

AUSTRALIA:
UNIFORM STANDARDS FOR THE REGULATION OF
INTERACTIVE GAMING

(The AUS Model)

Exposure Draft

Released: 5 April 2001

Prepared By:
The National Working Party on Interactive Gaming

Invitation for Submissions.

This, the “*Australia: Uniform Standards for the Regulation of Interactive Gaming*” (the “AUS Model”) is the first major revision of the “*Draft Regulatory Control Model for New Forms of Interactive Home Gambling*”, (“DRM”) first released in 1997.

The DRM has formed the basis for all State and Territory laws governing interactive gaming.

The new AUS Model sets out a national approach for the regulation of interactive gaming in accordance with uniform and consistent standards administered by the regulatory bodies in each State and Territory.

The focus of the AUS Model is on player protection, operator probity and system integrity.

The revised Model provides for improved consumer information requirements, and introduces additional responsible gaming initiatives.

It also provides for the regular and formal review of its terms.

Request for Comment

Comment is invited from any interested member of the community or industry on the proposed requirements contained in the AUS Model or on any aspect of the regulation of interactive gaming.

Submissions are to be made in writing and sent to

Review of the Regulation of Interactive Gaming
Northern Territory Department of Industries and Business
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Darwin NT 0801

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The closing date for submissions is 2 May 2001.

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Introduction to the AUS Model

“Interactive gaming” is gaming conducted by means of new technology such as the internet.

The regulation of interactive gaming poses special challenges.

This regulatory Model – the AUS Model - is the first major revision of the Australian scheme of regulation for interactive gaming known as the “*Draft Regulatory Control Model for New Forms of Interactive Home Gambling*” (“the *Draft National Model*” or “DRM”).

Released in 1997, the DRM was based on the foundation principles of ensuring that gaming using the internet and other forms of interactive technology met the highest standards of integrity and fairness.

Recognising both the threats posed by interactive gaming and the opportunities afforded by the new technology, the DRM set out practical requirements to promote responsible gaming practices that were unprecedented in their scope and that remain unavailable in most forms of gaming.

The DRM has formed the basis for all State and Territory legislation governing online gaming.

The DRM was based on the judgement at that time that the prohibition of interactive gaming was not feasible due to the global nature of the internet and the significant technical and commercial consequences on the conduct of wider e-commerce if gaming traffic was to be effectively controlled.

Instead, the best option was to offer local, well-regulated sites that provided players with player protection measures of the highest standard wherever players are located.

The DRM was prepared when interactive gaming was in its infancy and its predicted growth and likely impacts – both good and ill – were a matter for judgement. Since then, online gaming has been the subject to examination and comment by a host of commentators, nationally and internationally.

In Australia, the Productivity Commission in its Report on *Australia’s Gambling Industries* provided comments on internet gaming as part of its wider review of gaming. The Senate’s Information Technologies Committee looked at the specific area of online gaming in its Report “*Netbets: A Review of Online Gambling in Australia.*”

As well, the States and Territories have developed proposals for reform.

Since the release of the DRM, there have been developments in interactive technology which also have implications for the DRM. An example is the WAP technology which enables internet access from a mobile phone.

These developments have prompted this review of the DRM, and the enhancement of the uniform Australian standards.

Participants in Review

The review of the regulatory Model has been undertaken by a National Working Party. Representatives from all of the Australian States and Territories along with representatives from Norfolk Island and New Zealand have contributed to the review.

Such participation is not to be taken as reflecting the licensing policy of any particular State or Territory. Some States do not wish to licence providers nor allow the services to be provided to their residents.

Policy

The objective of the model is to provide standards on which regulatory regimes in each State and Territory are to be based to provide mechanisms for player protection and harm minimisation, operator probity and system integrity for the benefit of players regardless of where they are located.

The DRM contained a range of licensing and operational controls to promote responsible gaming. It also put forward a new scheme for the treatment of taxation.

This aspect of the DRM and the fact that the scheme would be implemented by each of the States and Territories in its own manner, have led to a misunderstanding in some quarters of the depth of consensus reached by the States and Territories on both the content of the regulatory scheme and the consistency of its application by them.

This consensus to adopt uniform national standards for the regulation of interactive gaming continues, and is the keystone of the AUS Model.

In keeping with the principal focus on player protection, taxation proposals are not carried forward in the AUS Model.

Interactive Technology – Emphasis on the Internet

The AUS Model applies the key principles of gaming regulation – harm minimisation, player protection, operator probity and integrity, and game fairness – to the delivery of gaming by interactive technology.

Interactive gaming may take a variety of forms:

- internet casino gaming where players use their personal computer to remotely access a "virtual" casino and bet on simulated card, dice and gaming machine games;
- networked computer games played competitively for money or prizes;
- interactive TV quiz and game shows where people at home bet on themselves or other contestants;
- gaming products offered on your TV or computer on a "click here" to enter basis; and
- telephone gaming using handset number buttons to bet interactively with a remote computer.

This list is not exhaustive.

Currently, close attention has been given to the internet. For this reason, the AUS Model contains a number of internet-specific measures. However, their utility to other media or other applications is uncertain.

Additionally, a number of measures are "PC-specific" in that they assume the availability of a PC or TV screen of a certain size. New delivery mechanisms such as the WAP could render some measures impractical.

This underlines the expectation that the AUS Model will operate in a dynamic environment and will need to keep pace with technological change.

Certain measures that are required by the AUS Model (eg, player registration), and others that have been adopted by some or all of the jurisdictions (eg, payment by cheque) are current methods of achieving desired outcomes. They will be replaced or augmented as new methods of achieving the functional requirements (eg, digital signatures) become available.

AUS Model - The Australian Model

The AUS Model is designed to operate within the existing Australian regulatory structure, with its international reputation for integrity, scrutiny of operations, technical expertise and accountability mechanisms.

Importantly, it is framed within the context of Commonwealth legislation that governs issues such as controls over money laundering and the controls over privacy. All operators are required to comply with all relevant Australian laws and it is unnecessary for the AUS Model to expand on these areas.

The AUS Model and National Gaming Strategies

The AUS Model has been developed at a time when the regulation of all forms of gaming has been the subject of examination and reform across Australia.

Several national strategies will impact on the AUS Model and interactive gaming.

The Council of Australian Governments announced on 3 November 2000 that it had agreed in-principle, subject to further development by States and Territories, to codes of conduct on consumer protection and advertising, and targeted education strategies for school children about problem gaming and its consequences.

Advertising controls set out in the AUS Model will therefore be subject to any overarching requirements developed as part of a national code.

Functional Requirements

Many requirements are to be implemented at a technical level. However, it is not proposed to develop a prescriptive National Standard for the technical aspects of the equipment and systems. Due to the range of potential products and the speed of technical development, it is not possible to prescribe in advance the preferred means of achieving the required levels of performance.

However, as with the development of technical and functionality standards covering the operation of gaming machines a similar set of principles for the functionality of interactive gaming systems has been developed to complement the AUS Model.

Australia: Uniform Standards for the Regulation of Interactive Gaming

Scope of the Model

The AUS Model will govern all forms of gaming delivered interactively from within Australia and may include games of skill which are declared to be subject to the scheme from time to time.

“Interactive Gaming” is the term used to describe new forms of gaming made possible by advances in telecommunications and computer technologies.

Examples could include:

- internet casino gaming where players use their personal computer to remotely access a "virtual" casino and bet on simulated card, dice and gaming machine games;
- networked computer games played competitively for money or prizes;
- interactive TV quiz and game shows where people at home bet on themselves or other contestants;
- any current gaming products offered on your TV or computer on a "click here" to enter basis;
- telephone gaming using handset number buttons to bet interactively with a remote computer.

The AUS model excludes gambling products authorised under other legislation.

Method of Implementation

The AUS Model will be implemented to promote a uniform approach to the regulation of online gaming in Australia.

Though the method of implementation will be based on the legislative and regulatory systems in each State and Territory, each jurisdiction will adopt a common regulatory framework to enable the uniform application of the policies and principles expressed in this Model.

The AUS Model expresses the minimum “benchmark” requirements — States and Territories may augment these requirements.

Objectives of the AUS Model

The objective of the AUS Model is to provide a uniform national regulatory scheme for interactive gaming to:

- promote harm minimisation and responsible gaming;
- ensure the probity and integrity of industry participants; and
- ensure game fairness, system integrity and the quality of services to players.

Player Protection Measures

Warnings and Links about Risks Associated with Gaming

The entry screen to a site must display a warning in a clearly visible form that gaming can be harmful. The warning must also advise that the site contains information on responsible gaming and problem gaming services.

Player protection measures that can be invoked by the player must be displayed on entry.

Player protection measures must be readily accessible from any screen available for game play.

All screens on a site must provide a readily accessible hotlink to a reputable problem gaming service and to information on responsible gaming.

No game play is to occur where the required hotlinks used to supply information on responsible gaming or player protection measures are not displayed or are not operational.

All links to problem gaming services provided by third parties are to be regularly tested by the operator. Where the service is no longer available or is not available for a significant period of time, the operator is to identify an alternative support service.

Game Fairness

The rules of the game must not be unfair or misleading.

The rules of the game are to be made available to the player, and the game is to operate and interact with the player strictly in accordance with the rules.

Each game must provide information in relation to its conduct.

Each game must provide information on the percentage return to the player, or sufficient information to enable a player to make a reasonable calculation of the return-to-player percentage, or the house advantage.

When a regulator is assessing a game, the player-return for a game must be shown demonstrably, as well as theoretically, to be not less than the advertised minimum.

Games must not be designed to give the player a false expectation of better odds by falsely representing any occurrence or event.

A licensed provider must not induce a player to continue gaming when the player:

- (i) is playing during a session;
- (ii) attempts to end a session; or
- (iii) wins or loses a game or bet.

A licensed provider must not induce a player to continue playing by the use of messages which imply that the player has lost by a small margin, is on the verge of winning a game or by any other means.

The player must not be forced to play a game just by selecting that game.

Other Game Play Requirements

Game play can only occur during a game session.

Where hotlinks are used to supply game information, game play must not occur if the hotlinked information is not available.

The following game information must be readily available for each game (i.e. displayed on the bet "page" or directly accessible via a hotlink:

- game name;
- restrictions on play;
- instructions on how to play, including a paytable for all prizes and special features;
- current account balance, displayed in dollars and cents;
- unit and total bet;
- the percentage-return to the player, or sufficient information to enable the player to readily and easily determine the return-to-player percentage or the house advantage;
- for multi-player games, whether or not the outcome to a human player can be affected if another participating end player device is automated;
- information on contact points for problem gaming services;
- the rules of the game.

Duration of Sessions

A player must be provided with the option of selecting the duration of a session of play. A "session of play" is to be taken to be the period of gaming activity, and not the period for which the player has logged on to the site.

A player must be able to nominate the duration of cumulative sessions on a site for a chosen period of time (day, week or month).

Display of Session Time

During a session, the time elapsed during the session must be displayed at all times in a digital format.

Breaks in Play

Players must be provided with the option of pre-selecting a break in play during a session.

The option of having automatic breaks in game play of at least 5 continuous minutes per hour must be made available to players.

A message must appear at the conclusion of an optional break which warns the player of the risks of excessive gaming and which advises that the site contains links to problem gaming services.

The player is to continue to have access during a break in play to responsible gaming features and other site facilities.

Breaks in Play – Messages

Operators must provide notification to the customer at intervals determined by the regulator, that gaming can be harmful and advises that the site contains links to responsible gaming services. The text must be approved by the regulator.

Players are to acknowledge the message before continuing play.

Exclusions

Self Exclusions

Persons will be allowed to exclude themselves from:

- (a) a particular type of gaming at that site;
- (b) that particular gaming site; or
- (c) all Australian gaming sites.

Self-exclusion must be for a minimum of seven days. The option of permanent exclusion must be provided.

In the event that a player excludes him or herself from the site or all sites on three separate occasions, the exclusion is to be permanent and may only be varied with the approval of the regulator in whose jurisdiction the site from which the exclusion was initiated is located. Approval may require the presentation of sufficient evidence that the player is not a problem gambler.

National Exclusion

Where a player chooses to be excluded from all sites all licensed providers must suspend any account and deactivate any registration of the player.

Exemption from Liability

Where a regulator excludes or varies the exclusion of a player, no legal proceedings of any kind may be taken or maintained against the regulator or its jurisdiction.

Licensing Controls

The principal means of referencing and applying the controls will be by means of a licensing system.

Foundation provisions will provide that only approved products may be lawfully offered and only by licensed operators.

The criteria for licensing will be the best practice set of standards currently applied to the licensing of major commercial gaming operators. A system of mutual recognition will apply to the results of any suitability tests conducted by another Australian jurisdiction.

Licensed providers must demonstrate a clear ability to pay all prizes.

Each regulatory body will act as an agent for receiving complaints about any product offered under licence and must forward the complaint onto the relevant regulator.

Each State and Territory's licensing scheme will as a minimum provide for:

- the licensing of providers upon satisfactory assessment of the proposed licensee in terms of probity and repute, financial soundness, technical expertise and operational ability;
- the licensing or approval of key personnel;
- probity assessment of associates of the licensed provider and individual licence holders;
- an offence to be created for doing anything requiring a licence without first obtaining the licence;
- licence holders and approved persons to remain suitable at all times;
- the prohibition of profit-sharing arrangement or other income-distribution arrangement without approval.

Licence Fees

The fee structure and licence term will be set by each jurisdiction.

Mutual Recognition

Mutual recognition will apply where regulators have agreed to share information and tests are not materially different.

Conflicts of Interest

Each jurisdiction will put in place appropriate controls to eliminate practices by key industry personnel and regulators which give rise to conflicts of interest and thereby reduce public confidence in the integrity of gaming

Operational and Technical Controls

Controls over operational aspects of each product will be primarily technology- and system-based, using best practice principles similar to those applying to distributed gaming networks.

For each proposed product the licensed provider will be required to demonstrate that the system provides effective protection of player entitlements and is easily audited. Approvals granted for games, equipment, software and procedures will be able to be withdrawn or modified if the regulator forms the view that it is in the public interest not to allow the approval to continue.

The process for the approval of products will be determined by each State and Territory. Each jurisdiction will determine the entity which will grant product approvals, and the form of any review or appeal process.

The testing and approval of products and equipment will be on the basis of cost recovery from the applicant.

The regulatory system will provide that:

- the place or places from which the licensed provider conducts gaming must be approved;
- only licensed or approved games may be offered;
- the game approval is specific to the licensed provider and the jurisdiction that licensed the provider;
- the game is clearly defined in terms of specific computer hardware and software, all equipment and software integral to the security of the product is approved and the location of all equipment is approved;
- the approved hardware and software must protect player entitlements;
- adequate transaction logging is to occur to ensure dispute resolution is transparent;
- the licensed provider's operational procedures and system of internal controls are to be documented and approved. The approved internal controls are to include details of the records to be maintained to fully record and explain the conduct of gaming;
- the critical components of the equipment and software will only be approved by the regulator when:
 - (i) it is tested and found satisfactory by a technically competent laboratory, the testing to include a detailed review of the software source code to ensure that secret fraudulent programming is not present;

- (ii) processes are in place to ensure the software used in operation is compiled from the reviewed source code;
- (iii) the regulator has the capacity to check on a regular and ad hoc basis that only approved hardware and software are in use, including maintaining a reference copy of approved software for this purpose;
- the licensed provider has a disaster recovery capability sufficient to ensure player entitlements and auditability up to the point of the disaster are protected and available;
- the licensed provider is able to provide the regulator with electronically formatted game play data from a secure part of the licensed provider's computer system. The data must be of sufficient detail and completeness to allow full verification of player entitlements, trend analysis and anomaly identification;
- approvals granted for games, equipment, software and procedures will be able to be withdrawn or modified at any time, if the regulator forms the view that it is in the public interest not to allow the approval to continue;
- malfunction of equipment will result in the voiding of the game and the return of affected bets;
- licensed providers commit an offence by knowingly allowing defective or malfunctioning equipment or software to be used;
- regulators will have the power to give enforceable directions to licensed providers to ensure games are conducted in the manner intended when the approval was granted.

Audit and Inspection

Audit and inspection powers will conform to the standard approach used throughout Australia for the audit and inspection of major commercial gaming operators.

Advertising

Advertising must conform to relevant Commonwealth, State and Territory laws.

Advertising and promotion must not be targeted at people who are not of legal gaming age and media selection and placement must reflect this.

Marketing and advertising must not encourage excessive participation.

Advertising must not imply or convey a message that one's status, general abilities and social success can be attributable to gaming.

Advertising must not challenge or dare people to participate.

Winning must not be shown out of context with the reality of the return to player and must not promote any unrealistic expectation of winning.

Player Registration

Player Verification and Registration

All systems must incorporate a method to confirm identity, age and location of the player which complies with the legislation in the licensing jurisdiction.

This must include:

- players to hold an account and/or be registered by the licensed provider;
- in order to open an account and be registered, players will be required to provide proof of identity, age and place of residence;
- licensed providers are to require the identification of players each time a player attempts to access the site, using such methods as a personal identification number or password and challenge questions.

Exemptions may be made for products meeting a published set of selection criteria or receiving special approval under the AUS Model.

Controls over Registration

A licensed operator is not to accept registrations from players located where it is illegal for the player to engage or participate in interactive gaming under any Australian State or Territory law.

Privacy

Providers must comply as far as is reasonably practicable with the Privacy Principles issued by the Commonwealth Privacy Commissioner.

A ground for action against a licensed provider's licence will result if the licensed provider fails to maintain the privacy of player information.

The standard of protection to be met is the "Information Privacy Principles" issued under section 14 of the Commonwealth Privacy Act and the "OECD Guidelines on the Protection of Privacy and Transborder Data Flow of Personal Data".

Where the Privacy Principles require the consent of a person to be obtained prior to the use of that data for purposes not directly related to the offering of a gaming product (eg. for inclusion in a mailing list), the withholding of consent by a person will not in itself be a ground for the licensed provider refusing to conduct business with the person.

The free flow of information between the regulatory bodies in each State and Territory is permitted where the information is related to the administration of the AUS Model.

Where the regulatory body has come into possession of information through the administration of the legislation, a secrecy provision will protect private and commercially sensitive information from release to other persons. The provision will not prevent the release of statistical information in, for example, Statutory reports.

It not is intended the secrecy provision would alter the application of any Freedom of Information legislation.

A licensed provider is to ensure that information obtained about people's gaming habits is not used to encourage irresponsible gaming behaviour.

Access by Children

Gaming by minors is prohibited.

Any prize won by a minor is to be forfeited. The jurisdiction licensing the licensed provider will determine the disposal of the prize such as to the Consolidated Revenue or to a dedicated fund.

Minors will not be able to obtain a service provider's licence.

Minors are not to be targeted by gaming activity that is designed to appeal to younger markets for example, by promoting gaming activity on computerised arcade games.

A site must provide a readily accessible link, which appears on its responsible gaming page, to a reputable filtering program such as Net Nanny or Cyberpatrol to enable players to prevent access by minors.

Financial Transactions

Credit Betting

A licensed provider must not provide credit to a player or potential player.

Players will only be allowed to participate through an account in the name of the registered player which must not have a negative balance. Funds can only be transferred to the account by means of an approved method of electronic deposit, or by physically depositing funds with the licensed provider or agent.

Self-limit on Bets, Losses and Deposits

Licensed providers shall be able to set limits on players and vary those limits from time to time.

Licensed providers are to offer players the ability to set maximum bet levels or maximum total bets for a period.

Players are to be provided with the option of setting:

- *Bet Limits* - the player may set the maximum single bet per game.
- *Loss Limits* - the player shall be able to determine the maximum amount that may be lost over a particular period (eg, day, week or month).
- *Deposit Limit* - the player shall be able to determine the maximum amount they can deposit over a particular period (eg, day, week or month).

If a player elects to impose either of these limits the licensed provider will be responsible for not accepting a bet that would breach the limit.

Once established by a player the limit may only be increased by the player on seven days notice. However, a request for a decrease is to be effective immediately.

Where the imposition of a limit occurs during a game the player will be informed.

Player Information – Financial Transactions

On request, a transaction report must display winnings, losses and duration of play for each day of the period requested, and of totals of these details.

Other Provisions

Money Laundering

In addition to reporting requirements under the Financial Transactions Reporting Act, the legislation will require the regulator to impose a standard anti money-laundering condition on each licensed provider's licence. The condition will require the licensed provider to report to AUSTRAC other defined transactions of interest to AUSTRAC. The parameters for determining which transactions are reportable will be established in consultation with AUSTRAC and industry.

Complaints

A player may make a complaint about a licensed provider to a regulator.

The site must provide an easy and obvious mechanism to advise the player of the right to make a complaint against the licensed provider, and to enable the player to notify the regulator of a complaint

Each regulatory body will act as a agent for receiving complaints about any product offered under the AUS Model and pass the complaint onto the relevant regulator.

General Legislative Provisions

It is expected that as with other gaming legislation provision will be made to deal with such issues such as cheating, unclaimed prizes, conflicts of interest, bribery and powers of investigation and seizure of equipment and evidence.

Provision of Filtering Software

Licensed providers must provide hotlinks to personal filtering software, eg, Net Nanny or Cyberpatrol.

Migration

Licensed providers whose present systems are incompatible with the requirements of the AUS Model will be required to conform to these standards at the time of the next system-upgrade or rebuild of the system, or within twelve months.

Review of the AUS Model

The AUS Model will be subject to annual review by State and Territory regulators.