consumer Law: A guide to maintaining a harmonised and consistent approach when developing and reviewing legislation](#) (Consistency Guide).¹³ Further detail on the meaning of these principles is contained within this Consistency Guide.¹⁴

It is acknowledged that adhering to these policy principles¹⁵ allows the Commonwealth, states and territories to deviate from the National Framework. This includes introducing more stringent or complementary or any other requirements, *provided* that these changes do not conflict, or modify or replicate without policy grounds the intended operation of the National Framework.

¹¹ The 2009 *Intergovernmental Agreement for the Australian Consumer Law* (IGA) provides that the Commonwealth, States and Territories should endeavour to repeal, amend or modify any legislation that is inconsistent with or alters the effect of the ACL. This includes sector specific consumer laws such as online gambling regulations.

¹² Sector-specific consumer laws are intended to provide specific or additional consumer protection, in addition to the generic protections in the ACL. The intention of COAG in agreeing this reform was to ensure that other consumer regulation at the national, state and territory levels complements, rather than duplicates or contradicts, the ACL. See Commonwealth Treasury (March 2011), *Consumer policy in Australia*, 4 & 6.

¹³ Commonwealth and State and Territory Governments (July 2013), *Maintaining consistency with the Australian Consumer Law: A guide to maintaining a harmonised and consistent approach when developing and reviewing legislation*, accessed 16 October 2017 <http://consumerlaw.gov.au/files/2015/09/Guide_Maintaining_consistency_with_the_ACL.pdf>

¹⁴ It should be noted that the policy approach and purpose and objectives of maintaining consistency with the Australian Consumer Law, should not be confused or equated with legal inconsistency under section 109 of the Commonwealth Constitution.

¹⁵ Applying the principles for *Maintaining consistency with the Australian Consumer Law* to the gambling specific consumer protection laws and the National Framework provides one practical means of fulfilling broader commitments to remove law which are inconsistent with the generic ACL under the *Intergovernmental Agreement for the Australian Consumer Law* (as cited above n 11). Note that references to legislation include any secondary legislation, as well as administrative requirements enacted pursuant to that law.

5. Performance and evaluation

A performance, review and evaluation strategy will guide evaluation activities designed to assess the effectiveness of the National Framework's measures in achieving outcomes for consumers, and to inform ongoing refinements. Importantly, it will also help to identify any unintended consequences arising from the implementation of the National Framework and any weaknesses in the regulatory framework. The Commonwealth Government will coordinate the efforts of all governments in required trialling, testing and evaluation of measures.

6. Governance and review

A key aspect of the National Framework will be its agility and ability to keep pace with changes in international best-practice, research, and evidence over time.

A key challenge in achieving this lies in the implementation of the National Framework and its ongoing management across jurisdictions. Under the National Framework, each jurisdiction will follow its own implementation pathway to give effect to its consumer protection measures.

Robust governance arrangements with clear roles and responsibilities, as well as careful monitoring, will be important to effectively coordinating the timely delivery of, and updates to, the National Framework across jurisdictions.

Governance and Reporting

A governance committee, consisting of an official from each of the relevant Commonwealth, state and territory government departments, will support the effective implementation, ongoing management, review and updating of the National Framework. The Governance Committee will form its terms of reference. To facilitate this, the Commonwealth will initiate and coordinate the establishment of the Governance Committee, and facilitate ongoing oversight of the National Framework.

The Governance Committee will be responsible for overseeing the implementation of the National Framework, including making all related decisions, consistent with the commitments expressed within the National Framework. This includes managing and coordinating the implementation of the National Framework across jurisdictions, and updating it over time.

The Governance Committee will also be responsible for assessing, monitoring and determining proposed changes to the National Framework, in accordance with the principles for maintaining consistency. Stakeholders would be consulted as appropriate and relevant.

During the initial 18 month implementation period, the Governance Committee will meet every three months to ensure the smooth introduction of the National Framework.

The Governance Committee will report to ministers, whether collectively or individually, on progress, at least twice over the same period, or as needed.

Decision making

The Governance Committee will be responsible for putting forward additions or departures from the National Framework, subject to agreement by all ministers.

Depending on the nature of the change, it is acknowledged that ministers may need to return to their cabinets to secure approval for any major departures. This will be a matter for each government. It is assumed that ministers enter into commitments under the National Framework with the full authority delegated by their cabinets.

Where ministers agree to such departures, these changes will be reflected in subsequent updates to this National Framework.

Attachment A: Scope

The National Framework is intended to apply broadly to all forms of interactive wagering services which are not prohibited under the *Interactive Gambling Act 2001*. Specifically, the scope of the National Framework is defined in the *Interactive Gambling Amendment Act 2017* as a ‘regulated interactive gambling service’ that is also an ‘excluded wagering service’.

In general, these licensed services cover wagering by any remote telecommunication service – that is internet, telephone, television, radio or any other kind of telecommunication or electronic service for facilitating communication (noting exceptions). In practice, online wagering is generally synonymous with, but is not limited to, account based betting.

Interactive gambling services which are licensed, as an extension to a pre-existing licence for land based wagering services, are also in scope. For example, this includes telephone or internet betting services conducted by on-course bookmakers, or internet wagering services conducted at TAB retail outlets.

However, the National Framework is not intended to regulate land based wagering services, such as services which are only offered and accessible at TAB retail outlets. Under the *Interactive Gambling Amendment Act 2017*, these services are defined as a ‘place-based betting service’ and are excluded from a ‘regulated interactive gambling service’.

Where exemptions apply, these are defined within the principles for each measure.

The following table illustrates the scope (as defined above) of the National Framework as they relate to current wagering services. However, the table is not intended to limit its scope to the categories defined below. The table may be updated from time to time to help ensure there is a clear and common understanding of the scope.

Betting type±	Location of Betting Operations	Betting Method	Agreed Scope‡
Totalisator (Domestic)	On-course (i.e. racecourse)	In person (e.g. at a betting stand)	Out
		Cash (e.g. over the counter)	Out
	Off-course (i.e. TAB)	Cash (e.g. over the counter)	Out
		Device at a venue (e.g. betting terminal) †	Out
		Telephone	In
		Internet	In
		Other form of remote telecommunication	In
(International)	International pools (i.e. retail outlets)	Device at a venue (e.g. betting terminal) †	Out
		Internet	In
Bookmakers (Includes Agents, Clerks etc.)	On-course* (e.g. racecourse, betting auditorium or any other venue on a racecourse)	Cash (e.g. over the counter)	Out
		Device at a venue (e.g. betting terminals) †	Out
		Telephone	In
		Internet	In
		Other form of remote telecommunication	In
		Device at a venue (e.g. betting terminals) †	Out

Betting type±	Location of Betting Operations	Betting Method	Agreed Scope‡
	Off-course** (e.g. hotel, sporting stadium, TAB)	Telephone	In
		Internet	In
		Other form of remote telecommunication	In
Sports bookmakers	Online (conducted at private premise)	Internet	In
Betting Exchange	Approved premises (conducted at a private premise)	Internet	In
		Other form of remote telecommunication	In
Any other type (e.g. any new and emerging 'regulated interactive gambling service' that is a 'wagering service' not captured above)	Online (conducted at a private premise)	Any form of remote telecommunication	In
	Offline (any premises accessible to the public)	Any form of remote telecommunication†	In

± 'Betting type' is inclusive of all or any forms or form of betting including betting on racing, sports betting, or any other event or contingency.

† This also includes any other 'place-based betting service' as defined within the *Interactive Gambling Act 2001* (IGA).

‡ The agreed scope generally aligns with what is defined as a 'regulated interactive gambling service' that is also an 'exclude wagering service' under the IGA

* Note that reference to an on-course bookmaker is the bookmaker who is licensed to conduct betting at the same race course where the racing event for betting is to be held. It also includes operators who are licensed to conduct from a race course other than the race course at which the racing event from the betting is held.

** Note off-course bookmakers include on-course bookmakers whose licence is endorsed or approved to conduct wagering, from a private premises, away from the race-course.