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Gambling

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The Productivity Commission

The Productivity Commission is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.

The Commission's independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.

Further information on the Productivity Commission can be obtained from the Commission's website (www.pc.gov.au) or by contacting Media and Publications on (03) 9653 2244 or email: maps@pc.gov.au

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15 Online gaming and the Interactive Gambling Act

Key points

- Although still a relatively small part of the gambling market, online gaming and wagering have exhibited strong growth over the last 10 years.
- While the Australian ban on online gaming will have reduced its growth, international sites are being increasingly accessed, with the Australian ban having decreasing traction over time.
- Online gaming offers recreational gamblers better prices and more variety. However, it also poses risks:
 - it may increase problem gambling through its high level of accessibility
 - the current prohibition of online gaming means that Australian online gamblers can only use offshore sites, some of which have poor harm minimisation features and unscrupulous business practises.
- Regulated access has potential benefits over prohibition:
 - It could divert consumers from unsafe sites to ones that met stringent Australian probity and consumer safety standards
 - It would also increase competition in gambling, with better outcomes for consumers, and provide Australian businesses with greater commercial opportunities. (But given the globally footloose nature of this kind of business, it would probably yield governments limited additional tax revenue.)
- However, liberalisation also poses some risks:
 - Given the legitimacy domestic supply would provide, it would also probably lead to a much larger group of people participating in online gaming. If these players developed difficulties controlling their gambling in the domestic market, there is a risk that they would play abroad on unsafe sites, in order to bypass the restraining influence of the harm minimisation features offered by Australian licensed sites.
- The experiences of rapid liberalisation of gaming machines in the 1990s provides a salutary lesson about too rapid a change in the gambling environment.
- Consequently, a gradual approach to managed liberalisation that commenced with a relatively 'safe' form of online gambling — poker card games — would be appropriate. The effects of partial liberalisation could be evaluated, as could the harm minimisation measures in place, before any further liberalisation was considered.

The internet is progressively becoming a normal feature of commercial and social exchange. Yet this technology continues to transform the way we do business, connect to the marketplace, network and communicate with others. It has led to the development of a wide array of new goods and services, as well as changing the way businesses market and deliver existing goods and services, allowing geographically diverse parties to interact in order to exchange information and to trade.

The popularity of the internet as a means to buy and sell goods has had a growing impact on the gambling industry. For example, a web search for ‘internet gambling’ yielded about 7000 hits in 1999 (PC 1999) — today the same search yields over 12 million (as at 1 February 2009).

For both consumers and producers of online gambling products, the growth of the internet offers considerable benefits. But there are also new risks. For consumers, the internet can deliver more variety, convenience and value, but it can also expose new groups to the risks of problem gambling. For producers, the internet can reduce cost structures and enable growth by reaching new consumers. However, it also means established producers may be harmed by the emergence from other, previously excluded, jurisdictions of new competitors that may be subject to lower taxation or more permissive regulation.

Australia has adopted a mixed approach to the challenges posed by online gambling (the variety of different types of online gambling are described in box 15.1). While online wagering has been permitted (this is discussed in chapter 16), the provision of online gaming to Australians has been prohibited under the *Interactive Gambling Act 2001* (IGA). Given Australia’s limited jurisdiction over online suppliers domiciled abroad, the real effect of the IGA has been to prevent companies located in Australia from selling online gaming services to Australians. However, its impact on Australian consumers, who can legally access internationally based online gaming sites, is more contentious.

This chapter re-examines the rationales and consequences of the ban in the light of the new evidence that has since become available. While the focus is on online gaming on computers, the findings presented here apply equally to other platforms of delivery subject to Commonwealth control, such as mobile phones and television. The chapter begins with a background discussion of the debate leading to the prohibition (section 15.1) and moves on to discuss the relative harms and benefits of online gaming that are central to that debate (section 15.2). The efficacy of the prohibition is then analysed (section 15.3), followed by a discussion of the alternative regulatory approaches that could be employed (section 15.4). The

chapter concludes with recommendations as to the appropriate regulatory approach moving forward (section 15.5).

Box 15.1 The different types of online gambling

The main forms of online gambling are online wagering and online gaming. Online wagering is comprised of betting on racing (thoroughbred, harness and dog), sports betting (such as the outcome of cricket match), and betting on the outcome of events (such as elections or reality TV shows). Online gaming comprises of casino games (Blackjack, Baccarat, Roulette), all forms of poker and virtual gaming machines. Lotteries and Keno can also be provided in an online environment.

While these games can have very different features in terms of the speed of play and the amounts typically wagered when played in physical venues, the distinction between them is reduced when played online. The tendency is for online gambling to involve small but high frequency wagers, similar to venue-based EGMs. For example, whereas traditional lotteries occur infrequently (once per day) and involve small wagers, online lotteries can potentially run at any frequency (given a large enough customer base). Similarly, venue-based wagering on sporting events traditionally involve betting on the outcome (which team will win and what the margin will be), the internet allows for frequent micro-bets to be placed during the course of an event. For example, in a cricket match, whether the next delivery will be a 'no ball'.

This implies that the variation in the risk profile (in terms of the harms arising from problem gambling) associated with different types of gambling are more compressed when played online, compared to physical venues.



15.1 Background

Prohibition is the most severe of all regulatory approaches. Its application to online gaming contrasts with the relatively liberal approach taken for most other gambling forms. The policy evaluation of prohibition is the same as for any other regulation — the central question remains: *Is this form of regulation better at meeting its objectives than all other feasible alternatives?*

Prohibition differs qualitatively from other forms of regulation in that in seeking to eliminate or reduce costs or harms, it also eliminates any benefit that may have been derived from the consumption of the product. For this reason, prohibition is usually only considered when the evidence is decisive or when the risk of harm is exceptionally high. Like all regulation, prohibition also carries its own costs. At a minimum, these include the costs of implementing a strict policy and its ongoing enforcement. Regulation also includes a risk of unintended, adverse consequences. For example, the prohibition of alcohol in the United States in the early 20th Century resulted in the criminalisation of a large number of otherwise law abiding citizens, as well as leading to a dramatic expansion of organised crime and corruption.

The prohibition of all online gambling (both wagering and gaming) was considered in the Commission's 1999 report. However, whilst noting the potential harms of online gambling to consumers and the gambling industry, the Commission recommended that the countervailing potential benefits of online gambling warranted 'managed liberalisation' (PC 1999):

Managed liberalisation – with tight regulation of licensed sites to ensure integrity and consumer protection – has the potential to meet most concerns, as long as the approach is national.

The Commission's report was followed by the Netbets review by the Senate Select Committee on Information Technology (2000). The Netbets review also favoured a managed liberalisation over prohibition, and detailed a number of regulatory features designed to minimise the harms associated with problem gambling. These represented significant improvements over the harm minimisation features available even today in venue-based gambling facilities. Indeed, state and territory governments had already developed sophisticated regulatory regimes, with the objective of securing opportunities for commerce and tax revenue, while allowing harm minimisation.

Notwithstanding these reports and the regulatory initiatives of state and territory governments, at the first meeting of the Ministerial Council of Gambling, the Commonwealth requested that the states and territories enact a 12 month voluntary

moratorium on new interactive gambling services. This moratorium was aimed at stemming the growth of online gambling so that ‘the feasibility and consequence of a permanent ban’ could be considered (Department of Communications, Information Technology and the Arts 2008). This was rejected by all states and territories, except New South Wales and Western Australia. Nevertheless, on 6 December 2000, the Senate passed a bill prohibiting the provision of interactive gambling for one year for any service not already being provided prior to 19 May 2000.

During the moratorium, the National Office for the Information Economy (NOIE) conducted research into the implications of banning interactive gambling. The report presented evidence in favour of prohibiting online gambling in principle, but could not identify a practical means to enforce the prohibition. Notwithstanding this, the *Interactive Gambling Act 2001* (IGA) was passed in June 2001, and is still in effect today (box 15.2). The IGA banned the provision of most forms of online gaming as well as ‘in the run’ online wagering (wagering that occurs after the event has begun).

The findings in the NOIE report (2001) were based on a cost/benefit analysis that predicted that successfully prohibiting online gambling (both wagering and gaming) would deliver modest net social benefits. The analysis underlying this finding considered a number of types of bans, as well as different assumptions about the level of harm associated with online gambling (Econtech 2000). The modelling results indicated that if online gambling were at least as harmful as other forms of gambling, then all of the types of bans considered would generate a small increase in social welfare. However, the study had several flaws that limited the usefulness of its findings.

First, the NOIE report considered the ban in isolation from any other potential regulatory solutions that may have been able to minimise the harms without destroying the potential benefits for (non-problem) gamblers. The capacity for online gaming to provide sophisticated harm minimisation means that regulatory alternatives may be superior to a ban.

Second, the cost/benefit analysis assumed the ban would be effective at stemming demand for online gaming and would have zero implementation and enforcement costs (Econtech 2000). However, the NOIE report found that banning offshore provision of online gambling had little chance of success without some enabling technology. The available technical means surveyed were found to be either ineffective or excessively costly and none has been implemented to date.

Box 15.2 The Interactive Gambling Act 2001

The IGA targets the supply of online gaming, rather than its demand. It prohibits the *provision* of online gambling services to customers in Australia, but does not outlaw Australians from accessing online gambling services. Nor does it prevent Australian based companies from providing online gambling services to (non-Australian) customers in other countries. The Act states:

(1) A person is guilty of an offence if:

- (a) the person intentionally provides an interactive gambling service; and
- (b) the service has an Australian-customer link.

The IGA excludes several interactive gambling services. With the exception of 'in the run' betting, all forms of wagering are exempt from the ban, including: telephone betting; wagering on horse, harness or greyhound races; and wagering on a sporting event or any other event, series of events or contingencies. In addition, online lottery services are exempt, with the exception of instantaneous lotteries or lotteries that are highly repetitive or frequently drawn.

Gambling services prohibited under the IGA include:

- online casino games, like roulette, blackjack and all forms of online poker
- online versions of electronic gaming machines
- online bingo.

The IGA also prohibited the advertisement of these gambling services.

There are provisions within the IGA for the Minister to exclude any service from the prohibition at his or her discretion.

Source: Interactive Gambling Act 2001.

Third, the model used by Econtech incorporated many assumptions of questionable realism. For instance, it was supposed that, following a ban, some gamblers would shift to other forms of (equally hazardous) gambling, but others would shift to safe recreational activities, with the net outcome that harm would be reduced. However, those gamblers most likely to shift to other recreational activities would be those without gambling problems. In that case, there would be no gain through reduced harm, and indeed a loss from denying people a form of gambling that they found enjoyable.

Since the NOIE report, more evidence has emerged on the relative harms of online gaming, as well as on the efficacy of the prohibition itself. This evidence, combined with the doubts about the analysis underpinning the ban in the first place, suggest the need for a re-evaluation of online gaming policy. That re-evaluation should consider:

-
- the relative harms and benefits of online gaming compared to venue-based gaming
 - the effectiveness of the prohibition, as well as any other additional costs it imposes
 - the scope for less restrictive regulation to minimise these harms whilst still allowing some of the benefits of online gaming to be realised.

15.2 What harms are associated with online gaming and how do they compare to other gambling?

The fundamental difference between online and venue-based gambling is in the degree of access and convenience it provides. The ability of the internet to allow consumers to purchase goods and services from their own homes is generally seen as a benefit of the technology. However, when the good being purchased (in this case gaming products) carries a degree of risk, the increase in access can magnify this risk. For some gambling products the difference in access will be relatively small. For example, EGMs are widely available in most communities and the additional convenience offered by the online provision of virtual gaming machines would be modest. On the other hand, casino games are offered at only 13 venues across Australia (typically one in each major city). As such, online gaming greatly increases the ease with which Australians can access casino games like roulette and blackjack.

The ease of access and use of credit cards increase the risks associated with online gaming

Greater access could increase the prevalence of problem gambling and its associated harms. Some Australians, for reasons of geographical isolation or disability, have no access to venues offering casino games at all. Therefore, the provision of online gaming exposes a new population group to the risks of problem gambling. Even, for those who live in cities that have casinos, the internet significantly reduces the time and transportation costs associated with gaming. As this allows a greater frequency of play, it may result in more people developing a gambling problem. Moreover, online gambling can be slotted into very small periods, increasing convenience, but also the opportunity for impulsive gambling ('morning tea' gambling).

Whereas many physical gambling venues have restrictions on the hours they can operate, online gaming operate 24 hours a day. This means that the natural control on binge gambling from the periodic closure of physical venues is not available for

online gamblers. (That said, most casinos operate 24 hours a day, and so this argument does not apply to casino-type games.)

Several submissions also expressed the concern that betting using credit cards represents a threat to consumers. For example, Clubs Australia said:

... there is a clear difference between allowing a person to use money from their cheque or saving account to gamble as they see fit, and allowing a person to gamble on credit, where losses can be much higher and interest required on those losses. (sub. 164, p. 38)

As credit cards are the primary means of payment for internet purchases, this is particularly relevant to online gaming. For non-problem gamblers, the distinction between using a savings account or credit account is no different for gambling online than it is for shopping online or purchasing any other good or service from a physical location.¹ However, for problem gamblers, the reliance on credit cards in an online setting may magnify the financial harms from excessive gambling. While there are some positive features of account based credit betting (discussed below), the potential for increased harm to problem gamblers is a legitimate policy concern.

In addition to these major concerns, a number of other issues with online gambling are sometimes raised, though most are less compelling.

- Some particular gambling products — such as casino games or simulated EGMs — may be more socially isolating in an online environment than in venues. This may increase the likelihood of players of these games losing track of time and their spending. However, other forms of online gambling can have a strong social element (such as with poker and bingo).
- Online gambling providers are less able to monitor the behaviour of gamblers, apart from their spending. A person playing online can be disorderly, drunk or on drugs, and continue to gamble without interruption. However, online gambling providers are usually better equipped to monitor spending patterns than venue based gambling, due to the predominance of account based betting.
- Online gambling represents a greater risk to young people than venue-based gambling. Without staff on-hand to check patrons' age and identification, minors may be able to anonymously access online gambling sites. However, the predominance of credit-card gambling in the online environment means that underage gambling may be less likely than in physical venues.

¹ Wood and Williams (2009 p. 10) find that majority of internet gamblers report that use of credit cards rather than cash has no impact on their spending.

It is also observed that online gambling currently offers inadequate consumer protection for Australians. Disreputable offshore companies may offer deceptive and misleading products; have little interest in the welfare of their customers; fail to pay out on winnings or provide adequate security to users. However, a major reason for a reconsideration of online gambling policy is to address inadequate consumer protection.

Online gaming also has several features which mitigate its harms

Combined, the above considerations clearly indicate the need for some level of government involvement in the online gaming industry. However, it is not clear that online gaming is more harmful than other forms of gambling. There are a number of features of online gaming that ameliorate its inherent risks to some extent.

First, as anticipated in the 1999 Productivity Commission report, most internet gaming takes place within people's homes, as opposed to internet cafes or at work (Wood, Williams and Lawton 2007²). This puts online gamblers with partners and families in close proximity to people with a direct and personal interest in their wellbeing. Compared with staff at gambling venues, family members are likely to be more motivated to intervene, or seek outside help from counselling services or other family and friends, when evidence of a gambling problem emerges.

Second, while credit card betting may allow 'people to bet with money they don't have' (Clubs Australia, sub. 164, p. 45), it also prevents them from avoiding confronting the losses they have incurred. The tendency of problem gamblers to remember their wins but forget their losses is possible when gambling with cash (such as on EGMs). However, the use of credit cards when gambling online creates evidence of gambling transactions on credit card statements. This provides a monthly reminder to online gamblers of the full financial costs of their behaviour, as well as making it easier for other family members to detect any problems.

Third, due to lower cost structures and greater competition, online gaming is usually offered more cheaply than venue-based competitors such as casinos. This can occur by allowing lower bets or offering better odds. For a given duration and intensity of play, this results in smaller losses.

Fourth, online gaming allows players greater freedom to play at their own pace, rather than at the pace dictated to them by casino conventions. This is one of the

² The authors find that 86 per cent of North Americans who gamble online, primarily gamble in their homes. This is supported by Wood and Williams (2009) who find that around 93 per cent of internet gamblers primarily use their home computer.

main reasons why many people prefer online gambling to land-based venues (Wood, Williams and Lawton 2007). By contrast, taking a break from a blackjack table at a physical venue may result in the player losing their seat at the table, thereby encouraging longer uninterrupted periods of gambling.

Fifth, online gamblers do not fit the typical profile of a vulnerable or at-risk group within the community. Rather, they are more likely to come from higher socio-economic groups with above average education levels and income, and working in professional or managerial jobs.³ This is not to say that such groups are irrelevant from a policy perspective. However, it suggests that government action might have a higher payoff in other areas where gamblers are more likely to have misconceptions about gambling and for whom the financial consequences of problem gambling are likely to be worse.

Last, as users know the internet is a risky environment, online gaming companies have a strong incentive to self regulate. To attract business in an uncertain online environment, companies need to be able to signal their trustworthiness to potential customers. One way that businesses do this is through branding. As larger businesses become known for offering reliable products (or at least products that deliver what they promise), the costs they face from lost reputation far exceeds any potential benefit from ‘ripping off’ a customer. This business model appears to be taking root internationally as the online gambling market becomes characterised by larger firms and ‘one stop shop’ provision of multiple gambling products on single websites (Australian Internet Bookmakers Association, sub. 221, p. 9).

Another way businesses can demonstrate the safety of their product is through accreditation with an independent testing body, such as e-Commerce and Online Gaming Regulation and Assurance (eCOGRA). Companies that meet the range of operational and player practice standards required by eCOGRA are entitled to display the eCOGRA ‘safe and fair’ seal and are included in a list of approved sites on the eCOGRA web site (see box 15.3). These standards are enforced through:

³ For example Woolley (2003) found that around 53 per cent of Australian online gamblers worked as professionals or managers and administrators. This is a considerably higher proportion than the Australian population as a whole, of whom around 27 per cent reported holding these positions around that time (2001 census). Similarly Woolley (2003) found a median income of \$40 000 to \$50 000 per year, compared to the population median of \$34 149 (ABS 5673.0.55.003 - Regional Wage and Salary Earner Statistics, Australia - Data Cubes, 2003-0). These results appear to be mirrored internationally. Wood and Williams (2009) found Canadian internet gamblers to have a higher income education level than Canadians in general. In the United States, the 2006 AGA survey of casino entertainment found online gamblers to be a particularly affluent group with around 40 per cent earning over US\$ 75 000 per year.

... inspections, review and continuous monitoring of every aspect of online gaming operations, including business efficiency, dispute procedures, customer service and support, responsible gaming measures and fair gaming (eCOGRA 2009)

Self regulation will tend to be directed towards the provision of consistent product standards, rather than delivering the kind of harm minimisation features that may ultimately be desired. Moreover, there will always be some unethical operators. Nevertheless, the benefits that online companies receive from their reputation and from accreditation go some way to addressing concerns about the inherent probity and other risks of online gaming. In particular, consumers who gamble at popular, well-established websites could normally expect suppliers to meet minimum product safety standards.

Box 15.3 eCOGRA

eCOGRA is a not-for-profit organisation that was founded in 2002 by two publicly listed companies:

- 888.com — an online casino operator
- Microgaming — a internet gaming software provider.

These companies provided the seed money to launch eCOGRA and continue to fund around 10 per cent of its operations. The remainder is made up of compliance review fees and other data analysis services.

In addition to accrediting online casinos, eCOGRA also mediates disputes between players and certified casinos.

eCOGRA is presided over a board, which is comprised of three non-executive directors, four independent non-executive directors and one executive director. The independent directors have responsibility over testing procedures and seal approval. They are drawn from diverse backgrounds and must have no interests in the funding entities.

Source: <http://www.ecogra.org>.

What does the evidence show?

There is a very small, but growing, literature dedicated to online gambling, mainly based on prevalence surveys. In general, the evidence suggests that people who have gambled online at some stage in the past tend, on average, to have a considerably higher rate of problem gambling than people who have never gambled online (table 15.1). For example, Wood and Williams (2009) collected online surveys from people viewing a particular gambling website and found that 16.4 per cent of those who gambled online in the previous 12 months were moderate to

severe problem gamblers.⁴ In comparison, 5.7 per cent of those who gambled, but had never gambled online, were found to be moderate to severe problem gamblers. Whilst finding a considerably smaller overall prevalence, Griffith et al. (2008) also found that people who have *ever* gambled on the internet are more likely to be problem gamblers than those who had *never* gambled online (5 per cent and 0.5 per cent respectively).⁵ ⁶ On the face of it, these figures are concerning.

However, the literature on problem gambling associated with online gaming has to be carefully interpreted. Online gambling is a relatively rarely used and ‘new’ gambling form, so that random population surveys elicit few responses on which to base any assessment of the risk of harm. For instance, a random telephone sample of 2008 Australians found only 19 internet gamblers (table 15.1). Prevalence estimates of problem gambling drawn from this small group could not be reliable. In response to this difficulty, some researchers have sampled directly from the target population: online gamblers (such as Wood and Williams 2009). That provides more reliable measures among the selected group, but can involve self-selection biases.

The magnitude of problem gambling among online players is further confused by the loose definition of what constitutes an ‘online gambler’. Due to difficulty in sampling sufficient numbers, respondents need only have gambled online once in the last year (or ever in their whole life in some surveys) to be classified as an online gambler. Many in this group will gamble online very infrequently, and their primary means of gambling will still be venue-based. The presence of such people obscures any genuine causal link between online gambling and developing a gambling problem. (In contrast, the Commission’s analysis of problem gambling and EGMs considers how risks are affected by the degree of exposure.)

For example, problem gamblers tend to participate in more forms of gambling than other gamblers (Wood and Williams 2009 estimate that problem gamblers participate in an average of 4.7 different types of gambling). This increases the likelihood that they will at some stage experiment with online gambling and could lead to the misleading conclusion that online gambling has caused their addiction. In this case, it is their gambling problem that has led them to online gambling, and not vice versa. (However, it is still important to assess whether it has intensified their problems.)

⁴ That is, a CPGI score of three or above.

⁵ Here problem gambling was defined as scoring three or more using the DSM-IV criteria.

⁶ Both Wood and Williams (2009) and Griffith et al. (2008) examine all online gambling, including online wagering which is not prohibited under the IGA.

Table 15.1 The prevalence of problem gambling among online gamblers

<i>Study</i>	<i>Country</i>	<i>Method</i>	<i>Finding</i>
Griffith and Barnes (2007)	United Kingdom	473 university students were contacted via email and surveyed.	Of the 26 problem gamblers identified in the survey, 20 had gambled online in their lifetime.
Wood and Williams (2009)	Canada and international	Results from two surveys were used in conjunction with each other: <ul style="list-style-type: none"> • a self selected sample of 12 521 people recruited from a gambling website • a random digit telephone survey of 8498 Canadian adults, of which 179 gambled online. 	16.4% of internet gamblers were found to have a moderate to severe gambling problem according to their CPGI score. In comparison only 5.7% of non-internet gamblers were in the same CPGI range.
Wood, Griffith and Parke (2007)	United Kingdom	422 university students, who self defined as being online poker players, were contacted via email and surveyed.	18% were defined as being problem gamblers using the DSM-IV criteria. However, only 3.5% reported losing more than £100 per month.
Griffith et al. (2008)	United Kingdom	9003 people responded to a randomised mail out. Of these 6% had ever gambled on the internet.	5% of internet gamblers were identified as problem gamblers using the DSM-IV criteria (i.e. scored 3 or above). In comparison only 0.5% of non-internet gamblers were in the same CPGI range.
Allens (2003)	Australia	Two surveys were combined: <ul style="list-style-type: none"> • 73 respondents who where known to gamble on the internet from previous Roy Morgan Research • a random telephone sample of 2008 people, yielding a further 19 internet gamblers. 	9.6% of internet gamblers were found to be at risk of problem gambling (with a SOGS score of 5 or above). This figure was compared with the Commissions 1999 finding that 15.4% of regular non-lottery gamblers were at-risk of problem gambling.
La Plante et al. (2008)	International	Player spending for 3445 internet gambler service subscribers was tracked over two years. The study focused on poker players who played at least once every six months.	The median cost of gambling was €1.8 per session. The most involved players (top 5% of in terms of amount wagered) had a smaller percentage loss than less serious players (median 3% of money wagered, compared to a median 21%).
Ladd and Petry (2002)	United States	Questionnaires were left in health and dental clinics over 13 months. 389 patients were included in this study. 31 of these reported that they had gambled online in their lifetime.	74% of respondents who had gambled online in their lifetime had a SOGS score of three or more. In contrast 22% of respondents who had never gambled online had a SOGS score of 3 or more. (However, a SOGS score of 3+ would include many people rated as low risk under the CPGI.)
LaBrie et al. (2008)	International	Player spending for 4222 internet gambler service subscribers was tracked over two years. The study focused on poker players who played at least once every six months.	The median gaming frequency was once every two weeks, and the median amount lost was €6.5 per session. However, a small group of players significantly deviated from this. The top 5% of bettors gambled once every five days and lost a median of €46 every session.

Moreover, as online gambling is still relatively new, many occasional gamblers may not yet be comfortable with the medium (this is likely to be particularly so for older age cohorts). Heavy gamblers and problem gamblers will inevitably be early adopters of the technology and will thus be over-represented amongst online gamblers during its formative stages. As the industry matures and becomes normalised, it will become more attractive to recreational (non-problem) gamblers, and the prevalence of problem gambling may decline.

Finally, compositional differences in the types of gambling people engage in over the internet can erroneously give the appearance that online gambling is associated with a higher degree of risk. Gambling in lotteries is known to be a very low risk activity, and for many people, it is the only type of gambling they participate in. It is also primarily conducted through purchases at land-based venues. The over representation of this group amongst non-internet gamblers drives a wedge between the observed rate of problem gambling of internet gamblers and non-internet gamblers. However, this wedge doesn't reflect any difference in the inherent risks associated with the internet.

Whilst an ideal experiment would compare online and venue-based gambling by type of gambling activity, the small number of internet gamblers makes this practically impossible to achieve in a random survey. At the very least, types of gambling known to have very little risk should be excluded, and the comparison between results should use the same problem gambling screen. The risks of problems associated with online gaming and playing EGMs in physical venues appear to be closer to each other.

Some studies support the view that online gambling only partly contributes to the problems gamblers face. Wood and Williams (2009) found that, of the problem gamblers who had also gambled online in last 12 months, only 11.3 per cent nominated internet gambling as the format that most contributed to the problem. They concluded that:

...while internet gambling is an important contributing factor to gambling problems in a portion of problem gamblers, it does not appear to be the main cause of problem gambling for most of them (Wood and Williams 2009, p. 91)

Wood, Griffith and Parke (2007) examined a sample of university students who self define as being online poker players and found that 18 per cent were defined as problem gamblers by the DSM-IV criteria.⁷ However, most poker players in this sample played for small amounts of money, with only 3.5 per cent losing more than £25 (A\$50) per week. The finding of relatively small losses amongst online poker players was supported by LaPlante et al. (2009), who found that the median loss per

⁷ That is, they met four or more of the DSM-IV criteria.

session was around 1.8 Euros (A\$3). Interestingly, the players most involved in online poker (the top 5 per cent in terms of the amount wagered) lost a substantially lower percentage of their total wagers compared to other players (a median of 5 per cent and 21 per cent, respectively).

The bottom line on harms

While the risks associated with online gambling are likely to be overstated, the relatively high prevalence of problem gamblers is still a cause for concern. At the very least, it indicates that the internet is very attractive to this group and, though the evidence is weak, gambling online may exacerbate already hazardous behaviour. In any case, it is clear that careful regulation of the industry is warranted. The efficacy of the current prohibition as the sole tool for the regulation of online gaming industry is discussed next.

15.3 Has the prohibition ‘worked’?

Has prohibition significantly constrained demand for online gaming?

The evidence reveals that Australians continue to access online gaming services (through non-Australian based sites) that are prohibited under the IGA. However, this does not necessarily indicate policy failure. Very few prohibitions completely prevent the consumption of a product, yet they may still be considered to be justified if they can reduce the consumption of a harmful product (below what it would have been without the prohibition).

The relevant issue for determining effectiveness is the extent to which the ban has curtailed demand. There are two difficulties in assessing this:

- there is inconsistent evidence about participation rates in online gaming
- it is hard to estimate the degree to which the ban has led to slower growth compared with the ‘counterfactual’ of managed liberalisation.

Participation rates

Most surveys of participation find that between 0.1 and 1 per cent of Australians play casino type games online:

- In 2003, a survey of 2000 adults estimated that 0.12 per cent of the adult population participated in online gaming (Allens 2003). Given sampling errors,

this implies that participation rates at that time would be likely to be somewhere between zero and 0.3 per cent.

- A similarly sized survey undertaken in 2006 found an upper estimate of online gaming of around one per cent (AC Nielson 2007).
- Large sample surveys by the Productivity Commission (1999) and the Queensland Household Gambling Survey (2003) found participation rates of 0.4 and 0.3 per cent respectively.

Subject to low non-sampling errors, these estimates strongly suggest that relatively few adults participate in online gaming. Given the imprecision in the estimates from sampling errors and the likelihood of at least some non-sampling errors, the survey data cannot accurately determine how strongly participation rates have risen. (That said, the data are *not* inconsistent with strong growth since, were the point estimates accurate, participation might have risen ten fold from around 0.1 per cent to 1 per cent of the adult population from 2003 to 2006.)

International industry estimates provide more solid evidence of strong growth, but, in contrast to the population survey evidence, the participation rates are much higher for all periods (table 15.2). Using active player accounts as the metric, the estimates suggest that, in 2008, around 700 000 Australians played online casino-types games — some 4 per cent of the adult population. This represents a doubling in participation rates since 2004. Notably, growth rates are declining over time, which is consistent with a maturing industry.

The estimates of the prevalence of online casino gambling drawn from the active player accounts in Australia (4.3 per cent) are broadly similar to the prevalence rates in the United States (4 per cent) and the United Kingdom (3 per cent).⁸

The fact that online gamblers will often hold multiple accounts with different providers may at least partly reconcile the differences between the population survey and industry-based evidence. For this reason, the underlying participation rates associated with the player account statistics could be significantly lower than those suggested by table 15.2. Nevertheless, the Gross Gambling Yield (turnover minus money paid out as winnings) suggest the presence of a substantial online gaming market with Australians spending around 790 million dollars on online casino games and poker combined (Ibus Media Ltd, sub. 178, p. 34).⁹

⁸ American Gambling Association (2006) and Wardle et al. (2007).

⁹ Specifically, the ibus Media Ltd submission suggests that Australians spent around \$US670 million on online casino games and poker. This equates to around \$A790 million using the average daily exchange rate for 2008.

Table 15.2 Active player accounts

		<i>Units</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>
Casino	Number	000s	324.9	405.1	540.9	630.1	703.3
	Growth	%		24.7	33.5	16.5	11.6
	Participation	%	2.1	2.6	3.4	3.9	4.3
Poker	Number	000s	131.3	203.1	259.4	338.9	363.1
	Growth	%		54.7	27.7	30.7	7.1
	Participation	%	0.9	1.3	1.6	2.1	2.2
Bingo	Number	000s	6.2	18.1	30.0	44.3	50.3
	Growth	%		193.2	65.5	47.7	13.5
	Participation	%	0.0	0.1	0.2	0.3	0.3

Source: Ibus Media Ltd, sub. 178, p. 34 - Originally sourced from Interactive Gambling Report prepared by Global Betting & Gaming Consultants. Participation rates were calculated using adult population estimates from ABS, *Population by Age and Sex, Australian States and Territories, June 2008* Cat. no. 3201.0.

It does appear that there has been increased interest in some forms of online gambling — most notably the poker game ‘Texas Hold’em’ — both in Australia and internationally. This can be observed in a number of ways:

- poker tournaments have recently begun to be televised on free to air television (Ibus Media Ltd, sub. 178, p. 13)
- there has been a rapid growth in poker clubs in Australia (currently around 800 000 members in the top two poker clubs in Australia — the Australian Poker League and the National Poker League (Ibus Media Ltd, sub. 178, p. 13)
- there has been a rapid growth in prize pools at poker tournaments (in physical venues). For example, in 1998, the first Australasian Poker Championship at Crown Casino offered a total prize pool of \$74 000. This had increased to \$1.2 million in 2003 and by 2009 the total prize pool had reach \$13 million (John Beagle, sub. 249, p. 2)
- there has been prominent marketing campaigns for free play poker sites, which are commonly linked to play for money sites (Australian Internet Bookmakers Association sub. 221, p. 39-41).

This evidence suggests that Australians are playing more poker through legal means (such as tournaments or private games). However, it is likely that some of this growth has spilled onto the online environment (which is not illegal from the perspective of Australian *consumers*). One participant in this inquiry contended that up to 95 per cent of competitors in the major tournaments also play poker online (John Beagle, sub. 249, p. 3).

Growth relative to the counterfactual of no ban

A prerequisite for analysing the casual impact of the IGA on online gaming is reliable data on demand. As discussed above, the existing data are far from reliable, which limits statistical analysis.

Nevertheless, the player account data and the Gross Gambling Yield from Australian consumers are not consistent with the strong effectiveness of the current regulatory regime. Player accounts point to a participation rate in online gaming that is similar to UK (where no ban exists) and the US (where a ban exists and is much more rigorously policed than in Australia). That said, discriminating between the effect of the IGA and other influences determining demand for online gaming is difficult.

It would be surprising if the ban had *no* effect, for no other reason than it limits advertising of online gaming and means that Australians cannot gamble with providers that they recognise to be safe brands for venue-based gambling in Australia.

Overall, it is probable that the prohibition on online gaming, and in particular the prohibition on advertising online gaming, has reduced the growth in demand below what it otherwise would have been. Nevertheless, it is not clear that the effect has been large. Australian consumption of online gaming has grown and will continue to do so, making the prohibition less effective over time.

What has the prohibition meant for online gamers and the online gaming industry?

The IGA has clearly prevented any Australian-based company from providing online gaming to Australian residents. Whilst the IGA also nominally prohibits the provision of gaming services by overseas companies, it has no meaningful way of enforcing this and the legislation appears to have been largely ignored. In effect, therefore, the IGA has ensured that domestic consumption of online gaming services will be exclusively provided by offshore companies. This has had a number of adverse impacts.

- Problem gamblers with a preference for online gaming have been offered minimal protection. While the number of easily accessed international websites has risen dramatically in recent years, the extent of harm minimisation features varies greatly from website to website, and generally falls short of best practice.
- Recreational gamblers who would have preferred to gamble on Australian sites have been subject to a greater risk of being ‘ripped off’ by some unscrupulous

overseas operators. While there are many reputable gaming sites, Australians are nevertheless disadvantaged when trying to resolve disputes with overseas companies due to:

- the absence of well defined international laws, as well as legal bodies to enforce them
 - unfamiliarity with the legal environment in the countries in which overseas companies operate
 - the difficulty in communicating effectively with companies based on the other side of the globe.
- Domestic providers of traditional forms of gambling have faced greater online competition from jurisdictions with much looser regulatory requirements.
 - Recreational (non-problem) gamblers who are discouraged from gambling online due to the prohibition have less choice and are, accordingly, worse off.
 - Tax revenue that would otherwise have been collected from legitimate Australian sites is now collected by foreign governments. Due to the mobility of international online gaming providers, it is unlikely that this industry could be taxed at equivalent rates to companies providing venue-based gambling products. However, the benefits that online providers would derive from locating in Australia (primarily the value of signalling to consumers that they adhere to Australian standards and are accountable to Australian law) provide some leverage against which a modest level of taxation could be applied. (As an aside, this raises a further issue as to what level of government would collect the additional revenue. There is scope for either the Commonwealth, or the State and Territory governments to tax online gaming. In the case of the latter a harmonised tax regime may need to be established, an issue discussed further in chapter 15.)
 - Commercial opportunities for Australian businesses — including in export markets — have been lost.

Of these, the loss of choice to recreational gamblers and, in particular, the loss of control over the harm minimisation features associated with the gambling services consumed by Australians, are the most serious defects of the IGA. From the point of view of consumers, the IGA completely deregulated the online gaming industry. In essence, the legislation attempts to dissuade people from gambling online by making it more dangerous.¹⁰ This will have the biggest deterrent effect on

¹⁰ For example, Senator Richard Alston described the legislation in the following terms: ‘I am aware of criticisms that the bill will force Australians to use offshore Internet gambling services... Australian customers will be cautious about using offshore services, in any case,

responsible gamblers who are more likely to react by avoiding online gaming altogether, thereby forfeiting the unique benefits of the medium. The IGA will be least effective on problem gamblers whose behaviour means they may not respond appropriately to the riskier online gaming environment the IGA facilitates.

It is noteworthy that while the literature on online gambling pays close attention to the higher rate of problem gambling, no academics working in this area find prohibition to be the appropriate policy response. Wood and Williams (2009) come the closest to advocating prohibition, but are equivocal in their findings and state that there is considerable merit in alternative approaches. The vast majority of other researchers in this field suggest that regulation of the industry, which incorporates strict harm minimisation principles, is preferable to prohibition (McMillen 2003, Nelson et al. 2008, Griffith et al. 2008, Broda et al. 2008, Cotte and Latour 2009).

This was also the view of a number of participants in this inquiry. Interestingly, while some potential competitors to online gaming providers advocated a continued ban (Lottery Agents Queensland and Lottery Agents Association of Victoria, sub. DR391), others support having a regulated industry:

ClubsAustralia believes it would be hypocritical to advocate a ban on any form of gambling, given its clear support for gaming as a legitimate form of entertainment. Far from banning online gambling, ClubsAustralia instead believes that it should face *identical regulation* to that placed upon gambling machines. (ClubsAustralia, sub. DR359, p. 92)

The potential harms of online gaming indicate that appropriate regulation of the industry is needed to protect consumers. However, the current prohibition perversely amounts to discriminatory deregulation, ensuring that the Australian online gaming market is exclusively catered to by offshore providers, who operate under a variety of regulatory regimes. This provides inadequate protection to both recreational online gamblers, as well as online gamblers who are at risk of developing a problem. This may not be a large problem today, while the numbers of players is small, but will grow with the greater uptake of online gambling. This then raises the question as to how the existing regulatory regime could be improved in order to deliver better longer-run outcomes for Australians.

15.4 Policy alternatives

There are two fundamentally different policy responses to the existing deficits in the IGA:

because these services are often unregulated and there is no guarantee of payouts being honoured' (Interactive Gambling Bill, Second Reading, 28 June 2001)

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1. the IGA could be strengthened such that it becomes more effective in dissuading Australians from online gaming
 2. the IGA could be amended to realise the benefits of online gaming, while minimising its potential harms.

Could the prohibition be made more effective?

At a minimum, strengthening the IGA would require the implementation of a technological barrier aimed at impeding access to off-shore gaming websites. As mentioned earlier, previous reviews have been unable to identify a viable means of accomplishing this (NOIE 2000). However, the Australian Government is currently developing a technology to filter the internet, at the provider level, in order to block websites known to contain illegal material. Online gaming does not appear to be targeted in the scheme, but it is included in a supplementary voluntary scheme that the Government is encouraging internet service providers to offer on a commercial basis.

Should online gaming be included amongst the websites that are mandatorily blocked under the internet filtering scheme, it may reduce, but would not eliminate, online gaming by Australians. The effectiveness of the proposed internet filtering scheme is undermined by the existence of a number of relatively straightforward methods of bypassing the system. These methods — such as using a proxy server — are obtainable on the same medium that online gambling takes place (the internet). For people familiar with these methods or motivated to play online, the filter would represent a relatively low obstacle to play. For others less familiar with the technology or less motivated to play, filtering is more likely to be effective.

To meaningfully reduce online gaming, the internet filtering system would need to be complimented with amendments to the IGA that made it an offence for Australian citizens to access online gaming products. Further, resources would need be allocated to the detection and prosecution of Australian online gamblers who breach these provisions. Combined, these measures would significantly curtail online gaming by Australians.

However, there are a number of drawbacks to this approach:

- censorship and criminalisation of online gaming would probably be seen as a draconian response to a practise that is widely accepted in a physical setting. Such severe responses are usually reserved for acts that are widely considered by the community to be highly unethical. This is not the case for gambling (although some may regard it as unwise or harmful)

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- censorship of the internet in general evokes considerable community concern about government controlling the flow of information in an open democratic society and encroaching on its citizens' personal liberties
 - the welfare lost by non-problem online gamblers would obviously be far higher under an effective prohibition than it is under the current IGA.

The magnitude of these costs is such that the level of harm associated with online gaming would need to be very high, and unavoidable through alternative regulatory responses, in order for a net benefit to arise from bolstering the IGA. In the parallel physical gambling world, the Commission does not consider that a ban on EGMs is warranted despite evidence of considerable harm. Rather, the Commission has argued for continued legal supply, but with more stringent consumer safety requirements.

Could regulation reduce the harms associated with online gaming?

While the internet has the potential to increase the risks of gambling, it also has the capacity to deliver harm minimisation technologies much more easily and effectively than most forms of venue-based gambling. As the internet is a rich and immediate source of information, online gamblers are in constant contact with a medium that can deliver instantaneous access to a wide variety of problem gambling information and assistance. In contrast, information on the risks of gambling in clubs and casinos and effective ways of managing those risks may be difficult to find, involve the potential for embarrassment, or may not be suited to individual needs.

Beyond this, the internet allows online gambling companies to actively and cheaply provide a range of preventative and rehabilitative support to people at risk of developing a gambling problem. Similarly, the internet can be used to extend current treatment and counselling services for those seeking help. Were online gaming to be liberalised, regulations could require the industry to offer any number of the features discussed below.

Automated monitoring of players' behaviour and targeted interventions

In the normal course of commercial operations, online gambling providers automatically gather detailed information about the spending activity of their clients. This information could be used to detect emerging gambling problems in several ways:

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- sudden changes in historical betting patterns. In particular, escalation of wagers following large losses
 - aberrant gambling behaviour — such as excessive session length, or excessive losses. Benchmarks could be set against existing research and updated as new evidence emerges.

Once behaviour that signifies a high risk of problem gambling is detected, a number of types of interventions are possible. Examples of possible interventions include:

- pop up messages with information on time played and amount lost in current session, or over the last month
- pop up messages warning about indicators of problem gambling as well as positive steps that can be taken to rectify gambling behaviour
- links to problem gambling tests or other counselling services
- forced breaks in play
- exclusion from the website.

Whilst even well-trained staff at land based venues may not have sufficient information to effectively intervene in instances of problem gambling, the rich electronically recorded information about player behaviour allows online gambling providers to offer graduated responses, which can be tailored to the severity of the gambling behaviour. Sweden has successfully trialled such a technology — named ‘Spelkoll’ — which has proved to be popular and is now being extended to include a budget pre-commitment option (Svenske Spel 2009). In addition, web-based interventions of the above kind do not involve the same risks to venue staff of interventions in physical venues, and probably do not entail the same level of embarrassment to patrons. Indeed, many of the above interventions could be automated, so that it is the *technology*, not the online staff, that intervenes.

People who already have a severe gambling problem may respond to such interventions by simply changing websites. However, the system is likely to be a significant improvement over venue-based harm minimisation measures in its capacity to intervene early, before serious problems emerge, and educate people about problem gambling and the risks involved in gambling.

Effective self-exclusion

As discussed in chapter 9, self-exclusion is currently difficult to enforce in physical gambling venues (though the pre-commitment options discussed earlier in this report should address these). However, as online gaming is account based,

identification is a prerequisite for play. At any given website, exclusion can be (almost) complete and final. Companies may also enter collaborative agreements whereby if a player self-excludes from a certain gambling website, they are simultaneously excluded himself from all partnered websites as well.

The problem with such agreements is that, while it would be feasible to have a system to enforce exclusions from all Australian online gambling providers, parallel arrangements could not readily be put in place for all overseas online providers. It is possible that some international standards could be adopted that allowed overseas suppliers to also participate in enforcing self-exclusion orders from third party countries. However, realistically, such cooperation could not be mandatory or complete. Accordingly, problem gamblers excluded from certain websites would be able to access at least some overseas sites.

There may be other options for global self-exclusion arrangements.

Limits on overseas credit-card use?

Users could potentially broaden the international scope of a decision to self-exclude through disabling off-shore purchases on their credit card. This may cause considerable inconvenience (restricting purchases of other goods as well as international travel), but could serve as a useful ‘stop-gap’ measure while they seek treatment for problem gambling.

The major drawback to this approach is that it could not prevent the use of financial intermediaries, such as a PayPal and ClickandBuy, which are commonly accepted by online gaming sites. In the absence of international agreements that would bind such multinational corporations, the prospects for using financial institutions to broaden the scope of self-exclusion features are limited.

User-specific exclusion software?

There are significant difficulties (and costs) in universally filtering the internet. However, there are many software options for filtering on individual machines, which could be a well-targeted approach for those gamblers wishing to self-exclude from all gambling sites.

It may be possible to develop a software solution based on keywords or some other method that bars access to gambling-related sites, with the software being automatically installed and activated (with consent) at the time the gambler agrees to self-exclusion.

All such solutions can be circumscribed by knowledgeable users or have other limitations (such as slowing internet browsing), but such an approach may still be effective for a significant number of problem gamblers. Furthermore, while it may not be sufficiently effective now, improved broadband infrastructure, and better hardware and software, may make it feasible over the longer run. This is why it is important to periodically re-explore options for effective harm minimisation as technologies develop.

The Commission is not recommending either of the above two possibilities at this stage given their unknown technical challenges and the potential for significant costs. Nevertheless, there are grounds over the longer run for the Australian Government to consider these and other measures that might make self-exclusion from online gaming more universally enforceable.

Pre-commitment

Pre-commitment has many attractive features for harm minimisation (chapter 9). As with the capacity for self-exclusion discussed above, the account-based nature of online gaming means that it is straightforward to identify gamblers and to enforce any pre-commitment options they may choose. Pre-commitment could apply to both spending or time, which would be set to a default value when an account is opened. In theory, pre-commitment could apply across all Australian sites if the gambler wished that to be the case, though the feasibility and cost-effectiveness of this is unknown. Such a networked approach would partly address the risk that a gambler exceeding a pre-commitment limit with one provider would then be able to continue gambling on another site.

Even if pre-commitment is specific to individual online providers, it would be likely to serve several useful functions:

- it would be a useful tool for people who are not experiencing any significant problems, but wish to contain their gambling expenditure or time. It may prevent any progression to major problems
- the mere act of breaching a limit conveys information to a gambler about their behaviour, which could be supplemented with the kind of targeted interventions described above.

Beyond this, gamblers' preferences for one particular website may cause them to mediate their behaviour so they are not forced to switch to an inferior one.

There are some indications that pre-commitment can be a useful tool for online gamblers. Nelson et al. (2008) examined the betting transaction of gamblers who

made use of a voluntary pre-commitment feature at an online gambling website. Players were able to set both a monthly and a daily maximum loss, which could be adjusted (in any direction) on a monthly basis. While only around 1 per cent of customers used the feature, those that did reported positive results:

- most did not change their limits once set, and of those that did, most decreased their limits
- most people continued to bet at the website
- compared with the period preceding pre-commitment, most players placed fewer bets for less money.

Restricted use of credit cards

As discussed above, the use of credit cards has the potential to exacerbate the harms of problem gambling. Some participants have suggested that a managed liberalisation of the industry should include a ban on the use of credit cards. For example, the Australian Hotels Association propose that online gambling operators should be subject to standards that include:

Legislation exist in all state preventing credit cards from being used on EGMs or at casinos... Clubs Australia remains of the strong view that legislation relating to credit cards and online gambling should be brought into line with that which exists for EGMs and casino games. (sub. DR359, p. 93)

This approach would appear to treat online and venue-based gambling in a (superficially) consistent manner. While it is argued in chapter 12 that modest net benefits arise from prohibiting credit card use in physical venues, this result is dependent on the existence of a cheap alternative means of payment — namely cash. In an online environment, substitutes for credit cards (such as electronic fund transfers) are much less convenient, which increases the cost of prohibiting their use.

Clubs Australia suggest that debit cards represent a promising alternative due to their functional equivalence to credit cards and their growing acceptance by consumers (sub. DR359, p. 93). However, as discussed above, banning the use of credit cards for internet gambling is difficult because payment is often facilitated by a financial intermediary (such as PayPal). This means that compliant gaming providers may not know whether their customers are paying with a credit card or not. As such, banning credit card use would also necessarily involve banning the use of these financial intermediaries. Some gambling providers may agree to such a ban in order to secure an Australian licence but, in doing so, the security benefits of using a financial intermediary are lost to both providers and consumers.

Also, as online gamblers can instantaneously transfer funds from their credit accounts into their debit accounts, it is questionable whether a ban on credit would meaningfully impede problem gamblers' access to credit.

Finally, banning credit cards undermines the provision of a various other harm minimisation measures. This is because:

- the costlier it is for businesses to comply with the ban, the less likely they are to seek licensing in Australia (and therefore be required to provide the type of harm minimisation measures discussed above)
- the more inconvenient it is for consumers to use websites without credit card facilities, the more likely they are to gamble with unregulated offshore providers.

For these reasons, the Commission does not see net benefits in, and is not recommending, a ban on the use of credit cards for internet gambling (both online gaming and online wagering). This does not represent a precedent for other forms of gambling, however, as the costs and effectiveness of such a ban are different in a venue-based setting. Further, whilst the use of credit cards for online gaming may be permitted, it reinforces the need for the adoption and adherence to the other harm minimisation measures outlined.

Online counselling

In recent years, the potential for counselling to be offered over the internet has attracted increasing attention. For example, from September 2009, the Australian non-government organisation Turning Point expanded its online drug and alcohol counselling service to include problem gambling. There are several practical advantages to the use of the internet in this area.

- online service can be provided more cheaply than phone or physically based services
- online provision might act as a useful referral mechanism, helping people to decide what form of face-to-face counselling or other forms of assistance (such as financial counselling) they might like to receive
- the anonymity of the internet may encourage people to get help if they feel intimidated or stigmatised by face-to-face encounters
- online counselling may be particularly attractive to online gamblers who are comfortable with the medium
- it can allow the use of software-based help systems or more dynamic self-help approaches to resolving problems. For instance, a user's responses to a series of

prompts can be used to direct them to detailed information that addresses their specific issues.

Early indications of the usefulness of online counselling are largely positive (see chapter 7). For example, a recent evaluation (Wood and Griffiths 2007b) found that Gam-Aid, an online real time provider of counselling services:

- provided a useful service (86 per cent)
- helped the participant decide what to do next (71 per cent)
- made the participant feel more positive about the future (61 per cent).

In addition to the provision of online counselling, the internet may also be a useful medium for problem gambling forums. Wood and Wood (2009) found that a large majority of users reported that online forums:

- made them feel less alone (98 per cent agree or strongly agree)
- provided new ideas on how to cope (91 per cent agree or strongly agree)
- helped them gain better control over their gambling behaviour (72 per cent agree or strongly agree).

Whilst these views from participants about online counselling and forums are generally favourable, they do not provide evidence of how effective the services have been in reducing gambling problems, compared to other available services. (That problem, however, is not isolated to virtual counselling — chapter 7.)

15.5 Weighing up the regulatory options

Online gambling offers people new products, greater convenience and better prices. Normally, this would suggest there should be no regulatory barriers to accessing this new medium for providing gambling. However, there are clear risks from online gambling and, while the literature is uncertain, there is enough evidence about potentially adverse effects on gamblers to be cautious.

The IGA has represented one such cautious approach. However, while it is likely to have partly stemmed the uptake of online gambling, it :

- has failed to prevent considerable growth in the consumption of online gaming by Australians (albeit from a small base)
- is likely to discourage the recreational gamblers who would have benefited most from online gaming

-
- is least likely to discourage problem gamblers, for whom the regulation of the industry could have offered better protection and support.

Its prospects for long-run effectiveness of stemming online gaming look weak, unless accompanied by additional heavy-handed regulation.

An alternative is ‘managed liberalisation’, in which suppliers would be licensed to provide online gaming to Australians, subject to strict conditions about probity and harm prevention and minimisation. Managed liberalisation of online gaming would better protect Australians from the risks of online problem gambling, whilst still allowing recreational gamblers the freedom to choose an enjoyable medium. It would also resolve the apparent paradox that the Government allows Australian based firms to sell a product overseas that it deems too dangerous for Australians themselves to consume.

Liberalisation of online gaming would effectively represent the regulation of a currently ‘deregulated’ industry (from the point of view of Australian consumers accessing offshore game sites). Australia already has a large number of established online wagering companies well placed to expand into the online gaming market. Following the international trend of the ‘one-stop-shop’ provision of multiple gambling products being offered at single websites (Australian Internet Bookmakers Association, sub 221, p. 9) it is highly likely that Australian online wagering companies would also offer online gaming products. Moreover, venue-based gaming providers may also use their expertise to expand into the online realm. As these companies are known to Australians, and known to be subject to Australian laws and standards, they should enjoy considerable advantages over international gaming companies. It is probable then, that a large portion of online gaming by Australians would, in time, be provided by Australian companies. These companies could be subject to regulations containing the type of harm minimisation measure discussed in section 15.4.

The question remains about the scope of managed liberalisation. The option of managed liberalisation for *all* forms of online gaming — canvassed in the draft report has much to attract it, but also poses some risks (box 15.4 highlights the concerns of some participants about managed liberalisation).

Box 15.4 Participants concern about the managed liberalisation of online gaming

Notwithstanding the argument that Australian citizens are already exposed to risk through online gambling provided by largely unregulated offshore providers, we believe that removing the current ban on Internet gambling in Australia will lead to a greater accessibility of online gambling opportunities, much greater promotion and, consequently, increased levels of problem gambling which will be particularly difficult to detect due to the 'at home' nature of online gambling. (UnitingCare Australia, sub. DR387, p. 20)

The Gaming Commission continues to have some concerns with online gaming, particularly its attraction to young men, but acknowledges that the current system offers few protections and is basically a failure. The Gaming Commission believes a very strong regulatory framework would need to be put in place to accompany any repeal of the Interactive Gaming Act. (Tasmanian Gaming Commission, sub. DR311, p. 4)

Online Gambling is causing concern to the sector due to the ease of access that this form of gambling ... Governments' need to recognise that technology is moving at such speed that the need to 'keep up' with regulation and legislation to protect consumers will be vital. (Council of Social Service, sub. DR369, p. 11)

Even though the regulated online gaming services may lead to somewhat less problem gambling than unregulated offshore online gaming services, it is unclear how the existence of regulated Australian gaming services will necessarily attract problem gamblers in particular away from offshore unregulated online gaming services. (Family Voice Australia, sub. DR287, p. 3)

Similar arguments were put for the legalisation of gaming within a regulated environment yet many years, if not decades, later the harms resulting from legalisation are still to be effectively addressed. (Council of Gamblers Help Services Incorporated, sub. DR326, p. 30)

Given the legitimacy domestic supply would provide, it would also probably recruit a much larger group of people to online gaming. If these players developed difficulties controlling their gambling in the domestic market, there is a risk that they would continue to play abroad on unsafe sites when confronted with the harm minimisation features of Australian licensed sites (for example when they reach their pre-committed maximum gambling loss). Moreover, regulators have much to learn about:

- the effectiveness of harm minimisation and probity policies
- the behaviour of online gamblers, including those who start to develop problems
- the characteristics and vulnerabilities of those people attracted to online gambling in a less regulated world.

The experiences of rapid liberalisation of gaming machines in the 1990s provides a lesson about too rapid a change in the gambling environment. A more tempered

approach — involving the staged release of less intense gaming machines would have acted as the ‘canary in the cage’, warning of the wider potential risks.

Given that lesson, a precautionary approach to managed liberalisation would also be advisable. Of the most commonly used forms of online gaming (table games, simulated electronic gaming machines and poker card games), poker games appear to involve the least risks:

- It is a game of skill without the speed of play or continuous nature of the other games.
- It is unlikely to elicit the ‘trance-like’ states commonly seen among players of EGMs or EGM-like games.
- It is a social game (played potentially at home alone, but with others globally in a virtual social setting).
- It is often played in tournament setting with an upfront entry fee. This provides long ‘play’ times at a known, fixed cost to players, limiting their losses.
- There is evidence to suggest that the typical spend of frequent online poker players is relatively small (LaPlante et al. 2009, LaBrie et al. 2008).

In addition to these risk mitigating factors, there is a clear demand for online poker products, suggesting its regulation could deliver considerable consumer benefits (box 15.5, provides some participants’ specific views on online poker).

Consequently, a gradual approach to managed liberalisation that commenced with the likely safest form of online gambling — poker card games — would seem to be an affective way forward. The effects of this partial liberalisation could then be evaluated, as could the harm minimisation measures in place, before any further liberalisation was considered.

A gradual and partial approach would also allow a regulatory agency (discussed below) to build capacity and fine tune its operating procedures over time. Lessons from the liberalisation of the relatively safe online gaming products could be usefully applied when dealing with gambling products thought to be ‘riskier’. In the interim, online poker card games providers would also need to be required to remove any web links to online gaming products that remain prohibited. They would also be restricted to recognised, skill based variations of poker (not virtual EGMs or instant lotteries designed to resemble poker in some way).

Managed liberalisation, even in this form, is not without risk. But it would be easier to withdraw licences for online poker than all online gaming forms if, in fact, the harms appear to be too great. (That would, however, still leave the problem of how to effectively curtail online gambling abroad).

Box 15.5 Participants views on online poker

Poker players perceive poker as a game of skill, rather than chance, and this has been upheld by courts overseas... poker can be seen to be a much more pleasant, socially interacting and entertaining pursuit... these attributes occur only in one other casino game, blackjack, and then only as possibility, not as an essential component. (John Beagle, sub. 249, pp.1-2)

It is our view that online poker requires greater levels of skill than betting on a random outcome of a sporting event or other contingency. As such the IGA imposes an unfair and unexplainable distinction between the two forms online gambling (wagering and poker) and as a consequence, provides markedly different legislative rules ... In some jurisdictions in the US a 'pre-dominance' test is applied that rules a game to be a game of skill, if skills predominate over chance. In some jurisdictions such as Colorado and Pennsylvania, courts have ruled that poker is predominately a game of skill. Poker is also differentiated from other forms of gambling in that it is played peer-to-peer with the dealer taking a cut, as opposed to playing against the house. (Interactive Gaming Council, sub. 255, pp.21-22)

...the poker operator (whether terrestrial or online) has no stake in the final outcome. As such, poker truly constitutes an activity wherein the individual participants match wits and their skills against one another. This is part of the reason for the significant growth of poker as an entertainment activity. It allows an environment to be created where players can meet and participate in a game whose outcome is dependent on their skill. In this respect, it is no different from other skilful games like bridge and chess... In addition to being a recreational activity, the player to player format of online poker means there a social aspect to the game. The game of poker is a special case and should be regulated as such, irrespective of how other online casino games are treated. It is submitted that, at the very least the IG Act should provide for an exemption to permit online poker games in a player to player format. (Ibus Media, sub. 178, pp. 19-20)

An international perspective?

At a minimum, regulation of online gambling needs to be national in scope. However, as Australian online gambling companies participate in global markets (and some Australians will prefer to gamble on offshore sites), Australia has an interest in consistency with international online gambling regimes. (The fact that liberalisation would initially involve only poker games would not be an obstacle to achieving consistent consumer protection regulations.) Where possible, regulation should be aligned with that of similarly liberalised countries such as the UK, as well as non-government organisations that promote international standards (such as eCOGRA). It is likely that multilateral government and commercial action could secure a much better set of consumer protection standards for each country. Like all commercial activities, some countries/providers may not wish to adopt the global standard, but that very fact could be expected to make consumers cautious of using their facilities, given the risks of fraud and poor service.

While there would always be some unscrupulous offshore operators who would seek to flout Australian standards, there is scope to give major international operators the incentive to comply. One possibility is by making the right to offer the product and to advertise in Australia conditional on meeting Australian standards for harm minimisation (as in the UK). In any event, relative to the current arrangements, a managed liberalisation of online (poker) gaming cannot *increase* the already unfettered access to both safe and unsafe international websites that Australians currently have.

Who should oversee regulation of the online gaming industry?

The current operating framework for providers of online gambling services is the IGA which is administered by the Australian Communications and Media Authority (ACMA). As such ACMA, could feasibly serve as a broader regulatory body for the online gaming industry. Equally, it may be that a specially constituted body with a specific expertise in online gambling may be preferable. In either case, the regulatory body would oversee the provision of the harm minimisation measures discussed above, and could potentially examine probity measures as well.

The regulatory body should be national in scope and supported by federal legislation. That means that wherever there is conflict between the national framework and any state legislation, the Commonwealth would take precedence (as is the case in many other areas). That said, states would retain autonomy in areas not covered by the national regulatory body and, in particular, would retain the ability to ban certain types of online gambling, so long as they met the principles of competitive neutrality. For example, if a state elects to totally prohibit the provision of a particular gambling service (both online and in physical venues) on the grounds that it is associated with excessive risk of harm, it should still be permitted to do so.

Generally speaking, the presence of a well functioning national regulatory regime diminishes the necessity of state and territory regulatory counterparts. In particular, a ‘dual licensing’ system (i.e. requiring wagering providers to obtain both a federal and a state licence) is not advisable, as this regulatory barrier may discourage offshore providers from seeking an Australian licence at all.

While the bulk of this chapter has focused on online gaming, the arrangements discussed here would be equally beneficial to all other types of online gambling, including online wagering on racing and sports betting. (As such, the issue of harm minimisation is not discussed in the following chapter on the racing industry). For this reason, the national regulatory regime should also be applied to all remote gambling, including gambling via mobile phone and television. A federal online

gambling regulator would be well placed to investigate and regulate practices such as inducements and credit betting, which are common amongst online wagering providers.

In order to appropriately respond to the wide variety of online gambling products and practices, the regulating agency should have the capacity to conduct ongoing research into the online gambling industry and the impact it has on Australian consumers. Granting access to the industry data required for this kind of research should be a licensing condition for providers of online gambling products.

The success of the national regulatory regime suggested here would depend crucially on the ability of the national regulator to ensure compliance. For online gambling providers who obtain an Australian licence, oversight could be underpinned with a set of graduated penalties associated with breaches. However, unlicensed offshore companies who flout Australian regulations could easily evade such penalties. In these cases there are some blunter instruments that could potentially be applied.

As noted, one possibility is making the right to advertise in Australia conditional on holding a licence and meeting the standards for harm minimisation and probity set by the national regulator (as occurs in the UK). Beyond this, non-compliant online gaming providers could have their URLs blocked using the internet filtering scheme currently being developed by government. Given the coexistence of easily accessed (compliant) online gaming websites, the inconvenience associated with bypassing the filter is likely to be sufficient to put non-complying online gaming providers at a significant competitive disadvantage. In this way, the internet filtering scheme may better serve as a compliment to managed liberalisation, rather than as a substitute. However, the usefulness of internet filtering to ensure regulatory compliance would still need to be weighed against the reservations that many in the community hold about government censorship of the internet.

The managed liberalisation of online gaming inevitably entails some risks — as is the case when attempting to regulate any new industry or novel product. As such, the effectiveness of the harm minimisation features required by the national regulatory regime would need to be evaluated on an ongoing basis, as would the performance of the regulatory body itself.

RECOMMENDATION 15.1

In consultation with state and territory governments, the Australian Government should amend the Interactive Gambling Act to permit the supply of online poker card games.

Online poker, along with other gambling forms currently exempted from the Interactive Gambling Act, should be subject to a regulatory regime that mandates:

- *strict probity standards*
- *high standards of harm minimisation, including:*
 - *prominently displayed information on account activity, as well as information on problem gambling and links to problem gambling support*
 - *automated warnings of potentially harmful patterns of play*
 - *the ability to pre-commit to a certain level of gambling expenditure, with default settings applied to new accounts, and the ability for gamblers to set no limit on their spending as one of the system options (with periodic checking that this remains their preference)*
 - *the ability to self-exclude.*

The Australian Government should monitor the effectiveness of these harm minimisation measures, as well as the performance of the regulator overseeing the national regulatory regime. The Australian Government should also evaluate whether:

- *the provision of online poker card games should continue to be permitted*
- *liberalisation should be extended to other online gaming forms.*

RECOMMENDATION 15.2

The Australian Government should assess the feasibility and cost effectiveness of:

- *Australia-wide self-exclusion and pre-commitment options for equivalent online providers*
- *the capacity for extending self-exclusion through the payments system or through software solutions selected by problem gamblers*
- *the scope for agreement on international standards on harm minimisation and their enforcement through self-regulatory or other arrangements.*

16 Developments in the racing and wagering industries

Key points

- Without mechanisms to prevent ‘free-riding’, people could take bets on the outcome of races without having to make any payment to the racing industry. This poses a risk to the longer-run viability of the racing industry and would have detrimental consequences for the communities where racing plays a key role. More importantly, such a decline would also adversely affect consumers of wagering and racing products.
- The payment of product fees based on state and territory ‘race fields legislation’ is an attractive solution to the free rider problem. However, it is not clear that the instrument is legally robust, or will be used in such a way to promote efficient market outcomes.
- Improving the consultative process through which racing bodies set product fees would strengthen the foundations of racing industry funding model.
- If it becomes apparent over time that the race fields legislation cannot facilitate a fair and competitive wagering market, then a national funding model based on federal legislation should be adopted: This would best involve:
 - a single product fee paid by wagering operators on a gross revenue basis
 - the creation of an independent national body, that would set and periodically review the product fee, in consultation with all relevant stakeholders. A key objective of this body would be to maximise the long-term interests of consumers.
- There are also grounds for a harmonised tax regime, based on a binding agreement among all jurisdictions.
- There is a good case for retaining totalisator exclusivity arrangements (i.e. the exclusive right to operate a totalisator) and for permitting tote-odds betting.
- Further research is required to determine whether credit betting should be permitted in the wagering industry. In the interim, measures should be taken to limit the growth of this practice.
- There are grounds for permitting online wagering operators to offer upfront discounts to attract customers from incumbent suppliers. But, regardless of whether the practice is permitted or prohibited, governments should adopt a consistent national approach on this issue.
- The arguments for retaining TAB retail exclusivity (i.e. the exclusive right to provide off-course retail wagering products) are not compelling.

For much of Australia's history, wagering on horse, harness and dog races has been the most popular form of gambling. The three racing codes, and in particular thoroughbred horseracing, have a cultural significance to many Australians that exists regardless of any monetary stake they may have. Nevertheless, wagering underpins most of the interest in racing, which makes these industries mutually interdependent.

Over the last 50 years, this interdependence has primarily taken the form of funding agreements between the state and territory racing authorities and the Totalisator Agency Boards operating in their jurisdictions. However, recent developments in the wagering and racing industries have seriously undermined long-standing funding arrangements, causing some to call for a national solution. This chapter examines this question. In doing so, it concentrates on the thoroughbred racing industry. Nevertheless, the same issues face harness and greyhound racing, and the analysis presented here is relevant to all three codes.

The chapter begins with a discussion of the recent developments and fundamental challenges faced by the racing and wagering industries (section 16.1) Following this, we consider the principles for a good national model (section 16.2), and their application to a workable funding arrangement (section 16.3). This is complemented with a discussion of a number of broader issues facing racing and wagering (section 16.4).

16.1 The legacy of traditional funding arrangements

The issues facing wagering and racing today resemble the debate that took place prior to the introduction of Totalisator Agency Boards (TABs) in the 1950s. The issue revolves around adequate compensation to the racing industry for wagering on its product. Whereas the current debate centres on the appropriate level of remuneration and how to enforce it, in the 1950s the industry was struggling to deal with the growth in illegal off-course bookmakers who did not pay the racing industry for the right to bet on races, and took market share from the on-course bookmakers who did.

In both cases, the problem arose because the racing industry relies chiefly on the sale of intellectual property (essentially the outcome of the race), rather than on a physical product. In the usual course of market operations, common law provides a framework for disputes over property rights, contractual obligations and other potential areas of contention. This framework allows a price to be determined through bargaining between self-interested actors who will only trade on terms that benefit all parties to the transaction. However, it appears that the underlying legal

framework does not protect the intellectual property produced by the racing industry.¹ This allows some wagering operators to ‘free-ride’ on the contributions to the racing industry made by their competitors, without paying anything themselves (box 16.1).

Box 16.1 Public goods and ‘free-riding’

The outcome of a race has the characteristics of a public good. It is non-rival (any number of bets can be placed on a given outcome) and, more importantly, it is non-excludable (it is difficult for racing authorities to prevent punters from placing bets on the races they provide). In an unregulated market, public goods can be underprovided if those benefiting from such goods do not contribute sufficiently to their creation. This is sometimes referred to as ‘free-riding’.

However, the existence of a public good does not automatically imply a market failure requiring government intervention. In many instances the provision of public goods is not adversely affected by the existence of free-riders (for example, a passerby admiring the rose garden outside a private house). Similarly, if transaction costs are low and there are relatively few users of the public good, they will have strong incentives to cooperatively resource its provision such that an efficient equilibrium is reached.

Alternatively, if there were many users of the public good, their individual decisions as to how much resources they each contribute will only have a small impact on its overall provision. They each have the incentive to avoid paying for the public good and their incentives do not change as the provision of the public good declines. This scenario is the likely outcome of an unregulated wagering and racing market.

It is possible that the intellectual property embedded in the outcome of races could be protected under existing copyright law, negating the need for any special provision to be made. Racing fields, which are routinely published by wagering operators, could be subject to copyright, potentially providing a legal basis to enforce payment. This appears to be the recent approach taken by Racing NSW, however, the legitimacy of this under Australian copyright law is unknown. The historical unwillingness of racing providers to seek payment based on copyright, and the failed attempt in the UK to base their racing funding system on copyright law, is indicative of the uncertainty as to whether fair payment can be achieved through this avenue.

Free-riding is a common phenomenon and in many instances, the adverse implications are not sufficient to warrant government intervention. However, in this case, a long term consequence of unrestricted free-riding would be serious underfunding of the racing industry, to the detriment of wagering operators and

¹ Although other products arising from racing (such as broadcasts or the atmosphere and excitement of being at the track when a race takes place) require no special provisions in order to facilitate standard market outcomes.

consumers, as well as the racing industry itself. For this reason, government policy has historically been integral to the racing and wagering industries, both in Australia and abroad.

Beginning in the 1960s, free-riding was addressed by granting exclusive licences to government-owned TABs to provide off-course retail wagering, which gave punters a legal and convenient alternative to illegal off-course bookmakers.² In addition to providing an effective means of raising taxation for government, this arrangement ensured that the racing industry was paid for the use of its product through agreements between the TABs and the local racing authorities.

Excepting Western Australia, Tasmania and the ACT, TABs have been privatised over the last 15 years. While privatisation was accompanied by new contractual arrangements (Tabcorp, sub. DR372, p. 9), the essential structure of the funding model has remained the same, despite the ongoing changes and technological advancement that occurred in the wagering and racing industries over the last 50 years.

During this period, Australia has developed substantial thoroughbred, harness and greyhound racing industries.

- In 2007-2008 there were 379 thoroughbred racing clubs, which held 17 211 thoroughbred races and offered over \$355 million in prize money (Australian Racing Board 2009).
- In 2006-07 there were 114 harness racing clubs, which held 15 588 races and offered over \$90 million in prize money (Harness Racing Australia sub 231, p. 1).
- In 2007-08 there were 76 greyhound racing clubs, and 292 000 greyhounds competed in 40 000 races for around \$61 million in prize money (Greyhounds Australasia, sub 248, p. 5).
- The racing and wagering industries also provide employment for Australians in a wide range of occupations including: bookmakers, trainers, jockeys, racing stewards and breeders. Beyond this, these industries provide employment for the range of administrative and supporting staff required to run TAB retail outlets, internet and phone bookmaking operators, racing clubs and racing authorities. Industry sponsored research estimates the total number of full time equivalent (FTE) jobs to be over 48 680. In contrast, the South Australian Centre for Economic Studies independently examined a range of surveys and

² The first TABs were licensed in Victoria and Western Australia in 1961. By 1985, TABs were present in every state and territory in Australia.

methodologies and arrived at a lower (but still considerable) estimate of between 12 500 and 15 000 FTE jobs.³

However, just as the emergence of off-course bookmakers threatened to undermine racing industry funding during the 1950s,⁴ new entrants to the wagering market in the early 1990s dramatically changed the wagering landscape, again bringing about change to the funding model. The advent of the internet, along with the liberalisation of the wagering market to allow phone betting, have facilitated the growth of corporate bookmakers and, more recently, the entrance of a betting exchange provider (box 16.2).

By operating over the telephone and internet, corporate bookmakers are able to offer cheap and innovative wagering products across Australia, 24 hours a day (and initially were not required under regulation to pay product fees to the racing industry). As a result, corporate bookmakers rapidly increased their share of the wagering market.

As corporate bookmakers increased in prominence, New South Wales, Victoria, South Australia, Queensland and Tasmania responded by enacting ‘race fields legislation’, which details the basis and level of remuneration that must be provided to the racing industry for the right to use and publish racing fields.

While, this approach is essentially an ‘add-on’ to the original model, the inclusion of these new types of wagering providers signifies a profound change in the wagering and racing industries. This change has many positive features and will do much to ameliorate the allocative inefficiencies that developed under the traditional funding model. However, many ‘legacy issues’ remain unresolved, and the race fields legislation itself faces fundamental challenges. The remainder of this section examines these and their implications for racing and wagering in Australia, focusing on:

- the impact of the traditional funding arrangements on the wagering market and on consumers
- the impact of the current ‘hybrid’ arrangements on the efficiency of the racing industry at a national, state and local level.

³ Using the same methodology on more recent data, the Productivity Commission estimates a similar range.

⁴ Up until this time the racing industry had largely been funded by spectator admission fees and fees paid by on-course bookmakers.

Box 16.2 Types of wagering operators

On-course bookmakers: individuals who are licensed by the relevant state or territory racing authority to operate at racing venues. Bookmakers offer fixed odds and tend to provide simpler wagering products such as 'win' and 'place' bets. They can operate face-to-face, as well as over the phone and internet, whilst on-course. Some jurisdictions also allow bookmakers to provide these services off-course as well.

Corporate bookmakers: fully incorporated bookmakers who operate over the telephone and internet, and are often listed companies or subsidiaries of listed companies. Corporate bookmakers tend to have fewer restrictions than on-course bookmakers (for example they can operate 24 hours a day) and offer a wider range of betting products. The major corporate bookmakers in Australia include: Sportsbet, Betchoice, Betezy, Betstar, Centrebet, Centreracing, Luxbet, Overtheodds, Sportingbet Australia and Sports Alive.

Totalisators: operated by TABs, totalisators do not offer fixed odds bets. All bets are placed in a pool, with the winning bets sharing this pool (minus a percentage taken by the operator). For this reason, the final dividend is continuously updated prior to the race as betting takes place and is not finalised until betting closes. Totalisator betting is sometimes referred to as pari-mutuel betting.

TABs: in common usage, the term 'TAB' refers to the bodies in each state and territory that are exclusively licensed to operate totalisators and to offer off-course retail wagering services (as well as non-exclusive on-course, phone and internet wagering services). This definition is adopted by the Commission in this chapter, in reference to wagering on racing. However, modern TABs provide (either directly or indirectly) a range of other wagering products: For example

- most TABs participate in the sports betting market
- in Victoria, Tabcorp can offer fixed odds betting on races from its retail outlets
- Tabcorp owns the Northern Territory licensed corporate bookmaker Luxbet.

Care has been taken to provide clarification in the instances where the Commission's adoption of the common usage of the term 'TAB' has the potential to cause confusion.

Betting exchanges: similar to a stock exchange, a betting exchange is essentially a market place for punters to trade wagers at different prices and quantities. A betting exchange matches punters who are seeking to bet that a particular outcome will occur (i.e horse X will win) with others who are seeking to place opposing wagers (i.e horse X will not win).

Source: Australian Racing Board (sub 213) and Belfair Pty Ltd (sub. 181).

The concentration of market power has reduced consumer welfare

The presence of on-course bookmakers has generated more variety and competition than most other international wagering markets. Australian consumers have also

benefited from the increase in competition resulting from the privatisation of the TABs and the entrants of online and telephone based corporate bookmakers. That said, protective barriers in the retail wagering market continue to stifle the consumer benefits of greater competition. In particular, the off-course retail monopoly held by the TABs means that consumers have worse odds than those that a competitive market would deliver.

In the case of totalisators betting offered by TABs, the odds are determined by the ‘take-out’ rate — the amount removed from the total pool available to punters to win. TABs typically have take-out rates of between 14.5 and 25 per cent (the rate varies by state, and by product), which equates to an expected rate of return to punters of between 75 and 85.5 per cent per wager. This represents a substantially lower rate of return (and thus a higher price) than most other wagering and gaming products offered in Australia.⁵ Corporate bookmakers, for example, deliver a rate of return of around 94 per cent, whereas EGMs usually return above 90 per cent and casino games such as blackjack can offer up to 99 per cent.

The higher prices charged by TABs on their totalisator products are not solely a result of their retail monopoly. Some of the price differences between corporate bookmakers and TABs simply reflects the additional cost of the retail provision of goods and the operational costs of the totalisator itself. Nevertheless, the ability of TABs to use their market power to extract monopoly rents underpins their willingness to voluntarily enter into taxation and racing industry funding agreements that far exceed what has been asked of other wagering providers. Conversely, the higher level of taxation and racing industry payments structurally reinforces the pricing regime (i.e offering odds that are consistently above the level of a competitive market) and inhibits the ability of the TABs to compete with the low priced online providers who are gradually eroding their market power.

Comparing the Australian wagering market to the relatively competitive UK market, also suggests that the market power yielded by TABs has resulted in higher prices for consumers (Box 16.3). There are potentially many causes of this, such as the differences in the regulatory environment and consumer preferences for different types of wagering products. Nevertheless, the increased level of competition in the retail wagering market is almost certainly a major factor driving the lower takeout rate in the UK (on average).

While a minority of participants appear to challenge the view that TABs’ retail exclusivity constitutes market power and allows them to extract monopoly rents (Tabcorp, sub. DR372; p. 32, Racing Industry Consultation Group, sub. DR347,

⁵ Lotteries and Keno are the main exceptions to this.

p. 6), most racing and wagering industry bodies accept that this is the case to some extent. For example, Greyhounds Australasia writes:

GA accepts that takeout rates are substantially higher through the TAB and potentially may need to be amended somewhere closer to the market. But there no doubt that a reasonable premium is still required to meet the financial obligations of the parties involved. (sub. DR362, p. 6)

Similarly the Australian Racing Board state that:

While retail exclusivity by definition confers a significant degree of market power on TABs, it does not hermetically seal them away from the wagering market as a whole. (sub. DR343, p. 9)

Box 16.3 Average take-out rates for wagering in Australia and Great Britain

The take-out rate can be estimated through the ratio of the aggregated gross revenue (or total punter expenditure) to total turnover (the money value of all bets taken). Due to differences in definition and methodology, different data sources provide different estimates of the take-out rates in Australia and the Great Britain. However, all data sources examined here tend to suggest the average take-out rate in Australia is significantly higher than in Great Britain.

<i>Country</i>	<i>Year</i>	<i>Gross revenue</i>	<i>Turnover</i>	<i>Implied take-out</i>	<i>source</i>
Australia (wagering on all racing)	2005	\$2.37 b (consumer expenditure)	\$17.39 b	13.6	Queensland Government, Office of Economic & Statistical Research
Australia (thoroughbred only)	2008	\$1.63 (Turnover – return to bettor)	\$12.64 b	12.9	International Federation of Horse Racing Authorities
Great Britain (thoroughbred only)	2008	£1.05 b (gross win)	£12.13 b	8.7	Economic Impact of British Racing 2009
Great Britain (thoroughbred only)	2008	£1.08 b (Turnover – return to bettor)	£10.55	10.2	International Federation of Horse Racing Authorities

In addition to reducing the value-for-money offered to punters, the TAB dominated funding model is unlikely to serve the long-term interests of the racing industry either. While giving TABs the sole rights to provide off-course retail wagering largely solved the free-rider problem, the resulting higher price of wagering on racing increased the incentive of punters to seek out better returns in other forms of

gambling, or to switch to other types of entertainment altogether. This type of substitution is further encouraged by the other problems associated with monopolies (such as less efficient, innovative or responsive provision of services), which reduces the potential for growth in the wagering market and dampens interest in racing generally.

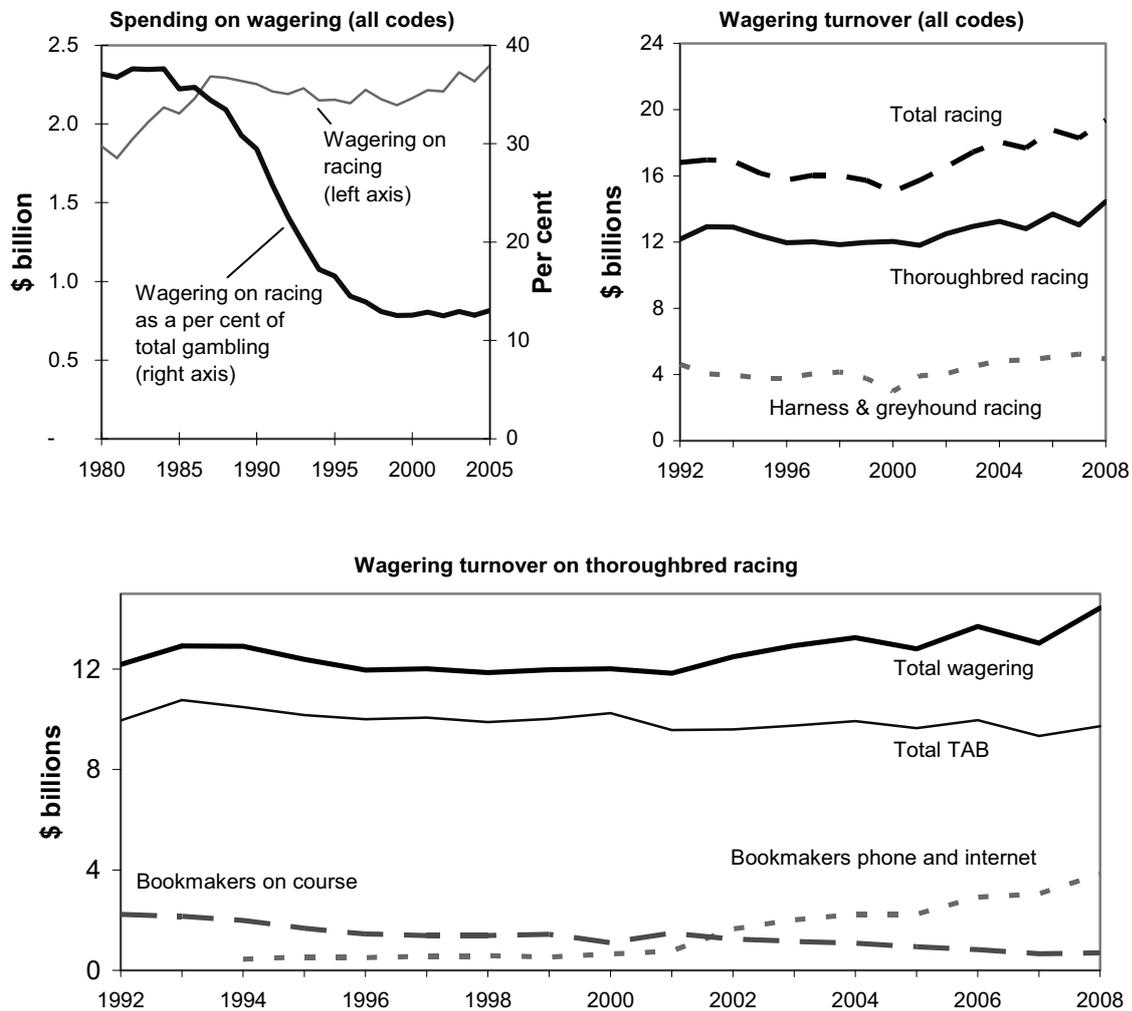
The financial ramifications of this are more severe for the racing industries than they are for the TABs. Whereas funding to the racing industry depends critically on the health of the wagering industry, the TABs are partially insulated by their stakes in competing gambling products. This is because some consumers will substitute wagering on races for other types of gambling also provided by TABs. For example, Unitab (which operates the TABs in South Australia, Northern Territory and Queensland) is owned by Tatts Group Limited, who offer a range of gambling products across Australia, including 'scratchies', lotteries, EGMs and EGM monitoring services. Similarly, Tabcorp (which operates TABs in New South Wales and Victoria) owns Star City Hotel and Casino in NSW and EGMs in over 260 pubs and clubs in Victoria.

Market trends substantiate a decline in the relative importance of wagering on racing during the 1990s, with turnover plateauing over this period (figure 16.1). At the same time, household income and aggregate gambling were growing rapidly, resulting in a sharp decline in expenditure on wagering when measured as a proportion of total gambling or total household expenditure.

Since 2000, phone and internet based bookmaking operators have led to increased growth in the wagering market. Whilst still a relatively small part of the wagering market (representing around 25 per cent of turnover), corporate bookmakers have grown rapidly since their inception, increasing their turnover by almost 500 per cent since 2000. In contrast, wagering turnover with TABs on thoroughbred racing was slightly lower in 2008 than it was in 1992, after inflation has been taken into account.⁶ The real turnover of on-course bookmakers has declined more markedly. These trends suggest that some of the growth in corporate bookmaking is due to punters switching from one wagering product to another. However, the growth in corporate bookmaking has more than offset these declines, causing the wagering market to grow overall, in terms of both turnover (the total value of the wagers taken) and spending (the total value of punters' losses).

⁶ Several participants (Tabcorp, sub. 372, Betchoice, sub. DR396, p. 1) have pointed to a significant jump in TAB turnover in the 2008-09 financial year. However, this 'jump' is largely a correction for drop in turnover in the 2007-08 financial year caused by the equine influenza virus.

Figure 16.1 Real wagering turnover on racing
2008–09 prices



^aTotal TAB includes totalisator betting through on and off-course retail outlets, totalisator betting through phone and internet, and fixed odds betting. The vast majority of this turnover is on totalisator betting.

Data source: Australian Racing Board Fact Book, Office of Economic and Statistical Research, Queensland Treasury.

The retail monopoly held by TABs was not entirely responsible for the stagnation of the wagering industry (prior to the entrance of corporate bookmakers). Other factors that may have contributed include:

- the maturation of the wagering industry, limiting the prospects for further growth
- increased accessibility of alternative gambling products, particularly casinos, EGMs and sports betting
- changing consumer preferences.

Nevertheless, a number of industry participants and commentators have referred to serious problems that emerged due to the past dominance of the TABs (box 16.4). These detrimental effects have been lessened by increased competition in recent years. Whilst the rise of internet and phone-based wagering operators represent a fundamental and potentially risky change to the way the industry is funded, reinstating the past dependence on TAB distributions would be more problematic. Subject to an adequate way of funding the racing industry, the interests of consumers, and thereby the racing industry, are best served by a diverse and competitive wagering market.

What about the welfare of owners?

While TABs' market power in the past has reduced the welfare of punters, some participants have argued that it is necessary to ensure the welfare of an equally important group – owners. With this group in mind, the National Horse Racing Alliance suggests the need to 'reinforce the role of pari-mutuel wagering' (National Horse Racing Alliance, sub. DR411, p. 13). This is echoed by Racing NSW who argue that the key measure of the welfare of this group is the degree to which the cost of owning a race horse is recouped (on average) through prize money winnings:

The most important internationally recognised measure of success of racing jurisdiction is to compare the return to owners as a group with the cost that group of owners incurred to have their horses compete (Racing NSW, sub. DR318, p. 5)

This model (totalisator based funding) served the (racing) industry well and allowed the industry to return up to 60 per cent of the training and racing costs to owners in the form of prize money compared to a maximum of 30 per cent of cost returned to owners in Ireland, Germany and Great Britain where the wagering landscape is dominated by bookmakers and betting exchanges conducting low margin operations. (Racing NSW, sub. 228, p. 2)

Box 16.4 The traditional model has been detrimental to racing and wagering in Australia

Hunter Coast Marketing describes the situation as following:

... the relative absence of competition amongst TABs (except for facilities used by a small number of professional punters), coupled with the introverted, amateur style management of race clubs and race authorities, retarded the industry through the 1990s (turnover was flat prior to the arrival of newcomers). Product suppliers dominated, customers had to take what was offered. (sub. 57, p. 6)

A similar view is put forward by Harness Racing Australia and the Racing Industry Consultation Group:

...I believe that it is customer service that has been the biggest cause of the growth of corporate bookmakers. The racing industry has neglected some of its consumers in the past couple of decades, I have no doubt about that. I'm not talking about the present administration... certainly there was a problem, going back some years in terms of paying due attention to the rights of their customers. I certainly believe that the TABs have been guilty of being lazy and not taking care of their customers as they perhaps should have done. That doesn't mean they should be tossed out of the equation here, it means simply that they need to get their act together, and I think they are gradually doing that. (Harness Racing Australia, trans., p. 696)

The RICG recognises that competition and efficiency in the provision of racing and gaming services in the past may have been deficient. RICG also believes that the industry is very much aware that it cannot stand still and that its is under challenge from competitive forces. (Racing Industry Consultation Group, sub. DR347, p. 6)

The importance of greater competition is also stressed by the Australian Bookmakers' Association:

Wagering and racing in Australia has long been treated by policy makers as a "special" industry that should ignore consumer welfare priorities and will best prosper via anti-competitive arrangements. Unfortunately the industry's current struggle for market share and relevance to younger generations is a product of this misguided approach. (sub. DR320, p. 4)

Industry commentator Patrick Smith writes:

Racing used to be bankrolled by the TABs. A significant share of money bet went to racing. It came at a heavy price, a big slice taken out of the punters' winnings. ... Wagering on thoroughbreds is a shrinking market because money is being spent on gambling types other than horse racing. (2009, p. 1)

Allens Consulting Group also suggest that market share has been lost to other forms of gambling that operate at lower margins:

Competition from other wagering operators has been used to explain declining TAB revenues. However, this view ignores substitution with other forms of gambling, including sports wagering, casinos and pokers machines and online gaming with illegal offshore operators. (2008a, p. V)

The Commission considers that, in the absence of evidence pointing to a market failure in terms of the rate of return to owners, there is no justification for targeting

this metric. Owning a race horse is both an investment and a recreational activity. In either case there is no clear basis for regulation aimed at guaranteeing that a set proportion of the cost of horse ownership is returned to owners:

- *Investment aspect:* Government generally does not seek to guarantee any level of return for individuals or firms who voluntarily decide to invest in a new business, project, on the stock market etc
- *Recreation aspect:* It is usually the case that entertainment and recreational activities are entirely paid for by those who voluntarily engage in them. In specific circumstances governments do intervene to reduce the cost of certain recreational activities (for example youth participation in sport to promote health and well being). However, it is dubious that returning a predetermined percentage cost of racehorse or greyhound serves any wider societal purpose. For example, people who own a horse merely for the joy of riding (outside of competitions), do not receive such a subsidy.

Moreover, the rate of return to owners is a dubious metric for government or industry to target, or to use to measure one country's racing industry against another's. The return to owner is partially driven by prize money and partially driven by the factors that influence the costs of ownership and the number of people willing to enter the market. For example, should prize money rise significantly, presumably more owners would enter the market, reducing their expected winnings and generating upwards price pressure on the goods and services that owners require (breeders, trainers etc). For these reasons, there is no guarantee that higher prize money would increase the return to owners on average, or vice-versa.

Funding arrangements have distorted the racing industry

The three racing codes in Australia have historically been administered at a jurisdictional level. States and territories have their own laws and regulations, as well as their own governing bodies that:

- receive product fees from TABs and on-course bookmakers (and more recently corporate bookmakers and betting exchanges)
- oversee the distribution of funds to racing clubs across the state or territory
- manage the local industry.⁷

⁷ In some areas, there has been considerable coordination between these bodies over the years to ensure common practices, standards, racing rules and racing integrity. This has occurred through national bodies such as the Australian Racing Board, Harness Racing Australia and Greyhounds Australasia. Nevertheless, state and territory industry racing bodies retain control over the commercial operation of the racing industry in their own jurisdictions.

Whilst advantageous in some regards, these arrangements have led to the inefficient allocation of resources for racing at a national, state and club level.

Distortion at the national level

The higher prices paid by consumers, due to the protected retail segment of the wagering market, means that their consumption patterns will be different to what would have occurred in a competitive market. As punters' consumption patterns determine prize levels, this distortion will echo down the racing industry supply chain, influencing the use of the resources (such as labour and capital) available to Australian economy.

While TABs still yield a significant degree of market power, this is being gradually eroded by the growing competition from corporate bookmakers, in turn reducing the magnitude of the market distortion.⁸ This has generated considerable concern that as corporate bookmakers gain market share at the expense of TABs, revenue to the racing industry in Australia will decline overall. However, as noted in the 1999 inquiry, there is no guarantee that the traditional arrangements have delivered the 'right' level of funding to the industry in the past (PC 1999). Nevertheless, anticipating the likely effect of the shift from high margin to low margin providers is of relevance to the racing authorities and the broader industry, in order to manage this transition.

The majority of racing's funding still comes from the 'monopoly rents' extracted by the TABs from consumers, with higher margins and lower volumes than would otherwise have been the case. A more competitive market would imply lower margins to wagering operators, which would necessarily reduce the proportion of each bet that could feasibly be levied by the racing industry (and taxed by government). This could cause a contraction of the racing industry. On the other hand, lower margins also imply better prices for punters, increasing the quantity of bets they place. Similarly, the existence of low margin operators may 'bring in punters who might otherwise prefer other gambling options' (Betchoice, sub. DR395, p. 4). If punters are sufficiently sensitive to better odds, it is possible that the racing industry could expand as low margin corporate bookmakers increase their share of the racing market. One bookmaker characterises this shift as follows:

You are better off taking a small slice of a very big and rapidly expanding fresh pie than trying to take a huge slice out of a stale and contracting party pie. (Eskander 2009)

In contrast, Tabcorp has argued that most punters are unresponsive to odds, and that price is not a determining factor for most segments of the market (sub. DR372,

⁸ Conditional on the new entrants being charged an appropriate product fee.

p. 29). This contradicts earlier findings by Windross (2008) on the responsiveness of TAB customers in New South Wales and Victoria to changes in the take out rates of win and place pools. It also appears to be inconsistent with the rapid growth in corporate bookmaking, as well as Tabcorp's own concerns about 'leakage' to Northern Territory based operators (sub. 229, p. 21). Nevertheless, if it were accepted that the majority of punters are indifferent to prices, then it would follow that any further movement of customers from TABs to corporate bookmakers would be minor and the effect on racing industry funding minimal (unless corporate bookmakers are intrinsically more attractive or convenient).

In its submission, the Australian Racing Board also presents analysis conducted by Allens Consulting that found that the growth of corporate bookmakers and betting exchanges would cause a decline in racing industry funding (sub. 213, pp. 30-33). However, this result did not factor in the product fees derived from the recent race fields legislations that have since come into effect in most jurisdictions. Taking this into account in a report for Betfair, Allens (2008a) found that increased competition in the wagering industry would be revenue neutral to the racing industry.

The Australian Racing Board (sub. 213, pp. 35-44) points to similar modelling by the Boston Consulting Group (NSW) and Racing Victoria Limited (Victoria). The first of these studies finds a positive funding effect arising from the race fields legislation and a negative effect arising from the growth of bookmakers. However the combined effect of the growth in corporate bookmaking and the race fields legislation is not presented. The Racing Victoria Limited study suggests that racing funding should increase, so long as product fees are enforceable.

These analyses aside, there are indications that Australia's thoroughbred racing industry, in particular, is unusually large by international standards. For example, Australia has the greatest number of thoroughbred racing clubs in the world (379) and is amongst the top three countries in terms of the number of races held, prize money and foals born. However, international differences in the size of the racing industry will be driven by a number of factors, including: the level of competition in the wagering market, the nature of the racing industry funding system, the regulatory environment, the relative abundance of resources, consumers preferences and other historical factors. As such, it is difficult to draw firm conclusions from international comparisons.

Some participants and commentators have clearly interpreted the size of the Australian thoroughbred racing industry as reflecting a fundamental imbalance:

The evidence of waste is everywhere in the industry: too many races, horses, tracks and dependant employees to say nothing of the superstructure of associated contributors hanging off this inefficient industry (Peter Mair sub. 39, p. 6)

We have too much racing. The participants are jaded and the punters bored. Less could well mean more in terms of attendances and turnover if we have fewer meetings of a better standard. (Steve Moran 2009, p. 1)

It can be concluded that there are too many racecourse across the State (NSW) and the standards of safety and amenity could be raised generally if some were permanently closed (Balmoral Consultancy Services, sub. DR295, p 10)

Others have rejected this notion:

There is no evidence to support the contention that Australia has too much racing.... Tabcorp's data indicates that demand for racing product is increasing, rather than decreasing...(sub. DR372, p. 38)

To suggest that there is an overabundance of quality racing product beggars belief. For Racing to compete with other forms of gambling it needs more, not less quality product. (Victoria Racing Club Ltd, sub. DR310, p. 7)

It is not possible to accurately predict the long term effects of increased competition from corporate bookmakers and betting exchanges on the size of Australia's racing industries. Importantly, the change is likely to be gradual, easing the transition cost as the industry expands, or contracts. In the short term, the direction of this trend is likely be masked by the more immediate effects of the unwinding of past inter-state distortions (discussed in the next section).

In any event, an industry ultimately exists to meet the demands of consumers and for the interests of the community generally, not for its own sake (see box 16.5). The 'correct' industry size is that which most closely represents consumers' preferences for the number, frequency and quality of races, and the prices they are willing to pay for them (in terms of the odds they receive). Accordingly, if punters prefer better odds (even at the expense of fewer domestic races), then a leaner racing industry that delivers this is preferable to a larger industry that does not. And, while a move to a bigger or smaller industry may involve transitional costs (such as bottlenecks or unemployment), these costs do not justify preserving a system based on the market power of the incumbents.

Box 16.5 Who is the racing industry ‘for’?

Some participants have argued that the racing industry does not merely exist to meet the demands of consumers (punters) and provide them with the services they want at the lowest feasible prices — as generally accepted in other industries — but rather to:

- provide employment
- serve the needs of a broader group, which includes industry stakeholders themselves.

The first point only has validity to the extent that those employed in the racing industry would be unemployable anywhere else in the economy. Ideally, labour is allocated between industries according to the relative value that society places on their output. Deviating from this in order to artificially increase the size of a chosen industry only has a net employment effect if there are workers whose productive capacity would otherwise be entirely lost to the economy. But the vast majority of workers in the racing industry are not intrinsically unemployable. As such, the most important effect of a market distortion that resulted in a racing industry that is too big or too small, is the loss of consumer welfare (due to its under-provision, or its over-provision at the expense of the production of other goods and services — see also chapter 6).

The second point is more complicated. While the racing industry is set apart from many others due to the passionate interest it evokes, most participants in it are appropriately categorised as producers (e.g. breeders, racing club administrators etc). While there needs to be a mechanism in place to prevent free riding, as producers, their industry size should reflect their ability to compete with the variety of other goods and services available to consumers.

However, horse owners are at least partly ‘consumers’. That is, many engage with racing for their own recreational reasons, in addition to providing a key input into the production of racing product. They are different from most consumers, however, in that racehorse ownership receives a subsidy (through prize money), and can even enrich them. This has allowed the ‘consumption’ of this product to be larger than would have been the case without wagering, (in which case owners would have to meet the full cost of participating in horse racing).

Attempting to advance the consumer interests of owners, at the expense of punters, is counter productive. It essentially penalises the subsidy provider, who in the long run will reduce betting, with negative implications for prize money and the costs of ‘consumption’ for race horse owners.

Distortions across states

Australians have long enjoyed betting on interstate races, particularly the prestigious thoroughbred races such as the Melbourne Cup. Today, betting commonly occurs with internet or phone operators, who can be located in any jurisdiction in Australia. However, in the past, betting on interstate racing was

primarily done through local TABs and on-course bookmakers. Prior to the enactment of the recent race fields legislation, there was no requirement for wagering operators to pay interstate racing authorities for the use of their product. Rather, there was a so-called Gentlemen's Agreement in which:

- betting and racing information could be freely exchanged between the states and territories throughout Australia
- TABs and bookmakers could accept wagers on interstate racing without paying for the privilege (rather payment was made to the local racing industry)
- TABs refrained from competing for customers outside the state or territory they were located in.⁹

The Gentlemen's Agreement initially allowed each state to maximise the revenue to their racing industry.¹⁰ However, over time it meant that the growth of a jurisdiction's racing industry was proportional to the amount of wagering undertaken in that jurisdiction on races all over Australia, rather than to the amount of wagering on races actually held in that jurisdiction. This means that resources were shifted from racing industries in jurisdictions that generated the most interest to Australian punters and transferred to states providing less desired racing products. In effect, this acted like a tax on excellence, contrasting with the usual function of markets to reward firms that best serve the demand of consumers (as noted by Peter Mair, sub. 39, p. 7).

While the Gentlemen's Agreement is likely to have affected all codes of racing, the national profile of thoroughbred racing (in particular a small number of widely published thoroughbred racing events) has generated the largest distortions. In certain states, this effect has been large, with New South Wales, Tasmania and Queensland being major beneficiaries. For example, while New South Wales residents account for around 41 per cent of wagering in Australia, less than 31 per cent of total Australian wagering is on races held in New South Wales (table 16.1). It is estimated that this translated into a \$20 million subsidy per year (Allens 2008a).

⁹ For example, Brown (2009) suggests that 'when telephone betting was introduced by State TAB's it was agreed that there would be no action taken by them to attract customers from other jurisdictions.' However, this has been progressively undermined by the increased competition between TABs following their privatisation.

¹⁰ As expressed by Brown (2009, p. 1): 'When the Gentlemen's Agreement was reached it had no practical downsides... all betting was conducted on a face to face basis and was therefore confined within the boundaries of the various jurisdictions.'

Table 16.1 Wagering on thoroughbred horse racing in Australia
September 2008 to August 2009^a

	<i>Wagering by residents</i>	<i>Wagering on jurisdiction racing</i>	<i>Implied transfer</i>
	% of Australian wagering	% of Australian wagering	% of Australian wagering
New South Wales	41.5	31.0	10.5
Victoria	26.6	33.8	-7.2
Queensland	19.0	17.2	1.7
South Australia	4.6	7.9	-3.3
Western Australia	2.0	7.8	-5.9
Tasmania	5.2	1.6	3.6
Northern Territory	0.6	0.1	0.5
ACT	0.7	0.6	0.1

Source: Updated data provided by Betfair using the approach described in Allens (2008a).

While the introduction of fixed odds phone betting in 1994, and subsequently internet betting, improved the competitiveness of the wagering market, it also exacerbated the distortions generated by the Gentlemen’s Agreement. The attractiveness and convenience of these platforms encouraged punters to place bets with interstate wagering operators, often licensed in jurisdictions other than those where the races were held. In particular, the lower rate of taxation and more permissive regulatory regime in the Northern Territory dramatically increased the size of their wagering industry, resulting in funding being diverted away from the states that actually provided the racing product (prior to the implementation of the various race fields legislations — see below). In 2008, Tabcorp estimates that:

- \$987 million of turnover leaked from New South Wales to the Northern Territory
- \$592 million of turnover leaked from Victoria to the Northern Territory (sub. 229, p. 21).

The High Court’s decision on Betfair consolidated the rapid increase in the interstate trade of wagering service (box 16.6). The High Court ruled that restricting the supply of online wagering from other jurisdictions breached the constitutional requirement for unencumbered interstate trade. The High Court decision ostensibly related to prohibiting the use of betting exchanges and the power of racing authorities to deny access to racing fields. In practise, the decision has been interpreted more broadly as undermining states’ ability to use any form of discriminatory legislation or practice (including advertising restrictions) in order to maintain protected wagering markets.

Box 16.6 **Betfair Pty Limited v Western Australia**

In 2006 several amendments were made to the Betting Control Act 1954 (WA), which were subsequently challenged by Betfair. These were:

- S 24(1aa): A person who bets through the use of a betting exchange commits an offense.
- S 27 D(1): A person to whom this section applies who, in this state or elsewhere, publishes or otherwise makes available a WA race field in the course of business commits an offence unless the person:
 - (a) is authorised to do so by an approval and
 - (b) complies with any condition to which the approval is subject.

The court considered these amendments to be unconstitutional on the grounds they represented a “discriminatory burden of a protectionist kind” (s 92 of the constitution).

While s 92 is concerned with duties on interstate trade, since *Cole v Whitfield*, the object of the law has been interpreted as the elimination of protection.

Race fields legislation

These developments meant that jurisdictions could no longer maintain the Gentlemen’s Agreement. In July 2008, the New South Wales Government enacted race fields legislation, signalling the end to that agreement. Victoria, South Australia, Queensland, Western Australia the ACT and Tasmania have since enacted similar legislation (table 16.2). These empower the relevant racing authority in each state, and for each code, to set the product fee for the use of racing fields information by wagering operators across Australia. This was a fundamental shift in the racing industry’s funding model — from dependence on the size of the local wagering market (betting on both local and interstate races) to dependence on the wagering that occurs nationally, based on *their* product.

The race fields legislation partly remedied the distortions associated with the Gentlemen’s Agreement. In addition to ensuring payment from all users of racing product, the legislation reduced the extent to which states that are net importers of racing product are subsidised at the expense of states that are net exporters. However, a serious drawback of this approach is that race field legislation is state driven, and is thus based on a segmentation in the market that no longer exists. This has led to inconsistent product fees between the states and territories, which increases the regulatory burden facing wagering operators. For example, Tabcorp says that it has to comply with up to 72 domestic race fields agreements — ‘each with different charging methods, compliance and reporting requirements’ (sub. 229, p. 16).

Table 16.2 Industry agreements with TABs and product fees under race fields legislation

	<i>TAB and racing industry funding arrangements</i>	<i>Product fee under race fields legislation for all wagering operators</i>		
		Thoroughbreds	Harness	Greyhounds
NSW	22% of net revenue 25% of net profit An annual lump sum of \$12 million (indexed by CPI)	1.5% of turnover 3% of turnover for 'copyright fee' ^a	1.5% of turnover	10% of gross revenue
Vic	18.8% of net revenue 25% of net profit A further marketing and program of \$85.2m in 2008/09	10% of gross revenue (15% in gross revenue in Sept and Oct) Tab Limited product fee calculated as 1.5% turnover	1.5% turnover Betfair product fee calculated as 0.66% of net customer winnings	10% of gross revenue Tab Limited product fee calculated as 1.5% turnover
SA	42% of gross wagering revenue	10% of gross revenue	10% of gross revenue	10% of gross revenue
Qld	39% of gross revenue	1.5% of turnover	1.5% of turnover	1.5% of turnover
WA		Choice between a) 1.5% of turnover or b) The greater of 20% of gross revenue or 0.2% of turnover	Choice between a) 1.5% of turnover or b) The greater of 20% of gross revenue or 0.2% of turnover	Choice between a) 1.5% of turnover or b) The greater of 20% of gross revenue or 0.2% of turnover
Tas		Have indicated a gross revenue basis	Have indicated a gross revenue basis	Have indicated a gross revenue basis
ACT ^b	4.5% of turnover	10% of gross revenue	10% of gross revenue	10% of gross revenue

^a It is not clear which operators, if any, are currently subject to this fee.

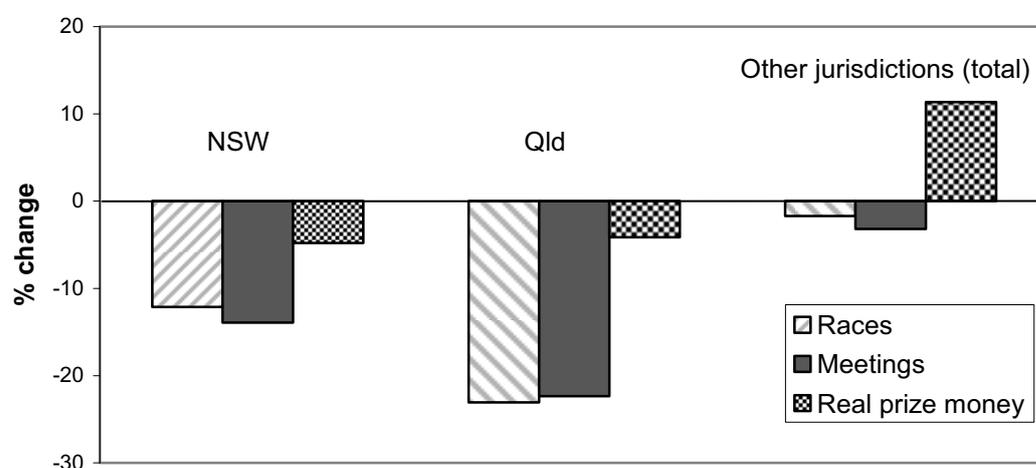
^b ACT race legislation will come into effect on 1st March 2010.

Source: Betchoice (sub. 395, p. 6), Tabcorp (sub. 372, p. 49), Harness Racing Commission (sub. 351, p. 1) and correspondence with various racing bodies.

More controversially, the state-focused regulatory approach potentially allows racing authorities to structure the product fees to defend the status quo funding arrangements with TABs, or to prevent structural adjustment. New South Wales and

Queensland have enacted the highest product fees in Australia.^{11 12} If these fees are legally sustainable (see below), they would have the effect of deterring entry by low margin wagering operators, protecting incumbent TABs and preserving the existing symbiotic arrangements of those incumbents with the racing industry. That might temporarily halt or slow the recent decline of the racing industries in those states (figure 16.2). But, as noted earlier, preserving a given size of industry is not justified for its own sake.

Figure 16.2 The racing industries have declined in NSW and Queensland^a
Between 1999-2000 and 2008-2009



^a Prize money has been adjusted for the effects of general price inflation.

Data source: Australian Racing Board Fact Book.

Given its potentially anti-competitive effects, several wagering operators have challenged the legislation (or Racing NSW's implementation of it) on constitutional grounds. While the courts have not yet ruled on the application of the law to these cases, the economics is relatively straightforward. Protectionist measures risk supporting and entrenching existing inefficiencies, in addition to contributing to ongoing uncertainty and litigation in the wagering industry. In that context, the Australian Internet Bookmakers Association argued that:

The fundamental problem with the race fields legislation is that it is State-based legislation that is designed to protect State interests, but that is trying to regulate a national market. Each State is looking at itself and its racing industry as a separate

¹¹ For example, Betfair suggests that 1.5 per cent of turnover is equivalent to 60 per cent of their gross revenue. This is six times higher than the product fees set in Victoria, SA and Tasmania.

¹² The product fees by the set by Greyhounds New South Wales are an exception to this and are comparable to those set in other states.

“economic unit” to the rest of the country. This protectionist motive inevitably leads to legal difficulties (sub. 221, p. 46).

Beyond this, funding misallocation and a variety of other distortions are likely to persist at the state level, for several reasons:

- *The new funding model has been superimposed on the old.* In some jurisdictions, the new product fees have replaced the old fees and charges on interstate bookmakers (such as in South Australia), whereas in others the new fees are additional to existing ones (such as in New South Wales) (Australian Internet Bookmakers Association, sub. 221, p. 48). Moreover, standing agreements still require TABs to pay local racing authorities based on the wagers they accept on interstate races. This is likely to:
 - reduce the competitiveness of TABs
 - reduce the welfare of consumers who bet with the TAB on interstate races who may ultimately have to accept even higher prices
 - maintain a wedge between the level of punter interest in certain races, and the level of funding those races receive.
- *The size of the racing industry in some states partially reflects cross-subsidisation from other gambling products.* For example, the Victorian racing industry receives 25 per cent of its profits from gaming machines and keno. (This arrangement will expire in 2012.)
- *TABs in Western Australia, Tasmania and the ACT are still government-owned, and the racing industry is still mainly government financed.* This may shield the TABs from the commercial pressures faced by privately owned companies as well as reduce the extent to which racing industry funding is driven by its value to Australian consumers. For example, in the ACT, it appears as if only part of the income from the proposed race fields legislation will be delivered to the racing industry, with the remainder being used as general revenue by government (*Canberra Times*, Saturday 30 January 2010). Rather than unwinding a past interstate market distortion, race fields legislation in this case is merely being used as new form of territory government taxation.

Despite their uneven application, the various race fields legislations will improve the interstate allocation of resources to the racing industry. However, the ongoing issues with the race fields legislations, and their incongruous juxtaposition with pre-existing regulations and contractual arrangements at the state and territory level, have been at the core of calls for a more national framework. To this end, the Australian Racing Board argued that:

This regulatory framework must also be national in nature ... The current changes represent an irreversible disintegration of the capacity of State and Territory

governments to individually regulate wagering (Australian Racing Board, sub. 213, p. 4).

Distortion within jurisdictions

There are two fundamental issues in allocating payments made by wagering operators to the providers of racing product:

- dividing payments between the three racing codes
- allocating funds within each code to the racing clubs that hold the race meetings.

Inter-code agreements

Whereas product fees from corporate bookmakers and other interstate wagering operators are paid directly to each code's racing authority, TABs allocate funding according to inter-code agreements. The funds are split according to specific funding formulae, which are periodically reviewed. Ideally, the share of TAB payments should correspond to the proportion of wagering turnover derived from each code of racing. However, in between review periods, these inter-code agreements can lead to an inappropriate allocation of funding if the share of wagering that takes place on one code of racing changes, relative to the other two (or if agreements are entered into that do not properly reflect market share in the first place). For example, greyhound racing accounts for 17 per cent of wagering turnover, but the industry receives only 13 per cent of the total payments made by the New South Wales TAB to the three racing codes. The greyhound racing industry estimates that:

... over the past 11 years because of the inequities of this arrangement, they have subsidised thoroughbred and harness racing in New South Wales by the tune of \$92 million. (sub. 248, p. 7)

Brasch (2006) points to a similar situation in Queensland, where the contribution of greyhound racing to wagering turnover significantly exceeds its entitlements to TAB distributions. It is estimated that this has cost the greyhound industry nearly \$18 million over five years.

Funding agreements that are unresponsive to changes in market share between the racing codes have several adverse implications:

- *Competition between the racing codes is stifled.* The incentive to offer high quality and innovative racing product or marketing campaigns is diluted because some of the rewards from such efforts will be diverted to competing racing codes. For example, if an advertising campaign by Greyhound NSW generated

\$100 of additional wagering turnover at the TAB, the largest benefactor would be thoroughbred racing industry (receiving an additional \$3.60) followed by the harness racing industry (receiving an additional 75 cents).¹³ Likewise, the funding agreements shield poorly performing codes from adverse financial effects. This distortion is greater the more the market share of a code deviates from the allocation of total wagering turnover under the inter-code agreement.

- *The power of consumers to 'vote with their dollars' is diminished.* In a competitive market, the success of industries (and firms) depends on the extent to which the products they provide satisfy the preferences of consumers. The inter-code agreements dilute this mechanism.

These criticisms aside, as the agreements are multifaceted and involve numerous other types of concession, it is difficult to evaluate conclusively their overall appropriateness. For example, in the case of greyhound racing in NSW, Peter V'landys has argued that favourable scheduling agreements, such as a 'blackout' of thoroughbred racing on Saturday nights, offsets the lower share of TAB distributions (Magnay 2009). Given some of these uncertainties and the difficulties for governments in interceding in what are effectively private negotiations, there are weak grounds for policy intervention. However, arrangements that provided more industry funding to racing codes that performed well would be preferable to the current arrangements. (Increases in competition in wagering and the consequent erosion of the legacy arrangements for sharing revenue may provide a commercial impetus for such change.)

Allocation of funds within racing codes

Allocation of funding within racing codes serves multiple, sometimes conflicting, objectives. In particular, funding can:

- support the social function of racing in communities, particularly rural ones
- provide development opportunities for up-and-coming horses. In that context, racing authorities may seek to maintain some ostensibly unprofitable race meetings on the grounds that these produce long-term benefits by increasing the quality of the breeding stock
- provide a financial incentive for parties within the industry to develop their particular races so that they are attractive to punters. In this case, allocation of funding would be proportionate to the level of wagering on events.

¹³ Based on TAB distribution of 5 per cent of turnover, being split among thoroughbred (72 per cent), harness (15 per cent) and greyhound racing (13 per cent).

Allocation of funding among these competing interests remains a controversial issue, as claims by one party for a bigger slice of the funding must inevitably reduce the slice for others. The key question is not whether the different objectives have legitimacy, so much as how much of the funding slice should be allocated to each function of the racing industry.

Overall, given the importance of providing strong incentives for the industry to hold races with high value content that attract greater consumer interest, the Commission is concerned that the funding arrangements have not given sufficient weight to the third objective. This is a view in line with some other commentators. For instance, Peter Mair contends:

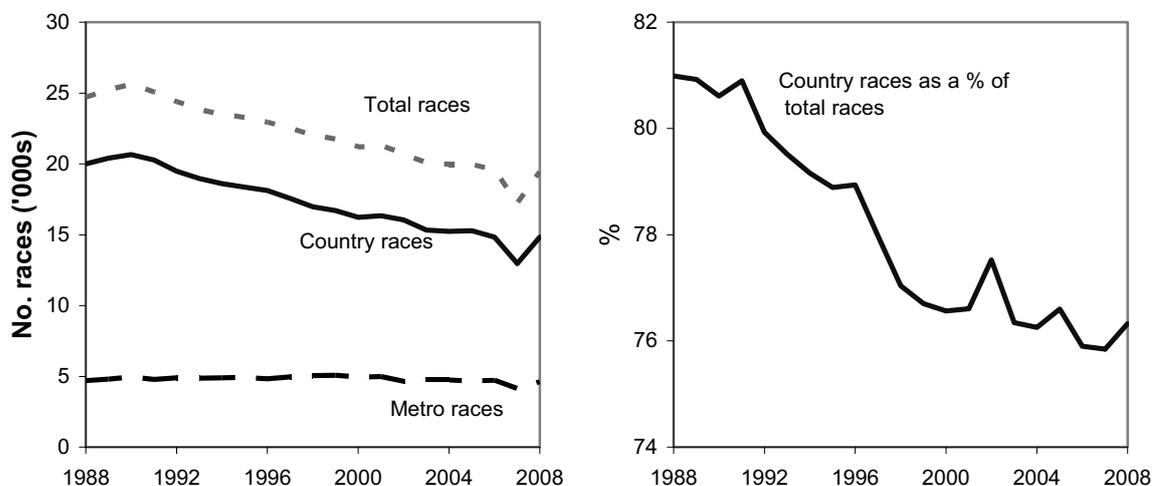
It will almost invariably be the case that ‘waste’ will characterize a substantial part of any discretionary disbursement of an automatic entitlement, money will be spent on beneficiary business operations that have no self-sustaining commercial merit ... Promoting racing that no one (apart from the beneficiaries) really wants, wastes much of the money across the states. ‘Waste’ means low grade races, largely unwanted, attracting insufficient TAB turnover to recover prize-money and associated production costs contributed by state authorities. (sub. 39, p. 1)

In part, the industry itself has recognised that the balance between these competing objectives has shifted, with new commercial imperatives and changing interests by consumers. Most conspicuously, there have been mergers between major metropolitan clubs, such as the Queensland Turf Club and the Brisbane Turf Club, as well as public debate about mergers between major clubs in Sydney and Melbourne. However, the longer term trend has been for consolidation to largely occur in rural areas, resulting in country races declining as a proportion of total races (figure 16.3).

The tensions between the various objectives described above have become starker with consolidation. Some commentators have lamented the transition, pointing to the consequences for rural communities and development of the industry. Robert Waterhouse writes:

The deliberate reduction of country racing has been unfortunate for country folk and racing. Saturday race meetings were the social centre of bush life. Country racing used to be racing’s nursery. Saturday country meetings have been transferred to mid-week ghost meetings, where no one goes. They have destroyed a great fan base and weakened our racehorse nursery. (2008, p. 3)

Figure 16.3 Changes in country and metropolitan racing



Data source: Australian Racing Board Fact Book.

However, it is unlikely that the important social or development functions of racing will be lost with a greater focus on consumers' interests:

- in the short-run, contractual obligations under inter-code agreements with TABs means that some commercially unviable races will be run
- the racing industry (and wagering) relies on a steady set of events throughout the week, with events with lower public interest being held on weekdays and ones attracting substantial interest on weekends. Accordingly, commercial imperatives may, in some cases, mean displacing less popular race meetings to different times, not eliminating them altogether. That can still serve some of the important social and development aspects of the industry
- the industry as a whole recognises that a sustainable industry requires a diverse breeding stock, which provides a constraint on excessive consolidation. With over 100 country racing clubs in New South Wales alone, the benefits arising from development opportunities may still persist if consolidations are correctly targeted
- as in other areas of society where there are community benefits from an activity — for example, sporting organisations, public swimming pools and libraries — there may be a case for local or state government funding. However, racing should be evaluated against the multitude of competing community claims for government funds (at a state or local level), with the same transparency and accountability.

The bottom line

The racing and wagering industry has undergone profound changes in the last 20 years:

- the wagering industry has been subjected to greater commercial pressure due to the privatisation of the previously state and territory owned TABs
- liberalisation and technological growth have generated a range of innovative wagering products, in addition to facilitating interstate competition between wagering providers
- traditional arrangements have been supplanted by these developments, leading to an ongoing effort to redefine the funding mechanism through which racing and wagering are inextricably linked.

Race fields legislation has partly remedied the distortions in the national racing industries associated with the Gentlemen's Agreement. However, as yet, race fields legislation has not delivered a functioning national funding model. Due to their uneven application across the Australian states, as well as amongst the codes of racing and different types of wagering operators, several legal vulnerabilities have emerged, resulting in numerous ongoing court cases. These relate to the discriminatory burden the legislations may represent, or their legitimacy given pre-existing contractual arrangements.

In light of this, there have been widespread calls for a national solution from a range of wagering operators, racing bodies and commentators (box 16.7). However, what is meant by a 'national model' differs significantly between participants. For some, a national model essentially means a strengthened race fields scheme that enshrines racing authorities' power to set their own price. For others, a national model means competitively neutral access to racing product, and reducing the complexity of dealing with a wide range of different fees from racing authorities in different jurisdictions. There is a clear tension as to what constitutes a 'good' funding model. This issue is taken up in the following section.

FINDING 16.1

In the absence of regulation, free-riding by wagering providers would undermine the racing industry and harm consumers of wagering and racing products. The current state-based race fields legislation overcomes this problem. But it poses significant risks for effective competition in wagering, potentially affecting the long-term future of racing and wagering and, more importantly, the punters who ultimately finance both of these industries.

Box 16.7 **Calls for a national funding framework**

It is recommended that the Productivity Commission support the implementation of a national approach to the application of Race Fields Legislation, particularly in respect of ensuring the constitutionality surrounding race field fees ... (Racing NSW, sub. 228, p. 1)

... the long term sustainability of greyhound racing and the wagering industry must be supported by federal intervention...National uniformity will build consistency with wagering and potentially better market share for greyhound racing. (Greyhounds Australasia, sub. 248, pp. 13 -14)

HRA encourage leadership from the Commonwealth Government to act collectively with State and Territory governments to ensure a workable, harmonised race fields model. (Harness Racing Australia, sub. 231, p. 3)

It seems sensible that the national Australian wagering market should be regulated on a national basis. In other words there should be a national model for the payment of product fees to the racing industry. (Internet Bookmakers Association, sub. 221, p. 57)

Tabcorp recommends the development of a single set of charges for the use of the racing industry's product by wagering operators. These charges would replace the current arrangements including race fields fees, profit share and other funding arrangements applying to totalisators and bookmakers. (Tabcorp, sub. 229, p. 27)

Tatts Group supports the notion that it's time to elevate the responsibility for wagering regulation and funding to a national level. (Tatts Group Limited, sub. 240, p. 3)

16.2 Principles of a good funding model

The central difficulty in constructing an effective funding model is resolving the tension between addressing the issue of free-riding, and the potential for such an intervention to stifle competition. Whilst there is no model that can accomplish this perfectly, a good balance is more likely if it is based upon transparent, generally supported principles. The principles proposed here emerge directly from the specific challenges facing the racing industry, but are aimed at promoting consumer welfare and allowing greater competition.

The funding model should serve consumer interests

The fundamental question when analysing any change to the racing industry funding model is: *will it result in better outcomes for consumers?*

It is clear that ensuring the long-term viability of the racing industry is highly important to consumers of racing and wagering products. However, for much of the second half of the 20th century, the issue of free-riding was addressed by

protectionist legislation that ensured that single operators dominated the wagering market in each state and territory. While delivering benefits to the racing industry, the lack of retail competition resulted in relatively poor outcomes for consumers. This may not have been perceived as being particularly problematic from a policy point of view as, in the earlier years of this funding regime, many saw gambling as being ‘socially undesirable’ anyway. Today however, gambling is widely viewed as legitimate source of recreation, notwithstanding its adverse impacts for some. For that reason, like any other commercial enterprise, the primary objective of racing and wagering must be to satisfy the demands of their customers (including the ‘safe’ provision of services) if these industries are to maintain the iconic status they have historically enjoyed.

The best funding model then, is one that emulates the outcomes that would be observed in a more competitive market. This involves generating the mix of value, quantity, quality and variety of races and wagering product most desired by consumers. In particular, the future health of racing and wagering is dependent on a funding model that can accommodate lower margin operators. Much of the wagering industry is characterised by operators whose prices (take-out rates) substantially exceed that of other forms of gambling. In the long term, the racing and wagering industries will be better served by a funding model that allows wagering operators to offer comparable prices to the alternative gambling products they are in competition with.

The funding model should have some degree of flexibility

The funding model needs to be designed such that wagering and racing providers are not inhibited from adapting to changes in consumer preferences over time. To the extent possible, product fees should also be designed to be neutral between different types of racing or wagering products, as well as being able to accommodate technological change and the development of new product types. The need for this kind of flexibility may influence the decision about the basis on which product fees are paid, as well as the process through which product fees are determined and how often they are reassessed.

Remuneration should reflect value

The level of remuneration that the racing codes, as well as the individual clubs, receive should be determined by the amount of betting that takes place on the races they provide. That is, a funding system that rewards racing providers proportionately to the value that consumers place on their product is preferable to

one that subsidises commercially unviable clubs. Remuneration based on the level of the racing public's interest gives racing codes and racing clubs the proper commercial incentive to:

- undertake marketing campaigns
- take on the risks associated with experimentation and innovativeness
- provide quality content that reflects consumer preferences.

The product fee structure should promote competition

The basis upon which product fees are paid needs to be compatible with the business models of existing wagering operators, including totalisators, on-course bookmakers, corporate bookmakers and betting exchanges. A fee structure that significantly disadvantages certain types of operators risks eliminating the consumer benefits that arise from a vibrant, competitive wagering market, such as:

- a wide variety of wagering products
- the pressure to provide consumers with value for money.

Product fees should be simple and uniformly applied

There is benefit in simplifying existing fees and charges, which currently differ by jurisdiction, code and type of operator. A single 'price' model, that replaced the existing arrangements, would:

- reduce administrative cost of the system
- reduce compliance cost for racing and wagering operators
- be more likely to deliver competitive neutrality.

However, whilst simplicity is a useful guiding principal, it needs to be pursued with regard to the potential to undermine the other objectives of a national funding system. For example, only allowing one type of wagering provider to operate might dramatically simplify the funding system, but at an unjustified cost to consumers.

16.3 A national funding model for racing and wagering in Australia

The lack of clearly enforceable property rights suggests that instituting an unregulated free-market would be an inappropriate solution to the issue of funding

the racing industry. A national funding model should seek to approximate the function of a more competitive market through legislation and regulatory oversight. In practical terms, this involves addressing two key questions:

- what price should wagering operators be charged for the use of their product?
- how should the system be administered?

The basis and quantum of product fees to the racing industry

Turnover or gross revenue?

The appropriate base upon which product fees are charged has been fiercely contested, both in terms of the existing race fields legislation and any national funding model. The debate centres on two potential bases for payment:

- *Turnover* — this generally refers to the total amount of sales. In a wagering context this translates into the total value of the bets placed on the backer's side.
- *Gross revenue* — this generally refers to the total amount of sales, minus the cost of the goods sold (but does not factor in other costs such as overheads, payroll, taxation or interest payments). In a wagering context this translates into total amount wagered, minus the amount paid out to punters as winnings (in other words, total player losses). Gross revenue is often referred to as gross profit.¹⁴

The two potential bases have a proportionate relationship, bound by the take-out rate of each operator.¹⁵ As take-out rates vary, the base that is chosen for the product fee changes the relative financial impact across different types of wagering operators. The challenge is to choose a base and a quantum that are 'fair' to all wagering operators.

- Gross revenue is the preferred base of Tatts Group (sub. DR302, p. 16) Clubs Australia (sub. DR359, p. 98), the Australian Internet Bookmakers Association (sub. 373, p. 8) as well online wagering operators such as Betfair (2009) and Betchoice (sub. DR258, p. 2). It has been adopted (or is planned to be adopted) by all greyhound racing bodies except Queensland and Victoria and all thoroughbred racing bodies except New South Wales and Queensland.¹⁶

¹⁴ Product fees based on both turnover and gross revenue are typically adjusted for back-betting (bets placed by bookmakers in order to reduce their exposure) under current race fields legislation. Similar provisions would be required in a national funding model.

¹⁵ That is $GR = T\beta$ where GR = gross revenue, T = turnover and β = the take out rate

¹⁶ In Western Australia, wagering operators can choose between product fees based on turnover, or on gross revenue. Tab limited mounted a successful legal challenge against Racing Victoria

- Turnover is the preferred base for product fees for totalisator operator Tabcorp (sub. 229, p. 27), Harness Racing Australia (sub. 231, p. 3), and a number of NSW based racing industry organisations (National Horse Racing Alliance sub. DR411, NSW Racehorse Owners Association sub. DR317, p. 2, Racing Industry Consultation Group sub. DR347, p. 11). It has been adopted by all racing codes in Queensland and Western Australia, thoroughbred and harness racing bodies in NSW and Harness Racing Victoria.¹⁷

Appreciating the difference between these two bases is complicated by conceptual idiosyncrasies of their application in a wagering context (box 16.8). Fundamentally, determining which is best revolves around several contested issues.

Box 16.8 Turnover and gross revenue in the wagering industry

Usually the term 'turnover' relates to the payment that is made in exchange for a good or service. However, in the wagering industry the good being exchanged is money itself (contingent on the outcome of an event). For this reason, what is commonly called 'turnover' in the wagering context is conceptually closer to what would be considered 'units sold' in the broader economy.

Similarly, what is commonly called 'gross revenue' in the wagering industry represents the total income received from the sale of wagering products, before any expenses such as wages, overheads etc are deducted. In the broader economy, this is conceptually closer to what is commonly known as turnover.

The idea of a price, also contains some complexity in the wagering context. The price that any individual punter will be concerned about is the odds offered on a given outcome (i.e that horse X will win). However, as a group, the price that punters pay, on average, per unit of consumption (i.e per \$1 wagered) will be determined by the proportion of each bet that is 'taken out' of the amount available to be won back by punters either via the odds structure (in the case of bookmakers) or by the predetermined 'take-out' rate (in the case of the totalisator).

Traditional Concept	Wagering industry
Unit sold	Turnover
Price	Take-out rate
Turnover (= price × unit sold)	Gross revenue (take-out rate × turnover)

Limited and Greyhound Racing Victoria. Following this challenge, Racing Victoria Limited has calculated TAB Limited's product fees on a turnover basis. Greyhound Racing Victoria has adopted the turnover based product fee.

¹⁷ Harness Racing Victoria charges Betfair a separate fee based on customer winnings.

Industry support

It is sometimes claimed that only turnover-based product fees can support the current size of the racing industry (Tabcorp, sub. 229, p. 27, National Horse Racing Alliance, sub. DR411). In particular, it is argued that turnover-based product fees prevent a shift from higher margin operators towards lower margin operators that would otherwise undermine funding to the racing industry (Racing NSW, sub. 228, p. 7). However, as discussed earlier, the preservation (or growth) of the current size of the industry in each state would only be appropriate if it coincided with consumer preferences — which is doubtful.

As such, the alleged potential for a turnover base to support (or grow) the existing industry is not a good criterion for choosing between the competing models. Moreover, it is not clear that buttressing high margin operators through turnover-based measures would actually result in a larger racing industry in the long run. Product fee basis that can also accommodate lower margin operators (in addition to higher margin retail operators) may enable the wagering industry as a whole to compete more effectively against other forms of gambling or recreation.

Also, corporate bookmakers increase betting turnover through price competition and through their advertising efforts. This represents an increase in the consumption of racing product and it enhances interest in racing more generally. In turn, this raises the value of secondary assets — such as attendance fees, sponsorship and other advertising opportunities, use of race track facilities such as conference rooms or venue hire, etc — allowing the industry to reduce the risks of revenue volatility by diversifying across revenue sources.

Dealing with uncertainty

The gross margins achieved by bookmakers can change from race to race depending on how well they balance their book, whether a favourite or an outsider wins, the quality of information available on the runners in the race and the number of other operators accepting wagers on that particular event. Over the longer term, margins will also be driven by broader trends in competition, cost pressures and technological advancement.

Both the immediate and the longer term influences on bookmaker gross margin have led some to express concern about the level of uncertainty associated with product fees based on gross revenue (HunterCoast Marketing, sub. DR270, p. 7; National Horse Racing Alliance, sub. DR411, p. 10; Racing NSW, sub. DR318, p. 10). These participants argue that only turnover based product fees can guarantee that the race industry is paid for the use of its product.

With gross revenue based product fees, it is the case that a bookmaker who fails to make a margin on a given race avoids payment to the racing industry. Equally, should the bookmaker be lucky or skilful enough to make a large margin, then a gross revenue based product fee would require a larger than usual payment to the racing industry. If the former scenario was found to be more common, then the race-to-race volatility of gross revenue based fees would be problematic for the racing industry. However, wagering providers who could not secure a margin, on average, would be operating at a considerable loss (after all other expenses are deducted) and could not be expected to have a long term presence in the wagering market. Indeed, publicly listed companies offering wagering products would be expected not just to make a margin on their book, but rather a level of profit that delivered a commercial rate of return.

These commercial pressures imply that that an average industry margin (which may be different for different types of operators) should be relatively stable around the market equilibrium, and the race-to-race volatility in product fees should not be especially problematic. This appears to be the case in the jurisdiction that have adopted a gross revenue basis for their product fees (such as Victoria and South Australia).

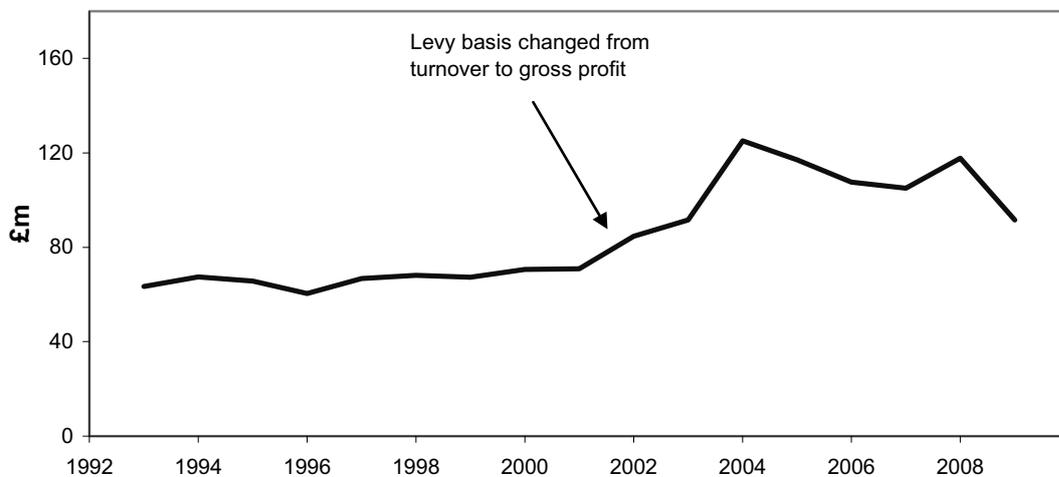
Longer term structural changes in the market will still impact the average margins that can be maintained, with repercussion for product fees based on gross revenue. However, it is unlikely that the racing industry can gain much in the long term by attempting to avoid this kind of uncertainty. The inherent interdependence between racing and wagering means that shocks to one market will always affect the other, regardless of the product fee model. This is both inevitable and desirable. For example, neither basis for payment will completely shield the racing industry from changes in the wagering market that adversely impact on overall turnover.

Furthermore, it is commonplace for the fate of producers of intermediary goods (such as horse races or car parts) to be intertwined with downstream users (such as wagering operators or car manufacturers). Indeed, from the point of view of consumers, racing and wagering are two components of a single product. Allowing signals of consumer preferences to be transmitted through both wagering and racing increases the incentive for both of these industries to jointly respond. Thus, the long term viability of racing and wagering is *bolstered* by linking their financial fortunes, not weakened. This also appears to have been the experience in the UK:

The irony is that the most significant increase in Levy income (one could argue that it has been the only one) was achieved when... the basis of General Betting Duty was changed from turnover to gross profits, which was mirrored in the Levy. This eventually led to Levy income increasing by two thirds, with little effort on the part of either racing or the Levy Board (Horseshoe Betting Levy Board 2009).

Data on the UK levy appears to support this, with a sharp rise in the levy yield (in real terms) following the change in the levy basis in 2002 (figure 16.4). However trends in the levy yield have also been heavily influenced by movement between countries (both to and from Great Britain) of online bookmakers, as well as the dramatic changes in economic climate that has occurred over the last decade.

Figure 16.4 **British levy yield**
Real 2009 prices



Data source: Horse Race Betting Levy Board. CPI from Office For National Statistics, United Kingdom.

Administrative ease

Tabcorp and Racing NSW (sub. 229, p. 27; sub. 228, p. 6-7) argue that turnover is easier to define, administer and assess, and is already the industry norm. Certainly, the recent Victorian Supreme Court decision demonstrates some of the difficulties associated with the use of gross revenue. This decision invalidated the product fees put into place by Racing Victoria and Greyhounds Victoria due to:

- the inconsistency of the arrangements with the underlying race fields legislation. In particular, the race fields legislation requires fees to be a fixed amount, not based on a formula.
- the ambiguity of calculating certain elements of gross revenue under the formula specified by the racing administrators. That is, certain items (such as free bets and unclaimed dividends) were not adequately defined.

The first of these findings is more of an issue with the race fields legislation than the product fee itself.¹⁸ The second demonstrates the need for the careful definition of what constitutes ‘gross revenue’ and highlights the value of dialogue between racing and wagering bodies when formulating product fees. The potential for wagering providers to adopt strategies that minimise their payments also need to be taken into account when construction product fee agreements using gross revenue. These definitional issues represent an additional cost to the use of gross revenue.

However, the widespread adoption of gross revenue suggests that any problems associated with its use are not insurmountable. While Tab limited objected to Racing Victoria Limited’s particular formulation of gross revenue, it has accepted this product fee basis in regards to the racing distribution agreement it has with the New South Wales racing industries. The majority of other wagering operators have expressed support for gross revenue based fees, despite bearing the majority of the compliance cost of this basis for payment. Finally, many jurisdictions already have experience that would be useful in developing a standard workable definition. Contrary to the views of some participants, the proportion of gross revenue (with some subtle differences) is the basis of payment for:

- agreements between the racing industry and TAB operations in Victoria, New South Wales, Queensland and South Australia
- product fees under various race fields legislation in Victoria,¹⁹ South Australia, Western Australia, the ACT
- taxation arrangements in the majority of Australian jurisdictions, across all types of wagering operators
- product fees paid to a number of sporting authorities for the right to bet on sporting events in Australia, including: the Australian Football League, Cricket Australia, the National Rugby League, Professional Golfers’ Association of Australia and Tennis Australia (Betchoice, sub. DR395, p. 9)
- wagering operators in several other countries such as the UK and Hong Kong.

The ‘uneven playing field’ argument

While turnover is often used as a financial indicator in wagering industry, gross revenue is more directly related to profitability. This is because, in the wagering

¹⁸ As some have pointed out (Saunders 2009, Racing Victoria Limited 2009), it appears that this ruling would equally apply to product fees based on turnover.

¹⁹ Racing Victoria has approached the Victorian government in order to amend the race fields legislation such that formulae based fees are allowed, which will allow gross revenue to serve as the basis for payment.

context, turnover equates to ‘sales’ (i.e. the number of units sold). On the other hand, gross revenue describes the margin or income that is actually derived from the sale (that is the price of the good minus its costs). All other things equal, the higher the proportion of gross revenue that is associated with a given product fee (regardless of the basis of payment), the less likely it is that the firm will be able to trade profitably.

The financial impost of turnover-based product fees varies greatly by type of wagering operator. As the take-out rate declines, the proportion of gross revenue that a given turnover based product fee accounts for increases. For example, if a product fee of 1.5 per cent of turnover was imposed on all wagering operators, this would result in an equivalent product fee of:²⁰

- 9.4 per cent of gross revenue for totalisators operated by TABs (based on an average take out rate of 16 per cent)
- 25 per cent of gross revenue for corporate bookmakers (based on an average take out rate of 6 per cent)
- 33.3 per cent of gross revenue for Betfair (based on an average take out rate of 4.5 per cent).

This puts lower margin operators — which offer the best prices to consumers — at a relative disadvantage. Whether they are made unviable (as some have claimed) by turnover-based fees depends on the level of the fee and the capacity of different types of operators to raise their prices. There is some indication that the capacity for corporate bookmakers to trade at higher prices is limited:

Our conclusion is that corporate bookmakers are actually tapping into a market that only exists at the low take-out rates of 4-6% and would not exist at >16% take-out pricing of totalisators. (Credit Suisse Equity research report, quoted in Australian Internet Bookmakers, sub. 221 p. 50)

The differential impact of turnover-based fees has led Betfair and Sportsbet to legally challenge their validity. These cases, which are before the courts in New South Wales, are ongoing. Irrespective of the legal outcome, it is evident that turnover-based fees will tend to either drive low margin operators out of business, or compel them to change their business models and increase their prices to punters. In short, turnover-based fees (if universally applied) discourage price competition between firms.

²⁰ A product fee based on turnover can be represented as $P = T\alpha$ where P = total product fee paid and α = proportion of turnover paid as a product fee. The proportion of gross revenue that such a product fee represents can then be expressed as: $GR = \frac{\beta}{\alpha}P$ where β = the take-out rate.

In contrast, product fees based on gross revenue are consistent with a variety of business models and are more likely to promote competition in the wagering industry. While there may be some concern that wagering operators may artificially reduce the gross revenue (for example, through free bets or offering too low prices) in order to reduce the product fee they have to pay, this is balanced against the incentive to maximise profit (which is the remainder after wages, overheads, advertising and other expenses are deducted from gross revenue).

Summing up on gross revenue vs. turnover

Overall, gross revenue appears to be the more appropriate basis upon which product fees should be charged. Gross revenue is already widely used as a basis for payment to racing and sporting authorities in Australia and internationally, and can be applied universally without disproportionately burdening certain types of wagering operators. This means that gross revenue based product fees:

- have greater flexibility in that they can support diverse business models
- are conducive to price competition between wagering operators.

These features are more likely to deliver better value to consumers and a wider range of wagering products. Similarly, to the extent that gross revenue based product fees facilitate a closer alignment of financial interest between racing and wagering, these industries will have a greater incentive to respond to consumers' preferences. In both cases, consumer interests are better served by product fees based on gross revenue. This in turn, will enhance the prospects for both racing and wagering to remain relevant and vital industries in Australia.

What price?

While this chapter is primarily focused on how the price of racing product is set, there are some indications as to what an appropriate price range might be:

- proponents typically suggest that between 10 and 20 per cent of gross revenue be paid as a product fee to the racing industry
- of those who use gross revenue as the basis for payment under their race fields legislation, most racing authorities in Australia also charge within a 10 to 20 per cent range.

In principle, wagering operators should be charged only by the racing authority whose race they accept bets on, and the fee should not differ by the type of operator. However, if it is anticipated that the TABs will continue to enjoy a significant degree of market power, it may be appropriate that they should pay a premium for

that retail privilege on top of the standard product fee. This premium should apply to retail sales of wagering products, not to non-exclusive internet and phone sales.

Setting the standard product fee dramatically above the 10 to 20 per cent range considered here risks online wagering providers evading the fee by moving their business operations off-shore. That said, several major UK online bookmakers have recently moved off-shore to avoid paying the levy there, which, at 10 per cent of gross revenue, is at the bottom end of the range considered here. As there will always be international jurisdictions willing to accommodate businesses seeking to free-ride, maintaining corporate bookmakers presence in Australia should not be the main consideration in setting the rate of the product fee.

Nor should the rate of the product fee be the sole instrument used to ensure payment for the use of racing product. As demonstrated in the UK, ensuring payment amongst internationally footloose wagering providers will progressively become a key feature of any national funding model. Both the right to hold an Australian wagering licence, as well as the right to advertise in Australia should be contingent on paying product fees to the relevant racing authority. Should the proposed federal online gambling regulator be empowered to block the ISPs of online firms who do not comply with the required harm minimisation and probity measures, similar powers could be used in regard to payment of product fees (see chapter 14).

In the absence of formal regulations, there would also be value in racing authorities entering into an agreement whereby the clubs in their jurisdictions would not accept sponsorship from wagering providers who do not pay product fees.

The administration of a national funding model

Despite widespread calls for a national funding model, there has been relatively little discussion of how such a system would actually work. The race fields legislation has conferred the necessary powers on the state and territory racing authorities to price and ensure payment for racing product in a national wagering market. However, the use of these powers has led to immediate legal dispute, undermining the practical function of a cohesive national market. There are three fundamental issues that will underpin how ‘well’ the national funding model performs:

- the process through which product fees are determined (and reviewed)
- whether the basic unit of administration is a national or a state body
- how product fees are distributed to racing clubs

The process for setting product fees

Some participants have argued that producers of racing product should have the right to set prices at their discretion, as would any other firm (Racing NSW, sub. DR318, p. 13). This is true to an extent. But, in setting a state-wide price, racing authorities are burdened with having to comply with the requirements of the Australian Constitution. Similarly, they must also be capable of setting product fees that comply with the Trade Practices Act.

In some cases, meeting the legal responsibilities of racing authorities' price setting powers will be complicated by the need to accommodate the divergent views and interests of the racing clubs they represent. Racing authorities may also be vulnerable to the influence of groups whose interests are better served by anticompetitive arrangements. In short, price setting by state and territory racing authorities is different to price setting by individual businesses. The power to set the price for the industry of an entire state, inevitably means that prices are the result of complex negotiations, be that with market participants directly, or indirectly through courts of law. Should price setting powers be elevated to a national level, a similar type of negotiation would necessarily take place.

In either case, there are several ways to increase the chances that such negotiations will result in a productive outcome:

- the price setting authority needs to engage in a public consultation with both racing and wagering stakeholders
- this consultation process should be transparent (rather than 'behind closed doors')
- the price setting authority should have clearly defined principles and objectives, which need to be known and accepted by stakeholders
- the decisions made by price setting authorities should be accompanied by publicly released documentation of the underlying arguments and evidence.

The basic unit of administration

In theory, product fees could be set by racing clubs individually. In this case, all that would be required to ensure an efficient market outcome, would be a legal framework that enforced their intellectual property rights. However, such a scenario would involve an immense transition cost from the current arrangements, and would be unlikely to achieve a stable market in any case. In order to reduce the cost of negotiation, most clubs would have a strong incentive to negotiate jointly through a representative organisation. This underpins the state and territory

arrangements in effect today. The question then, is whether an efficient national market is more likely under the current state-based arrangements, or through elevating price setting to the national level.

The funding model under state-based race fields legislation

As pointed out by several participants (Racing Industry Consultation Group, sub. DR347, p. 11; Australian Racing Board, sub. DR343, p. 4), one major advantage of the state based system is that it allows price competition. In a sense, racing authorities represent state-wide firms who must compete in a national market, with wagering providers as their customers. This can allow different jurisdictions and codes to select business strategy most suited to them. For example, some jurisdictions may choose to compete based on price, whilst others aim to provide premium content (at higher prices). This model also allows for trial and error, and for state and territories to learn from each other's experiences. The Australian Racing Board describes the racing product market in the following way:

...the view the ACCC has taken of racing to this point – within each code, it consists of at least eight competitors ... Every producer has the capacity to set its price. The market will then determine whether it's the right price or not. (hearings pg. 380-381)

Similarly, the Racing Industry Consultation Group argue:

...if the race fields is set too high, that will render an event unattractive to punters and will attract lower wagering returns and hence lower prizemoney for producers. This would make the event less attractive to producers, resulting in fewer starters. Conversely, if the race fields are set too low, they will render an event attractive to consumers but at the expense of horse owners who may have to accept lower prizemoney in order for the race clubs to recover costs. (RICG trans., p. 151)

Over time this process may lead to a market equilibrium price or a 'convergence of fees charged to wagering operators for the same product' (Australian Racing Board, sub. DR343, p. 4). Alternatively, the Racing Industry Consultation Group points out that a competitive market may deliver a range of different pricing arrangements (sub. DR347, p. 9).

Despite these advantages, there are a number of major concerns with the current state-based national funding model. Most obviously, race fields legislation may be inherently vulnerable to legal challenge. That is, wagering operators seeking a better deal may be able to successfully challenge race fields legislation, regardless of the basis or level of product fees. Even in this dire scenario, the race fields legislation may still be able to support a national funding model. Racing authorities can reduce wagering providers' incentive to legally challenge the legislation through the negotiation of a fee that all parties can accept. In some jurisdictions the lack of

dialogue has led to a clear sense of mutual bewilderment between racing authorities and wagering providers. An open consultative process, prior to determining product fees, would do much to bridge this gap.

For their part, wagering providers have reason to be reluctant to challenge the Race Fields Legislation due to the costs and uncertainty that inevitably accompany legal proceedings. Additionally, it is not in the interests of wagering providers to demolish the funding mechanism that generates the racing product that their business is built around.

The second potential danger is that the race fields legislations are legally robust, but result in anticompetitive outcomes in the wagering market. This could occur in two ways — racing authorities may purposefully advantage a certain type of wagering operator at the expense of all others, or they may collude to raise the price of racing. Competition between jurisdictions would tend to undermine this as described above. However, the majority of racing is produced by three states (New South Wales, Victoria and Queensland). Should these states coordinate their activities, anticompetitive arrangements could become persistent. This would harm consumers and, in the long run, harm the racing industry itself.

Finally, even if race fields legislation ultimately results in an efficient market outcome, the transition cost required to achieve this may be unacceptably high. Race Fields Legislations' short history has been characterised by legal action and the fear of legal action. This looks likely to continue in the immediate future. As one participant has described it:

The second option is litigation. The present case is focused on a constitutional challenge. There are clearly other avenues open for legal challenge including action under trade practices law. There is also a high likelihood of lengthy and expensive appeals. Under this option, millions of dollars is spent on wasteful litigation leading to years of uncertainty. Under this option, racing's destiny is shaped by the courts. (Australian Internet Bookmakers Association, sub. DR373, p. 12)

The funding model under a national price setting body

Elevating price setting to a national level would require a specially constituted body.²¹ The power to set product fees could be underpinned through the states and territories enacting template legislation (though the prospects for this are poor) or through a unilateral exercise of power by the Commonwealth. Commonwealth

²¹ The Commission's draft report canvassed the idea of the national racing representative bodies fulfilling a price setting role. The Commission's reservation about both the feasibility and desirability of such an arrangement was reiterated by the participants in this inquiry (for example Australian Racing Board, trans., p. 386, HunterCoast Marketing, sub. DR270, p. 23)

action could probably be based on its constitutional right to make laws with respect to taxation (s 51(ii)), though there are other potential heads of power.

A newly constituted body could be specifically designed to incorporate the principals discussed in section 16.2. It could also be required to follow a broader and more transparent consultative process than is likely to occur under the current arrangements. As raised in the draft report, the Independent Pricing and Regulatory Tribunal of New South Wales (IPART) is a useful institutional model.

As the ‘impartial umpire’, the price setting body would attempt to jump to the ‘equilibrium’ price that would emerge in a competitive market. There are several advantages of this approach:

- it would avoid the legal costs and uncertainties of the current arrangements
- it could better target consumer interest, and make broader use of the views of market participants
- it would reduce the scope for deliberate anti-competitive behaviour
- with a nation wide unified fee structure, administrative costs to both racing authorities and wagering providers would be lowered
- a national price setting body may be able to improve the prospects of exporting racing product. Such a body could negotiate with the racing and wagering authorities in other countries, and reduce transaction costs between the domestic racing industry and overseas wagering providers.

However, while the main problems of the current model would disappear under a national price setter, new ones may well replace them. While it is not possible to anticipate all of the dangers of implementing a dramatically new funding system, several key risks can be identified.

Firstly, the national price setter might ‘get it wrong’. In setting product fees at a national level, the price signals and market information that determine economic activity in the racing and wagering industries may be diluted. Whilst a national price setter could easily access information of the costs of producing racing product, it would need to make an assessment of its *value*, which is considerably more difficult.

Due to the heavily regulated nature of the racing industry, it is not clear that market information on the value of racing product is currently the driving force in determining product fees. The difference is that, under the current arrangements, if a particular racing authority incorrectly prices its product, the adverse consequences are largely limited to the racing industry in its own jurisdiction (as well as wagering providers and punters who bet on its product across Australia). However, if a

national price setter makes a similar error, all racing and wagering participants in Australia are affected until the a new price is implemented by the national authority.

Secondly, effective management of the national price setting body would require a high level of independence as well as knowledge of the racing and wagering industry. Too much of the latter (derived from personnel with direct industry experience) may undermine the institution's capacity for impartiality. There is also the danger that the selection of the board or panel that oversees the national price setting body could become highly politicised. The extent to which these risks are managed would crucially impact upon the body's legitimacy and its capacity to function effectively.

The option value of a deferred response

While the national levy scheme proposed in the draft report attracted some support (Tatts Group Limited, sub. DR302, p. 16; Australian Bookmakers Association, sub. DR320, p. 3; Greyhounds Australasia, sub. DR362, p. 2), the Commission has come to the view that it would be premature at this point to discard the existing approach based on race fields legislation. This is because, it is not yet clear whether the issues currently arising under the race fields legislation represent intractable problems, or merely the transitional costs of a dramatic shift in the racing industries' funding model. Given this uncertainty, and the many positive features of the current arrangements, there is value in deferring any further government action. In particular, the relative prosperity of the states whose product fees accommodate greater competition may prove to be a powerful motivating force for similar moves in other states, ultimately resulting in a more cohesive national system.

The costs incurred in transit to this state are likely to be severe, and concentrated on the racing industries of New South Wales and Queensland. However the costs of regulatory failure of a national pricing system could potentially fall much more broadly — impacting on states and territories who otherwise would have pursued competitive market outcomes without the need for federal intervention.

For this reason, the Commission has decided to recommend a 'wait and see' approach to race fields legislation. Such an approach has the advantage of allowing further modelling and discussion between racing authorities, wagering providers and governments as to the feasibility and attractiveness of a national approach to price setting. Should the existing legal avenues be unable to bring about an acceptable resolution, or if the costs of a litigation based solution are judged to be too high, then the national price setting model described by the Commission should be pursued.

Such an assessment inevitably contains an element of subjectivity. However, there are a number of outcomes that, if observed over the next 3 years, would indicate a move to a national price setting model is needed.

- Agreement over product fees cannot be reached and litigation is ongoing.
- Wagering providers are able to avoid paying product fees and the free-rider problem re-emerges.
- Inequitable treatment of certain types of wagering operators is obvious when comparing major racing jurisdictions to each other. In particular, if it appears that low margin operators are being forced out of New South Wales and Queensland, but are operating in Victoria, South Australia and Western Australia.

Should the third outcome eventuate in isolation of the other two, further analysis of the competitive implications of race fields legislation may be needed to motivate movement by the Australian Government towards a national body. This could be conducted by the ACCC, or through a specially constituted independent review (as with the Cameron review).

FINDING 16.2

The current approach to setting product fees by racing authorities in New South Wales and Queensland (excluding Greyhounds NSW) is unlikely to result in integration of their industries into a national wagering market. The costs of this will be felt most keenly by the racing industries in those jurisdictions.

RECOMMENDATION 16.1

The New South Wales and Queensland Governments should work with racing authorities in those states, as soon as possible, to replace their ‘across the board’ turnover fees with more competitively neutral and efficient product fees.

Within three years, the Australian Government should assess whether the race fields legislation frameworks are legally sustainable across all jurisdictions and give rise to competitive outcomes. If either condition is not satisfied, the Government should work with state and territory governments to replace these arrangements with a national statutory scheme, in which there would be a single product fee for each code. This fee should be:

- ***universally paid on a gross revenue basis and replace all other product fees currently paid by the wagering industry, but not other funding channels, such as sponsorship of race meetings***

set and periodically reviewed by an independent national entity with the object of maximising long-term consumer interests.

How should proceeds from product fees be distributed?

Ideally, the proceeds from product fees should be distributed directly to the racing clubs where the betting activity takes place, with the benefits described in section 16.2.

However, direct distribution may not be viable. First, the level of wagering may not always represent the true value of a racing club due to the compromises that are made when scheduling the many races occurring each week across Australia. In order to maximise wagering turnover, races are spread over the course of a week. It would obviously be undesirable from the consumer perspective if competition for the lucrative betting timeslots, such as Saturday afternoon, resulted in no or little racing at other times. It is unlikely that this degree of bunching would occur, as racing authorities, and the racing clubs themselves, would seek to schedule races based not only on the volume of wagering turnover that occurs in a given time period, but also the likelihood of their races attracting that turnover, given the competition they faced. Nevertheless, distributing product fees directly to the racing clubs based solely on the wagering turnover they generate, may not properly account for the complexities of scheduling races, and may undermine existing processes for determining race schedules.

Second, the costs of a direct distribution may be prohibitive. The administrative burden and technical feasibility of such an arrangement is unknown.

The alternative to direct distribution is for state and territory racing authorities to retain responsibility for allocating the funds amongst the racing industry. The advantage of using existing payment channels is that:

- the infrastructure for delivering payment to individual racing clubs is already in place
- state and territory racing authorities can account for scheduling considerations when allocating funds.

For these reasons, distribution through state and territory racing authorities is the Commission's preferred option. Nevertheless, there is value, in terms of competition and efficiency amongst racing clubs, in ensuring that the majority of racing clubs funding is determined by the revenue derived from wagering on the races they hold.

16.4 Other aspects of a national model

A number of participants have argued that a national racing and wagering model should have a broader regulatory scope than simply addressing funding issues. For example, Tabcorp recommended:

... a national approach to the regulation of wagering, including:

- Consistent regulation of credit betting and account opening inducements
- A single Code of Conduct dealing with responsible gambling, with which all wagering operators licensed in Australia will comply
- A single and mandatory integrity framework covering racing and sports, as well as all forms of betting and all operators. (Tabcorp, sub. 229, p. 26)

In some areas, there is obvious value to a national (rather than state and territory based) regulatory response. In particular, states have very little capacity to regulate the supply of telephone and internet wagering to people living within its jurisdiction. Online and telephone wagering, along with all other online gambling activities, should be subject to a consistent regulatory regime and overseen by a specialist body (discussed in chapter 15).

If a national price setting body is ultimately introduced, its national focus, expertise, independence and access to financial data make it an appealing option to take on probity responsibilities for the racing and wagering industries. In its absence, the incremental net benefits to further centralisation would need to be demonstrated, as existing institutions appear reasonably effective.

Competition issues arising from the broadcast of racing may also warrant a national response. Tabcorp, through its ownership of Sky Channel, is the sole television broadcaster of harness and greyhound racing, and is the dominant provider of thoroughbred racing broadcasts in pubs and clubs. As noted by the ACCC, the vertical integration of Tabcorp's wagering and broadcast businesses has potentially serious implications for competition in the wagering market.²²

As the capacity for punters to view racing events is a key factor of production for wagering operators that compete with Tabcorp, this arrangement may frustrate competitive access to racing broadcasts. Were governments to allow bookmakers to establish a retail presence, Tabcorp's ownership of Sky Channel would become even more problematic.

²² ThoroughVisioN Pty Limited & Ors - Authorisations - A91031 - A91032, 4 July 2007, ACCC
"The ACCC accepts that Tabcorp's ownership of Sky Channel provides Tabcorp with potential for a competitive advantage relative to other wagering providers that compete with Tabcorp."

Also, a number of wagering providers have claimed they are denied the opportunity to advertise on Sky Channel (Betchoice, sub. DR395, p. 15; Sportsbet, sub. DR376, p. 24). This may constitute anti-competitive conduct in breach of the boycott provisions of the Trade Practices Act 1974.²³

Whilst the Tabcorp submission appears to imply that the ACCC have given tacit approval to their ownership of Sky (sub. DR372, p. 39), no formal finding has been made on this issue. As such, the Commission considers that the Australian Government should refer this matter to the ACCC for further investigation.

RECOMMENDATION 16.2

The Australian Government should request that the Australian Competition and Consumer Commission examine and report publicly on any adverse implications for competition associated with the ownership arrangements for Sky Channel.

The urgency of a national approach and, in particular, federal intervention, is less evident for the various other specific issues facing racing and wagering. This is because state and territory governments and existing regulatory agencies already possess the authority, competency and infrastructure required to regulate racing and terrestrial wagering. Nevertheless, the Commission considers that there would be benefit in achieving greater national harmonisation of the regulation of wagering if the single price-setting model discussed above is adopted.

In the absence of federal intervention, the benefits of a unified regulatory approach to wagering should be attained through coordinated action by state and territory governments. The remainder of this section examines several key issues that these governments will need to address in the future.

Taxation

Taxation of wagering operators raises considerable revenue for state and territory governments. In 2007-08, this amounted to \$341 million, or 0.5 per cent of the total revenue raised by state and local governments (ABS 2009). The majority of this comes from TABs, although the specific taxation arrangements differ substantially between jurisdictions. At the high end of the scale are Victoria and New South Wales, which both charge off-course totalisators 19.11 per cent of gross revenue. At the low end are Tasmania and the ACT, which apply no special taxes to totalisators at all. There has been a downward trend in taxation rates recently with the Northern

²³ More specifically ss 45(2)(a)(ii) and 45(2)(b)(ii)

Territory and Tasmania have recently introduced a cap of the amount of taxation the corporate bookmakers can be subject to.

Outside of sumptuary taxation (taxes aimed at reducing socially undesirable activity), governments tend to set higher taxes on goods or services whose demand and supply are relatively unresponsive to price increases. By this criterion, the changing structure of the wagering industry has made it a less attractive candidate for high taxation. Wagering on races faces increasing competition, not just from other forms of gambling, but also from other types of entertainment. This increase in potential substitutes makes wagering consumers more responsive to price increases, decreasing the efficiency of taxing this sector. The growth of online and telephone wagering providers has also reduced the capacity to raise tax revenue as these highly mobile providers have the ability to avoid paying taxes by migrating to jurisdictions with lower tax rates.

To the extent that special taxation of wagering is warranted, the remedy for tax competition is a binding agreement between all jurisdictions for a harmonised tax regime. Similarly, all wagering providers should be treated equally in terms of their GST obligations.

FINDING 16.3

There are grounds for state and territory governments to cooperate when setting taxes on wagering revenue, in order to avoid destructive tax competition. Increased levels of competition and the international mobility of corporate bookmakers will increasingly limit the capacity to tax wagering activity effectively.

‘Tote-odds’ betting

Tote-odds betting is amongst the most contentious wagering products offered by corporate bookmakers. Unlike traditional fixed-odds betting, where the bookmaker and the punter agree upon the potential payout at the time the bet is made, with tote-odds, the payout corresponds to the final dividend delivered from a nominated totalisator. This wagering product was first made available by Darwin All Sports (now known as IASBet) in 1996 and corporate bookmakers are currently permitted to offer tote-odds in all jurisdictions except for New South Wales, and Western Australia.²⁴

²⁴ This is not to say that tote-odds are strictly legal in all other jurisdictions. In some jurisdictions the practice occurs under the informal (but widely known) understanding that prosecution will not take place. Other jurisdiction have partial bans on tote-odds. For example, in Tasmania on-course bookmakers are prohibited from offering tote-odds, but other operators are free to do so.

From the perspective of consumers, tote-odds betting has two main advantages over betting directly with TABs. First, corporate bookmakers offering tote-odds provide better value than TABs. Most tote-odds providers either give the best available odds from a number of nominated TABs, or they offer to beat the final dividend paid out by a nominated TAB by a certain amount. In part, this price advantage arises from a lower cost structure. Corporate bookmakers are subject to a lower rate of taxation than TABs and tend to have lower overheads as their services are provided over the internet and telephone.

Second, tote-odds are able to provide a more attractive product to punters seeking to make substantial wagers. With totalisators, if a punter makes a large bet (relative to the size of the pool) on a given outcome, then the potential dividend available to the punter will be proportionately reduced (should that outcome occur). This effect can be dramatic in small pools, reducing the attractiveness of totalisators to those making big bets. The risk of ‘crushing’ the dividend can be reduced when placing a bet with a tote-odds bookmaker, who is likely to hold at least some of the wager. Back-bets made into a linked (by the terms of the bet) totalisator pool may still reduce the final dividend. However, the bookmaker has an incentive to minimise this by laying the bet across a number of totalisator pools and other bookmakers, as not ‘crushing’ the dividend is the basis for their comparative advantage over TABs in the first place.

Whilst being advantageous to some consumers, the practice of offering tote-odds has been strongly criticised by Tabcorp and a number of racing authorities (Racing NSW, Australian Racing Board, Australian Thoroughbred Racehorse Owners Council, and Harness Racing Australia). In addition to submissions made to this inquiry, arguments in favour of a national ban on tote-odds betting have also been raised in relation to the Cameron review (2008), as well as the Cross-Border Betting Taskforce (Department of Justice, Victoria 2003). Specifically, opponents argue that tote-odds betting products:

- have an unfair advantage as they contribute less to the racing industry and pay less tax than TABs
- increase the risks of totalisator pool manipulation by both punters and bookmakers. This may unfairly reduce the dividend that customers of TABs receive and undermine confidence in totalisator products
- steal market share from TABs, reducing their economies of scale and undermining their product by increasing the volatility of totalisator dividends
- are a de facto totalisator, offering no additional benefit to consumers, and potentially breaching the TABs’ right to exclusively provide totalisator products.

While some of these arguments illustrate genuine problems associated with tote-odds betting, these can be remedied using less extreme regulatory responses than prohibition. For example, the higher product fees paid by TABs are based largely on the market power they derive from their retail exclusivity. However, it not obvious why they should pay such a premium for their phone and internet sales, as this is a highly competitive segment of the wagering market (Tabcorp, sub. DR372, p. 31). To the extent that tote-odds betting is based on ‘jurisdiction shopping’ for the most preferable taxation requirements, tax harmonisation between states (discussed above) is preferable to denying consumers access to a product they highly value. Should corporate bookmakers still be able to ‘undercut’ TABs’ prices on an even playing field, they should be free to do so.

Similarly, there are several options for reducing the potential adverse impacts of totalisator pool manipulation without eliminating the benefits consumers receive from tote-odds products. Unlike TABs who operate on a cash basis, corporate bookmakers maintain comprehensive records of the transactions made between themselves, punters and other wagering operators. In theory, this should allow the relevant authorities to apply more stringent monitoring of corporate bookmakers offering tote-odds in order to detect any unusual behaviour. This kind of oversight would not prevent punters themselves from attempting to manipulate small totalisator pools in order to place large bets with tote-odds bookmakers on more favourable terms. However, the greatest risk of such behaviour is to the corporate bookmakers offering tote-odds, as well as to the pool manipulator themselves should the gamble backfire.

The effect of tote-odds betting on the size of the totalisator pools is a *potentially* more problematic concern. Were the pool to shrink significantly, this would make TAB dividends erratic and would poorly approximate the ‘true odds’. This would adversely affect customers of both the totalisator and tote-odds products (as well as providers of these products). Yet, it is not clear that allowing corporate bookmakers to offer tote-odds will shrink totalisator pools to a significant extent. For one thing, tote-odds providers commonly ‘back-bet’ into totalisator pools in order to reduce their risk exposure. Back-betting means that there is, in effect, an interdependent relationship between tote-odds and totalisator pools. This means that the pools will, at most, decline by only a proportion of the custom attracted away from the TABs by tote-odds providers. For example, one bookmaker participating in this inquiry indicated that around 80 per cent of their tote-odds turnover is bet back into totalisator pools (trans., p. 41).²⁵

²⁵ Confidential estimates received from Tabcorp suggest a considerably lower proportion of turnover is bet back into totalisator pools.

In addition, tote-odds betting will grow the market, attracting some new customers who would not have originally placed bets with the TABs. Given the interdependent relationship described above, this means that new customers attracted by tote-odds actually add to the totalisator pool. While the net impact of tote-odds on the totalisator pool is probably negative, the adverse scale effects are likely to be small and less important than the benefits of price competition in this segment of the market. This is supported by the observation that the increases in corporate bookmaker turnover have not been matched with commensurate declines in totalisator turnover (figure 16.1).

However, there is an important distinction between competition from tote-odds products and the competition that would ensue were governments to relax the exclusivity arrangements for the provision of totalisator betting. In the latter case, the adverse scale effects would be much more severe, as competing totalisators would quarantine wagering turnover into separate pools (rather than recirculate it through back-betting). This would risk substantially reducing consumers' access to reliable totalisator products.²⁶ For this reason, the Commission is not recommending that totalisator exclusivity arrangements be removed.

Tabcorp have argued that the Commission's support for totalisator exclusivity is not consistent with permitting tote-odds betting:

...the Commission makes two statements that in our mind are contradictory. The first says that totalisator exclusivity is a good thing because totalisators require a pool... we agree with that. The second statement is that tote odds betting by bookmakers should be allowed so they can copy the price and offer the best tote. The problem with that is the moment you allow tote odds betting, there really is no exclusivity because for the consumer you can either go to the tote and bet directly in the pool or you can bet best tote with the bookmaker. (trans., p. 13)

In contrast, the Commission considers that totalisator exclusivity retains value due to the greatly reduced risk structure of totalisator products. Totalisator providers face ordinary business risks (like other firms in the economy), but not the peculiar risk of negative revenue that bookmakers (and certain kinds of stock market firms) must contend with. This represents a significant competitive advantage. Should taxation and product fees be harmonised throughout Australia, this advantage would increase considerably. Even in the current environment, Tabcorp has described

²⁶ On the other hand, the consumer benefits of larger pools also means totalisator providers with larger customer bases would have a competitive advantage over smaller new entrants. In a completely open market, with harmonised tax and product fees the totalisator business may equally exhibit the characteristic of a 'natural monopoly'. This would effectively mean that totalisators would not need formal exclusivity to achieve sufficient scale to provide a reliable product. However, under the current arrangements, new totalisators operators from low taxing jurisdictions, could indeed generate the disruptive effects described here.

numerous examples of tote-odds providers incurring considerable losses from their operations (sub. DR372, appendix F). Betchoice describes the risks that tote-odds providers face in the following way:

The difference between the amount bet back with totalisators and the amount received from the punter represents a real risk that Betchoice, as a bookmaker takes on. It is by successfully assessing this risk and offering a better price as a result that corporate bookmakers make money on tote-odds products. (sub. DR395. p. 17)

To the extent that tote-odds providers harm totalisators through decreasing the pool size and increasing the risk of pool manipulation, an appealing remedy is to allow TABs to co-mingle with pools in other jurisdictions. This already occurs to a certain extent with the Unitab pool covering Queensland, South Australia and the Northern Territory, and the SuperTab pool covering Victoria, Western Australia, Tasmania and the ACT. As pointed out by Tabcorp, ‘this involves a level of what could be interpreted as price fixing amongst competitors’ (trans., p. 12). However, the provision of tote-odds provides a high level of direct price competition in the online and telephone segment of the market. Thus the adverse competitive implications of further co-mingling are minor. There are two considerable advantages from further increasing the size of totalisator pools in Australia:

- larger pools are much harder to manipulate, less volatile and the dividends better approximate the true odds of wagering outcomes (i.e. win, place or trifecta) actually occurring, subject to the take-out rate by the TABs
- larger pools decrease the effect of large bets on the final dividend. This increases the competitiveness of TABs relative to tote-odds providers.

FINDING 16.4

There are better ways of dealing with the risks of tote odds betting than prohibition, such as co-mingling of totalisator pools. As tote-odds providers generate a high level of direct price competition with totalisators, the grounds for preventing further co-mingling are not strong.

Credit betting

Unlike most gambling providers in Australia, bookmakers are permitted to offer credit accounts to their clients. Credit betting refers to the practice of allowing customers to place wagers on credit (that is, without the use of cash or credit cards) and settle the account at a later date. These facilities are primarily used by large bettors and offer several benefits:

-
- they provide security and convenience for on-course punters, who would otherwise need to transact, and travel to and from the race course, with large amounts of cash
 - they allow online punters to avoid fees associated with credit card use.

Balanced against these potential benefits are the risks associated with permitting this practice. Similarly to credit card betting, access to credit increases the capacity of problem gamblers to inflict financial harm on themselves and their families. These harms may be further compounded by the absence of a financial intermediary (such as a credit card company) with the proper skills or resources to accurately assess the credit worthiness of their clients.

These potential harms warrant, at a minimum, strict regulation and monitoring of credit betting. However, it is not clear that, in practise, the problems associated with credit betting are sufficient to justify its complete prohibition. As credit betting facilities are usually only extended to very large bettors, those with access will tend to be either wealthy individuals or ‘professional’ punters. For the former, losing apparently large wagers may not be indicative of harm, while access to credit offers considerable benefits in terms of convenience and security. For the latter, access to credit is simply an ordinary feature of a business relationship that is common in other sectors of the economy. In either case, the number of those with access to credit, and therefore exposed to the risks of its abuse, is small.

Moreover, bookmakers have a commercial interest in the prudential provision of credit facilities as they bear the cost of the collection of outstanding debts, as well as the risk of default. As credit tends to be offered to well-known and established clients, bookmakers’ commercial interests may be reinforced by a personal interest arising from the ongoing relationship they have with their clients. Such relationships are likely to be stronger in the face-to-face environment on-course, than they are over the internet.

The challenge for policy is to ensure that credit is directed towards those with a lower risk profile (such as professional punters), and that wagering providers who offer credit retain strong incentives for due diligence. In this vein, the Commission sought feedback in the draft report on credit betting generally, as well as:

- whether credit betting should be limited to established clients and to wagers above a certain threshold (so as to limit credit to higher income or professional punters and to increase the incentives of bookmakers to undertake due diligence)
- whether credit betting should be extended to TABs (for reasons of competitive neutrality).

A number of trends were evident in participants responses (a sample of views are included in box 16.9).

Box 16.9 Participant's view on credit betting

We are opposed to any practices that are likely to contribute to a higher incidence of problem gambling ... We believe that if credit betting is not to be prohibited then the capacity to offer it should be extended to TABs as a matter of competitive neutrality. Moreover, credit betting should only be able to be offered to large and established clients with a capacity to afford their gambling activities ... We believe that an evaluation of the impact of credit betting on problem gambling should be carried out in 2 years in conjunction with an assessment of the impact of inducements. (Australian Racing Board, sub DR343, p. 8)

There are acknowledged reasons why credit betting should be permissible for on-course bookmakers, but why, as a matter of principle, should credit betting be allowed for internet or account wagering? This argument has some force but it is change for change's sake. At this stage, we see insufficient evidence to support a change to current practice. This should be a matter for further research. (Australian Internet Bookmakers Association, sub. 373. p. 3)

The notion that credit is necessary to service 'high-end' customers is questionable. Among its account holders, UNiTAB has some of Australia's largest punters betting through its internet service. They cannot bet unless there are sufficient funds in their account. The lack of credit does not deter these customers. A quick search on 'Google' regarding the offer of credit by bookmakers suggests that this practice is not restricted to 'high-end' customers. There is clearly an effort to attract 'ordinary' recreational punters. Such activity should be reviewed. (Tatts Group, sub. DR302, p. 17)

The suggestion that online punters benefit from credit betting by avoiding credit card fees is erroneous. There are a number of ways in which punters could transfer funds without incurring fees or at least incurring minimal fees ... Because online wagering is so profitable, the bookmakers have engaged in a race to the bottom when it comes to credit assessment ... Credit is given to anyone, even pensioners and the unemployed. Financial counsellors are increasingly seeing clients being pursued through the courts by these bookmakers. Bets are placed online with Northern Territory bookmakers, so the appropriate law for collection is the law of the Northern Territory. Losing gamblers can't defend the court actions that are instituted by these bookmakers because they would have to find legal representation in the Northern Territory, a jurisdiction lacking in consumer protection laws. (Uniting Care Australian, sub. DR387, p. 21)

Providers of credit betting tended to argue that the harm minimisation measures suggested by the Commission would be ineffective and are largely unnecessary as bookmakers have strong incentives for self-regulation in this area (Australian Bookmakers Association, sub. DR320, pp. 6-7, Australian Internet Bookmakers

Association, sub. DR373, p. 3). These participants tended to support continuing the current arrangements and extending credit betting to TABs.

Racing authorities tended to support equal treatment amongst wagering operators, but expressed the need for better understanding of the effect of credit betting on problem gambling (Australian Racing Board, sub. DR343, p. 10; Greyhounds Australasia, sub. 362, p. 7; Harness Racing Australia, sub. DR335, p. 12).

Whilst the benefits of on-course credit betting were not explicitly challenged, there was concern amongst a number of participants, who challenged the view that credit betting online and over the phone offered any substantial consumer benefits (Tatts Group, sub. DR302, p. 17; Uniting Care Australian, sub. DR387, p. 21). These groups have suggested that the harms of credit betting justify its prohibition.

The Commission considers that the evidence of harm is not great enough to justify immediate prohibition. Nevertheless, the risks associated with the practice warrant further investigation. The Commission is especially concerned with the off-course provision of credit betting as:

- the benefits of this practise appear lower than on-course
- the personal interest in the client is likely to be lower over the internet or phone than it is with the (often long-term) face-to-face interactions that occur on-course
- it appears that some corporate bookmakers are beginning to advertise credit facilities on relatively small bets, This increases the chances of attracting customers with a higher risk of harm (non-professional, smaller bettors).²⁷

Either an online gambling regulatory body (described in chapter 15) or the national gambling research body (described in chapter 18) would be well placed to conduct this investigation. This research should determine whether credit betting is prohibited. In the interim, steps should be taken to limit the growth of credit betting, such as a ban on advertising. In general, the Commission considers that the provision of credit betting should be subject to regulation that limits the practice to big bettors (that is ‘high rollers’ or professional punters).

One important exception to these measure is in the provision of credit to facilitate business-business back betting, which should be allowed between licensed wagering providers in Australia.

²⁷ For example, AISbet offers credit betting on wagers as low as \$200 (9 February on <https://www.iasbet.com/whatsnew/internet-credit.aspx>)

The impact of credit betting should be examined in further detail by either the regulator overseeing the national regulatory regime (recommendation 15.1) or the national gambling research body (recommendation 18.3). In the interim, advertising credit betting facilities should be prohibited, and credit betting should not be extended to TABs.

Inducements

While the Betfair Decision was generally interpreted as invalidating advertising restrictions on out-of-state wagering providers, states retain the authority to regulate advertising within their jurisdictions (so long as the regulations are not discriminatory). As such, New South Wales, Victoria and South Australia have prohibited wagering providers from advertising promotions that include inducements — in particular, free bets — on the grounds that they may encourage problem gambling.

Whilst the overall costs of these restrictions for consumers are unlikely to be high, it is not clear why customers attracted by inducements such as free bets are more likely to develop gambling problems than customers attracted by other advertising strategies. Moreover, a large number of the customers accessing free bet promotions are likely to be simply shifting from one wagering provider to another. Indeed, as opening an internet or phone betting account with a corporate bookmaker involves some degree of effort, it is clear that the inducements are partly directed at overcoming ‘switching costs’ between providers (a practice common in a number of other industry such as telecommunications, health insurance etc.). As the wagering market is largely dominated by TABs, the prohibition on inducements risks advantaging incumbents with a significant degree of market power, at the expense of greater competition.²⁸

The inter-state discrepancy in the approach to inducements also disadvantages wagering operators based in New South Wales, Victoria and South Australia when competing for market share in jurisdictions that permit these practices. For this reason, a nationally consistent approach is preferred to the current arrangements, regardless of whether that involves banning or permitting free bets. Whichever regulatory path is chosen should be based on evidence and should balance the realistic risk of problem gambling against the possibility of unduly advantaging incumbent wagering operators.

²⁸ Tabcorp themselves have not argued in favour of a ban on inducements, rather that a consistent position is taken on the issue at a national level (sub. 229, p. 28).

Offering inducements to wager through discounted prices to new customers is not necessarily harmful, and may primarily serve to reduce switching costs between incumbent wagering operators and new entrants, enhancing competition. The risks for problem gamblers should be assessed and, regardless of whether prohibition or managed liberalisation is the appropriate action, a nationally consistent approach would be warranted.

Retail exclusivity arrangements

Fair and open competition is a fundamental principle of a market economy. As such, the retail exclusivity arrangements with TABs represents a rare privilege. As monopolies tend to deliver poorer outcomes to consumers (like higher prices and poorer service) than the competitive market, they are purposely constructed by government only when there is clear evidence of their necessity (for example, the need for patents in order to avoid the under-provision of research and development). Most of the TAB exclusivity agreements are scheduled to expire between 2012 and 2016, which raises the question as to whether there is strong enough evidence to support their renewal.²⁹

While the historical reasons for instituting exclusivity are no longer relevant (see box 16.10) many racing participants have argued that the TAB retail monopoly should be continued. Proponents argue that

- *The harms of retail exclusivity are minimal.* Specifically, TABs' market power has been either eliminated or at least limited by online and telephone wagering competitors. Moreover, many punters do not care greatly about price, limiting the harms of higher prices (to the extent that they are raised at all).
- *Retail exclusivity has offsetting consumer benefits.* That is, the proceeds from TABs' retail exclusivity allows them to maintain substantial retail networks, which benefit consumers. In addition, restricting the entry of wagering retailers is necessary for totalisator pools to be large enough to function effectively.

²⁹ Specifically, Tabcorp's licences expire in 2012 in Victoria and 2013 in New South Wales; UniTAB's licences expire in 2014 in Queensland, 2015 in Northern Territory and 2016 in South Australia.

The harms of retail exclusivity are minimal

As discussed in section 16.1, it is difficult to reconcile the notion that TABs do not have market power with

- their willingness to enter into taxation and racing industry funding agreements that far exceed that asked of other wagering providers
- price comparisons with more competitive regimes
- with the need to legislate maximum take-out rates for totalisators (which appear to be generally binding).

The argument that the harms of retail exclusivity are limited by the indifference of some punters to the resulting higher prices, is implicitly aimed at customers who bet at TAB retail outlets (as customers of corporate bookmakers and betting exchanges clearly *do* care about prices). However, the fact that many punters continue to place bets at retail TAB outlets, despite better prices being offered by corporate bookmakers, is not strong evidence that they do not care about prices. This is because:

- many retail customers may be unaware of the existence of alternative wagering providers or reluctant to try new betting products that they are not familiar with
- they may not have access to, or be comfortable with, the platforms that alternative off-course wagering providers are limited to (internet and telephone)
- they may be dissuaded by the ‘switching cost’ involved in setting up an account with online or telephone based wagering providers
- they may have a strong preference for local retail betting (though would still like a better value retail option if it was available).

In effect, retail exclusivity denies such customers the opportunity to reveal the value they place on prices. If it is truly the case that these customers do not care about prices, then the introduction of new competitors to the retail wagering markets would have little effect on take-out rates (and thus racing industry funding). Even in this case, consumer welfare would still be advanced by the greater competition in regard to the quality of service in the retail market.

Box 16.10 Historical justification for retail exclusivity

Retail exclusivity as a solution to the free-rider problem

Today this argument is essentially obsolete as retail exclusivity is no longer sufficient, nor necessary, to overcome the problem of free-riding on racing product. It is not sufficient in that, as recently demonstrated, retail exclusivity on its own could not prevent free-riding by online and telephone based wagering providers. It is not necessary in that free-riding can be more comprehensively dealt with through either the national scheme described in section 16.3 or through existing race fields legislations.

Retail exclusivity as a source of taxation revenue

This argument does not have a strong underlying rationale. Retail exclusivity does generate a significant amount of taxation revenue. However, the benefits arising from the increased tax revenue are offset to some degree by the reduced welfare of consumers who face restricted choices and increased price for wagering products.

Put differently, if raising taxation revenue is a legitimate justification for establishing a monopoly, this principle could be widely applied to the production of a variety of goods and services. In general, governments tend not to do this because of the unfavourable trade-off in consumer welfare generated by tolerating monopolies. In this light, it is not obvious why the welfare of punters should be valued less than the welfare of consumers of other forms of entertainment.

Retail exclusivity as a means to regulate the wagering industry in terms of community access, consumer protection and probity.

This argument has some merit. While there is already widespread access at TAB outlets, as well as at pubs and clubs, it is likely retail wagering would proliferate even more widely in an unrestricted market place. The increase in community access may contribute to a higher incidence of problem gambling. Moreover, it would also risk reducing the level of compliance with probity and harm minimisation measures by retail wagering providers, whilst increasing the costs of monitoring these measures.

However, maintaining control over access to retail wagering does not require monopoly provision. Similar to gaming machines, licenses for retail wagering could be capped, and the areas where they are permitted to operate prescribed by government. Venue licenses made available could be limited to the number of existing TAB outlets or even reduced if necessary. At the extreme, if the retail provision of wagering could move toward a 'destination venue' model, with fewer venues that house totalisators and multiple bookmakers (essentially replicating the betting rings found at race meetings).

Retail exclusivity benefits consumers through allowing the provision of a substantial TAB retail network and the scale required for totalisators

The argument that retail exclusivity benefits consumers by supporting an extensive retail network, has little validity. The benefits that consumers receive from TAB

shopfronts could equally arise from other wagering providers. Indeed, with greater competition, the extent to which the TAB retail network declined would be a function of the growth in bookmakers' retail presence. This shift would be entirely driven by consumer preferences. As such, it is doubtful that protecting TABs commercial interest, through restricting meaningful choice in the retail wagering market, best serves consumers.

The issues of totalisator scale is more subtle. The Australian Racing Board (sub. DR343, p. 9) indicates that the arguments in favour of totalisator exclusivity (which the Commission is not recommending any change to) could also apply to retail exclusivity for the providers of totalisator products.

As discussed above, removing totalisator exclusivity risks deteriorating the quality of totalisator products that consumers have access to. Moreover, it does not dramatically increase the choices available to consumers, in terms of wagering products.

However, the equation is different with regard to retail exclusivity. In this case consumer choice is dramatically increased by the introduction of bookmakers to the retail market. This is likely to challenge the scale of totalisator operations. However, most business, including bookmakers, benefit from scale to some degree. It is not generally appropriate for the government to arbitrarily decide one business is worthy of realising these scale benefits while others are not. If consumers' preference for retail bookmakers is so large that totalisators become an unviable business model, this suggests that the detrimental welfare effects of their continued protection are very large. That said, there is strong reason to think that totalisators would continue to play a large role in the wagering market without retail exclusivity for TABs:

- totalisator products are less risky to offer than fixed odds
- TABs already have a comprehensive network and are experienced in the retail market
- totalisators betting is the dominant wagering product in Australia. Many consumers would be expected to continue using totalisators due to their familiarity with the product

There is insufficient evidence in favour of continued retail exclusivity

The extension of the TABs' retail exclusivity agreements do not appear to be to associated with any significant, demonstrable net benefit to consumers, or to the Australian economy. The fact that retail exclusivity is the status quo in the wagering market is not, in itself, a justification for maintaining the current arrangements.

Similarly, the currently stated (and historical) arguments in favour of TABs' retail exclusivity are not compelling, and would not be accepted in other areas of the economy.

That said, moving from the current arrangements to a more competitive retail wagering market represent a major shift and is likely to involve significant transactions costs. These transaction costs can be minimised by phasing out retail exclusivity gradually over time. This should be accompanied by an ongoing assessment of the effects on consumers in regard to:

- the resulting changes in the racing and wagering industry
- the potential harms from problem gambling.

In the past, commercial activity in many racing clubs and authorities has been based around a presumption of constant revenue flow from TABS. Gradually opening the retail market to more competition will allow these bodies the time to acquire new commercial capabilities and re-orientate their organisation to a more diverse retail wagering market.

RECOMMENDATION 16.4

TAB retail exclusivity should not be renewed.

17 Regulatory processes and institutions

Key points

- Over the past decade, governments in regulating gambling have increasingly:
 - focused on the public interest in policymaking and incorporated health and consumer concerns into policies and programs
 - utilised stronger regulatory processes, including improved stakeholder consultation
 - commissioned research to improve understanding about gambling
 - facilitated a dialogue between jurisdictions and coordinated some policy directions, including through the Ministerial Council on Gambling.
- But against well-recognised standards for best practice, significant deficiencies remain. While jurisdictions vary on which areas are most in need of improvement, in general, there is a need for:
 - greater independence of gambling regulators
 - a stronger commitment to public consultation and transparent processes
 - increased public access to regulatory impact assessments (with their public release at the time policy decisions are announced)
 - policy decisions that are clearly articulated and exposed to public scrutiny.
- There are also costly differences among jurisdictions resulting from different electronic gaming machine standards and approval processes:
 - efforts should be made to reduce these differences
 - variations should be based on legitimate concerns for harm minimisation and take into account the costs that differences impose
 - policy directions that have been ‘unwritten’ should be made explicit and public.

17.1 Introduction

The Commission has proposed various changes to existing government regulations, some for immediate implementation and some to be put in place over the medium term. However, in the long run, policy and regulation will need to respond to new gambling technologies and market developments. In that context, a key question is: how to ensure that *future* policies and regulations will accord with the public interest? That question is all the more important given the pervasive role of

government in gambling industries. Governments tax, supply, plan and regulate gambling and provide help services. Given their central and sometimes conflicting roles, there is abundant potential for adverse outcomes.

This chapter discusses areas where government institutions and processes affecting gambling can be altered to minimise these risks. It first looks at elements of best practice regulation. It then discusses:

- the need for independent regulators with responsibility for all gambling in each jurisdiction
- the relative merits of alternative placements of gambling policy in different departmental and ministerial portfolios
- the transparency and robustness of government processes
- national regulation and jurisdictional consistency.

17.2 What does best practice look like?

The main ingredients for good policy and regulatory frameworks are now well recognised and have been articulated in COAG (2007), Australian Government (2007a), OECD (2005), and Argy and Johnson (2003). For these frameworks to function effectively, the institutional setting will generally have to meet a number of core criteria. Hence, drawing on the Commission's 1999 institutional blueprint for gambling regulation, some guidelines for structuring gambling governance are outlined in box 17.1 below.

Without reiterating in detail what is generally understood, the key ingredients of a best practice regulatory environment for gambling include:

- concentrating on the public interest, emphasising the broader interests of consumers rather than sectoral concerns or governments' revenue interests
- governance structures that limit political discretion and separate the independent activities of regulators from the parliamentary accountability of policymakers
- good communication between institutions with responsibilities for gambling
- rational and transparent policy development based on good evidence, evaluation, judgment and theory (and the accumulation of expertise and research to underpin decisions)
- appropriate levels of consultation so that all views can be heard.

Box 17.1 A model institutional setting for gambling regulation

In its 1999 report, the Commission proposed a 'regulatory blueprint' to address deficiencies then pervading the gambling regulatory environment. Drawing from that blueprint, and updating it to reflect what has been learnt from the range of institutional approaches now in place, a best practice institutional setting for gambling would involve:

- an independent statutory regulator with responsibility for monitoring and implementing all gambling regulations and a charter to:
 - further the public interest
 - address consumer protection issues
 - undertake and commission independent research and make public recommendations. (Core functions of gambling regulators are outlined in box 17.2.)
- policymaking functions within a portfolio preferably relevant to consumer, justice and health matters, but not specifically within treasury or industry orientated departments
- the relevant minister for gambling having direct responsibility for harm minimisation
- independent administrative arrangements for gambling counselling and help services, with decisions on how to allocate funds and monitoring the effectiveness of services occurring through either government health departments or a special purpose independent body
- an independent national policy research and evaluation centre.

Progress has been mixed

Since the Commission's 1999 review, governments have made progress in a number of areas. For example, policymaking has generally been more 'rational' and placed a greater emphasis on the public interest, including by:

- establishing independent regulators
- integrating health and consumer matters into gambling policy to balance the influence of treasuries
- formalising channels for stakeholder consultation, including by setting minimum consultation timeframes and releasing issues and discussion papers
- initiating regulatory impact analysis requirements
- undertaking major research programs and funding Gambling Research Australia as a forum for managing national research (chapter 18)

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- establishing the Ministerial Council on Gambling to facilitate a better dialogue between jurisdictions and to coordinate policy directions and determine broad national research priorities.

But, while governments and policymakers are aware of best practice principles, and have applied them in some areas, there are instances where other factors may interrupt their effective implementation:

- Governments face many conflicting incentives — revenue incentives, public health and community goals, industry development and pressures from political lobbyists. These competing interests can make it hard to develop coherent and consistent policy. Although gambling has been an active policy space for governments, many measures introduced would have had limited effect on reducing harm. While this may reflect that gambling policy is a complex regulatory area, it is also likely to reflect the competing interests of governments.
- The extent to which best practice is adopted will be influenced by the personalities of politicians and senior officials, the will of government and the quality of bureaucratic advice, each of which are inherently difficult to control for.

There are some particular areas where many jurisdictions' institutional and regulatory structures in gambling fall below best practice:

- Although there are common aspects of regulation across many gambling activities, most states and territories are yet to bring all forms of gambling under the responsibility of a single regulating body in each jurisdiction.
- The gambling regulator in some jurisdictions does not have sufficient purview to be effective, even if independent, with the functions of some regulators falling short of core regulatory functions that necessitate independence.
- Other regulators have broad ranging responsibilities, but lack independence to enforce decisions without potentially facing pressures from government, industry lobby groups and other advocates.
- Because gambling regulation and policy spans a diverse range of disciplines, the government department with the main carriage for gambling policy usually coordinates between agencies involved in gambling-related activities. Some jurisdictions do this better than others, but some agencies with expertise in ways to reduce and address harms from gambling (such as those dealing with consumer, health and justice issues) are sometimes left on the periphery of policy development.
- Although consultation has improved considerably since the Commission's 1999 report, there is concern that it could be carried out more fully, particularly by

governments being more transparent about the basis for their decisions and engaging in consultation earlier in the process of policy development.

- Regulatory gate-keeping requirements have not been well applied. Public access is poor and the timing of the public release of regulatory impact assessments often lags the announcement of policy decisions.

The next two sections look more closely at how the commitment of governments to best practice regulatory processes and institutions wavers in some instances, including what kinds of specific improvements could be made.

17.3 Governance structures still need work

Although state and territory governments have made changes to the structure of their gambling regulatory institutions, there is scope for improvement. The core institutional requirements proposed below essentially recap the proposals the Commission made in its 1999 report, with a few changes to reflect what has been learned from the range of approaches adopted by jurisdictions over the last ten years. For some jurisdictions, implementation of this model would need only minor changes, but for others, more substantial changes would be required.

Regulators should be fully independent

In the absence of a regulator's statutory independence, ministers and governments can come under pressure to influence regulatory activities in ways that may not be in the public interest, nor transparent and open to public scrutiny. (Independent regulators are helpful to governments precisely because they short circuit any expectation that government should step in on particular matters — whether this be triggered by popular opinion or pressure from advocates.)

Pressures can be placed on organisations if their financial independence or staffing decisions can be unilaterally altered. As such, independence should extend to:

- financial matters, including personnel and resourcing
- management, including the security of tenure of the executive and rules for their appointment and removal
- the ability to undertake research, which should be freely accessible to the public
- public accountability and transparency, including both advice and recommendations made to ministers as well as any directions coming from a minister.

In particular, full independence requires that gambling regulators do not have responsibilities that also extend to the development of the regulations that they implement. Rather, policy development should primarily be the responsibility of the relevant minister and policy department — a role that Clubs Australia strongly support, seeing democratically elected and accountable representatives as best suited to deal with the public interest (sub. DR359, p. 100). An advantage of such a separation between regulating and policymaking is that regulators can closely interact with industry, but cannot directly change policies, thus reducing the potential for the regulator to be ‘captured’ by industry and/or other stakeholder groups.

The Commission stressed the importance of independent regulators in its 1999 report, and that view was supported by a number of participants in this inquiry including Anglicare Tasmania (sub. 83, pp. 2–3) and the Victorian Interchurch Gambling Taskforce (sub. 220, p. 14). However, McMillen observed that no state or territory government has truly embraced an independent model:

With the possible exception of South Australia, close structural and procedural links between policy agencies and the statutory authorities have been retained or strengthened since 1999. As in the past, ministers and Parliaments ultimately determine policy, while government departments are responsible for policy advice and implementation, as well as many regulatory functions. In most states/territories, ‘independent’ control authorities in Australia function essentially as agencies of government ... and have limited capacity for independent action. (sub. 223, pp. 14–15)

Moreover, while most jurisdictions have now established a statutory ‘independent’ regulator or control body of some form, there is considerable divergence in operation. For example:

- In South Australia, there are effectively two regulators. The Independent Gambling Authority (a statutory body) is the principal regulator and undertakes ‘structural’ regulatory activities. The Office of the Liquor and Gambling Commissioner is housed within government and performs the role of an ‘operational’ regulator, carrying out both regulatory and enforcement functions, including approving gaming machines and undertaking ‘on-the-ground’ enforcement. Such an arrangement may lead to confusion and inefficiencies.
- In New South Wales, there is no statutory independent regulator for all forms of gambling, and although a Casino, Liquor and Gaming Control Authority was established in 2008,¹ its regulatory responsibilities are shared with the Director of Liquor and Gaming within the associated policy department.

¹ The Authority is a New South Wales Government agency, but is not subject to the direction or control of the minister, except in clearly defined circumstances as prescribed in legislation.

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- The Queensland Gaming Commission (the independent regulatory body for gaming in Queensland) has decision-making responsibilities somewhat similar to those of gambling regulators in other jurisdictions, but is restricted to dealing only with gaming, meets monthly, and relies on secretariat support and advice from within government.
 - The Tasmanian Gaming Commission is a 3-person body reliant on support from officers of the Department of Treasury and Finance. The Tasmanian Gaming Commission acknowledges in its submission that some in the community perceive that they are too close to government. However, they suggest that any closeness also has advantages, including access to appropriately skilled staff, which in their opinion, would not be available to an independently staffed regulator, given the limited resources available within their jurisdiction (sub. DR311, p.4).

Clearly, the breadth of responsibility and independence across gambling regulators varies significantly. Some undertake regulatory reviews and oversee research projects, while others have significantly narrower regulatory responsibilities. In some jurisdictions, the policy department or enforcement body has the main carriage over matters that are reserved for the regulator in other jurisdictions. While it appears that many of these differences reflect the size of a jurisdiction and its associated resourcing capabilities, it may also be a sign of the level of independence and influence that a government is prepared to bestow on the regulator.

Ensuring independence

Statutory independence usually involves drawing a boundary around the regulatory responsibilities provided to the statutory regulatory agency, with policy development and some residual quasi-regulatory functions left to the policy agency or agencies. A range of core functions commonly undertaken by gambling regulators is outlined in box 17.2.

Even though a regulator may possess statutory independence and operate with the broader public's interest in mind, it has a responsibility to advise and report to a minister and is accountable to parliament. While such arrangements can effectively balance independence and accountability, processes are also needed to ensure that the minister does not provide direction to the regulator or, if this does occur, such directions are published and tabled in parliament.

Transparency helps regulators to demonstrate to third parties that they are operating free from any influence or direction (perceived or otherwise). Moreover, by publicly reporting to the minister, the basis for any regulatory decisions that flow from its advice is also transparent.

Box 17.2 Core functions of gambling regulators

The breadth of regulator responsibilities in gambling can vary widely. In part, this reflects that the boundary between the respective roles and responsibilities of regulators and policymaker is often unclear. There is also considerable potential for gaps and overlaps, and while necessary demarcations develop, there are some functions that are clearly more regulatory in nature, and where a degree of independence is often warranted.

At the broadest level, there is a case for gambling regulators to control, supervise and regulate all gambling within their jurisdiction. This would include administering gambling legislation, regulations and Codes of Practice relevant to all commercial forms of gambling — casinos, gaming machines, lotteries, racing, wagering and bookmakers. Associated with these responsibilities, regulators would also have more specific functions to:

- approve gambling activities
- administer regulations covering the integrity of the gambling product, including equipment and procedures
- develop guidelines to protect consumers from harm and further the public interest
 - approving applications for licences
 - approving games and evaluating the potential for increased harm
 - abiding by conditions of licences, such as responsible gambling staff training.
- perform research on how aspects of the regulatory environment might be improved and, in turn, advise and make public recommendations to the relevant minister(s).
- provide public access to comprehensive industry data, including gaming machine numbers, expenditure and tax revenue for all forms of gambling.
- collect taxes, fees and charges relevant to gambling laws.

In undertaking their functions, regulators should be explicitly required to operate in the public interest, including protecting consumers and reducing gambling-related harm.

While operating at arms length from government may impede communication between government and the regulator regarding policy development, independent regulators can contribute via formal channels with the relevant minister. Indeed, avenues for regulators to contribute to gambling policy already exist in some jurisdictions through the accountability requirements placed on the regulator to report to and advise the minister.

But to give traction to the independent advice of regulators, governments could be required to publicly respond to any formal recommendations received; hence avoiding situations where the regulator provides advice that appears to be overlooked. For example, Anglicare Tasmania commented that:

When the Tasmanian Gaming Commission, with new commissioners, gave strong advice to the Treasurer about options for harm minimisation, he ignored the majority of the options. (sub. DR355, p. 3)

The regulator should cover all forms of gambling

In its 1999 report, the Commission proposed that all forms of legalised gambling be controlled by a single, independent regulatory agency in each state and territory. The reasons for this are to minimise the risk that:

- special arrangements will be established and maintained for different groups, venues or providers at the expense of the broader public interest
- inconsistent policies will be put in place in what are ostensibly like circumstances, especially so far as measures to protect consumers are concerned.

Governments have variously taken steps to integrate overlapping agencies and apply more consistent approaches to the regulation of gambling. But, there are still a number of instances where casinos, lotteries and various forms of racing are regulated by separate bodies, which may or may not be independent of government. As stated by McMillen, arrangements often reflect ad hoc decisions and customised fixes to issues emerging from liberalisation:

Current regulatory structures are characterised by a wide variety of approaches, heavily influenced by the changing views of governments at different times and by specific arrangements entered into with particular providers. (sub. 223, p. 15)

Prolonging such arrangements is likely to be administratively more costly and often less effective than having more integrated regulatory responsibility.

Although governments have signalled their intent to bring all forms of gambling under the one regulatory umbrella and, where relevant, standardise control mechanisms and consumer policies, most are yet to consolidate multiple bodies. There are strong grounds for governments to fast-track efforts to bring all forms of gambling within their jurisdiction under the regulatory control of a single independent body.

RECOMMENDATION 17.1

Each jurisdiction should ensure that its gambling regulator has:

- ***statutory independence from government***
- ***regulatory control over all forms of gambling within that jurisdiction***
- ***a charter that emphasises the public interest, and explicitly includes consumer protection and harm minimisation.***

Departmental and ministerial carriage of gambling policy

Gambling has traditionally been a treasury responsibility, reflecting its important revenue-raising role. While most jurisdictions have moved principal responsibility for gambling policy out of the treasury portfolio, South Australia, the ACT and Tasmania have not.

There are likely to be benefits in having gambling within a portfolio where a broader range of policy-related considerations are more readily taken into account. Many portfolios have some expertise relevant to gambling. However, departments responsible for health, consumer policy and justice would have more direct relevance, as they have specific expertise relating to the risks and harms of gambling.

While currently no jurisdiction has gambling policy falling within its health portfolio, having well-functioning channels for communicating and exchanging information with health departments is essential. In particular:

- Counselling and other help services for gambling have important parallels with the expertise of health departments, especially given co-morbidities.
- Agencies with gambling responsibilities can also make valuable contributions to health policies. For example, the link between smoking and gambling (including the impact of the smoking ban on the social costs of problem gambling) featured prominently in the Regulatory Impact Statement for the New South Wales Smoke-Free Environment Regulation 2007 (Allens 2007).

Similarly, examples of where broader consumer and legal concerns intersect with gambling policy include:

- privacy issues related to card-based gaming and pre-commitment systems, including anonymity, the kind of information that should be collected and the rules that should be applied to data collection and use
- the implication of any changes in the courts' interpretation of venues' statutory duties and their duty of care to patrons, and in cases where they have been alleged to have acted negligently, or engaged in unconscionable or misleading and deceptive conduct
- the effectiveness of strategies for informing and empowering consumers.

Linkages between gambling policy and revenues mean that governments have in-built incentives to involve treasuries in policymaking. Designing gambling regulations often touches on a number of transitional issues requiring specialist modelling expertise and information from treasury. However, the placement of gambling policy within a portfolio with responsibilities for raising revenue, fostering tourism or supporting industry increases the potential that gambling policies will be

exposed to conflicts of interests. It is also less compatible with the most important considerations for developing effective measures to empower consumers, reduce harms and effectively deal with the social costs of problem gambling.

Regardless of which department has main carriage for gambling policy development, it is important that good working relationships be established with all relevant portfolios.

Ministerial responsibility

Currently, responsibility for gambling in nearly all jurisdictions is that of a single minister (and in some jurisdictions, there is also a separate minister for racing). There is an argument, however, that the breadth of a minister's portfolio responsibility can also affect the coherency of gambling policy with respect to relevant health, consumer and legal issues. If ministerial responsibility for gambling were to include greater recognition of these issues, it is likely that decisions on gambling policies would be better informed and provide the minister with direct access to advice that spans the breadth of gambling policy. However, to ensure that consumer, legal and public health matters are given due attention in gambling policy, the relevant gambling ministers' responsibilities should include an explicit responsibility for harm minimisation.

Several participants have suggested that gambling policy sits most appropriately within the control of a minister who is also responsible for tourism (Australasian Casino Association, sub. DR365, p. 28; Gaming Technologies Association, sub. DR344, p. 6). The basis for this argument is that the gaming industry is linked to hospitality and tourism, and that many Asian countries have combined the two policy areas.

The Commission does not dispute that tourism and hospitality has relevance within the gaming industry but remains firm that it is not the central focus of gambling regulation. Gambling policy should focus on the public interest, with emphasis on consumer protection and ways to reduce harms from gambling in the community.

RECOMMENDATION 17.2

The relevant minister for gambling in each jurisdiction should have an explicit responsibility for harm minimisation.

17.4 Improving regulatory processes

A common complaint from many participants has been the difficulty of obtaining a clear understanding about why regulatory decisions were made and the evidence upon which the decision was made. This is both a transparency issue and one of process and appropriate consultation. This section evaluates how governments can:

- improve the way they consult with stakeholders
- improve transparency about the reasons for policies
- better communicate the rationale for, and expected outcomes from, policies through regulatory impact analysis.

Several submissions from industry have flagged concerns about the costs of implementing and complying with government regulations, including many of the Commission's draft report recommendations (for example, Australasian Gaming Council, sub. DR377, p. 25; Racing Industry Consultation Group, p. 3). This section also looks at the issue of compliance burdens on gambling businesses.

Improving consultation

When conducted properly, public consultation is an important source of evidence for governments, and helps increase accountability. Lack of public consultation increases the risk that regulation will be poorly designed, ineffective and costly to comply with. For example, regulation of gambling frequently touches on technical aspects of machine operation, but to ensure that a regulation will work efficiently in practice, it is important that governments adequately consult on the technical viability and transition costs of proposed measures. That said, even the best consultation processes will not necessarily build agreement.

Effective consultation with a full range of stakeholders — including gambling providers, manufacturers, community groups, local councils, problem gamblers and gambling support service providers — will also draw out deficiencies in how gambling governance is structured (for instance, if policymaking is positioned too close to the interests of any particular sector or interest group).

Principles for best practice consultation are well-known to governments and generally require that it should:

- be continuous and initiated early in the policy development process
- be broad-based and take in the views of a diverse range of stakeholders
- allow sufficient time for considered responses

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- clearly inform what is to be achieved out of consultation and how responses have been taken into consideration
 - be reviewed periodically to look at ways that make it more effective.

Although progress has been made in improving consultation and increasing transparency in the regulation of gambling, and most jurisdictions have developed clear guidelines on consultation, there are still significant lapses in practice. This is an ongoing frustration for those forced to comply with, or otherwise affected by, gambling regulations. Both industry and the community sector have raised concerns about this.

For example, Gaming Technologies Association (GTA) said that governments' consultation with industry experts is often deficient:

It has been the experience of GTA members that all too often decisions are made in response to emotive triggers in the absence of sound evidence and appropriate industry and expert consultation. (sub. 263, p. 3)

GTA also said that South Australia, Queensland, Tasmania and Victoria have made announcements about introducing various responsible gambling measures without apparent evidence or consultation with key stakeholders (sub. 263, p. 5). In particular, the Commission understands that there is some disquiet about a lack of consultation with gaming venues and gaming machine manufacturers concerning:

- the legislated requirement for pre-commitment, and the costs and implication of the prospective ban on ATMs in Victoria
- significant regulatory changes to gaming machines announced by the Tasmanian Government in 2009 (including bet limits and cash input limits).

Betsafe similarly identified the important role of consultation, stressing the gaming industry's need for clarity about policy proposals and associated impacts on their viability. They argued that governments had generally failed to consult as a matter of process and that:

... the history of governmental regulation in the gaming industry throughout Australia has been one of hasty regulation with inadequate consultation. (sub. DR345, p. 11)

Another common complaint from industry is that consultation occurs too late in the policy-making process to ensure that governments make fully informed decisions. Even when stakeholders are consulted, they can face difficulties in adequately addressing key policy details, such as those included in a draft regulatory impact statement, when these are not publicly released prior to a decision being made.

Some participants representing community and consumer interests have expressed concern that advocacy of consumers' interests, and their ability to contribute to public

consultations, is lacking in gambling policy development, largely reflecting inadequate funding. For instance, the Public Interest Advocacy Centre commented that:

... it is difficult for a voluntary group to access the necessary expertise to analyse and manage the volume of information as it comes to hand and develop the skills to influence government and political processes. A specialist entity that is independent of government, industry and problem gambling treatment services, that can interpret information, make submissions and negotiate from a public interest perspective ... could be effective either at a national or state level, if appropriately resourced. The entity could sit within an organisation such as one of the councils of social service. (sub. DR389, p. 20)

Similarly, the Council of Gamblers' Help Services suggested that:

There is a substantial resource imbalance which disadvantages community based organisations in engaging effectively with consultation processes. (sub. DR326, p. 7)

The Gambling Impact Society said that:

Unlike many other areas of government, it appears that there is minimal allegiance in this area of policy development to the notion of consumer representation or inclusiveness. (sub. 253, p. 6)

Indeed, consumer representation and participation is well established in other regulatory areas, such as health care, energy policy, financial and consumer credit issues and other areas of consumer policy. And, although it is becoming common for consumer and community representation to be included on gambling policy advisory panels, consumer input is not well coordinated and sometimes neglected when it comes to core policy developments. It appears that some sectors of the gaming industry do not consider it appropriate for the views of the public to be 'represented'. In particular, Clubs Australia questioned the authority of consumer 'representatives', and in turn, failed to see merit in consumer representatives being treated as key stakeholders in the consultation process (sub. DR359, p. 102).

The Commission acknowledges that the diverse views of consumers and the public will often make it difficult to form a consistent and representative position. However, consumers' interests clearly lie at the heart of harm minimisation in gambling and it is legitimate that their views be represented to contribute to policy development.

Nevertheless, to contribute effectively, the timeframe provided for consultation needs to be sufficient. Jurisdictions variously specify minimum consultation timeframes for all regulatory proposals to ensure proper account is taken of the knowledge, experience and opinions of stakeholders. But despite these policies, community groups and smaller organisations can struggle to meet the timeframes specified by governments for making formal submissions (usually 28 days). Tight timeframes can mean that smaller community organisations, which usually have

access to fewer resources and expertise, are less able to properly address pertinent aspects of a policy proposal. As this tends to be less of an issue for well-resourced organisations and industry groups, governments can sometimes receive unbalanced feedback.

For example, the Victorian Government's call for submissions on the Exposure Draft of the Gambling Regulation Further Amendment (Licensing) Bill opened on the 11 December 2008 and closed on the 13 January 2009. Although this satisfied the minimum allowable period of consultation, it did not conform to the 60 days recommended, and was conducted over a period that is inconvenient to all stakeholders. As stated by one party that made a submission on the exposure draft:

It is difficult to avoid the impression that the timing and timetabling of the call for comments has been arranged in order to limit the range and/or quality of comments received. This is most unfortunate and suggests that the Government does not wish the Bill to be subject to careful scrutiny. (Livingstone 2009, pp. 1–2).

Similarly, in assessing the Victorian Government's decision to increase the number of gaming tables permitted at the Crown Casino, the Victorian Commission for Gambling Regulation (VCGR) allowed only 18 days to receive public submissions on the economic and social impacts of the proposal. Only one submission was received, which also criticised the short timeframe for the VCGR's inquiry and receipt of submissions (VCGR 2009, appendix 2).

Governments should resist seeing consultation processes as an obstacle and recognise that it is helpful for facilitating effective implementation and encouraging public acceptance. In particular, efforts to provide consultation that is more effective should take the following into consideration:

- The length of formal consultation should be proportionate to the magnitude and complexity of the regulatory proposal. As there is often a lot at stake for different parties with interests in gambling, longer timeframes may be necessary to allow development of a considered and informative response. Although this may take more time, consultation that is initiated early may help to avoid delays in the policymaking process.
- Industry and manufacturers are an important source of information about the potential costs of regulatory measures, unintended impacts and issues affecting the implementation of policies. An expectation that there will be genuine and early consultation can significantly reduce the regulatory uncertainty they face, and avoid unnecessary costs and disincentives.
- To assist stakeholders to target their input and provide constructive feedback, methods for consultation should give sufficient direction about the scope of the policy issue being addressed. Some states are moving towards the release of

regulatory impact analysis as a basis for consulting, including in the form of a consultation RIS, such as in Western Australia.

- The power of local governments to influence gambling policy is often weakened by their lack of comprehensive and strategic policies on gambling. Local councils may need to draw on additional expertise to represent the views of their local community on gambling issues, particularly concerning the number and location of Electronic Gaming Machines (EGMs) within their local area.
- Consultation should be transparent and ensure that particular stakeholders do not unduly influence the direction of policy. Particular interests or personalities should not be able to dominate policy advisory or consultative groups that comprise representation from a variety of interest groups. Equally, it is important that input from less well-organised groups such as consumers and local communities is not marginalised by more powerful players.

RECOMMENDATION 17.3

Governments should strengthen consultation processes and incorporate the views of stakeholders, including gambling providers, manufacturers and consumer representatives, into policy development processes. Governments should clearly specify appropriate mechanisms for providing input, and set minimum consultation timeframes that reflect the importance of the issue. Details of consultations should be made publicly available.

Improving transparency — reasons and evidence for policies

Transparency is especially important where governments face sectoral pressures and other potential conflicts of interest that could lead to policies and regulations that are not always in the broader public interest. In particular, transparency about the reasons and evidence for policies can draw government and public attention to areas where:

- evidence appears to be missing
- there could be unintended impacts or additional problems that the policy does not address
- there is a possible flaw in analysis or evaluation methodology.

Importantly, transparency deters governments from being ‘sloppy’ about implementing best practice regulatory processes. If a poor decision is made, they should be accountable to the public that regulations have a clear rationale and are in the public interest.

In some areas, governments have become more comfortable with increased transparency, including by publishing EGM statistics, requiring more accountability for community benefit contributions and making processes for allocating gaming machines more clearly structured and open to community input. But, although many of these areas are less contentious and the risks for governments are lower from increasing transparency, there are still some aberrations and inconsistencies in how transparency is applied practice. For instance, a number of submissions from participants have indicated that transparency is lacking for community benefit funds, including the collection and basis for distributing funds (Maribyrnong City Council, sub. DR364, p. 3; Public Interest Advocacy Centre, sub. 222, p. 13; Xenophon, sub. 99. p.6). (Similarly, a number of participants have expressed dissatisfaction about access to EGM data — a matter that is taken-up in chapter 18.)

For matters that are more contentious, there is often a complete absence of well-articulated and publicly available evidence about the desirability of gambling policy decisions, including the expected impacts (positive and negative) of new measures.

While it may be that governments would still have made the same regulatory decisions, lack of transparency heightens the risk of unintended consequences, and can diminish the credibility of some decisions, including their acceptance by stakeholders and the public. For instance, the recent decision by the Queensland Government (currently under review) to allow \$100 and \$50 notes to be used in EGMs in premium play areas of casinos may well have merit (chapter 11), but was not well-explained or consulted upon, despite conflicting with previously stated responsible gambling objectives and an earlier decision not to permit this.

A number of participants commented on a lack of transparency in regard to gambling policies. For example, the Victorian Local Government Association argued that decision-making should be much more transparent and include the measurement of the social and economic costs and benefits (sub. 75, p. 28). Similarly, the Council of Gamblers' Help Services commented that:

... the rationale for variations in harm minimisation measures across jurisdictions is not transparent, which stems from the lack of public knowledge of the evidence base behind decisions. (sub. 132, p. 4)

Governments can improve the transparency and public articulation of policymaking in gambling by:

- more openly evaluating policy options and clearly stating what evidence was used to support policy decisions
- providing more information and data on the effectiveness of gambling policies by, for example, improving public access to:

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- nationally consistent data on government-funded gambling counselling services
 - deconfidentialised unit record survey results and up-to-date estimates of gambling expenditure
 - providing more information about the operations of the Ministerial Council on Gambling, including its processes, more detailed meeting outcomes and its proposed future directions. A key purpose of this would be to reduce uncertainty for stakeholders and allow them to be better positioned to provide useful and targeted input about the potential risks and impacts of any foreshadowed policy directions.

Understandably, governments perceive practical limits on having more transparent processes in gambling, particularly when commercial or competitive issues are concerned, or they believe there is a risk of various interest groups misrepresenting or wrongly interpreting the information provided. Governments may also limit public disclosure to speed up policy development, or perhaps to minimise debate about controversial issues.

Nevertheless, a clear, comprehensive public explanation about why a regulatory proposal has become policy should be seen as a key responsibility of governments, and is especially important in areas where the views of stakeholders vary widely. For most matters, any risks or inconvenience to governments from greater transparency about their policy decisions does not warrant withholding this information. In some cases, information may be commercial-in-confidence, but that should not be used to undermine transparent processes more broadly.

Improving transparency — regulatory impact analysis

A Regulatory Impact Assessment (RIA) provides a framework for helping policymakers incorporate evidence into the formulation of policy. While having a range of associated benefits, its overarching purpose is to increase the quality of regulation. This helps ensure that policy design and decisions will be adequately informed and, in turn, that regulations will be more efficient and effective by identifying:

- the problem the regulation is to address
- the objectives of a policy response
- the impacts, costs, benefits and risks of different options
- the approach that provides greatest net benefit to society.

The design of some gambling policies can be all but ‘locked in’ before alternatives have been carefully evaluated and adequately consulted on. The purpose of RIA is considerably eroded if it is only performed at the end of the policymaking process and government, or other decision-making bodies, have already made a decision.

In addition, public access to RIAs and related documents is often poor and lacks appropriate timeliness to be influential in regulation and decision-making. Improved transparency of RIA documents will help to make governments more accountable and help drive an evidence-based culture that, over time, should improve the quality of policy design and the standard of decision-making.

Improving the timeliness and ease of access to Regulatory Impact Assessments

Public exposure of RIA documents, whether initially in the form of a ‘consultation regulatory impact statement (RIS)’, or later in the more comprehensive form of a ‘decision RIS’, is useful for a number of reasons:

- it helps to increase public understanding and support for proposals
- it highlights any weaknesses in design, including any unintended consequences, often relating to unforeseen costs and business impacts
- it can reduce compliance costs if the design of a regulation addresses some unforeseen impacts and, in turn, raises compliance.

Currently, most gambling regulations are not exposed to public scrutiny in this way until well after governments have announced their decision. Sometimes it can take months or even years for a regulation to be tabled after an initial decision to regulate has been agreed. Moreover, in some jurisdictions, such as South Australia, public availability of RISs is non-existent, while in others, such as Western Australia, RIA procedures have only just been implemented for primary legislation.

There are compelling reasons for a RIA to accompany all major policy proposals submitted to decision-makers, and indeed, some jurisdictions already require it. But, the release of RIA documents often occurs too late to allow sufficient time for stakeholders to provide feedback and for the community to engage in discussion before the matter goes to parliament. For all significant regulatory proposals, the Commission sees benefits in the public release of regulatory impact statements *at the time government decisions are made public*.

This requirement would change current arrangements in a number of ways. For example, the announcement by the Victorian Government that ATMs will be removed from gaming venues by 2012 does not appear to be associated with a publicly available RIS. Moreover, the *Gambling Regulation Amendment (Licensing)*

Act 2009 (Vic) was assented to in June 2009 and includes a provision about the placement of ATMs, but the Commission has been told that public discussion about the merits of this specific provision did not take place. In the absence of a publicly available RIS, stakeholders face considerable uncertainty.

Currently, even after a RIA has been released for public information, ease of public access can be difficult. The Commission sees an important role for an online register of regulatory impact analysis documents in each jurisdiction (as was also proposed in the Commission's Annual Review of Regulatory Burdens on Business: Social and Economic Infrastructure Services (2009a)). At the time of the public announcement of a regulatory decision, the community could access the relevant rationale and evidence contained in the RIA that informed the decision. Such improvements to both the ease of access to information and its timeliness would be of value to the community, allay some of the frustrations of many stakeholders and instil a discipline on governments.

Over the past decade, jurisdictions have made significant improvements to RIA requirements, which offers an important foundation for advancing regulatory processes (box 17.3). Among a range of across the board changes to regulation gate keeping and oversight, all jurisdictions have established supporting institutions that advise and check compliance of regulatory proposals (table 17.1). In the Commission's view, a centrally managed, online register of RIA documents would be a timely addition to these changes. (Central management of an online register also reduces the risk that special consideration is afforded to regulatory areas where political sensitivities are often present, such as gambling regulation.)

To some extent, several jurisdictions already attempt to provide online access to RIA documents, mainly by listing published documents on a webpage and creating online links to departmental websites. But overall, public access remains unreliable, and some gambling-related RIA documents that are known to exist are not available at central sites or in a timely fashion. For each jurisdiction's central register to provide a reliable point of access to all RIA documents, coordination between line departments and the institutional body with regulatory oversight needs to improve.

Box 17.3 Jurisdiction-wide improvements to regulatory processes

Improved processes for regulation making and review have mostly been driven by commitments through COAG processes, that have both raised the bar and increased the pace of reform. Some states have appointed a Minister with specific responsibility for championing better regulation and public management — including in New South Wales, Queensland and South Australia. And, in many jurisdictions, treasuries have taken a more prominent role in strengthening the standard of, and requirements for, RIA by line agencies.

All states and territories have established a body responsible for screening compliance with regulatory impact assessments (table 17.1). The remit and function of these agencies varies, with the Victorian Competition and Efficiency Commission having the most independence and analytical capacity. Some have a more restricted, administrative role, leaving individual departments responsible for their own compliance.

The compliance burdens of regulations are increasingly accounted for, and some jurisdictions have set red-tape reduction targets.

RIAs for subordinate legislation were established in most jurisdictions in the late 1980s and 1990s — beginning in 1985 in Victoria and, most recently, in 2001 in the ACT. The scope of RIA has since expanded to primary legislation, and in some states and territories, there is a requirement to consider national and cross-jurisdictional effects when assessing the costs and benefits of regulation.

Mechanisms for systematically reviewing and updating regulations have been introduced in most jurisdictions — written into legislation, under the sub-ordinate legislation Act (or equivalent), or in Western Australia, as part of the RIA process.

Sources: OECD (2009); COAG Communiqué 10 Feb 2006; COAG Communiqué 29 November 2008.

What determines whether a Regulatory Impact Assessment is undertaken?

In most jurisdictions, a RIA (or equivalent document) is required for all *significant* new and amending regulation (table 17.1). Whether this is the case is usually determined by the portfolio minister (for example, if an appreciable economic or social burden is likely to be imposed on a sector of the public). Many gambling regulations do not appear to trigger a RIA, and it is not always clear why a RIA was not required for some gambling regulatory proposals. The apparent absence of RIAs could indicate two things:

- many gambling regulations, including those flagged to have the specific intention of reducing harms from gambling, are not expected to have significant impacts (which may suggest something about the expected effectiveness of some regulatory measures)

- a lack of consultation and transparency in regulation.

A ‘consultation RIS’ can serve an important function by assisting with consultation prior to a policy proposal going to decision-makers, and in turn, by ‘demystifying’ the expected impacts. And, while a consultation RIS would not usually include the detail of a ‘decision RIS’, it can assist stakeholders to provide useful and directed feedback. Other measures for facilitating consultation include the release of issues papers, consultation and discussion papers and exposure drafts. Jurisdictions increasingly use these devices, and the consultation they encourage can result in changes to the draft bill or regulations, but they should not be used as a substitute for the preparation of a proper RIS and its public release.

Table 17.1 Regulatory impact analysis requirements and institutional arrangements

<i>Institution responsible for regulatory oversight</i>	<i>Regulatory Impact Assessment requirements</i>
New South Wales	
<p><i>Better Regulation Office (within the Department of Premier and Cabinet)</i></p> <ul style="list-style-type: none"> • Provides advice on new and amending regulation and assesses the adequacy of Better Regulation Statements against ‘Better Regulation principles’. • Advises the Minister for Regulatory Reform whether a BRS is inadequate. 	<p>Regulatory Impact Statement (RIS) required for all principle statutory rules (under the Subordinate Legislation Act 1989).</p> <p>All <i>significant</i> new and amending regulation requires a Better Regulation Statement (under the 2008 Guide to Better Regulation).</p>
Victoria	
<p><i>Victorian Competition and Efficiency Commission</i></p> <ul style="list-style-type: none"> • Independently assesses RISs and Business Impact Assessments for compliance which is attached to the proposed subordinate legislation. • Can require a department to undertake further analysis if the RIS is inadequate. 	<p>RIS required for proposed statutory rules that impose an <i>appreciable</i> economic or social burden (under the Subordinate Legislation Act 1994).</p> <p>A Business Impact Assessment is required for legislation with significant effects on business or competition.</p>
<p><i>Scrutiny of Acts and Regulation Committee</i></p> <ul style="list-style-type: none"> • Disallows approved regulation if it is not compliant with RIS requirements. 	<p>The Standard Cost Model is required for any regulatory instrument causing a material change in businesses administrative burden.</p>
Queensland	
<p><i>Queensland Office of Regulatory Efficiency (within Treasury)</i></p> <ul style="list-style-type: none"> • Provides advice to departments, but does not assess compliance. 	<p>RIS required for subordinate legislation that is likely to impose appreciable costs on the community (under the Statutory Instruments Act 1992).</p>
<p><i>Department of Premier and Cabinet</i></p> <ul style="list-style-type: none"> • Provides regulatory advice and oversight in the development of primary legislation. 	<p>A Public Benefits Test is required for all new and amending primary and subordinate legislation restricting competition.</p>

(Continued next page)

Table 17.1 (continued)

<i>Institution responsible for regulatory oversight</i>	<i>Regulatory Impact Assessment requirements</i>
Western Australia	
<i>Regulatory Gate Keeping Unit</i> (within the Department of Treasury and Finance)	A preliminary impact assessment is required for all proposals.
<ul style="list-style-type: none"> Assists government agencies and monitors and reports on compliance. If a RIS is deemed inadequate, the proposal may not proceed to the decision maker. 	RIS required for all primary legislation showing a significant negative impact (based on the PIA). To be extended for all subordinate legislation and quasi-regulation in the future.
<i>Department of Treasury and Finance</i>	
<ul style="list-style-type: none"> Has primary gate keeping responsibilities. 	
South Australia	
<i>Department of Trade and Economic Development</i>	RIS required for all cabinet submissions
<ul style="list-style-type: none"> Reviews and assesses the adequacy of Business Impact Statements and advises on the Business Cost Calculator. 	A Business Impact Statement and Business Cost Calculator report is required for all proposals with a significant impact on business.
Tasmania	
<i>Economic Review Unit</i> (within the Department of Treasury and Finance)	RIS required for all new legislation imposing competitive restrictions or negative impacts (under the Legislation Review Program)
<ul style="list-style-type: none"> Reviews all primary and subordinate legislation and certifies compliance with RIS requirements for legislation to proceed. 	RIS required for all new and amending legislation that imposes a significant burden, cost or disadvantage.
Australian Capital Territory	
<i>Regulation Policy Unit</i> (within the Department of Treasury)	RIS required for all new regulation, new and amended legislation or government direction.
<ul style="list-style-type: none"> Sets RIS standards and assesses the quality of the RIS. Non-complying RISs can proceed, but the advice of the regulation policy unit is attached. 	
Northern Territory	
<i>Regulation Impact Unit</i> (within Treasury)	A Preliminary Regulation Impact Assessment (PRIA) is required for all legislative proposals.
<ul style="list-style-type: none"> Performs an administrative role, with individual departments having responsibility for complying with RIS requirements. 	RIS required for all legislative proposals where the PRIA identifies a significant negative impact.

Sources: OECD (2009); various state and territory departmental websites.

There is also scope to improve the quality of regulatory impact assessments relating to gambling. In many instances, an evaluation of the impacts is all that takes place, which is a lower regulatory hurdle than a cost–benefit evaluation. For many regulatory proposals, the costs of implementing policy changes may be high, or involve unintended consequences. But as noted earlier, stakeholders are not always adequately consulted about the potential costs or effects of proposed regulations. Greater modelling of, and consultation about, such costs — even if these are not readily quantifiable — would improve policymaking.

In many instances, estimates of the benefits of a regulatory change can only be broadly conceived and will be subject to significant uncertainties. Being mindful of the degree of uncertainty is important, especially in view of the costs of implementing a regulatory change. Equally, the extent to which uncertainty might be tolerated would require firm evidence that the costs of policy inaction are high.

RECOMMENDATION 17.4

Given the potential for adverse social impacts and costs to business, governments should routinely undertake regulatory impact assessments for all major regulatory proposals for gambling, and make them publicly available at the time policy decisions are announced.

Accounting for compliance costs

In addition to the principles of good regulatory process already discussed in this chapter, it is important that governments and regulators take proper account of compliance burdens when designing and implementing regulations. Meeting regulatory objectives should not impose unnecessary costs on businesses and the community. This is important in gambling given the central role of regulations, which heavily influence the day-to-day activities of venues and the decisions of machine manufacturers.

Good regulatory process requires that policymakers include estimates of compliance costs when assessing the broader costs and benefits of alternative regulatory approaches. This does not mean that the best regulatory option will be the simplest to implement or administer, but it will mean that proper attention is given to potentially lower cost ways of achieving regulatory objectives.

Responding to pressure to ease compliance burdens on business, many jurisdictions have recently developed or endorsed the use of standardised and streamlined tools for measuring compliance costs. The adoption of such tools is becoming more common across jurisdictions. In South Australia, for example, a business cost calculator report is required for all proposals with a significant impact on business. Similarly, a related standard cost model is used in Victoria (table 17.1). Such tools to measure compliance costs will be subject to their own limitations and assumptions. However, in the complex regulatory sphere of gambling, understanding how compliance costs arise from businesses implementing and administering regulatory changes are especially useful.

In general, principle- or performance-based regulation that allows businesses to choose the lowest cost way to comply can often achieve policy objectives in the

most cost-effective way. As noted by the Australasian Casino Association, the diversity in local conditions will mean that a one-size-fits-all approach will not always work (sub. DR365, p. 28). That said, prescriptive regulation may be needed in certain circumstances and may even reduce compliance costs by increasing certainty for businesses. Venue specific legislation (i.e. separate legislative requirements for clubs, hotels and casinos) can sometimes fall within this category, and is often strongly supported by industry (The Australasian Casino Association, sub. DR365, p. 28).

A range of approaches are used to regulate gambling industries. Approaches vary across jurisdictions and change over time. In particular, more flexible, self- and co-regulatory approaches may initially be used, with more prescriptive regulation introduced if compliance is deemed inadequate. For example, when commenting on the South Australian gambling industry's intervention schemes (which assist venues to comply with their code of practice obligations), the presiding member of the Independent Gambling Authority said:

If it were not for the emergence of Gaming Care and Club Safe, the authority would now be recommending further serious machine reductions directed at achieving a 30 per cent reduction in numbers of premises with gaming (IGAb 2007, p.27).

Consultation with business and the community is another way that the regulatory burden on business can be reduced. As already discussed, it is an essential ingredient when bedding down the details of regulation, including minimising any unintended adverse impacts on recreational gamblers. It is also important that regulatory reviews, including implementation reviews by regulators, provide an opportunity to learn from business about aspects of compliance that are costly and ways that implementation could be changed. This might result in regulators making simple changes, such as offering online renewal and payment of license fees, or modifying reporting and administration requirements.

For example, design features of self-exclusion schemes can have significant effects on business compliance costs. Such schemes have to balance the benefits of patrons being able to exclude from multiple venues, against the costs of administration by venues, including managing large databases and identifying excluded patrons. As the number of venues that a patron can be excluded from increases, the additional benefits to a self-excluded patron starts to decrease, while the administration cost to venues can rise greatly.

The way that regulatory changes are introduced will also have an important bearing on compliance and adjustment costs for businesses. While chapter 19 discusses transitional issues in detail, it is important to recognise that the costs of compliance will vary according to:

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- the pre-existing technology, which broadly reflects past and present regulatory settings in each jurisdiction, including the standard EGM operating systems and platforms in use
 - advances in technologies over time. For example, any transition to server-based systems has the potential to provide governments with additional regulatory flexibility and to enable much lower compliance cost for venues
 - business characteristics, such as size and demand for its product. For example, smaller venues might be afforded longer implementation periods to limit their adjustment costs
 - regulatory certainty and the confidence that businesses will be adequately consulted about regulatory changes and given advance warning
 - the consistency of regulatory requirements across jurisdictions.

Many of these issues are discussed in section 17.5, particularly regarding the gaming machine national standard.

17.5 National regulation and jurisdictional consistency

Gambling regulation is a state and territory responsibility, and current arrangements reflect this. Nevertheless, governments have agreed that addressing problem gambling should be approached jointly, and intergovernmental processes were established around the time of the Commission's 1999 report to help achieve this. For example:

- COAG established the Ministerial Council on Gambling, comprising state and territory gambling ministers, in April 2000.
- The Council oversaw the development of a national framework on problem gambling to address education, training, responsible gambling environments, and counselling and support services.
- It also established Gambling Research Australia to develop and manage a national research program.
- The *Australian/New Zealand Gaming Machine National Standard*, which was introduced in 1998 and agreed to by all states and territories (and New Zealand), was progressively adopted and refined.

Notwithstanding these intergovernmental arrangements, there remain different views among the states and territories about the best ways of regulating gambling. Some of these differences are considerable, in terms of both the regulation employed and the administration of that regulation.

In many areas, the policy approaches recommended in this report are best administered at the level of an individual jurisdiction (although there would be benefits from consultation and information sharing among jurisdictions). Examples include the proposal for gaming machine pre-commitment options (chapter 10) and many venue-based interventions (chapters 12–14).

However, in some cases there would be benefits from a single national approach, or a formally coordinated approach across jurisdictions. This report has made recommendations in a number of areas where this would be the case, including:

- gambling prevalence surveys (chapter 5)
- a national framework to improve counsellor training and accreditation (chapter 7)
- online gambling (chapter 15)
- funding of the racing industry (chapter 16)
- the collection of data and research questions (chapter 18).

The gaming machine national standard

One area where there are continuing unresolved differences among jurisdictions concerns gaming machine standards. There are major differences in policy parameters and technical specifications, notwithstanding that a national EGM standard exists and there are longstanding intergovernmental arrangements for reviewing its requirements.

The purpose of the Australian/New Zealand Gaming Machine National Standard is to:

... set out the core requirements, common to all jurisdictions, for the design of gaming machines and games for operation throughout Australia and New Zealand and to guide testers in their testing for compliance with the Standard. (Rev. 10, p. 12)

However, each jurisdiction contributes an appendix that sets out ‘any additional or differing requirements for that jurisdiction’ and:

It is the prerogative of each jurisdiction on the extent to which this document is adopted. (GMNS, Rev. 10, p. 12)

The New South Wales Government said that the appendices mainly contain technical requirements such as those relating to compliance plates, locks and keys and application for approval ‘submission requirements’. It argued that such differences were justified and ‘cause minimal inconvenience to manufacturers’, but it acknowledged that inconsistencies in centralised monitoring systems and game design harm minimisation measures were problematic for manufacturers (sub. 247, p. 42).

The GTA, representing gaming machine manufacturers, expressed concern that, in the decade since the inception of the Standard, regulators have not been able to agree upon a common set of technical requirements, nor on a common set of principles to meet concerns regarding responsible gambling:

... [the national approach] was expected to unify and simplify the technical requirements and submission process throughout Australian and New Zealand jurisdictions, which should have resulted in significant cost reductions to industry. Unfortunately after ten years, the respective regulatory authorities continue to hold divergent views. (sub. 147, p. 28)

Moreover, the Standard ‘appears to lean toward perpetuating interjurisdictional inconsistencies’ by the inclusion of separate appendices for each state and territory, some of which are ‘unduly onerous’ (pp. 27–8). Manufacturers face significant costs in having to obtain regulatory approval in up to eight jurisdictions, whose requirements can differ markedly. The GTA said that this imposes significant financial costs and time delays, and:

... it is virtually impossible to provide one common game or gaming machine across all Australian jurisdictions, as (for example) parameters to tolerate the differences are very difficult to ‘build in’ to game or machine architecture. (sub. 147, p. 30)

The GTA proposed that national standard setting would avoid unnecessary delays that are costly to the industry, increase certainty for business and support innovation and investment, including in measures that address the needs of different audiences (sub. 263, p. 3).

But not all differences may be unwarranted

While a greater degree of national uniformity (or at least consistency) would lead to cost savings to manufacturers and venues, it is difficult to argue that all jurisdictional differences are unwarranted.

Each jurisdiction has regulatory arrangements that it justifies on harm minimisation grounds, although the evidence base for implementing some measures is highly variable. It can comprise a mixture of findings from experimental studies and prevalence surveys, observations of how recreational and problem gamblers behave in different circumstances, professional advice from counsellors and the views of gamblers themselves. Taken together, this evidence might present a compelling case, but for many measures the available evidence is more equivocal.

In some cases, different policy approaches reflect different judgments about the likely effectiveness of a particular measure in reducing harm. It also reflects different degrees of willingness to experiment with policy changes that may not

always be well-based empirically, but where it can reasonably be presumed that a particular policy change would have some beneficial effects. (The markedly different attitudes among the jurisdictions to note acceptors on EGMs provide an example. This is discussed in chapter 11.)

Efforts should be made to reduce differences

Nevertheless, in many instances differences are costly. To some extent, they reflect a legacy of different EGM technologies and communications systems, which reduces the scope for (or at least raises the cost of) a more unified approach. For example, the New South Wales Government acknowledged that there would be benefits from all jurisdictions using the same centralised monitoring system protocol but noted that:

... once a protocol has been established in a jurisdiction, there is a significant cost associated with switching over to a new ... protocol. This is because all gaming machine software needs to be upgraded as well as the entire [centralised monitoring] infrastructure. (sub. 247, p. 42)

However, many differences do not fall into this category, and efforts should be made to limit differences to those that are justifiable in the light of different judgments by governments about the effectiveness of particular harm minimisation measures. As the GTA pointed out:

... legislators and regulators should be mindful of the impacts of their decisions on venues, suppliers and their various support resources. (sub. 263, p. 5) ... industry and key stakeholders need to be consulted early ... to ensure effective implementation of any rationalisation and accreditation systems. (sub. DR344, p. 24)

The GTA said that whenever change is required to the configuration of EGMs, software retrofits may be required:

The process involves retrieval of the original software which must be redesigned, redeveloped, retested (by the [supplier] and also by licensed external test laboratories), resubmitted to the respective regulator and approved for distribution. Every affected gaming machine must then be physically visited by a licensed technician, who must enter the machine, break security seals and record their destruction, locate/remove and replace computer chips, re-secure and test the machine before re-establishing connectivity with the respective electronic monitoring system and logging all of the above activity. (sub. 263, p. 5)

A starting point should be a presumption of uniformity of standards, with jurisdictions being required to make a case for a different approach. Ideally, if one jurisdiction were to decide that it wanted to introduce a particular change to an EGM on harm minimisation grounds, it could first seek the agreement of all jurisdictions as to how such a function ought best be implemented. To the extent

that agreement could be achieved, it would allow for greater uniformity in software and EGM design, and also reduce costs for other jurisdictions should they later decide to introduce such a feature.

There are also differences among the states and territories in the processes for obtaining approval for EGMs. Approval must be obtained from the regulator in each jurisdiction for which the game is intended. Among other things, manufacturers are required to engage an approved testing facility to undertake independent verification of all software and various other matters, and to report to the regulator. This process is required independently by each regulator. GTA members collectively pay \$20–\$30 million annually to approved testing facilities. (GTA, sub. 147, pp. 29–30).

While a jurisdiction may want to test a new game or machine to see that it meets its requirements, many aspects will be common across jurisdictions (for example, the operation of the random number generator) and there may be scope for one jurisdiction to accept an accreditation for some matters that have already been tested in another jurisdiction.

FINDING 17.1

Despite their name, gaming machine national standards are not really national standards, and the processes for their development and alteration are cumbersome and unnecessarily costly to industry.

RECOMMENDATION 17.5

Governments should reform gaming machine national standards by requiring consistency, unless the costs of variations can be justified by likely consumer benefits.

- ***Variations should be based on legitimate harm minimisation criteria and should take into account the costs that such differences impose on other jurisdictions, manufacturers and venues.***
- ***Governments should jointly investigate the scope to rationalise current arrangements for accreditation and testing of gaming machines, to remove any unnecessary duplication of effort and cost.***

Different approval criteria; different approval processes

In addition to state and territory differences in the rules for EGM approval, manufacturers indicated that they face additional uncertainty about approvals due to

the interpretation of each jurisdiction's requirements by the regulator. The GTA said that:

Some of these requirements are written into appendices, some are documented into separate guidelines, some are specific [such as the NSW gaming machines prohibited features register] and some are general [such as the SA game approval guidelines]. All are subject to ad hoc rejection decisions, often after costly external laboratory testing has been successfully completed and the approval submission has been provided. (sub. 263, p. 8)

For example, in South Australia, the Liquor and Gambling Commissioner must refuse to approve a game if approval is 'likely to lead to an exacerbation of problem gambling'. The guidelines are issued by South Australia's Independent Gambling Authority, and:

... provide, in effect, that if a game has certain characteristics, it is presumed in the absence of evidence to the contrary as likely to lead to an exacerbation of problem gambling. (GTA, sub. 147, p. 15)

The GTA said that it was not clear what evidence the Independent Gambling Authority relied on when it identified certain game characteristics as problematic, adding that the characteristics in question are permitted by regulators in other Australian jurisdictions, but not in South Australia (sub. 147, p. 14).

In the case of Victoria, the GTA noted that the responsible minister may make an interim ban order in respect of a gambling product or practice if the minister considers that it 'undermines or may undermine a responsible gambling objective':

The term 'responsible gambling objective' is defined, although in part by reference to 'problem gambling', which is not defined. ... Such provisions are aimed at addressing problem gambling. However, they are rendered unworkable by the absence of a definition of problem gambling. (sub. 147, p. 16)

Other examples include the 'prohibited features register' in New South Wales, and the 'general principles' adopted by the OLGR in Queensland when assessing new games and products (sub. 234, p. 23). In both jurisdictions, the industry may not realise that a game feature is unacceptable until very late in the approval process.

Moreover, the GTA said that if a regulator makes a decision that a new product is not acceptable, there is no obligation for it to justify that decision. And 'even when a reason is provided, there is no empirical evidence or policy investigation provided' to support it:

A regulator can simply indicate that a decision was made not to accept the innovation and the manufacturer has no choice but to accept the decision. This can result in aborted research and development efforts, strategic re-evaluation and enormous waste of human and technology resources. (sub. 147, p. 19)

GTA added that its members ‘regard it as imperative’:

... that games are approved against a clear evidence based mandate and specific requirements, [and] that some form of ‘appeal’ mechanism be implemented whereby gaming machine manufacturers are apprised of reasons for declined submissions, have the opportunity to address or refute those reasons and thus avoid repeat declined submissions. (sub. 147, p. 27)

The Commission understands that there can be a large element of judgment in assessing some game features, but there are also significant costs to manufacturers and to venues when game features are refused approval. To guide manufacturers, and to minimise any unnecessary costs, there would be benefits in each jurisdiction making clear in advance what it will and will not accept when assessing gaming machines for approval.

In cases where particular features are rejected, the reasons for the rejection should be explained in sufficient detail to guide future decisions by manufacturers.

Adding to manufacturers’ concerns about the transparency of approval criteria is the frustration that time periods for approvals are too protracted. According to the GTA, gaming machine approvals can take up to seven years. It proposed that governments should pre-commit to a reasonable time period to approve (or reject) gaming machine features (sub. DR344, p. 24).

Unnecessary delays in approval processes not only impose costs on manufacturers, but also limit the capacity of governments to introduce effective harm minimisation measures in a timely fashion. In view of the scope for significant benefits from early introduction of such measures, this is of particular concern. Indeed, the implementation time-lines proposed in this report will be difficult to achieve without more timely regulatory processes. This matter is further addressed in chapter 19.

FINDING 17.2

There is insufficient guidance given to gaming machine manufacturers about whether or not particular gaming machine features are likely to obtain regulatory approval. While complete certainty is unattainable, greater clarity of the expectations of jurisdictions would reduce costs for manufacturers and venues.

RECOMMENDATION 17.6

Regulators should ensure that all of their requirements for gaming machines and games are specified clearly and made available publicly:

- ***Where new developments are judged to be unacceptable, clear reasons should be given so as to provide guidance to the industry and inform the community.***

In sum, implementing any package of reforms will involve adjustment within the gambling industry. To achieve this transition smoothly, it is important that industry can invest and innovate with confidence. An important foundation for this will be much greater certainty surrounding gaming machine approval processes and standards, with any divergences having to be justified by established consumer benefits.

18 Gambling policy research and evaluation

Key points

- Over the last decade, government-funded research has improved public understanding about the nature and extent of gambling and its impacts. But it has been poorly directed in terms of informing policymakers on the key issue of how to effectively reduce harm from gambling.
- Governments can pursue improvements in gambling data and research by:
 - addressing gaps in data collection and improving coordination between jurisdictions, to ensure that data are consistent and comparable
 - increasing transparency, by allowing public access to datasets for research purposes, and publishing research methodologies and results
 - refocusing research agendas, paying increased attention to measures that can effectively reduce harms from gambling.
- Gambling Research Australia (GRA) is a key institutional innovation. But it has been slow to produce research, and that which has been undertaken has not focussed sufficiently on the major questions for the design of gambling policy.
 - Because government officials (as nominated by the Ministerial Council on Gambling) set project briefs and manage research, this can mean that research on sensitive, but important, policy issues is not undertaken.
 - There is a case for national research arrangements to be restructured. In particular, there would be benefits in replacing the GRA with a specialist, policy-focused centre for gambling research and evaluation. To make this happen, it is desirable for the Australian Government to strengthen its involvement.
- Overall, policy evaluation and review of gambling programs and regulations has not been adequate. There are strong grounds to:
 - perform more post-implementation evaluations and reviews, especially of any significant policy initiative
 - increase public accountability through greater transparency of review evidence
 - raise the standard of reviews, including through greater independence.

18.1 Introduction

As in other areas of social research, there are many difficulties in assessing the effectiveness and impacts of gambling policies. As noted in previous chapters, in making policy decisions about gambling, governments have to weigh this uncertainty against the potential costs of inaction. However, an ongoing program of high quality, policy-focused research and evaluation will supplement policymakers' use of judgment and expert opinion, and enrich the existing evidence base. Better information may lead to new directions in policy and will allow policymakers to adapt, revoke or introduce regulations with greater certainty about their impacts.

Since the Commission's 1999 review, a significant body of research has accumulated on many aspects of gambling. Although governments have commissioned and funded much of this, its usefulness in guiding policy has been mixed, and sometimes data with clear policy relevance has not been analysed. As noted throughout this report, scarcity of policy relevant evidence has been apparent, notwithstanding a decade of apparent effort, and this has constrained the scope to design more effective and efficient regulations.

Many participants to this inquiry suggested that it is possible to do more to accumulate good evidence in gambling and to embed it in processes for the development and refinement of policies (box 18.1). This needs to be done by addressing problems with:

- data collection
- transparency of data and research findings
- governments' research agendas
- coordination between governments
- research capacity and scope for multidisciplinary input and collaboration
- policy and program evaluation.

This chapter looks at the scope for advances in each of these areas.

Box 18.1 The state of gambling research: some participants' views

Researchers

Researchers participating in an Inquiry Roundtable and in other informal discussions during this inquiry contended that a strategic national approach to gambling research was still lacking. There was also a view that inter-state rivalry inhibits the sharing of information across jurisdictions, and that governments are unwilling to use GRA for comparative research projects.

Concerns were also expressed about a lack of transparency in government research, with some researchers indicating that governments sometimes suppress the publication of research and restrict access to data for further analysis.

Industry and community groups

Clubs Australia

... the research is at times misdirected, the findings contradictory, and there is an absence of quality follow-up analysis. (sub. DR359, p. 107)

Australasian Casino Association

... there is now an opportunity to establish a nationally focussed research capability that will focus on issues surrounding gambling in a more systematic and strategic way and to inform future policy development in relation to gambling issues. (sub. 214, p. 3)

Australian Hotels Association

The history of gambling in Australia is littered with 'knee jerk' decisions designed to deliver Government a political quick fix ... A commitment to evidence-based policy making is long overdue. (sub. 175, p. 7)

Australasian Gaming Council

States and territories undertake regular activity assessment reports i.e. prevalence studies. These have been successful activities but the published reports have not made maximum use of the rich data for insights into problem gambling. (sub. 230, p. 27)

In their adoption of a range of restrictions upon access to cash facilities, governments are, however, yet to implement any system, benchmark or ongoing data collection to assess the effectiveness of those restrictions in place. (sub. 230, p. 58)

Council of Gambler's Help Services Incorporated

The Commission's view that post-implementation reviews, transparency of evidence and the standard of many reviews all require attention also accord with the council's experiences. (sub. DR326, p. 38)

Relationships Australia (SA)

Whilst some may suggest there has been an 'explosion of scientific research focusing on gambling' ... this focus has been directed primarily upon the gamblers' habits rather than on the effectiveness of problem gambling interventions. There is a dire lack of research regarding the effectiveness of different types of interventions with problem gamblers ... This includes little or no research/evaluation of telephone counselling, the self-exclusion process, venue-level and machine-based interventions, cultural differences in gambling ... and the link between counselling outcomes and counselling processes. (sub. 203, p. 10)

18.2 Improving gambling data: collection, national consistency and access

One area in which useful gains could be made relates to gambling data. While much is collected, there is a shortage of data that are directly applicable to policy issues. Moreover, the usefulness and value of gambling data is diminished by differences in the way that some jurisdictions specify, measure, record and report the data. For example, while most prevalence surveys adopt the Problem Gambling Severity Index (PGSI) of the Canadian Problem Gambling Index:

... differences in sampling and recruitment methodologies and in some cases the modification of the scoring methods used in the PSGI have led to substantial difficulties in comparison of the prevalence rates obtained in different studies. (Jackson et al. 2009)

There would be clear benefits were jurisdictions to coordinate their collection of data to obtain more comprehensive coverage and greater consistency across jurisdictions. But to make use of such data, greater transparency is also needed.

Current restrictions on the extent to which government-funded gambling datasets are made public limit their usefulness in helping researchers and the community evaluate the effectiveness of different policy approaches. Internationally, efforts have been made to make social science data more available — for example, the Cambridge Health Alliance has established the *Transparency Project*, a database repository for privately-funded, addiction-related research. In the UK, the Power of Information Taskforce was established in 2008 to give effect to the social and economic gains from better use of the data held by governments stated in the earlier review by Mayo and Steinberg (2007). Such developments contrast with the situation in Australia, where public access to gambling data generally remains poor. It is also in contrast with other areas of the social sciences in Australia. For instance, the Australian Social Science Data Archive manages public access to over 2000 datasets.

The issues discussed in this section relate to:

- problem gambling prevalence survey data
- industry data, including gaming machine numbers, expenditure and tax revenue
- data and information on counselling and treatment support services
- trials and pilot studies of harm minimisation measures.

Prevalence surveys

Jurisdictions have been undertaking their own surveys of the prevalence of problem gambling (chapters 4 and 5). While these have proved invaluable, there are significant

difficulties in getting a coherent picture of gambling in Australia due to differences in the content and implementation of those surveys. Differences relate to their frequency; scope (such as which gambling activities and expenditures are included); consistency in the questions used and in their ordering; the gambling screens applied; and in the definition of terms (such as what constitutes a ‘frequent’ or ‘regular’ gambler).

These deficiencies could be remedied by agreeing to some basic level of national consistency using a common set of core questions about gambling behaviour.

Ideally, jurisdictions would conduct their surveys at the same time, even if some smaller jurisdictions prefer to run less frequent surveys, due to their costs. It is also preferable for jurisdictions to use the same sampling approaches — for example, applying the CPGI to all gamblers.

In recognition of the value of nationally consistent survey data, there would be benefits in the Australian Government contributing towards the funding of the core component of the surveys. State and territory governments could fund supplementary modules for their own jurisdiction to assess specific issues or to evaluate state-based policy initiatives.

There is also a strong case for improving the transparency of data. The Commission is grateful for the access it was granted to unit record data from recent prevalence surveys in Victoria, Queensland, New South Wales, Tasmania and South Australia. But, outside government, the ability of researchers to undertake analysis is hamstrung by poor access to gambling datasets, which prevents useful scrutiny of existing research findings and limits informed and productive public debate.

In this inquiry, some participants noted that they had attempted and failed to secure data access. For example, Dr Rohan Miller, acting in his dual roles as a consultant to the gambling industry (Harvestdata attachment to Clubs Australia sub. DR359, p. 147) and as an academic in marketing (sub. 260, p. 1) indicated that it was exceptionally difficult to obtain datasets from state and territory gambling prevalence surveys. For instance:

Test-retest analysis of data should be able to provide new light into this argument about methods and provide some grounds to identify alternative theory to the deviant paradigm. However, ... Harvestdata has been denied access to data on every occasion we requested it from researchers and commissioning authorities alike. (Clubs Australia, sub. DR359, attach. p. 35)

Obstacles to access by non-government parties to *existing* gambling datasets appear to have arisen from survey respondents being informed that the surveys were conducted for government purposes, and where broader consent for use of the data for academic and commercial use was not flagged. However, in future, broader

access to gambling data by researchers and clearer criteria associated with that access would:

- allow researchers to replicate and verify any already published results — an important feature of scientific research
- provide a capacity for researchers to employ more detailed and complex analysis of the data (such as that recommended by Rogers et al. 2009)
- allow datasets to be potentially merged for a more informed assessment of the impacts of the different regulatory and other arrangements among jurisdictions
- encourage more gambling research without necessarily requiring additional funding from state and territory governments. Researchers would have increased incentives to use existing Australian Research Council and university funding to undertake data analysis. In that sense, free or inexpensive data access may be a low cost means of motivating additional research into problematic gambling behaviours (in the same way that the availability of the HILDA¹ and LSAC² datasets have spawned a large range of separate research studies by researchers across many disciplines).

In addition, because survey data is expensive to collect and a single user will rarely exhaust its full potential for analysis, improved public access to gambling survey data would allow researchers to explore issues that have not been fully analysed in government reports. Such reports tend to be summary documents, do not always report results for every question and tend to use relatively simple quantitative techniques (mainly tables) to explore policy issues.

For example, the 2006-07 Queensland survey asked questions about gamblers' views on loyalty cards as part of a pre-commitment mechanism, but no results for this question were published despite its policy relevance. Other jurisdictions included questions on player behaviour that likewise they did not report. This limitation could be overcome by ensuring that analysis of all questions is published — if necessary, with qualifications where the results are deemed to be inaccurate or imprecise.

Jurisdictions justifiably express a concern that data use is consistent with the conditions under which respondents gave consent to participate in a survey. For instance, there are clearly specified conditions of use associated with the HILDA dataset. And where data are collected under certain legal provisions, such as collections made by the ABS and the Office of Economic and Statistical Research in Queensland,

¹ The Household, Income and Labour Dynamics in Australia Survey.

² The Longitudinal Study of Australian Children.

special provisions may also apply.³ Similar provisions may be appropriate for some gambling datasets.

Access to data clearly needs to preserve the confidentiality of individuals, businesses and communities. In other social science datasets, the data owner manages confidentiality risks by imposing certain conditions on how the data can be used — normally made enforceable through a legal undertaking signed by the data user. ‘Deconfidentialisation’ of data, including by removing variables that potentially may risk identification of parties and by collapsing variables into larger groups, is also standard practice.

Principles governing the collection of data and conduct of research by any research institution using human participants can also limit the use of data for secondary analysis. For example, the *Australian Code for the Responsible Conduct of Research* (Australian Government 2007b) and the *National Statement on Ethical Conduct in Human Research* (Australian Government 2007c)⁴ set out principles and guidelines on protecting the privacy and confidentiality of participants. Specifically, the national statement on Ethical Conduct in Human Research states that:

When collecting data for deposit in a databank, researchers should provide clear and comprehensive information about:

- (a) the form in which the data will be stored (identifiable, re-identifiable, non-identifiable);
- (b) the purposes for which the data will be used and/or disclosed; and
- (c) whether they will seek:
 - (i) specific, extended or unspecified consent for future research; or
 - (ii) permission from a review body to waive the need for consent.

Any restrictions on the use of participants’ data should be recorded and the record kept with the collected data so that it is always accessible to researchers who want to access those data for research.

Researchers and custodians of the databank should observe any confidentiality agreement about stored data with the participant, and custodians should take every precaution to prevent the data becoming available for uses to which participants did not consent. (p. 31)

Associated with this, most Australian research institutions have policies that only permit researchers to use data that has gone through formal ethics approval and conforms to the relevant NHMRC statements and guidelines (including those

³ A practical result of these legislative conditions was that the Commission was not able to directly obtain data from the Queensland surveys, but was able, for a reasonable fee, to get statistical results based on SAS program files given to the OESR.

⁴ Both jointly issued by the National Health and Medical Research Council, the Australian Research Council and Universities Australia.

above). Where it is not already the case, it is a reasonable expectation that gambling prevalence surveys by governments should have the specific ethical clearance required to meet all relevant NHMRC standards and guidelines.

Notwithstanding increasing ethical and confidentiality requirements, it is also becoming more common for the contractual obligations of research funding to require that data be shared with other researchers. For example:

- Australian Research Council funding of Discovery Projects require that the administering organisation consider the benefits of depositing data with a suitable archive or repository. Data should be lodged within 6 months of project completion, and any reasons for not depositing data should be detailed in the project's final report.
- The Australian Urban and Housing Research Institute (AUHRI) stipulates that to ensure security of the data, research replication and access for use by other researchers, all data collected as part of AUHRI funded research must be deposited with the Australian Social Science Data Archive.

This suggests that current practices for collection of data from prevalence surveys and trials should meet both these confidentiality and data access requirements.

As is normal for the use of other such datasets, researchers should not face any conditions about publication of research results that meet the appropriate conditions of access, and access to the data should be at minimal cost, preferably free to most users.

RECOMMENDATION 18.1

All jurisdictions should improve the usefulness and transparency of gambling survey evidence by:

- ***conducting prevalence surveys using a set of core questions that are common across jurisdictions***
- ***ensuring that surveys meet all relevant National Health and Medical Research Council standards and guidelines, so as not to limit their use by researchers***
- ***depositing all survey data into a public domain archive, subject to conditions necessary to manage confidentiality risks and other concerns about data misuse.***

Basic data on the gambling industry

Data on turnover, expenditure, gaming machine numbers and tax revenue are published annually in *Australian Gambling Statistics* (compiled by the Queensland Office of Economic and Statistical Research). Some jurisdictions also provide comprehensive data that are easy to access online, in annual reports and budget papers. However, the

way that such data are specified and collected, and the extent to which they are made available for public access (if at all) differs among jurisdictions. Some provide more extensive data than others, some offer more cross-sectional detail (such as expenditure by individual venues), while others provide more longitudinal detail.

Similarly, gambling regulators report various summary statistics about self-exclusion activity. However, this information is often patchy and provided in a way that is highly inconsistent across jurisdictions. In addition, the usefulness of some self-exclusion information is doubtful — for example, when statistics are aggregated and ‘self-exclusions’ are combined with ‘involuntary exclusions’ (appendix E).

Researchers and consultants expressed concern about access to gaming machine data, including variation among jurisdictions in authorising access. For example, Livingstone et al. said that, whereas Victoria, South Australia and Queensland provide regular and locally disaggregated data about EGM revenue, New South Wales does not, and this is a major obstacle to independent analysis and community debate:

National data collection and speedy provision of such data ... is ... highly desirable in the interests of public debate about, and informed analysis of, matters relating to EGM harm, costs and benefits. (sub. 134, p. 7)

In Victoria, there are legislative limits on the provision of information, though in the main, these have not been an obstacle to disclosure. For example, under the *Victorian Gambling Regulation Act 2003* (s. 10.1.29), gaming expenditure data for individual enterprises is protected information and cannot be disclosed unless the Minister determines that it would be in the public interest. In the case of hotels and clubs, the Minister has determined that data access is in the public interest — and full details about gaming machine revenues for individual community gaming businesses are available online (a step that has been commended by many inquiry participants, including the Council of Gambler’s Help Services, sub. DR326, p. 37). However, this has not extended to making EGM revenue information for Crown Casino publicly available with the Commission’s formal request for such data denied.

Given that governments already collect and maintain datasets relating to gambling, providing better public access to this data is likely to generate a sizeable net benefit. Moreover, subject to stringent privacy protections, the use of micro gambling data collected through central monitoring or other networks may allow better and different types of research. As an illustration, monitoring data could potentially provide a better idea of playing patterns — such as how many times people bet more than one dollar (or some other amount), take their prizes or stay on the one machine. To make best use of current and emerging micro data collection technologies, and to enable comparison of regulatory environments and outcomes across jurisdictions,

governments should, at the outset of any such developments, agree to processes for the collection (and public release) of nationally consistent data.

In summary, more consistent and usable data could be available for researchers, the public and policy makers across the country if jurisdictions agreed to:

- collect a basic level of nationally consistent industry data
- make these data freely accessible
- disaggregate EGM data by location (local government area) and venue type (club, hotel and casino).
- publish more comprehensive data for casino gaming and wagering (to more fully account for a wider range of gambling types)
- make available, for the most recent year, estimates of gambling taxation from state budget papers, as well as the corresponding expenditure figures.

RECOMMENDATION 18.2

Governments should publicly provide timely data on:

- ***expenditure and tax revenue for each gambling form by type of venue***
- ***gaming machine numbers by venue type (hotels, clubs and casinos)***
- ***self-exclusion information, such as the number of agreements for each year that are current, have lapsed, been revoked, or breached.***

Evidence on prevention and early intervention strategies and counselling and treatment services

A better evidence base is also needed to answer basic questions about the effectiveness of prevention and early intervention strategies, and of counselling and treatment services. There are differences across jurisdictions in the way that preventative and early intervention strategies are evaluated and a lack of transparency in evaluation findings. A consistent set of methodologies and evaluation processes for preventative strategies would help build the evidence base. There would also be considerable value in evaluations being made publicly available so that jurisdictions can learn from each other.

Using and getting access to data on counselling and treatment services also presents some challenges. There are significant differences in the way that jurisdictions measure and collect gambling help services data, which make it difficult to put together a national picture on clients accessing these services and to undertake comparisons across jurisdictions. In the Commission's view, governments can improve the quality of these data by:

-
- agreeing to a national minimum dataset, based on consistent approaches for collecting data to enable evaluation of the relative effectiveness of different treatment approaches. (Although jurisdictions have already agreed to a ‘data dictionary’, there continues to be considerable variation in the format of data collected.)
 - providing public access to data, recorded in a national client database (coordinated by the Commission’s proposed national centre for gambling policy research and evaluation (rec. 18.3) and made accessible in de-confidentialised form in a public domain data archive, subject to the normal conditions of use such collections have)
 - using longitudinal studies to collect more follow-up data about the effectiveness of counselling treatments
 - in the longer term, improving the tracking of clients to enable cross-referencing of clients’ access of other health services
 - systematically recording information that is already generated as part of existing administrative processes. In many cases, program administration already generates valuable information, but this is collected more for auditing and accountability purposes than for data analysis (some potentially useful data are not even in electronic form).

The Commission has made a recommendation on these matters in chapter 7 (recommendation 7.4).

Trials, pilot studies and experiments

Governments often face situations in gambling policy where the evidence about the effectiveness of a proposed policy measure is uncertain, but the risks of inaction are high (chapter 3). In such circumstances, based on the evidence available, it is necessary to reach a balance between the risks of either delaying or taking policy action. In some instances, it is possible to reduce the risks by conducting pilot studies or randomised trials before full scale implementation. (In practice, it can often be difficult to conduct such trials in conditions that genuinely test the impacts of a full scale policy intervention. However, the Commission has advocated one such approach in the case of pre-commitment.)

Similarly, a phased approach to implementation accompanied by timely post-implementation review before broad scale rollout is a sensible way to manage the risks of uncertain evidence, particularly if the costs of implementation and program reversal are low. The Commission has in this report urged governments to adopt a phased implementation approach in relation to some of its own recommendations — such as online liberalisation — as well as undertaking post-implementation evaluation across-the board.

But to enable learning across jurisdictions, good evidence to accumulate and to reduce the risk of unintended consequences, any ‘experimentation’ should have a sound conceptual basis and, wherever possible, governments should use consistent methodologies to evaluate the impact of policies.

While the Ministerial Council on Gambling (MCG), the Gambling Research Australia (GRA) and key regulators have helped develop cooperative and systematic approaches on some issues, this has not always been true. This can reflect the political reality that governments often face pressures to be responsive to particular pressures within their own jurisdictions. Also, proper experimentation can be expensive. Nevertheless, small-scale policy trials targeted in certain contentious areas could generate significant benefits by reducing the costs of regulatory failure and by enabling learning about how best to implement policies prior to proceeding with a large-scale rollout. They could also help governments deal with industry resistance to reform initiatives.

In the Commission’s view, state-based policy ‘experimentation’ and learning from different policy approaches across jurisdictions should continue to play a role in the development of gambling policy. To gain nationally from such initiatives, it would be useful to:

- specify a clear rationale for what the regulation is seeking to achieve and how the design of the regulation would give rise to the impacts expected (chapter 3)
- build into the policy initiative a mechanism for data collection and funding
- establish formal requirements for post-implementation review (including specified repeal processes triggered within three to five years of policy inception) and based on clear criteria to evaluate policy success.

Recent trials in South Australia and Queensland to evaluate the effectiveness of pre-commitment measures, provide examples of where this approach might have been followed. Though under the control of different jurisdictions, there may have been scope to coordinate these trials in a way that would have permitted a comprehensive evidence base to accumulate. But as each trial has been conducted in isolation, different evaluation methods have been used. (In section 18.4, the Commission proposes that mechanisms be put in place to facilitate better coordination in future.)

18.3 Improving national gambling research

In its 1999 report, the Commission saw considerable merit in Australian governments establishing a national research body to facilitate cooperation and

coordination in data collection and research across jurisdictions. Core features of the proposed national research facility included:

- independence of decision making about information needs and priorities
- a capacity to undertake its own, as well as to commission, research
- co-funding by governments, with no direct funding by industry
- processes involving all jurisdictions, including supervision by a board with representation from all states and territories
- industry and community consultation mechanisms and transparent processes
- early public release of data, results and methodologies, to allow further research and replication by other researchers
- no formal role in policy development or decision-making, with activities limited to information and research (PC 1999).

Following the Commission's 1999 report, the concept of a national research institution was broadly supported. At a meeting of the MCG in 2001, instead of creating an independent national research institution, governments chose to establish GRA as a satellite of the MCG (box 18.2). It has been located within the Office of Gaming and Racing within the Victorian Department of Justice, and is managed by representatives from each jurisdiction with resourcing sufficient for a secretariat of two full-time staff. The budget for research is about \$5 million over four years.

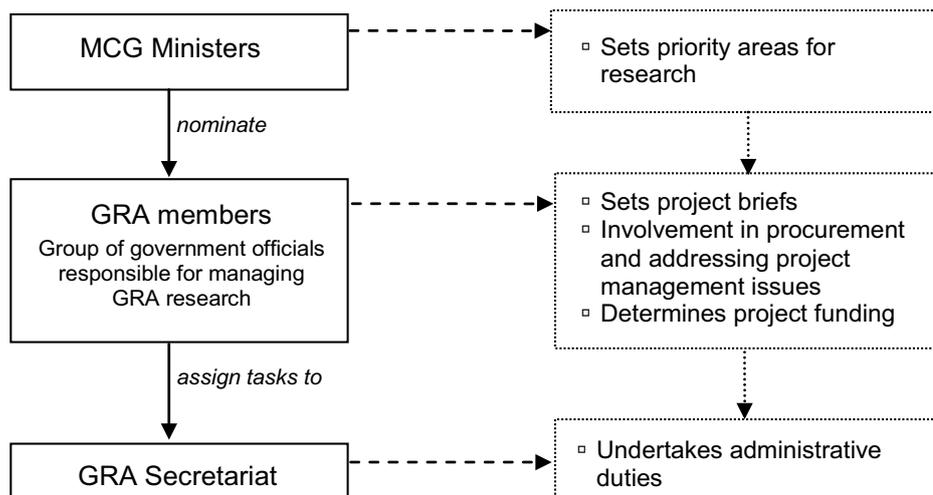
GRA's institutional structure and the way it undertakes research, differs from some of the core features identified for an effective national research body. In particular, GRA:

- lacks independence in determining information needs and priorities
- has no research capacity of its own, and has limited capacity to assess the quality of the research it commissions
- has not incorporated stakeholder input (although the Commission understands that a proposal is being considered for it to do so)
- does not have transparent processes and is not publicly accountable. (For example, it has no annual reporting obligations, its operation and performance have not been publicly reviewed, and explanations of what research projects are considered, and why a project was or was not undertaken, are not provided.)

It has also become evident that GRA-commissioned projects are not directly relevant to the design of better policies.

Box 18.2 The structure of Gambling Research Australia

State, territory and Australian Government officials manage GRA commissioned research, including project briefs for research based on priority areas agreed by the MCG. The Office of Gaming and Racing, within the Victorian Department of Justice, performs secretariat duties including administering aspects of project procurement, operating an online clearinghouse for gambling research and developing an up-to-date gambling research database. The annual budget of the GRA secretariat is around \$200 000.



The most recent priority themes of GRA research (as set by the MCG) include:

- Pathways to EGMs and consumer protection
- Access to cash and pre-commitment
- Responsible gambling environments
- Interactive gambling
- Early intervention and prevention strategies.

The GRA draws on these themes to select specific topics for research projects, but for a particular research project to proceed, agreement of all GRA members is required.

Sources: www.gamblingresearch.org.au; pers. comm. GRA secretariat.

Is GRA research well targeted?

In practice, research commissioned by GRA has concentrated on information reports, covering such matters as the appropriate definition of gambling and the nature and characteristics of gamblers, particularly focusing on youth and Indigenous gambling. It has been less active in undertaking research into many harm minimisation measures, such as pre-commitment and aspects of machine design.

An analysis of GRA-commissioned research indicates that its direct policy relevance is low (box 18.3), which is despite broad research themes, as set periodically by through the MCG, appearing well suited to the undertaking of policy-relevant research projects. The few projects that relate to potential harm minimisation measures have only peripheral relevance to the actual *design* of policy. For example, the study into pre-commitment looks at the attitudes and behaviour of gamblers and the likelihood that they would use pre-commitment, but does not evaluate alternative forms of pre-commitment, or examine what design features an effective pre-commitment system might have.

Participants similarly commented about the lack of policy relevance in GRA research, including the Council of Gambler’s Help Services, who expressed concern about:

... the relative lack of weighting currently given to harm minimisation, prevention and early intervention in the context of significant resources being devoted to the nature, extent and impacts of gambling. It can be argued that these are comparatively well known and of lesser immediate importance in a research context than generating the knowledge required to address gambling related harm. (sub. DR326, pp. 37-38)

The tendency of GRA research to investigate ‘softer’ issues appears also to reflect that, as a group, the states and territories are hesitant to use GRA as the vehicle for conducting research that directly informs their policy agendas. Possible reasons for this include that:

- jurisdictions run their own regulatory regimes and choose to implement new regulatory measures in different ways
- a policy question that is particularly relevant for one jurisdiction may not be for another, making it difficult to reach agreement
- GRA-commissioned research has lacked timeliness, reducing its capacity to inform policy questions when governments are seeking to be responsive. It may also be seen not to be sufficiently ‘practical’. The Northern Territory Government said:

While GRA undertakes considerable research that is of national significance; the local gambling agenda in the NT usually requires responses to address harms more expediently than can be addressed through either MCG activity or GRA research. (sub. 252, p. 10)

Box 18.3 What has been the focus of government-funded research?

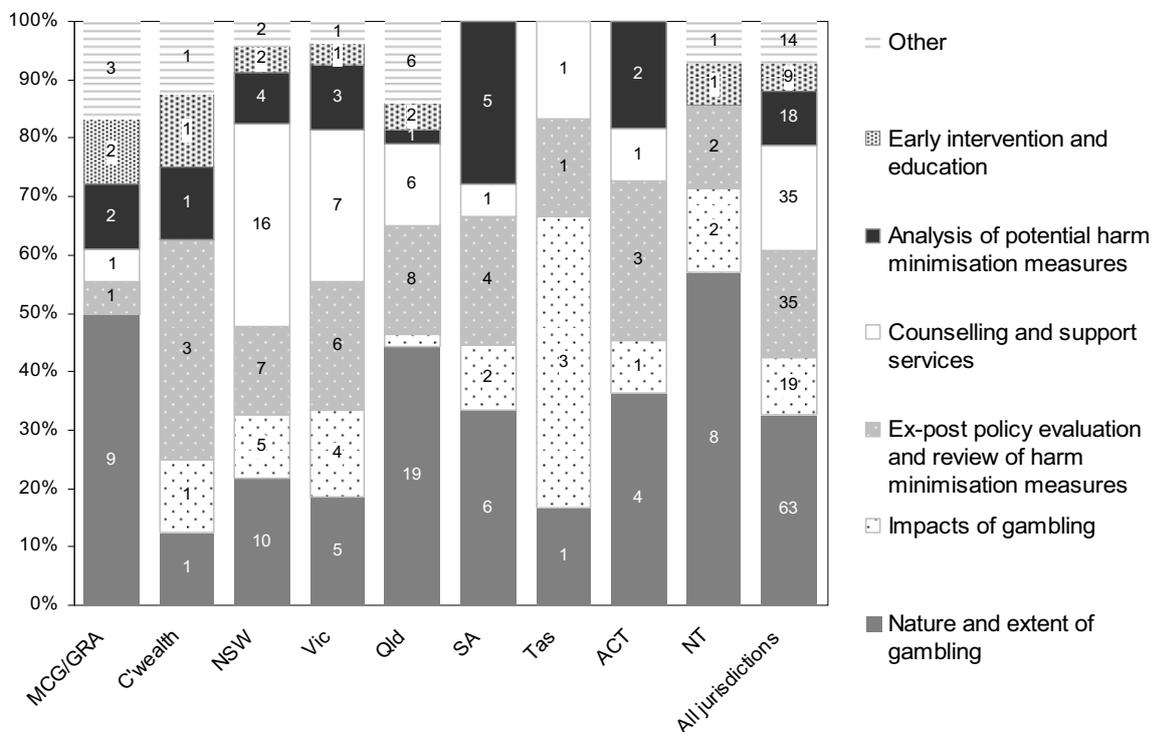
Over 40 per cent of all government-commissioned research during the last decade has focused on understanding the ‘impacts’ and the ‘nature and extent of gambling’ — gambling prevalence, participation and access; and gambler behaviour and demographic characteristics, including age and culture. Fewer than one in ten projects have investigated the potential for harm minimisation measures in gambling.

Ex-post policy evaluation and reviews account for almost 20 per cent of research. But the quality of this research has generally been poor, often stating only perceived effects and not providing causal links to outcomes. There is also variation across jurisdictions, with smaller jurisdictions tending not to undertake policy evaluations, possibly reflecting the cost, data needs and technical difficulty encountered in properly undertaking such analysis.

While, compared to larger jurisdictions, South Australia has produced fewer reports; it has undertaken projects that are generally more helpful for informing policy. New South Wales has focused much of its research on counselling and treatment services. Queensland has contributed significantly to the accumulation of baseline data on gambling, which is of use to other jurisdictions, but has done little research into harm minimisation measures.

Government research over the last decade

Per cent of reports in each research area by jurisdiction^a



^a Specific data labels indicate the number of reports (completed, in progress, or commissioned). ‘All jurisdictions’ includes Western Australia (two reports).

Sources: Government agency websites, www.gamblingresearch.org.au and participant submissions.

While an explicit mandate to perform only policy-relevant research would go further than was suggested by the Commission in 1999, it would help to

- prevent harm, raise community awareness, minimise harm where it occurs and to improve treatment of people experiencing severe problems
- address some of the competition issues that have persisted in gambling (such as in the wagering industry; tax concessions to some parties; barriers to online gambling)
- ensure that a more consistent evidence base develops for each jurisdiction's policy activities, with a greater likelihood that policy approaches will be better coordinated (section 17.5).

Reflecting this, the Commission proposes that going forward any national research model (box 18.4) should *only* provide funding to gambling research that is directly relevant to policy. Other academic research would proceed under current general university research funding arrangements, which would be strengthened by the Commission's recommendations for better access to data (recommendations 18.1 and 18.2.).

In addition, any new funding arrangement would not preclude the states and territories undertaking their own research as appropriate. Though often lacking national coordination, research commissioned by the states and territories has often been more helpful for policy purposes than research undertaken on behalf of the GRA. For example:

- South Australia has contributed some useful analysis of potential harm minimisation measures, particularly involving smart card technologies.
- New South Wales has produced a sizeable body of research on their gambling counselling and help services.
- Victoria has undertaken a number of policy evaluations, including of self exclusion programs and the impact of regional caps on EGMs (including quantitative modelling), and has recently evaluated the impacts of changes to EGM characteristics.

More timely research?

The delays in GRA-commissioned research can significantly constrain its usefulness in informing jurisdictions' regulatory and policy activities. GRA has attempted to remedy some shortcomings in this respect — including through a new grants scheme whereby researchers submit applications to investigate particular

research topics based on themes nominated by GRA. Nevertheless, it could focus further effort on:

- The procurement area and ways to reduce the time between when GRA specifies a project brief to when researchers are commissioned and contracts signed. (This can take over a year.)
- The research and analysis phase itself and what protocols operate to control for the quality and timeliness of research, including progress reports, setting timeframes and other contingencies. Given their outcomes-driven focus, the use of appropriately skilled consultants may reduce risks of budgets and timeframes blowing out.
- Quality assurance, including the role of early peer review, and scope to monitor the quality of research output internally by GRA, such as by overseeing the quality and editing of early drafts.

Looking specifically at delays in procurement, there are a number of confounding factors. For example:

- The pool of researchers suitable to undertake GRA-commissioned research is relatively small (especially in comparison to more established research markets, such as education and health analysis).
- The procurement panel within GRA involves departmental representatives from each jurisdiction, which can pose coordination problems.
- Problems with contracting researchers within universities can sometimes result in avoidable delays (for example, if researchers do not sufficiently understand contract terms).
- GRA specifies the brief, but it is up to the researchers to specify *how* they intend to go about the research.

Greater independence?

In its 1999 report, the Commission highlighted the particular importance of independent research to inform gambling policy. This is necessary to reduce the potential for conflicts of interests to influence the types of projects undertaken and their findings, and to maintain public confidence that the results are reliable.

Under the GRA, a group of officials determine project briefs, which are drawn from broad national priority areas for research as periodically agreed to by the MCG (box 18.2). One researcher commented:

... some crucial research questions can become 'off limits' due to their electoral and industry sensitivity. (Morrison 2009, p. 10)

Decisions by GRA members about research projects are made by consensus. Unless all members agree on the topic and the particular research question, the project will not proceed. Under this arrangement, jurisdictions that have already taken policy action or initiated their own research may be reluctant to support and fund research in those areas. Those that may have implemented regulatory measures with little evidential proof may be sensitive about approving research that could call these into question.

Options to improve current arrangements

Key criteria for making research arrangements more effective include:

- better quality and more timely outputs
- increased independence from government and industry
- improved transparency, including through increased access to data from government and industry, and wider dissemination of research findings to inform public debate
- enhanced research capacity
- stronger links to public policy and the current policy activities of governments
- more active engagement with stakeholders
- greater provision for multi-disciplinary input and collaboration.

Many participants said that there is insufficient institutional capacity for gambling research, with many signalling support for a nationally focused research capability that could take a more systematic, collaborative and strategic approach to informing policy. For example:

... Clubs Australia supports and calls for the development of a national [research] body, coordinated and funded by the Federal Government together with the States and Territories, as the pre-eminent Australian authority on gaming research and statistics. This is a leadership opportunity for the Federal Government to coordinate and better direct analysis and funding on a national level. ... Most importantly, it would concentrate research dollars in the hands of an agreed independent body, thereby eliminating disputes over the veracity of statistical findings. (sub. 164, pp. 44–45)

Similarly, some researchers see a need for a more comprehensive national research framework, and attribute the apparent weaknesses of GRA to insufficient capacity for gambling research in Australia, especially to fulfil GRA project briefs. For example:

... the tender basis that exists at the national level — specifically for GRA funding — implicitly assumes that a critical mass of experienced gambling researchers exists within Australia which is freely available for commercial hire ... this is not the case

with gambling. Continued reliance on commercially competitive funding fails to provide the necessary institutional infrastructure and career continuity to develop a critical mass of specialist gambling researchers. (Morrison 2009, p. 11)

Some specific proposals for building on national research arrangements have been presented to governments. For example, Southern Cross University (SCU) sought funding in 2008 to establish an independent national gambling research institute. (A proposal that officials of the MCG did not endorse.)

What is the best way forward?

In the Commission's view, there are some inherent obstacles to the GRA becoming sufficiently independent, timely and policy-focused, and it is desirable at this point to replace it with a properly constituted, specialised research centre. Such a centre should have a charter to undertake research that is of direct relevance to policy and have broad disciplinary input (drawing on the social sciences, statistics and an array of research methodologies).

In particular, to broaden the expertise and disciplines contributing to gambling policy research, the centre should collaborate with drug, alcohol and other public health research units. Many of these research disciplines have advanced institutional and collaborative structures, and their depth of research expertise would make a valuable addition to gambling policy research.

To complement the policy orientation of its research on gambling, the centre could also have a role in coordinating and strengthening policy and program evaluations by the states and territories. In particular, the centre should facilitate more rigorous and transparent evaluation of gambling regulations and policies, including by overseeing and peer reviewing evaluations, based on nationally agreed guidelines (section 18.4).

To emphasise the importance of these dual roles in informing and evaluating policy, a national centre for gambling policy research and evaluation should also include:

- an independently chaired advisory panel (with no executive functions), including representation from government, the community, industry, other researchers and international experts, to provide input on the direction of gambling policy research. It is important, however, that governance arrangements preclude any particular representative from dominating and that other transparent mechanisms are used to engage with stakeholders
- accountability to the public and stakeholders through publication of research and survey findings and meeting explicit performance outcomes.

In principle, joint funding of the centre by all Australian governments could help to leverage its standing among jurisdictions and provide a platform for cooperation. However, achieving agreement on funding could take some time and delay or stymie the centre's establishment. To avoid this, the Australian Government could make an initial commitment for recurrent funding of the centre for at least four to five years.

Reflecting its role in funding, and as a relatively independent player in the field, the Australian Government could have the power to request the centre to undertake specific policy-oriented research tasks. There would also be advantages in maintaining the involvement of state and territory governments in determining broad priorities for research. But any specific request for research should include public terms of reference.

Another core feature of the centre is that it should employ its own researchers to perform policy relevant research in-house. They should be co-located to build a critical mass of specific expertise and provide a central hub for collaboration with other research centres and researchers. However, to supplement its own research capacity, individual projects and streams of work could also be outsourced (in entirety, or partly, through collaboration) to suitable researchers located within other jurisdictions and institutions. In particular, this would enable:

- state-based contributions to national research projects (subject to consistent implementation and design across jurisdictions)
- experts in related fields to contribute where wider disciplinary input would be beneficial or synergies are apparent, including for example, with mental health, drug and alcohol researchers
- flexibility in career choices for researchers that would prefer not to relocate to the centre or become exclusively involved in gambling research. For instance, academic staff are more likely to be involved in an arrangement that allows them to continue progressing their academic careers
- a critical mass of gambling researchers to develop, which would also deepen the pool of researchers on hand to the centre.

There would also be benefits in involving New Zealand in the proposed centre for gambling policy research and evaluation, reflecting that:

- New Zealand is already involved in some aspects of gambling policy and regulation, including the gaming machine national standard
- given differences in regulatory regimes for gambling, there are opportunities for policy learning across the two countries
- New Zealand has built up considerable research expertise in this area.

That said, to enable the full benefits of information sharing and coordination of research and evaluation between the two countries, the extent of New Zealand's involvement should go beyond their current status as an observer on the GRA. While the New Zealand Ministry of Health has expressed an interest in being involved in the proposed new research centre (sub. DR321, p.1), they also foresee some uncertainties that would need addressing when the breadth of any involvement is decided in practice.

A number of participants welcomed New Zealand's involvement in the proposed centre, including the Gaming Technologies Association, which noted the many similarities in gaming across the two countries (sub. DR344, p. 26) and Betsafe, which suggested that:

The NZ gambling market has much in common with Australia and we consider that involving NZ in a joint centre for gambling policy research and evaluation will benefit both countries. (sub. DR345, p. 11).

UnitingCare also supported the involvement of New Zealand, observing that:

... New Zealand has taken strong leadership on gambling policy, practice and service evaluation at a domestic level, and also provides international leadership in areas of gambling policy development. An Australasian Centre for Gambling Policy and Research would also have the capacity to take a significant role in the development of international protocols associated with gambling, and could also provide some focus to international aspects of gambling policy development. (sub. DR387, p. 23)

What role for industry?

Representatives of the gambling industry also expressed a keen interest in being involved in any new national research arrangements (Australasian Gaming Council, sub. DR377, p. 6; Australasian Casino Association, sub. DR365, p. 29; Gaming Technologies Association, sub. DR344, p. 25).

The chief executive of the Australasian Gaming Council considered that industry would be more inclined to look into ways of making information and data available if they were treated as a legitimate participant in research, including in the drawing up of research agendas and commissioning of projects:

... I'm sure, with a greater role and recognition and participation around research and gathering data, that the industry would be pleased to start collecting data, if it hasn't already, and looking at what might be possible. (trans., p. 759)

Likewise, to improve access to data, Clubs Australia supported a more collaborative approach to research:

... greater cooperation between government, industry and researchers would ensure access to the best possible data and analysis of impacts from all points of view. ClubsAustralia believes this will also engender goodwill when it comes to the implementation of recommended changes. (sub. DR359, p. 107)

The involvement of industry brings both opportunities and risks — the outcome of which largely depends on the way that any industry involvement is managed and the extent that any involvement could influence research priorities and projects.

On the one hand, involvement of industry could improve access to data and provide a clearer picture about gamblers' behaviour, the commercial environment and other practical matters associated with policy change. In some areas, there may be few conflicts of interest (for example, better functioning self-exclusion arrangements). Industry involvement would be required in some instances to realistically assess compliance costs, technical matters and other key issues associated with implementation of policy. (In this inquiry, the Commission has greatly benefited from consultations with a host of industry technology suppliers about the costs, timing and feasibility of certain policies.)

In addition, industry involvement in applied gambling research might lessen the common practice of discrediting others' research findings and questioning the standard of evidence.

On the other hand, there is obvious potential for conflicts of interest in some areas and, at least, a perception that findings based on industry data or cooperation may not always be reliable. Reflecting these concerns, some inquiry participants cautioned that their support for a national policy research and evaluation centre is subject to suitable restrictions on the direct involvement of the gambling industry. For example, referring to the possibility of New Zealand being involved in Australia's national gambling research arrangements, the Problem Gambling Foundation of New Zealand said:

... we would specifically suggest that there is no industry representation at governance or management level. Our view is that such involvement (as seen in other countries) compromises the quality of the research agenda and research projects. (sub. DR294, p. 2)

Similarly, the Public Interest Advocacy Centre expressed concerns about the possibility of industry having any decision making role within the advisory panel of the proposed national research centre, saying that:

Industry and state and territory governments should be consulted but they should not be part of the decision making process. Industry representatives should not be part of licensing boards, advisory panels, or other bodies influencing decision-making. (sub. DR389, p. 21)

Box 18.4 Possible models for national gambling research

The existing GRA model for national gambling research is not a conventional research structure; it functions mainly as an administrative hub and clearinghouse and is housed within an existing government institution.

The desirability of alternative research arrangements will depend upon performance against a number of key criteria, including:

- the quality and promptness of research output, moderated by the maturity of the existing research market and scope to enhance research capacity
- the costs of building and maintaining research infrastructure, resources and working relationships, including with experts in other disciplines, and the proportion of funds made unavailable for undertaking projects
- independence from government and industry, while still maintaining strong links to the policy agendas of governments, the capacity to engage stakeholders, disseminate findings and inform public debate.

Many of the models above have common elements, with sometimes only subtle differences in how research is carried out in practice. On balance, differences will generally reflect the mix of administrative functions and actual research that takes place within either a central 'hub' or externally through existing research institutions.

Possible models for national gambling research include:

- *A 'hub and spoke' model within an existing institution or as a research management company.* For example, the Australian Housing and Urban Research Institute, which operates as a public research company, is run by a board and has a research advisory panel that sets research questions and supervises research and funding.
- *A single centre of excellence.* For gambling this would most likely require an expansion in funding for an existing university's gambling research program.
- *A university research institute based at multiple campuses.* For example, the Alberta Gaming Research Institute — a consortium of 3 universities.
- *A 'hub and projects' model within an existing institution.* For example, the National Drug Research institute at Curtin University and the National Drug and Alcohol Research Institute at the University of New South Wales.
- *Decentralised and network models.* For example, the approach taken by Cooperative Research Centres, which encourage close relationships between researchers and industry to foster utilisation and commercialisation.

Drawing on a number of elements from the models above, the Commission's proposed national centre for gambling policy research and evaluation would comprise a new, centralised research institution with specialist expertise in performing policy-oriented research and evaluation. To ensure multi-disciplinary input and to build upon existing research capacity within institutions outside of the centre, some contracting-out of projects and streams of work to suitable researchers and research nodes would also occur. Through its institutional structure and operational charter, the centre would address policy questions that are independently determined and of direct relevance to gambling policy.

Notwithstanding some positives, there is an inherent risk that the interests of the gambling industry could, *or be perceived to*, influence the selection of research topics and their findings. Further, looking at some overseas jurisdictions where the gambling industry is more closely involved in research, the quality of research evidence does not appear to be higher. There are also no clear examples of other industries that generate harm being directly involved in publicly funded, policy focussed research to reduce harms associated with the use of their product. For example, the National Drug and Alcohol Research Centre operates with an advisory board that includes representatives from government, service providers and other research institutions and universities, but does not involve industry.

Thus, although there should be scope for industry to inform research priorities and to provide valuable input into studies, including such involvement should be separate from the decision making processes of the centre.

A possible fallback: reforms to Gambling Research Australia

As a possible fallback from a new institutional structure for national gambling research, the Commission's draft report floated the possibility of changing some key aspects of the GRA to overcome some of its weaknesses. A central feature of this alternative option was to increase the independence of national research arrangements by expanding the role of the Australian Government. This model also sought to provide scope to increase institutional research capacity, although to a lesser extent than a dedicated research centre.

Overwhelmingly, responses from participants rejected the option to 'restructure' the GRA, preferring a stand-alone national centre. For example, Clubs Australia recommended that:

... state and territory governments, together with the Commonwealth, endorse the establishment of a new, national research body. This body should replace Gambling Research Australia and ensure greater consistency of approach between jurisdictions... (sub. DR359, p. 110)

The Financial and Consumer Rights Council similarly endorsed the establishment of a dedicated policy research and evaluation centre in place of the GRA (sub. DR356, p. 2), as did the South Australian Council of Social Services who argued that:

... the structure and implementation of research through the GRA has not, on the whole, generated reliable knowledge that can be applied at either the policy or practice level. Thus, we are in support of the proposed model detailing the new Gambling Research Centre. (sub. DR327, p. 13)

To place gambling research on a sound footing nationally, Gambling Research Australia should be replaced with a national centre for gambling policy research and evaluation. The centre should initially be funded by the Australian Government and:

- *have a charter requiring it to oversee research of direct policy relevance*
- *have a capability to perform and initiate such research itself, as well as respond to requests by the Australian Government*
- *have the capacity to outsource projects to external researchers and research institutions where appropriate*
- *have an advisory panel, with representation from the community, industry, other experts and all governments*
- *coordinate evaluations, surveys and reviews nationally*
- *collaborate with drug, alcohol and other public health research units to broaden the expertise and disciplines brought to bear on gambling*
- *establish guidelines, methodologies and processes for research and evaluations undertaken by governments.*

18.4 Improving policy evaluation and review

Policy and program effectiveness is hard to pin down

Post-implementation evaluations can reveal the impacts of a policy or program, and shed light on how outcomes might be improved by changing policy design and/or implementation. Deficiencies in the quantity and quality of evaluation — and sometimes its complete absence — make it difficult to ensure that the intent and expected impacts of harm reduction measures have occurred, or that policies have been cost effective. It also makes it difficult to compare the effectiveness of one approach against another.

Several factors account for these deficiencies, including that it is difficult and expensive to undertake comprehensive evaluations that identify and quantify the impacts of a policy measure. In particular, the relationship between regulatory measures and outcomes is usually indirect, and because regulatory measures in gambling are rarely introduced in isolation, determining the impacts of particular regulations can be challenging. Overcoming many of these obstacles often requires careful quantitative analysis and sometimes experimental approaches.

Apart from this, obtaining reliable knowledge about the effectiveness of gambling regulations is compounded by the following:

- There is little good baseline data, especially of sufficient disaggregation and duration, and access to data is often restricted because of commercial reasons, protected information clauses in legislation, or political sensitivities.
- Potentially rich sources of information, such as regulation impact statements, rarely *quantify* the expected benefits, costs and overall public benefit of new regulations.
- Standard post-implementation reviews do not usually measure the change *caused by* policy measures, so data and evidence does not accumulate.

Problems with policy evaluation and review are not unique to gambling policy, as problems with evaluations in social science research are widespread. For example, the Centre for Global Development (2006, pp. 2–3) noted that agencies regularly seek ideas and guidance to develop or improve programs, but with timeframes and budgets that do not allow rigorous evidence to be developed.

Borland et al. (2005) argued that, in comparison with Europe and North America, there appears to be less commitment by governments in Australia to this type of research:

There is minimal government funding for program evaluation (either in-house or externally), little effort to facilitate evaluation through the way in which policies are implemented, or by data collection and dissemination, and what evaluation occurs within government departments is often not of high quality. (p. 34)

They also noted that there were exceptions, including FaHCSIA, which they considered had a:

... very strong record for commissioning and sponsoring evaluation-orientated research, and in seeking to facilitate research through its construction and dissemination of administrative and general purpose data sets. (p. 34)

Do governments review their gambling-related legislation and regulation?

Most major reviews of gambling-related legislation have been conducted to fulfil National Competition Policy requirements. For example, New South Wales completed five reviews of nine Acts relating to gambling and Victoria performed three reviews of 12 Acts. However, most NCP reviews are five to ten years old and reviews of gambling legislation conducted more recently have not been common. Some gambling legislation includes provisions requiring periodical review of the legislation, but most do not.

Reviews of gambling regulation can also come about through automatic repeal processes, which are a legislated requirement in most jurisdictions. Such reviews

variously require gambling regulations to be assessed for effectiveness and consulted on in line with normal procedures for the making of new regulations. The period before repeal and review varies across jurisdictions, but in most cases, repeal and review of regulation is triggered ten years after its inception.

Who is charged with reviewing gambling policies and legislation?

The party responsible for conducting reviews in gambling varies across jurisdictions and depends on the nature and scope of the review. In many cases, reviews are undertaken within government, usually by the agency with policy responsibility for gambling, although other agencies are sometimes involved. In other cases:

- an independent review panel is established, although this is often supervised and supported by government
- gambling regulators are requested to review specific matters including the adequacy of existing regulatory measures
- private consultants are contracted by government or an independent economic regulator is requested to conduct the review
- a prominent person is asked to chair an ‘independent’ review with technical support and advice from within government or consultants.

The Commission has concerns about the extent of independence and analytical rigour associated with the governance and representation for trialling, reviewing and evaluating gambling policies. For example, several industry representatives, including the CEO of the peak gaming body in Australia, were members of the working party responsible for trialling pre-commitment technologies in South Australia, exposing a major policy experiment to potential conflicts of interests. The issues surrounding the appropriateness of different review bodies is discussed later in this section.

Aspects of review and evaluation need improving

A number of improvements could be made to the evaluation and review of gambling policy.

Requirement for review and evaluation

Evaluations and reviews should be written into legislation, regulations and programs at their inception. This already occurs in some jurisdictions, but it is not entirely consistent. However, unless there is an ‘in built’ requirement in the Act or

subordinate legislation, a review will often only occur if there is a political imperative or emerging policy issue.

Improving the quality of reviews and evaluation

The quality of reviews and evaluations could be addressed by:

- improving access to data and building expertise to analyse the impacts of policy measures
- better coordination between policymakers, regulators and administrators, gambling enforcement bodies and evaluation specialists, within and across jurisdictions
- using consistent evaluation methodology to conduct evaluations and reviews, to enable comparison of regulatory approaches across jurisdictions
- improving the transparency of reviews and evaluations, including requiring that they be publicly available in a timely manner, and used as a basis for consultation about policy responses
- removing the influence of governments and any other parties likely to have conflicts of interests on the review process.

The appropriateness of the bodies conducting the review

There is also the issue of determining the most appropriate bodies to conduct reviews and evaluations, given the trade-off between independence and in-depth knowledge and familiarity with the subject at hand.

Participants expressed a range of views. At one extreme, Clubs Australia suggested that the greater independence of research and reviews would not be helpful for progressing reform, largely because:

... the recommendations are so extreme, would adversely affect so many recreational gamblers, and would be so expensive to implement and/or in their revenue impacts that they cannot be put in place. (sub. DR359, p. 107)

Underlying this view, however, is an assumption that the costs of regulatory change are not adequately assessed as part of an independent review. To the extent that this might be true, it would reflect information asymmetries, which accentuates the importance of effective stakeholder consultation and the associated role for industry to provide credible information on costs and any unintended policy impacts.

On the other hand, a number of participants argued that more independent reviews and evaluations of gambling policies are a necessary step to advancing gambling policy. For instance, the Gaming Technologies Association supports the need for:

... transparency of reviews and evaluations, consistent evaluation methodology and the need for credible, unaligned, independent specialists to contribute to reviews and evaluations. (sub. DR344, p. 26)

The choice of possible evaluators is broad, including internal evaluations performed within departments, regulating agencies, special purpose institutions such as auditor general offices, parliamentary committees, private consultants, independent review panels and academic researchers.

Government agencies

Governments agencies with policy responsibility for gambling have valuable expertise in designing and understanding the objectives of gambling regulations and programs. They also have ready access to data and can benefit from the organisational learning that performing reviews can bring about. While this means that government agencies can provide an effective way of achieving a succinct and relatively low-cost evaluation of the policy or program, government agencies, and particularly those who designed the policy, have clear conflicts of interest. This can undermine their incentives to evaluate properly. The use of multiple agencies can reduce the potential for conflicts of interest but, in practice, coordinating diverse interests can be difficult, more protracted and, in turn, more expensive.

Gambling regulators

Because gambling regulators are similarly ‘close to the action’, they have a number of advantages in common with policy departments, including ease of access to data and information about operational aspects and other ‘micro’ details of the regulatory framework. When established with statutory independence, they may not be as susceptible to many of the conflicts of interest characteristic of government agencies. Nevertheless, regulators may have their own biases, including a tendency to increase the prescriptiveness of regulations and seek stronger compliance, rather than maximising the efficiency of regulations. (However, there may be circumstances where greater prescription provides businesses with greater certainty and lower compliance costs.)

Private consultants

Governments have sometimes contracted consultants to undertake reviews of gambling regulations. This may still involve conflicts of interest as a potentially conflicted party provides the funding. One way to resolve this is to have an independent third party, such as the Auditor General’s Department, administering funds to consultants. (While

this may overcome potential conflicts of interest, it is hard to see how this model could appropriately be limited to evaluation of gambling regulation, and yet any broader adoption would require significant changes to the machinery of government.)

Of the review bodies potentially available to governments, it is unlikely that any single review body will be ideal in all circumstances. Indeed, evaluation should be decentralised and embedded in the way every policy agency works, with the evaluator chosen according to the policy review task at hand.

The transparency of policy evaluations and reviews is especially important given the potential flaws in any evaluator. In particular, allowing the public to scrutinise the terms of reference, evaluation methodologies, findings and recommendations would reduce the potential for conflicts of interest to affect findings. Some jurisdictions publish this information already, although not always in a timely way. Some policy evaluations are only made available upon request.

Harnessing cooperation and a collective commitment by governments

A centre for gambling policy research and evaluation (recommendation 18.3) could improve the cooperation and coordination of program evaluation between governments. In particular, such a body could facilitate common research infrastructure and resources to underpin systems for evaluating policies in gambling, including by:

- setting evaluation guidelines and benchmarks and identifying and advising on appropriate methodologies
- prioritising and coordinating evaluations and reviews nationally
- peer reviewing the robustness of evaluations and reviews against established guidelines
- providing an established body of expertise to undertake, or manage, statutory reviews. For example:
 - the centre could be commissioned by state and territory governments to either undertake reviews, or contract them out in an independent manner
 - the Australian Government could request the centre to undertake statutory reviews as determined to be of a priority and in the national interest.

Because governments can be reluctant to publically release their data and evaluation findings, more rigorous and transparent evaluation of gambling regulations and policies is likely to require a joint commitment by governments to systematic, open evaluation. In particular, this commitment could include an explicit role for a centre

for gambling policy research and evaluation to impartially review all significant policy arrangements in gambling.

Such a pre-existing, public commitment by the states and territories to establish an evaluation and review function for the Commission's proposed national gambling policy research and evaluation centre would also make it more difficult for a government to avoid evaluation of a policy that appears to have significant flaws.

Inquiry participants widely supported the role of a national centre to undertake evaluations of government gambling policies. For example, given their concerns about conflicts of interest impeding rigorous review of policies, the Council of Gambler's Help Services commented that:

... the capacity of the proposed centre for gambling policy research and evaluation to resource, review and/or undertake external evaluations would add substantially to transparency, robustness and credibility of review processes and outcomes. (sub. DR326, p. 39)

While a new institutional setup to support evaluation of regulatory frameworks in gambling will involve some additional resourcing, it is important to balance this against the potential costs of regulations that have not been tested for effectiveness, both for industry and those experiencing harms from their gambling.

18.5 A forward agenda for gambling research

The Commission has identified a range of policy interventions aimed at harm minimisation. Some of these should be implemented immediately (chapter 19), in which case the priority will be in determining the appropriate post implementation evaluation strategies. Others will take some time to implement or require further evidence, such as the pre-commitment strategies discussed in chapter 10. Beyond some of the areas already canvassed in this report, listed below are some specific areas of research and evaluation that governments should undertake, preferably at a national level.

- *Structural features of machines*: What machine structural features are important for influencing play behaviour, enjoyment and generating harm
 - what is the effect of event frequency, volatility and expectation of winning? (For example, how effective have machine design changes, such as setting bet and win limits, been at reducing harm on the one hand, or reducing enjoyment to recreational gamblers)

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- what advantages and disadvantages are associated with the use of cash, cards, token, note acceptors and bill changers, with particular regard to reducing risks to problem gamblers and minimising inconvenience to recreational gamblers?
 - *Jackpots*: To what extent do jackpots increase bets, extend the duration of play or cause false cognitions, and how important are they for the entertainment value of machines? Should additional restrictions be placed on jackpots?
 - *Counselling and treatment services*: What is the appropriate level of training for counsellors to treat clients effectively and the relative effectiveness of various gambling treatments (including self-help and brief interventions)? What types of treatment are most effective for different groups of problem gamblers (including adolescents and culturally and linguistically diverse groups)? Also, to what extent does natural recovery occur in problem gamblers; is it permanent, and how effective are campaigns to raise public awareness about gambling issues and counselling and support services?
 - *Interactive gambling*: What scope is there to develop international standards on harm minimisation measures for online gambling and how could they be progressed? How can a common pre-commitment harm minimisation system be delivered for all online gamblers in Australia? Is there the capacity for extending self-exclusion through the payments system or software solutions?
 - *Pre-commitment*: What is the uptake of pre-commitment by people with higher risks, what behavioural responses are there to the capacity to set limits and access information, what is the attitude to mandated card use and what defaults are appropriate?

Some additional issues warranting further research include:

- the appropriate tax level for different gambling products and venues (to the extent not covered by the Henry Review of Australia's tax system)
- the tax concessions provided to clubs on their profits and in relation to their EGM quotas. (The recent Productivity Commission report on the Contribution of the Not-for-Profit Sector questioned the basis for retaining the current tax concession provided to clubs, especially given that the cost of the concessions is considerably greater than the size of the donations. (PC 2010, p. 224))

A national framework to guide gambling research and policy?

Researchers participating in a roundtable conducted as part of the inquiry noted that national research programs are typically linked to strong national frameworks. They also considered that while the national framework for problem gambling has key focus areas, objectives and strategies, the extent of their implementation has been

‘thin’. Other participants called for a broad national strategic framework to provide a national perspective on gambling research, policy and regulatory issues. The Gambling Impact Society of NSW, for example, said:

... there’s a lot of discrepancies across states and territories, quite a lot of ad hoc harm minimisation approaches and really no binding national framework. People’s interpretation of public health, harm minimisation and population approaches are often very blurred in clarification ... there’s an opportunity to develop more guidance at the national level on that. These strategies need to specifically reflect protection, prevention, health promotion and treatment in the fields of both gambling and problem gambling. (trans., p. 124)

New Zealand’s Ministry of Health has developed a high level framework to guide the structure, delivery and direction of problem gambling services and activities. The framework outlines strategic alliances with other key stakeholders and organisations with an interest in preventing and minimising gambling harm. It includes measures to promote public health by preventing and minimising harm from gambling, services to treat and assist problem gamblers and their families, and independent scientific research associated with gambling and evaluation. Each of the key objectives set out in the framework are linked to actions required to achieve them (both short/medium and long term), and indicators to demonstrate the efficacy of activities and progress made (Ministry of Health 2009a).

National frameworks in other public health areas have sought to improve policy through sharing of information, trialling innovative services, developing nationally consistent approaches and identifying key areas of national activity. The Fourth National Mental Health Plan (Commonwealth of Australia, 2009), for example, adopts a population health framework within which five priority areas are identified — social inclusion and recovery, prevention and early intervention, service access, coordination and continuity of care, quality improvement and innovation and accountability.

The strength of such strategic national frameworks is the focus on building evidence through nationally consistent approaches and transparency of evaluations to inform policy direction and future research.

While at a conceptual level the Commission can see value in a high level framework to guide the direction and delivery of gambling research and evidence-based policy, the Commission’s proposed national policy-focused centre for gambling policy research and evaluation, if implemented, would fulfil a similar role (by overseeing research, coordinating evaluations, establishing guidelines, methodologies and processes for research and evaluation). That said, a national framework could provide a ‘formal’ platform for embedding evidence into future planning and policy direction and identifying priority areas for generating further knowledge in a systematic and coordinated way.

19 Implementation issues and transitions

Key points

- Some of the Commission’s recommended harm minimisation measures can be implemented quickly and at relatively low cost, with few transitional issues:
 - others, while straightforward, will require cooperation and coordination among jurisdictions.
- There are significant practical and cost obstacles to early implementation of some important modifications to features of EGMs and the monitoring systems in each jurisdiction:
 - these include their current technological capabilities, and the need to avoid perverse incentives for venues and players.
- The Commission has proposed an implementation path that allows sufficient time for adjustment and for these obstacles to be overcome at reasonable cost:
 - but its detailed implementation will be affected by how regulators and industry respond to some technical constraints, and how technological developments within the industry play out.
- At the end of the ten-year period, governments should assess the effectiveness of all harm minimisation measures to see if any should be modified or revoked at that stage:
 - evaluations would inform decisions about the need to adapt measures as circumstances change and as governments learn more about the factors that make them effective.

A number of the measures recommended in this report could be implemented readily and at relatively low cost. In the case of modifications to EGMs, however, transitional arrangements will be critical to implementation costs and to the effectiveness of eventual outcomes. Consequently, most of this chapter addresses these issues.

The next section identifies which recommendations can be implemented quickly and at low cost, and notes some areas where coordination between governments will be particularly important. Section 19.2 discusses the major considerations that underlie the Commission’s proposed implementation path for a pre-commitment regime and for other changes that affect EGMs, while section 19.3 explains the

implementation path in more detail. The final section notes where the Australian Government can play a key role in facilitating reform.

19.1 Implementation issues vary across measures

As noted, while many of the Commission's recommendations are straightforward, implementation by some jurisdictions will be more complex, and will require:

- *consultation* among governments, gambling venues, gaming machine manufacturers and other vendors, as well as with community organisations
- *preparatory work* by governments (such as in standards development and trials)
- a reasonable *transition* period to reduce costs for affected parties (for example, to allow venues to plan for the changes, to avoid the premature retirement of a large share of the stock of their EGMs, or to give gaming machine manufacturers and other vendors the time to implement recommended changes and to adopt new technologies)
- the *packaging* of measures, where possible, in order to reduce adjustment costs to venues and gaming machine manufacturers.

Implementation plans also need to take account of:

- the imperative to *monitor and evaluate* outcomes to ensure that the measures are working effectively, and to assess whether any measures should be modified
- the associated need to determine evaluation methodologies and collect relevant evidence *prior* to the evaluation.

Recommendations that can be readily implemented at low cost

Among those proposals that governments can implement relatively quickly are:

- enhancements to public awareness campaigns relating to problem gambling and diffusion of a simple screening tool as part of other health diagnostics (recommendation 7.1), and changes to the funding and coordination of help services (recommendation 7.3)
- more effective warnings for gaming machines (recommendation 8.1), appropriate price disclosure on machines (recommendation 8.3) and prohibiting information that reinforces faulty cognitions (recommendation 8.5)
- further limits on inducements to gamble in certain circumstances (recommendation 12.3)

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- modifications to existing self-exclusion arrangements, including the establishment of a database (recommendations 10.1 to 10.3)
 - enhancements to gambling regulators' compliance, complaints-handling and enforcement mechanisms (recommendation 12.1)
 - warning and help messages for ATMs/EFTPOS facilities and a daily \$250 cash withdrawal limit (recommendation 13.2), and other changes that provide barriers to impulsive spending by problem gamblers (recommendations 13.4 and 13.4)
 - extended and earlier mandatory shutdowns of gaming machines (recommendation 14.1)
 - a review by the Australian Competition and Consumer Commission of ownership arrangements for Sky Channel (recommendation 16.2)
 - improvements to the governance arrangements for gambling policy (recommendations 17.1 to 17.4), including the nature of the regulator, better consultation practices, and appropriate processes for assessing new regulations
 - public and timely provision of data (recommendations 18.1 and 18.2).

Areas where governments will need to coordinate actions

Some measures will require agreement amongst governments, including:

- the establishment of a national minimum standard of training for problem gambling counsellors (recommendation 7.2)
- the development of a nationally-consistent and publicly-available data set on gambling help services (recommendation 7.4)
- the liberalisation of the domestic supply of online poker card games, accompanied by appropriate harm minimisation measures, and the subsequent evaluation of whether managed liberalisation should extend to other online gaming forms (recommendations 15.1 and 15.2)
- the development of a national funding model for the racing industry if the race fields legislation cannot facilitate a legally viable or competitive wagering market (recommendation 16.1)
- enhancement of existing arrangements for coordinating gambling policy research and evaluation through the creation of a new national research centre (recommendations 18.3).

Governments should seek to implement these actions within the next few years.

Reforms to the gaming machine national standards (recommendation 17.5) will also require cooperation between jurisdictions. But, as discussed in the next section, policies for EGMs have to be carefully sequenced — and must be coordinated with the development of pre-commitment systems and machine-based warnings (recommendations 10.4, 8.2 and 8.3).

19.2 Changes to EGMs: influences on implementation

Ideally, it might be expected that many of the changes to gaming machines recommended in this report would be introduced quickly, given their potential for reduction in harm to players. However, there are inescapable practical and cost constraints on the capacity for early change. It should be emphasised that while there are large gains for consumers from implementing the Commission's recommendations, premature adoption would entail costs for gaming machine manufacturers and venues, many of which would be borne ultimately by consumers themselves.

A key obstacle is the technological capabilities of the current stock of EGMs and the central monitoring systems to which they are connected. Venues typically have a mix of machines of different ages, manufacturers, game parameters and upgrade capabilities. The gaming machine manufacturing industry advised that, because of the multitude and variety of stock in the market (many of which are no longer supported), many required changes to the parameters and operations of all EGMs would be expensive and time-consuming to implement. The many (and significant) differences between jurisdictions would also need to be taken into account. As the GTA observed:

The differences between the gaming machines in Australia's states and territories are so fundamental that they might well be in different countries. (sub. DR344, p. 7)

Many of this report's recommendations would require changes to be implemented via incorporation into new software. For many EGMs, this could be accomplished by a software upgrade. For others, hardware would also need to be altered. In both cases, it would require a licensed technician to open each machine to alter its software (and perhaps also its hardware). This would generally be a costly and slow process.

For some older machines, this approach would not be technically feasible, and the recommended changes would necessitate their early retirement. That would entail outlays on new machines of between \$15 000 and \$25 000 or more. While at face value these costs are significant, several factors would mitigate them:

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- In some jurisdictions, notably New South Wales, average machine utilisation and revenues are much lower than others, such as Victoria, where more stringent state-wide caps apply. Some of the older machines in such circumstances have very low asset values and venues would be unlikely to replace them.
 - New EGMs have the advantage of newer games and more attractive machines for players, providing something of additional value to the venue.
 - The correct annual cost of an EGM is not the one-off purchase value, but should take account of the fact that EGMs last for many years. (Many venues turn their machines over every five years.)

That said, even though some claims about the large costs of replacing machines exaggerate the true picture, significant costs would still be entailed.

Other influences on the costs of the measures proposed by the Commission are:

- Differences between jurisdictions in how EGMs are configured, linked and monitored and, in particular, in the capacities of central monitoring networks to support a jurisdiction-wide pre-commitment system. For example, the change to note acceptors in Queensland was achieved at minimal cost, as it was implemented remotely via the monitoring system. But for most of the recommendations in this report, early changes would require implementation machine by machine.
- The requirement for all relevant jurisdictions to decide upon regulatory standards and protocols (a slow and difficult process, as discussed in chapter 17).
- The resources and time required for the gaming machine industry to design and test the required changes for a large number of games, and have them authorised by the regulator.

For these reasons, the changes proposed by the Commission cannot be achieved quickly or simultaneously. In some cases, a staggered introduction would cause no difficulties. But for changes that are likely to have significant revenue impacts, there would be a reduced incentive during the transition for venues to buy and patrons to play those machines. Implementation of the Commission's recommendations needs to be staged in a way that takes account of this.

The costs of implementing changes to machines will depend largely on how and when those changes are made. EGM software encompasses not only the game, but also the efficient and secure processing of information — ensuring integrity and fulfilling audit requirements. Many harm minimisation policies that appear straightforward to implement, could require complex changes to software or hardware in various layers. In the main, only a few measures related to EGMs could

be implemented quickly, due to the cost of changing existing machines (and the adverse incentives caused by having old and new EGMs side-by-side), but many could be implemented in new EGMs at low incremental cost over the next few years.

The above constraints mean that the order and timing of the introduction of the Commission's proposals are crucial.

With that in mind, the Commission sets out briefly below the main considerations that underlie its recommended implementation path. Section 19.3 then outlines the steps needed to implement the recommendations. Beyond this, discussions will obviously be required between regulators and industry to determine in detail what will be needed for implementation, the associated cost and its feasible timing. The transitions outlined in this chapter are based on consultations with parties expert in the relevant technologies.

Avoid unintended consequences for players and for investment

There is scope for adverse and even perverse consequences for players, venues and manufacturers if measures are implemented unevenly or too quickly. For example, where governments require a new feature to be incorporated only into new or upgraded machines, venues may delay their investments, staying with older, higher intensity machines.

Similarly, player behaviour can be affected. Were a lower bet or cash input limit to be introduced on only a proportion of EGMs in a venue, some heavy-spending players could be expected to avoid the new, lower-intensity EGMs in favour of the older, higher-intensity machines. Consequently, the harm minimisation benefits of the change would not be forthcoming. And as measures that are successful in reducing the harms from EGM play will also reduce gaming revenues, venues would have a reduced incentive to buy them.

This in turn would have flow-on implications for the EGM manufacturing industry if, for example, they are required to produce EGMs incorporating certain features, but venues delay buying them before the required implementation date. Equally, however, if many changes are mandated, and too early a timeline set, the costs to venues would be much higher, and EGM manufacturers may well not be able to meet investment demand.

Develop networks to:

- **support pre-commitment**
- **allow regulators to adjust game parameters remotely**

As noted in chapters 10 and 11, the Commission sees considerable long-run benefits in future networking arrangements for EGMs that can:

- support full pre-commitment (recommendation 10.4)
- allow regulators to change remotely and quickly a wide range of game and machine parameters (recommendation 19.1)

The significant costs and delays involved in physically altering every EGM to implement a game or parameter change mean that harm minimisation benefits are delayed, and significant costs are imposed on venues and manufacturers each time a policy change requires implementation. But where changes can be made remotely, the costs are minimal, and the change can be implemented by the regulator virtually overnight. For example, Queensland can already remotely change such features as the cash input limit — which it did in 2001 — and generic warning messages.

The experience with ATMs provides another illustration of the enormous disparity between remote and physical approaches to gaming regulations. ATM providers (or deployers) can remotely change the daily limits on all ATMs in thousands of gaming venues at a cost roughly equivalent to the costs of re-locating just four or five machines outside a venue. (A remote capability also permits low cost, more comprehensive and easily reversible policy ‘experiments’, as the cost of parameter adjustments can be very small.)

Provide an extended implementation period

Because of the practical difficulties of making changes to EGMs and networks, a phased approach has been recommended. This facilitates adjustment, by giving industry (venues and manufacturers) advance notice, allowing them to plan and adapt to the new environment. This in turn would minimise their costs, and address the adverse consequences feared by the venues (chapter 11). It will also reduce the impacts on the gaming machine manufacturing industry by spreading the demands on it over time.

Monitor and evaluate programs as implementation progresses

Good evaluations are needed to provide the information that would allow policy measures to be refined and developed, and their effectiveness assessed (chapter 17). In addition, such evaluations can provide information about whether regulatory changes that are still in the pipeline would, in fact, need to be made or would need modification. For example:

- a successful pre-commitment system may obviate the need for some other restrictions
- some measures would be more effective in the event that new technologies for gaming were widely introduced during the proposed implementation period.

19.3 Changes to EGMs: an implementation path

Broadly, in light of the issues raised in the previous section:

- work should commence as soon as possible on planning for longer term changes, including to monitoring systems and communications protocols
- the timing of certain features should be staggered to minimise the scope for unintended consequences.

Plan for pre-commitment

Governments should assign high priority to the early implementation of a full pre-commitment system (which allows patrons to set binding limits), given that it is likely to reduce significantly gambling harms (chapter 10). Accordingly, planning for this should commence without delay, with implementation staged as follows:

- partial pre-commitment (which allows patrons to set limits that they can ignore) to be introduced between now and 2013 in jurisdictions that have compatible monitoring systems (recommendation 10.5)
 - ensuring that the systems used are themselves compatible with the later adoption of full pre-commitment
- a trial of a full pre-commitment system to be conducted in 2013
- full pre-commitment to become operational in all jurisdictions by 2016, subject to the outcomes of the trial (and with exemptions in exceptional circumstances).

Careful design is needed

A successful pre-commitment scheme must have particular features and the details of its design are crucial to its effectiveness. Development should be undertaken by all governments on a cooperative basis, given the desirability of common standards and features. This will involve significant consultation, research and development. It will take time.

State and territory governments will have to undertake preparatory work in many areas. As noted by McDonnell-Phillips, ‘the introduction of pre-commitment options needs to be viewed in a way which is identical to the marketing of a new product’ (2006, p. 46). Some of the prerequisites will be:

- testing and approval of technologies and standards (including for player identification), with national agreement and coordination. It would be important to get early regulatory agreement for EGM manufacturers to sell machines that were network compliant, even if that functionality could not be immediately exploited. This would enable the gradual diffusion of network-ready machines throughout venues, reducing costs to venues when the system does become operational (appendix C)
- testing of the pre-commitment system. The trials already conducted have provided useful information about some aspects of a future system, and in particular, the imperative to have an easy method for providing cards or other forms of player identification to gamblers
- the exact parameters of the default case (for example, a weekly limit of \$100 and a maximum session duration of three hours), with the goal of ensuring genuine harm minimisation
- trials of the system in naturalistic settings, preferably in locations where the capacity for gamblers to move to other venues not participating in the trial is limited (recommendation 19.2 below)
- systems for ensuring the privacy of the system — both in terms of the legal responsibilities of those managing the central system and the security of the card/device itself
- systems for ensuring probity in the system and avoidance of tampering with the method for identifying players (for example, by people swapping cards)
- marketing of the system and information provision to consumers. The idea of pre-commitment is not to deter gambling, but to facilitate its enjoyable consumption. When mandatory safety belts were first introduced, many people opposed them on the grounds that they were uncomfortable, infringed people’s rights, or wouldn’t work. Few people would think this way today. It can be

expected that some of these issues (and others, like privacy) will recur with full pre-commitment in gambling, and that governments will need to acknowledge these concerns and explain how they have been dealt with.

EGMs would need to run a sufficiently advanced communications protocol. Monitoring operators would need to be able to run the pre-commitment system and each EGM would require compatible player identification hardware. Queensland appears to meet these requirements already, although compatible player identification hardware is not installed at all venues.

Phased implementation would involve the development of standards and the earlier adoption of partial pre-commitment as the precursor to rolling out full pre-commitment in all jurisdictions by 2016.

Develop upgraded monitoring systems

Some jurisdictions already have the basic technological infrastructure to deliver the Commission's preferred pre-commitment model more quickly than has been recommended, through their existing central monitoring systems and loyalty schemes. The Qcom system in Queensland already provides venue-based pre-commitment and could easily be switched to multiple venues over a wide area (statewide). Systems in Tasmania and the Northern Territory could be developed to provide pre-commitment across most venues and EGMs. Victoria has announced a monitoring system that would have a similar functionality as part of its legislated intention to implement pre-commitment (chapter 10).

The notable exception is New South Wales, which does not have a two-way monitoring system capable of making changes remotely to EGMs. Similar functionality could be provided in New South Wales (and in the ACT,¹ South Australia and in casinos in several jurisdictions) through a set of staged changes over several years:

- New machines would need to have compatible software and hardware that could support pre-commitment so that, over time, the entire stock of machines would have the desired features.
- The monitoring system (and associated technologies run by the monitoring operator) would need to be upgraded.

¹ The ACT has no central monitoring, but individual venues often have card-based loyalty schemes.

With careful sequencing, the costs would be lower, but the transition to a pre-commitment system would take longer. One regulator in a small jurisdiction suggested that it could upgrade its monitoring system for something like \$20 million, a largely one-off cost that would need to be set against the longer term harm minimisation benefits that such a system would provide. However, the costs in New South Wales would be higher. The NSW Government said that, while it would be beneficial for all jurisdictions to use the same monitoring protocol:

... once a protocol has been established in a jurisdiction, there is a significant cost associated with switching over to a new ... protocol. This is because all gaming machine software needs to be upgraded as well as the entire [monitoring] infrastructure. NSW completed this kind of transformation about 6 years ago with the introduction of its [central monitoring system]. (sub. 247, pp. 11–12)

Nevertheless, the licensed monitoring operator in New South Wales is the same company that monitors the majority of hotel and club EGMs in Queensland. To enable all EGMs, including linked progressive jackpot controllers, to be connected to the monitoring system, each EGM has an interface card installed, which is connected to a local area network that is connected to a monitoring system site controller (NSW Government, sub. 247, pp. 11–12). The Commission has been told that the in-venue site controllers in New South Wales could fairly readily be upgraded to be the same as those in Queensland. Nevertheless, the requirement for large-scale EGM upgrade or replacement would remain.

In all such cases, the technical details of implementation and precise scheduling of changes will need to be agreed by regulators and the industry. (Some industry comments on the issues now being faced in Victoria are reported in box 19.1).

Industry participants noted that, where harm minimisation policies require upgrades to gaming machine software, the compliance cost for industry is much reduced (in some cases, almost completely negated) if the upgrades follow the normal replacement cycle for EGMs. This would entail new features or specifications of machines being introduced to the market only as new machines were purchased. While this is certainly the path of least cost for industry, there is a lot of uncertainty regarding how long a natural replacement cycle might be. The Commission has heard the following from industry participants on this issue:

- the depreciable life of a gaming machine for taxation purposes is five years (after which its asset value is simply its scrap value)
- a major hotelier estimated that some high revenue earning hotels would buy new EGMs every four to five years, while others could take twice as long

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- some venues are much less inclined to replace their machines at anywhere near the average industry depreciation period, and it could also be expected that recently-purchased EGMs might last even longer into the future
 - one gaming manufacturer noted that the replacement cycle of EGMs held by its customers was around 12 years
 - regulators in two jurisdictions estimated that they were aware of quite a few machines in operation were 12 to 15 years old.

For such reasons, it is likely that, without a date at which all machines must be compliant, the uneven rate of EGM replacement across venues would overly delay the implementation of harm minimisation measures. (Venues that keep their machines for many years would face a low average depreciation charge associated with a requirement to purchase new machines.)

Another guide to lead times might be the experience in New South Wales when implementing its monitoring system. Aristocrat said that:

... the transition time allocated ... for adoption of the NSW X-Series protocol and NSW [monitoring system] readiness was approximately seven years, during which time gaming machines were permitted to operate while not connected to the ... monitoring system. (submission to Victorian monitoring licence review, 2008)

However, the extended period that was allowed reflected not only the adoption of a new protocol, but also the connection of EGMs to a central monitoring infrastructure where there had been none before. (In contrast, all club and hotel venues in New South Wales are now monitored by a single operator.)

Give regulators the capacity to adjust game parameters remotely

The Commission also sees a key role for central monitoring systems in allowing governments to remotely ‘switch on’ and adjust key parameters in all EGMs in a jurisdiction (recommendations 10.6 and 19.1) as a vehicle for introducing, altering (or even reversing) harm minimisation policies in a quick and low cost way.

This would also provide greater flexibility to individual jurisdictions to experiment with harm minimisation measures as they saw fit. Indeed, the Tasmanian Gaming Commission expressed concern that Tasmania has been limited in its capacity to enact some harm minimisation measures:

... because no game producer is going to produce ‘non standard features’ for a jurisdiction with a capped number of 3680 EGMs. This situation is the same for all smaller jurisdictions (except Western Australia), and is exacerbated when some larger jurisdictions have been less than enthusiastic about harm minimisation proposals. (sub. DR311, p. 2)

Box 19.1 Victoria's new monitoring system for pre-commitment

Currently, Victoria is tendering for a single central monitoring operator for all Victorian EGMs. The central monitoring system, inclusive of a new communications protocol, is central to Victoria's planned system of *pre-commitment* which is scheduled to begin for some machines in 2013, and for all machines by 2015. The new monitoring operator is expected to implement a single communications protocol, which has yet to be chosen.

Submissions from industry indicate the transitional issues they face — for instance, the lead time that game manufacturers might need to adjust their games:

... we estimate approximately 100 games will be required to successfully transition the existing Aristocrat gaming machine base to the new structure. A realistic capacity plan ... would be approximately three to four years development effort after the approval of the initial game to the new specification. (Aristocrat)

Victoria's changes are likely to affect the various game manufacturers differently. A key issue is how to deal with existing machines that would not be compatible. Incorporating upgraded software and/or retrofitting EGMs with additional hardware can be costly.

Reconfiguration of existing gaming machines is a massively complex and costly exercise. For example the design, development, testing, submission and approval process can require up to 3 years of intense effort and manufacturers' resources for each game — and longer for new gaming machine platforms (GTA).

Another concern was that the exact content of information to be provided to the monitoring system be specified before the mechanisms are designed to provide it. Yet another was that any new protocol be able to accommodate multiple communications protocols to minimise the costs of transitioning. While EGMs have been upgraded in the past to use new protocols, this has often relied on kits provided by manufacturers, which may in itself create problems. Monitoring operator Maxgaming said:

In the absence of price controls, a forced fast requirement for venue operators to convert from existing protocols might lead to profiteering, price exploitation and limitations on game supply ... A reasonable time frame based on normal replacement life to have all machines on a single protocol is suggested, recognising that existing protocols may limit the rollout of certain new services (Maxgaming).

It also suggested that older machines not be required to conform immediately.

Burdening venue operators with forced replacement or conversion of all gaming machines to a single protocol at the time of cutover to the new monitoring system, at the same time as they are required to pay for entitlements and upgrade underperforming EGM's, would impose an extremely large impost on venues ... (Maxgaming)

Its preferred approach was to require the monitoring operator to develop multi-protocol support for 'legacy' machines and to allow these to be converted to the new protocol within some limited time frame.

Source: Submissions to the Victorian monitoring licence review, 2008, Department of Justice, Victoria (www.gamblinglicences.vic.gov.au).

Box 19.2 **Communications protocols and policy flexibility**

EGMs communicate with external devices (usually on-site controllers) for monitoring purposes. The main purpose of such communication is to relay audit information from the gaming machine to the monitoring device, and for central monitors to detect faults in software. The language code that the machine uses to communicate is referred to as a *communications protocol*.

As EGM manufacturers pointed out, almost all gaming machines in the world run on a communications protocol called SAS, but in Australia, there are six different protocols, which differ in age and complexity.

However, the ability to remotely install or change any aspect of a gaming machine (that is, without having to physically open the machine case itself) is dependent on the machine using a *two-way communications protocol*. This allows the machine to both receive and send messages. It is this aspect that is most relevant to harm minimisation policy implementation because, with well-developed two-way communication:

- a number of EGM parameters can be set up as remotely adjustable. This allows some changes to be made without subsequently requiring new gaming software or physical changes. Such changes could then be easily altered or even reversed
- some aspects of the machine can be controlled remotely, to provide for a centralised system of pre-commitment.

In terms of two-way communication, the different protocols used across Australia have very different levels of functionality. For instance, the X-series (mainly New South Wales) is almost completely one-way in communication, with the exception of allowing the remote disabling of a machine. VLC (which is the main protocol used in Victoria² and South Australia) allows some EGM parameters to be changed remotely, but is very limited in functionality. Qcom, arguably the most advanced Australian protocol, is used in Queensland, Tasmania and the Northern Territory. It allows various remote control functions such as disabling a machine, sending on-screen messages, changing cash input limits etc. In future, newer, more advanced protocols (such as Qcom3 or the GSA standards) would provide even greater potential for remote functionality (as well as compatibility with networked gaming).

Source: Discussions with EGM manufacturers and government regulators.

More advanced communications protocols would allow such changes at a jurisdiction's discretion. But at the moment, all jurisdictions are limited in the changes that they can make remotely.

Over the next six years, each jurisdiction should upgrade its monitoring systems to implement this capacity and move towards appropriate communications protocols.

² Victoria is tendering for a new monitoring system.

This will lower compliance costs of regulating EGMs in the long run and lead to more focused regulation that can be implemented without delay.

The Commission has recommended that such investments be completed by 2016 (recommendation 10.6). This should allow the above features to be implemented at a lower incremental cost than would be the case with a more compressed timeline. It will also reduce the impact of the required EGM machine replacement and modification, which can be spread over a longer time period.

To achieve these changes, governments should commence planning without delay to obtain agreement on the design features and common standards and protocols required for the development of these capacities.

Introduce certain game and machine features sequentially

Some measures are likely to be more effective than others, some could be introduced more quickly and at relatively low cost, while others would take time to implement, and at higher cost. Accordingly, the sequencing of the recommended changes is important. To limit the capacity for adverse consequences, the Commission has recommended staggering the introduction of some changes, by requiring that certain features be incorporated into new EGMs (or major upgrades) from an early date, with:

- some of these being made active as soon as they become incorporated into software
- others being ‘switched on’ at later dates, to allow time for them to be incorporated into a critical mass of EGMs and to operate together.

As discussed earlier, this is because the expected effects of some measures — on players, venues and manufacturers — will be much larger than others, and uneven introduction would affect incentives to play, to buy or to manufacture new EGMs, to the detriment of all parties. (Where the expected effect is smaller, earlier introduction should have a much smaller effect on player and venue decisions.)

Implement reduced cash input limit

This measure (recommendation 11.2) — designed to have some impact on intensity of play by reinforcing ‘informed consent’ — can be done remotely, immediately and at low cost in Queensland, using the monitoring system. (Indeed, the Queensland Government made such a change remotely a decade ago, as well as altering it a short time later.)

But for other jurisdictions that allow the use of notes, the functionality would be built into new machines, so that the bulk of them would have this feature by 2016 (recommendation 11.2). Any residual machines would have to be modified by a technician by then.

Internal bank for wins over \$300 ('quarantined prizes')

Work should commence without delay to prepare for this feature (recommendation 13.3), to be provided on all new EGMs from 2011. In all EGMs that have this feature, it should be activated no later than 2014, and be mandatory for all machines by 2016.

Dynamic notice of actual cost of play

In future, EGMs should electronically inform consumers about their expected hourly losses based on their actual playing styles ('real-time' price disclosure). Work should commence now to enable this feature (recommendation 8.3) to be provided on all new machines from 2011. This feature should be activated as available, and made mandatory for all EGMs by 2016.

Dynamic warnings of potentially harmful play

In jurisdictions where the technology permits, simple generic warnings should be provided remotely to all their EGMs via monitoring systems. This should occur by 2011.

By 2012, new EGMs should have the capability for dynamic warnings. This need not be activated immediately, but in all machines that have this feature, it should be activated no later than 2014, and be mandatory for all EGMs by 2016.

Lower (and adjustable) bet limits

While it would be feasible for *new* machines to be limited to a \$1 bet limit, such a limit would be difficult to implement quickly across all EGMs (chapter 11). Consequently, problem gamblers could still select older, high-intensity machines in a venue, undermining any potential gains over the interim. Moreover, operators would have weak commercial incentives to invest in new machines.

From 2012, new EGMs should be required to have a \$1 maximum bet capability (recommendation 11.1). The \$1 bet limit feature need not be activated at that time, so those EGMs could be configured to operate at higher maximum bets in the

interim. But by 2016, when all machines are required to be limited to a \$1 maximum bet, they would need to be ‘switched’ to operate at that level.

The destination

By 2016, other than in small venues that are subject to (temporary) exemptions, all EGMs should be required to have certain capabilities, including:

- dynamic player-specific warnings of risky playing (such as sudden ramping up of play)
- pre-commitment
- dynamic pricing notification (expected losses per hour at actual rate of play)
- a quarantined ‘bank’ facility to store for prizes exceeding \$300 (for withdrawal at end of play)
- a capability for playing a game at differing bet limits, including \$1.

Each of these features should be designed to be *adjustable remotely* to allow regulators to make quick, low cost changes to parameters (for example, as experience reveals the more effective harm minimisation settings). This will also require upgrades to each jurisdiction’s monitoring systems to have been completed.

Some recommendations should be able to be adopted earlier in those states where technology allows relatively low cost solutions. These jurisdictions should implement such policies without waiting for other jurisdictions to follow suit.

Over the longer run (perhaps around a decade), new monitoring systems, intelligent hardware (such as touch screens) and other technological developments would make it easier and quicker to implement and change many of these parameters, avoiding many of the current constraints.

The Commission’s proposals for scheduling of implementation are shown in summary form in table 19.1. Some indications of the expected effect on players and venues are provided in boxes 19.4 and 19.5 (in question and answer form).

The extended timetable would limit adjustment costs

The Commission has sought to recommend an implementation timeline that takes account of the realities of the EGM market (and regulatory environment) and allows a sufficiently extended adjustment period for venues. This means that the benefits of effective harm minimisation policies will be realised more slowly than under a quicker implementation plan. But it gives machine manufacturers and venues time

to plan, set standards, and to retire older machines. It makes the inevitable costs more manageable for industry and venues (and provides them with time to adjust their business models to reflect the expected longer term revenue implications). And importantly, it sets in place a high degree of flexibility for regulators to, in future, quickly change EGM features with minimal cost to anyone.

A major consequence is that the costs of implementation will be lower. For example, the costs estimated by the EGM manufacturing industry at the time of the draft report (box 19.3) would be much reduced, as the implementation timeline envisages a staged introduction (table 19.1) and many changes more than encompasses the average replacement lifecycle of an EGM (for many venues, five years).

- Over half of the total cost (estimated by the Gaming Technologies Association, sub. DR344, p. 3) is for EGMs that would have to be replaced (now) were immediate implementation to be required. The Commission's extended timeline to implement the recommended changes avoids this and allows such changes to be incorporated via normal upgrades and EGM replacement, at a much lower cost (and with the added benefit to venues and their customers of having a new or upgraded EGM).
- According to the gaming machine industry, the costs of new measures are low if they are planned and introduced as features of new machines and systems (and incorporated into the normal upgrade/replacement cycle), rather than retrofitted.

In this way, the approach taken in this final report will reduce the potential costs to the industry (and venues) by hundreds of millions of dollars, while allowing the effectiveness of measures to be tested progressively. And it will be particularly important for jurisdictions such as New South Wales where more changes (including to the physical aspects of the central monitoring system) will be required to introduce the recommended measures.

The recommended implementation pathway also has the advantage of consistency with the expected shift towards networked gaming and downloadable games. The industry has said it expects that technological developments will offer the prospect of better gambling experiences for consumers and new ways of providing effective harm minimisation as gaming technologies follow the same trajectory as the personal computer and the internet, with linked EGMs on sophisticated networks (GTA, sub. DR344, p. 7)

Commercial parties can develop many of these systems and conduct trials under the supervision of government, rather than government itself undertaking these tasks. A commercial focus may also have other incidental effects, as gaming machine

manufacturers and software and systems providers are likely to identify commercial opportunities in other products and markets from the development of pre-commitment. For instance, there is a strong potential to market safer and more flexible gaming products globally, especially given the emerging regulatory and commercial pressures for these types of products. A number of industry participants have said that there is a technological shift towards networked gaming for its commercial advantages alone.

While the key technological requirement for delivering full pre-commitment is a compatible central monitoring system, the `commercial networks supporting EGM gaming could be used as a vehicle for delivering pre-commitment, while simultaneously presenting some attractive commercial opportunities to the gaming industry. This would include among other things:

- the capacity to change games quickly and to deploy a greater variety of games (giving venues and customers more choice)
- altering EGM rates of return or denominations easily
- allowing more experimentation in game types to suit the venue's specific customers
- the potential for greater entry in games design
- more sophisticated analysis of player behaviour to determine future game design.

The transition period to the system will help venues by giving them advance notice of the future changes. That notice would mean that they could make sensible investments — such as buying machines that would be compliant with any future system and not expanding excessively if that expansion could not ultimately be serviced by revenue in the future. It also means that there are few grounds for transitional assistance to venues to help them meet the additional capital costs of the new system. In any case, governments do not usually provide subsidies for businesses to modify products that have adverse safety implications for consumers, if for no other reason that this would weaken the incentives for businesses to ensure the safety of their products.

Notwithstanding the Commission's proposed implementation schedule, if perverse investment behaviour eventuates, there could be a case for a compulsory, orderly program of replacement or upgrading of EGMs, in order to moderate the impact that adverse incentives could have on gaming machine manufacturers.

Box 19.3 EGM costs: the gaming machine industry's view

The gaming machine manufacturing industry expressed concern about the costs of the measures proposed by the Commission in its draft report. The GTA said that 'measures involving major redevelopment of multiple systems and updates to every gaming machine are prohibitively costly' (sub. DR344, p. 21). It advised that to implement the measures proposed in the draft report, over 20 000 game software sets would require to be redeveloped, and:

- about half or more of all EGMs (100 000 or so) could probably be made to comply with the new environment by way of software upgrades costing about \$2000 each
- another 50 000 EGMs would require major hardware and software retrofits, at a cost of about \$9000 each
- about one-quarter of the total stock of EGMs would need to be replaced due to obsolescence (about 50 000 EGMs at a cost of about \$18 000 each).

Together, the GTA said that these costs would amount to about \$1.55 billion, with additional costs for in-venue and monitoring systems to implement a full pre-commitment system (a total cost of over \$2 billion) (GTA, sub. DR344, p. 3). But it also said that:

During the next 10 years, such measures will be overtaken by technology which is highly likely to 'tailor' activities according to the player's wishes and control within accepted parameters. Any future roadmap needs to recognise these limitations, and the finite resources of the gaming machine industry. (sub. DR344, p. 21)

Allow temporary exemptions for some measures

While the Commission proposes that change be implemented gradually, some venues will face greater difficulties than others in meeting the proposed timetable. Accordingly, the Commission has recommended an even slower pace for change for those small venues (mostly small regional clubs and pubs) where the costs are high relative to the revenues they generate. In addition, a small pub or club with a few underutilised machines and strong familiarity between patrons and staff is likely to entail lower risks for customers. In such cases, the benefits from early implementation of the proposed EGM changes would be lower in these small venues, and the costs to the venue higher.

Any such exemptions would only apply for a few years. However, if such venues upgrade their EGMs or purchase new ones, these should incorporate all the features recommended by the Commission, to be activated at the same time as all other venues.

All governments should commence work as soon as possible to specify the design features, common standards and protocols for gaming machines and central monitoring systems that would:

- (a) support a future full pre-commitment system (recommendation 10.4), including the exact design of a prototype to be trialled (recommendation 19.2)*
- (b) allow governments to quickly and remotely set and change bet limits, cash inputs, player information displays, dynamic warnings, pre-commitment options and other key machine parameters for all EGMs in a jurisdiction*
- (c) permit machine manufacturers to sell machines during the transition period that would be compliant with (a) and (b) when these features were ‘switched on’*
- (d) not hinder competition between rival providers of games, loyalty schemes and monitoring services.*

A trial of full pre-commitment

A trial of a binding system with the design features described above should be conducted. The Australian Government should sponsor a state or territory government to conduct a trial (or trials) in all the venues of a regional town, whose location is selected to minimise the risks that people evade their pre-commitments by travelling to another location.

The Australian Government should enter into negotiations with a state or territory government to sponsor a full-scale regional trial or trials of a full pre-commitment regime (recommendation 10.4), with trialling to commence by 2013.

Trialling should:

- test the design features of full pre-commitment for possible modification*
- substantiate that full pre-commitment has sufficient advantages over partial pre-commitment to justify proceeding with its implementation in all jurisdictions.*

Table 19.1 The timing of changes to gaming machines

<i>Date</i>	<i>Measure</i>
2010	<ul style="list-style-type: none"> • implement cash/credit input limits in Queensland <ul style="list-style-type: none"> – build this feature into new machines in other jurisdictions for activation by 2016 • commence broad development of standards and design features <ul style="list-style-type: none"> – fast-track standards needed for dynamic notice of actual cost of play, internal bank for wins over \$300, dynamic warnings of potentially harmful play, capability to operate at \$1 bet limit and partial pre-commitment – each jurisdiction to decide which communications protocols they will use for pre-commitment and remotely changing EGM parameters • commence design of prototype full pre-commitment system for future trial
2011	<ul style="list-style-type: none"> • new EGMs to have: <ul style="list-style-type: none"> – dynamic notice of actual cost of play (activated immediately) – capability for internal bank for wins over \$300 (not activated) • implement simple warnings on EGMs using compatible monitoring systems
2012	<ul style="list-style-type: none"> • new EGMs to have: <ul style="list-style-type: none"> – capability for dynamic warnings of potentially harmful play (not activated) – capability to operate at \$1 bet limit (not activated) – consistency with agreed central monitoring protocols
2013	<ul style="list-style-type: none"> • implement partial pre-commitment in jurisdictions with compatible monitoring systems, with limited exemptions • trial of full pre-commitment system
2014	<ul style="list-style-type: none"> • activate: <ul style="list-style-type: none"> – internal bank for wins over \$300 for all machines supporting this feature – dynamic warnings of potentially harmful play for EGMs supporting this feature
2016	<ul style="list-style-type: none"> • upgraded monitoring systems to be operational in all jurisdictions • full pre-commitment to be operational in all jurisdictions, subject to trial outcomes, and with limited exemptions • all EGMs to be capable of facilitating pre-commitment and remote adjustment, excepting exemptions for small venues • excepting exemptions for small venues, all EGMs to: <ul style="list-style-type: none"> – provide dynamic notice of actual cost of play – provide dynamic warnings of potentially harmful play – have an internal bank for wins over \$300 – operate at a \$1 bet limit • all jurisdictions to impose cash/credit input limits
2018	<ul style="list-style-type: none"> • all exemptions for small venues end
2020	<ul style="list-style-type: none"> • assess effectiveness of all harm minimisation measures to see if they should be modified or removed

Regulatory processes must facilitate implementation

Changes to standards, communications protocols and design features for gaming machines and monitoring networks require regulatory processes to be followed within and across jurisdictions (chapter 17), and time needs to be allowed for this. The regulatory arrangements for some measures will need to be fast-tracked to meet the timeline for their introduction (table 19.1). This work should commence without delay.

Regulators in each state, and the gaming machine industry, are experienced in the procedures required to make the recommended changes, which will help speed up the process. But as noted in chapter 17, the need for cross-jurisdictional agreement can constrain the capacity of governments to develop regulatory arrangements in a timely manner. Without concerted efforts to expedite regulatory processes, both within jurisdictions and in areas where cross-jurisdictional agreement is needed, implementation will be unnecessarily delayed.

Within all jurisdictions, this needs to be given high priority and expedited. The benefits from early action are large, whereas delays would impose large social costs by frustrating the capacity to introduce effective harm minimisation measures. As a key public health issue, all governments should regard the implementation of the Commission's proposed time-line as a matter requiring a high level of regulatory facilitation and support. Each government will need to implement administrative processes to ensure this.

Governments should evaluate all measures for effectiveness

Governments should assess the effectiveness of regulatory measures, including gaming machine features, venue measures and governance arrangements, to assess the scope for improving them. Evaluations would inform decisions about the need to adapt some measures and, depending on their effectiveness relative to other measures, to remove some regulations. A key advantage of the Commission's proposals for changes to EGMs and monitoring systems would be that governments would be able to amend particular regulatory measures with greater ease and at lower cost than is presently the case. Thus, if an evaluation of a particular measure found that it needed to be amended, then governments would have the scope to make quick, low cost changes. Currently, changes to gaming machines involve considerable costs for the industry, which is a contributory factor in the Commission's proposals for phased implementation. In the future, the proposals in this report would create a flexible system that would allow government to adapt

harm minimisation regulations, while relieving the long-term burden on venues and vendors.

RECOMMENDATION 19.3

The level of all monetary amounts specified in the Commission's recommendations should be assessed periodically, with the potential to raise these with inflation.

RECOMMENDATION 19.4

By 2020, governments should evaluate the key harm minimisation measures to assess their effectiveness, and whether any need to be modified or removed.

Box 19.4 From a player's perspective: questions and answers

The Commission's recommendations would have direct impacts on gaming machine players. But for many players, the effects would not be large, and it is important that this is understood.

'Will changes to gaming machines make them much different to play?'

The new cash input limit means you would only be able to put in \$20 at a time. If you play the pokies at low intensity, as most players do, you would notice very little difference. The games would still play the same way.

A key recommendation is to make \$1 the most you could bet on a single button push. People who only play pokies once in a while usually bet less than this anyway. The \$1 bet limit reflects that gaming machines are really entertainment devices only — the cost of play should reflect this.

The problem with high bets is that it is very easy for some people to lose a lot of money fast, sometimes without realising how much, and many players do not realise that the chances of winning over many sessions are low.

'Will on-screen warnings interrupt my game?'

They may sometimes, depending on how you play. From 2014, if you start playing a lot faster and betting more, a warning might pop up to alert you. Most people will want to read and think about it, but you would only have to press a button to close it, or wait for it to go away.

An on-screen change that won't interrupt your play would be a notice of the *cost of play per hour* as a dollar amount. The idea is similar to a fuel-use gauge in some new cars that can show how much fuel you use as you accelerate. In this case, the more lines and credits you bet, the more it costs, and the screen would give you an idea about how much. You'd still have the usual wins and losses, but if you were going to play for a while, it would give you a good guide as to the long-term overall cost of play.

'What about my winnings?'

From 2014, new machines would have a 'bank' meter beside your normal 'credits' meter. Any big one-off wins (over \$300) would be put in the 'bank' instead of being added to your credits. You could keep playing, but you would not be able to gamble what is in your bank — you could only cash it out when you finish playing. It is intended to help those who overstretch themselves, but also to make it easier for all players to keep their winnings.

(Continued next page)

Box 19.4 (continued)

‘What is ‘pre-commitment’? Is the government going to limit how much I can gamble?’

Some people want to cut down on their gambling, but once they’re at the machine, it becomes difficult to stick to their plan. With pre-commitment, you could set your own limits on how much you could lose in a session, and how long that session would last.

You would be able to set limits for a week or month, or even just for that day. Once you entered that into the system, it would stop you from going over that limit. But you would not have to use it if you didn’t want to, and no-one else (including government) would be putting limits on how much you could spend on gaming machines.

‘Who is going to know how much I spend on gambling?’

The ‘pre-commitment’ system is intended to keep track of how much each player gambles, but this information will not be used, collected or even seen by any government office. None of your information will be given to other businesses. The data are only collected to let you keep track of your own spending, and manage it as you see fit.

‘Do I have to sign up for a card just to gamble?’

Special provisions will be made for low level betting by occasional users. But if you play more regularly, and pre-commitment is implemented fully across your state or territory, then you will have to sign up to play the pokies. You will be required to use a card, a PIN or other identification device. But it will be just as quick and easy as signing up for a membership at a video shop or a club. To make things even easier, you will just have to sign up once, and you can use that identification all over the state.

‘When would pre-commitment start?’

Pre-commitment has already been trialled in a few venues across Queensland and South Australia. Some form of pre-commitment is operational in many Queensland venues already. An interim system would begin in 2013 for some jurisdictions, and a full version in 2016 for all jurisdictions. Some smaller venues might not be able to offer it until 2018.

‘Will pubs and clubs be closing earlier?’

Clubs and hotels would be able to open as late or early as they always have, but their gaming machines would be shut down for a few more hours — commencing no later than 2:00am for six hours.

‘Can I make a complaint about a venue?’

Yes. If you had a complaint about the behaviour of a venue that may contribute to problem gambling, you would be able to go directly to the gambling regulator in your jurisdiction. Venue staff would also be able to do this.

Box 19.5 From a venue's perspective: questions and answers

The changes to EGMs recommended by the Commission would affect various aspects of gaming venues' operations. However, it is important that any concerns of venue operators are not heightened by any misunderstandings about what is proposed.

'Would I have to change my machines immediately?'

No. Some new harm minimisation features would be built into *new* machines from 2011, while any new machines sold from 2012 onwards would need to have the complete set of features. Most of these harm minimisation features would not be activated immediately, but would be built in the machine as an available setting. You would not have to start buying new machines at this time.

'Could I just run my old machines?'

Yes, for some time. There would be a deadline after which all machines in operation would need to be compliant with harm minimisation measures and conform to the communications protocol decided by your jurisdiction. After this deadline, older machines would have to be upgraded or replaced. For larger venues, the recommended deadline is 2016, whereas smaller venues would have until 2018.

'Would I eventually have to replace my machines all at once?'

The timetable for machine replacement gives venues six years to plan their capital turnover. New machines bought from 2012 onwards would be compliant beyond 2016.

'Would I have to replace my machines every six years from now on?'

No. These changes are designed to make compliance with any changed rules quick and inexpensive in the future. New machines available from 2012 would be compliant for a longer time period than previous ones. Prior to the development of that generation of machines, state and territory governments would have decided on various common standards, including harm minimisation capabilities, and the protocol to be used going forward. Once the machines are using advanced protocols, any changes to compliance could be as simple as your regulator transmitting a new parameter to machines remotely. But if you buy new machines prior to 2012, you will need to check with your manufacturer as to whether they complied with standards valid beyond 2016.

'According to this timetable, when would my patrons actually see these harm minimisation measures?'

In 2010, Queensland would remotely implement a new cash-credit input limit of \$20. In 2012, new EGMs would have dynamic notice of actual cost of play. In 2013, some jurisdictions (with compatible machines and monitoring systems) would implement partial pre-commitment. In 2014, machines with the built-in option of *internal banks* and *dynamic warnings* would have them activated. In 2016, larger venues in all jurisdictions would operate full pre-commitment (subject to trial outcomes), and in 2018 small venues would follow suit.

(Continued next page)

Box 19.5 (continued)

‘Some of my customers will not like the idea of the government watching how much they gamble’

Privacy would be protected. The pre-commitment system would keep track of how much each player gambles, but this information would not be used, collected or even seen by any government department (including the tax office). Neither could monitoring operators use this data in any way. The data would be collected solely for the players themselves — so they could keep track of and manage their own spending. Venues could still continue to run loyalty schemes if the player consented. And no-one would be telling players how much to gamble – any limits would be decided by the player.

‘What would be the impact on my bottom line?’

Harm minimisation is designed to allow people to control their spending better. This means that people whose lives are harmed by excessive gambling will be encouraged to gamble within their limits. Since gamblers with problems tend to spend much more than others, helping them control their gambling will inevitably reduce a venue’s turnover relative to what it would otherwise have been. However, this will not happen overnight, and other market developments, such as from more innovative technologies, could be expected to have some offsetting effects.

19.4 A leadership role for the Australian Government

It is important that the Australian Government takes a leading role in promoting and sustaining reform. As discussed above, the Commission is proposing that it have a key role in creating a more policy-oriented and strategic approach to gambling research, sponsoring a pre-commitment trial, and in determining a national product fee in wagering where systemic flaws become apparent in state and territory arrangements.

In addition, the Australian Government should actively engage with state and territory governments in the development of new machine and central monitoring system design features, standards and protocols. Among participants advocating this view was the Tasmanian Gaming Commission, which said:

Any reforms that require major changes to the production of gaming machines ... or EGM games need to be mandated at the national level rather than left to each jurisdiction to implement. (sub. DR311, p. 1)

Box 19.6 Does the Commonwealth have powers to legislate?

Although the Commonwealth does not have specific constitutional power to regulate gambling activities, the Commission understands that sufficient powers are available for it to implement certain recommendations made in this report.

- Under s.51(ii), the Commonwealth can use its *taxation power* to impose obligations on legal entities when it otherwise lacks the power to directly regulate. A taxation-based scheme has the advantage that it can apply to all legal entities. It has the disadvantage that, apart from the tax, there is no authority to impose additional sanctions (such as civil or criminal penalties) if an entity chooses to pay the tax but not undertake the specific actions or meet requirements.
- Under s.51(xx) the Commonwealth can use its *corporations power* to directly impose a wide range of obligations on constitutional corporations. This power has the advantage that the Commonwealth can impose a wide range of obligations and can penalise non-compliance. However, the corporations power only applies to constitutional corporations — club and casino operators or hotel licensees that are not incorporated would not be subject to the obligations.

These powers could be used, for example, to implement recommendations relating to gaming machine national standards and changes to gaming machine features and design (including implementation of a pre-commitment system).

Gaming machine standards, features and design changes

Implementing recommendations on these matters could impose specific obligations on gambling venues, EGM manufacturers and importers. If the obligations associated with the recommendations are primarily imposed on *gaming machine manufacturers and importers*, the corporations power is capable of leveraging effective implementation, as most, if not all, of the relevant entities are incorporated. To the extent that implementing recommendations would impose legislation on *gaming venues*, and depending on the number of gaming venues that are non-incorporated, then taxation power may be a more reliable tool.

National funding model for the racing industry

To implement the national funding model — a conditional proposal in chapter 16 — the Commonwealth could use its taxation power. The main requirements for the use of this power are that the product fee on wagering operators would have to operate as a tax and would need to involve the ‘compulsory exaction of money for public purposes’. It can be argued that a national product fee would have these attributes. To comply with ss. 81 and 83 of the Constitution, it would be necessary for the funds raised to form part of the Consolidated Revenue Fund and be the subject of an appropriation.

Some jurisdictions have already explored the introduction of the range of harm minimisation measures recommended by the Commission. But expedited agreement on key national standards is crucial. If despite their best endeavours, the states and territories are unable to agree on consistent national standards by the timeframe

outlined in table 19.1, the Australian Government could assist the process by establishing such standards using its corporations power under the Constitution.

RECOMMENDATION 19.5

If there is little progress in achieving the design changes to gaming machines and networks necessary for effective harm minimisation, then the Australian Government should consider exercising its option under the corporations power of the Constitution to develop and implement these changes Australia-wide.

APPENDICES

A Consultations

A.1 Conduct of the inquiry

Following receipt of the Terms of Reference in November 2008, the Commission released an Issues Paper in December 2008 inviting public submissions and personal responses, and indicating some particular matters on which it sought information.

In total, 421 public submissions were received and placed on the inquiry website. (A full list of public submissions is contained in section A.2.)

In addition, the Commission received a number of confidential submissions that advised of personal experiences or contained commercially sensitive material.

During the early stages of the inquiry, the Commission consulted with a range of interested parties to get an idea of the key issues and where the Commission's report could add most value. The complete list of individuals and organisations that the Commission met with throughout the inquiry is contained in section A.3. A number of roundtables were also held in late 2008 and early 2009 and a list of participants is contained in section A.4.

A Draft Report was released for public comment on 21 October 2009. Public hearings to discuss the Draft were held in Melbourne, Sydney, Adelaide, Brisbane and Canberra in late November and early December. A list of attendees is contained in section A.5.

The Australian Government's *Youth Forum* website hosted a 'gambling ideas board' which elicited a wide range of views from young people on gambling and ways of addressing problem gambling. These views were compiled into a report and submitted to the Commission. (This report can be found at www.youth.gov.au/ayf/documents/GamblingSummary.pdf)

In conducting its inquiry, the Commission has benefited greatly from the participation of a wide range of individuals and organisations and is very grateful to all those who contributed.

A.2 Submissions

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Abdelrehim, Jemal	DR414
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ACT Council of Social Service	176
ACT Government	DR338
AFL Sunshine Coast Juniors	96
Ainslie Football & Social Club Ltd	133, DR300
Algester Primary School	217
ALH Group	198, DR340
Alligator Creek Bowls & Recreation Club Inc	DR399
AMC Convergent IT	173
Amity Community Services Inc.	167, DR388
Anglicare Tasmania	83, DR355
ASH Australia; SmokeFree Australia Coalition of NGOs	DR304
Aspley Athletics Club Limited	196
Aspley Australian Football & Sporting Club Ltd	DR401
Aspley Little Athletics Centre Inc.	195
Asquith Bowling & Recreation Club	156
ATMIA (ATM Industry Association)	DR420
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Australasian Casino Association	214, 264, DR365, DR416
Australasian Gaming Council	230, DR377
Australian Bankers' Association	165, DR381
Australian Bookmakers' Association Pty Ltd	243, DR320
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Bermagui Country Club	53, DR325
Betchoice Corporation Pty Ltd	258
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Betfair Pty Ltd	181, DR412
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Broken Hill Legion Club	110
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Canberra Southern Cross Club Ltd	95, DR319
Canterbury Bulldogs League Club Ltd	DR409
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Cardiff RSL Club Limited	160
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Chinchilla RSL Memorial Club Inc	DR281
Chrysalis Insight Inc	170
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Gambling Care, Lifeline Canberra Inc.	123
Gambling Impact Society (NSW) Inc.	59, 253, DR371
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Hunter Coast Marketing	DR270
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Leagues Clubs Australia	159, DR382
Leigh, Professor Andrew	DR266
Lifeline Canberra inc.	DR393
Lions Club of Chinchilla	192
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Macedon Ranges Shire Council	129
Magpies Club Group	DR342
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Maryborough District Cricket Assn. Inc.	DR403
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South Sydney Junior Rugby League Club Ltd	97
Southport Surf Club Supporters Club Inc	DR284
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Sportsbet Pty Ltd	DR376
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St Marys Rugby League Club Ltd	122
St Vincent de Paul Society Qld	41
Starlight Children's Foundation	79
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Sunnybank Community & Sports Club	DR292
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A.3 Visits and meetings

ACT Gambling and Racing Commission
ACT Government
Areyonga Women (Northern Territory)
Aristocrat
ATM Industry Reference Group

Australasian Gaming Commission
Australasian Gaming Council
Australasian Casino Association
Australian Communications and Media Authority
Australian Demographic & Social Research Institute, ANU (Bryan Rodgers & Tanya Caldwell)
Australian Hotels Association
Australian Racing Board
Australian Social Science Data Archive (ASSDA)
Betchoice
Betfair
Burswood Casino
Casino Canberra
Centrebet
Clubs Australia
Clubs NSW
Clubs WA
Community and Disability Services Ministerial Advisory Council
Crown Casino
Customers Limited
Department of Families, Housing, Community Services and Indigenous Affairs
Department of Internal Affairs (New Zealand)
Department of Prime Minister and Cabinet
Gambling Care
Gaming Technologies Association
Heads of Churches Gambling Taskforce
Huggins, Sarah
Ibus Media Limited
International Gaming Technologies (IGT)
Jackson, Alun and Thomas, Shane
Livingstone, Charles (Monash University), Woolley, Richard (University of Western Sydney) and Keleher, Helen (Monash University)
Ministerial Council on Gambling Officials
New South Wales Government
Northern Territory Government
Queensland Office of Liquor, Gaming and Racing (OLGR)
Queensland Responsible Gambling Advisory Committee
Queensland Treasury
Redcliffe RSL
Salvation Army
Sandgate RSL

South Australian Government
Southern Cross Club
St Vincent de Paul
Star City Casino
Tabcorp
Tasmanian Department of Health and Human Services
Tasmanian Department of Treasury and Finance
Tasmanian Gaming Commission
Toneguzzo, Steve
Treasury
United Kingdom Gambling Commission
UnitingCare Kildonan
UnitingCare Wesley Adelaide
Victorian Government
Victorian Interchurch Gambling Taskforce
Vikings Club (Tuggeranong Valley Rugby and Amateur Sports Club)
WA Government
Xenophon, Senator Nick

A.4 Roundtable attendees

Gambling Industry Roundtables 24 November 2008

Australasian Casino Association
Australasian Gaming Council
Australian Hotels Association
Australian Leisure and Hospitality Group
Clubs Australia
Crown Ltd
Gaming Technologies Association
Tabcorp Holdings

Community Sector Roundtables 24 November 2008

Anglicare Australia
Australian Council of Social Services
Catholic Social Services
Council of Gamblers Help Services
Interchurch Gambling Taskforce
Relationships Australia

St Vincent de Paul Society
The Salvation Army
The Smith Family
UnitingCare Australia

Researchers' Roundtables 25 March 2009

Allcock, Clive
Battersby, Malcolm
Blaszczynski, Alex
Delfabbro, Paul
Hare, Sarah
Jackson, Alun
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Adelaide — 8 December 2009

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National Race Horse Alliance	707 – 728
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Australasian Gaming Council	748 – 776

B The expenditure share of people experiencing problems

B.1 Why are spending shares policy relevant?

As noted in chapter 5, while the prevalence rate of problem gamblers in the adult population is relatively small, of greater importance is the fact that they represent a much larger share of regular gamblers (the policy-relevant risk group). The expenditure share of people experiencing problems is relevant to policy, as it:

- is directly related to the harms associated with gambling
- reduces the estimated total ‘consumer surplus’ associated with gambling (chapter 6)
- may weaken the incentives for action or effective implementation of measures by venues to prevent and address problem gambling, since these have effects on their revenues (and for governments, taxes)
- affects judgments about the appropriate onus of proof regarding some types of gambling regulations — and, in particular ones that are aimed at reducing spending below high levels (such as limits on the bet amount, as discussed in chapter 11, or pre-commitment, as discussed in chapter 10). For instance, the Commission has undertaken empirical research to assess the extent to which a one-dollar bet limit (per push of the EGM button) would inconvenience recreational gamblers (seemingly, not a lot) compared with problem gamblers (a lot).¹

The key point is that spending shares are relevant to the need for harm minimisation, the form it takes and judgments about the evidentiary burden for making decisions.

¹ Some might argue that the standard of proof that most recreational gamblers suffer little inconvenience should be ‘beyond all doubt’. However, if problem gamblers account for a high share of spending, it could be argued that that onus of proof should be weakened for regulatory measures aimed at curbing high intensity playing. Indeed, it might be appropriate to show that a bet limit *above* one dollar is likely to be ‘safe’.

B.2 Conceptual and methodological issues

There are significant difficulties in calculating the spending share of problem gamblers and of gamblers experiencing particular harms.² Several studies have found that people have poor and understated recall of spending. For instance, the ABS Household Expenditure Survey finds household spending on gambling overall is only around 14 per cent of the (accurately) measured spending based on tax/industry data, while spending on gaming machines is less than three per cent of true spending (table B.1).³ People collectively report net winnings when playing casino table games. Only spending on lotteries corresponds to the true amount. People's recollections of spending on alcohol and tobacco products — while also showing under-reporting — is far closer to the true amounts.

It appears that wins have more salience to gamblers than losses, and that there is a reluctance to acknowledge spending on areas that are perceived to be socially stigmatised.

In some other studies, though, spending estimates appear to be higher than the true amounts, reflecting the fact that some people identify spending as amounts *staked*, rather than as amounts lost (Blaszczynski et al. 2008 and box B.1). Accordingly, the results of any expenditure study depend on the methodology used.

In reviewing the CPGI, McCready and Adlaf (2006) sought the views of a variety of gambling experts. While there was no consensus among the respondents to the survey, their summary of the experts' views suggested:

... there is considerable doubt about subjects' ability to accurately recall and estimate gambling frequency, duration and spending ... causing a significant number to consider the data unreliable due to under-estimating and under-reporting ... Whereas many respondents believe the CPGI addresses spending on gambling as well as any instrument, there are concerns about this area. Respondents suggest that ... gamblers have problems remembering the amount spent over any period of time ... it was suggested that it might be easier for people who play the lottery to remember what they spent than for those who play machines; it was suggested that problem gamblers might not want to report accurate money amounts over the telephone when other people in the house can hear the conversation.

Given these and other uncertainties, Delfabbro (2008, p. 89) considered that:

... it is likely that expenditure estimates based on gambling surveys will be of limited value from a public health or regulatory perspective.

² For example, Delfabbro (2008 pp. 88-89), Volberg et al. (2001); Blaszczynski et al. (1997, 2006, 2008); and Williams and Wood (2004, 2007).

³ These results may partly reflect the form of the diary-based method used in that survey.

However, the expenditure share of problem gamblers has strong relevance to public policy, as discussed above and in chapter 5, so that even highly approximate estimates can be useful.

Gambling is not unique in the difficulties identified by McCreedy and Adlaf, Delfabbro, Blaszczynski and others. There are equal or worse difficulties in measuring many social phenomena relying on self-reporting — domestic violence, road rage, sexual assault, and substance abuse — and a similar set of concerns in getting marketing information about all manner of purchasing or lifestyle issues for commercial enterprises.

Unless it is genuinely the case that there is *no* evidence, there are strong grounds for trying to place bounds on such highly policy-relevant numbers as problem gambling prevalence rates and expenditure shares.

Table B.1 People under-report their gambling

Household Expenditure Survey (HES) 2003–04

	HES	Reliable data	Share of true value
	\$m	\$m	%
All gambling	2,204	16,247	13.6
Lottery/Lotto/scratchies	1,545	1,601	96.5
EGMs	306	10,651	2.9
Table games	-56	1,593	..
Other	410	2,402	17.1
Cigarettes and tobacco	4,646	9,634	48.2
Alcohol	9,381	14,792	63.4
Food	61,494	54,445	112.9
Electricity, gas and other domestic fuel	9,489	10,154	93.5
Household equipment and furnishings	20,918	27,598	75.8
Communications	12,490	13,861	90.1
Clothing & footwear	14,184	18,445	76.9
Rent	18,745	20,970	89.4
Total transport	56,015	58,499	95.8
Total household consumption	333,161	427,572	77.9

^a The table is based on the most recently available HES (2003–04). In the case of gambling, reliable data are from the statistics compiled by state and territory governments (Australian Gambling Statistics 2006–07, 25th edition). Reliable measures of off-premises sales of alcohol are from the ABS National Accounts (Cat. No. 5204.0), combined with data of on-premises sales by hotels, clubs and others (ABS 2006, *Clubs, Pubs, Taverns and Bars 2004–05*, Cat. No. 8687.0). The latter relate to 2004–05, but that should not unduly affect the comparison with the HES. All other reliable data are from the National Accounts. In order to put them on the same conceptual footing, total household consumption excludes imputed rent from the national accounts data and excludes interest payments from the HES.

Sources: As described above.

Box B.1 Dollars and sense

Blaszczynski et al. (2008) undertook a unique experiment in which they examined:

(a) a self-reported daily record compared with a recall-based spending measure. The former was around 60 per cent higher than the latter — the implication being that people forget their spending amounts

(b) a self-reported daily measure that explicitly requested *net* spending compared with a daily reported measure that did not make this distinction clear. The former was 33 per cent lower than the latter — the implication being that people can confuse cumulative amounts staked and actual losses made.

Intriguingly, to the extent that the net spending figure based on a daily record is the 'gold standard', the counteracting biases affecting recalled spending cancelled out, so that the recall-based spend was within around 5 per cent of the net spending amount. So, in fact, relatively simplistic measures may not be as poor as thought.

However, it is unclear to what extent the study's findings can be generalised, due to a very small sample rate, the high attrition in respondents over the course of the study, and the involvement of people with relatively high average monthly spends. Nevertheless, the study has good face validity.

In fact, there is a range of methods that can be used concurrently to estimate the share of spending accounted for by problem gamblers. Biases in people's declared spending may be less of an issue to the extent that:

- higher risk gamblers face similar biases as other gamblers. There is evidence for this from detailed research on the ambiguities of different spending approaches (Williams and Wood 2004, pp. 42–43)
- carefully constructed measures are used (as in the net spending measures used in the ACT prevalence study and in the Canadian research undertaken by Williams and Wood (2004, 2007))
- recall biases (which tend to underestimate spending) are balanced by the propensity for people to confuse amounts staked with spending (which overstates spending, as evident in box B.1)
- a variety of studies are used to reduce the problems associated with small samples of higher risk gamblers and the potential for outliers to influence the results
- indirect methods are used (as discussed below).

Using a range of methods increases reliability

The Commission used multiple methods to estimate expenditure shares, reflecting the inadequacies of existing data and the desirability of ‘triangulated results’. Where the problem gambling screen was not applied to all gamblers (because they were non-regular gamblers), it has been assumed that all non-respondents are no-risk (or ‘recreational’) gamblers. All other things being equal, this will tend to underestimate the shares for higher risk groups, since some non-regular gamblers do experience problems.

Outliers bedevil some estimates of spending shares, because:

- some people exaggerate or understate their playing intensity or spending
- imputing annual spending on the basis of ‘typical’ playing styles may not always provide good estimates of spending at the individual level, even if, when averaged, it is a satisfactory measure of the behaviour of groups of individuals. In particular, very high spending amounts will be estimated for someone who says that they typically play at high intensity across *all* the options (lines, credits, minutes playing and sessions).

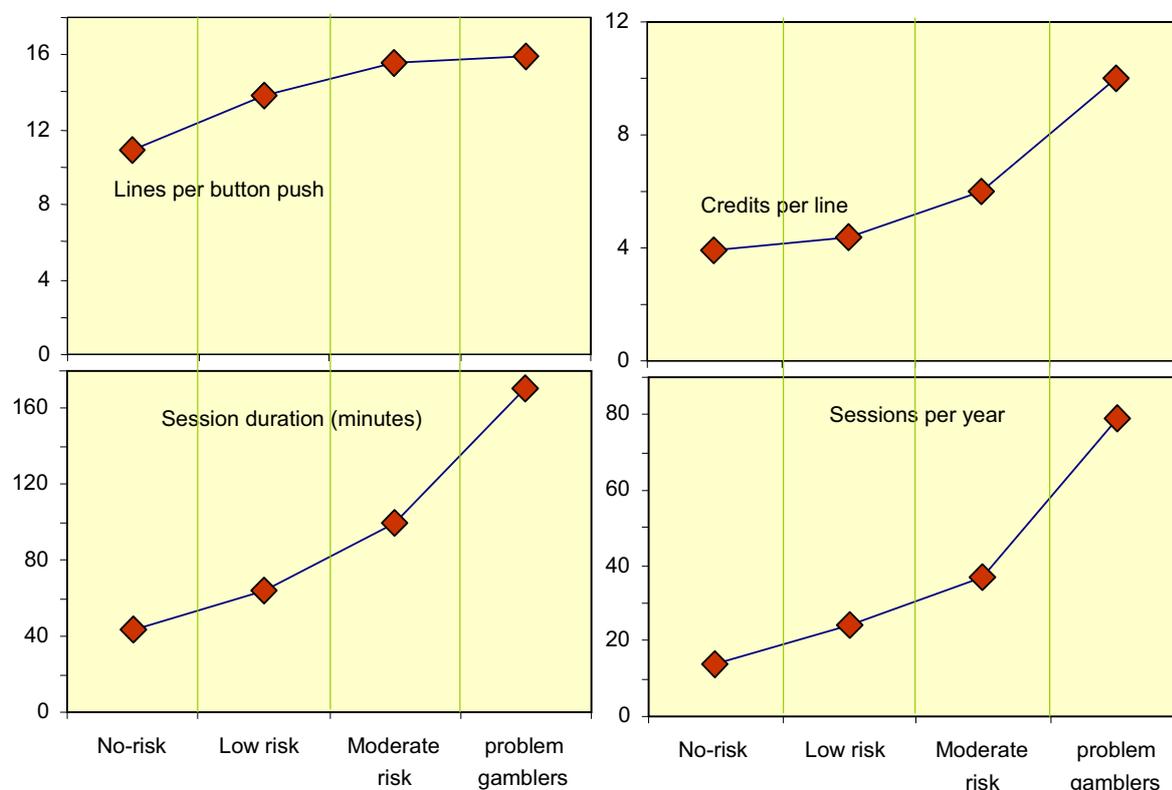
Accordingly, at least in some surveys, a few gamblers in each risk group recorded spending levels of \$250 000 a year or more. While, in fact, some gamblers effectively do spend this much — as suggested by the data on fraud and on a particular loyalty scheme shown below — that kind of spending is very infrequent. As a result, the Commission usually used so-called ‘robust’ techniques that reduced the influence of outliers (so-called Winsorised⁴ and trimmed means).

Method 1: the ‘player style’ approach

Many Australian prevalence surveys have asked gamblers about their customary playing style on EGMs, which can be used to estimate their annual spending. Even cursory examination of the data reveals that problem gamblers are much more likely to be regular players, to play more intensively and, accordingly, to spend more than recreational gamblers (figure B.1). Accordingly, they must account for a bigger share of total spending than their prevalence rate. However, the key question is by how much.

⁴ ‘Winsorising’ involves setting all outliers to a specified percentile of the data. For example, a 10 per cent upper Winsorised mean would be calculated by setting all values in the top 10 per cent of the sample to the 90th percentile. Winsorising does not exclude outliers from the data altogether, but moderates their influence.

Figure B.1 Intensity rises with gamblers' risk status



Data source: Queensland Prevalence Survey, 2006–07.

One way of assessing this is to derive an indirect measure of spending from playing styles. To the extent that people have a typical style of play, an accurate indirect measure of annual spending (S_R) on gaming machines for any given risk group (R) is the aggregate across individuals of any given risk group:

$$S_R = \sum_{i=1}^n Spend_i = \sum_{i=1}^n \{L_i \times C_i \times B_i \times M_i \times D_i \times S_i \times (1 - \tau_i)\}$$

where:

- L are lines selected
- C denotes credits staked per line
- B is the number of effective button pushes per minute. The minimum speed of play is regulated and could allow up to 20 button pushes per minute. However, in many cases, such regulated spin rates will not be binding because people want to play slower and because some games have free features, where no credits are staked. A reasonable estimate is that play would involve around 12 button pushes per minute for most players
- D is the machine denomination (for example, 1 cent, 2 cents and so on)

-
- M is the number of minutes per session
 - S is the number of sessions of gambling per year (for example, 52 for someone who play once a week)
 - τ is the rate of return on machines — typically between 90 and 92 per cent. The expected loss rate on a machine is therefore $(1-\tau)$
 - $i = 1$ to n are the individuals in a given risk group.

S_R can then be added up across risk groups to estimate total annual spending (S) and expenditure shares (α) for each risk group:

$$S = \sum_{R=1}^4 S_R \quad \text{and} \quad \alpha_R = \frac{S_R}{S}$$

While surveys have not asked people about their playing speed (button pushes per minute) or the rate of return on machines, they have sometimes collected data on the other key elements of this identity. Accordingly, the same average values have been used for B and τ (that is 10 and 0.1 respectively, whose effects cancel out). The absence of unit record data for these elements is not likely to be important. There is no compelling evidence that people in different risk categories systematically push the buttons on machines slower or faster than each other, or that they play higher or lower returning machines. And, while some people do in fact win overall on gaming machines in a given year, over a large group of people, the actual rate of return will converge to its expected value (τ).

The measure above has some advantages over direct measures as it does not require people to differentiate between amounts staked and net expenditure, and does not require them to divulge what may be a sensitive spending figure.

Method 2: the 'means' approach

Method 2 is similar to above. In some instances, the unit records needed to calculate estimates of individual spending are not available because access to unit records is costly or not possible. In this case, spending of a given risk group (R) can be estimated as the product of the averages for that risk group of each of the relevant components of the formula given above, times the relevant population size:

$$S_R = \{\bar{L}_R \times \bar{C}_R \times \bar{B} \times \bar{D}_R \times \bar{M}_R \times \bar{S}_R \times (1 - \bar{\tau})\} \times \text{POP}_R$$

The validity of the latter method is dependent on strict assumptions, and so it is probably less reliable as a measure of spending shares (box B.2).

Box B.2 Limitations of the means approach

To illustrate the difficulties with the ‘means’ approach, consider the case where there are just two factors making up intensity (S), say X and Y, so that the total value of intensity for a given risk group is:

$$S_R = \sum_{i=1}^n X_i \cdot Y_i$$

Now a proxy for this is the multiple of the relevant means (times the population of the risk group):

$$\tilde{S}_R = POP_R \cdot \bar{X}_R \cdot \bar{Y}_R$$

Each X_i and Y_i are deviations from the mean value, with those deviations represented by ε and η :

$$X_i = \bar{X}_R + \varepsilon_i \text{ and } Y_i = \bar{Y}_R + \eta_i$$

Accordingly,

$$S_R = \sum_{i=1}^n X_i \cdot Y_i = \sum_{i=1}^n (\bar{X}_R + \varepsilon_i) \times (\bar{Y}_R + \eta_i) = POP_R \cdot \bar{X}_R \cdot \bar{Y}_R + \sum_{i=1}^n \varepsilon_i \cdot \eta_i = \tilde{S}_R + \sum_{i=1}^n \varepsilon_i \cdot \eta_i,$$

noting that the sums of the deviations are zero. Accordingly, the bias in the proxy measure depends on how deviations are correlated. If they tend to be inversely correlated so that a high value of ε tends to be associated with a lower value of η , then the proxy will be more than the true measure (while positive correlations will lead to the opposite bias). If the correlations between the deviations are much the same for each different risk group, that need not matter for the *shares* of each risk group:

$$\alpha_R = \tilde{S}_R / \sum_{R=1}^4 \tilde{S}_R$$

However, if the correlations between ε and η vary in each different risk group then that will lead to biases in the shares as well.

The second problem stems from outliers. If there are spurious outliers in the data, then these can be dealt with when unit record data are available, but not when only the averages are publicly available (as is sometimes the case).

So, sometimes the ‘means’ approach will give acceptable estimates of expenditure shares, but its accuracy is underpinned by certain characteristics of the dataset that generated the means.

The possible accuracy of the ‘means’ approach can be tested where a unit-record based method can be used to validate it, but the result in one dataset may not carry over to others.

Method 3: The 'biggest loss' approach

Some surveys provide data on the biggest loss experienced by gamblers, which can be used to provide another measure of spending. The biggest loss experienced by an individual is some share of their average loss. Accordingly, subject to a range of assumptions about the ratio of typical losses to big losses, it is possible to derive a pseudo measure of average losses per session.

The more risky the player, the more likely that the biggest loss will be significantly higher than the typical loss. Recreational gamblers are likely to have a normal spend relatively close to their biggest loss, because they usually stake smaller amounts and with small variability.

We have assumed that normal spending per session is 80 per cent of the maximum loss for this group, while the typical loss per session is 50, 30 and 15 per cent of the biggest losses for low risk, moderate risk and problem gamblers respectively. (We have deliberately chosen low rates for the more risky groups to generate conservative estimates of the spending share of problem gamblers.) As before, aggregate spends (and shares) can then be derived by multiplying sessions by derived average session losses. (The sensitivity of the results to these assumptions can be readily estimated).

Method 4: Number of times losses exceed \$50

In the South Australian prevalence survey, EGM players were asked about the number of times per year that they have lost \$50 or more. With manipulation and assumptions, these data can be used to estimate a net spending measure. The number of sessions played by each EGM gambler is known, as is the corresponding number of times they have lost \$50 or more. This provides an estimate of the share of sessions when the gambler loses more than \$50.

For each of the four risk groups, we make assumptions about the average spend in those sessions where a person's losses are under \$50 (u) and the average spend when they make a loss of \$50 or more (h), noting that averages will be strongly skewed.

It is assumed that u is a modest share of \$50 for recreational players, while average losses when people lose more than \$50 is also modest. For higher risk groups, the value of u rises closer to \$50 and the value of h becomes a more significant multiple of \$50. The values of u were \$20, \$30, \$35 and \$45 for the four different risk classes for recreational gamblers — low-risk, moderate-risk and problem gamblers

respectively.⁵ The corresponding values of h were \$150, \$225, \$300 and \$400. Using these parameters, estimates of average session losses and annual spending can be derived for each individual and summed to give total spending, from which expenditure shares can be calculated. (A common value of u and h are chosen for every individual in any given risk class)

Method 5: Average session losses

In some instances, respondents are asked about their losses (or wins) in their last gambling session. When multiplied by session numbers this provides an estimate of annual spending. Ideally, data on wins and losses would be used. However, when this approach was used it resulted in people winning overall (an outcome that has also been found in some other studies, and likely to reflect the higher salience of wins). More plausible results were derived if wins were stripped from the data. Williams and Wood (2007) found that using this approach gave similar results to diary-based approaches, but tended to underestimate the spending share of gamblers rated as CPGI8+.

Method 6: Direct estimates of annual spending

In some cases, as in the Victorian 2008 prevalence survey (Hare 2009), players were asked to estimate their annual spending on gambling.

Method 7: The case study approach

Clubs Australia provided the Commission with a sample of data over some months on spending and time spent gambling on EGMs from loyalty members in a large Australian club. The Commission is not aware of the jurisdiction in which this club is located or its name, nor the identities of the individual players concerned. The data were stratified by the five loyalty classes of the members (based on expenditure levels). There were only 30 members in the top group and many thousands in the bottom. The Commission was provided with the aggregate player losses and turnover for each loyalty group. In addition we were provided with samples of unit record data of turnover, spending and time spent for each loyalty group. The Commission has all the unit data for the highest spending stratum and samples for the other groups, with the sampling proportion falling as the number in each group increases.

⁵ Clearly, actual u and h would vary for each individual in each risk class, but applying a common number across individuals may still provide a guide to each person's spending, with the errors resulting reduced through averaging across the individuals in each risk group.

There are no data on the risk categories of the players concerned. However, the data are useful in several respects:

- If the hypothesis that problem gamblers account for a large share of spending is correct then it implies that expenditure should be concentrated among a few players. If that were not the case, then this would cast doubt on the hypothesis. Finding it is concentrated does not, absent other evidence, provide evidence for the hypothesis
- Data from other prevalence surveys can be used to indicate the likelihood that a person spending a certain amount is likely to be a problem gambler. Combining the evidence can be used to estimate the share of spending accounted for by problem gamblers
- It provides evidence on the behaviour of gamblers (sessions, wins/losses, time spent) that helps substantiate or undermine evidence from other surveys about the behaviour of different risk groups.

B.3 The results show high risk groups have high spending shares

Results based on the Commission's analysis of Australian prevalence surveys

A consistent picture develops from the collective evidence that problem gamblers account for a substantial share of total gaming machine spending (summarised in table B.2, based on results from tables B.3 to B.19). The minimum spending share is 22 per cent and the maximum 60 per cent. The average was 41 per cent and the median 39 per cent.

As discussed in chapter 4, many people rated as moderate risk have already developed significant problems, and are exposed to the risk of progressing to problems in the future. Not surprisingly, given their lower risk status, this group accounts for a smaller share of total spending (between 7 and 27 per cent), with an average of 19 per cent (median of 20 per cent).

Given the variability associated with different sample sizes and methods for calculating the shares, the combined risk category CPGI 3+ probably gives a more reliable estimate of the relative spending of higher risk gamblers. It ranges from 42 to 74 per cent, with an average of 60 per cent (and shows the least variability

relative to its mean, suggesting a reasonable degree of reliability).⁶ This group has often been used as the basis for calculating problem gambling shares, for instance in the Canadian studies of Williams and Wood (2004, 2007), though the Commission has concentrated on the highest risk group (CPGI 8+) when discussing problem gambling.

The results above have good face validity given the data on playing styles of various risk groups. In particular, problem gamblers play many more sessions per year than other gamblers and play for longer during such sessions. That behavioural combination equates with very high spending amounts.

It also should be noted that — other than under the less reliable ‘means’ approach — the aggregate spending level suggested by the above measures is always below the known measure of expenditure on gaming machines.⁷ Accordingly, there is ‘missing money’. If all of the missing money were accounted for by the no-risk or low-risk groups then that would, by definition, lower the share of the higher risk groups.⁸ However, it would generally not be appropriate to adjust the expenditure level of just one group, especially given that problem gamblers have a tendency not to participate in prevalence surveys. In that context, the shares given above probably remain the best estimates.

It is important to emphasise that it would be wholly unjustified to draw any conclusions from the estimates in tables B.2 to B.14 about the *ranking* of states and territories with respect to expenditure shares. The data is simply not reliable enough to support such comparisons. That is why table B.2 does not specify the jurisdictions from which the estimates have been derived.

The estimates in table B.2 include additional studies and some elaboration of methods compared with the draft report, which is why the numbers vary slightly. The average estimates are almost identical to the draft report.

⁶ The coefficient of variation (the standard deviation of the measures divided by the mean) gives a normalised measure of variation. It is lowest for CPGI 8+ of the four risk groups (26 per cent). But the value for the combined risk group CPGI 3+ (14 per cent) is much lower than any other individual risk group.

⁷ Though reasonably close matches were obtained for the Tasmanian data (method 1 and 5) and Queensland (method 1).

⁸ Ignoring the ‘means’ method, where the estimated spending was *above* the true level, adjusting the expenditure shares of higher risk groups so that all of the missing money was accounted for by the lower risk groups would imply an average expenditure share for CPGI 3+ group of 30 per cent and for CPGI 8+ groups of 21 per cent — which remain highly policy relevant.

Table B.2 Summary of empirical estimates of the spending share

<i>Risk group</i>	<i>Expenditure shares from tables B.3 to B.19</i>											
	%	%	%	%	%	%	%	%	%	%	%	%
Recreational	35	35	19	16	16	31	37	18	15	18	29	27
Low risk	10	9	11	12	10	16	21	16	15	20	22	15
Moderate risk	20	22	17	12	19	8	20	27	23	24	16	17
Problem gambler	35	34	54	60	55	45	22	39	47	38	33	41
CPGI 3+	55	56	71	72	74	53	42	66	70	62	49	58

<i>Risk group</i>	<i>Expenditure shares from tables B.3 to B.19 continued</i>											
	%	%	%	%	%	%	%	%	%	%	%	%
Recreational	43	31	29	24	17	32	30	29	27	24	22	
Low risk	9	10	11	14	11	16	17	11	11	17	16	
Moderate risk	21	20	21	26	21	26	25	7	9	23	19	
Problem gambler	26	39	38	36	51	26	28	52	53	36	44	
High risk	47	58	59	62	72	51	53	59	62	59	62	

Source: Derived from the tables below.

Table B.3 EGM player behaviours, NSW 2006

By risk group^a

	<i>Lines</i>	<i>Credits per line</i>	<i>EGM denomination</i>	<i>Sessions per year</i>	<i>Session duration</i>
	number	number	cents	number	minutes
Recreational gamblers	14.3	5.1	8.0	17.3	55
Low risk gamblers	16.6	5.8	7.6	52.3	72
Moderate risk gamblers	16.7	6.3	13.2	54.5	76
Problem gamblers	16.4	6.8	17.9	68.1	119

^a Results are averages for each risk group.

Source: Unit record data analysis of NSW prevalence study 2006.

Table B.4 Shares of total EGM expenditure, NSW 2006

By risk group^a

Risk group	Mean annual EGM spending per person	EGM gamblers	Spending	Share of total spending	
				Method 1	Method 2
	\$	Number	\$m	%	%
Recreational gamblers	696	1 357 869	945	35	35
Low risk gamblers	3 668	75 042	275	10	9
Moderate risk gamblers	6 618	80 945	536	20	22
Problem gamblers	20 642	46 228	954	35	34
Total	1 737	1 560 084	2 710	100	100

^a Given some extreme outliers that were clearly affecting the results, the value of EGM spend (S as defined above) is based on a 10 per cent Winsorised trim. Extremes for spending are the result of people simultaneously stipulating high values for all of the underlying variables (such as high lines, credits and sessions). In undertaking unit record analysis of each player, where the average implied amount wagered per button push exceeded \$10 for any player (the maximum allowed in NSW), the value was set to \$10.

Source: Based on unit record analysis of NSW prevalence study 2006.

Table B.5 EGM player behaviours and average annual spending per person, Tasmania 2007^a

By risk group

Risk group	Sessions per year	Average session duration	Loss per session	EGM players	Method 5 annual spend			Method 3 annual spend
					Untrimmed mean	5% trimmed	5% Winsorised	
	Number	Minutes	\$	Number	\$ per person	\$ per person	\$ per person	\$ per person
Recreational	9.4	39.0	18.2	100 117	180	104	139	316
Low risk	41.0	61.5	141.4	2 936	3 501	2 789	3 051	5 583
Moderate risk	28.1	137.5	91.3	2 528	6 466	3 134	6 463	3 201
Problem gambler	138.9	143.7	196.1	1 889	27 663	21 147	25 820	24 373

^a With the exception of the number of EGM players, data are averages calculated from unit record data. Trimmed and Winsorised means were estimated to check the potential effects of extreme values.

Source: Unit record analysis of the Tasmanian prevalence study 2007.

Table B.6 Shares of total EGM expenditure, Tasmania 2007

By risk group

Risk group	Method 5			Method 3
	Untrimmed	5% trimmed	5% Winsorised	
	%	%	%	%
Recreational	19	16	16	31
Low risk	11	12	10	16
Moderate risk	17	12	19	8
Problem gambler	54	60	55	45

Source: Unit record analysis of the Tasmanian prevalence study 2007.

Table B.7 EGM player behaviours and spending shares, Queensland 2006–07

By risk group

Risk group	Lines	Credits per line	EGM denomination	Sessions per year	Minutes per session	Spending share method 2
	Number	Number	\$	Number	Minutes	%
Recreational	10.9	4.0	0.04	14.0	43	18
Low risk	13.8	4.4	0.08	24.3	64	21
Moderate risk	15.5	6.0	0.06	37.0	99	24
Problem gambler	16.0	10.0	0.06	79.2	171	38

^a The questionnaire did not ask respondents to estimate their usual choices of lines and credits, but rather gave a Likert scale (never, rarely, and so on) about the likelihood that respondents played more than one line or credit per line, and when they did this, the number of lines/credits. We assigned probabilities to the Likert scales to produce estimates of lines/credits per line for each respondent. For example, if a person said that they played more than one line rarely, and when they did so, played 5 lines, the estimate of lines was 1*(90% probability) + 5*(10% probability), equalling 1.4 lines as the average line-playing style for that respondent. The probabilities for rarely, sometimes, often and always were 10, 30, 70 and 100 per cent respectively. A similar approach was used for credits per line.

Source: Queensland prevalence survey 2006–07.

Table B.8 Shares of total EGM expenditure, Queensland

By risk group, method 1, 2006–07

	<i>5% Winsorised</i>		<i>10% Winsorised</i>	
	Average spend per year	Share of total	Average spend per year	Share of total
	\$	%	\$	%
Recreational gamblers	176	18	115	15
Low risk gamblers	837	16	629	15
Moderate risk gamblers	3 867	27	2 607	23
Problem gamblers	20 370	39	19 689	47
Total	770	100	613	100

^a Spending levels for each individual were calculated based on the methods described in the previous table, with trimming using Winsorised trims to address outliers. In undertaking unit record analysis of each player, where the average implied amount wagered per button push exceeded \$5 for any player (the maximum allowed in Queensland), the value was set to \$5.

Source: Unit record analysis of the Queensland prevalence survey 2006–07.

Table B.9 Shares of total EGM expenditure, Queensland 2006–07

By risk group, method 5

<i>Risk group</i>	<i>Average loss per session</i>		<i>Average spend per year</i>		<i>Number of people playing EGMs</i>	<i>Share of total spend</i>	
	<i>Untrimmed</i>	<i>5% Winsor</i>	<i>Untrimmed</i>	<i>5% Winsor</i>		<i>Untrimmed</i>	<i>5% Winsor</i>
	\$	\$			Number	%	
Recreational gamblers	20	376	224	685 785	29	27	
Low risk gamblers	43	1 536	688	126 753	22	15	
Moderate risk gamblers	77	2 937	2 128	47 412	16	17	
Problem gamblers	283	22 984	18 246	13 090	33	41	
Total	30	1 023	660	873 040	100	100	

Source: Queensland prevalence survey 2006–07

Table B.10 Shares of total EGM expenditure, Queensland 2008–09

By risk group, method 1^a

Risk group	Average spend per year			People playing EGMs	Share of total spend		
	Untrimmed	5% Winsor	10%		Untrimmed	5% Winsor	10%
	\$	\$	\$	Number	%	%	%
Recreational gamblers	648	298	239	898 886	43	31	29
Low risk gamblers	1 184	866	798	102 465	9	10	11
Moderate risk gamblers	7 125	4241	3 874	40 013	21	20	21
Problem gamblers	33 246	31 422	26 436	10 565	26	39	38
Total	1 273	816	695	1 051 929	100	100	100

^a The 2008–09 study did not have data on lines and credits played by different risk groups. In order to get an estimate of spending, each member of the relevant risk groups were assumed to have the average playing style for that risk group based on the Queensland 2006–07 survey. Data on machine denomination, session duration and annual sessions were still available. In undertaking unit record analysis of each player, where the average implied amount wagered per button push exceeded \$5 for any player (the maximum allowed in Queensland), the value was set to \$5.

Source: Queensland prevalence survey 2008–09.

Table B.11 EGM playing style, South Australia 2005

By risk group

Risk group	Lines	Credits per line	EGM denomination	Sessions per year	Times lost \$50 or more
	Number	Number	Cents	Number	Number
Recreational gamblers	8.6	2.0	7.0	10.8	0.8
Low risk gamblers	13.5	2.3	6.7	33.4	5.8
Moderate risk gamblers	12.8	3.0	10.0	41.5	18.1
Problem gamblers	12.0	4.4	12.6	79.3	33.4

^a The results show the averages for each risk group.

Source: South Australian prevalence study 2005.

Table B.12 EGM spending and expenditure shares, South Australia 2005

By risk group, Method 1

	EGM players	<i>Untrimmed</i>		<i>5% Winsor</i>	
		Annual average spend	Share of total spending	Annual average spend	Share of total spending
	number	per person	%	per person	%
No risk	323 327	223	24	106	17
Low risk	23 388	1 774	14	985	11
Moderate risk	13 329	5 686	26	3 258	21
Problem gambler	4 896	21 728	36	21 729	51

^a An initial estimate of the average annual spend for each person was calculated as the multiple of the lines, credits per line, denomination and sessions per year and aggregated into an estimate of the aggregate spend for each risk group. However, the South Australian data has no record of minutes played per session, which, as is clear from the NSW, Queensland and Tasmanian data, tend to steeply increase with risk. Accordingly, the initial estimate of the average annual spend was multiplied by the average session duration for each risk class from the Queensland data. In undertaking unit record analysis of each player, where the average implied amount wagered per button push exceeded \$10 for any player (the maximum allowed in South Australia), the value was set to \$10.

Source: South Australian prevalence study 2005.

Table B.13 EGM spending and expenditure shares, South Australia 2005

By risk group, Method 4

	<i>Untrimmed</i>		<i>5% Winsor</i>	
	Annual average spend	Share of total spending	Annual average spend	Share of total spending
	per person	%	per person	%
No risk	295	32	243	30
Low risk	2 069	16	1 916	17
Moderate risk	5 649	26	4 964	25
Problem gambler	15 477	26	15 173	28

Source: South Australian prevalence study 2005.

Table B.14 EGM playing style, Victoria 2003

By risk group

<i>Risk groups</i>	<i>Lines</i>	<i>Credits per line</i>	<i>Denomination</i>	<i>Sessions</i>	<i>Session duration</i>
	number	number	cents	per year	minutes
Recreational	8.9	2.0	10.5	7.8	48.8
Low risk	9.1	1.7	7.7	35.8	105.5
Moderate risk	10.0	2.1	11.2	40.3	96.0
Problem gambler	10.0	2.5	4.5	115.8	169.3
Total	9.0	2.0	10.2	12.9	55.9

^a The results show the averages for each risk group. Only gamblers who played regularly on relevant forms of gambling were asked the CPGI. The survey only asked people if they played more than one line or credit. It was assumed that if they said yes, they played ten lines and three credits— close to the average playing style for gamblers playing more than one line from the South Australian data. This will tend to underestimate actual lines and credits for higher risk groups. In undertaking unit record analysis of each player, where the average implied amount wagered per button push exceeded \$10 for any player (the maximum allowed in Victoria at that time), the value was set to \$10.

Source: Victorian prevalence study 2003.

Table B.15 EGM spending and expenditure shares, Victoria 2003

By risk group, method 1

	<i>EGM players</i>	<i>Mean annual spend</i>		<i>Share of total spend</i>	
	number	<i>Untrimmed</i>	<i>5% winsor</i>	<i>Untrimmed</i>	<i>5% winsor</i>
		\$ per person	\$ per person	%	%
Recreational	1 133 284	395	253	29	27
Low risk	57 329	2 968	2 096	11	11
Moderate risk	29 043	3 897	3 284	7	9
Problem gambler	35 467	22 175	15 702	52	53
Total	1 255 123	1 209	843	100	100

^a The results are untrimmed estimates. If untrimmed and trimmed estimates are calculated using the South Australian data by risk group for lines and credits played by those who select more than one line or credit, the results are: {17, 8, 6 and 69 – untrimmed} and {16, 9, 7 and 68 – 5% winsorised} for the four risk groups. The latter estimates suggest implausibly high problem gambling shares. More generally, some aspects of this survey are not consistent with results from other surveys. In particular, the number of problem gamblers is high relative to moderate and low risk gamblers and the average machine denomination is implausibly significantly higher for recreational gamblers compared with problem gamblers. The Victorian survey was unique in that it tested three problem gambling screens, and as such, the sample size for the CPGI groups (low risk to problem gamblers) were relatively small, and open to wider confidence intervals than other prevalence surveys.

Source: Victorian prevalence study 2003.

Table B.16 EGM playing styles

Victoria 2008

	<i>Sessions per year</i>	<i>Population</i>	<i>Average denomination</i>	<i>Sessions total</i>	
	Number	Number ('000)	Cents	Number ('000)	Share of total sessions
Non-Problem Gamblers	7.08	638	6.0	4 517	47.0
Low Risk Gamblers	15.8	125	7.8	1 975	20.5
Moderate Risk Gamblers	22.73	73	9.6	1 659	17.3
Problem Gamblers	56.37	26	19.3	1 466	15.2

^a The average denomination is the weighted average of the usual denomination played by EGM gamblers, with the assumption that where people indicated that they played a combination of denominations (around 5 per cent of players), the average was 5 cents.

Source: Analysis undertaken for the Commission by Sarah Hare (based on Hare 2009).

Table B.17 Gaming machine lines played

Victoria 2008

	<i>Share betting more than 1 credit per line</i>			
	Often	Always	Never, rarely or sometimes	All
	%	%	%	
Non-Problem Gamblers	11.0	22.5	66.5	100
Low Risk Gamblers	12.6	24.0	63.4	100
Moderate Risk Gamblers	17.3	31.9	50.8	100
Problem Gamblers	18.3	49.5	32.3	100

Source: Hare (2009).

Table B.18 Relative spending levels by risk groups

For those gamblers spending most on gambling machines, Victoria 2008

	<i>No-risk</i>	<i>Low-risk</i>	<i>Moderate risk</i>	<i>Problem gambler</i>
	\$	\$	\$	\$
Average annual spend	322	1 078	2 676	12 356

^a The survey asked gamblers to estimate an annual spending amount for the gambling form where they had spend the most in the last year. These data have to be interpreted carefully because people who play EGMs, but spend more money on other forms of gambling, are omitted from the above calculations. Were the above estimates regarded as representative, then the problem gambling share of revenue would be 46 per cent and that of moderate risk gamblers an additional 24 per cent. However, these estimates may be biased — see the table below for an estimate that takes account of EGM players who spend more money on other forms of gambling.

Source: Based on analysis of unit record data from the Victorian 2008 survey.

Table B.19 EGM spending and expenditure shares, Victoria 2008

By risk group, method 6

	<i>EGM players</i>	<i>Mean annual spend</i>		<i>Share of total spend</i>	
		<i>Untrimmed</i>	<i>5% winsor</i>	<i>Untrimmed</i>	<i>5% winsor</i>
	number	\$ per person	\$ per person	%	%
Recreational	655 485	246	154	24	22
Low risk	128 432	865	570	17	16
Moderate risk	75 224	2 001	1 154	23	19
Problem gambler	26 459	9 095	7 660	36	44
Total	885 600	749	524	100	100

^a The Victorian 2008 survey asked people to nominate annual spending on the gambling form on which they spent most. Where people nominated gaming machines (the EGMGAMB group), untrimmed and trimmed estimates of spending were calculated for the different risk groups. Corresponding to that, estimates of the total spending were obtained for each risk category in the EGMGAMB group by multiplying the average spending amounts by the size of the relevant populations. However, this is not sufficient to calculate spending shares, as some people playing EGMs (the OTHGAMB group) spend most on other gambling forms. It can be assumed that the average spend of OTHGAMB members is lower than those who spend most on EGMs. It was assumed that the average spend by recreational to problem gamblers respectively on EGMs of the OTHGAMB group was 15, 50, 75 and 100 per cent of the *overall* average spending of the EGMGAMB group. It was then possible to calculate spending shares that counted all EGM gamblers. The presumption that spending by those in the OTHGAMB group increases with risk status was confirmed with the data from the Tasmanian prevalence survey by examining EGM spending for those who played EGMs, but who did not consider it to be their 'favourite' form. To check the sensitivity of the results, various alternatives scenarios were considered. Even under the extreme assumption that all risk classes in the OTHGAMB group spend the same (one third of the overall average spending of the EGMGAMB group), then the moderate risk gambling share is 19 per cent and the problem gambling share is 32 per cent (untrimmed). The results were 15 and 39 per cent respectively for these risk groups if trimmed results were used.

Source: Based on analysis of unit record data from the Victorian 2008 survey.

Results based on the case study of a single club

The loyalty card data for the club in question reveal a very high degree of concentration of spending, with just 2.3 percent of loyalty card players accounting for 76.4 percent of turnover and a similar share of player losses (table B.18). It is important to emphasise that premium players are not necessarily problem players. In part, the spending profile shown below is just a more extreme example of the usual pattern of consumption for other goods and services. It is common for a small group of consumers to spend a relatively large amount of time and money on an activity, and therefore to comprise a significant share of total spending (the '80–20' rule). In the case of gambling, this shows up as high intensity play over long periods (table B.19).

However, empirically, the higher the annual spending, the greater the likelihood of problem gambling. As shown in table B.20, in its 1999 study, the Commission found that around 65 per cent of those spending more than \$12 000 a year on EGMs were problem gamblers. While the threshold value, \$12 000 would have risen given

inflation, the pattern suggests that a significant share of the highest spending loyalty card players have problems. The loyalty card data could readily be consistent with problem gambling shares of total player losses of 35 per cent or more.

Two caveats should be made. The case study data:

- are based on just one (relatively large) venue over a particular period, and may not be typical
- do not take any account of non-loyalty card players or play by loyalty-card members who do not use their cards when playing.

Clubs Australia (attach, sub. DR359, p. 96) were sceptical of any conclusion that could be drawn from the data about problem gambling spending shares from these data (or as it happens from any dataset). It considered that:

It is unlikely that there are “problem gamblers” in the loyalty program data supplied to the Commission. We know of no literature or research that would support any implication that problem gamblers are members of loyalty clubs. ... No theoretical or evidential bases are provided that there are any problem gamblers in these data ...

However, this is incorrect on several fronts. First, as shown above, the likelihood of problems rises significantly with spending. While that does not mean that a given *individual* who is a heavy gambler is a problem one, it means that among a *group* of such gamblers it is very likely that many of them are. Second, prevalence surveys have asked gamblers if they are members of loyalty card programs. These show that problem (and moderate risk) gamblers are often members of loyalty schemes. For instance, the 2006 NSW prevalence survey indicated that around 38 per cent of problem gamblers and 49 per cent of moderate risk gamblers were members. 36 per cent of no and low risk gamblers were members. Moreover, of those people who were members, around 54 per cent of problem gamblers and 60 per cent of moderate risk gamblers often or always inserted their cards into the machines. In contrast, 41 per cent of low and no risk gamblers did so.

Table B.20 Dispersion in player spending

All loyalty card members, September 2008 to February 2009

<i>Loyalty scheme status</i>	<i>Share of loyalty members</i>	<i>Share of turnover</i>	<i>Share of player losses</i>	<i>Loss rate</i>	<i>Annualised player losses</i>
	%	%	%	%	\$ per loyalty card member
Class 1	0.1	17.2	13.0	7.0	86 020
Class 2	0.5	30.7	29.6	8.9	28 719
Class 3	1.7	28.5	30.8	10.0	9 823
Class 4	5.8	18.3	21.1	10.6	1 908
Class 5	91.9	5.3	5.5	9.4	31
all loyalty	100.0	100.0	100.0	9.2	527

^a The club had five loyalty card groups, with a very few in the premium groups. (These are the several hundred people in classes 1 and 2, earning in the top echelon of loyalty bonus points.) The data relate to observations for each of the six months from September 2008 to February 2009. The data cover around 35 000 loyalty card members, noting that many club members will not have loyalty cards, and those who do, may not gamble in a given period or may only sometimes use their cards when playing. The low averages for class 5 players reflects the fact that in any given month, many do not play at all. To the extent that a proportion of such class 5 players do not gamble *at all* in a given year, the average annualised player losses for class 5 would be biased downwards. However, that bias — if present — does not affect the data on concentration of spending.

Source: Data from a large club in Australia, provided by Clubs Australia.

Table B.21 Playing outcomes and styles

Based on a sample of loyalty card data

<i>Loyalty scheme status</i>	<i>Average weekly hours played</i>	<i>Share losing in a month</i>	<i>Average amount wagered per button push</i>	<i>Median amount wagered per button push</i>	<i>Share with average spend >\$1</i>
	Hours	%	\$		%
Class 1	8.8	92	4.1	3.3	96
Class 2	4.7	73	2.3	1.4	67
Class 3	2	81	0.9	0.4	32
Class 4	2.8	91	1.0	0.3	30
Class 5	0.9	82	0.8	0.5	25

^a The data related to monthly statements of around 130 gamblers between August 2008 and February 2009. Given that player records are available for some players for multiple months, overall there were data for between 294 to 326 months, depending on the variables concerned. The implication of the fact that the sampling unit is a month requires some care in the interpretation of the information above on the amount staked per button push. Ideally, to examine player behaviour for each button push, data on amounts staked for each button push would be collected for a large representative sample of players (including non-loyalty card players) over a week (or a month). Then for each player, it would be possible to calculate accurately the proportion of button push stake amounts that exceeded 50 cents, one dollar or any other amount. In that case, the effects on players of any regulatory measure relating to maximum stakes could be estimated. Absent that data, conjectures have to be based on more aggregated data, which will conceal some of the underlying variability of playing styles. To illustrate this point, the data above suggests that 25 per cent of the class 5 loyalty card members (the most numerous group) spend more than one dollar per button push on *average* in any given month. However, for that group, this outcome would be consistent with a circumstance in which 98.9 per cent of the time such gamblers spent 90 cents per button push and the remaining 1.1 per cent, they spent \$10 per button push (giving an average spend of \$1.001 for the months concerned).

Source: Data from a large unknown club in Australia, provided by Clubs Australia.

Table B.22 Are big spenders more likely to be problem gamblers?

Share of problem gamblers by annual net spending^a

	<i>Annual spending on gambling</i>					<i>Prevalence rate of those who gamble</i>
	<i>Net winnings or broke even</i>	<i>\$0–\$3000</i>	<i>\$3001–\$6 000</i>	<i>\$6 001–\$12 000</i>	<i>More than \$12 000</i>	
	%	%	%	%	%	%
SOGS 5+ definition of problem gambler						
EGMs	1.8	2.8	32.8	52.7	67.1	4.8
Total gambling	1.8	1.1	15.2	35.8	49.5	2.6
HARM definition of problem gambler						
EGMs	7.4	4.3	38.5	43.6	64.6	9.4
Total gambling	2.0	3.8	16.7	28.9	48.7	7.3

^a The table is based on the Commission's 1999 dataset, which used a survey design likely to reduce the risk of expenditure biases. Though based on the SOGS and HARM definitions of problem gambling, the risk profile associated with spending is likely to carry across to the CPGI. The table shows the share of gamblers who were problem gamblers in each spending category. So, for example, 2.8 per cent of people playing EGMs and spending somewhere between 0 and \$3000 annually on EGMs were problem gamblers. But nearly 70 per cent of those EGM players spending more than \$12 000 annually were problem gamblers as defined by the SOGS5+ measure. The totals relates to the share of people playing EGMs (or gambling as a whole). Accordingly, using the SOGS5+ measure, nearly one in twenty people playing gaming machines experienced problems with their gambling, compared with around one in forty people gambling in any way.

Source: Productivity Commission (1999), National Gambling Survey.

B.4 Data from existing sources

Other Australian prevalence studies

Some Australian prevalence studies have explicitly requested detailed information about *carefully-defined* spending. The resulting estimates of expenditure shares are broadly in line with the range of estimates described above. Prevalence studies for the Australian Capital Territory (2001), the Northern Territory (2005) and Australia (1999) found that problem gamblers (SOGS5+) accounted for 48.2, 43.0 and 42.3 per cent of total gaming machine expenditure respectively.⁹

⁹ Based on prevalence surveys by Tremayne et al. (2001, p. 114); Young et al. (2005, p. 46) and PC (1999, p. 7.46).

The estimates of Livingstone and Woolley

Livingstone and Woolley (2007 and sub. 259 — henceforward L&W) have produced more contested estimates. Using data drawn from a 2004 Victorian survey of venues (Caraniche 2005) and from the Victorian prevalence survey,¹⁰ L&W (2007) estimated that problem gamblers accounted for about 36 per cent of total EGM revenue, with at-risk gamblers accounting for a further 18 per cent.

In contrast, and using the *same* dataset, Clubs Australia (sub. 164, pp. 84–85) claim that the share of spending accounted for by these higher risk groups would be at most 23.1 per cent.

The differences reflect varying assumptions about the spending levels of non-problem (largely *non-regular*) gamblers. Clubs Australia assumes that this group spends \$3700 per annum — which is the value estimated by Caraniche for (principally) *regular* non-problem gamblers. (The average spending for *all* EGM gamblers in Victoria at this time was around \$1800, and so any credible assumption about the spending of non-regular non-problem gamblers must be a fraction of this.)

Subsequently, and using slightly different prevalence rates based on the Caraniche data, L&W (sub. 259) estimated that problem gamblers accounted for around 29 per cent of total EGM spending (and moderate risk an additional 15.5 per cent). In this set of calculations, L&W found that the average per annum expenditure by non-regular, non-problem gamblers consistent with the observed aggregate spending in Victoria at that time was around \$930 a year — a more credible estimate than the \$3700 assumed by Clubs Australia.

It should be noted that there are some limitations with the Caraniche dataset for estimating expenditure shares. The sampling method — while appropriate for Caraniche's analysis — was based on a non-random (unweighted) sample of patrons, which favoured selection of higher frequency gamblers (who tend to spend more). This adds to the unreliability of the estimates of L&W, but would be unlikely to undermine the basic qualitative findings.

Data on player behaviour from McDonnell-Phillips

Similar sampling problems beset the national dataset collected by McDonnell-Phillips (2006). The purpose of that dataset was to investigate the behaviour of gamblers, particularly in relation to pre-commitment. The sampling strategy was suited to those research focuses, but less so for assessing the expenditure share of

¹⁰ Centre for Gambling Research (2004a) and Wenzel et al. (2004).

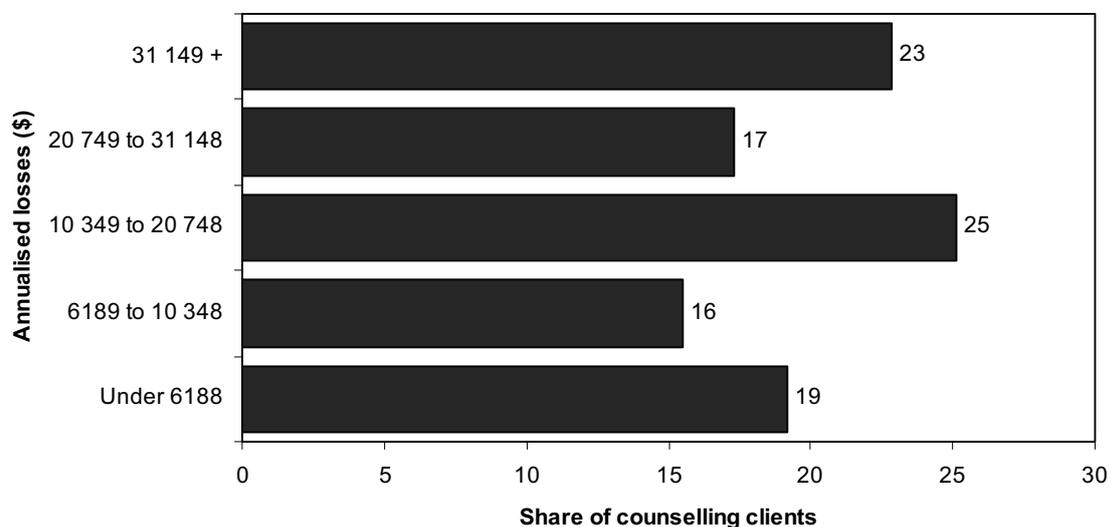
problem gamblers. Consistent with the results above, the data reveal that problem and moderate gamblers spend significantly more than low and no-risk groups (p. 92). However, due to under-sampling of lower frequency gamblers, the study will provide exaggerated estimates of spending for lower risk groups (and probably more accurate ones for problem gamblers who tend to play regularly).

B.5 Other suggestive evidence

Some other information is consistent with high relative spending levels by problem gamblers:

- Surveys of problem gamblers when in counselling suggest very significant spending levels, with for example, nearly one quarter of clients of NSW services reporting losses equivalent to \$31 000 or more per year (figure B.2)
- Surveys of fraud routinely find that gambling is a common motivation, and that the associated amounts spent by gamblers using fraudulently acquired funds are very large. KPMG (2009) in its 2008 survey found that gambling was the most common motivation for fraud and that the average loss was \$1.1 million per incident. A major survey of court cases, found that gaming machines were the major form of gambling motivating fraud. While the average amounts lost were smaller than for other gambling forms, they were still close to \$400 000 (table B.21). It is unlikely that prevalence surveys will pick up such extreme spending amounts.

Figure B.2 Clients of counselling agencies report large losses
NSW 2007-08



^a The estimated losses of problem gamblers are based on annualising weekly amounts.

Data source: NSW Government.

Table B.23 Gambling-motivated fraud

<i>Mode of gambling</i>	<i>Cases</i>	<i>Total amount</i>	<i>Average fraud per case</i>
	Number	\$	\$
Poker machines	184	64 077 200	348 246
Casinos	74	71 049 056	960 122
Horseracing	27	71 479 603	2 647 393
TAB	18	5 625 330	312 518
Other	23	22 187 352	964 667
Total	326	234 418 541	719 075

^a Overall, the study was based on 528 cases of gambling-related fraud. The data relate to only a sub-sample of fraud cases involving each form, as it excludes cases where multiple forms of gambling were implicated in the fraud. For example, there were 203 cases of fraud where poker machines were specifically mentioned, but in 19 of these, other gambling forms were also implicated.

Source: Warfield, B. (2008), *Gambling Motivated Fraud, 1998–2007*, Warfield & Associates.

C Pre-commitment systems

Pre-commitment systems for gaming machines have been trialled or implemented in recent years in Australia and overseas, providing useful evidence about the impacts, consumer receptiveness, costs and appropriate design of possible future systems for Australia.

Australian trials concluded in 2009 in South Australia and Queensland. Nova Scotia has trialled a similar system over the past five years and is now implementing the system across the province. Norway has also adopted a pre-commitment system for its gaming machines. New Zealand has incorporated pre-commitment features into its online lottery, as has Sweden for online poker. Excepting the latter two, all of these systems used personal player cards as the basis for player identification, although in other respects the systems have quite different features. Victoria has announced the introduction of a pre-commitment system, but the government has not yet announced detailed aspects of the system.

C.1 South Australian trials

Two trials have been undertaken in South Australia, based on existing loyalty card systems.

The Worldsmart trial

Worldsmart Technology's card-based loyalty program — the J-Card system — was the basis for an ongoing trial of pre-commitment. While seven trial sites were the focus for recruiting patrons to pre-commitment, patrons could use their pre-commitment cards in any of the 64 venues using the J-Card loyalty scheme. Participation in the trial was voluntary, as was use of the main features of the system. Patrons opting into the trial used a personally identified J-card, which they could (voluntarily) insert into a card reader when they played on a gaming machine in any venue supporting the J-Card system. The card holds information about their play and the options players have set. Patrons are able to set spending limits (daily, weekly, fortnightly and monthly), time limits, breaks in play, reminder prompts when personal limits were reached and several other options.

If a player exceeds a self-imposed time or spending limit, the machine makes a low-key beeping noise and displays a personal message (determined by the player), while also informing the cashier of the venue that a limit has been exceeded on the specific machine. The cashier is required to go to the specific machine to turn off the message and, accordingly, interact with the player, providing scope for the patron to request help. The player is free to continue play if they want, so the limit is not binding (Responsible Gambling Working Party 2009). In addition, a gambler could play the machines without their J-card, so avoiding any consequences from self-imposed limits. For that reason, the system is principally a tool to help consumers keep to their limits and to help prevent problem gambling, rather than a measure to address the control problems of existing problem gamblers.

Relatively few consumers have enabled their loyalty card for pre-commitment features. By mid-September, 233 of just under 32 000 loyalty card members (or 0.7 per cent) had enabled pre-commitment options. The best-performing venue had signed up just over 2 per cent of its loyalty card members. However, these numbers may underestimate the genuine extent of take-up. Many people holding loyalty cards do not play regularly (or at all over even extended periods). While the data are not available for the J-card trial, a similar trial in Queensland found that only 12 to 15 per cent of loyalty cardholders regularly took part in gaming (Schottler Consulting 2009c, p. 14). However, even after taking account of ‘dormant’ loyalty cardholders, the take-up rates are quite low. This suggests that opt-in systems will probably have small market penetration, though greater recruitment efforts might increase the proportion).

Nevertheless, those patrons who signed up made extensive use of pre-commitment options.¹ Data provided by Worldsmart Technology to the Commission shows that gamblers preferred short-term limits, with around 60 per cent take-up of daily spending limits (table C.1). People rarely set limits on playing times, but when they did, these again were mostly applied on a daily basis. Few people sought information about their spending (the Playsmart balance), but a significant minority sought breaks in play.

¹ While not a full pre-commitment system, it still appears that spending by patrons using the pre-commitment cards fell significantly. Based on patrons who had a sufficiently long history of playing, there was around a 25 per cent reduction in daily turnover (which is highly correlated with spending) from the three months before take-up of pre-commitment and the period after. Among the six highest spenders prior to taking up pre-commitment (accounting for around 40 per cent of total turnover among the 94 people in the sample), spending fell by around 50 per cent. The reductions in spending did not seem to be systematically related to any particular pre-commitment option. It is possible that the reduction in spending would not be as great as this, had some patrons switched to cardless play or gambled at other venues, where their spending was not recorded. It should be emphasised that these are preliminary results based on a sub-sample of participants, and different results may emerge with the full evaluation.

Reflecting the relative frequency of self-imposed limits on daily spending, these were also the limits that players were most likely to exceed (figure C.1). Players often did not meet their commitments for breaks in play.

Table C.1 Take up of key pre-commitment options

Worldsmart Technology trial, South Australia, September 2009

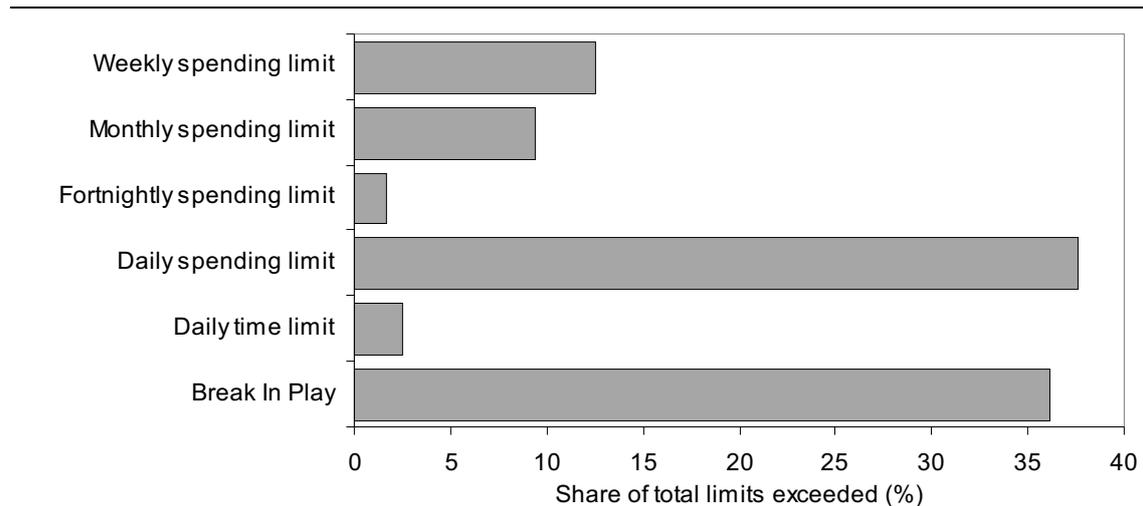
<i>Limit or option</i>	<i>Share of cards enabled</i>
Monthly spending	11.6
Fortnightly spending	5.6
Weekly spending	14.2
Daily spending	58.8
Monthly duration of play	8.2
Fortnightly duration of play	3.9
Weekly duration of play	4.3
Daily duration of play	10.3
Playsmart balance	3.4
Break in play	19.3

^a This is a snapshot of the trial for the period from 24 August to 16 September 2009. A full evaluation of the scheme will provide more detailed analysis and interpretation of the results, and the above statistics should be seen as providing only interim information. An additional month of data — up to October 2009 — showed a roughly 10 to 20 per cent (not percentage points) increase in the share of cards enabled for the various options — suggesting that interest in pre-commitment takes some time.

Data source: Worldsmart.

Figure C.1 Frequency of exceeded limits

Four months from June to September 2009^a



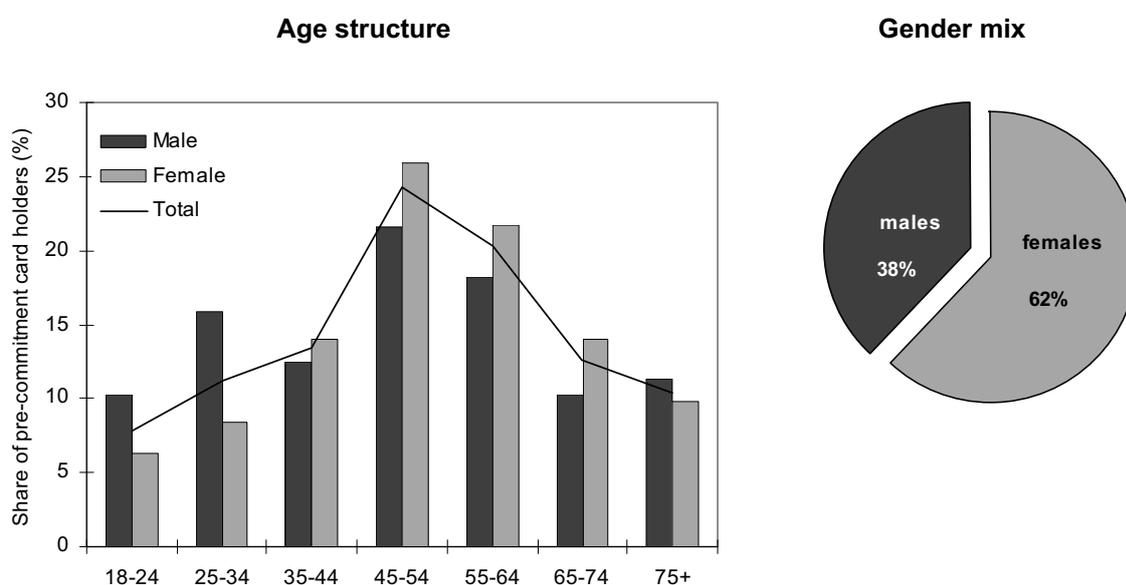
^a The figure shows the main source of default on predetermined limits. For example, of the more than 600 times that players did not meet their limits over the four-month period, around one-third were associated with breaches of breaks in play and around a further 40 per cent with breaches of commitments to limit daily spending amounts.

Data source: Data provided by Worldsmart.

The majority of patrons holding cards enabled for pre-commitment were female, while middle-aged people were the dominant age group (figure C.2). It is not known to what extent the age and gender structures of the population using pre-commitment cards are representative of the wider population of J-card users in the venues concerned.

Figure C.3 shows the propensity of those patrons who hold pre-commitment cards to set limits. Of those holding pre-commitment cards, males tend to have a higher likelihood of selecting breaks in play or spending limits. The age pattern is less clearcut. For instance, young cardholders show a lower tendency to set a daily spend limit, but a greater likelihood of setting a fortnightly limit.

Figure C.2 Characteristics of pre-commitment card holders
September 2009^a



^a The age structure figure gives the share in each age group by gender. For example, around 10 per cent of males who had a pre-commitment card were aged 18 to 24 years.

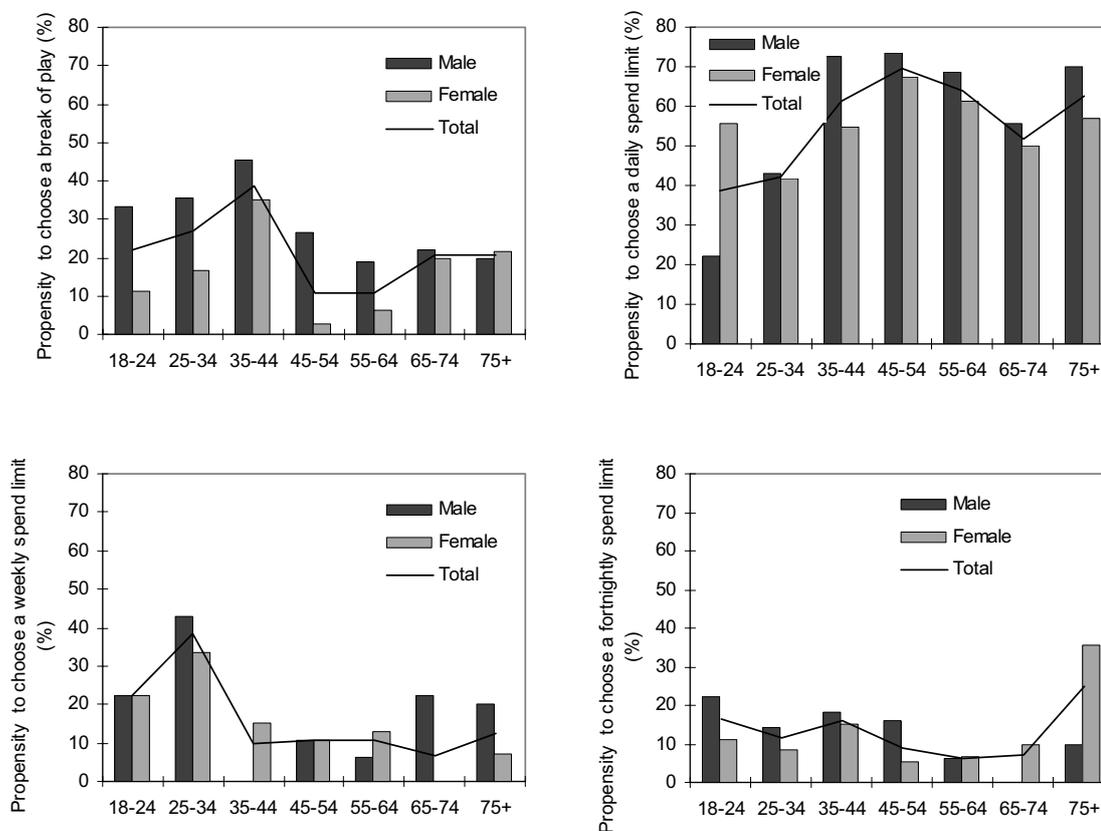
Data source: Data provided by Worldsmart.

The Global Gaming Industries trial

Global Gaming Industries undertook a trial of a pre-commitment system in mid-2009, based on the existing Maxetag player cards. The trial involved two club venues and one hotel in South Australia. Results from these trials are not yet available. Global Gaming Industries also flagged their intention to conduct similar trials in all other Australian states and territories.

Figure C.3 Propensities to use card features

September 2009^a



^a The data illustrate the likelihood that a particular age or gender group take up a particular option. For example, around 45 per cent of males holding a pre-commitment card set breaks in play compared to around 35 per cent of females.

Data source: Data provided by Worldsmart.

The harm minimisation features available to participants included two types of pre-commitment:

- a daily limit on spending — this limit is set by the player at the machine, and expires at the end of the day
- a master limit on spending — this is set with assistance from a cashier and is stored in the central computer. It does not expire until changed by the player
- an account summary print-out.

While other features, such as exclusion, would also be possible with the Maxetag technology, they were not included in the trial. A distinguishing feature of the Maxetag system is that any remaining credit on the Maxetag account is cashed-out after every session. This differs from other cards, which are generally used as debit cards.

C.2 Queensland trials

The Queensland Government conducted its first trial of pre-commitment card-based gaming technology from February to April 2005 at the Grandview Hotel, Cleveland. The trial found that the successful pre-commitment systems had to be simple to use (without too many complex options), required a straightforward sign-up process (given it was a voluntary system), and needed staff training.

Subsequently, the Queensland Government oversaw two additional sets of pre-commitment trials. The pre-commitment trial officially ran for the six months up to February 2009, although research observations continued for eight months (DEEDI 2009).

Maxgaming's Simplay system

The trial was undertaken at the Redcliffe RSL using Maxgaming's Simplay system of card-based cashless gaming. Maxgaming is one of two Licensed Monitoring Operators (which monitor machine revenues and operational features for regulatory and tax reasons on behalf of the Queensland Government).

A 'kiosk', rather than the gaming machine, was the key vehicle for recruitment into the system, for the setting of preferences and for access to player information statements. Participants opted into the cashless gaming system by swiping their existing club membership card at a 'kiosk' and navigating through a series of screens, with the potential to set spending or other limits as part of the various options.

The Simplay cards required the use of a PIN at the beginning of a gaming session, although players could insert their card into another machine without re-entering the PIN. The card was linked to a secure account, with the player transferring credits from the card to the machine at the commencement of play. At the end of any session on a given machine, any residual credits were transferred back to the card.

The goal of the Simplay system was to have cashless gaming throughout the venue, given that:

- there are cost savings to venues from an exclusively cashless system
- pre-commitment is more effective if patrons can only play with their card. An ability to switch between card-based cashless play and cardless cash-based pay would mean that it would be easy for a consumer to subvert any pre-commitment limit.

Nevertheless, during the trial period, the venue ran on both a cash-based and cashless basis. (A person could play with cash and no card; with a card that had funds attached; or with a card with zero balances accompanied by putting cash into the machine.)

The trial was actively promoted by the hosting venue through:

- a letter/promotion to club members
- the offer of a bonus \$20 in Simplay points for each participant who signed on
- the chance to win \$500 in weekly prize draws for participants (though this did not apparently have much incentive effect).

The main pre-commitment features of the Simplay system included limits on daily spending and on daily playing time (with the key screen for setting preferences shown in figure C.4).

If a person exceeded their limit, the patron was alerted by the EGM screen, loyalty unit display and player kiosk that the card was ‘disabled’ for the day. The patron could not play with his or her card in that or any other grouped venue for the day, though they could play on by using cash only.

Over eight months, around 340 people opted into the cashless gaming scheme with recruitment into the scheme relatively rapid in the first four months of the trial, but slowing considerably in the ensuing period (table C.2).

No players had implemented a limit on playing time (Clubs Queensland, sub. 121). However, 45 of the 340 people recruited to Simplay set a daily spending limit (around 13 per cent — and roughly the same for males and females). 30 of the 45 people setting spending limits exceeded them on at least one occasion (DEEDI 2009). There was evidence that people who set limits spent less money than they would have under the counterfactual, although the ‘control’ used to establish this counterfactual (past spending using Simplay before limits were set) was not ideal. In addition, the analysis could not take account of the money spent when people played with cash or at other venues.

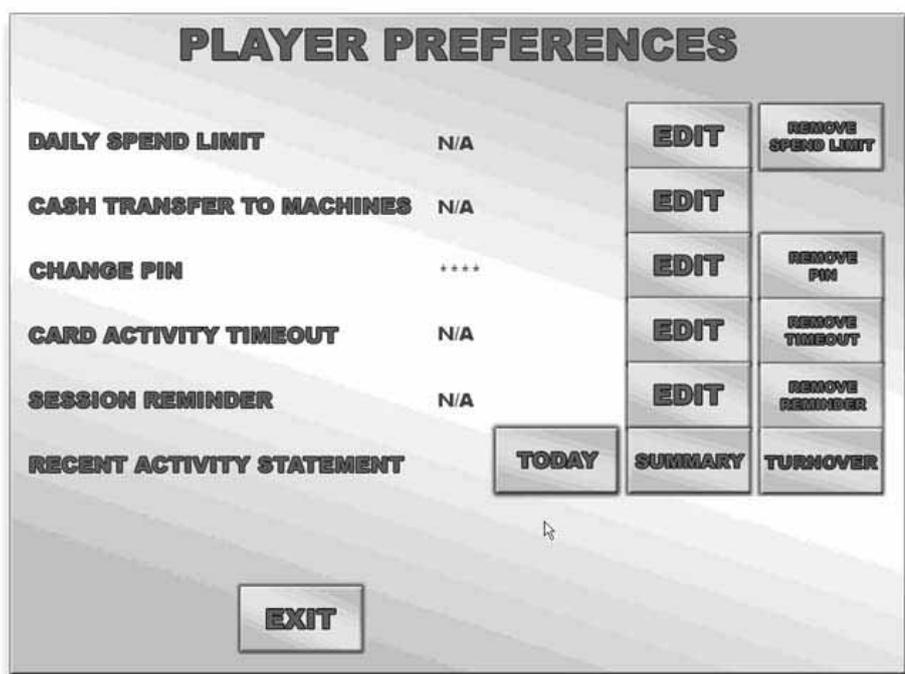
There were several deficiencies in the provision and uptake of information provided to gamblers about pre-commitment or of their record of spending. The review of the trial found that:

- there was limited information about the choice of limits and the desirability of setting them
- gamblers were often unable to understand player statements

- while the majority of players had read most of the supplied information on cardless gambling, a significant minority had not (30 per cent).

Figure C.4 **Simplay interface**

Queensland pre-commitment trial



^a This is the main display used by players to set their preferences. The various options are: *Daily Spend Limit* — when patron's reach this dollar amount their card will no longer transfer credit to the machine on that gaming day. Once a patron reaches their spend limit they are unable to change the limit until the next day. Patrons are always able to withdraw funds from their account regardless of their account status. The *Cash Transfer to Machines* sets the amount of money — from \$1 to a maximum of \$100 — that will be transferred to the credit meter from the patron's account each time a card is inserted. *Card Activity Time Out* is the period set by patrons for the PIN to remain active without playing on a machine. This is a security measure that means that if a player loses their card, it will not work in a machine until a gaming session is activated at the player kiosk by entering a PIN. The *Session Reminder* can send a reminder to the loyalty unit and the screen of the machine during play to remind patrons how long they have been playing — from 15 minutes to 24 hours. Limits can be changed via the Player Preferences menu on the kiosk or by visiting the cashier station.

Data source: From qld.maxgaming.com.au.

Given that more than 85 per cent of Simplay cardholders did not set limits suggests relatively little interest in pre-commitment prior to any perceived gambling problems. The evaluation noted that:

... many staff reported difficulty convincing players to take up the pre-commitment aspect of card-based gaming. This opinion was supported by comments made by the system supplier who also reported that pre-commitment had been a difficult benefit to sell and is reflected in the actual numbers of players which took up pre-commitment limits at Redcliffe RSL. (DEEDI 2009, p. 20)

Table C.2 Participation in the Odyssey and Maxgaming trials by month of trial

<i>Trial Month</i>	<i>Odyssey (e-bet)</i>		<i>Maxgaming (Simplay)</i>	
	<i>Participants in trial</i>		<i>Participants in trial</i>	
	No.	Cumulative %	No.	Cumulative %
1	15	23	155	45
2	13	43	35	56
3	31	90	41	68
4	2	93	40	79
5	2	95	20	85
6	3	100	27	93
7	..	..	12	97
8	..	..	11	100
Total	66		341	

Source: DEEDI (2009).

The low uptake of spending limits in this study might reflect many factors. It might have reflected aspects of the particular trial site, that people did not wish to set limits until they perceived control problems, or that limits were not the default. The most common reason for not setting a limit was ‘no particular reason/don’t know’, rather than aversion to setting limits. This suggests that an opt-out system, rather than an opt-in system, would probably lead to greater use of limits.

The low general uptake of pre-commitment may not be a problem if ‘at risk’ groups — a relatively small group — use it to control their gambling. The evidence showed there was a higher likelihood that ‘at-risk’ players set limits, although this finding may not be reliable due to the small sample size.

Overall, there were many positive aspects to the system — players generally found the system easy to join and to use, and liked some of the features of cashless playing (such as ease of taking credits out of the machine). Some people saw cashless gaming itself as a useful form of spending control — as they could load their card up to a certain level, and not replenish that amount when they had lost it.

Moreover, the Simplay system was a relatively low-cost option for providing some spending limits. The Simplay system generally requires only a software conversion for its installation, and the price of the system is in the order of one to two dollars per machine per day. For the club participating in the trial, this amounted to less than 1 per cent of daily gaming machine revenue.

After the trials, the Queensland gambling regulator (OLGR) approved the Simplay system for distribution in Queensland and it was operational in 32 venues in October 2009. 13 750 patrons utilise the system throughout Queensland and, so far,

around 5 per cent (590 people) have set spending limits.² In this operational version, there are three account types (with three levels of maximum account balances depending on the degree of desired anonymity of the patron), indicating that a pre-commitment system can be designed to cater for occasional gamblers (table C.3).

Table C.3 Simplay account types^a

	<i>Non validated visitor</i>	<i>Validated visitor</i>	<i>Standard player</i>	<i>Registered player</i>
Life span	1 day	30 days	Indefinite	Indefinite
PIN required	No	No	Yes	Yes
ID required	signature	signature	name, address, date of birth	100 point check
Account limit	\$100	\$100	\$1000	\$10,000
Draw down limit	\$100	\$100	\$100	\$100
Inactivity period	12 months	12 months	12 months	12 months
Inactive funds sent to	OLGR (regulator)	patron (else OLGR)	patron	patron

^a A visitor is limited to \$100 because, as they are not identified, there is no method for verifying the card belongs to them if the card is misplaced or stolen. If an account is not active for 12 months, then it is closed and the account funds sent to the cardholder (where the player is identified).

Source: Maxgaming.

The Odyssey trial

Odyssey ran a pre-commitment trial using its e-bet system of card-based, cashless gaming at Sandgate RSL. The main pre-commitment features on trial included:

- limits on daily net expenditure
- a session expenditure limit (card has to be withdrawn and reinserted, providing for a break in play)
- limits on debit account funds (\$1000).
- There was a 24 hour lag involved before an increase to pre-commitment limits set by a player became effective.

As in the Redcliffe case, the trial was a test of a system of cashless gaming, with pre-commitment as an optional feature. Staff actively promoted the benefits of cashless gaming and the potential value of pre-commitment. Venue staff were posted at the entrance to the gaming room to inform and recruit participants. Those

² Maxgaming indicated that this had increased to 8.6 per cent by December 2009, replicating the pattern of increasing interest in pre-commitment apparent in the South Australian trials (Tatts Group – Maxgaming, sub. DR302, p. 6).

who chose to sign up were then required to fill out a paper form with the assistance of a staff member. While more complex than the Redcliffe system, the recruitment process was relatively quick and simple — with strong acceptance by patrons.

Most members used the cards for cashless gaming, rather than pre-commitment, although limits on spending were much more common than limits on playing time. In the six month trial, around 66 people opted into cashless gaming (less than 5 per cent of the player population), and of these, around 28 per cent opted to set a daily spending limit — significantly greater than the Redcliffe trial (table C.2). People reaching a limit were given limit warnings, but could continue to play (as in the Maxgaming trial), so the system only offered partial pre-commitment.

There was strong support for cashless gaming. Even without adoption of limits, around 60 per cent of surveyed e-bet users claimed that card-based gaming encouraged them to think more about their expenditure, with this effect greater for higher-risk players. There was a significant apparent decrease in spending by players who set limits, with net daily spend of players falling from \$64.02 prior to card use to \$39.26 spend per player per day after setting limits (around a 40 per cent reduction in spending). In comparison, daily spends by those not setting limits fell by less than three per cent. Users considered the expenditure statement as a useful tool for indicating their gaming expenditure. Overall, there was strong support by Sandgate players for the wider adoption of card-based gaming in Queensland. 68 per cent suggested its voluntary adoption, 27 per cent its mandatory take-up and 5 per cent saw no grounds for its adoption.

As in all voluntary arrangements, there is the potential for selection biases in these results, with at least two possible avenues for these biases:

- the group using the e-bet system for pre-commitment was a small share of total players in the venue, and may not have been representative. Some staff considered that ‘big punters’ were less interested in card-based gaming and suspected that this was linked to a fear that play was being monitored.
- the venue that agreed to participate in the trials may not be typical of the average venue. The evaluation noted that:

Venue uptake of the product was also strongly associated with an interest in consumer harm-minimisation and a desire to be viewed as a leader in harm-minimisation. (DEEDI, p. 26)

This raises the possibility that the effects of (voluntary) pre-commitment would not be as great in venues that were less dedicated to harm minimisation.

The e-bet system was implemented using software upgrades, and its cost was around one to two dollars per machine per day.

The views of Queensland gaming machine players

The relatively small uptake of the pre-commitment system trialled in Queensland is surprising, given that the 2006-07 Queensland prevalence survey found a significant share of gaming machine players (43 percent) said that, if they were able to, they would use their loyalty cards to place limits on money spent playing (table C.4). A smaller, but still significant, share said that they would be receptive to time limits too.

Table C.4 Receptiveness of Queensland gaming machine loyalty card holders to pre-commitment technologies, 2006-07

	<i>Recreational players</i>	<i>Low risk</i>	<i>Moderate risk</i>	<i>Problem gamblers</i>	<i>All EGM players</i>
	%	%	%	%	%
Would use loyalty cards to place time limits					
Agree	29	31	58	35	33
Disagree	65	55	39	55	59
Would use loyalty cards to place money limits					
Agree	40	41	63	52	43
Disagree	55	52	33	47	51

^a There were five alternative answers strongly agree or agree (combined into the category 'agree' above); neither agree nor disagree (omitted from above); and disagree or strongly disagree (combined into the category 'disagree' above).

Source: Queensland prevalence survey 2006-07.

The discrepancy between actual take-up of the option for pre-commitment and the claimed receptiveness to pre-commitment may reflect many factors, such as the intention to spend only small amounts anyway, procrastination in setting limits, or unfamiliarity with the technology.

As discussed in chapter 10, opt-in systems tend to have far smaller take-up than opt-out systems, even when people indicate a preference for the choices inherent in the opt-out system (for instance, preferences for organ donorship).

The long-run actual take-up of pre-commitment options is likely to depend on the detailed design of the system, including whether:

- gamblers value pre-commitment
- use of a card is required to play
- limits are set on an opt-out or opt-in basis
- people experiencing episodes of poor control subsequently elect to use pre-commitment, while those who are experiencing no difficulties continue to make

no pre-commitments. In this case, actual take-up of the pre-commitment options might be quite low, but take-up might be quite high among those needing to control their gambling (a good outcome)

- people become familiar and comfortable with the technology (normalisation)
- people find that they do not need to set limits anymore (with this factor driving down pre-commitment).

C.3 The Victorian pre-commitment proposal

Several aspects of the Victorian Government's planned pre-commitment system have been announced, including a rough timeline:

- from 1 December 2010, venue-based pre-commitment will be required for all new EGMs
- from 2013, venue-based pre-commitment will be required on all EGMs
- from 1 December 2015, a second stage of pre-commitment will be rolled out (planned as a network of linked EGMs statewide)
- the second stage of pre-commitment is planned to become compulsory by 2015-16.

Both the 'interim' pre-commitment regime (beginning 2010) and the second stage of pre-commitment (beginning 2015) are to be used by EGM players on a voluntary basis, though it appears that if a player sets a limit, it will be binding. Players will also be able to choose between a time or loss limit. They will also be able to monitor their past gambling activity.

Once a player's limit is reached, the player will be automatically (and by technological means) barred from all EGMs in the network. In the interim regime, this will mean being barred from a single venue; in the second stage of pre-commitment, the player will be barred from EGMs state-wide.

The Victorian Government has specifically noted that plans to link EGMs for the purposes of pre-commitment (either within a venue or state-wide) were conditional on advice that the cost would not be prohibitive (Victorian Government, sub. 251).

Several aspects of the pre-commitment system are subject to the advice of the Responsible Gambling Ministerial Advisory Council (RGMAC), including:

- the minimum time period of break in play and/or barring
- any restrictions on players' ability to change limits

-
- how players will be able to monitor their own activity
 - the means used to access a gaming machine
 - how pre-commitment might interact with both self-exclusion programs and Responsible Gambling Codes of Conduct.

The RGMAC is considering the cost and technical feasibility of these features.

C.4 International experiences

Nova Scotia

Pre-commitment is currently being rolled out across Nova Scotia. This followed a set of tests and trials that commenced in late 2004 (Omnifacts Bristol Research 2007 and Focal Research 2007). The stages involved:

- usability testing — commencing November 2004 (preparatory tests)
- a small pilot study involving ten sites and 120 gaming machine players voluntarily using a pre-commitment card (stage I)
- modifications of the technology and re-testing following the initial trial (stage II)
- a ‘live’ trial across nine venues and 51 gaming machines in the Windsor and Mount Uniacke area of Nova Scotia, from October 2005 to March 2006, in which use of the card was mandatory for people wishing to play those gaming machines (stage III). However, gamblers could play without cards on machines at other sites, so there is a risk that the results described below may be affected by selection biases (for instance, if problem gamblers tended to ‘migrate’ to other venues).

The player choice cards were used as identification cards, as opposed to offering cashless gaming. The participating EGMs were locked until a player card was inserted. The features available to gamblers during the trial included:

- an account summary display on screen (figure C.5)
- daily, weekly, and monthly limits on spending (figure C.6)
- the capacity for self exclusion (flexible limits on playing — including to the end of the day, a week, a year)
- 48 hour self-exclusion breaks that could be initiated instantly by a gambler, and were intended to provide a ‘cooling off’ period before any re-commencement of gambling (shown as a user-selected icon in figure C.5 for instant activation).

The data collected during the late stage trials (Focal Research 2007) revealed that:

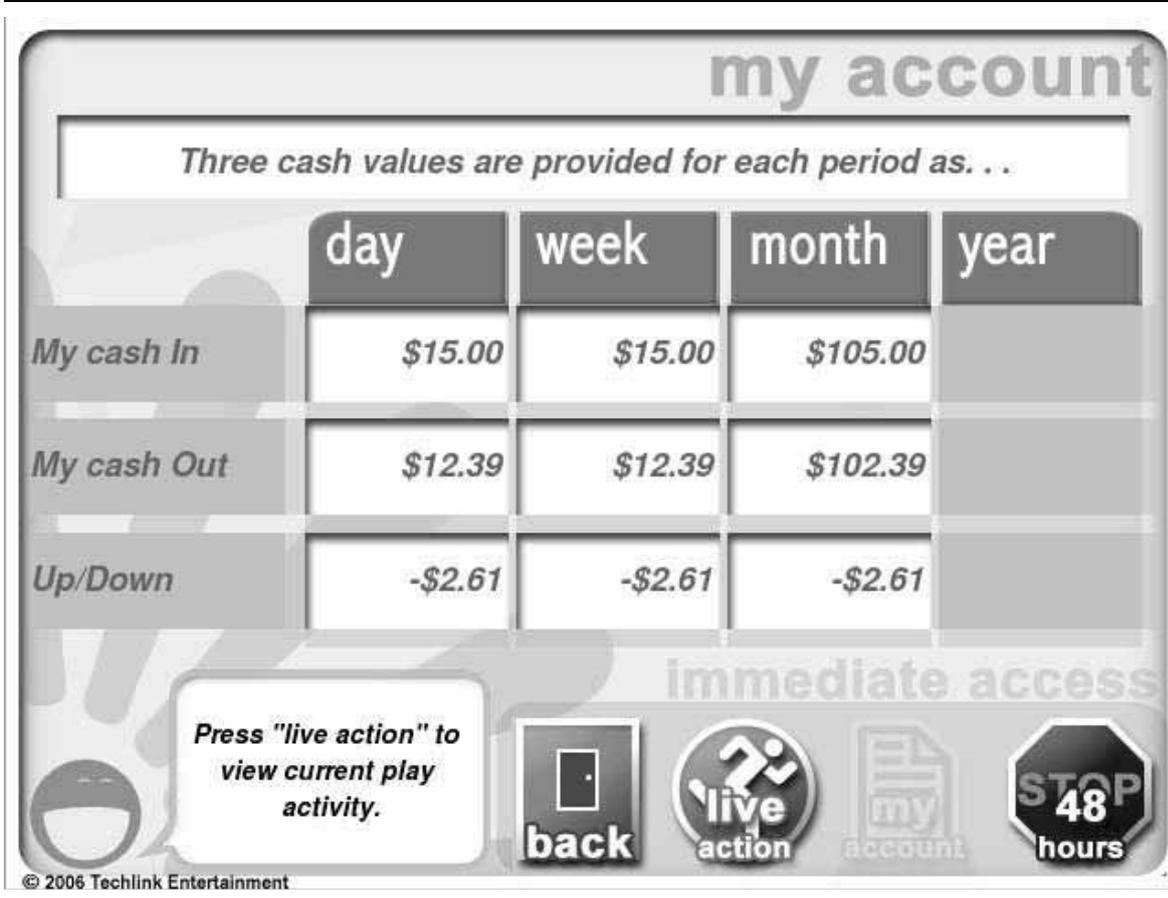
- 71 per cent of regular gamblers (the target group) used some of the above features in the trial
- players were more likely to view their account balance (nearly 70 per cent) than to set a spending limit (11 per cent set a day limit, and less than 1 per cent any longer term limits), and least likely to enforce an exclusion or break. Only 1.5 per cent used a one day break, 2 per cent used the 48 hour break and an even smaller share (0.2 per cent) used longer term self-exclusion
- the use of features initially declined over the six months, but 65 per cent of everyone who tried any of the features continued to use them in subsequent sessions (regarded as a ‘relatively high conversion rate’, p. 41), and amongst this ‘habituated’ group, usage no longer declined over time
- the system reduced expenditure (after accounting for other variables affecting this), with this effect increasing over time. Use of spending limits and information on player expenditure had the most impact on spending levels, suggesting that disclosure as well as pre-commitment may be valuable.

There were generally positive responses by users about the capacity for the technology to help gamblers in setting and keeping to a budget, and to be aware of how much they had spent in time and money (Omnifacts Bristol Research 2007, p. 25). It was notable that there was also strong support by gamblers for mandated limits:

- 61 per cent of gamblers surveyed considered that it should be mandatory for all players to set a spending limit
- 65 per cent of players considered that a maximum limit should be mandated for all players, which could be reduced if the player decided that their limits should be lower.

Figure C.5 **The player information account**

Nova Scotia pre-commitment trial

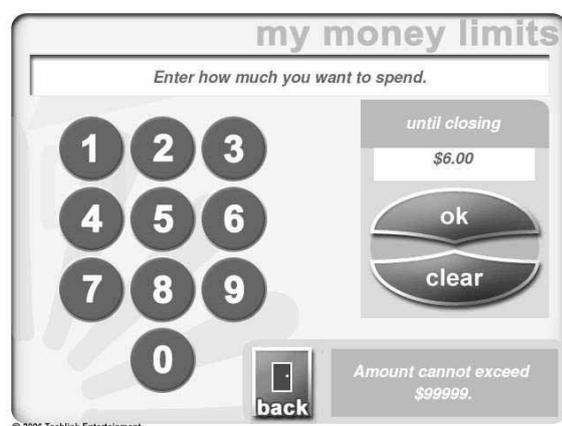
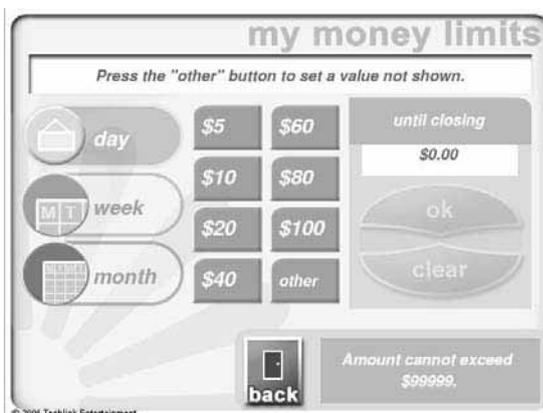


Source: Focal Research (2007, p. 9).

Figure C.6 **Setting money limits**

The first screen

The second



^a The second screen is activated if the player selects 'other' in the first screen, demonstrating how layering can be achieved.

Source: Focal Research (2007, p. 9).

However, venue owners and staff were much more negative about the technology (Omnifacts Bristol Research 2007, p. 44):

- in their initial rating, no siteholder gave a score for the card-system that was higher than 5 out of 10
- they felt they had lost considerable business and that the test had discouraged casual play
- they found that many players were simply borrowing cards — thus undermining the rationale for the trial
- they were critical of the reliability of the technology, noting the number of times the machines were ‘down’ and had to be serviced
- they wanted the system removed at the end of the trial (but if retained, to be installed at all locations so that they would not lose custom to non-participating venues).

Norway

In Norway, the re-introduction of EGM gaming in late 2008 has involved a new harm minimisation regime based on its existing player card system. The card system had existed as a voluntary means of cashless gaming for Norwegian residents (using social security numbers as its identifiers). However, since the roll-out of new state owned EGMs, all EGM gaming is strictly card-based and cashless. In February 2009, almost all gambling products became card-based (Norsk tipping 2009, p. 14). Norway’s system of pre-commitment is the most globally developed system, with around 1.9 million cardholders by the end of 2008.

The voluntary pre-commitment options available to EGM players include limiting expenditure or gambling time, setting breaks in play, and self excluding for up to 100 days. The voluntary options are in addition to the limitations on gaming placed by the government that:

- limit spending to 400 NOK per day or 2200 NOK per month. (At exchange rates prevailing in late September 2009, these amounts correspond to \$80 and \$440 Australian respectively.)
- limit bets to 50 NOK (A\$10)
- limit wins to 1500 NOK (A\$300)
- enforce 10 minute breaks after each hour of play.

Norway's mandatory limitations on EGM play are more akin to the Dickerson approach described in chapter 10, effectively distinguishing them from the 'partial' pre-commitment systems trialled in other locations.

Sweden

Sweden's state-owned gambling operator Svenska Spel, introduced a mandatory 'Player-card' for internet poker players. Gamblers authorise the transfer of funds from a linked account to the card, and any winnings are paid automatically into the gambler's account. To play, customers are required to set time and money limits. The setting of limits is the main function of the card, but it also offers play management features, including a summary of player history (for the previous 12 months), allows for 'time out' periods and offers risk assessment features on an opt-in basis.

The Player-card is made available for voluntary use in other forms of gambling, including bingo, lotteries and sports betting, and incentives, such as free lottery tickets, are provided to encourage customers to register.

Player-cards are now operated by 1.3 million Swedish customers and are described as a well-accepted technology (Responsible Gambling Council (RGC 2009)). To register for a Player-card, customers must be aged over 18 and there are procedures to ensure that each player operates only one account. To log on to play, a card number, username and password are required.

Setting time and money limits

Users of the online poker site are required to set money limits (per day, week and month) and time limits (per session, day and month). The behaviour of customers in setting these limits has been evaluated through two surveys involving around 3000 participants. The evaluation (by the Internet Poker Committee 2008 (cited in RGC 2009)) found that most players set realistic time and money limits, although money limits were generally found to be a more effective device for most customers, and were normally reached before set time limits.

While setting limits is compulsory, players can effectively 'disable' the limit feature by choosing a setting that is too high — for example, 24 hours a day. Around one-third of players and 40 per cent of players set money and time limits that, respectively, were effectively non-binding.

Nevertheless, 42 per cent of players set money limits that broadly corresponded with what they intended to spend and 25 per cent set money limits only somewhat

higher than what they intended to spend. Given the ease of choosing effectively non-binding high limits, these results suggest most gamblers valued the control that pre-commitment gives them.

A player can change their limit at any time, but there is a delay before any requested increase takes effect. For example, if the limit is set per day, then there is a lag of two days before the increase takes effect; if the limit is set per month, an increased limit takes effect on the first day of the next month. Of gamblers that hit their limits, 63 per cent reported that they did not go to another company and 68 per cent did not change their limits.

Barring accounts — the ‘time out’ feature

Customers can elect to have their account barred for a period of time. Of those using this feature, most activate a week long time-out period, but it is also possible to have time out for a day, a month, three months, six months or even a year. Overall, around 5 per cent of Sweden Spel internet poker players have used this feature, including those without gambling problems. Three per cent of players assessed as non-problem gamblers have barred their accounts, compared with 11 per cent of gamblers with problems. Of those who were barred for various periods, 75 per cent did not use poker at other sites during the time that they were barred.

Playscan risk assessment system

If they wish, players can use *Playscan* to analyse their play for signs of potential problems. By projecting patterns of play, *Playscan* gives players a green, yellow or red light, alerting them to their level of risk. A survey of 2348 Swedish online gamblers found that around a quarter (26 per cent) had used the *Playscan* option; (Griffiths, Wood and Parke 2009). 90 per cent of those using *Playscan* found it easy to use, and 52 per cent found it useful.

An online self-test is also made available to diagnose potentially problematic play, and is used by around 16 per cent of players. Around one in five of those taking the self-test scored yellow or red. For these players, tailored messages are delivered, a help line number is provided, directions to help services and online chat rooms are made accessible. Those gamblers scoring in the red zone cease to receive promotional material from Sweden Spel.

New Zealand

The New Zealand online lottery, MyLotto, incorporates several pre-commitment and associated features. MyLotto commenced in May 2008 and, in late 2009, had 118 000 registered players of which 45 000 were regular players. The pre-commitment system includes:

- a requirement to set spending limits. Online ticket purchasers must set weekly and monthly limits (figures C.7 and C.8), subject to a maximum weekly limit of NZ\$150 and a monthly maximum of NZ\$300. (The effective limit is therefore an average of around \$70 per week.) Most players have set lower spending limits than the maximum, suggesting that they are actively choosing pre-commitment. People who spend to the limit consecutively over four months are contacted by NZ Lotteries to offer them assistance if they want it
- self-exclusion options for one or more games. By late 2009, there had been 429, 300 and 1672 self-exclusions for ‘Big Wednesday, Lotto and Keno, respectively
- access to a player transaction history (figure C.9).

C.5 What are the costs and affordability of pre-commitment systems?

There are competing perspectives on the affordability of pre-commitment systems, partly depending on the type of system. For example, the Australian Hotels Association argued that:

It is clear the introduction of smart card technology will impose an enormous cost on industry. ... [and] will also significantly reduce venue gaming revenue. ... it is expected the introduction of mandatory pre commitment technology will have a devastating impact on hotel employment and community support. (sub. 175, pp. 59–61)

A survey of hotel proprietors echoed these views (figure C.10).

However, whether a reduction in revenue can be regarded as a policy problem depends on the source of those revenue reductions:

- If pre-commitment deterred recreational gamblers from playing — and this was the source of a dramatic revenue effect — then that would be strong grounds for concern. If nothing else, any such risk suggests that enrolment processes should be simple, that the system should be marketed appropriately by governments and venues, and that there be a way of allowing occasional gamblers to play without significant barriers (chapter 10). However, the bulk of gaming revenue is from

regular gamblers³ — people who enjoy frequently playing, and for that reason are unlikely to stop doing so because a pre-commitment system is in place.

- If pre-commitment achieved its harm minimisation objectives, then it would reduce revenue by effectively counteracting people’s tendencies to lose control and overspend (chapters 4 and 10).

The goal of consumer and public health policy is to achieve better outcomes for consumers and the community generally, including addressing any harms they may face, and not preserving industry revenue *per se* (chapter 6).

The revenue-deflecting impacts of pre-commitment are only one relevant issue in considering the cost and benefits of a scheme. Another key element is the economic cost of purchasing, installing and managing any pre-commitment technologies. The costs of implementing pre-commitment systems depend on many factors.

Figure C.7 The MyLotto pre-commitment system — account setup

MY LOTTO Account Setup

Nearly there. Please finalise the setup of your account.

Spending Limits

Spend limits allow you to control the amount you may spend on a weekly and monthly basis. These limits are regardless of winnings. As part of your account setup you must set the amount you would like to be able to spend.

Weekly

Monthly

Bank Account

You must nominate a New Zealand bank account to pay prize winnings to. This account should be in the surname you have registered (joint accounts can only be registered against one MyLotto account).

NZ Bank Account Number

or

Data source: Screenshot provided by NZ Lotteries February 2010.

³ For example, in the Nova Scotia trial, regular VLT players accounted for 94 per cent of revenue (Focus Research 2007, p. iii.)

Figure C.8 The MyLotto pre-commitment system — setting limits

Change Your Spending Limits

Spend limits allow you to control the amount you may spend on a weekly and monthly basis. These limits are regardless of winnings.

Please note that the weekly spending limit change takes effect on the following Sunday and the monthly change takes effect on the 1st of the next month.

You are not able to spend more than the maximum spending limits which are designed to promote responsible gambling.

Your current spending limits are:

	Current	New	
Weekly	\$150	<input type="text" value=""/> ▼	Max \$150
Monthly	\$250	<input type="text" value=""/> ▼	Max \$300

Enter your MyLotto password

[Save Changes](#)

Data source: Screenshot provided by NZ Lotteries February 2010.

Figure C.9 MyLotto transaction account details

My Account

Account Balance

\$35.90

[Deposit Funds](#)
[Withdraw Funds](#)

My Tickets Click ticket to view

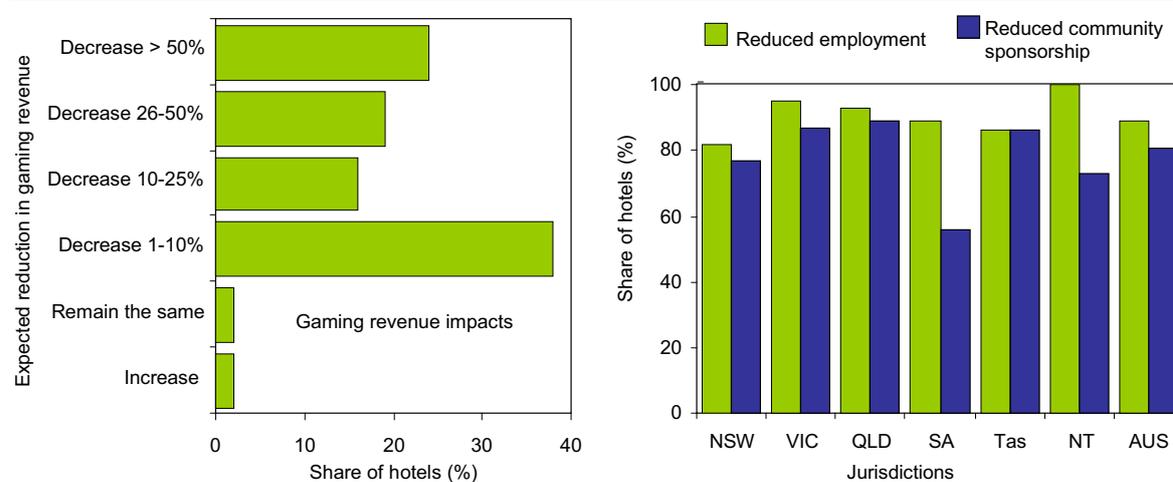
Purchased	Ticket	Draw#	Draw Date	Status	Outcome
25-09-2009	Lotto Powerball Cou...	Multi	26-09-2009 - 10-10-2009	Draws remaining	-
31-08-2009	Lotto Powerball Cou...	Multi	05-09-2009 - 19-09-2009	Complete	Not a Winning Ticket
26-08-2009	Lotto Powerball Vou...	1161	05-09-2009	Complete	Not a Winning Ticket
26-08-2009	Lotto Powerball Bas...	1160	29-08-2009	Complete	Not a Winning Ticket

[View All Tickets](#)

Data source: Information provided by NZ Lotteries.

Figure C.10 Perceptions of disaster

Views of hotel proprietors of the impacts of smart cards



^a The data relate to *expectations* of the impacts of the introduction of smart cards for playing gaming machines.

Data source: PricewaterhouseCoopers 2009, *Australian Hotels, More than Just a Drink and a Flutter*, April.

Different systems will have different costs

There have been few costings of supplied or prospective pre-commitment systems, although some information is available.

- It was estimated that the cost of the Maxetag system for pre-commitment was around \$1210 for each smartcard terminal, about \$8800 per venue for various computers and peripherals, \$4 per gambling card and around \$3000 for a 40 gaming machine venue for sundry costs such as cabling and installation. The overall cost was around \$1500 per terminal. Existing users of the loyalty card system would face significantly lower costs (Worldsmart Technology 2005).
- The pre-commitment systems used in the Queensland trials were estimated to cost around \$1 to \$2 per machine per day.
- Regis Controls estimated relatively low costs for a pilot scheme for pre-commitment, which are relevant for the trial of full pre-commitment proposed by the Commission:

A pilot scheme: how much would it cost? Smartcards, \$2; readers on all EGMs, \$30 fitted; central system, \$10 to 20 million per annum on an outsourced basis using a five-year contract. What would the pilot cost: \$100 000 to \$250 000, depending on the size of the town selected. How soon could it be implemented? A pilot scheme, one year; a full rollout, two to three years. (Evidence from Regis Controls before the Select Committee on Gaming Licensing, 3 March 2008)

The Commission has not proposed the early adoption of pre-commitment, recognising the costs of machine modifications, and the technical and practical realities associated with the implementation of pre-commitment (chapter 19). In that context, the relevant costs (beyond the need to have a compatible central monitoring system) depend on the incremental costs of pre-commitment functionality in new EGMs, which the Commission understands are low.

D Scoring in the Canadian Problem Gambling Index

Key points

- Some Australian jurisdictions have used a modified version of the Canadian Problem Gambling Index, with concerns that this may significantly affect estimated prevalence rates.
- Using a range of plausible assumptions and simulation analysis, it is likely that using the amended CPGI:
 - underestimates the number of problem gamblers. It is not likely that the effect is more than a few per cent
 - overestimates the numbers of moderate risk gamblers to a more significant degree. The effect could readily be around 5 per cent
 - has ambiguous effects on the numbers of low risk gamblers
 - underestimates the number of no risk adults, but by a negligible degree.

As noted in chapter 5 and by Jackson et al. (2009), several Australian jurisdictions have altered the major contemporary instrument — the Canadian Problem Gambling Index (CPGI) for testing the extent of gambling risks in the population. The standard CPGI screen developed by Harold Wynne in Canada recommended a four-way classification of the frequency of problematic behaviours, with a scoring method of never=0, sometimes=1, most of the time=2, and almost always=3. But many Australian jurisdictions have introduced a new category, ‘rarely’, and altered the name of ‘almost always’ to ‘always’, with scoring of never=0, rarely=1, sometimes=1, often=2, and always=3.

Harold Wynne points out that changes to the screen may have changed its psychometric properties and, therefore, the interpretation of the prevalence estimates that result from the use of the screen. The critical policy question is the impact of this significant conceptual amendment on the measured risks from gambling. The effects can be tested empirically by making assumptions about what people answering the amended screen would have done had they answered the original screen (that is, different assumptions about ‘decision rules’).

D.1 What decision rules are credible?

The Likert items used in both versions of the CPGI correspond to subjective probabilities of certain states. Accordingly, taken literally, ‘never’ would mean a zero probability of some state (like feeling guilty) and ‘always’ would mean a 100 per cent of that state. In fact, people tend to use these terms in a more fuzzy way, so that ‘never’ might, in certain contexts, include things that happen once a year and ‘always’ might include things that happen *nearly* all the time. How people translate their beliefs about probabilities depends on the number of Likert items and also their labels, with a plausible representation of how each version of the CPGI corresponds to probabilities set out in figure D.1.

For each scale item in the modified screen, some assumption must be made about whether a respondent would be likely to choose some corresponding item on the unmodified CPGI scale, had that been presented.

- From one perspective, someone who does something ‘rarely’ (score of 1 under the amended CPGI), still does it ‘sometimes’ (also a score of 1 under the original CPGI). In that case, the introduction of ‘rarely’ would not alter CPGI results (since both score 1). However, as Harold Wynne argued in a personal communication to the Commission, an alternative view is that some people answering ‘rarely’ would have, in fact, considered the frequency so low that ‘never’ (score of 0) was a more appropriate response than ‘sometimes’. So it might be expected that a small proportion of people (β) answering ‘rarely’ under the amended screen would have answered ‘never’ had they been asked the unmodified screen. This would tend to give higher scores on the modified CPGI.
- It can be expected that a proportion of people who do something ‘very frequently’, but not always, will choose ‘often’ under the modified CPGI, but would have selected ‘almost always’ under the unmodified CPGI. This would tend to give lower scores on the modified CPGI.
- The addition of ‘rarely’ in the modified scale would be likely to partly displace the item ‘sometimes’ so that it covers higher probability events than the corresponding item ‘sometimes’ in the unmodified scale (figure D.1). Consequently, it can be expected that some people answering ‘sometimes’ on the modified scale would have answered ‘often’ on the unmodified scale. Again, this would tend to give lower scores on the modified CPGI.

Figure D.1 **The different scales of the instruments correspond to different probabilities**

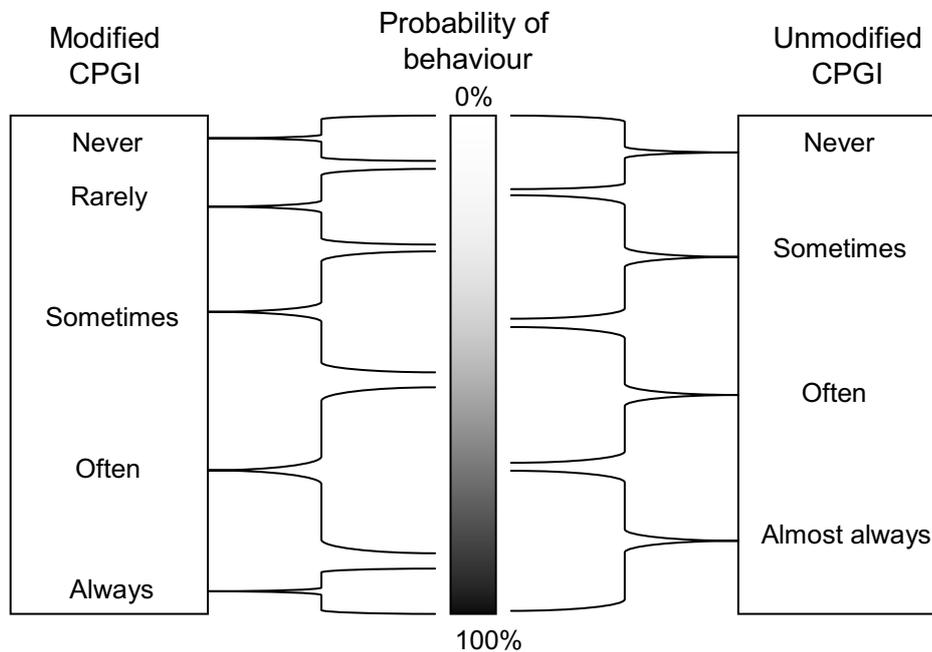
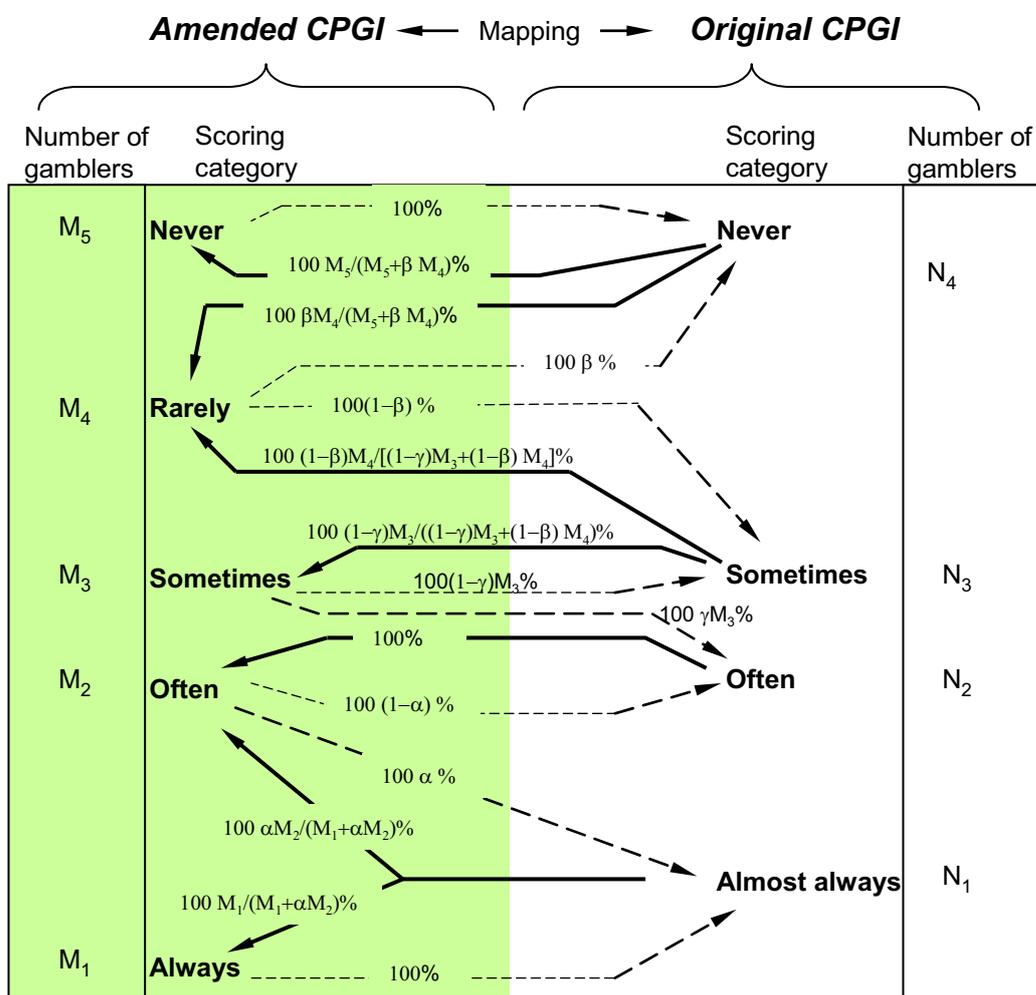


Figure D.2 shows the implications of decision rules in which:

- there is a share of respondents (β) answering ‘rarely’ to questions from the new screen who would have answered ‘never’ to questions from the original screen
- there is a share of respondents (α) answering ‘often’ to questions from the new screen who would have answered ‘almost always’ to questions from the original screen
- there is a share of respondents (γ) answering ‘sometimes’ to questions from the new screen who would have answered ‘often’ to questions from the original screen.

The Commission considered the effects of a variety of decision rules on measured prevalence rates. The decision rules were selected so that the mapping in both directions between the original and the new CPGI resulted in outcomes that were plausible for each category (using the formulae shown in figure D.1). For example, using $\alpha=0.5$ when analysing the NSW prevalence data would imply that the number of occasions respondents answered ‘often’ to questions in the original measure would be less than one-third of the number of occasions such respondents answered ‘almost always’ — which seems unlikely. Consequently, the Commission selected values for α , β and γ that did not lead to incongruous impacts on the numbers of people in each risk category.

Figure D.2 The links between the original and amended CPGI



D.2 Some complexities in estimating the impacts of scale modification

Testing the impacts of any given set of decision rules is complex. For instance, one decision rule could be that two in three people answering ‘rarely’ (a score of one) would have answered ‘sometimes’ (also a score of one) under the original screen, but that one in three would have answered ‘never’ (a score of zero). That clearly reduces the aggregate CPGI scores, but its actual effects on the number of people in the no risk, low risk, moderate risk and problem gambling categories is not clear, but depends on how individual respondents answered all of the CPGI questions. To give some examples:

- Consider a person tested using the amended CPGI who answered ‘always’ for three CPGI questions and ‘rarely’ for another question with a total score of ten,

and therefore a classification as a problem gambler. Suppose that this person was one of the three who would have answered ‘never’ instead of ‘rarely’ had the original test been used. Their score on the one relevant question would then be zero, but given the answers given to other questions, their classification as a problem gambler would not change.

- On the other hand, consider a person who was rated as a low risk gambler under the amended CPGI because they answered ‘rarely’ to one question. Suppose that it was this person, rather than the above one, who would have answered ‘never’ had the original CPGI been used. In that case, their classification would change from low risk to no risk.

Accordingly, different choices about *which* ‘one in three’ responses are changed from ‘rarely’ to ‘never’ makes a difference to the overall number of people identified in each risk category. Given this, it is not possible to accurately convert the scores from the amended CPGI to the original CPGI. However, for any given set of decision rules, it is possible to determine the likely average impact on prevalence rates and their confidence intervals by using Monte Carlo methods.

D.3 Monte Carlo simulations

10 000 simulations were run to assess the impacts of the changes to the CPGI. In any single simulation, the following approach was adopted.

- For every question answered as ‘rarely’ for all CPGI questions and by all respondents, a random number (draw) was drawn from a uniform distribution between 0 and 1. If $\text{draw} \leq \beta$ then the answer ‘rarely’ was demoted to ‘never’, and otherwise was rated as ‘sometimes’.
- Similarly, for every question answered ‘often’ for all CPGI questions and by all respondents, a random number was drawn from a uniform distribution between 0 and 1. If that $\text{draw} \leq \alpha$ then the answer ‘often’ was promoted to ‘almost always’, and otherwise stayed at ‘often’.
- Likewise, for every question answered ‘sometimes’ for all CPGI questions and by all respondents, a random number was drawn from a uniform distribution between 0 and 1. If that $\text{draw} \leq \gamma$ then the answer ‘sometimes’ was promoted to ‘often’, and otherwise stayed at ‘sometimes’.
- The conventional CPGI scoring of ‘never’=0, ‘sometimes’=1, ‘often’=2 and ‘almost always’=3 was then applied to all questions and respondents — and a total CPGI score for each respondent was calculated.

-
- Each respondent was then given a risk rating from ‘no risk’ to ‘problem gambler’, based on their aggregate CPGI score.
 - Prevalence rates and numbers of people affected for each of the four risk groups were then calculated and recorded.

This set of calculations were undertaken 10 000 times, so that we ultimately had 10 000 observations for each of the four risk groups. The averages of these observations are estimates of prevalence that would have applied had the original CPGI test been used. They can be compared with the prevalence derived from the amended CPGI. The 10 000 observations can also be used to estimate the confidence levels of the above estimates.

In general, the simulation results (tables D.1 to D.3 applying to NSW, Queensland and South Australian CPGI data respectively) suggest that altering the CPGI scoring categories tends to underestimate the number of problem gamblers — as surmised by Harold Wynne — but the effect is small.¹ It is important to note that the percentage changes shown in the tables relate to the *numbers* of gamblers in each risk group, not the percentage points change in the prevalence rate. To place this in perspective, a 2.9 per cent increase in a prevalence rate of 0.95 per cent — the average bias in the NSW case — increases the prevalence rate to 0.98 per cent. That bias is trivial compared to other sources of uncertainty about the prevalence estimates. However, it should also be noted that there is a possibility that the bias is bigger than this. For example, were $\beta=0.05$ $\alpha=0.30$ $\gamma=0.025$ then, given the confidence intervals shown in table D.1, there is a 5 per cent chance that the bias would be 12.9 per cent or more. In turn, that suggests the possibility that the prevalence rate could be $1.129 \times 0.95 = 1.07$ per cent or more, a more significant measurement error.

The use of the amended CPGI also tends to *overestimate* the number of moderate and lower risk gamblers. This arises because there are more gamblers in these risk groups who answered ‘rarely’ on a CPGI item and fewer who answered ‘often’. Consequently, the likelihood of ‘demotion’ to a lower risk group is higher than the likelihood of ‘promotion’. The overall effect on the size of the low risk group depends on the numbers of gamblers demoted from the moderate-risk category compared with the numbers of people in the low-risk group demoted to the no-risk group. In the NSW dataset, the combined effect is that the numbers of low-risk gamblers rise after adjustment, while in the Queensland and South Australian datasets, numbers in both the moderate and low-risk groups fall somewhat.

¹ In addition, the problem gambling prevalence rate is underestimated only in those studies (the bulk) where regular gamblers alone are asked the CPGI. There is a very small negative (average) effect for the Queensland survey.

Table D.1 Conjectural impacts of the adapted CPGI on prevalence rates

NSW prevalence data, 2006

Decision rule	Percentage change in the number of people in each risk category had the original CPGI been used ^a					
	No problem	Low risk	Moderate risk	Problem gamblers		
	%	%	%	Average %	5% cut-off %	95% cut-off %
$\beta=0.05 \alpha=0.10 \gamma=0.00$	0.8	0.9	-3.5	1.0	-2.2	4.7
$\beta=0.05 \alpha=0.10 \gamma=0.025$	0.7	0.2	-3.7	2.9	-1.0	8.5
$\beta=0.10 \alpha=0.10 \gamma=0.00$	1.6	1.7	-6.3	0.5	-3.2	4.7
$\beta=0.10 \alpha=0.10 \gamma=0.025$	1.6	1.1	-6.7	2.6	-2.2	8.5
$\beta=0.20 \alpha=0.10 \gamma=0.00$	3.2	2.7	-11.2	-0.3	-5.3	4.7
$\beta=0.20 \alpha=0.10 \gamma=0.025$	3.4	1.8	-11.6	1.5	-3.2	7.3
$\beta=0.05 \alpha=0.20 \gamma=0.00$	0.8	0.8	-4.2	2.4	-0.9	7.6
$\beta=0.05 \alpha=0.20 \gamma=0.025$	0.7	0.1	-4.5	4.5	0.0	10.7
$\beta=0.10 \alpha=0.20 \gamma=0.00$	1.6	1.5	-6.9	1.9	-3.2	7.3
$\beta=0.10 \alpha=0.20 \gamma=0.025$	1.6	0.8	-7.2	4.1	-1.3	10.1
$\beta=0.20 \alpha=0.20 \gamma=0.00$	3.2	2.6	-12.0	1.1	-3.2	7.3
$\beta=0.20 \alpha=0.20 \gamma=0.025$	3.3	1.8	-12.2	2.9	-3.2	9.4
$\beta=0.05 \alpha=0.30 \gamma=0.00$	0.8	0.6	-4.9	4.1	0.0	10.7
$\beta=0.05 \alpha=0.30 \gamma=0.025$	0.8	0.0	-5.3	6.1	0.0	12.9
$\beta=0.10 \alpha=0.30 \gamma=0.00$	1.5	1.5	-7.7	3.7	-2.2	9.8
$\beta=0.10 \alpha=0.30 \gamma=0.025$	1.6	0.8	-8.0	5.6	0.0	12.9
$\beta=0.20 \alpha=0.30 \gamma=0.00$	3.3	2.6	-12.8	2.4	-3.2	8.5
$\beta=0.20 \alpha=0.30 \gamma=0.025$	3.3	1.6	-12.8	4.5	-2.2	11.1
Mean of the means	1.9	1.3	-7.9	2.9	-2.0	8.7

^a Based on 10 000 simulations for each decision rule. Data are the percentage *differences* between the simulated score (which is intended to proxy the result that would have occurred had the original screen been applied) and the actual CPGI score from the survey. For example, were $\beta=0.05$, $\alpha=0.3$ and $\gamma=0$, then the likely effect of using the original screen would be a 4.1 per cent increase in the number of problem gamblers. The 5% lower and 95% higher cut-offs describe the 90 per cent confidence interval for the problem gambling rate. Accordingly, for the decision rule example above, there is a 90 per cent likelihood that the problem gambling rate would have been between no higher and 11 per cent higher. The results for those with no problems include people who did not gamble or gamble frequently enough to be tested using the CPGI.

Source: PC calculations.

Table D.2 Conjectural impacts of the adapted CPGI on prevalence rates

Queensland prevalence data, 2006-07

Decision rule	Percentage change in numbers of people in each risk category had the original CPGI been used ^a					
	No problem	Low risk	Moderate risk	Problem gambler		
	%	%	%	Average %	5% cut-off %	95% cut-off %
$\beta= 0.05 \alpha= 0.10 \gamma= 0.00$	0.2	-1.7	-2.0	-1.4	-6.1	2.7
$\beta= 0.05 \alpha= 0.10 \gamma= 0.025$	0.2	-2.3	-1.1	2.2	-3.1	7.8
$\beta= 0.10 \alpha= 0.10 \gamma= 0.00$	0.4	-3.2	-4.1	-3.9	-9.0	1.2
$\beta= 0.10 \alpha= 0.10 \gamma= 0.025$	0.4	-3.9	-3.3	-0.3	-6.4	5.7
$\beta= 0.20 \alpha= 0.10 \gamma= 0.00$	0.9	-6.7	-8.5	-8.2	-13.4	-3.3
$\beta= 0.20 \alpha= 0.10 \gamma= 0.025$	0.9	-7.3	-7.6	-4.8	-10.7	1.8
$\beta= 0.05 \alpha= 0.20 \gamma= 0.00$	0.2	-1.8	-2.1	0.3	-4.7	4.8
$\beta= 0.05 \alpha= 0.20 \gamma= 0.025$	0.2	-2.4	-1.0	3.7	-2.0	9.5
$\beta= 0.10 \alpha= 0.20 \gamma= 0.00$	0.4	-3.5	-4.0	-2.3	-7.4	2.9
$\beta= 0.10 \alpha= 0.20 \gamma= 0.025$	0.4	-4.0	-3.2	1.3	-5.1	7.8
$\beta= 0.20 \alpha= 0.20 \gamma= 0.00$	0.9	-6.8	-8.4	-6.7	-12.2	-1.2
$\beta= 0.20 \alpha= 0.20 \gamma= 0.025$	0.9	-7.4	-7.6	-2.9	-8.9	3.8
$\beta= 0.05 \alpha= 0.30 \gamma= 0.00$	0.2	-2.0	-2.0	1.8	-3.6	6.6
$\beta= 0.05 \alpha= 0.30 \gamma= 0.025$	0.2	-2.5	-1.1	5.5	-0.9	11.4
$\beta= 0.10 \alpha= 0.30 \gamma= 0.00$	0.4	-3.6	-4.1	-0.8	-6.7	4.8
$\beta= 0.10 \alpha= 0.30 \gamma= 0.025$	0.4	-4.1	-3.2	2.8	-3.9	9.7
$\beta= 0.20 \alpha= 0.30 \gamma= 0.00$	0.9	-7.0	-8.5	-4.9	-10.8	1.0
$\beta= 0.20 \alpha= 0.30 \gamma= 0.025$	0.9	-7.6	-7.4	-1.8	-8.6	5.2
Mean of the means	0.5	-4.3	-4.4	-1.1	-6.9	4.6

^a Unlike the NSW and South Australian surveys, the CPGI was implemented for all gamblers in Queensland, not just 'frequent' ones. This is probably why the effects found for this dataset are somewhat different from those found in those jurisdictions. In particular, non-frequent gamblers are much more likely to have ticked 'rarely' for an item, and so the likelihood of 'demotion' is greater for these groups. Since non-frequent gamblers are the most common ones, the overall effect is that all risk categories (CPGI 1+) show average reductions in numbers — albeit small ones.

Source: PC calculations.

Table D.3 Conjectural impacts of the adapted CPGI on prevalence rates

South Australian prevalence data, 2005

Decision rule	Percentage change in numbers of people in each risk category had the original CPGI been used ^a					
	No problem	Low risk	Moderate risk	Problem gambler		
	%	%	%	Average %	5% cut-off %	95% cut-off %
$\beta=0.05 \alpha=0.10 \gamma=0.00$	0.5	-1.0	-1.4	0.0	-4.1	4.1
$\beta=0.05 \alpha=0.10 \gamma=0.025$	0.4	-2.0	-1.0	2.7	-2.7	8.1
$\beta=0.10 \alpha=0.10 \gamma=0.00$	1.0	-2.2	-2.9	-1.4	-6.8	2.7
$\beta=0.10 \alpha=0.10 \gamma=0.025$	0.9	-3.0	-2.4	0.0	-5.4	5.4
$\beta=0.20 \alpha=0.10 \gamma=0.00$	1.9	-4.2	-6.3	-5.4	-10.8	0.0
$\beta=0.20 \alpha=0.10 \gamma=0.025$	1.9	-5.0	-5.8	-2.7	-8.1	2.7
$\beta=0.05 \alpha=0.20 \gamma=0.00$	0.5	-1.2	-1.9	1.4	-2.7	5.4
$\beta=0.05 \alpha=0.20 \gamma=0.025$	0.5	-2.0	-1.0	4.1	-1.4	9.5
$\beta=0.10 \alpha=0.20 \gamma=0.00$	0.9	-2.2	-3.4	0.0	-5.4	4.1
$\beta=0.10 \alpha=0.20 \gamma=0.025$	0.9	-3.0	-2.4	1.4	-4.1	8.1
$\beta=0.20 \alpha=0.20 \gamma=0.00$	1.9	-4.5	-6.8	-4.1	-9.5	1.4
$\beta=0.20 \alpha=0.20 \gamma=0.025$	1.9	-5.2	-5.8	-1.4	-6.8	4.1
$\beta=0.05 \alpha=0.30 \gamma=0.00$	0.5	-1.2	-1.9	2.7	-1.4	6.8
$\beta=0.05 \alpha=0.30 \gamma=0.025$	0.5	-2.2	-1.4	5.4	0.0	10.8
$\beta=0.10 \alpha=0.30 \gamma=0.00$	0.9	-2.5	-3.9	1.4	-4.1	6.8
$\beta=0.10 \alpha=0.30 \gamma=0.025$	0.9	-3.2	-2.9	2.7	-2.7	9.5
$\beta=0.20 \alpha=0.30 \gamma=0.00$	1.9	-4.5	-6.8	-2.7	-8.1	4.1
$\beta=0.20 \alpha=0.30 \gamma=0.025$	1.9	-5.5	-5.8	0.0	-5.4	6.8
Mean of the means	1.1	-3.0	-3.5	0.2	-5.0	5.6

^aThe CPGI was implemented for frequent gamblers only. The results for those with no problems include people who did not gamble or gamble frequently enough to be tested using the CPGI.

Source: PC calculations.

E Self-exclusion programs and exclusion on welfare grounds

Problem gamblers sometimes seek to control their gambling by excluding themselves from gambling venues — ‘self-exclusion’. Formal self-exclusion programs are available in many countries and in every jurisdiction in Australia.

Jurisdictions also allow licensees to exclude problem gamblers involuntarily under various gaming machine acts or codes of practice if their gambling is damaging to themselves or their dependants (that is, on welfare grounds). In addition, some casinos allow staff-initiated exclusion on welfare grounds. Family members have recently become able to initiate exclusions in some jurisdictions.

This appendix:

- provides a brief discussion of the operation of self-exclusion programs in Australia, such as the types of schemes and the number of exclusions in force. It also discusses involuntary exclusions based on welfare grounds (E.1)
- explores the strengths and weaknesses of exclusion schemes, drawing on domestic and overseas research (E.2)
- provides detailed information on the exclusion policies in place in Australia (E.3).

E.1 Operation of schemes in Australia

In most states and territories, clubs and hotels are required to develop and operate self-exclusion programs (section E.3). The exceptions are Tasmania, which has a government-administered scheme that allows state-wide self-exclusions, and Western Australia, where electronic gaming machines are only permitted in the casino. For casinos, the specific power to grant self-exclusions is provided by legislation in all jurisdictions except Western Australia (although the casino in Western Australia runs a program voluntarily).

Self-exclusion programs are similar in many respects to the procedures that venues use to control unacceptable behaviour. They are backed by a legal right to use

reasonable force to remove excluded patrons and, in large venues, are the responsibility of security departments. The main difference between voluntary and involuntary exclusions is that voluntary agreements emphasise a personal responsibility to stay away.

Features of self-exclusion programs

By signing a self-exclusion agreement, people usually agree to certain obligations and forgo some rights. These include:

- agreeing not to enter the gaming area and not to play gaming machines at the nominated venue(s) or not to enter the venue at all
- authorising staff to stop them from entering or remaining in a gaming area or a venue that they are excluded from
- authorising photographs and personal details to be taken and disseminated to relevant venues and for the venues to display the photographs
- waiving the right to sue nominated venues, their staff or the program administrator on the grounds of assault, defamation or failing in a duty of care to exclude
- accepting their personal responsibility to stay away
- acknowledging that nominated venues or their staff have no legal duty implied by the self-exclusion deed.

A breach is recorded if a person is discovered contravening their agreement. The first time a person is discovered breaching self-exclusion, they are typically asked to leave the venue. In some jurisdictions, this process also involves the attendance of a representative from the gambling regulator. While rarely used, someone breaching a self-exclusion agreement can, in most jurisdictions, be charged with an offence and/or be fined. Repeat offenders may also be placed under involuntary exclusion orders — subjecting them to harsher penalties should they re-offend.

Self-exclusion programs in Australia have many common features:

- a gambler makes an initial request for self-exclusion to a venue staff member or the central administrator of a self-exclusion program
- during the initial interview, applicants are given information/referrals to problem gambling counsellors, are advised about their legal responsibilities and the penalties that can be imposed if they break their agreements
- photographs and details are distributed to the venues from which the applicants have excluded themselves

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- people entering self-exclusion agreements have their memberships cancelled and have their names removed from mailing lists so they are not sent advertising for gaming events
 - self-exclusion agreements can be revoked prior to reaching their agreed end-dates
 - often people are contacted before their agreements expire and asked if they want to have their exclusion extended
 - most schemes require the removal of records once agreements have lapsed or been revoked. This measure may reduce privacy concerns, which could otherwise prevent some problem gamblers from entering into self-exclusion programs.

However, there are significant differences across jurisdictions and venues between the various self-exclusion arrangements, which affect the obligations of venues, and the features of, and mechanisms for, self-exclusion (with the detail described in section E.3). In some cases, the variations reflect the decisions of venues, rather than regulatory requirements.

Some of the variations between jurisdictions and venues include:

- under some programs, individual venues have responsibility for conducting interviews with applicants for self-exclusion. In other programs, a central administering body conducts the initial interview
- in different jurisdictions, the length of self-exclusion agreements can vary. Agreements may be for an indefinite period or may expire after a period of months or years. In some cases applicants can specify how long the self-exclusion period will last
- the minimum period during which an agreement cannot be revoked
 - the two most common minimum periods are six months and twelve months
- the procedures for revoking a self-exclusion agreement differ
 - some schemes require an interview either with the venue or more usually with the central program administrator
 - at the interview, a letter from a supporting person is usually required. In some jurisdictions, a letter from a family member or friend is needed, while other schemes require a gambling counsellor to write a letter supporting a revocation
 - evidence that the person has attended problem gambling counselling is often required

-
- some agreements offer the choice of exclusion from multiple venues, while others only offer single-venue exclusions.

While the Commission has recommended a more coherent set of arrangements for the core features of self-exclusion (chapter 10), it has not recommended that all of the variations should be eliminated. The costs of eliminating all variations may be high compared with the benefits, and some variation may suit the circumstances of the venues and/or provide useful experimental evidence about effective arrangements.

How many people use self-exclusion programs?

The Commission estimates that there are around 15 000 self-exclusion agreements in force (table E.1). This suggests that between 9 and 17 per cent of problem gamblers in Australia are currently self-excluded.

This range is an approximation because:

- for most casinos the most recently available numbers were for 2002 and these probably understate the 2009 numbers
- some gamblers may have self-excluded under multiple programs (such as casino and club programs) and so will be double counted
- even though we have attempted to include only information on the number of *current* agreements, some lapsed or revoked agreements may still have been counted.

Findings from Australian surveys of problem gamblers

State gambling-prevalence surveys also provide data on self-exclusions. The various prevalence surveys reported that 31 to 61 per cent of problem gamblers surveyed have attempted to self-exclude (AC Nielson 2007; Queensland Government 2006; 2008; South Australian Department of Families and Communities 2006). These surveys generally interview less than 200 people who are categorised as problem gamblers, regardless of whether or not they are attending help services.

These estimates are likely to overstate the number of self-exclusion agreements as the prevalence surveys do not directly ask respondents to report whether they have *formally entered* self-exclusion agreements. Rather, they ask respondents to report *attempts* to self-exclude. In a review of prevalence estimates, the South Australian Centre for Economic Studies found only around half of those people attending self-exclusion interviews (and therefore making some attempt to self-exclude) go on to sign self-exclusion agreements (SACES 2003).

Table E.1 Exclusion agreements

<i>State</i>	<i>Venue(s)</i>	<i>Year of data</i>	<i>Exclusion agreements</i>
			Number
NSW	Star City Casino	2006-07	1962
	BetSafe (NSW, and ACT)	2009	1855
	GameCare (AHA NSW)	2009	934
	ClubSafe	2009	1000 (est) ^b
	BetCare (wagering)		
VIC	Crown Casino	2002	860
	Hotels and clubs and pubs (AHA Vic)	2009	1830
	BetCare (wagering)		
QLD	Conrad Treasury Casino (Brisbane), Conrad Jupiter's Casino (Gold Coast), Jupiter's Townsville Hotel and Casino, Sofitel Reef Casino (Cairns)	2009	788
	Clubs and hotels	2009	2385
SA	SkyCity Casino (Adelaide)	2002	288
	Clubs and Hotel self-exclusions and licensee-initiated exclusions made under the SA Gaming Machines Act (administered by the OLGC)	2009	605 ^c
	Self barrings made through the IGA one-stop shop program)	2008	804
WA	Burswood Casino	2002	452
TAS	Wrest Point Casino	2002	200
	Country Club Casino (Launceston)	2002	126
	Clubs and Hotels		–
	Clubs and Hotels (Tasmanian Gambling Exclusion Scheme) ^c	2007	282
NT	SkyCity Casino (Darwin)	2009	36
	Lasseters Hotel Casino (Alice Springs)	2009	24
	Clubs and Hotels		–
ACT	Casino Canberra	2009	171
	Clubs and Hotels		–
Total			14 602^a

^a Our estimate of the number of self-exclusions from casinos (4907) differs from the estimate made by Allens Consulting in their attachment to the Australasian Casinos Association submission (sub 214). They identified 16 000 self-exclusions in Australian casinos in 2008 (p. 55 of *Casinos and the Australian Economy*, attachment to sub. 214). However, this estimate includes involuntary exclusions — which, based on numbers published in NSW and Victoria (NSW Casino Control Annual Report 2006-07), would make up more than half of all exclusions. It may also include agreements that have lapsed or been revoked. ^b This is a 'best guess' estimate provided by ClubsNSW. ^c This figure includes self barrings (the majority) and licensee-initiated barrings (where the licensee believes the person or the person's dependants are suffering harm because of excessive play).

Sources: Information requests from the various Australian Hotels Associations, various Club associations, from BetSafe, and from the various State and Territory Regulators; SACES (2003); and SA Centre For Economic Studies (SACES) (2008), *Social and Economic Impact Study into Gambling in Tasmania*, vol. 1, Final Report, commissioned by the Tasmanian Department of Finance and Treasury, p. 189; Information provided by the ACT Treasury.

The Productivity Commission surveyed problem gamblers undergoing counselling (appendix F). Based on the survey responses received, 39 per cent of problem gamblers undergoing counselling had self-excluded from gambling. This figure is likely to overstate the true proportion among the full population of problem gamblers because:

- those in counselling are more likely to try to control their problem gambling than those who are not
- attending problem gambling counselling is usually a requirement of self-exclusion programs.

In summary, we estimate that somewhere between 10 to 30 per cent of problem gamblers have a current self-exclusion agreement in place.

E.2 Research on the effectiveness of self-exclusion arrangements

Several studies have examined the effectiveness of self-exclusion schemes operating in Australia and overseas. The assessments of Australian and overseas self-exclusion programs (boxes E.1 and E.2) generally find that the majority of participants benefit from such schemes. These benefits include participants reporting:

- decreases in gambling expenditures and improved financial circumstances
- that they feel they have more control of their circumstances
- that they mostly did not breach their self-exclusion arrangements
- that if they attempted to breach their self-exclusion agreements, they were often identified by venue staff.

But, these studies also find that a substantial minority of self-excluded gamblers breach their agreements and continue to gamble.

While these studies provide evidence of positive impacts associated with self-exclusion programs, they do not indicate the magnitude of any *causal* link. A gambler's willingness to address their adverse gambling behaviours precedes self-exclusion. It is likely that a combination of that willingness and the self-exclusion, results in better outcomes for the problem gambler. Ideally, research would separate the effects of motivation and self-exclusion, though in practice that would be hard to do. However, it is likely that the two effects are complementary. A motivation to change leads to better outcomes, and self-exclusion reinforces that motivation.

Box E.1 Assessments of Australian self-exclusion arrangements

A survey of 135 problem gamblers participating in the Australian Hotels Association (AHA) NSW self-exclusion program in 2005 (Croucher and Leslie 2007) found that:

- nearly all participants were supportive of the program, stating that there had been positive financial and relationship outcomes
- around 70 per cent of gamblers participating in the program reduced their gambling expenditure by at least half
- 45 per cent of males and 33 per cent of females returned to gamble at the venues from which they had excluded themselves
- around 75 per cent started gambling again within six months of their initial self-exclusion.

Macquarie University conducted an independent assessment of the NSW GameCare program in 2003. It found that:

- 88 per cent of surveyed participants found the self-exclusion program to be satisfactory
- 76 per cent of surveyed participants found themselves financially better off
- 65 per cent cited significant improvement in their personal relationships
- more than 70 per cent reported significant reductions in the money spent on gambling
- of those who reported breaching self-exclusion, 63 per cent received direct intervention from hotel staff. (sub. 175, p. 87)

Australian qualitative evaluations of impacts

Qualitative Australian studies have identified several flaws in self-exclusion arrangements,¹ including:

- self-exclusion agreements could easily be breached
- problem gamblers were discouraged by certain ‘barriers’ from self excluding
- some elements of self-exclusion programs were ineffective
- information collection was poor.

These studies also suggested ways to improve self-exclusion arrangements, which partly informs the analysis in chapter 10.

¹ The main studies are the Gambling Research Panel’s (SACES 2003) evaluation of Victorian self-exclusion programs and the IPART (2004) evaluation of self-exclusion programs in NSW.

Box E.2 Assessments of overseas self-exclusion arrangements

Ladouceur, Jacques, Giroux, Ferland and Leblond (2000) conducted a study of 220 individuals who excluded themselves from casinos in the province of Quebec, finding that:

- 66 per cent barred themselves for 12 months or less, 9 per cent for more than 12 months and less than five years and 25 per cent for five years
- 36 per cent reported returning to the casino during the exclusion period
- 50 per cent reported having gambled on other games, such as video-lottery games during their self-exclusion period
- 30 per cent of participants did not gamble at all during their self-exclusion period.

In a second study Ladouceur, Sylvain and Gosselin (2007) interviewed 117 participants in self-exclusion programs.

- A third of the participants excluded themselves for six months, 46 per cent for 12 months and 21 per cent for 24 months or more.
- Six months after signing their agreements, around 60 per cent of those excluding for six months were found to have stayed away.
- Twelve months after signing, 45 per cent of those with 12 month agreements and 90 per cent of those with 24 month agreements had stayed away.
- Eighteen months after signing, 73 per cent of those with 24 month agreements had stayed away.

The researchers found that some participants did not understand that, under the agreements, they bore the main responsibility to stay away, not the venue staff.

SOGS and DSM-IV scores were found to be significantly reduced over the exclusion period. When the researchers conducted follow up interviews, they found large reductions in the urge to gamble and large perceived increases in control over gambling. Overall, the intensity of the negative consequences of gambling on daily activities, social life, work and mood were significantly reduced.

Nowatzki and Williams (2002) compared studies of self-exclusion policies in the Netherlands and in various Canadian provinces. They note that fewer self-excluded gamblers break their agreements in the Netherlands, where casinos are required to ask patrons for photographic identification upon entry and where computer databases are then used to identify self-excluded persons.

Difficulties in indentifying breaches of self-exclusion agreements

Any weakness in enforcing self-exclusion agreements reduces their effectiveness. The Gambling Research Panel's (SACES 2003) evaluation of Victorian self-exclusion programs found weak enforcement:

Identifying self-excluded patrons from photographic information is highly problematic from the venues' perspective and the problem of detection can only be compounded with any expansion of the program. If the police conclude it is difficult to identify someone from a photograph only, we have concerns as to whether this method is appropriate and realistic for gaming venues and their staff.

Self-excluded patrons report that it is commonplace for breaches to occur and to go undetected. There are no systematic procedures in place to counter this.

In a recent paper sponsored by the industry, it is reported that “monitoring and enforcing self-exclusion requirements has met with varying degrees of success. There are suggestions that venues find it difficult to enforce”. There is also a conflict of interest where enforcing self-exclusion may impact directly on operator income. Clearly, discretionary systems are vulnerable to the actions of self-interested parties. (SACES 2003, pp. vi–viii)

The evaluation went on to say:

The current system is not capable of enforcing self-exclusion and this runs counter to the expectations of self-excluded patrons, counsellors, the media and the community. A failure to detect seriously undermines the program. ... The problem of identification and detection at the venue level is a significant weakness of the program and this will remain, as long as photo recognition-based identification is relied upon. (SACES 2003, p. viii, p. ix)

The IPART (2004) evaluation of self-exclusion programs in NSW also identified flaws in identification processes. For example Star City, while commenting that they thought their program was useful, said that:

...it is not possible to prevent all self-excluded patrons from returning to the casino. People who are determined to breach their orders can disguise themselves in order to try to avoid detection. (IPART 2004, p. 78)

On the other hand, self-exclusion programs may be somewhat effective, even without enforcement, because:

- they allow problem gamblers to make a public commitment to stop gambling
- some problem gamblers will wish to avoid the *potential* embarrassment of being caught in breach of a self-exclusion agreement.

Even so, at least some problem gamblers have difficulty controlling their impulse to gamble. Enforcement of self-exclusion orders would be most beneficial for this group.

The evaluation of Victorian self-exclusion programs (SACES 2003) proposed several measures to achieve better enforcement (some of which we take up in chapter 10), including:

-
- introducing an alternative system of identification involving a central database, along with the exchange of information and photos
 - developing alternative strategies such as pre-commitment
 - having venues issue reminder notices when there are breaches
 - standardising the reporting of breaches
 - displaying information on self-exclusion programs more prominently within venues.

While databases of self-excluded persons can be used to directly identify and prevent people from entering gaming areas in breach of agreements, they could also be used to reduce incentives for self-excluded people to breach their agreements in the first place. For example, in Victoria, legislation requires self-excluded persons who are found to be gambling in breach of their agreements to forfeit any prizes they win. The existence of a jurisdiction-wide database introduces the possibility of improving detection rates by requiring winners to provide identification before they can claim prizes large enough to be paid by cheque.

BetSafe also suggested using forfeiture of prizes to reduce incentives for self-excluded persons to re-enter gaming areas:

BetSafe has developed a policy of asking problem gamblers to agree to a sanction at the time they sign their self-exclusion deed. The sanction is that if they breach their self-exclusion they will forfeit any prize they may win. At the time of winning a prize a person must provide identification and is more likely to be identified, particularly if they entered the venue using a disguise.

In practice, it has not been necessary to carry out the forfeiture, because the thought that a prize might be forfeit is enough to discourage most self-excluded patrons from trying to re-enter BetSafe venues. (sub. 93, p. 15)

Forfeiture of prizes was also raised in the South Australian report into barring arrangements undertaken by the South Australian Independent Gambling Authority. While they did not recommend forfeiture for barred persons, a number of stakeholders were in favour of forfeiture to increase compliance with barring agreements. These included the South Australian branch of the Australian Hotels Associations and Clubs SA. (SA IGA 1999, pp. 28 and 52)

Self-exclusion from multiple venues

A commonly identified flaw in single-venue self-exclusion arrangements is the capacity for a problem gambler to gamble at alternative venues. One problem gambler argued that self-exclusion programs were ineffective for this reason:

Self-exclusion programs do not work for most, as we will always find a ‘venue’ to gamble at, one were we haven’t been self-excluded. (sub. 148, p. 7)

In recognition of this problem, club and hotel self-exclusion programs generally offer the option of excluding from multiple venues. South Australia and Tasmania have gone even further, implementing programs that allow self-exclusion from all gaming venues state-wide.

However, as observed by SACES (2003) and IPART (2004), even with a capacity for multiple-venue exclusions, the problems of enforcing these exclusions are still significant (an issue taken up in chapter 10).

Barriers to signing agreements

Evidence from reviews, problem gamblers and others suggests that there are frictions in the process of self-exclusion that can deter gamblers.

In their submission to this inquiry, BetSafe commented on barriers to entering into agreements, including unsupportive venue staff:

There is considerable variation in the success of self-exclusion programs. Some gaming venues actively promote self-exclusion and make the process quick and effective. Others take little interest and discourage inquiries from patrons who wish to self-exclude. (sub. 93, p. 18)

One participant in the Commission’s survey indicated: ‘[The] manager was unsupportive, [he] emphasised if I self-excluded [I] would miss out on other club activities. [I] felt embarrassed.’

Some programs run by centralised administrators do not allow for the immediate commencement of a self-exclusion agreement. Rather, staff from the program administrator contact the applicant who has requested self-exclusion from a venue to organise a subsequent interview at a site away from the venue. (Only the applicant’s contact details are recorded at the time of the initial approach.) After the interview, the applicant is then invited to sign and enter into the actual self-exclusion agreement — creating a time delay and some inconvenience for problem gamblers wanting to control their gambling. For example, one person in the Commission’s survey of problem gamblers said that they ‘had to go through too much to self-exclude’. Such complexities may deter some from taking action. As recommended in chapter 10, one solution would be to allow gamblers the option of entering into a self-exclusion agreement at the time they make the initial approach.

IPART also commented on this issue.

The Tribunal considers it should be a mandatory requirement that all self-exclusion schemes enable patrons who nominate for self-exclusion to enter into a self-exclusion deed immediately. Such a requirement will enable problem gamblers to follow through with their decision to self-exclude at the point of their crisis. (IPART 2004, p. 80)

IPART also observed that the delays were longer in some programs because they required applicants to attend counselling before allowing the signing of self-exclusion agreements (IPART 2004, pp. 78-79 and table 6.2).

The need to attend a gambling venue to self-exclude (as is the case for the NSW ClubSafe program) is also potentially problematic, particularly at smaller venues. Some gamblers may be embarrassed to discuss self-exclusion at their local venue, or may have concerns about being tempted to gamble while at the venue.

Third-party exclusions

The formal capacity for family members to initiate exclusions is not universal across jurisdictions and venue types. For example, several casinos do not provide specific procedures or application forms for third-party exclusion. In these cases, third-party exclusions have to follow a more difficult process, based on the general ability of the casinos to exclude a patron on the grounds of problematic behaviour.

E.3 Existing self-exclusion arrangements — the details

Most states and territories have many pieces of legislation relating to gambling and multiple regulatory bodies (chapter 17). As such, it is often difficult to identify the legislative and regulatory basis of some gambling policies. The following tables (E.2 to E.7) outline the Commission's understanding of the legislation and regulation relevant to self-exclusion programs and describes how those programs work.

Table E.2 Responsible bodies, legislation and codes of practice relating to self-exclusion programs

	<i>Responsible government body</i>	<i>Legislation or codes of practice</i>
NSW	NSW Casino Liquor and Gaming Control Authority (NSW CLGCA)	Casino Control Act 1992 no. 15 Casino Control Regulation 2009 Gaming Machines Act 2001
Victoria	Victorian Commission for Gambling Regulation (VCGR)	Casino Control Act 1991 Gambling Regulation Act 2003
Queensland	Queensland Office of Liquor and Gaming Regulation (QLD OLGR) Queensland Gaming Commission (QGC)	Casino Control Act 1982 Gaming Machine Act 1991 Cairns Casino Agreement Act 1993 Queensland Responsible Gambling Code of Practice
South Australia	Office of the Liquor and Gambling Commissioner (SA OLGC) Independent Gambling Authority (SA IGA)	Casino Act 1997 Gaming Machines Act 1992 Independent Gambling Authority Act 1995 Problem Gambling Family Protection Act 2004 South Australian Responsible Gambling Code of Practice
Western Australia	Gaming and Wagering Commission of Western Australia — Department of Racing Gaming and Liquor	Casino Control Act 1984
Tasmania	Tasmanian Gaming Commission (TGC)	Gaming Control Act 1993
ACT	Gambling and Racing Commission (GRC)	Casino Control Act 2006 Gambling and Racing Control Act 1999 Gambling and Racing Control (Code of Practice) Regulation 2002
Northern Territory	Racing Gaming and licensing — Northern Territory Treasury (RGL)	Gaming Control Act 2000 A Code of Practice for Responsible Gambling

Source: Various government agencies responsible for gambling regulation.

Table E.3 Self-exclusion legislation for casinos

NSW	The Casino Control Act 2009 provides the right to self-exclude. The regulations require the casino to have their self-exclusion policy approved by the regulator.
VIC	The Casino Control Act 1991 provides the right to self-exclude. The regulations require a self-exclusion program as a condition of having a licence.
QLD	The Casino Control Act 1982 provides the right to self-exclude and to self-exclude on welfare grounds. The QLD OLGR's mandatory Responsible Gambling Code of Practice require self-exclusion programs and venue-initiated exclusions on welfare grounds.
SA	The Casino Act gives the right to self-exclude. The Responsible Gambling (Casino) Code of Practice requires casinos to provide self-exclusion programs. The Independent Gambling Authority also operates its own self-exclusion program. The Problem Gambling Family Protection Act 2004 allows for third-party initiated exclusions on welfare grounds.
WA	The Casino Control Act gives the operator a general right to exclude.
TAS	The Gaming Control Act specifically allows for self-exclusions and for third-party exclusions. Self-exclusion and third-party exclusion are also available through the Gaming Commission.
ACT	The Casino Control Act gives a general right to exclude. The Gambling and Racing Control Act allows the regulator to create regulations requiring self-exclusion programs. The mandatory code of practice administered by the ACT GRC requires casinos to offer self-exclusion and exclusion on welfare grounds where it is believed that a person's gambling is harming them or their dependents.
NT	The Gaming Control Act gives a general right of exclusion for casino licensees. The Northern Territory's mandatory Code of Practice for Responsible Gambling requires self-exclusion programs.

Table E.4 Self-exclusion legislation for clubs, pubs and hotels

NSW	The Gaming Machines Act 2001 requires venues to offer self-exclusion programs
VIC	The Gambling Regulation Act 2003 requires venues to have a self-exclusion program approved by the VCGR.
QLD	The Gambling Legislation Amendment Act 2004 and the QLD OLGR's mandatory Responsible Gambling Code of Practice require self-exclusion programs and venue-initiated exclusions on welfare grounds. They also require a statutory duty for venues to act on self-exclusion requests. The code also specifies key elements which must be included.
SA	The SA's mandatory code of practice for gaming-machine venues requires them to have a self-exclusion program. The Independent Gambling Authority also operates its own self-exclusion program. The Problem Gambling Family Protection Act 2004 allows for third-party initiated exclusions on welfare grounds.
TAS	Self-exclusion is allowed by the Gaming Control Act 1997. The Act also specifies minimum and maximum periods allowed for self-exclusion programs. Self-exclusion and third-party exclusion are also available through the Gaming Commission.
ACT	The mandatory code of practice administered by the ACT GRC requires venues to offer self-exclusion and exclusion on welfare grounds where venues believe that a person's gambling is harming them or their dependents. The code also specifies key elements which must be included.
NT	The NT's mandatory Code of Practice for Responsible Gambling requires self-exclusion programs.

Table E.5 The process of self-exclusion in clubs, pubs and hotels

Industry organisations and government agencies that provide standard self-exclusion programs

Industry organisations and government agencies that provide standard self-exclusion programs

NSW	1) AHA (NSW) Program — GameCare 2) ClubsNSW — Clubsafe 3) BetSafe — 42 registered clubs in NSW and ACT participate.
VIC	AHA (VIC) and ClubsVic Program.
QLD	AHA (QLD).
SA	1) Independent Gambling Authority (IGA) Program 2) SA OLGR — Licensee exclusions under the Gaming Machines Act 3) AHA (SA).
TAS	Tasmanian Department of Treasury and Finance, Liquor and Gaming Branch – The Tasmanian Gambling Exclusion Scheme
ACT	1) ClubsACT Program 2) BetSafe.
NT	Northern Territory Treasury (RGL) — Racing Gaming and licensing — The NT Code of Practice for Responsible Gambling specifies a generic self-exclusion form.

Organisations that provide services such as recording applications, interviewing applicants, sitting in on interviews and/or which make recommendations about whether to accept revocations

NSW	1) AHA (NSW); 2) ClubsNSW; and 3) BetSafe.
VIC	AHA (Vic) for both hotels and clubs/pubs until 2008. From 2009 ClubsVic has provided self-exclusion services for clubs.
QLD	AHA(QLD).
SA	1) IGA; 2) OLGR; 3) AHA (SA).
TAS	AHA(Tas). Applications can be made to the TGC or to registered and accredited providers — Anglicare, Relationships Australia and Gambling and Betting Addiction.
ACT	BetSafe.

Sources: Various acts and codes of practice listed in table E.2.

Table E.6 Self-exclusion programs run by casinos

<i>State</i>	<i>Casinos</i>	<i>Program details</i>
NSW	Star City Casino	<p>Agreements are for a minimum period of 12 months. They cannot be revoked within the first 12 months. Requests for revocation must be accompanied by a gambling assessment conducted by a qualified gambling counsellor and a letter of support from a family member.</p> <p>Requests are considered by the Exclusion Review Committee. The casino issues non-voluntary exclusions when it is concerned about the welfare of a patron because of their gambling behaviour. There are no penalties for self-excluded patrons who breach their exclusion orders.</p>
VIC	Crown Casino	<p>The period of self-exclusion is usually indefinite. A self-excluded person may appeal in writing to the VCGR to revoke an agreement within 28 days of signing. A self-excluded person may request revocation of the self-exclusion agreement by writing to Crown with an accompanying report provided by a gambling counsellor or psychologist or similar. This request is considered by the Crown Self-Exclusion Revocation Committee. Revocation is generally not considered by the Committee until a 12 month breach free period has passed. Identification of a self-excluded person in the casino requires the attendance of a VCGR Government inspector.</p> <p>The law provides for a fine consisting of 20 Penalty Units (2009 amount per Penalty Unit is \$116.82) for a self-excluded person entering the casino although this has not been enforced in practice.</p>
SA	SkyCity Casino (Adelaide)	<p>Agreements are for a 12 month minimum with no end date and they cannot be revoked earlier than agreed within the first 12 months. The Act provides for a fine of up to \$2500 for an excluded person entering the casino.</p> <p>To rescind a self-exclusion arrangement after the 12 month minimum an excluded person must: apply in writing/make an appointment to be interviewed; attend counselling; and have a letter proving that they did so; participate in the case-management program for at least three months; and must set pre-commitment limits, with player follow-up reviews at 6 and 12 months.</p> <p>The casino has a third-party exclusion process, which includes SkyCity barring due to welfare concerns.</p>
WA	Burswood Casino	<p>While not required by legislation, the casino voluntarily has a self-exclusion program. The minimum period for an agreement is 12 months and they do not expire. Revocation requires that the patron has attended gambling counselling. The patron has to attend interviews when revoking and at 6 and 12 weeks after revoking. The casino has a third-party exclusion process and may involuntarily bar patrons through this process.</p>
TAS	Wrest Point Casino	<p>Self-exclusion applications are processed by Break-even Services, which forwards the details to the casino. Agreements have no particular duration and they can be revoked by the excluded person at any time. The Tasmanian Treasurer has recently directed the Tasmanian Gaming Commission to make several amendments to the Gaming Control Act 1993, which will:</p> <ul style="list-style-type: none"> • mandate minimum and maximum periods for self-exclusion • limit the type of exclusion to either the whole of the venue or restrict the exclusion to the gaming footprint of the venue.
	Country Club Casino Launceston	As above

(Continued next page)

Table E.6 (continued)

ACT	Casino Canberra	<p>Self-exclusion is a voluntary exclusion and is generally for a minimum period of three months. Revocation of the exclusion order is made in writing to the Gambling Contact Officer or to the Exclusion Committee for review. If the patron is still deemed to be at risk, the exclusion period may be continued. All exclusions are capable of being reviewed by the casino or by the Gambling and Racing Commission.</p> <p>If the gambler breaches the self-exclusion order, the patron will be warned in the first instance and will be removed from the casino. Subsequent breaches will result in the casino reporting them to the ACT police.</p>
NT	<p>SkyCity Casino (Darwin)</p> <p>Lasseters Hotel Casino (Alice Springs)</p>	<p>Provision of a self-exclusion program is compulsory under the NT Code of Practice for Responsible Gambling (gazetted June 2006). Under this code there is a minimum period of three months and an indefinite maximum period. Customers may exclude from a gaming area, all gaming areas, or the entire premises. Self-exclusion may only be revoked with a letter from a gambling counselling service provider that supports the revocation. A breach of a self-exclusion order does not constitute an offence under NT law. Any detected breach is personally followed up by a warning from the compliance and host responsibility manager. Upon the third breach, self-excluded patrons are issued with a section 33 barring notice under the Gaming Control Act for which penalties may be incurred. Staff are encouraged under a SkyCity staff program to identify and report self-excluded patrons.</p> <p>As for SkyCity Casino (Darwin). The excluded patron will also receive a document that states the terms of their self-exclusion. If the patron gambles during the self-exclusion period they do so at their own risk. No claim can be made for any financial loss incurred if they gamble during the exclusion period. The licensee is authorised to remove the patron from the exclusion area during the exclusion period. At the conclusion of the exclusion period the patron will be required to meet with the compliance manager prior to re-entering the exclusion area.</p>
QLD	<p>Conrad Treasury Casino (Brisbane);</p> <p>Conrad Jupiter's Casino (Gold Coast);</p> <p>Jupiter's (Townsville)</p> <p>Reef Casino (Cairns).</p>	<p>The Queensland Casino Control Act 1982 provides a pathway for self-exclusions and exclusion directions for problem gambling. Both types of exclusion have a five year sunset period after which time they expire. Self-exclusions may be revoked either within 24 hours (cooling off period) or after a period of one year, provided a Revocation Notice is given to the casino operator. Once a revocation notice for self-exclusion has been received by the casino Operator, the self-exclusion expires after a period of 28 days or immediately if provided within 24 hours.</p> <p>An Exclusion Direction for Problem Gambling can be issued by the casino operator if the casino operator believes on reasonable grounds that a person is a problem gambler. If the person disagrees with the exclusion direction, they may appeal to the Magistrates' Court within 28 days fully stating grounds for the appeal. This type of exclusion remains in force for five years or until a Revocation Notice — Exclusion Direction is issued by the casino operator. Details, including the name and address of counselling services for problem gamblers, are provided for all persons who self-exclude or are excluded by the casino operator for problem gambling. Conditions of entry and re-entry are provided to every person who either self-excludes or is issued with an exclusion direction for problem gambling. These conditions require further information to be provided to the casino operator at the time a revocation request is received. All revocation requests are reviewed by the Exclusions Review Committee. Consequences of breaching either type of exclusion will generally incur penalties and may involve the attendance of an OLGR Government Inspector and the police — maximum fine \$4000.</p>

Table E.7 Selected programs allowing self-exclusion from pubs, clubs and hotels

AHA (NSW) Program — GameCare

Once a request for self-exclusion has been made to a hotel's staff member, the request is passed to the NSW Australian Hotels Association office. Applications can also be made by a hotline, through gambling counsellors, or directly to the AHA (NSW). An interview with the AHA (NSW) office is then arranged, following which applicants are asked to sign the self-exclusion agreement.

Passport photographs are then taken and sent to the hotels from which the patron has requested exclusion.

The minimum time of an agreement is 12 months and the maximum is 36 months. Shortly before an agreement ends, excluded patrons are advised and asked if they want to extend their agreements.

Exclusions are only from the gaming areas of the nominated hotels. Multiple venue exclusions are allowed.

To revoke an agreement prematurely, excluded patrons must attend an interview with the program administrator at the AHA (NSW). A letter must also be provided from a qualified gambling counsellor stating that the excluded person is no longer a threat to themselves or others because of their gambling. (AHA(NSW) 2009).

BetSafe

The patron can enter into a self-exclusion agreement at the venue. The patron may request partial or complete bans. A partial ban involves exclusion from gaming areas only.

The minimum exclusion period is six months. The exclusion period does not end unless the venue licensee also agrees to revocation.

Multiple venue exclusions are allowed (although the most common is exclusion from a single venue).

Only the club where the request for exclusion was made is required to accept the exclusion agreement. Other clubs listed on multiple exclusion applications have the right to request that a patron re-apply for an exclusion in person from the venue.

Patrons can be involuntarily excluded on the grounds that they are causing themselves harm because of their gambling behaviour. Third party exclusions are also allowed.

Applications for revocation need to be accompanied by a letter of support from two referees, each of whom may be either a gambling counsellor, doctor, spouse or close friend. An interview is then held with the Paul Symond consultancy, which issues a letter to licensees either recommending or not recommending revocation. (Betsafe, sub. 93)

ClubSafe (NSW)

The self-exclusion process is administered at the individual club level.

Only single-venue exclusions are allowed.

Patrons who wish to self-exclude are required to see a counsellor or solicitor prior to signing a deed (which prevents on-the-spot signing of agreements).

No counselling assessment is required when applying for revocation. (IPART 2004, p.76)

(Continued next page)

Table E.7 (continued)

AHA (Vic) program

Once an initial request has been made for self-exclusion, contact details are forwarded to AHA(Vic), who then contacts the person. The AHA's self-exclusion officer contacts the applicant and advises about counselling options and invites the applicant for an interview. The interview is conducted at a time and location that suits the applicant (including in regional areas). The applicant is also allowed to have a friend, family member or counsellor in attendance at the interview. At the interview the self-exclusion process is explained and the applicant is invited to sign the agreement.

The AHA (Vic) keeps a database of self-excluded persons. Venues can access the database via the web using a password (venues do not have access to all records but only to the records of persons excluded from their venue).

Venues are required to remove self-excluded persons from player loyalty programs.

To revoke a deed, an interview with at the AHA (Vic) with the self-exclusion officer is required. The self-excluded person must also bring a letter from a counsellor stating that he/she has discussed the consequences of early revocation and sought advice. Agreements cannot be revoked before six months.

A self-excluded person can also apply to vary the term of the deed, which also requires a meeting with at the AHA (Vic).

The duration of agreements is for a minimum of six months and a maximum of 24 months. If a person fails to undertake counselling, deeds do not automatically expire. One month prior to the expiry date, the self-excluded person is asked whether he or she wishes to extend their deed.

Each venue must nominate a Responsible Gambling Officer, who provides information about the self-exclusion program.

Information on the number of persons self-excluded, the numbers detected breaching their agreements and the numbers revoking their agreements must be kept and given to the VCGR.

Victorian legislation provides for the confiscation of winnings from self-excluded gamblers who enter gaming areas and gamble in breach of their agreements. (AHA(Vic) 2009)

Queensland casinos, clubs and hotels

The programs are consistent with the Queensland Responsible Gambling Code of Practice. Interviews and the signing of agreements occur within individual clubs and hotels in Queensland, with a designated staff member in attendance. There is scope for multiple venue exclusions.

Venue-initiated exclusions are allowed if a person is believed to be a problem gambler, while there is also scope for third-party exclusions.

Agreements are for five years unless revoked. There is a cooling off period of 24 hours in which agreements can be revoked. If not revoked within the cooling off period, agreements cannot be revoked until after 12 months.

Patrons are provided with a list of gambling counselling services.

Members of loyalty programs and those with 'smart' cards have their memberships and cards cancelled. No advertising material can be sent to excluded persons. (SACES 2003)

(Continued next page)

Table E.7 (continued)

South Australia — Barring under Section 59 of the Gaming Machines Act 1992

People may self-exclude and there is scope for licensee-initiated exclusions if venue staff believe that a person's welfare or their dependants' welfare is at risk because of excessive play. A person disagreeing with the imposition of an order may apply to the Liquor and Gambling Commissioner to have the decision reviewed. Supplying a photograph is not mandatory.

Licensees are required to act on requests for self-exclusion. They must also refer applicants to counselling services or put them in touch with someone who can. A licensee, venue manager or venue employee who allows a barred person to enter or remain in a gaming area is guilty of an offence. The maximum penalty is \$10 000.

A licensee, responsible person or approved gaming machine manager or employee or approved crowd controller may request a barred person to leave the gaming area. If they refuse, they may use minimal reasonable force to remove them. A person who enters a gaming area from which they are barred is guilty of an offence. The maximum penalty is \$2500.

Applications for revocations must be made to licensees. A self-barring order must be reviewed with the person before it is rescinded. (SA OLGC 2009)

South Australia — barring under Section 15B of the Independent Gambling Authority Act

Persons may apply to the IGA to self-exclude. Agreements are for an indefinite period. Applications for revocation may only be made after 12 months.

Multiple venues allowed. Gamblers may apply to be excluded from all venues (including the casino, clubs and hotels). Photographs are supplied to each relevant venue. Self-barring persons must be removed from player loyalty mailing lists.

A licensee, responsible person or approved gaming machine manager or employee or approved crowd controller may request a barred person to leave the gaming area. If they refuse, they may use minimal reasonable force to remove them.

A licensee who allows a barred person to enter or remain in a gaming area is guilty of an offence. The maximum penalty is \$35 000 (the venue manager or venue employees are not held responsible).

A person who enters a gaming area from which they are barred is guilty of an offence. The maximum penalty is \$2500.

Venues must keep copies of barring notices on their premises and these must be visible to venue staff. Copies of barring orders must be provided to the Commissioner within 14 days. (SA OLGC 2009)

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Table E.7 (continued)

Tasmanian Gambling Exclusion scheme

The program is legislated through the Gaming Control Act (1993). The program includes self-exclusions, venue operator exclusions (where a person is excluded because it is judged that their excessive gambling is likely to cause them or their dependants harm), third-party exclusions, and self-exclusions from internet gambling.

Once a patron requests self-exclusion, one of the problem gambling counselling agencies licensed to participate in the program contacts the applicant. The counselling agency then conducts the self-exclusion interview.

The period of exclusion is usually three years, although other periods, including indefinite exclusion, can be arranged.

Self-exclusion may be from single or multiple venues, or may be from particular types of gambling (such as gambling on EGMs, casino table games or wagering). (Tasmanian Gaming Commission 2009)

Australian Capital Territory — ClubsACT (Code on Responsible Gambling)

ACT clubs design their own programs to comply with the requirements of the ACT GRC. Most have programs similar to the one set out in the ClubsACT's Code on Responsible gambling.

A self-exclusion form is signed after having an interview with a representative from a particular club. The signing must be witnessed by the manager of the club and a person who is not an officer of the club. During the interview, the applicant is provided with a list of problem gambling counsellors. Applicants must provide four colour photographs. The club must ensure the confidentiality of the self-excluded person at all times.

By signing the deed, the self-excluded person agrees:

- not to enter the gaming areas or play the EGMs of the club.
- to immediately leave a gaming area or stop using a gaming machine at the request of a staff member.
- to see a problem gambling counsellor on an ongoing basis.
- that the club may use necessary measures, including reasonable force, if they breach their agreement.
- waives any rights to take legal action against the club in respect of the self-exclusion process.

The duration of the agreement is usually for a minimum of six months, although three-month agreements are allowed. Agreements (those six months or longer) cannot be revoked before six months. Agreements continue indefinitely unless revoked by the self-excluded person.

Revocation requires an interview with a representative from the club. A letter from a qualified problem gambling counsellor is also required. (SACES 2003, Report B, pp. 28-30)

Sources: BetSafe sub. 93; SA OLGC 'Responsible Gambling — Barring' (http://www.olgc.sa.gov.au/default.asp?page=gaming.Responsible_Gambling.Barrings_Under_Gaming_021203.htm&menu=gaming, website accessed September 2009); Tasmanian Gaming Commission (<http://www.treasury.tas.gov.au/domino/df/df.nsf/v-liq-and-gaming/AFF6433C86941B0CCA25761000049F4D>, website accessed September 2009); AHA(NSW) ('<http://www.ahansw.com.au/default.asp?sid=225&pids=%2C>', website accessed September 2009); AHA(VIC) 2009, sub. 83 ('AHA (Vic) gaming self-exclusion scheme', Attachment 1); SACES (2003, p. 47, pp. 28–30 and pp. 67–70); IPART (2004, p.76).

F Survey of clients of counselling agencies 2009

As part the gambling inquiry, the Productivity Commission conducted a *Survey of Clients of Counselling Agencies* ('the survey'). This appendix outlines the purpose of the survey, the methodology adopted, the response rate obtained (F.1), and the results (F.2). Analysing the survey data, some data quality issues were identified (F.3). Characteristics of non-respondents are also presented (F.4). Attached also are copies of the questionnaire (F.5) and the non-response form (F.6).

F.1 Purpose, methodology, response rate

The objective of the survey was to help the Commission better understand the behaviour of people experiencing significant problems with gambling and thereby assess the potential effectiveness of various harm minimisation measures.

The initial version of the survey was aimed at gathering new information about the behaviour of people experiencing problems with gambling, as well as replicating some questions from other surveys. The Commission pilot tested the survey with clients of GamblingCare, ACT. The first round of pilot testing found the survey to be too lengthy (taking around 40 minutes to complete). The questionnaire was shortened and pilot-tested a second time (and was found to take around 20 minutes for clients to complete). The counsellors conducting the pilot testing also provided useful insights into how questions were interpreted, which resulted in improvements to the wording of some questions.

The state and territory governments provided the Commission with contact details for the agencies providing specialised gambling support services within their jurisdictions. Agencies were contacted by phone, and asked if they were willing and able to participate in the survey. Most agencies expressed their willingness to approach clients to participate in the survey and these agencies were mailed copies of the survey. The Commission offered a \$30 payment for each completed survey to compensate counselling services for their time.

The survey was distributed in August 2009, with the last surveys being received in late November 2009. The respondents invited to participate in the survey were selected by the counselling services. The Commission asked the counselling services to select people over 18 years of age who were personally experiencing problems with their gambling. They were requested to select respondents on as random a basis as possible.

Response rate

The Commission received 219 completed surveys out of the 245 people asked to participate, an 89 per cent response rate, which was much higher than expected.

Overall, the survey represents a large sample of *problem* gamblers. In comparison, the 2003-04 Queensland prevalence survey, though having a very large sample size — exceeding 30 000 people — is likely to have interviewed less than 170 problem gamblers (at an estimated prevalence of 0.55 per cent).¹

Nevertheless, as the data are based only on responses from people who have sought assistance for problems with their gambling, the results may not be representative of all problem gamblers.

F.2 Survey results

The following tables provide some results from the Commission's survey. The tables focus on five themes

1. demographic and background information on participants
2. severity of gambling problems
3. the nature of harms experienced and views on harm minimisation approaches
4. gambling behaviour when participants were experiencing problems
5. interactions with venue staff.

¹ The most recent Queensland prevalence survey (conducted in 2008–09) had a sample size of 15 000 people and had a lower estimated rate of problem gambling was 0.37 per cent. As such, it is likely that less than 60 problem gamblers were interviewed.

Information on the respondents

The gender split of respondents to the survey is consistent with statistics of clients of gambling help services, with a slightly higher proportion of males than females (table F.1).

Table F.1 Gender of respondents

<i>Gender</i>	<i>Respondent numbers</i>	<i>Percentage</i>
Male	125	59
Female	87	41
Total^a	212	100

^a Seven survey participants did not reply to the gender question.

The youngest survey participant was 20 and the oldest was 75 years old. Most survey participants were aged between 30 and 59 years, and the distribution of participants between those ages was relatively very even (table F.2). The average age of male respondents was substantially lower than the average for females both on average and by type of gambling venue (table F.3).

Table F.2 Age profile of respondents

<i>Age range</i>	<i>Respondent numbers</i>	<i>Percentage</i>
20-29	27	12
30-39	50	23
40-49	51	24
50-59	54	25
60+	35	16
Total^a	217	100

^a Two survey participants did not provide their age.

Table F.3 Average age of respondents by main venue attended^a

<i>Venue</i>	<i>Males</i>	<i>Females</i>
Casino	37	40
TAB	39	na ^b
Hotel	43	51
Club	45	54
Total	42	51

^a Respondents were asked to indicate at what type of venue they gambled the most. There were 211 survey respondents who replied to all three questions (Gender, Age and Venue). ^b There was only one female respondent who indicated that the main gambling venue she attended was a TAB. The observation was excluded as it may not be representative.

Responses were received from every jurisdiction except the Northern Territory (table F.4). However, there was a large variation in the number of responses received from each jurisdiction. Only a small number of responses were received from Queensland, Western Australia and the ACT.²

Table F.4 Jurisdiction of respondents

<i>State/territory</i>	<i>Respondent numbers</i>	<i>Percentage</i>
NSW	99	45
Victoria	49	22
Queensland	8	4
South Australia	25	11
Western Australia	11	5
Tasmania	21	10
Northern Territory	..	..
ACT	6	3
Total	219	100

.. denotes no respondents.

The Commission asked respondents to indicate the age at which they first experienced problems with the form of gambling which has caused them the most problems (table F.5). Just over a quarter of respondents said they began experiencing problems when they were in the 20-29 year age range and around 20 per cent of respondents began experiencing problems in their 30s and 40s respectively.

Table F.5 Age when gambling problem began

For the most problematic form of gambling

<i>Age range in years</i>	<i>Respondent numbers</i>	<i>Percentage</i>
12-19	39	18
20-29	57	26
30-39	42	19
40-49	48	22
50-59	24	11
60+	8	4
Total	218^a	100

^a One survey participant did not indicate at what age their gambling problem first developed.

² All the responses for the ACT are from the trial questionnaire. The trial questionnaire contained all the questions contained in the final survey as well as questions on severity of gambling problems and attempts by recipients to place limits on their gambling.

Just 33 per cent of respondents indicated that they would give accurate answers in a phone survey (table F.6). In addition, 8 per cent of males and 20 per cent of females said they would completely conceal any problems. These results obviously reinforce the need for caution when interpreting any survey results relating to gambling.

Table F.6 How would respondents have answered a phone survey?

Response type	<i>Males</i>		<i>Females</i>	
	Number	% of group	Number	% of group
Answered honestly	39	33	25	33
Completely concealed any problem	9	8	15	20
Somewhat concealed any problem	23	19	11	15
Told them I didn't know	3	3	..	..
Refused to answer the survey	19	16	12	16
Mostly concealed any problem	14	12	8	11
Exaggerated any problem	2	2	..	..
I don't know what I would have said	10	8	4	5

.. denotes no respondents.

Gambling harms

Participants were asked a series of questions about the harms they experienced with their gambling, as well as their views on the effectiveness of a range of harm minimisation measures.

Many gambling help services assess the severity of problems being experienced by their clients. Counsellors assisting with the survey were asked to indicate if a gambling screen had been used with the client and, if so, the results of the screen. If a gambling screen had not been applied, counsellors were asked to make a subjective assessment of the severity of their clients' gambling problems when presenting for help.

Eight different gambling screens had been used by counsellors (table F.7) with some clients being assessed using multiple screens. To provide an indication of the severity of gambling problems among participants, assessments based on the three most common screens are provided (tables F.8, F.9 and F.10). Counsellors also provided subjective assessments for many participants (table F.11). Nearly all of the participants who had the severity of their gambling assessed were assessed by at least one of these four measures (193 out of 209).

Table F.7 Use of different assessments of gambling severity^a

<i>Assessment</i>	<i>Participants</i>
Subjective	166
SOGS	34
DSM IV	26
CPGI	33
SCIP	23
Modified SOGS	7
PGSI	7
Kessler K10	1
Qld gambling intake	1
No assessment	10
Total participants	219

^a Some participants were assessed using multiple approaches.

Table F.8 Severity of gambling problems — South Oaks Gambling Screen (SOGS)

<i>SOGS rating</i>	<i>0-5</i>	<i>6-9</i>	<i>10-12</i>	<i>13+</i>
Participants (no.)	3	9	15	7

Table F.9 Severity of gambling problems — Diagnostic and Statistical Manual of Mental Disorders (DSM IV)

<i>DSM IV rating</i>	<i>0-4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>	<i>9</i>
Participants (no.)	3	4	6	5	6	1

Table F.10 Severity of gambling problems — Canadian Problem Gambling Index (CPGI)

<i>CPGI rating</i>	<i>0-6</i>	<i>7-12</i>	<i>13-18</i>	<i>19+</i>
Participants (no.)	3	4	6	5

Table F.11 Severity of gambling problems — Subjective assessment^a

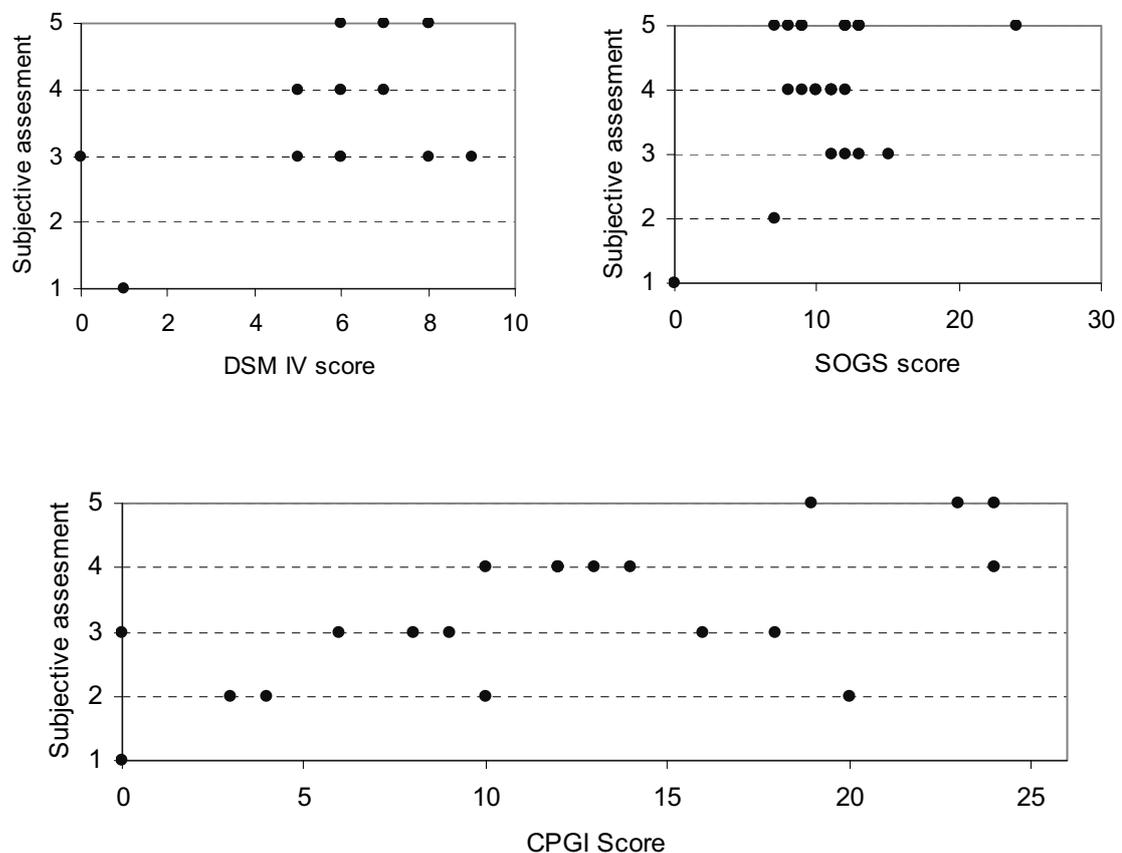
<i>Subjective assessment</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>
Participants (no.)	6	14	39	58	49

^a Counsellors were requested to rate the severity of their clients gambling problem on a five point scale from 1 (not very serious) to 5 (extremely serious).

While counsellors were only asked to provide a subjective assessment of the severity of the client’s gambling problems if they had not used an existing gambling screen, many counsellors included both a subjective assessment as well as the results of a gambling screen. This provides some indication of the consistency of the subjective assessment with the gambling screen results (figure F.1). Generally, subjective assessments of very problematic gambling coincide with assessments of more severe problems under each of the three gambling screens examined.

Figure F.1 Consistency of assessment of severity

Comparison of subjective assessment of severity of gambling problem with selected gambling screens^a



^a For participants who had been assessed for CPGI, SOGS or DSM IV and where the counsellor had provided a subjective assessment of the severity of the gambling problem. There were 19 participants with both DSM IV and subjective assessments, 26 participants with both a SOGS and subjective assessment and 21 participants with both a CPGI and subjective assessment.

Gambling form causing harm

Consistent with most preceding surveys, the gambling activity the overwhelming majority of people experienced harms with was EGMs (82 per cent), followed by ‘betting on horses and greyhounds’ (13 per cent) (table F.12).

Table F.12 Main gambling form causing problems^a

	<i>ACT</i>	<i>NSW</i>	<i>QLD</i>	<i>SA</i>	<i>TAS</i>	<i>VIC</i>	<i>WA</i>	<i>Australia</i>
<i>Number of problem gamblers</i>								
EGMs	5	81	7	22	15	38	4	172
Betting	1	14	1	..	3	5	3	27
Table games	..	1	..	3	2	3	2	11
Sports	..	1	..	..	..	..	..	1
Internet poker	..	..	..	..	..	..	..	..
Keno	..	..	..	..	..	..	..	..
Tattslotto	..	..	..	..	1	..	..	1
Scatchies	..	..	..	..	..	1	..	1
All	6	97	8	25	20	46	9	213
<i>Share of problem gamblers by gambling form (%)</i>								
EGMs	83	85	88	88	71	81	44	82
Betting	17	14	13	..	14	11	33	13
Table games	..	1	0	12	10	6	22	5
Sports	..	1	..	..	..	..	..	<1
Internet poker	..	..	..	..	..	..	..	..
Keno	..	..	..	..	..	..	..	..
Tattslotto	..	..	..	..	5	..	..	<1
Scatchies	..	..	..	..	..	2	..	<1
All	100	100	100	100	100	100	100	100

^a Respondents were able to nominate any form of gambling that caused them problems, and then were asked which single form of gambling caused them the most problem. ^b Three survey participants did not respond to this question and three responded incorrectly. ^c.. denotes no responses.

While the majority of participants experienced problems with just one form of gambling, around 20 per cent experienced problems with two forms of gambling and 5 per cent with three or more forms of gambling (table F.13).

Table F.13 Number of gambling forms causing any problems^a

	<i>One</i>	<i>Two</i>	<i>Three</i>	<i>Four</i>
	163	44	9	2

^a One respondent did not answer the question on problems with gambling form.

Combining all forms of gambling causing people problems, EGMs continue to be the most problematic form by far (85 per cent), followed by racing, casino table games and sports betting (table F.14).

Table F.14 Gambling form causing any problems

	ACT	NSW	QLD	SA	TAS	VIC	WA	Australia
<i>Share of problem gamblers by gambling form (%)</i>								
EGMs	100	88	88	88	86	84	40	85
Betting	17	27	13	8	14	24	50	23
Table games	17	6	..	24	10	12	30	11
Sports	17	7	..	..	5	10	20	7
Other	17	4	..	..	5	6	10	5

.. denotes no observations.

Participants history with gambling problems

Most participants — 60 per cent — indicated that they had had recurring episodes of gambling problems after bringing their gambling under control (table F.15). While participants most commonly reported a few recurrences of having problems with gambling, some participants indicated a recurring pattern of gaining and then losing control of their gambling (table F.16).

Table F.15 Multiple episodes of problems with gambling

Have participants returned to having problems with gambling after a problem free or largely problem free period

	<i>Returned to problem gambling</i>		<i>Share of clients</i>
	Number	%	
No	86	40	
Yes	128	60	
Total	214	100	
No response	5	<1	

Table F.16 Frequency of return to having problems with gambling

Number of times people cycle in and out of having problems with gambling

	<i>Frequency of return to problem gambling</i>								
	1	2	3	4	5	6	7	8+	Total
Respondents ^a	30	37	21	5	13	6	1	12	125
Share (%)	24	30	17	4	10	5	1	10	100

^a Ninety-four survey participants did not respond to this question.

Strategies to minimise gambling harm

Participants were asked to reflect on strategies they had used to minimise gambling harm (table F.17). They were then asked their opinion of the likely effectiveness of proposed harm minimisation measures (table F.18). It was hoped that asking participants to initially reflect on their own actions would encourage a more critical assessment of the proposed measures.

The most common strategies participants indicated using were: playing on low denomination machines; taking only the amount of money to a venue they planned on spending, or avoiding large bets. Some of the strategies seldom used include starting to play just before closing or having family or friends help them control their gambling.

Table F.17 Use of self-control strategies by problem gamblers

Use of control mechanisms in an attempt to keep gambling within (money and time) limits

<i>Technique</i>		<i>Nearly always</i>	<i>Often</i>	<i>Sometimes</i>	<i>Rarely</i>	<i>Never</i>
Leaving your ATM or credit cards at home	N ^a	16	20	46	32	83
	%	8	10	23	16	42
Taking to the venue only what you planned to spend	N	23	25	49	36	65
	%	12	13	25	18	33
Contacting your bank or financial institution to lower your ATM withdrawal limit	N	3	8	10	6	169
	%	2	4	5	3	86
Using family or friend to help you control your gambling	N	6	16	41	25	109
	%	3	8	21	13	55
Taking a break after gambling for a particular time or when you felt your gambling was getting out of control	N	6	13	51	38	89
	%	3	7	26	19	45
Committing to an appointment/another activity so you were forced to stop gambling and leave	N	6	15	54	37	84
	%	3	8	28	19	43
Beginning to play just before closing time	N	3	7	16	17	152
	%	2	4	8	9	78
Avoiding high or large bets such as maximum or multiple bets	N	23	33	42	27	69
	%	12	17	22	14	36
Playing on low denomination machines	N	49	28	48	21	49
	%	25	14	25	11	25

^a N= number of respondents. Percentages may not add to 100 because of rounding. ^b There were between 213 and 219 respondents for each question.

When assessing the effectiveness of proposed harm minimisation measures, participants could indicate that a measure would in their view work well, work a bit or not work. Across all the measures (table F.18), the most common response was that a measure would work well (44 per cent), while 29 and 27 per cent of the responses were that a measure would work a bit or would not work respectively.

The measures that participants thought would be most likely to work include:

- removing ATMs from venues
- technologies that allowed gamblers to set limits
- technologies that allowed gamblers to self exclude

The measure that participants considered least likely to be effective was signage in venues stating that if you gamble repeatedly, you will lose money.

Thirty nine per cent of the survey group had self-excluded themselves (table F.19) The most common reasons for not self-excluding were that they could control their gambling by themselves, that they could visit other venues, that they were too embarrassed or that they did not want to stop gambling altogether.

The most common form of self-exclusion agreement was a multiple-venue exclusion. Jurisdiction-wide or region-wide agreements were the second-most common, while single-venue exclusions were the least common.

Table F.18 Perceived effectiveness of harm minimisation measures

<i>Measure</i>	<i>Would work well</i>	<i>Would work a bit</i>	<i>Would not work</i>
	Share of respondents (%)		
Removing ATMs from venues	74	15	11
Technologies that allow gamblers to set spend limits on their gambling	60	23	17
Technologies that allow gamblers to self exclude from gambling	60	27	13
The removal of high denomination note acceptors	52	28	21
Expenditure statements showing how much you have spent on gambling by day/week/month	52	27	21
A reduction in the number of credits that can be bet per line	48	30	22
Banning the promotion of gambling	46	25	28
Lower maximum bet sizes	46	33	21
Technologies that allow gamblers to set time limits on their gambling	46	29	25
Lowering the threshold for winnings to be paid by cheque	42	27	31
Being required to take a break in play on gambling machines after a certain time	40	30	30
Messages that pop up to tell gamblers how long they have been playing	34	37	29
Warnings that pop-up during play to tell gamblers to play responsibly	32	33	35
Using TV and radio advertising to make people aware of the risks of problem gambling	30	32	38
Knowing how much you would usually lose when gambling	25	38	37
Clearly displayed signs in venues stating that if you gambled regularly you would lose money	21	30	49

^a There were between 210 and 216 respondents for each question.

Table F.19 Self Exclusion

<i>Question</i>	%
<i>Percentage of respondents who self-excluded (197 respondents)</i>	38.6
<i>Why didn't you self-exclude? (120 respondents)^a</i>	
I was too embarrassed	29.2
I did not know I could self-exclude	7.5
I was worried my family/friends would find out about my gambling problem when I was refused entry to a venue	15.8
I knew I could still get into my usual venue (management didn't care, could get in when the venue was busy, could change my appearance)	4.2
I could go to another venue where I didn't usually gamble	28.3
I felt I could control my gambling by myself	36.7
I didn't want to stop gambling altogether	26.7
Other	6.8
<i>Aspects of self-exclusion^a</i>	
Did you turn to another form of gambling while self excluding? (75 respondents)	21.3
Did you breach self exclusion by going back to the venues you excluded yourself from? (75 respondents)	52.0
Did you get around the self exclusion by going to other venues altogether? (75 respondents)	49.3
Did venue staff intervene when you breached self exclusion? (58 respondents)	46.6
<i>Numbers of venues self-excluding from (71 respondents)</i>	
All venues in the region or jurisdiction	22.5
Multiple venue exclusions	59.2
Single venue exclusions	18.3
Total	100.0
Average number of venues self-excluded from for multiple-venue exclusions	18

^a Respondents could make multiple responses.

The percentage of self-excluded respondents who breached their agreements was high (over half returned to the venue they had excluded themselves from). In addition, nearly half circumvented their agreements by visiting venues they were not excluded from and around a fifth turned to another form of gambling when they were self-excluded.³ A high proportion of those who did breach were detected by staff.

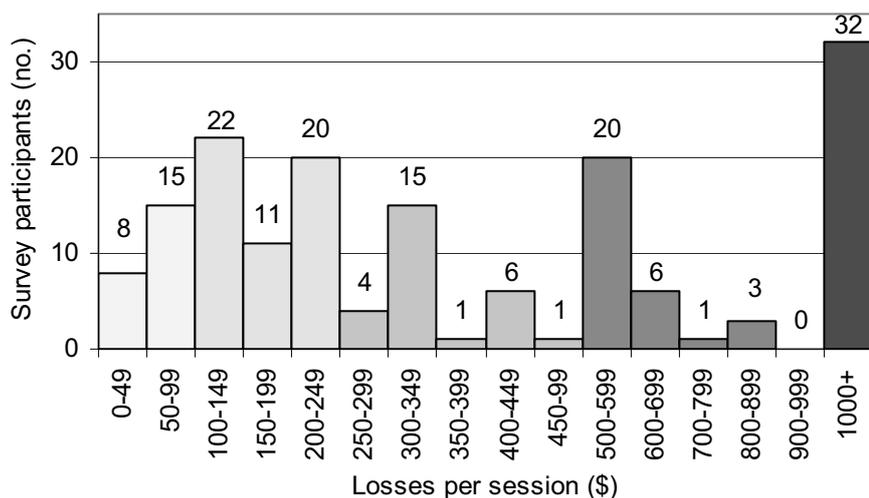
³ Many respondents both breached their self exclusion and went to other venues that they were not excluded from. Only 36 per cent of respondent who had formally self excluded indicated

Gambling behaviour

Participants were also asked about their gambling behaviour when they were experiencing harm. While the results are reported for these measures, there are grounds to suspect responses may not accurately reflect actual behaviour (section F.3).

All participants were asked about gambling losses (figure F.2) and the frequency of gambling (figure F.3) — but the remaining results in this section only relate to EGM play. The per session losses reported by participants varied widely, with many indicating small losses and many indicating large losses.

Figure F.2 **Reported losses by gambling session^a**



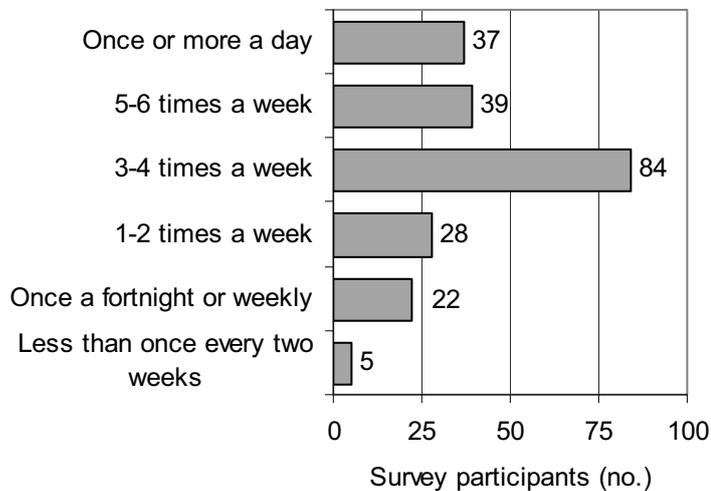
^a Only includes respondents who specified an exact session loss amount (165 out of 213 people who answered the question). Some respondents providing descriptive answers or ranges (see section F.3)

Three quarters of survey participants reported gambling more than twice a week when they were experiencing gambling related harms (figure F.3).

that they neither breached their agreement by visiting a venue they were excluded from nor got around the agreement by visiting a venue they had not excluded themselves from.

Figure F.3 Frequency of gambling

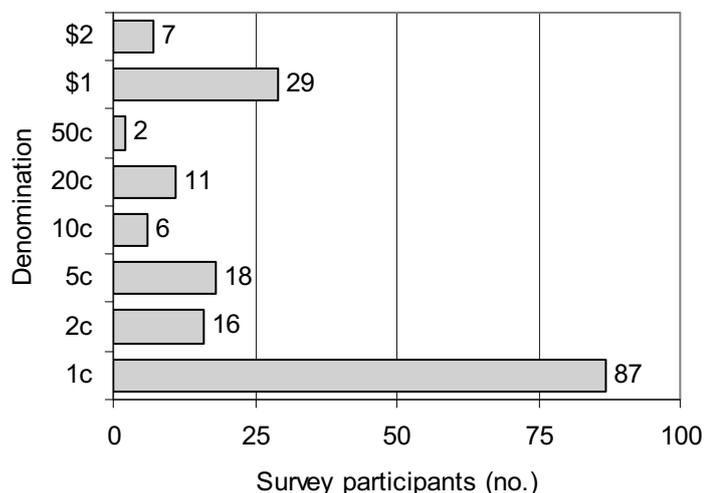
Playing the gambling form that caused the most problem^a



^a 217 survey responses.

For people experiencing problems with EGM gambling, the most frequently reported machine denominations played were 1 cent and \$1 machines (Figure F.4).

Figure F.4 Denomination of EGM usually played^a



^a 36 survey respondents did not answer this question (mainly people who did not gamble on EGMs). In addition, 7 respondents indicated usually playing on multiple machines with differing denominations.

While respondents indicated using a wide range of EGM playing styles, the most commonly reported playing style was playing a moderate to large number of lines and a small number of credits (table F.20). For example, 14 respondents reported

that their most common playing style was to play 20 lines with 1 credit per line. The second most common combination was playing 20 lines with 5 credits per line — played by 10 respondents.

Table F.20 Combinations of lines and credits played on EGMs
Number of respondents usually playing given combination ^a

		<i>Lines</i>											
		1	2	3	4	5	9	10	15	20	25	50	100
Credits	1	4	1	6	..	3	..	2	..	14	5	..	..
	2	..	1	..	..	1	..	1	1	6	6	..	..
	3	1	2	1	..	1	..	..	1	2	3	1	..
	4	..	..	..	1	..	..	..	..	..	1	..	..
	5	..	..	2	..	2	..	1	..	10	8	1	1
	7	..	..	1	..	..	..	..	..	..	..	..	..
	10	..	..	..	..	3	1	1	..	1	3	..	..
	20	..	..	1	..	4	..	..	..	3	3	..	..
	25	..	1	..	..	..	..	..	..	4	2	..	..
	50	..	1	..	..	2	..	..	..	..	1	..	..
	75	..	..	..	1	..	..	..	..	..	..	..	..
	90	..	..	..	..	..	1	..	..	..	..	..	..
100	..	..	..	..	2	1	..	..	1	2	..	..

^a One hundred and thirty participants provided both a specific number of lines and number of credits. A further 54 participants provided a range or verbal description of the number of lines or credits usually played (ie max or all lines or credits).

.. denotes no observations.

Just over half of the survey participants indicated using note acceptors when playing EGMs (table F.21). Among those participants, the use of \$50 and \$20 notes were the most common.

Table F.21 Use of note acceptors with EGMs

Denomination of notes usually used in note acceptors

<i>Denominations used</i>	<i>Number</i>	<i>Share</i>
\$10	2	1.5
\$20	38	29.2
\$20 or larger	1	0.8
\$20 or \$50	8	6.2
\$50	76	58.5
\$50 or \$100	1	0.8
\$100	2	1.5
Various	2	1.5
Total	130	100

^a Eighty-nine survey participants did not respond to this question.

The majority of survey respondents indicated that they only occasionally or never had breaks in play when gambling on EGMs (table F.22). Among the remaining respondents the frequency of breaks varied.

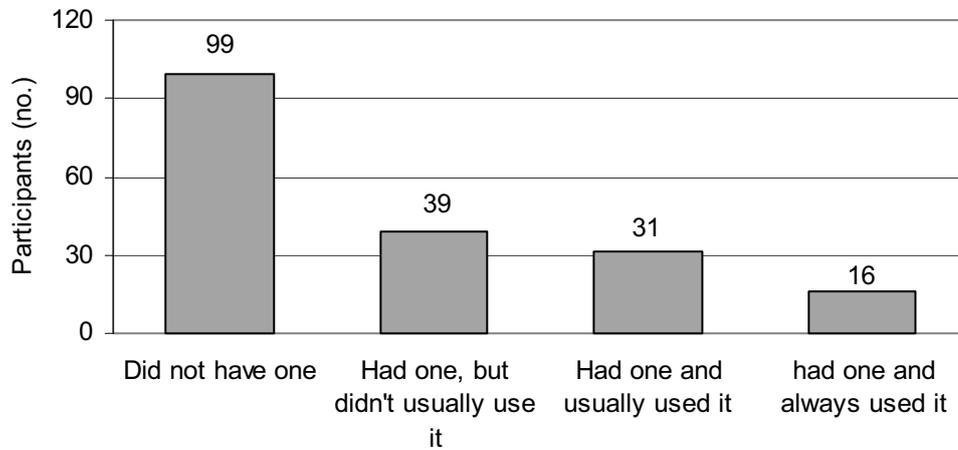
Table F.22 Frequency of breaks in playing EGMs^a

<i>Frequency of breaks in play</i>	<i>Participants (no.)</i>
Every 30 minutes or less	17
About every hour	17
About every 2 hours	10
More than every 2 hours	0
Only occasionally or never	127
Can't recall/not stated	14

^a Thirty-four participants did not respond to this question.

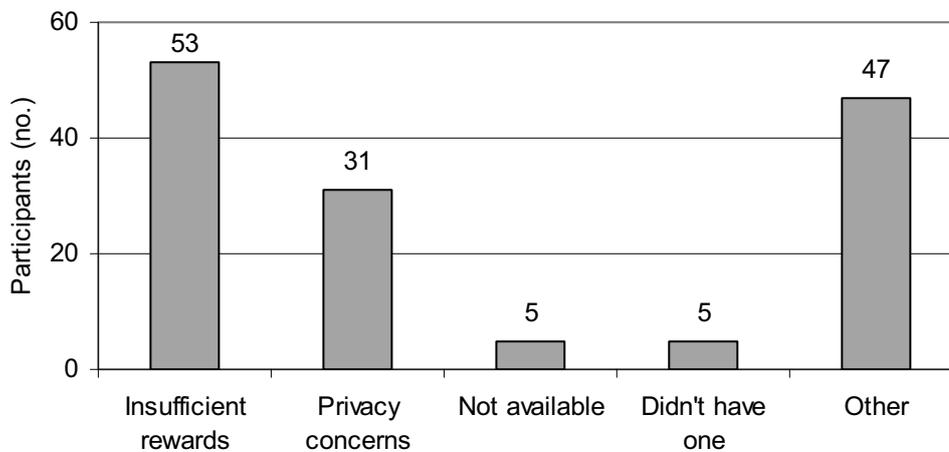
Loyalty card use is relevant to policy because it provides a natural vehicle for pre-commitment (chapter 10), and has been the basis for the Queensland and South Australian trials. Around 50 per cent of respondents were in a loyalty scheme, though many of these were infrequent users (figure F.5). A perception that the rewards were insufficient and that the cards posed privacy concerns were the dominant motivation for not using loyalty cards (figure F.6).

Figure F.5 Use of player loyalty cards with EGMs^a



^a Thirty-four participants did not respond to this question.

Figure F.6 Why EGM player loyalty cards were not used^a



^a Eighty-one participants did not respond to this question. Five participants indicated that they did not use the cards both because of privacy concerns and because the rewards were insufficient.

Participants were asked if they had seen material on the odds of winning, available help services and in-venue warning signs, and if that material had changed their behaviour (table F.23). The majority of respondents had seen help services material and warnings. The respondents were much more likely to have changed behaviour because of the help service materials — but given that all the respondents were clients of help services, a positive response would be expected.

Table F.23 Did participants see and respond to venue based information?

	Material on odds of winning	Warning signs in-venue	Material on help/counselling services
Yes	107	165	167
No	79	27	25
I don't remember	7	5	6
No response	26	22	21
<i>Of those who saw the information, warnings or help service material</i>			
Changed behaviour	9	26	87
No change in behaviour	97	137	80
No response	3	2	0

Approaching venue staff or being approached by venue staff about gambling problems

Respondents were also asked whether they had approached venue staff to talk about the problems they were experiencing or whether venue staff had approached them (table F.24). Around 16 per cent of the survey group reported approaching staff to report they had a gambling problem and around 6 per cent reported staff approaching them (nearly all of the survey group answered this question).

Of those approaching staff, the most common response was to inform them/refer them to counselling services or to inform them more generally about measures they could take to control their gambling.

Staff were most likely to approach problem gamblers in order to:

- express concern about their gambling
- inform them of help available through counselling services or
- inform them about measures they could take to control their gambling.

Table F.24 Interactions with venue staff

<i>Question</i>	<i>%</i>
<i>Did venue staff approach you and discuss your gambling and/or talk to you about seeking help? (197 respondents)</i>	5.6
<i>What happened when venue staff approached you? (11 respondents)^a</i>	
I was asked if I was alright or wanted to speak to someone about my gambling	36.1
I was asked if I would like venue staff to contact either a family member or friend	..
I was provided with information about gambling help services	45.5
I was referred to gambling help services or counselling	36.4
I was told about measures to control gambling (taking breaks, self-exclusion, etc)	27.3
Other	27.3
<i>How did you respond to being approached by venue staff (10 respondents)</i>	
I did nothing	8.3
I sought help from my family or friends	8.3
I sought professional help	66.7
Other	16.7
Total	100.0
<i>Did you ever approach venue staff to talk about your gambling? (196 respondents)</i>	15.8
<i>How did venue staff respond when you approached them? (31 respondents)^a</i>	
I was provided with information about gambling help services	38.7
I was referred to gambling help services or counselling	19.4
I was told about measures I could use to control my gambling (taking breaks, self-exclusions, etc)	41.9
Venue staff contacted one of your family members or a friend	..
Other	41.9

^a Respondents could answer yes to more than one question. .. indicates no response.

Respondents' most common reaction to being approached by staff was to seek professional help. Of course, as the survey group comprises clients of gambling help services, this may not reflect the reaction of other gamblers.

F.3 Data quality issues

While most of the data appeared to be of high quality, some deficiencies were present:

-
- some participants did not answer one or more of the questions
 - some of the responses from participants were descriptive for questions requiring quantitative estimates, for example
 - when asked how many times they had returned to problem gambling, one respondent replied ‘too many’.
 - another respondent indicated that losses per session were ‘whatever I had’.
 - some quantitative answers were clearly inaccurate.
 - For example, one participant indicated having returned to problem gambling hundreds of times. And, while in all Australian jurisdictions, the maximum bet per button push on an EGM in a hotel or club is at most \$10, of the 122 respondents who provided sufficient data to derive an estimate, 22 of their estimated bets per button push were over \$10. Of those, 20 of the 22 indicated that their usual gambling venue was a hotel or club (not a casino where such bets would be possible).

F.4 Non-respondent characteristics

In order to gauge whether non-respondents might be qualitatively different from respondents the Commission asked counselling services to provide three pieces of information about non-respondents:

- the gender of the person
- the approximate age of the person
- the severity of their gambling problem

The proportion of male non-respondents was higher than the proportion of male respondents (table F.25). This suggests that males were more reluctant to participate in the survey than females. As such, the results of the survey may have been influenced by a higher participation rate among female problem gamblers. However, the overall high response rate suggests that there would be no substantial effect on the data.

Table F.25 Gender of non-respondents

<i>Gender</i>	<i>Number</i>	<i>Percentage</i>
Male	22	84.6
Female	4	15.4
Total	26	100

The age distribution of non-respondents (table F.26) is similar to the distribution of respondents, suggesting that the results of the survey may not have been significantly influenced by the reluctance of people in any particular age group to participate in the survey.

Table F.26 Age of non respondents

<i>Age range in years</i>	<i>Number</i>	<i>Percentage</i>
15–19	..	..
20–29	5	19.2
30–39	7	26.9
40–49	6	23.1
50–59	5	19.2
60+	3	11.5
Total	26	100

Counsellors provided information on the severity of the gambling problem for 26 of the 28 non respondents. Of those, 20 non respondents had at least a SOGS or subjective assessment rating.⁴ Non respondents were less likely to have been assessed as having a very serious gambling problem (table F.27).

Table F.27 Comparing severity of gambling problems

Share of respondents and non respondents who were assessed using SOGS or the subjective assessment scale

<i>SOGS</i>	<i>Non Respondent</i>		<i>Subjective</i>	<i>Non Respondent</i>	
	<i>respondent^a</i>			<i>respondent</i>	
<i>Rating</i>	<i>%</i>	<i>%</i>	<i>Rating</i>	<i>%</i>	<i>%</i>
0-5	22	9	1	0	4
6-9	33	26	2	17	8
10-12	22	44	3	33	23
13+	22	21	4	25	35
			5	25	30

^a Column does not sum to 100 because of rounding.

⁴ Subjective rating on a scale of 1 to 5 with 1 indicating the gambling problem was ‘not very serious’ and 5 indicating ‘extremely serious’.

F.5 Survey form

Survey of Clients of Counselling Agencies 2009



Australian Government
Productivity Commission

Confidentiality

The completed form will not have the client's name on it, so the client's identity is not known to the research team.

Return Address

Please send the completed survey form back in the enclosed pre-paid envelope, or to Rosalie McLachlan, Productivity Commission, GPO Box 1428, Canberra City, ACT, 2601.

Survey Instructions

Please read the consent form over the next page before you start the survey. We want to make sure you know why we are doing this survey and how we will protect your interests. You must be aged 18 and over to complete this form.

It is very important that you provide honest answers to the survey questions so that we can work out how best to assist gamblers in the future.

Where there are multiple choice boxes, please tick the appropriate box

Where we ask you for numbers, try to give us an accurate answer, but if you are a little unsure, estimates are acceptable. Please report all monetary amounts in dollars.

Consent for participation

What is the survey for?

The purpose of this survey is to help us understand more about the behaviour of people experiencing problems with gambling. The survey will be analysed as part of the

Productivity Commission's national inquiry into gambling and the information used for assessing the potential effectiveness of various harm minimisation measures.

Are the results confidential?

Yes. The completed form will not have your name on it, so your identity is not known to the research team.

What is the role of the counsellor in the survey?

A counsellor from this agency will help you fill out the survey. Because of this, they will see your answers, but they will not make any record of your answers for themselves or the agency (unless you specifically consent to this). The survey may raise issues that you wish to discuss with the counsellor and, of course, that is up to you and the counsellor concerned.

What happens to the survey form?

The survey form is sent back to the Productivity Commission where the data will be analysed.

Do I have to fill in this survey?

No. It is a voluntary survey, but, of course, we would really like you to take part. You should also know that at any time while you are filling it out you can decide to stop.

If I decide not to participate will it affect the help I get here?

Absolutely not. We would like to stress that whether you participate in this survey or not in no way affects the help you will get from this counselling agency.

Concerns about the survey or survey process

You can contact the Commission to discuss any concerns about the survey or survey process. Please speak to Rosalie McLachlan (02 6240 3327) or Troy Podbury (02 6240 3257).

Can I find out what the overall survey findings are?

Yes. The report will be published on www.pc.gov.au. The Productivity Commission's website also tells you how to make a submission to us if you would like to do so.

How long will it take to fill in the form?

That will vary a bit. But, it should take about 20 minutes.

1 Are you willing to participate in this survey?

Yes → Thank you. Go to question 2 No → Thank you for considering this survey.

2 Are you willing to have the anonymous data provided to researchers other than the Productivity Commission? (tick one box)

Yes No

B3 When did you first *experience problems* with the form of gambling that caused you the most problems? (enter age)

Age (years)

B4 How many times a week or month or year did you play the form of gambling that caused you the most problems? (fill in only one line)

..... times per week

..... times per month

..... times per year

B5 How much money did you typically lose on your main gambling activity in one gambling session?

\$.....

B6 At which venue did you gamble most? (tick only one box)

Hotel/pub

Club

Casino

TAB

On course (racing/sports)

No preference

Other (please specify)

B7 Have you returned to having problems with gambling following a problem-free or largely problem free gambling period?

no →Go to section C

yes →Go to B8

B8 How many times over your life have you returned to having problems with gambling following a problem-free or largely problem free gambling period?

..... Number of times

Section C: Revealing gambling problems

C1 Australian governments periodically conduct telephone surveys on gambling to find out how many people are experiencing problems. Thinking about the situation BEFORE you decided to seek help, to what extent would you have revealed you had any problems? (tick only one box)

Did not have a telephone so I could not be contacted

I would have....

answered honestly

refused to answer the survey

somewhat concealed any problem

mostly concealed any problem

completely concealed any problem

exaggerated any problem

told them I didn't know

I don't know what I would have said

Part D: Questions about gambling on gaming machines

(The following questions are only for those clients who indicated in question B2 that the form of gambling causing the *most* problems was gaming machines. For all other clients go to part F).

The following questions relate only to the time when you were experiencing problems with your gambling (this may be before you sought help).

D1 How much time did you typically spend playing the gaming machines during each visit to the venue? Record hours and minutes

..... hours minutes

D2 What type of machine did you usually play? (tick only one box)

1 cent

2 cent

5 cent

10 cent

20 cent

50 cent

\$1

\$2

Other (specify)

D3 For each push of the button:

a) how many lines did you usually play per button push?

b) how many credits per line did you usually play?

D4 Use of bill acceptors. When playing the machines did you usually....

- use coins (no bill acceptors, preference for, etc)
- use notes → Denomination usually used? \$.....

D5 How often did you take breaks in play? (tick only one box)

- Every 30 minutes or less
- About every 2 hours
- Only occasionally or never
- About every hour
- More than every 2 hours
- Can't recall / not stated

D6 Did you use a loyalty or rewards card to earn bonus points when you played the machines? (tick only one box)

- did not have one
- had one, but didn't usually use it
- had one and usually used it → go to E1
- had one and always used → go to E1

D7 If you didn't use a loyalty or rewards card, why didn't you? (tick as many boxes as appropriate)

- privacy concerns
- rewards weren't sufficient to motivate me to use one
- Other (please specify)

Section E: Questions about informed choice and control over gambling

The following questions relate to the time when you were experiencing problems with your gambling (this may be before you sought help).

E1 Can you recall seeing material at the venues telling you about the odds of winning on the machines? (tick only one box)

- Yes No →go to E3 I don't remember→go to E3

E2 Did the information prompt you to change your behaviour? (tick one box)

- Yes No. Why not?

.....
.....
.....
.....
.....
.....

E3 Can you recall seeing warning signs about gambling at the venues? (tick one box)

- Yes No →go to E5 I don't remember→go to E5

E4 Did the information prompt you to change your behaviour? (tick one box)

- Yes No. Why not?

.....
.....
.....

E5 Can you recall seeing material at the venues about help/counselling services? (tick only one box)

- Yes No →go to E7 I don't remember→go to E7

E10 Did you ever approach venue staff to talk about your gambling? (tick only one box)

- Yes No → go to E12 I don't remember → go to E12

E11 If you did approach venue staff, how did they respond? (tick all appropriate boxes)

- I was provided with information about gambling help services
- I was referred to gambling help services/ counselling
- I was told about measures I could use to control my gambling (taking breaks, self-exclusion, etc)
- Venue staff contacted one of your family members or a friend
- Other (please specify)

E12 When you had a problem with gambling how often did you want to control your gambling? (tick only one box)

- | | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Never | Rarely | Sometimes | Often | Nearly always |
| <input type="checkbox"/> |

E13 Did you formally self-exclude yourself from venues? (tick one box)

- No → go to E14 Yes → go to E15

E14 Why didn't you self-exclude?

- I was too embarrassed
- I did not know I could self exclude
- I was worried my family/friends would find out about my gambling problem when I was refused entry to a venue
- I knew I could still get into my usual venue (management didn't care, could get in when the venue was busy, could change my appearance)
- I could go to another venue where I didn't usually gamble
- I felt I could control my gambling by myself
- I didn't want to stop gambling altogether
- Other (please specify)
.....→go to E16

E15 Aspects of self-exclusion

- a) How many venues did you self-exclude from? Number
- b) Did you turn to another form of gambling while self excluding? Yes No
- c) Did you breach self exclusion by going back to the venues you excluded yourself from? Yes No
- d) Did you get around the self exclusion by going to other venues altogether? Yes No
- e) Did venue staff intervene when you breached self exclusion? Yes No

E16 How often did you use the following techniques to keep to your gambling (money and time) limits?

Tick appropriate box for each item

		Nearly always	Often	Some- times	Rarely	Never
a)	Leaving your ATM or credit cards at home	<input type="checkbox"/>				
b)	Taking to the venue only what you planned to spend	<input type="checkbox"/>				
c)	Contacting your bank or financial institution to lower your ATM withdrawal limit	<input type="checkbox"/>				
d)	Using family or friends to help you control your gambling	<input type="checkbox"/>				
e)	Taking a break after gambling for a particular time or when you felt your gambling was getting out of control	<input type="checkbox"/>				
f)	Committing to an appointment/another activity so you were forced to stop gambling and leave	<input type="checkbox"/>				
g)	Beginning to play just before venue closing time	<input type="checkbox"/>				
h)	Avoiding high or large bets such as maximum or multiple bets	<input type="checkbox"/>				
i)	Playing on low denomination machines	<input type="checkbox"/>				
j)	Other (please specify below)	<input type="checkbox"/>				

.....

Section F: Harm minimisation measures to help reduce problem gambling
--

F1 Based on your experience, how effective would the following measures have been for you in avoiding getting, or managing, your gambling problems?

Tick one box for each item

	Would not work	Would work a bit	Would work well
a) Knowing how much you would usually lose when gambling	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Clearly displayed signs in venues stating that if you gambled regularly you would lose money	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Using TV and radio advertising to make people aware of the risks of problem gambling	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Banning the promotion of gambling	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Removing ATM's from venues	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Warnings that pop-up during play to tell gamblers to play responsibly	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) Messages that pop-up to tell players how long they have been playing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h) Being required to take a break in play on gaming machines after a certain time	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i) Technologies that allow gamblers to self-exclude from gambling	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j) Technologies that allow gamblers to set spend limits on their gambling	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
k) Technologies that allow gamblers to set time limits on their gambling	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
l) Expenditure statements showing how much you have spent on gambling by day/ week/month	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
m) Lower maximum bet sizes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
n) A reduction in the number of credits that can be bet per line	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
o) The removal of high denomination note acceptors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
p) Lowering the threshold for winnings to be paid by cheque	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

F2 What do you think could be done to reduce problem gambling and why?

Section G: Scores – Questions for the counsellor/interviewer

G1 Do you use a gambling screen (such as the SOGS, DSMIV or CPGI) to assess the severity of problems faced by those presenting for help?

Yes → go to Question G2

No → go to Question G3

G2 If yes:

What is the name of the instrument that you use?

.....

What was the client's score → go to Question G4

G3 What is your subjective rating of the severity of the client's gambling problem on a scale of 1 (not very serious) to 5 (extremely serious)?

1

2

3

4

5

G4 How long did it take you to complete the survey form? minutes

G5 Date of completion of the survey form?/...../2009

**G6 Name of counselling
agency**

Address

.....

Phone

Email

F.6 Non-response form

Non-response form

**Survey of Clients of
Counselling Agencies
2009**



Australian Government
Productivity Commission

Non-respondents

We need to ask some general questions about clients who do not wish to participate in the survey. These questions will help us gauge whether non-respondents are qualitatively different from respondents.

1 **Gender** female male

2 **Approximate age**years

3 **Do you use a gambling screen (such as the SOGS, DSMIV or CPGI) to assess the severity of problems faced by those presenting for help?**

Yes→ go to Question 4 No→ go to Question 5

4 **If yes:**

What is the name of the instrument that you use?

.....

What was the client's score

5 **If no, what is your subjective rating of the severity of the non-respondents gambling problem on a scale of 1 (not very serious) to 5 (extremely serious)?**

1 2 3 4 5

Thank you for your valuable help.

G Access to cash and credit: evidence

G.1 Introduction

Many regulations limit access to cash and credit in gambling venues, with the objective of reducing harm to gamblers. Further restrictions have been advocated. This appendix summarises reviews about such regulations and evidence about their impacts (which provides useful background material for chapter 13).

The main focus is on automatic teller machines (ATMs), given that bans on in-venue ATMs and limits on withdrawals are often raised as harm minimisation measures, with Victoria about to implement a ban. However, the appendix also considers some other aspects of access to cash, including restrictions on using credit for gambling, the forms of payment for winnings and cashing of cheques.

The key sources of evidence are set out in table G.1. Evidence was particularly sought in relation to the following effectiveness issues:

- the link between access to cash and credit and problem gambling
- whether restrictions on access to cash and credit would help gamblers, including whether gamblers would avoid or otherwise circumvent the restrictions
- the impacts of restrictions on non-problem gamblers and other patrons
- the extent of support for, or views on the effectiveness of, restrictions.

G.2 ATMs/EFTPOS facilities in Australia and in gambling venues¹

ATMs

ATMs provide customers of financial institutions with the capacity to access their accounts online for the purpose of cash withdrawals and other account management

¹ Sources of information for this section are; ABS (2006); APCA (2010a, b); ATM Industry Reference Group (sub. 137); Australian Bankers' Association (sub. 165); and RBA (2010).

services. Access is through the use of debit or credit cards issued by financial institutions.

Table G.1 Key sources of evidence on access to cash and credit

<i>Source</i>	<i>Scope</i>	<i>Commissioned/funded by?</i>
AC Nielsen (2007)	Survey of gambling prevalence in NSW	NSW Office of Liquor, Gaming and Racing
Australian Institute for Gambling Research (2001)	Survey of gambling prevalence in the ACT	ACT Gambling and Racing Commission
Caraniche (2005)	Evaluation of Victorian harm minimisation measures applying to gaming machines	Victorian Gambling Research Panel
Centre for Gambling Research (2004a)	Survey of gambling prevalence in Victoria	Victorian Gambling Research Panel
Centre for Gambling Research (2004b)	The use of ATMs in ACT gaming venues	ACT Gambling and Racing Commission
McMillen and Pitt (2005)	Review of ACT Government harm minimisation measures	ACT Gambling and Racing Commission
Delfabbro et al. (2007)	Identification of problem gamblers in gambling venues	Gambling Research Australia
Hare (2009)	A study of gambling in Victoria	Department of Justice, Victoria
Hing (2003)	Awareness, adequacy and effectiveness of responsible gambling strategies in Sydney clubs	(NSW) Casino Community Benefit Fund
McDonnell-Phillips (2006)	National survey of gambler pre-commitment behaviour	Gambling Research Australia
New Focus Research (2004)	Experiences of problem gamblers, their 'loved ones' and service providers	Department of Justice, Victoria
Office for Problem Gambling (2006)	Survey of gambling prevalence in South Australia	SA Department for Families and Communities and the Independent Gambling Authority
SACES (2008b)	Survey of gambling prevalence in Tasmania	SA Department of Treasury and Finance
Queensland Government (2008, 2009a)	Queensland household gambling survey 2006-07 and 2008-09	Queensland Government
Schottler Consulting (2009a)	Survey of gaming machine players attitudes to Victorian policy changes	Department of Justice, Victoria

There were around 27 000 ATMs in Australia as at end June 2009 (RBA 2010). There were some 73 million cash withdrawals from ATMs valued at \$13.9 billion, with the average value of a transaction at around \$190.²

² As at end December 2009 (RBA 2010).

There is some limited information on the number of ATMs and the number and value of ATM transactions in gambling venues. About 25 per cent of ATMs in Australia are located in licensed venues (ATM Industry Reference Group sub. 137, p. 8). A very small number of ATMs in ‘gaming venues’, about 1 per cent,³ are ‘bank branded’ (Australian Bankers’ Association, sub. 165, p. 4 and sub. DR381, p. 3), with 99 per cent owned/operated by non-financial institutions.

EFTPOS facilities

EFTPOS facilities provide customers with the ability to pay for the supply of goods and services at the point of sale through an online debit of their savings or cheque (debit) accounts, with a resultant credit to the merchant’s account. Access is generally through the use of a debit card, although credit cards may also be used to access linked debit accounts. While the service offered by EFTPOS is principally a substitute for cash and cheque payments, some merchants may also offer ‘cash out’ services, where the savings or cheque account is debited in return for the provision of cash by the merchant.

There were around 670 000 EFTPOS facilities in Australia as at end June 2009 (RBA 2010). Some 21 million debit transactions involving cash withdrawals valued at \$1.3 billion were conducted through EFTPOS facilities, with the average value of a cash withdrawal of around \$62.⁴

There is no published information on EFTPOS facilities in gambling venues. However, assuming that each business providing gambling services in Australia has one merchant operating an EFTPOS facility there are an estimated 5300 terminals in venues providing gambling services (ABS 2006).

G.3 Restrictions on ATMs/EFTPOS facilities

Most jurisdictions have mandatory restrictions on:

- the location of ATMs/EFTPOS facilities — for example, prohibiting ATMs/EFTPOS facilities from the gaming floor of the venue or prescribing the distance of ATMs from the gaming floor

³ As at March 2009, there were 84 bank branded ATMs (Australian Bankers’ Association, sub. 165, p. 4 and sub. DR381, p. 3).

⁴ As at end December 2009 (RBA 2010).

-
- the number or value of ATM/EFTPOS transactions — for example, setting daily limits on the volume and/or value of transactions or limiting the value of a single transaction.

Findings and recommendations of previous reports to government

In its 2002 report to the Australian Government, KPMG recommended that the Government review the location and placement of ATMs in gaming venues, particularly their proximity to gaming areas, to ensure adherence to the intent of the legislation (KPMG 2002, p. 5). It also recommended that such a review consider increasing requirements to ensure ATMs are not visible to patrons in the gaming area.

While not specifically linked to restrictions on ATMs/EFTPOS facilities, KPMG also recommended that jurisdictions should negotiate with the financial services sector to develop a ‘self help’ strategy for banking customers who require assistance in managing their finances as a result of gambling issues (2002, p. 6). It noted that customers have the capacity to set their own limits on their accounts.

Ultimately the problem gambler is required to share some responsibility in dealing with their gambling behaviour. There are ranges of strategies in this area that are being implemented overseas and could be implemented here. They include the individual implementing a self-exclusion deed whereby the individual excludes themselves from the ATMs in all casinos and gaming environments. Further, there is already capacity for individuals to place withdrawal limits on specific accounts. This allows people some capacity to address their own behaviour whilst not negatively impacting on the broader community group. (2002, p. 85)

In its 2004 report on New South Wales harm minimisation measures, IPART recommended, among other things, that a review should be conducted to determine the uniform minimum distances that ATMs must be from the gaming areas in venues, and research into lower ATM cash limits in gambling venues (2004, pp. 98, 104). On cash limits, IPART noted that:

Problem gamblers could be expected to avoid lower cash limits at gaming venues by using multiple cards or withdrawing more money from ATMs located outside of venues. However, lower cash limits at venues could assist regular gamblers to better manage their betting on gaming machines. ...

Where appropriate, gamblers should be encouraged to better manage their expenditure on gaming machines by setting lower limits on their electronic cash withdrawal cards. Consultations should be held with the financial sector to ascertain whether consumers can request lower withdrawal limits from gaming venues only. If this is possible, gamblers should be encouraged to use this facility as a tool to gamble more

responsibly. If this is not possible, the financial sector should be encouraged to make this facility available. (2004, p. 103)

The Centre for Gambling Research (2004b, p. 15):

- found limited evidence to support the removal of ATMs from gaming venues. Although the convenience of ATMs in gaming venues appears to be related to higher gambling expenditure, on balance the removal of ATMS from gambling venues would inconvenience a proportion of recreational gamblers and non-gambling patrons of gaming venues
- did not find an unequivocally strong relationship between problem gambling and the use of ATMs in ACT gaming venues.

The Centre, nonetheless, considered that its findings showed that a daily limit on the amount that can be withdrawn from ATMs would be a more ‘effective and acceptable strategy’ (p. 15)

In contrast to the Centre for Gambling Research study, a report to the Victorian Government evaluating harm minimisation measures applying to gaming machines (Caraniche 2005) found that ‘removing ATMs from gaming areas would not inconvenience recreational gamblers’ (p. 14), but made no specific recommendations on restrictions on ATMs/EFTPOS facilities.

In 2009, the Victorian Government released a study on the impact of changes to electronic gaming machine characteristics, including its proposed ATM ban, on the play behaviour of gamblers (Schottler Consulting 2009a). The study found that:

... there may be a slight reaction of recreational gamblers to having to use EFTPOS for cash withdrawals, although based on the research, this is not likely to prove to be a major obstacle. In fact, given that 86% of non-problem gamblers and 75% of low risk gamblers thought ATM removal would have no impact on their play enjoyment, this is a reasonable indication that such a measure is fairly acceptable to the recreational player market. Most are quite comfortable with limited EFTPOS withdrawals. (p. 7)

The use of ATMs/EFTPOS facilities in gambling venues

Extent of use

The evidence generally shows that most gamblers and other patrons rarely, or do not, use in-venue ATMs, with even fewer using in-venue EFTPOS facilities (table G.2).

Table G.2 Use of ATMs/EFTPOS facilities in gambling venues

Question or statement	NSW <i>AC Nielsen (2007)</i>	Vic <i>Centre for Gambling Research (2004a)</i>	Vic <i>Caraniche (2005)</i>	Qld <i>Household gambling survey 2008-09^a</i>	SA <i>Office for Problem Gambling (2006)</i>	Tas ^b <i>SACES (2008b)</i>	ACT <i>Centre for Gambling Research (2004b)</i>	National <i>UMR^c (2008)</i>
	n=634 players of gaming machines	n=906 gamblers	n=418 players of gaming machines	n=15 000 adults	n=5130 players of gaming machines	n=1156 players of gaming machines	n=566 venue patrons that were ATM users and 387 venue patrons that were EFTPOS users	n=1000 patrons of clubs and hotels
Withdrew money from the ATM at the venue.	Never, rarely 84% Sometimes, often, always 17%	Never, rarely 74.5% Sometimes, often always 25.5%	Never used or accessed 42% Used or accessed once 29% Used or accessed more than once 29%	..	Never, rarely 85% Sometimes, often, always 14%	Never, rarely 85% Sometimes, often, always 15%	Accessed 49%	..
Withdrew money from an ATM in a pub or club.	..	..	..	Never, rarely 76.5% Sometimes, often, very often 23.3%	..	..	..	..
Withdrew money from savings or cheque accounts at venue (using a plastic card).	..	..	..	..	Never, rarely 90% Sometimes, often, always 10%	Never, rarely 89% Sometimes, often, always 11%	..	..
Withdrew money from EFTPOS at the venue.	..	..	..	Never, rarely 88.8% Sometimes, often, very often 11.2%	0.6%	..	Accessed 16%.	..
Used ATM at least occasionally	..	..	..	..	..	..	..	52%

^a Commission estimates based on raw data from the survey (questions 26 and 28). ^b In Tasmania, ATMs are only available in casinos. EFTPOS facilities are available in casinos, hotels and clubs. ^c Referred to in Clubs Australia (sub. 164, p. 11).

.. not asked or reported.

Purposes for withdrawing cash

There have been some studies that have considered the purposes to which cash withdrawn from ATMs or EFTPOS facilities have been put.

In its 2004 study of ATM use in ACT gaming venues, the Centre for Gambling Research (2004b) reported that, of the patrons that used ATMs/EFTPOS facilities in ACT gaming venues, most usually spent the withdrawn cash on drinks in the venue (86 per cent of 258 ATM users and 81 per cent of 48 EFTPOS users) and on meals in the venue (80 per cent and 66 per cent) (p. 96, table 26). Much smaller proportions of patrons spent withdrawn cash on gambling (36 per cent and 33 per cent). (People were able to nominate multiple types of purchases, which is why the shares can exceed 100 per cent.) The major motivation for using cash withdrawal facilities in gambling venues, rather than from other sites, was security and accessibility — which is relevant to regulations that might limit such access (table G.3).

Table G.3 Reasons for using ATMs/EFTPOS facilities in ACT gaming venues, 2004^a

<i>Reason</i>	<i>ATMs (n=258)</i>	<i>EFTPOS (n=48)</i>
	<i>%</i>	<i>%</i>
There are no other ATMs/EFTPOS facilities in the local area	22	29
I don't like travelling with money in my wallet	19	14
It is close to my work	16	19
It is close to my home	14	16
It is close to where I shop	13	16
I can easily park my car there	12	13
It is a safer environment for getting money	11	25
Other	48	37

^a Responses are from gaming venue patrons who have used ATMs/EFTPOS facilities in ACT gaming venues in the last 12 months.

Source: Centre for Gambling Research (2004b, p. 105, table 38).

UMR Research also found food and drink as the primary use of withdrawn funds. 29 per cent of Australians using ATMs in clubs or pubs at least once every three months reported that they mostly use the money for food (76 per cent), drinks (70 per cent), spending money outside the club (70 per cent), gambling (35 per cent) and cigarettes (17 per cent) (sub. 164, p. 11).

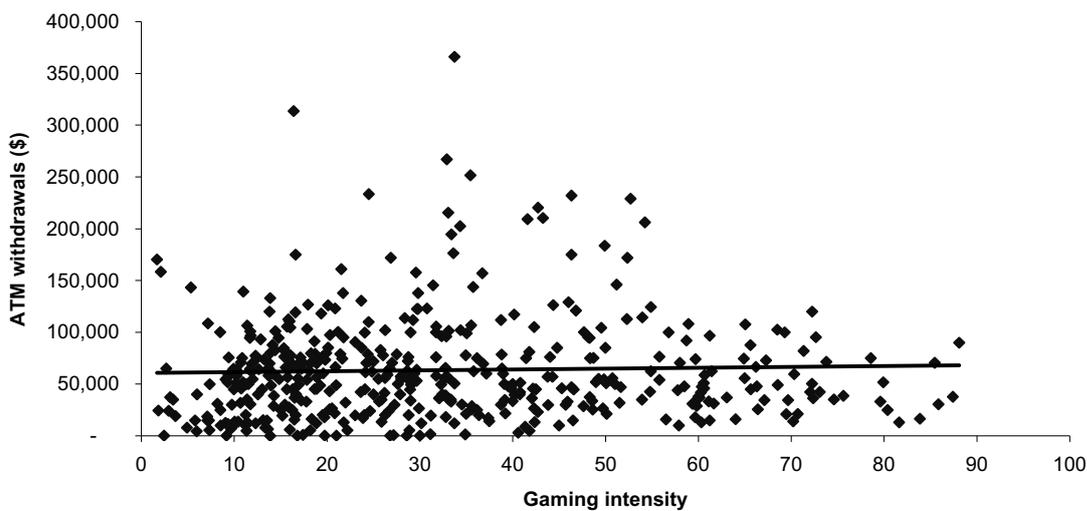
Other indirect evidence also suggested a weak link between ATM withdrawals and gambling (box G.1).

Box G.1 Are there links between gambling and ATM withdrawals?

If ATM withdrawals are primarily used to finance gambling, then there should be a positive correlation between ATM withdrawals and gambling expenditure in venues. In a report prepared for the Australian Hotels Association for this inquiry, PriceWaterhouseCoopers used information from its survey of over 1000 hotels to estimate the relationship between ATM withdrawals and 'gaming intensity' — defined as the ratio of gaming income to total hotel income (PWC 2009, referred to in sub. 175). It is apparent that there is little clear relationship (figure below).

However, the figure below does not control for the scale of the operation of the hotels. As an illustration, two hotels might have the same dependence on gaming, but could have different total revenues. Since ATM withdrawals would also be dependent on the overall revenue of the hotel, it could be expected that hotels with a given gaming intensity, but higher overall relative revenues would have higher withdrawals than other hotels with the same gaming intensity. This fact will tend to conceal any underlying relationship between ATM accessibility and gambling expenditure.

However, even if there was a connection between gambling and ATM withdrawals, this would not clearly establish the direction of causality.



Source: PWC (2009, p. 5).

In contrast, Caraniche (2005, table 5.45) found that 47 per cent of gaming machine players in Victoria accessed the ATM in the venue to obtain money for gambling compared with 9 per cent who obtained money for personal use, 4 per cent who obtained money for beverages and 4 per cent who obtained money for food.

The differences between this and the above two studies are likely to be due to the varying nature of the respondents (patrons generally in the Centre for Gambling Research and UMR Research studies and gaming machine players in Caraniche).

Commission estimates based on raw data from the Queensland household gambling survey 2008-09 of 15 000 adults indicated that 58 to 67 per cent of gamblers overall used money withdrawn from ATMs or EFTPOS facilities in a pub or club for drink, food or meals, with 21 to 24 per cent using the money for gambling (table G.4). These estimates are broadly consistent with Centre for Gambling Research and UMR Research studies. However, when considering the purpose to which withdrawals are put by *the type of gambler*, significantly more recreational gamblers (57 to 70 per cent) than problem gamblers (17 to 48 per cent) use the money for drink, food or meals at the pub or club and significantly more problem gamblers (98 to 100 per cent) than recreational gamblers (16 to 18 per cent) use the money for gambling.

Table G.4 Purposes to which money withdrawn from ATMs/EFTPOS facilities in Queensland pubs or clubs is put, 2008-09^a

<i>Purpose</i>	<i>Type of cash facility</i>	<i>Recreational gamblers^b</i>	<i>Low risk gamblers^c</i>	<i>Moderate risk gamblers^c</i>	<i>Problem gamblers^d</i>	<i>Total</i>
		%	%	%	%	%
Gambling at the pub or club	ATM	18.0	47.1	83.1	100.0	23.9
	EFTPOS	15.7	43.9	62.9	97.9	20.7
Food or meals at the pub or club	ATM	60.5	46.7	39.8	17.1	58.0
	EFTPOS	69.7	56.3	45.7	20.9	67.1
Drinks at the pub or club	ATM	59.9	62.4	58.8	47.5	60.0
	EFTPOS	57.4	60.5	61.7	47.0	57.7
Other expenses at the pub or club	ATM	4.4	4.5	4.0	1.4	4.4
	EFTPOS	3.8	4.2	7.3	3.8	3.9
Spending outside the pub or club	ATM	10.1	9.3	6.8	0.7	9.9
	EFTPOS	4.9	6.5	5.6	1.5	5.0

^a Commission estimates based on raw data from the Queensland household gambling survey for 2008-09 (questions 27 and 29). The 2008-09 survey was of 15 000 adults. ^b Recreational gamblers — CPGI (0). ^c Low risk gamblers — CPGI (1 or 2). ^d Moderate risk gamblers — CPGI (3 to 7). ^e Problem gamblers — CPGI (8+).

The link between ATMs/EFTPOS facilities in venues and problem gambling?

The threshold issue for judging the effectiveness of restrictions on ATMs/EFTPOS facilities is whether there is a link between ATMs/EFTPOS facilities in venues and the development of gambling problems.

The use of ATMs/EFTPOS facilities by problem gamblers

Despite the many different methodologies used, there is compelling evidence that at-risk and problem gamblers are more likely than other patrons of gambling venues to use ATMs and/or EFTPOS facilities in gambling venues, particularly on gaming machines (tables G.4 to G.10).

However, these results have to be carefully interpreted, as part of the association may reflect the greater cash needs of problem gamblers, rather than the presence of ATMs per se. The causal link is important because it raises the possibility that were ATMs removed, problem gamblers might obtain their cash from somewhere else, without altering their gambling behaviours by much. Further strands of evidence may help determine the magnitude of the competing effects.

Self-limiting behaviour by problem gamblers

Problem gamblers sometimes attempt to limit their gambling expenditure by adopting strategies that avoid using ATMs/EFTPOS facilities in venues — a strategy that only makes sense if they perceive a connection between the accessibility of cash facilities and their compulsion to gamble. For example, problem gamblers may leave debit and credit cards at home, ask financial institutions to set limits on cash withdrawals from accounts, and take only the cash that they need for gambling.

In its national survey of gambler pre-commitment behaviour, McDonnell-Phillips (2006) reported that problem gamblers nominated ‘leaving ATM card or credit card at home’, ‘taking only what you plan to spend’, and ‘avoiding using ATMs to withdraw money at gambling venues’ as more effective control strategies (p. 31, p. 260). Other research shows that some gamblers went to greater extremes, with around 3 per cent of self-identified problem gamblers and 3 per cent of immediate family members reporting that they cut up credit cards and ATM cards to try to stop excessive gambling (New Focus Research 2004).

Table G.5 Problem gamblers often access cash in venue to gamble, ACT and NSW

<i>Risk group</i>	<i>Sometimes, often or always withdrew money to gamble</i>		
	<i>On gaming machines</i>	<i>On table games</i>	<i>On races</i>
	<i>%</i>	<i>%</i>	<i>%</i>
ACT 2001 prevalence survey			
Recreational gamblers	3	8	..
SOGS 5+	47	25	..
SOGS 10+	74	28	..
NSW 2006 prevalence survey^a			
Non-regular gamblers	12	..	4
Non-problem gamblers	19	..	16
CPGI 0-2	32	..	24
CPGI 3+	52	..	34

^a The results for 'at risk' gamblers and low risk gamblers are based on small sample sizes and should be viewed with caution.

.. denotes where data were not available.

Sources: Australian Institute for Gambling Research (2001); AC Nielson (2007).

Table G.6 Frequency of accessing ATMs/EFTPOS facilities in a pub or club over the last 12 months, Queensland, 2008-09^a

<i>Type of cash facility</i>	<i>Frequency</i>	<i>Recreational gamblers^b</i>	<i>Low risk gamblers^c</i>	<i>Moderate risk gamblers^d</i>	<i>Problem gamblers^e</i>	<i>Total</i>
		<i>%</i>	<i>%</i>	<i>%</i>	<i>%</i>	<i>%</i>
ATMs	Never, rarely	79.5	54.2	30.5	13.3	76.5
	Sometimes, often, very often	20.4	45.8	67.8	86.7	23.3
EFTPOS facilities	Never, rarely	90.1	80.4	66.6	49.1	88.8
	Sometimes, often, very often	9.9	19.4	33.4	50.9	11.2

^a Commission estimates based on raw data from the Queensland household gambling survey for 2008-09 (questions 26 and 28). The 2008-09 survey was of 15 000 adults. ^b Recreational gamblers — CPGI (0). ^c Low risk gamblers — CPGI (1 or 2). ^d Moderate risk gamblers — CPGI (3 to 7). ^e Problem gamblers — CPGI (8+).

Table G.7 Accessing ATMs/EFTPOS facilities, Queensland, 2006-07 and 2008-09^a

By low risk, moderate risk and problem gamblers

Question	Frequency	Low risk gamblers ^b		Moderate risk gamblers ^c		Problem gamblers ^d		Total	
		06-07	08-09	06-07	08-09	06-07	08-09	06-07	08-09
		%	%	%	%	%	%	%	%
How often do you withdraw money at a venue ATM before you start gambling?	Never, rarely	55.9	57.9	34.5	37.3	8.8	25.5	48.2	51.2
	Sometimes, often, always	43.4	41.5	65.4	60.2	90	74.5	51.2	47.8
How often do you withdraw extra money at a venue ATM during a gambling session?	Never, rarely	74.7	82.3	45.9	43.7	8.3	23.7	64.2	69.8
	Sometimes, often, always	24.8	17.6	54.1	54.2	91.7	76.3	35.5	29.5
How often do you obtain cash through EFTPOS facilities at the venue?	Never, rarely	69.1	76.6	52.1	63.9	36.9	54.7	63.3	72.4
	Sometimes, often, always	30.5	23.3	47.9	33.9	63.1	45.3	36.4	27.1

^a Commission estimates based on raw data from the Queensland household gambling survey for 2006-07 (question 100) and 2008-09 (question 75). The 2006-07 survey was of 30 000 adults and the 2008-09 survey was of 15 000 adults. ^b Low risk gamblers — CPGI (1 or 2). ^c Moderate risk gamblers — CPGI (3 to 7). ^d Problem gamblers — CPGI (8+).

Table G.8 ATMs/EFTPOS withdrawals in ACT gaming venues, 2004^a

Venue	<i>Has withdrawn money from a facility in an ACT venue in last 12 months</i>							
	ATMs				EFTPOS facilities			
	<i>Non-gamblers</i>	<i>Recreational gamblers</i>	<i>Regular gamblers</i>	<i>Self-identified problem gamblers</i>	<i>Non-gamblers</i>	<i>Recreational gamblers</i>	<i>Regular gamblers</i>	<i>Self-identified problem gamblers</i>
	%	%	%	%	%	%	%	%
Club	32	64	84	100	7	13	41	100
Hotel/tavern	14	28	38	40	5	6	29	100
Casino	1	12	16	40	0	1	6	100
Canberra TAB outlet	0	0	0	0	0.7	0	6	100

^a Responses are from patrons who have accessed ATM/EFTPOS facilities anywhere in the ACT in the last 12 months. Percentage of responses has been rounded. The results of this ACT study are drawn from a small sample of self-identified problem gamblers and regular gamblers, and from a small sample of gaming venue EFTPOS users.

Source: Centre for Gambling Research (2004b, pp. 86–7, tables 18 and 19).

Table G.9 Withdrawal of money at a gaming venue for playing gaming machines, South Australia, 2005^a

Risk groups	<i>Savings or cheque accounts</i>		ATMs		EFTPOS facilities
	<i>Never, rarely</i>	<i>Sometimes, often, always</i>	<i>Never, rarely</i>	<i>Sometimes, often, always</i>	<i>Withdrew money</i>
	%	%	%	%	%
All players (n=5130)	90	10	85	14	0.6
Have played, but not frequently (n=3309)	95	5	90	9	0.3
Fortnightly players (n=663)	83	17	80	20	0
Weekly players (n=1158)	78	21	75	25	2
Low risk frequent players (n=330)	69	30	66	34	1
Moderate & high risk frequent gamblers (n=222)	37	63	35	65	3

^a The CPGI was used to assess the risk of gamblers. Percentages may not add to 100 per cent as some respondents did not know or disclose their answer to the survey question. Given the relatively large sample sizes used in the South Australian survey, these results are unlikely to be subject to high standard errors.

Source: Office for Problem Gambling (2006, pp. 169–70, 172–3, 178–9).

Table G.10 Other key studies of links between problem gambling and access to cash

<i>Study</i>	<i>Main findings</i>
Centre for Gambling Research (2004a)	The 2003 Victorian gambling prevalence survey found a slightly higher proportion of regular gamblers (33 per cent) than non-regular gamblers (25 per cent) reported that they sometimes, often or always withdraw money from an ATM at the venue for gambling (p. 75).
New Focus Research (2004)	5 per cent of 111 self-identified problem gamblers, 8 per cent of 49 'loved ones' and 17 per cent of 48 service providers reported that ATMs at a venue contributed to problem gamblers spending more money than intended (p. 40).
Caraniche (2005)	This Victorian study of the survey responses from 418 gaming machine players and 297 venue managers, found a significant relationship between gaming machine players who used an ATM and problem gambling. The frequency of ATM use increased with levels of spending, the amount of time spent in the venue, the frequency of playing gaming machines and the CPGI score. Players who were moderate risk and problem gamblers had significantly more withdrawals from an ATM than non-problem or low risk players. When compared with non-problem gamblers, problem gamblers used ATMs around six times more (table 5.10 of the study). ATM use was also an 'independent significant predictor' of problem gambling (near table 5.44).
McDonnell-Phillips (2006)	This national survey of the pre-commitment behaviour of 482 regular gamblers (comprising players of gaming machines and TAB punters) found that access to an ATM at a venue was among the top triggers for regular gamblers to exceed spending limits overall (pp. 21–2, 184); and more likely to send problem gamblers (CPGI) and moderate risk gamblers over the limit than low risk gamblers and non-problem gamblers (pp. 24, 193).
Martin and Moskos (2007)	This report to the South Australian Independent Gambling Authority on the implementation of (mandatory) Advertising and Responsible Gambling Codes, was based on four waves of longitudinal surveys between 2004 and 2005. The study found that 28 per cent of 43 problem gamblers, compared with 16 per cent of 233 recreational gamblers, used ATMs at gambling venues with gaming machines (p. 25).
SACES (2008b)	The 2007 Tasmanian gambling prevalence survey reported that 58 per cent of 55 moderate risk and problem gamblers (CPGI 3+) sometimes, often, or always withdrew money from ATMs at the casinos to play gaming machines compared with 23 per cent of 249 no risk or low risk players (p. 61). As the sample size of moderate risk and problem gamblers is small, caution is required in interpreting these results. Nonetheless, on the basis of larger sample sizes, the Tasmanian survey results indicate that a higher proportion of 140 monthly players (44 per cent) than of 732 infrequent players of gaming machines (12 per cent) use ATMs at the casinos (p. 45); and that a higher proportion of 211 monthly players of gaming machines (23 per cent) than of 627 infrequent players (13 per cent) use ATMs that are near hotels and clubs (p. 46).
Delfabbro et al. (2007)	This study on possible indicators of problem gamblers in venues found that multiple use of ATMs/EFTPOS facilities was significantly correlated with a higher risk of problem gambling behaviour, with 86 per cent of 125 venue staff from South Australia, the ACT and New South Wales had seen gamblers getting cash out on two or more occasions to gamble using an ATM or EFTPOS facility at the venue and 75 per cent considered that this cue or behaviour might be useful in identifying problem gamblers at venues (p. 125). Indeed, this cue or behaviour was endorsed by venue staff as one of the most important signs of problem gambling behaviour (p. 128). Ten of 15 problem gambling counsellors from South Australia had reported their clients getting cash out on two or more occasions to gamble using an ATM or EFTPOS facilities at the venue, and 13 reported that this cue or behaviour might be useful in identifying problem gamblers at venues (p. 139). In relation to 679 regular gamblers who played gaming machines, 73 per cent of 137 problem gamblers, 39 per cent of 144 moderate risk gamblers, 24 per cent of 117 low risk gamblers and 10 per cent of 281 no-risk gamblers reported that they occasionally, frequently or always got cash out on two or more occasions using an ATM or EFTPOS facility at the venue (p. 175). In terms of the visible indicators of problem gambling, getting cash out on two or more occasions using an ATM or EFTPOS facilities at the venue was 2 times more likely for problem gamblers than other gamblers (p. 186).
Hare (2009)	This Victorian study, based on a sample of 2332 gamblers, found that problem gamblers (CPGI 8+) had a greater tendency to use an ATM/EFTPOS/credit card for extra money for gambling during a single gambling session (p. 178). A card was used twice by 31 per cent of problem gamblers compared with 9 per cent of moderate risk gamblers, 3 per cent of low risk gamblers and less than 0.5 per cent of non problem gamblers; three times by 12 per cent of problem gamblers compared with 3 per cent of moderate risk gamblers, less than 0.4 per cent of low risk gamblers and less than 0.05 per cent of non-problem gamblers; four or more times by 10 per cent of problem gamblers compared with 3 per cent of moderate risk gamblers, 0.3 per cent of low risk gamblers and 0.1 per cent of non-problem gamblers.

A survey of 422 problem gamblers who had self-excluded themselves from New South Wales hotels through GameCare found that 83 per cent reported that ATM exclusion schemes would be at least somewhat effective. Around two thirds said they would participate in a scheme that either restricted their withdrawal amounts from gaming venue ATMs or that barred such withdrawals altogether (Sweeney Research 2009, pp. 8–9).

Overall, the evidence that some problem gamblers would like to impose limits on their use of ATMs/EFTPOS facilities, or would use ATM exclusion schemes, provides weight to the view that these in-venue facilities play a contributory role in their problems.

The preference of problem gamblers for removing ATMs from venues

The strong preference by problem gamblers to remove ATMs altogether from venues is also suggestive of the contributory role played by access to cash. For instance:

- New Focus Research (2004) found that nearly all self-identified problem gamblers (96 per cent), their immediate family (95 per cent) and treatment providers (98 per cent) said that banning ATMs at venues would reduce problem gambling (p. 46) and was one of the most highly rated of practical measures to reduce harm.
- In its national survey of gambler pre-commitment behaviour, McDonnell-Phillips (2006, p. 295) reported that among the 15 prompted ideas to help gamblers keep to their limits, ‘removing ATMs from gambling venues’ was rated first by problem gamblers as a useful policy.
- Analysis of responses to the Commission’s survey of counselling services clients found a similar result (appendix J), with 74 per cent of the clients considering that removing ATMs from venue would work well to reduce problems. The measure attracted the highest level of support of broad suite of measures proposed, which included pre-commitment measures.

Venue managers were more sceptical, although 38 per cent still considered that removing ATMs would be an effective harm minimisation measure (Caraniche 2005 table 6.39).

Overall, this evidence corroborates that the presence of ATMs/EFTPOS facilities in venues is likely to exacerbate gambling harms, though it would be useful to obtain additional evidence by using other analytical methods, and ensuring adequate evaluation of the impending ban on ATMs in gaming venues in Victoria (box G.2).

Summing up

There is considerable evidence that problem gamblers use ATMs/EFTPOS facilities more than other gamblers. Although this does not show the direction of causality, problem gamblers' preferences for removing ATMs from venues, or otherwise controlling their use, suggest that the presence of these facilities contributes to problem gambling.

This finding is not itself sufficient to justify the introduction of restrictions on ATMs/EFTPOS facilities in venues by governments. As discussed in chapters 3 and 13, it is important to consider whether the benefits from regulations addressing gambling harms are outweighed by any adverse impacts on other gamblers or members of the community. This will vary according to the type of restriction contemplated.

Box G.2 Further analysis might help

Further analysis of before and after effects from the introduction of ATM facilities might help clarify the impacts of ATMs on gambling expenditure. If gambling expenditure were to rise relative to non-gaming revenue after the introduction of ATMs, that would suggest that, when a cash facility was provided, patrons had a higher propensity to withdraw money for gambling than other services. Such a higher propensity would be more characteristic of problem gamblers impulsively withdrawing money to gamble than of recreational gamblers, and so might provide another lens on the effects of ATMs.

Such analysis could be undertaken by choosing a random sample of venues that are about to introduce ATMs, and collecting gambling revenue and non-gambling revenue data from those venues at least three months before and after the introduction of the ATMs. After controlling for venues' overall revenue size, the effects of the introduction of ATMs could be assessed by modelling:

- the difference between gambling revenue data and non-gambling revenue data in the period before the ATM was introduced (pre-ATM model)
- the difference between the gambling revenue data and non-gambling revenue data in the period subsequent to the introduction of the ATM (post-ATM model).

No such analysis has yet been undertaken, but might add further to an understanding of the impacts of ATMs. An approach similar to this could potentially be used 'in reverse' to assess the impacts of the impending ban on ATMs in Victoria. If the ban is effective, it should depress gaming revenues by more than non-gaming revenues.

The impacts of re-locating ATMs

Locating ATMs to outside gaming rooms

ATMs are not generally permitted inside gaming rooms, although that was not always the case. The evidence shows that people generally support some distance between ATMs and gaming machines — suggesting that there is a general view that even short distances may have an impact on cash withdrawal behaviour (table G.11). However, problem gamblers do not share this perspective, with very few considering such locational changes an important way of helping them control their spending (McDonnell-Phillips 2006, pp. 279, 295).

Table G.11 Extent of support for removing ATMs from the gaming floor

	<i>Members of two Sydney clubs^a</i>	<i>ACT residents^b</i>	<i>ACT recreational gamblers^b</i>	<i>Victorian gaming machine players^c</i>
	%	%	%	%
Cash facilities should be outside gambling area	65	72	67	39

^a From Hing (2003) based on around 950 respondents. ^b Centre for Gambling Research (2004b, pp. 118–9, figure 20 and table 48) based on people who *disagreed* that ATMs and EFTPOS facilities should be permitted in gaming rooms. ^c Caraniche (2005).

As ATMs are typically already outside gaming rooms, the focus of policy attention has shifted to the desirability of having them inside gambling venues at all (chapter 13), with a ban being proposed in Victoria.

Re-location of ATMs to outside gambling venues altogether

As discussed above, problem gamblers *say* that banning ATMs/EFTPOS facilities within gambling venues might help them, but there is little evidence of the likely behavioural responses of problem gamblers to such a ban.

Delfabbro et al. (2007) raise doubts that a ban would help problem gamblers. They found that:

- Seventy two per cent of 125 venue staff from South Australia, the ACT and New South Wales reported seeing gamblers leaving the venue to find money to continue gambling and 73 per cent reported that this cue or behaviour might be useful in identifying problem gamblers at venues (p. 125). Indeed, this cue or behaviour was endorsed by venue staff as an important sign of problem gambling behaviour (p. 128).

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- Ten of 15 problem gambling counsellors from South Australia reported their clients leaving the venue to find money to continue gambling (p. 139). (Indeed, twelve considered that this behaviour might be useful in identifying problem gamblers in venues.)
 - in relation to 679 regular gamblers who played gaming machines, 64 per cent of 137 problem gamblers (CPGI), 22 per cent of 144 moderate risk gamblers, 3 per cent of 117 low risk gamblers and 4 per cent of 281 no-risk gamblers reported that they occasionally, frequently or always leave the venue to find money to continue gambling (p. 17)
 - problem gamblers were 3.7 times more likely to leave the venue to find money to continue gambling than other gamblers (p. 186).

There are also some risks associated with relocating ATMs outside venues. Seven per cent of 297 venue managers in Victoria reported that gaming machine players were leaving the venue to use ATMs with credit facilities — with the additional problems that accumulating debt may entail — whereas access to credit is not permitted inside venues (Caraniche 2005, table 6.20).

That said, re-location of ATM facilities outside a venue creates a gap in play and a change in the environment facing the gambler, which may allow reflection about whether to continue gambling. It was reported to the Commission that when smoking bans were introduced, a significant share of gamblers having a break to smoke outside the venue did not return to the venue for further gambling. In that context, it could be expected that *some* problem gamblers would reduce their spending were ATMs not so easily accessible.

Other evidence supports this conjecture. Problem gamblers were much more likely to predict an impact of the removal of ATMs on their gambling than other gamblers. A significant minority of problem gamblers said that a ban would lead to a more enjoyable playing experience, presumably because a ban would reduce one avenue for costly impulsivity. The fact that it might reduce playing enjoyment for another significant group of problem gamblers is not necessarily problematic, if that prompts re-consideration of their playing behaviours.

Removing ATMs does not eliminate all means of accessing cash from gambling venues, since EFTPOS facilities would still be available. However, the survey evidence suggests that EFTPOS is not a close substitute to ATMs for cash withdrawals (table G.12). EFTPOS transactions involve an interaction with a cashier, entailing some inconvenience, but also awareness by the gambler that repeat transactions would be readily observable by venue staff.

Recreational gamblers' enjoyment

Recreational gamblers perceive relatively little inconvenience associated with a ban. Based on a survey of 1000 Victorian gaming machine players, Schottler Consulting (2009a) found that most non-problem gamblers say they would not be affected by a ban, and some claimed it would make their playing experience more enjoyable (table G.13).

This is corroborated by Commission estimates based on raw data from the Queensland household gambling survey for 2008-09 of 15 000 adults that around 80 per cent of recreational gamblers *never or rarely used* ATMs in a pub or club (table G.6).

However, despite its apparently modest impacts on them, support for a ban is less strong among the adult population or gamblers generally (table G.14), than among problem gamblers or those that are familiar with problem gambling.

Table G.12 Impacts of having to use EFTPOS through a cashier at venues, Victoria, 2008

Per cent of gaming machine players

<i>Impact</i>	<i>Having to ask a cashier for an EFTPOS withdrawal every time you need to access cash while at a pokies venue. If this was required to access cash, how would this affect your play?</i>			
	<i>Non-problem gamblers (n=703)</i>	<i>Low risk gamblers (n=192)</i>	<i>Moderate risk gamblers (n=80)</i>	<i>Problem gamblers (n=25)</i>
Enjoyment				
Increase	1	3	4	21
About the same	77	64	47	39
Decrease	22	33	49	40
Money spent				
Increase	0	0	0	15
About the same	75	57	53	23
Decrease	25	43	47	62
Session length				
Increase	0	0	4	15
About the same	74	58	48	29
Decrease	26	42	48	56
Play frequency				
Increase	1	1	0	15
About the same	70	56	51	28
Decrease	29	43	49	57

Source: Schottler Consulting (2009a, p. 71).

Table G.13 Impacts of not having ATMs in gambling venues on enjoyment of playing gaming machines, Victoria, 2008

Per cent of gaming machine players

<i>Impact</i>	<i>To what degree does no ATM being available in gambling venues from 2012 affect your overall enjoyment of the pokies?</i>			
	<i>Non-problem gamblers (n=703)</i>	<i>Low risk gamblers (n=192)</i>	<i>Moderate risk gamblers (n=80)</i>	<i>Problem gamblers (n=25)</i>
Has no effect at all	86	75	49	51
Makes play more enjoyable	4	6	16	26
Makes play less enjoyable	9	20	35	22

Source: Schottler Consulting (2009a, p. 73).

Table G.14 Extent of support for banning access to cash in venues

<i>Relevant group</i>	<i>ATMs removed</i>		<i>EFTPOS facilities removed</i>	
	<i>Agree</i>	<i>Disagree</i>	<i>Agree</i>	<i>Disagree</i>
	<i>%</i>	<i>%</i>	<i>%</i>	<i>%</i>
ACT residents (n=755)	47	43	45	45
ACT recreational gamblers (n=115)	35	55	30	56
Victorian gaming machine players (n=418)	56	..	..	..
Australian adults	29	56	..	..

Sources: Data on ACT residents and recreational gamblers — Centre for Gambling Research (2004b, pp. 118–20, figure 20 and table 48); data on Victorian gaming machine players — Caraniche (2005, table 5.46); data on Australian adults — UMR Research (referred to in Clubs Australia, sub. 164, p. 11).

The impacts of withdrawal limits

Restrictions on withdrawal amounts from in-venue ATMs are an alternative type of measure. While there is limited information about the behavioural responses of gamblers to regulated limits, there is some evidence that problem gamblers might circumvent such limits by going to an ATM outside the venue or making multiple visits to an ATM and withdrawing up to the regulated limit on each occasion (Caraniche 2005, table 5.42 and 6.20). Only a small share of problem gamblers considered limits as a useful strategy for controlling spending (McDonnell-Phillips 2006, p. 282).

Nevertheless, such limits might have beneficial effects at the margin — depending on the detail of any arrangements. And there was strong support for limits on withdrawals by gamblers and the population as a whole, suggesting relatively little inconvenience from such a policy measure (table G.15). The support was greatest

for limits on the daily value of transactions, a regulatory measure with greater likely efficacy for problem gambling. There was somewhat less support for regulations that allowed multiple transactions, but that restricted the amounts that could be withdrawn on each occasion.

Table G.15 Extent of support for withdrawal limits

<i>Group</i>	<i>Daily withdrawal limits on ATMs</i>	<i>Limits per transaction on ATMs</i>
	<i>Agreed</i>	<i>Agreed</i>
	<i>%</i>	<i>%</i>
Victorian gamblers ^a	86	..
Victorian non-gamblers ^a	87	..
ACT residents (n=755) ^b	86	..
ACT recreational gamblers (n=115) ^b	88	..
Victorian gaming machine players ^c	77	61
Victorian gaming venue managers ^c	..	48

^a Centre for Gambling Research (2004a) in relation to a \$200 a day limit. ^b Centre for Gambling Research (2004b, pp. 118–20, figure 20 and table 48). ^c Caraniche 2005, tables 5.49, 5.51, 5.52 and 6.37).

.. denotes where data were not available.

Evidence on appropriate withdrawal limits

Ideally, any withdrawal limit has to assist at-risk and problem gamblers, while not unduly affecting recreational gamblers and other patrons of gambling venues.

The evidence suggests a relatively low average transaction value of around \$100 (table G.16), which suggests some scope for setting a limit that allows many people to still make withdrawals, while curbing impulsive withdrawals by problem gamblers. Similarly, the Returned and Services League (RSL) of Australia (Victorian Branch) noted that the average transaction from an ATM located inside a Victorian RSL club is \$107 (sub. 245, p. 3).

However, many people will make withdrawals that vary from the average — and it is these variations that are central to the effective setting of limits. There is compelling evidence that problem gamblers tend to withdraw more than others (table G.17), and that they tend to bring more cash to venues than other patrons — consistent with their high-intensity playing style (table G.18).

Table G.16 Average value of an ATM withdrawal in hospitality venues serviced by the ATM Industry Reference Group^{a b}

<i>State</i>	<i>Average ATM withdrawal</i>
	\$
New South Wales	110.14
Victoria	98.21
Queensland	100.54
South Australia	98.66
Western Australia	98.19

^a Excludes casinos. ^b Based on 4935 ATMs operated by ATM Industry Reference Group members.

Source: ATM Industry Reference Group (sub. 137, p. 5).

Table G.17 Usual amount withdrawn from ATMs/EFTPOS at any one time in ACT gaming venues, 2004^a

<i>Amounts</i>	<i>ATMs</i>				<i>EFTPOS facilities</i>			
	<i>Non-gambler</i>	<i>Recreational gambler</i>	<i>Regular gambler</i>	<i>Self-identified problem gambler</i>	<i>Non-gambler</i>	<i>Recreational gambler</i>	<i>Regular gambler</i>	<i>Self-identified problem gambler</i>
	%	%	%	%	%	%	%	%
	(n)	(n)	(n)	(n)	(n)	(n)	(n)	(n)
\$50 or less	48 (72)	45 (31)	22 (6)	40 (4)	68 (19)	58 (7)	50 (4)	-
\$51 to \$100	39 (59)	44 (30)	44 (12)	30 (3)	21 (6)	33 (4)	25 (2)	-
\$101 to \$200	9 (14)	10 (7)	4 (6)	30 (3)	11 (3)	8 (1)	13 (1)	-
\$201 to 500	4 (6)	1 (1)	4 (1)	-	-	-	-	-
\$501 to \$1000	-	-	-	-	-	-	-	-
> \$1000	-	-	-	-	-	-	-	-

^a Responses from patrons who have withdrawn money from ATMs/EFTPOS facilities in ACT gaming venues in the last 12 months. Some shares do not add to 100 per cent due to rounding and non-responses/don't knows.

Source: Centre for Gambling Research (2004b, p. 93, tables 22 and 24).

Table G.18 Amount of money brought to gamble (even if not spent) in past year, Victoria, 2008^a

	<i>Non-problem gamblers</i>	<i>Low risk gamblers</i>	<i>Moderate risk gamblers</i>	<i>Problem gamblers</i>	<i>Victorian adult gamblers</i>
n=4674	%	%	%	%	%
No money brought at all	10.3	5.7	3.3	6.4	8.8
<\$20	31.3	20.6	12.2	2.2	27.2
\$20 to 50	19.4	26.0	21.9	10.9	20.6
\$50 to 100	30.9	28.6	35.0	33.8	30.8
\$100 to 200	4.9	10.8	15.8	29.9	7.5
>\$200	3.1	8.3	11.9	16.8	5.1

^a Based on the CPGI.

Source: Hare (2009, p. 175, table 72).

G.4 Restrictions on using credit for gambling

Most jurisdictions have express restrictions on the use of credit for gambling in venues. These are typically of the following forms:

- bans on ‘credit gambling’, which are bans imposed on venues, or their employees, from offering credit or loans to patrons for the purpose of gambling
- restrictions on the use of credit cards or access to credit accounts through ATMs/EFTPOS facilities in gambling venues for gambling.

Various reports have supported this position:

- KPMG recommended that the Australian Government negotiate with the states and territories to ensure that all ATMs that serve gaming locations do not enable access to credit accounts (2002, p. 5).
- IPART (2004) recommended that the New South Wales prohibition on credit for gaming applying at the time should continue without amendment (p. 67). (However, it did note participants’ observations that lotteries might be different given their low risk and the fact that lottery agents tended to sell other products through credit.)
- The Centre for Gambling Research considered that restrictions on accessing credit accounts in the ACT from ATMs/EFTPOS facilities be clarified to improve the effectiveness of restrictions (2004b, p. 178). Interviews with venue managers found that some thought it was legal and offered the facility.

Gamblers and venue staff also generally support bans on credit access in venues — for example, Hing (2003, pp. 76, 78); Centre for Gambling Research (2004b, pp. 118–19) and Caraniche (2005, tables 5.50 and 6.36).⁵

The evidence suggests that most gamblers do not use credit to gamble, whether through preference or because of the existing constraints on access to credit in venues. Only between 2 and 7 per cent of gamblers access some form of credit to gamble (Centre for Gambling Research 2004b, p.95, figure 13; Centre for Gambling Research 2004a, p. 75; SACES 2008b, p. 44).

However, while gamblers generally do not gamble with money obtained through credit, this is not true for problem gamblers (tables G.19 to G.21). (This is why questions relating to credit use feature as part of problem gambling screens since using credit to gamble differentiates well between recreational and problem gambling.) Given that existing regulations bar the provision of cash advances or other forms of credit inside gambling venues, it seems likely that problem gamblers are obtaining loans or credit provision from outside venues.

Table G.19 Withdrawal of money using credit cards for gambling on gaming machines, South Australian gambling prevalence survey, 2005^a

<i>Frequency</i>	<i>All players (n=5130)</i>	<i>Have played, but not frequently (n=3309)</i>	<i>Fortnightly players (n=663)</i>	<i>Weekly players (n=1158)</i>	<i>Low risk frequent players (n=330)</i>	<i>Moderate and high risk frequent players (n=222)</i>
	%	%	%	%	%	%
Never, rarely	96	97	96	93	93	75
Sometimes, often or always	3.5	2	4	7	6	25

^a The CPGI was used to assess the risk of gamblers. Percentages may not add to 100 per cent as some respondents did not know or disclose their answer to the survey question.

Source: Office for Problem Gambling (2006, pp. 175–6).

⁵ However, an ACT survey found much smaller support for bans on cash advances (Centre for Gambling Research 2004b, pp. 118–19).

Table G.20 Problem gamblers use, or try to use, credit to gamble

<i>Source</i>	<i>Finding</i>
Australian Institute for Gambling Research (2001)	The 2001 ACT gambling prevalence survey found that 35 per cent of SOGS 5+ gamblers and 70 per cent of SOGS 10+ gamblers reported that they obtained cash advances from credit cards to gamble (p. 80).
Delfabbro et al. (2007)	<p>The study found that 38 per cent of 125 venue staff from South Australia, the ACT and New South Wales reported seeing gamblers asking for a loan or credit from the venue and 67 per cent reported that this cue or behaviour might be useful in identifying problem gamblers at venues (p. 125). Indeed, this cue or behaviour was endorsed by venue staff as one of the important signs of problem gambling behaviour (p. 128).</p> <p>Seven of 15 problem gambling counsellors from South Australia reported their clients asking for a loan or credit from the venue and 12 reported this cue or behaviour might be useful in identifying problem gamblers at venues (p. 139).</p> <p>In relation to 679 regular gamblers who played gaming machines, 9 per cent of 137 problem gamblers, none of the 144 moderate risk gamblers, none of the 117 low risk gamblers and 0.5 per cent of 281 no-risk gamblers reported that they occasionally, frequently or always asking for a loan or credit from venues (p. 176).</p> <p>Problem gamblers were 16 times more likely to ask for a loan or credit from venues than other gamblers (p. 186).</p>

Table G.21 Use of credit cards to get cash advances for gambling, Queensland, 2006-07 and 2008-09^a

<i>Frequency</i>	<i>Low risk gamblers^b</i>		<i>Moderate risk gamblers^c</i>		<i>Problem gamblers^d</i>		<i>Total</i>	
	<i>2006-07</i>	<i>2008-09</i>	<i>2006-07</i>	<i>2008-09</i>	<i>2006-07</i>	<i>2008-09</i>	<i>2006-07</i>	<i>2008-09</i>
	%	%	%	%	%	%	%	%
Never, rarely	94	93.2	80	89.9	74.6	73	89.7	91.3
Sometimes, often, always	5.2	6.6	20	8	25.4	27.1	9.7	8.1

^a Commission estimates based on raw data from the Queensland household gambling survey for 2006-07 (question 100) and 2008-09 (question 75). The 2006-07 survey was of 30 000 adults and the 2008-09 survey was of 15 000 adults. ^b Low risk gamblers — CPGI (1 or 2). ^c Moderate risk gamblers — CPGI (3 to 7). ^d Problem gamblers — CPGI (8+).

G.5 Payment of prizes as cash

All jurisdictions have introduced restrictions on the cash payment of winnings, although there are differences in the cash thresholds that apply and other related rules, such as probity checks and the immediacy with which cheques must be paid.

The few reviews that have assessed this issue have recommended the retention of at least some form of cheque payment for winnings:

-
- IPART (2004, p. 17) recommended the continued reimbursement by cheque by NSW hotels and clubs of any credits from a gaming machine above \$1000, but also observed two possible flaws. First, the existing requirements could result in gamblers receiving \$1000 in cash and, perversely, a relatively very small amount by cheque (for instance, if there were credits of \$1005 on the machine). Secondly, there were concerns from gaming industry stakeholders about the number of cheques they had to issue.
 - In their study of ACT harm minimisation measures, McMillen and Pitt (2005) recommended the continuation of cheque payment of winnings above \$1000, but that the policy be monitored to obtain ‘more reliable objective’ information of its effects on small clubs and problem gamblers (p. 18).

In general, initiatives aimed at limiting cash payouts above a certain amount were endorsed by gamblers and, to a lesser extent, venue staff (table G.22).

Do gamblers ‘reinvest’ their prizes?

The trigger for cheque payment is excess credits on the machine (sometimes loosely referred to as ‘winnings’) above the prescribed threshold, not prizes per se. So a person might win a prize of \$2000, then ‘reinvest’ this amount and lose enough that their excess credits fell below the threshold level, without any cheque payment being necessary. Consequently, a threshold issue for assessment of cheque payment requirements is the extent to which gamblers reinvest their winnings from gaming machines. This appears to be widespread, especially among problem gamblers:

- In 2003, 38 per cent gamblers surveyed in Victoria (and 79 per cent of problem gamblers) reported sometimes, often or always spending their winnings (Centre for Gambling Research 2004a, p. 73, p. 105), with similar behaviour for gamblers in South Australia, the ACT and New South Wales (Delfabbro et al. (2007, p. 176)
- McDonnell-Phillips (2006, pp. 24, 184, 193) found gamblers, particularly problem ones, often exceeded their betting limits if they won large prizes (for example, \$100 to 200) — which is evidence of reinvestment
- Eighty per cent venue staff from South Australia, the ACT and New South Wales reported that they had seen gamblers ‘put large win amounts back into the machine and keeps playing’ and 70 per cent had reported this as a cue or behaviour that might be useful in identifying problem gamblers at venues (Delfabbro et al. 2007, p. 125). Indeed, this behaviour was seen by staff as one of the most important signs of problem gambling behaviour (p. 128). Ten of 15 problem gambling counsellors in South Australia had also reported this kind of reinvestment behaviour by their clients (Delfabbro et al. 2007, pp. 139, 141).

Table G.22 Extent of support for regulating cash payments

<i>Study</i>	<i>Finding</i>
Hing (2003)	Between 73 and 77 per cent of members in 10 Sydney clubs agreed that 'responsible gambling is more likely to happen when a club pays all big wins by cheque instead of cash' (p. 76). The measure was rated third of 13 listed responsible gambling measures (p. 78).
Caraniche (2005)	Seventy seven per cent of 418 gaming machine players in Victoria and 71 per cent of 297 venue managers reported that the payment of winnings or accumulated credits in excess of \$2000 by cheque was an effective harm minimisation measure (tables 5.75 and 6.40). However, problem gamblers were significantly different from the rest of the sample. Compared with 16 per cent of the overall sample of players of gaming machines, over one-quarter of problem gamblers stated that cheque payments were not an effective measure. (2005, near table 5.75)
McMillen and Pitt (2005)	Sixty per cent of 60 club managers in the ACT supported cash payment restrictions, but only 44 per cent considered the measure to be effective (pp. 101–2). Eighty five per cent of 45 club patrons supported cash payment restrictions, but 66 per cent considered the measure to be effective (pp. 112–15). Of 12 self-identified problem gamblers, 10 perceived the measure had no impact on their gambling (p. 118), with a large number reporting they frequently by passed the restriction (p. 123). However, 72 per cent reported that the restrictions placed an 'effective restraint' on the amount of money they gambled (p. 123).
McDonnell-Phillips (2006)	In a national survey, among the 15 prompted ideas for helping gamblers keep to their limits being able to deposit money from gambling directly into a bank account at the venue was rated in terms of its usefulness as first on the list by regular gamblers overall (p. 288) and as second by problem gamblers (p. 295) Being allowed to convert money to cheques at a chosen amount or having the ability to print own cheques was rated in terms of its usefulness as 11th on the list by regular gamblers overall (p. 288) and as seventh by problem gamblers (p. 295).

Accordingly, the evidence suggests that gamblers' reinvestment behaviours may partly undermine the intent of current cheque payment requirements.

Behavioural evidence tends to support this, with a significant share of at-risk gamblers deliberately seeking to avoid restrictions on the cash payment of winnings by gambling to below the cash threshold for a cheque. For instance, the 2006 New South Wales gambling prevalence survey found that nearly one in five problem gamblers behaved this way (table G.23). Evidence from the ACT and Victoria provide corroborating evidence for this behaviour (McMillen and Pitt 2005, pp. 97, 111, 122; Caraniche 2005, table 6.20).

G.6 Cashing of cheques

Most venues have their own policies about cashing patrons' cheques for gambling. Jurisdictions have also introduced mandatory restrictions on cheque cashing by

gambling venues, though cashing of cheques may be permitted outside the gaming area. Cheque-cashing restrictions can operate in conjunction with the cheque payment of winnings (such as in New South Wales). Cheque-cashing restrictions were generally favoured by players and venue staff (Hing 2003, pp. 76, 73; Caraniche 2005, tables 5.76 and 6.41).

State surveys of gambling prevalence show that only a very small proportion of gamblers cash cheques for gambling, though there is a higher propensity for higher risk gamblers to do so (tables G.24 to G.27).⁶ This finding was reinforced by a survey of venue staff and problem gambling counsellors (Delfabbro et al. 2007).⁷

Table G.23 Gambling away part of winnings to avoid payout by cheque, NSW gambling prevalence survey, 2006^a

<i>Frequency</i>	<i>Total NSW (n=634)</i>	<i>Non-regular gamblers (n=303)</i>	<i>Non-problem gamblers (n=154)</i>	<i>Low risk gamblers (n=79)</i>	<i>At risk gamblers (n=98)</i>
	%	%	%	%	%
Never, rarely	97	99	100	94	83
Sometimes, often, always	2	1	0	6	17

^a Base is NSW residents who played pokies/gaming machines in the last 12 months. Risk group defined by CPGI.

Source: AC Nielsen (2007, p. 88).

Table G.24 Cashing of cheques for gambling, Victorian gambling prevalence survey, 2003

	<i>All gamblers (n=906)</i>	<i>Regular gamblers^a</i>	<i>Non-regular gamblers^b</i>
	%	%	%
Never, rarely	98	95.5	99
Sometimes, often, always	2	4	1

^a Regular gamblers are those that participate at least weekly in gambling activities other than lottery games or scratch tickets. ^b Non-regular gamblers are those who participate in gambling activities other than lottery games and scratch tickets.

Source: Centre for Gambling Research (2004a, p. 75).

⁶ In addition to the tables shown below, the 2007 Tasmanian gambling prevalence survey indicated that less than 1 per cent of gaming machine players reported that they sometimes, often or always used cash cheques at venues to play gaming machines (SACES 2008b, p. 45).

⁷ Thirty six per cent of 125 venue staff from South Australia, the ACT and New South Wales reported seeing gamblers trying to cash cheques in the venue (p. 125). Around one in four problem gambling counsellors from South Australia reported their clients trying to cash cheques at the venue (p. 139).

Table G.25 Withdrawal of money using cash cheques for gambling on gaming machines, South Australia, 2005^a

<i>Frequency</i>	<i>All players</i> (n=5130)	<i>Have played, but not frequently</i> (n=3309)	<i>Fortnightly players</i> (n=663)	<i>Weekly players</i> (n=1158)	<i>Low risk frequent players</i> (n=330)	<i>Moderate and high risk frequent players</i> (n=222)
	%	%	%	%	%	%
Never, rarely	99	99	99	98	99	96
Sometimes, often, always	0.5	0.5	0.4	1.0	0.3	4

^a The CPGI was used to assess the problem gambling risk of the gamblers.

Source: Office for Problem Gambling (2006, pp. 176–7).

Table G.26 Cashing cheques for gambling at the venue, Queensland, 2006-07 and 2008-09^a

<i>Frequency</i>	<i>Low risk gamblers^b</i>		<i>Moderate risk gamblers^c</i>		<i>Problem gamblers^d</i>		<i>Total</i>	
	<i>2006-07</i>	<i>2008-09</i>	<i>2006-07</i>	<i>2008-09</i>	<i>2006-07</i>	<i>2008-09</i>	<i>2006-07</i>	<i>2008-09</i>
	%	%	%	%	%	%	%	%
Never, rarely	98.6	99.3	97	99.0	98	93.5	98.2	98.9
Sometimes, often, always	0.8	0.6	2.8	0.8	2	6.5	1.3	1.0

^a Commission estimates based on raw data from the Queensland household gambling survey for 2006-07 (question 100) and 2008-09 (question 75). The 2006-07 survey was of 30 000 adults and the 2008-09 survey was of 15 000 adults. ^b Low risk gamblers — CPGI (1 or 2). ^c Moderate risk gamblers — CPGI (3 to 7). ^d Problem gamblers — CPGI (8+).

Table G.27 Cashing cheques to gamble among regular gaming machine players

<i>Frequency</i>	<i>No risk gamblers</i> (n=281)	<i>Low risk gamblers</i> (n=117)	<i>Moderate risk gamblers</i> (144)	<i>Problem gamblers</i> (n=137)
	%	%	%	%
Occasionally, frequently, always	0	0	2	7

Source: Delfabbro et al. (2007, p. 177).

H Australian litigation on gambling

H.1 Introduction

The few instances of litigation in Australia by gamblers against venues¹ have been:

- *Preston v Star City Pty Ltd (1999 and later years)*²
- *American Express International v Simon Famularo; Simon Famularo v Burst Pty Ltd (2001)*³
- *Reynolds v Katoomba RSL All Services Club Ltd (2001)*⁴
- *Foroughi v Star City Pty Ltd (2007)*⁵
- *Kakavas v Crown Ltd (2007)*⁶ and *Kakavas v Crown Melbourne Ltd & Ors (2009)*.⁷

Of the above cases, *Famularo*, *Reynolds* and *Foroughi* have involved final decisions. *Preston* has yet to be finally decided, although it has been subject to several ‘interlocutory decisions’ (that is, decisions made in the course of dealing with the case). As a result of the interlocutory decision in *Kakavas* in 2007, the plaintiff re-pleaded his case against Crown and two Crown employees. This new case was recently decided by the Supreme Court of Victoria in November 2009. The decision has since been appealed by *Kakavas*.

These cases involved at least three possible causes of action against the venue — common law negligence (and, as part of that, a breach of duty of care by the venue), breach of statutory duty, and unconscionable conduct. This appendix reviews the outcomes of the cases in relation to each of these causes of action.

¹ Namely, the operators of gambling venues.

² There are a number of *Preston* cases. The ones considered in the appendix are [1999] NSWSC 459; [1999] NSWSC 1273; and [2005] NSWSC 1223.

³ District Court of New South Wales, McNaughton DCJ, unreported, 19 February 2001.

⁴ [2001] NSWCA 234.

⁵ [2007] FCA 1503.

⁶ [2007] VSC 526.

⁷ [2009] VSC 559.

H.2 Common law negligence

Several of the cases above involved a claim of common law negligence by the gambler against the venue and, as part of that claim, the gambler asserted the existence of a duty of care to avoid foreseeable harm.

In *Reynolds v Katoomba RSL All Services Club Ltd (2001)*, Reynolds sued Katoomba RSL to recover substantial losses incurred while gambling on gaming machines at the club. Reynolds relied on several causes of action against Katoomba RSL, including negligence. Both Reynolds and his father claimed that they had informed the club that Reynolds was a problem gambler, requested that his cheques not be cashed or that he be extended credit, and requested that Reynolds be barred from the club. Reynolds claimed that the club initially agreed to this, but later continued to cash his cheques and allow him to gamble. The New South Wales Court of Appeal (Spigelman CJ, Powell JA and Giles JA), which accepted the trial judge's findings of facts, held that Katoomba RSL did not owe Reynolds a duty to protect him against his gambling losses.

In the leading judgment in the case, Spigelman CJ (Chief Justice) considered the principles associated with a duty of care. He said that the 'economic loss occasioned by gambling' is not one for which 'the law permits recovery', except in an 'extraordinary case' [9]. He gave no examples of when an extraordinary case would arise. He also said that:

In many respects, the tort of negligence is the last outpost of the welfare state. There have been changes over recent decades in the expectations within Australian society about persons accepting responsibility for their own actions. Such changes in social attitudes must be reflected in the identification of duty of care for purposes of the law of negligence. ...

This Court should be very slow indeed to recognise a duty to prevent self-inflicted economic loss. Loss of money by way of gambling is an inherent risk in the activity and cannot be avoided. ... Nevertheless, whether a duty arises in a particular case must depend on the whole of the circumstances, even in the case of an inherent risk. [26]–[27]

Moreover, Spigelman CJ said that 'knowledge of vulnerability is a pertinent factor entitled to weight when deciding whether the circumstances of a particular case create a duty' and is also relevant to establishing whether a duty to avoid 'pure economic loss exists' [29]–[30].

In *Preston v Star City Pty Ltd (1999)*, Preston claimed that Star City was negligent by inducing him to gamble in its casino, particularly when intoxicated, as well as pleading other causes of action. He claimed that Star City provided inducements that included: promises of awarding business contacts to Preston if he remained a

high roller patron; providing Preston complimentary products, services and privileges, such as liquor, free of charge; and supplying Preston a cheque cashing facility. Preston claimed he suffered gambling losses of more than \$3 million. Although a final determination of *Preston* is yet to be made, of note are the interlocutory decisions of Wood CJ in 1999⁸ and Hoeben J (Justice) in 2005⁹ to allow Preston to pursue a claim for negligence against Star City.

Also, in the 1999 decision, Wood CJ made the following remarks on the circumstances in which a duty of care to a problem gambler may exist:

The precise limits of the duty of care owed in the present case, and of any breach, are likely to depend upon the facts proved — most particularly upon the extent to which the defendant had knowledge of any propensity on the part of the plaintiff to be a problem gambler, and upon the extent to which it sought to take advantage of him. Additionally, it is likely that there would be reference to matters such as industry practice, economic consequence, practicability and a variety of social and policy factors. ...

... At a minimum, however, I am of the view that it is strongly arguable that [a duty of care] would extend to a prohibition on the provision of further liquor to a problem gambler, who is seen to be intoxicated, or to be behaving in a manner that is obviously totally rash, as well as to the ‘spiking’ or ‘switching’ of his drinks. Equally arguable, in my view, is its extension to the provision of significant credit facilities or excessive encouragement through incentives, of a person who has specifically asked to be barred or to go beyond a limit that he has asked the casino to set. [131]–[132]

In *Foroughi v Star City (2007)*, Foroughi relied on several causes of action against Star City, including negligence. Foroughi, who was a problem gambler, claimed to have entered and gambled at Star City’s casino on 65 occasions over an 18 month period after having signed a voluntary exclusion agreement in 2004. He claimed gambling losses over this period of \$600 000 and claimed that, at no time, Star City detected or stopped him from gambling.

Jacobson J of the Federal Court noted that the claimed duty of care was for Star City to ‘detect and remove Foroughi from the casino as soon as possible’. He dismissed the existence of such a duty stating that Foroughi ‘expressly and voluntarily undertook responsibility for his own conduct in agreeing not to enter the gaming areas of Star City and to seek assistance and guidance of a qualified and recognised counsellor’ [128]. Even if there were a duty, Jacobson J held there would not have been a breach as he accepted that Star City had adequate measures to detect excluded persons [132]. However, he noted that the Casino Control

⁸ *Preston* [1999] NSWSC 1273.

⁹ *Preston* [2005] NSWSC 1223.

Authority was critical of systems that relied on humans to detect excluded persons, although it did not recommend changes to Star City's systems [137].

In *Kakavas v Crown Ltd (2007)* and *Kakavas v Crown Melbourne Ltd & Ors (2009)*, Kakavas who was a high roller sued Crown to recover around \$30 million in gambling losses incurred at its casino. Negligence was among the causes of action pleaded in the 2007 case. Kakavas was subject first to a voluntary exclusion order from 1995 and, then, from 1998 he was prohibited from entering Crown premises by a withdrawal of licence by the casino. Crown accepted Kakavas back into the casino in June 2005, where he recommenced gambling until August 2006, resulting in substantial gambling losses.

Kakavas claimed he suffered from 'pathological gambling' from July 2004 or thereabouts, and that Crown and Williams knew of his special disability and devised a scheme in late 2004 to lure Kakavas back to gambling in the casino. Kakavas claimed that he was provided with inducements including favourable betting arrangements, lines of credit of up to \$3.8 million (which was revised to \$4.5 million in the 2009 case), and boxes and bags of cash containing \$30 000 to \$50 000.

Harper J dismissed Kakavas' plea of a cause of action in negligence against Crown, but allowed him to re-plead his claim on the ground of unconscionable conduct, which — as seen later — was decided against him in the 2009 case. In relation to the plea of negligence, Harper J said that claims of 'active and deliberate intervention by the casino operator in the knowledge of, and for the exploitation of, the patron's vulnerability should be allowed to go to trial, but not as a claim in negligence' [47].

In conclusion, it is apparent from the cases, particularly *Reynolds*, that Australian courts are unlikely to find the existence of a duty of care owed to problem gamblers to avoid 'self-inflicted' economic losses from gambling other than in 'extraordinary circumstances'.

H.3 Breach of statutory duty

As well as claims of common law negligence, several of the cases involved claims for a breach of statutory duty.

According to a guiding principle established in 1995 by the High Court of Australia, a cause of action for breach of statutory duty will generally arise where a statute:

... which imposes an obligation for the protection or benefit of a particular class of persons is, upon its proper construction, intended to provide a ground of civil liability when the breach of the obligation causes injury or damage of a kind which the statute was designed to afford protection. (*Byrne & Frew v Australian Airlines* (1995) 185 CLR 410 at 424)

Reynolds alleged a breach of statutory duty in *Reynolds v Katoomba RSL All Services Club Ltd* (2001) under the *Registered Clubs Act 1976 (New South Wales)*, which provided that, as a condition of a certificate of registration of a club, the secretary must not provide a cash advance on club premises other than as a prize won as a consequence of operating a poker machine. At the original hearing, the judge dismissed this claim on the basis that the Act did not expressly confer a private right of action, nor was there a legislative intention to confer such a right.

In *Preston v Star City Pty Ltd* (1999), Preston claimed that Star City breached its statutory duty under the *Casino Control Act 1992 (New South Wales)* in allowing him to gamble whilst intoxicated as well as providing him with inducements to gamble. Among other things, the Act prohibits: intoxicated persons from gambling at the casino; the casino from selling liquor to intoxicated persons in the gaming area; and the casino from inducing patrons to enter the casino or taking part in gaming in the casino. On appeal, Wood CJ struck out Preston's claim for breach of statutory duty, contrary to the judgment at first instance. In striking out the claim, Wood CJ looked to the whole of the regulatory regime applying to the casino and held that this regime, nor the specific provisions relied upon by Preston, did not confer a private right of action.

In *Foroughi v Star City Pty Ltd* (2007), Foroughi claimed that Star City breached Part 5 of the *Casino Control Act* which provides for the removing of a person subject to a voluntary exclusion order as soon as he or she is identified. Jacobson J noted that the claim was not argued at the hearing, but said that the legislative history and case law indicated that the intention of the Act was not to confer a private right of action for damages on problem gamblers who enter a casino in breach of an exclusion order.

In conclusion, the courts have been reluctant to recognise any private cause of action by problem gamblers for a breach of statutory duty by venues. The courts appeared not only to look to the relevant statutory provision claimed to be in breach, but to the intent and history of the entire statute.

H.4 Unconscionable conduct

Some court cases have also tested whether certain behaviour by gambling venues might constitute unconscionable conduct under the *Trade Practices Act 1974*. The Trade Practices Act (Part IVA) contains a general prohibition on unconscionable conduct, recognised as part of the law of equity of Australia (section 51AA). The Act also prohibits unconscionable conduct in consumer transactions (section 51AB) and business transactions (section 51AC). In addition, the Act sets out the factors that the courts may consider in determining if unconscionable conduct has taken place. In relation to consumer transactions (section 51AB), the factors include the relative strengths of the bargaining positions and whether any undue influence, pressure or unfair tactics were used.

In *American Express International v Simon Famularo; Simon Famularo v Burst Pty Ltd (2001)*, O'Malley's hotel at Kings Cross allowed Famularo, a problem gambler, to gain cash advances using his American Express credit card for the purposes of gambling. This contradicted the contract American Express had with the hotel, which prohibited cash advances for the purposes of gambling. However, the hotel manager informed Famularo that obtaining cash advances was 'not a problem'. The hotel also misrepresented the purposes of the advances in documentation (advance stubs) indicating the purpose was for accommodation. Staff knew Famularo had a gambling problem, he often gambled when intoxicated and the hotel often supplied free drinks when he had been losing heavily. American Express sued Famularo for unpaid advances and he in turn sued the hotel.

Naughton DCJ (District Court Justice) held that the hotel had acted in an unconscionable manner when it misled Famularo by stating the cash advances were 'not a problem' and that this had encouraged Famularo to gamble more than he otherwise would have. He found this to be a breach of section 51AB of the Trade Practices Act, which entitled Famularo to compensation. Naughton DCJ held that the hotel was to pay \$64 000 in compensation to Famularo and that Famularo was to pay a similar amount to American Express.

In addition to actions in negligence and breach of statutory duty, Reynolds claimed in *Reynolds v Katoomba RSL All Services Club Ltd (2001)* that Katoomba RSL had engaged in unconscionable conduct. Reynolds argued that the fact he was a problem gambler put him in a position of 'special disadvantage' in relation to the club and of which position the club was aware. He argued that by facilitating his use of gambling facilities, the club took advantage of Reynolds' position of special disadvantage to profit from his continued gambling and his continued losses. The Court of Appeal, however, found that there was no unconscionable conduct on the part of the club.

In *Foroughi v Star City Pty Ltd (2007)*, Foroughi claimed unconscionable conduct by Star City under sections 51AA and 51AB of the *Trade Practices Act 1974*. Foroughi claimed that Star City employees had made statements to him at the time he signed a voluntary exclusion agreement with the casino in 2004 to the effect that he would definitely be identified and removed if he were to try and enter the casino. Star City rejected that the statements were made. Jacobson J rejected Foroughi's claims, finding him to be an unreliable witness.

In *Kakavas v Crown Ltd (2007)*, although Harper J rejected Kakavas' claim in negligence, he allowed Kakavas to re-plead his claim on the ground of unconscionable conduct. The judge noted in that case that this would not necessarily mean that the law should give gamblers a remedy.

Looked at in the light of ordinary concepts of fair and just dealing, it is at least arguably wrong, morally and ethically, for a casino operator by conscious and deliberate policy to prey upon a patron known by the operator to be a compulsive gambler ...

The moral and ethical position may be judged against the provision of the [Casino Control Act]. It forbids the operators of casinos from, among other things, promoting gaming.

But to say that, is to say no more than *perhaps* the law should align itself with the moral and ethical position, and in doing so provide the gambler with a private remedy in the form of recovery of his or her losses, in whole or in part. It is not of itself a reason to conclude that the law *necessarily* should, still less that it does, provide such a remedy. It is, after all, also arguable that people would be responsible for their actions. Most gamblers lose most of the time. Why should some be favoured with the pleasure without the pain? [2007] VSC 526 at [22]–[24]

Kakavas subsequently re-pleaded his claim on the basis of unconscionable conduct against Crown (and two Crown employees) in *Kakavas v Crown Melbourne Ltd & Ors (2009)*. He claimed that, because he suffered from a condition known as pathological gambling, he was at a special disadvantage in his dealings with Crown in that his ability to make decisions and judgments as to what was in his own interests, and to act accordingly was significantly impaired. He claimed that each of the defendants either knew this or knew of facts which would cause a reasonable person to form the opinion that it was more probable than not that this was true. Crown's conduct was therefore unconscionable at common law and in contravention of section 51AA of the Trade Practices Act.

Harper J rejected Kakavas' claim of unconscionable conduct. He found that there was no evidence of a plan to exploit Kakavas. Kakavas was in a very strong bargaining position vis-à-vis Crown because of his ability to go elsewhere to gamble and his ability to self-exclude. Indeed, Kakavas was able to negotiate very favourable terms for his visits to Crown, and was able to abstain from visiting the

casino until his demands were met. The court found that the nature of high-stakes baccarat is such that very high wins and losses are common, so the loss of \$2.3 million in 28 minutes was not proof of a gambling problem. Indeed, on one occasion, Kakavas left the casino with \$10 million in winnings. The various inducements held out by Crown, including access to credit facilities, travel allowances and use of Crown's private jet, food, accommodation and monetary gifts did not lure an unwilling Kakavas back to Crown. Rather, they were negotiated after Kakavas agreed to return and were comparable to benefits he was offered at casinos in Las Vegas and elsewhere.

Harper J criticised Crown's disorganised way of allowing excluded patrons back into the casino and also its failure to recognise the application of certain legislation to Kakavas which would have prevented him from gambling, but in the end remarked that Kakavas could not shift responsibility to Crown for his own decisions.

Harper J concluded the case as follows:

I find that Crown did not seek to exploit the plaintiff's gambling disability. It knew of a problem. It might have acknowledged, if asked in 2004, whether the problem would re-surface when Mr Kakavas returned to the Casino, that that was a possibility. If asked, it ought to have acknowledged that his was a disability which on the balance of probabilities would be to its advantage were Mr Kakavas to remain as a patron over the medium to long term. It should now accept that its structures for dealing with its own desire to have Mr Kakavas resume his patronage were inadequate. Informal meetings of committees the jurisdiction of which and even the names and identities of which are uncertain, and which meet without an agenda or proper minutes, are a pathetic excuse for world's best practice in dealing with the possible return of gamblers with a history of problems. In the end, however, nothing emerges from the miss-mash to indicate the existence of a scheme to exploit. More significantly, Mr Kakavas wanted to return to the Melbourne Casino, and (with some fluctuations in his position) wanted to remain a patron thereafter. He took the relevant decisions. Crown did not dictated the outcome of his deliberations about those decisions. Of course it sought to influence them. But it did not have the power to have him do that which he in truth did not want to do. He now seeks to blame Crown for his own decisions; to place upon it responsibility for failing to do for him that which he failed to do for himself. But this is not something to which equity can accede. The responsibility was his. In the words of the [psychologist's] report: he knew how to self-exclude, and he would do it if that was his wish. [661]

Kakavas subsequently appealed this decision to the Court of Appeal in the Supreme Court of Victoria.

In conclusion, it is apparent that, apart from the case of *Foroughi*, the courts have been reluctant to find unconscionable conduct in venues towards their gambling

patrons. This reluctance in the courts was most recently confirmed in the *Kakavas* case.

H.5 Self-responsibility

An important underlying factor explaining why Australian courts have been reticent in finding for a gambler against a venue in the cases above has been the notion of self-responsibility — namely, that gamblers are ultimately responsible for their own actions.

In the *Kakavas* case, Harper J noted that, although equity is concerned to protect the vulnerable, persons must ordinarily be responsible for their own actions or inactions, stating:

The seeds of tyranny are to be found in the footsteps of those who profess to know more about what is good for the subjects of their attention than do the subjects themselves. [2009] VSC 559 [426]

And later:

The limits of individual responsibility are more a question for the theologians and politicians than for judges. Nevertheless, the principles of law and equity should mark in tune with general community conceptions of those limits. That means ... that the law must require that, in the general case, men and women of full age and capacity cannot shift to an external party responsibility for what they do. Speaking generally, we should not be compelled to be our siblings' keepers. Accordingly, the law must be very careful before it imposes on third parties a requirement to protect someone else from the consequences of the decisions of that other person. [2009] VSC 559 [437]

In relation to the facts of that case, Harper J found:

... Mr Kakavas wanted to return to the Melbourne Casino, and (with some fluctuations in his position) wanted to remain a patron thereafter. He took the relevant decisions. Crown did not dictate the outcome of his deliberations about those decisions. Of course it sought to influence them. But it did not have the power to have him do that which he in truth did not want to do. He now seeks to blame Crown for his own decisions; to place upon it responsibility for failing to do for him that which he failed to do for himself. But this is not something to which equity can accede. The responsibility was his. In the words of the [psychologist's] report: he knew how to self-exclude, and he would do it if that was his wish. [2009] VSC 559 [661]

In the *Reynolds* case, Spigelman CJ also acknowledged the trend in community sentiment about person accepting responsibility for their own actions:

There have been changes over recent decades in the expectations within Australian society about persons accepting responsibility for their own actions. Such changes in

social attitudes must be reflected in the identification of duty of care for purposes of the law of negligence. [2001] NSWCA 234 [26]

On the facts of that case, Spigelman CJ found:

It may well be that [Reynolds] found it difficult, even impossible, to control his urge to continue gambling beyond the point of prudence. However, there was nothing which prevented him staying away from the club. The suggested duty on the club to advise him to resign his membership emphasises the point. He could have resigned at any time. The requests to refuse to cash cheques when asked, did not shift his personal responsibility for his own actions to the club. [2001] NSWCA 234 [48]

H.6 Cases involving the service of alcohol

There are parallels between the cases above and cases dealing with the liability of servers of alcohol to intoxicated patrons.

In *Cole v South Tweed Heads Rugby League Football Club Limited (2004)*,¹⁰ Cole embarked on an all-day drinking spree at a club. She was severely injured after leaving the premises in an intoxicated state when she was knocked down by a car. Cole claimed the club was negligent by supplying Cole with drink at a time when it should have known she was intoxicated and by allowing Cole to leave the its premises in an unsafe condition, without assistance.

The majority of the High Court — Gleeson CJ, Callinan, Gummow and Hayne JJ — found the club was not liable to Cole for negligence. In doing so, two of the majority judges expressed strong views about the self-responsibility and individual choice of patrons.

Save in extreme cases, the law makes intoxicated people legally responsible for their actions. As a general rule, they should not be able to avoid responsibility for the risks that accompany a personal choice to consume alcohol. (Gleeson CJ at [13])

... Except for extraordinary cases, the law should not recognise a duty of care to protect persons from harm caused by intoxication following a deliberate and voluntary decision on their part to drink to excess. The voluntary act of drinking until intoxicated should be regarded as a deliberate act taken by a person exercising autonomy for which that person should carry personal responsibility in law. (Callinan J at [121])

However, Kirby and McHugh JJ dissented and considered that the club did owe a duty of care. Kirby J in particular was critical of the views expressed by Gleeson CJ and Callinan J in respect of self-responsibility and individual choice:

¹⁰ [2004] HCA 29.

Their Honours' reasons are, with respect, replete with expressions reflecting notions of free will, individual choice and responsibility. ... Whatever difficulties free-will assumptions pose for the law in normal circumstances, such assumptions are dubious, need modification and may ultimately be invalidated having regard to the particular product which the Club sold or supplied to patrons such as the appellant, namely alcoholic drinks. The effect of that product can be to impair, and eventually to destroy, any such free will. This fact imposes clear responsibilities upon those who sell or supply the product in circumstances like the present to moderate the quantity of supply; to supervise the persistent sale or supply to those affected; and to respond to, and ameliorate, the consequences of such sale or supply where it is clear that the recipient has consumed enough of the product to be in a temporary state of inability to take proper care for his or her own safety. [90]

In *C.A.L. No 14 Pty Ltd v Motor Accidents Insurance Board and Scott (2009)*,¹¹ Scott left the Tandara Motor Inn at around 8.30 pm on his wife's motorcycle for his home 7 kilometres away. He ran off the road about 700 metres from home and suffered fatal injuries. The accident resulted from his ingestion of alcohol. He had drunk seven or eight cans of Jack Daniels and cola at the hotel from 5.15 pm on. His wife sued the hotel for negligence.

The High Court (French, CJ, Gummow, Heydon, Crennan and Hayne JJ) rejected the wife's claim. Among other things, it held that there was no general duty of care owed by proprietors or licensees to protect customers from the consequence of alcohol. As Gummow, Heydon and Crennan JJ stated:

... outside exceptional cases, ... persons in the position of the Proprietor and the Licensee ... owe no general duty of care at common law to customers which requires them to monitor and minimise the service of alcohol or to protect customers from the consequences of the alcohol they choose to consume. That conclusion is correct, because the opposite view would create enormous difficulties, ... relating to customer autonomy and coherence with legal norms. [52]

In relation to the facts of the case, the High Court found that there was not duty owed by the hotel to Scott. Among the factors that influenced their finding was that Scott was not vulnerable (he was a man of 41 and an experienced drinker) and Scott's autonomy.

The High Court also found that even if there were a duty there was no breach of that duty by the hotel: failing to ring Scott's wife; failing to detain Scott or his motorcycle; refusing to hand over the motorcycle (which was given to the hotel to look after); or failing to drive Scott home.

¹¹ [2009] HCA 47.

In relation to individual autonomy and responsibility generally, Gummow, Heydon, Crennan and Hayne JJ said:

... it is a matter of personal decision and individual responsibility how each particular drinker deals with ... [the] difficulties and dangers [of alcohol]. Balancing the pleasures of drinking with the importance of minimising the harm that may flow to a drinker is also a matter of personal decision and individual responsibility. It is a matter more fairly to be placed on the drinker than the seller of drink. To encourage interference by publicans, nervous about liability, with the individual freedom of drinkers to choose how much to drink and at what pace is to take a very large step. It is a step for legislatures, not courts, and it is a step which legislatures have taken only after mature consideration. [54]

I The link between accessibility and gambling harms

I.1 Introduction

Many studies have argued that increases in accessibility (or availability of, or exposure to) gaming machines and other forms of gambling have led to increased participation and more gambling problems.

Hundreds of articles in the gambling literature, typically in introductory paragraphs, assert the availability-problem link. [Electronic gaming machines] are frequently highlighted as the gambling form most strongly implicated in the development of problem gambling. In this regard, they have been referred to as the ‘crack-cocaine’ of gambling ... Major reviews (eg Shaffer, Hall and Vander Bilt 1997, Wildman 1998, Abbott and Volberg 1999) have, with varying degrees of qualification, concluded that research findings are generally consistent with the view that increased availability leads to more gambling and problem gambling. National official review bodies in Australia (Productivity Commission 1999), the USA (National Research Council 1999) and the UK (Gambling Review Body 2001) have reached the same conclusion. (Abbott 2006, p. 3)

The existence and strength of any link between the accessibility of gaming machines and gambling harms is relevant to the desirability of any regulations that limit such accessibility.

This appendix sets out some of the key aspects of that link, the challenges in determining it empirically, and some of the empirical findings from the literature.

I.2 Some methodological issues

There are many dimensions of accessibility

Accessibility has many different dimensions, including the:

- number of opportunities to gamble in a particular form (for example, the number of TAB outlets, casino tables and gaming machines)

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- number of gaming machines or gambling venues per adult in an area
 - spatial distribution of gaming machines within a given jurisdiction (destination gambling as in Western Australia, or widely dispersed community gambling, as in other jurisdictions) or within regions or local areas (for example, whether machines are clustered or spread out, and are close to shopping centres, parking, transport hubs or housing). The spatial distribution will determine the level of transport costs (depending on time, distance, public transport, and parking availability) to access gaming venues, and also the general visibility of gaming in an area. (Some of the complexities associated with measuring accessibility at the local level are discussed in box I.1.)
 - role of the venues themselves, and in particular their wider social and commercial roles. For instance, hotels and clubs are customary places for people to socialise, have a drink and a meal, and to enjoy a variety of entertainments. Accordingly, people are often going to these destinations for reasons additional to gambling. This has several potential effects. It means that the incremental costs of accessing gaming are lower than transport costs to the venue might imply since people already will be going to these venues for other reasons. In addition, it leads to what some have called ‘psychological’ accessibility — making gaming more familiar and normalised for people — and increasing gambling expenditure
 - internal layout of venues, such as the visibility and location of the gaming room, ATMs, and note breakers in relation to other areas of the venues
 - number of opportunities to gamble in a venue, such as the number of gaming machines in a venue
 - opening hours of a venue and any other factors that may influence the capacity of a gambler to play for longer (for instance, the absence or presence of features that may lead to breaks in play — such as a requirement to go outside to smoke)
 - conditions of entry, such as dress codes or minimum age restrictions
 - ease of use of the gambling form, such as whether skill is required
 - initial outlay or cost of gambling, such as the initial stake in a game of poker or associated with acquiring the appropriate online technology
 - degree of social accessibility, including the extent to which a venue provides a non-threatening and attractive environment to persons who might otherwise feel excluded.

Some dimensions may be more closely associated with gambling harms (or indeed, positive impacts) than others. For example, Thomas referred to recent research (Moore et al. 2008; Thomas et al. 2009) that suggests that ‘geographic and temporal

aspects of accessibility’ are significantly and positively related to severity of gambling behaviour whereas ‘social and personal aspects of accessibility’ are at best only weakly related (sub. DR316, p. 1). In addition, since gamblers are a very diverse group, some dimensions may have more adverse impacts for particular sub-groups, but not for others.

Box I.1 Accessibility at the local level is changing and complex

In her submission to this inquiry, McMillen noted many of the complex and dynamic aspects of accessibility at the local area level, and some of the methods that can be used to measure these. In her research using GIS techniques (geographical information system) she found that:

- in all localities studied, the ‘fit’ and interaction between venues and their local communities had altered significantly since the venues were licensed
- gambling behaviour, policy impacts, community harm and wellbeing varied from one locality to another
- communities were not confined by official geographical boundaries (local government areas or statistical local areas)
- communities were not static or passive
- travel patterns by patrons to venues varied within and between communities
- leakage of gaming machine patrons and expenditure and the ‘sponge city’ phenomenon occurred in some localities, but not others.

Source: sub. 223, p. 10.

Causal links are complex

A further challenge is that, at the small area level (such as local government areas or postcodes), the causal links between accessibility and gambling are likely to be multi-directional and hard to disentangle.

Higher densities of gaming machines in an area are likely to create more problem gambling.

However, gaming machines will tend to be supplied to areas where demand is greatest — which will be areas where people have a higher propensity to play gaming machines frequently and where problem gamblers are more common. In that case, the direction of causality would partly run from the characteristics of the population that lead to greater play (people’s age, education, job type, ethnicity and

income), to problem gambling rates, to the intensity of demand, and, finally, to machine density rates — or the reverse of the causal pathway usually supposed.

There is evidence that at least some of the relationship between problem gambling rates and density would reflect such demand differences:

- For example, the 2005-06 South Australian prevalence study shows gambling participation rates vary across people with different traits. Higher usage groups were people aged 18–24 years, those with no young children and those with only a secondary level of education.¹ Data from the 2006 New South Wales gambling prevalence survey (AC Nielsen 2007, pp. 67–8) also suggested that males aged 18 to 34 are over-represented in the problem gambling group. The effects of accessibility may also vary with the socio-economic background and vulnerability of the exposed populations. For example, one group at risk of problem gambling is regular gamblers on low incomes — data from McDonnell-Phillips (2006, p. 91) showed that regular gamblers (TAB punters and gaming machine players) with an income between \$20 800 and \$25 999 spent between 19 and 24 per cent of their income compared with regular gamblers within an income bracket of \$52 000 to 62 399 who spent 3 per cent of their income. (However, differing levels of disadvantage in local areas do not seem to be systematically associated with expenditure on gaming machines — box I.2.)
- It is known that populations in different areas have different mixes of these socio-economic characteristics (as revealed by social atlases produced by the Australian Bureau of Statistics²), which would lead to greater problem gambling rates in some areas.
- The resulting variations in demand, would, all other things being equal, lead to greater gaming machine densities in those areas.

The presence of ‘reverse causality’ leads to the potential for endogeneity bias, which means that parameter estimates for the link between accessibility and problem gambling rates or other harms may be biased.

Saturation effects

While there is good evidence of a link between accessibility and problems, a key question is whether the *marginal* effects of increases in accessibility are constant as accessibility rises, or whether there may be a non-linear relationship. In particular, once gaming machine density has achieved a particular level, so that additional

¹ Office for Problem Gambling (2006).

² ABS (Complete Set of Social Atlases, 2006, Cat. no. 2030.0).

machines are increasingly underutilised, then the link between numbers of machines and harm may be weakened. This would have the implication that, where saturation was present, small regulated reductions in machine numbers could be expected to have only small impacts.

Box 1.2 Socio-economic characteristics of local areas

Using data for over 170 local government areas in New South Wales for the years 1996-97 and 2001-02, Stubbs and Storer (2003) found that areas with lower social and economic advantage (as measured by SEIFA — socio-economic indexes for areas) were weakly correlated with a higher level of gaming machine density, but not with gaming machine spending per adult (pp. 13, 19).

McMillen and Doran (2006) used GIS to compare the spatial distribution of social disadvantage in three Victorian local government areas (Maribyrnong, Central Melbourne and Greater Geelong) with the spatial distribution of venues and patterns of concentrated gaming machine expenditure between 2001 and 2005. Their analysis showed no direct or uniform relationship between gaming machine expenditure patterns, SEIFA and the density of gaming machines (p. 21).

In contrast with the above two studies, Diamond (2009a) found that the average daily per capita expenditure was higher for more disadvantaged local government areas (such as Central Goldfields, Greater Dandenong and Strathbogie) than for less disadvantaged areas (such as Bayside, Borrongara and Yarra) (p. 7).

Exposure and adaptation theories

In addition, it is also possible that, for a given number of machines per capita, the marginal effects change over time (chapter 4). This could arise because the initial adverse impacts of a sudden substantial increase in accessibility of gaming machines — as occurred in the 1990s in many jurisdictions — would be experienced by a large group of previously unexposed population groups.

After that initial exposure, the marginal effect could decline as:

- the novelty of gaming machines waned, reducing participation rates and general exposure
- people who had developed problems resolved them
- society and regulatory settings adapted to the risks.

For example, Abbott (2006, p. 6) hypothesised that over time, years rather than decades, adaptation (‘host’ immunity and protective environmental changes such as reduced novelty in gambling and increased public awareness of problem gambling)

typically occurs and problem gambling levels stabilise or reduce, even in the face of increasing exposure.

Problem gambling would still be expected to occur as young people became adults (acquiring the right to play gaming machines), with influxes of migrants, and as people in the general population developed vulnerabilities to gambling problems. Further, changes in technology — for example, increases in intensity of play and, new game features — could be expected to lead to re-exposure of the whole adult population to new variants of gaming machines.

I.3 Geographical accessibility

The empirical relationship between various measures of accessibility and various gambling outcomes (expenditure, use of help services, problem gambling) has been a focus of considerable Australian and overseas research.

Density and expenditure are related

While the key policy-relevant relationship is between accessibility and harm, the relationship between accessibility and expenditure is also useful for understanding the impacts of the greater availability of gaming machines.

In its 1999 report, the Commission generally found a close relationship between gaming machines per 1000 adults (density) at the jurisdictional level (one dimension of accessibility) and gaming machine expenditure per adult (PC 1999, p. 8.10). The relationship reflected the plausible assumption that high levels of demand (and expenditure) led to high levels of supply of machines, which in turn had a positive feedback effect on demand (and expenditure).

The Commission re-examined the strength of the relationship using recent Australian Gambling Statistics data for 2006-07 across the jurisdictions (figure I.1). As expected, there is a positive relationship between gaming machine density and gambling expenditure per adult, which appears to have remained stable since 1999.³

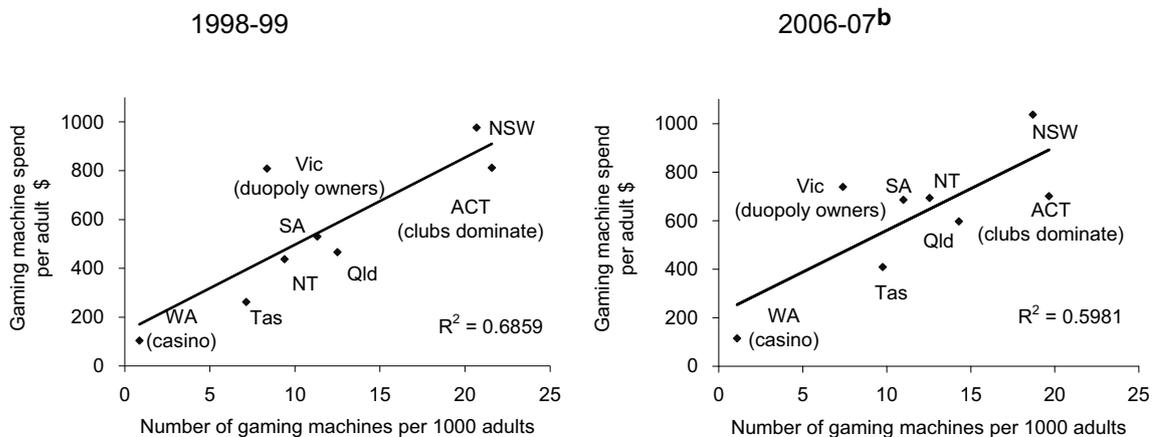
The 2006-07 data show that Victoria has a higher level of gaming machine expenditure per adult than might be predicted given its gaming machine density. This is likely to reflect the duopoly arrangements and the binding cap applying at the time the data were collected.

³ The possibility of structural change was investigated statistically. However, it is notable that as the variations in expenditure across jurisdictions accounted for by variations in density has fallen — the relationship is less reliable. That makes it harder to be sure whether there has, or has not been, structural change, and also means that other factors also determine expenditure.

The relationship was also re-estimated using 2008-09 data, largely provided by gambling regulators (figure I.2). Unlike the data in figure I.1, this data include the number and expenditure of gaming machines in casinos (rather than an estimate). The newer data show that the relationship is still positive and appears to be possibly weaker than what it was in 1998-99 and 2006-07 — however, it is not possible to be conclusive of this as the data in figure I.1 are drawn from a different source.

Several other studies have also found a strong association at the local area level between the gaming machine density and gaming machine expenditure (or revenue) per adult using local government area or statistical local area data (box I.3). However, given the high level of disaggregation, these estimates are more prone to potential endogeneity biases than aggregate studies, so the link between density and spending may partly reflect the fact that clubs and hotels are more likely to invest in gaming machines in suburban or local government areas where there is higher demand.

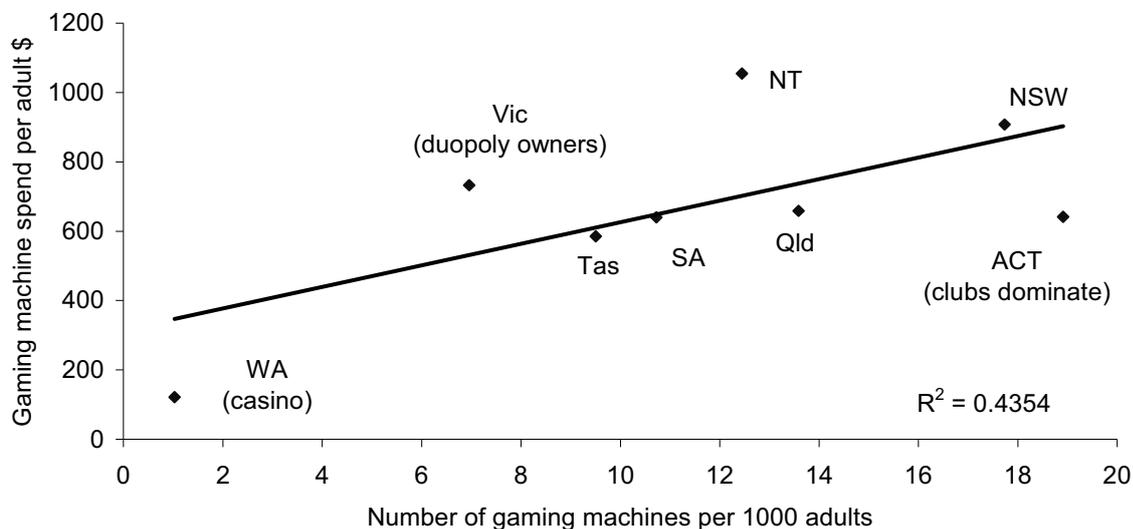
Figure I.1 The link between real gaming machine spending and numbers of machines, all venues^a



^a Applies to clubs, hotels and casinos in each jurisdiction. Expenditure is in 2006-07 values. As gaming machine expenditure in casinos is not separately reported in the Australian Gambling Statistics it was estimated. Using ABS data (Casinos 2000-01, Cat no. 8683), the share of gaming machine net takings in total gambling takings for casinos was applied to real casino expenditure reported in the Australian Gambling Statistics for each jurisdiction to obtain estimated real gaming machine expenditure in casinos. The shares used were 39.1 per cent for 1998-99 and 40.8 per cent for 2006-07. ^b Although more recent data are available than 2006-07 on the number of gaming machines and gaming machine expenditure in some jurisdictions, data from the 2008 25th edition of Australian Gambling Statistics are used to ensure as much consistency in the data over the two time periods as possible.

Data sources: Office of Economic and Statistical Research (2008) — number of gaming machines, real expenditure on gaming machines in hotels and clubs, real casino expenditure in 2006-07; ABS (Population by Age and Sex, Cat no. 3201, accessed by DX) — adult population in each jurisdiction in 1998-99 and 2006-07; ABS (Casinos 2000-01, Cat no. 8683.0) — gaming machine and total gambling net takings in 1998-99 and 2000-01.

Figure I.2 The link between gaming machine spending and number of machines, all venues, 2008-09^{a b}



a Applies to clubs, hotels and casinos in each jurisdiction. **b** The position of jurisdictions in this figure, particularly the Northern Territory, may not entirely coincide with their position in figure I.1. This is probably due to the ratios used in figure I.1 and derived from ABS data to estimated gaming machine expenditure in casinos. For example, in the Northern Territory, the actual share of gaming machine expenditure in casino expenditure in 2006-07 was around 76 per cent, compared with the estimated share of 41 per cent applied to casino expenditure in all jurisdictions in figure I.1.

Data sources: ABS (Population by Age and Sex, Cat no. 3201, accessed by DX) — adult population in each jurisdiction in 2008-09; chapter 2, table 2.7 — gaming machine expenditure in each jurisdiction in 2008-09; chapter 2, table 2.11 — number of gaming machines operating in each jurisdiction in 2008-09.

One of the key underlying mechanisms by which density could affect spending is proximity to venues with gaming. The evidence suggests that proximity is an important determinant of demand (box I.3).

Links between geographical accessibility and harm

The Commission's 1999 findings

In its 1999 report, the Commission examined the association between various dimensions of accessibility and problem gambling prevalence rates (measured by SOGS 5+) across the jurisdictions drawn from its national gambling survey (PC 1999, pp. 8.8–8.15). It found:

- There was a statistically significant positive relationship between gaming machine density and the problem gambling prevalence rate (pp. 8.8–8.9).

- Problem gambling prevalence rates were generally higher in jurisdictions with higher (non-lottery) gambling expenditure per adult. New South Wales, for example, had consistently high levels of problem gambling than other states, and Western Australia — where gaming machines were effectively barred in community venues, as they are now — had a much lower level (p. 8.10).
- The variation in gambling expenditure per adult (p. 8.11) explained about 60 per cent of the variation in problem gambling prevalence rates across jurisdictions.
- There were links between liberalisation of gambling and changes over time in problem gambling (such as in the use of help services) and in the feminisation of problem gambling.

It should be noted that the above approaches reduce the problem of reverse causality. This is because the socio-demographic variations between whole jurisdictions are modest compared with the differences that arise at the small area level. Similarly, the results from the time series analysis is less likely to be affected by the problem of reverse causality.

Box 1.3 Associations between spending and density at the local area level

Delfabbro (2002) used statistical local area data to examine the distribution of gaming machines and gambling-related harm in the Adelaide metropolitan area. He found a very high correlation between gaming machine density and net revenue (p. 100). (He also found a high correlation between gaming machine density and the proportion of the population who had sought help from treatment services.)

Stubbs and Storer (2003, 2005 and 2007) examined the relationship between gaming machine density and expenditure per adult using New South Wales local government area data. For example, Storer and Stubbs (2007) found that the relationship between gaming machine density and dollars spent per adult on gaming machines was very strong, and that it persisted over the period from 1996-97 to 2005-06 (p. 7). Based on 2005-06 data, they estimated that variation in the density of gaming machines accounted for 77 per cent of the variation in gambling machine expenditure per adult.

Diamond (2009a) estimated a model to forecast gambling expenditure in 52 Victorian local government areas using time series data from 2003 to 2007. He found that average daily per capita expenditure was higher for local government areas with a high concentration of gaming machines (for example, Melbourne, Maribrynong and LaTrobe) than for areas with a low concentration of gaming machines (for example, Boroondara, Bayside and Nillumbik) (p. 7).

Box I.4 Proximity to venues

Marshall (2002, cited in Delfabbro 2008a, p. 172) found that people in New South Wales living within 500 metres of a club were more likely to gamble than those who lived further away.

In their 2003 Victorian gambling prevalence survey, the Centre for Gambling Research (2004a) found that 57 per cent of Victorians travelled less than five kilometres to gamble and that 32 per cent travelled less than 2.5 kilometres (p. 81).

In a study of 2447 residents in the Tuggeranong Valley in the ACT, Marshall, McMillen, Niemeyer and Doran (2004) found that people who lived close to a club (less than 3.5 kilometres) tended to spend more on gambling than those who lived further away (p. 11). They also found that clubs outside the Tuggeranong Valley attracted many regular patrons among Tuggeranong residents (p. 9).

Data from the 2007 Tasmanian prevalence study showed that over 40 per cent of Tasmanians reported travelling 0–5 kilometres to visit a gaming venue, just under one in five travelled 6–10 kilometres, and a third said that they travelled over 10 kilometres (SACES 2008a, p. 212). When asked whether they usually gambled at the venue closest to their home, 42 per cent of gaming machine players said 'yes', whereas 56 per cent said 'no' (p. 212).

The Ministry of Health (New Zealand) (2008b), from an analysis of the 2002-03 New Zealand Health Survey involving around 12 500 respondents aged 15 years and over, found that:

- compared with those who lived in neighbourhoods furthest from gambling venues, people who lived in neighbourhoods closer to gambling venues were significantly more likely to: have gambled at a gambling venue in the last year; or be a problem gambler who had gambled at a gambling venue in the last year
- people who lived in a neighbourhood closer to a non-casino gaming machine venue were significantly more likely to: have gambled on a non-casino gaming machine in the last year; or be a problem gambler who had gambled on a non-casino gaming machine in the last year
- gambling behaviour was more strongly associated with the distance to the nearest gambling venue, than with the number of gambling venues within walking distance
- the more gambling venues there were within 5 kilometres of a person's neighbourhood centre, the more likely it was that the person had gambled at a gambling venue in the last year
- if people had at least some non-casino gaming machines within 800 metres of their neighbourhood centre, they were more likely to have gambled on a non-casino gaming machine in the last year (p. x).

In a study of the gambling behaviour of 533 hotel and club staff, Hing and Nisbett (2009, table 8.3) found that, of those who played gaming machines, 84 per cent travelled less than 5 kilometres and 64 per cent travelled less than 2.5 kilometres to gamble.

Subsequent Australasian research

In his analysis of the Commission's findings, and incorporating relevant New Zealand data, Abbott (2006) suggested a non-linear relationship between gaming machine densities/gaming machine expenditure per adult and problem gambling prevalence rates (p. 10), with the link weakening above a threshold of spending and machine density. Abbott speculated that the relationship broke down at somewhere between six and 10 gaming machines per 1000 adults and where annual gaming machine expenditure per adult reached about \$200 (in 2006 dollars) (pp. 10–11).⁴

However, subsequent research based on a meta-analysis of the prevalence rates from 34 problem gambling surveys undertaken in Australia and New Zealand since 1991 found a linear relationship, with no threshold effects (Storer, Abbott and Stubbs 2009). The prevalence of problem gamblers (SOGS 5+) increased at around 0.8 problem gamblers for each additional gaming machine introduced (p. 9). The authors concluded that these findings indicated that 'policies related to restricting or reducing the density of [gaming machines] are likely to play a significant role in containing or reducing gambling-related harms' (p. 11–12).

The study also found that the effect of accessibility appeared to reduce over time, with the prevalence rate falling by an average 0.09 per cent annually for a *given* gaming machine density. The authors concluded that, while this was partially consistent with the adaptation thesis (discussed above), the decrease in prevalence over time was a complex matter, with a range of possible explanations (pp. 11, 12).

Areas with low gaming machine density appeared to show greater variations in prevalence (p. 9). The authors considered that this may reflect the importance of clustering of licensed venues and gaming machines in particular localities, or variations in the nature of venues themselves (p. 12).⁵

The link between gaming machine density and problem gambling prevalence rates has also been found for Queensland using the 2005 and 2007 prevalence surveys (Judith Stubbs and Associates sub. 73, pp. 6–7). Among their findings were:

⁴ Abbott also re-examined the 'outlier' cases of Victoria and the Northern Territory (2006, p. 10). Compared with other jurisdictions in 1999, Victoria had a problem gambling prevalence rate that was relatively high, but a low gaming machine density, and the Northern Territory had low gaming machine expenditure per adult, but a relatively high problem gambling prevalence rate. He supported the Commission's view in 1999 that the Victorian case reflected the imposition of a long-standing cap and that the Northern Territory case reflected high levels of expenditure per adult on casino and track betting.

⁵ Judith Stubbs and Associates also noted that this was in line with findings from their analysis of time series data across New South Wales local government areas for the 2007 New South Wales Statutory Review of the Gaming Machines Act 2001 (sub. 73, p. 6).

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- for the combined data set, an additional gaming machine placed into a local government area resulted in an additional 0.3 problem gamblers (CPGI). Based on a 'crude transformation' to the SOGS 5+ criterion for problem gambling, this appeared to be similar to the findings of the meta-analysis above, although less significant. They found no apparent threshold effects and no apparent change in the relationship over time (unlike the study above)
 - while there appears to be a relationship between problem gambling prevalence and the density of gaming machines, such a relationship was not apparent for low or moderate risk gamblers (p. 7).

In another study, the Ministry of Health (New Zealand) (2008b) found from an analysis of the 2002-03 New Zealand Health Survey involving around 12 500 respondents aged 15 years and over that, compared with those who lived in neighbourhoods furthest from gambling venues (or non-casino gaming machine venues), people who lived in neighbourhoods closer to gambling venues (or non-casino gaming machine venues) were significantly likely to be a problem gambler who had gambled at a gambling venue (or non-casino gaming machine venues) in the last year (box I.4).

International research

Evidence from other countries also provides empirical support for a link between accessibility and harm:

- Welte et al. (2004) undertook a national US telephone survey of 2631 adults and found a positive link between proximity to a casino (less than 10 miles) and problem gambling prevalence rates (p. 421).
- Ladouceur et al. (2005) undertook a study involving a focus group of 99 adults in Quebec to examine the relationship between the availability of gaming machines outside of casinos and problem gambling prevalence rates to assess whether concentrating machines in fewer venues could reduce problem gambling prevalence rates. Problem gamblers reported a preference for this restriction (p. 144). However, occasional and at-risk gamblers were undecided (p. 144). The quantitative and experimental second stage of the project confirmed this finding, with 77 per cent of respondents agreeing that concentrating machines would better control the negative effects associated with gaming machine (p. 150).
- Rush et al. (2007) mapped exposure to gambling opportunities and accessibility of treatment against problem gambling prevalence rates in Ontario. They found problem gambling appears to be modestly, but significantly, associated with proximity to casinos and race-tracks with gaming machines (p. 8).

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- Lund (2009) undertook a panel study of around 1300 gaming machine players in Norway over two waves during 2007 to examine the effects of a temporary ban introduced between 2007 and 2008. Wave 1 was conducted before the ban, with wave 2 conducted after the ban. Lund found that reductions in gambling participation, frequencies and problems following the ban, in particular:
 - gambling participation by wave 1 high intensity and at-risk players reduced from 100 per cent and 90.6 per cent, respectively, to 15.3 per cent and 18.7 per cent, respectively (p. 220)⁶
 - gambling frequencies for wave 1 high intensity and at-risk players reduced by 11.8 per cent and 18.5 per cent, respectively (p. 221)
 - problem gambling prevalence at wave 1 was 1.2 per cent compared with 0.3 per cent at wave 2 (p. 219).⁷

In contrast to these studies are two large-scale studies by Sevigny et al. (2008), which examined the relationship between casino proximity and problem gambling prevalence rates. The first study based on a sample of 8842 participants from Quebec found a positive link between casino proximity and gambling participation and expenditure, but no link with the problem gambling prevalence rate (p. 297). The second study, based on a sample of 5158 participants from Montreal, found a positive link between casino proximity and gambling participation, but not with expenditure or the problem gambling prevalence rate (p. 299). The authors concluded that casino proximity itself does not appear to explain the problem gambling prevalence rate.

1.4 Problem gambling prevalence amongst venue staff

One group has a high degree of routine accessibility to gambling — the employees of gambling venues.

Hing and Nisbett (2009) examined the link between gambling accessibility and problem gambling prevalence for over 500 staff in Victorian hotels and clubs. Among other things, the authors compared the gambling behaviour and problem gambling prevalence of staff to that of the general Victorian population (as

⁶ Lund suggests that the continued participation of play of gaming machines following the ban arises due to the availability of gaming machines in neighbouring countries, and that many people live quite close to the Norwegian border.

⁷ Lund also found that there was no indication of the development of an illegal gaming machine market, or of significant substitution of gaming machines with other types of gambling, including on the internet (p. 222).

measured by the Centre for Gambling Studies 2004b). Notably, the problem gambling prevalence rate (CPGI status) for venue staff for all forms of gambling was 5.6 per cent compared with 0.97 per cent for the Victorian population (table I.1).

The authors also analysed the influence of three summary measures of perceived accessibility⁸ — social access (for example, family and peer approval), physical access (for example, convenience) and cognitive access (for example, an understanding of how gambling works) — on the CPGI status of venue staff. In relation to staff who played gaming machines, the authors found that:

- there was a significant association between social access and cognitive access — but not physical access — and CPGI status (2009, table 9.33)
- the probability of staff being a moderate risk or problem gambler increased as cognitive access became easier and as social access became more difficult (2009, tables 9.34 and 9.35).

Although the study set out to examine the impact of accessibility on venue staff, its findings are more consistent with gambling being a relatively normalised activity for venue staff compared with other population groups.

Table I.1 Victorian venue staff compared with the Victorian population: gambling behaviour in relation to gaming machines

	<i>All venue staff (2007)</i>	<i>Victorian population (2003)</i>
Gambling participation	77.3% (n=533)	33.5% (n=8479)
Gambled 1 to 3 times a week	19.9% (n=412)	7.6% (n=2840)
Gambled more than 3 times a week	3.4% (n=412)	0.9% (n=2840)
Travelled 5 km or less to gamble.	83.9% (n=412)	57.3% (n=177)
Prevalence of moderate risk gamblers ^a — all gambling forms	13.7% (n=533)	0.91% (n=141)
Prevalence of problem gamblers ^a — all gambling forms	5.6% (n=533)	0.97% (n=141)

^a CPGI status.

Source: Hing and Nisbett (2009, tables 8.1, 8.2, 8.3, 8.4).

⁸ The authors attempted to capture various dimensions of accessibility through the construction of ‘access scales’ based on 13 access questions for each of six forms of gambling, including gaming machines (2009, pp. 118–9).

I.5 Summing up

The results support a link between gaming machine density and problem gambling prevalence rates. The aggregate and time series studies suggest that accessibility is *causally-related* to problem gambling. However, for small area studies, the relative strengths of the two links between accessibility and harm has not yet been considered rigorously.

- On the one hand, greater accessibility stimulates demand, with the result that some gamblers are exposed to risks that were originally muted or not present.
- On the other hand, a population that already includes problem gamblers will be typified by higher expenditure levels (chapter 4), encouraging greater supply of gaming machines in those areas. To the extent that this is the case, reducing accessibility in that area may result in greater utilisation of existing machines or shifts in the location of demand, without reducing harm.

It is probable that both effects are present in such local area studies, with the relative size of the two competing effects likely to depend on the pre-existing level of accessibility and the nature of the host communities. It is likely that the second effect is dominant once accessibility rises above a certain threshold. Analysis of longitudinal data on problem gambling and accessibility may help better identify the relative strengths of the two causal pathways.

The empirical analysis of the links between other dimensions of accessibility and problem gambling is still in its infancy (reflecting the complexities of such analysis — as suggested by the research of McMillen in box I.1).

J Counselling services

This appendix provides supporting material for the chapter on counselling and treatment support services (chapter 7). Section J.1 provides a brief overview of the range of counselling and treatment support services provided by the states and territories to those affected by problem gambling. Information on the number of people accessing gambling support services and some characteristics of callers of gambling helplines and clients of counselling services is presented in section J.2. Section J.3 provides details on funding arrangements for gambling counselling and treatment support services.

J.1 Brief overview of counselling and treatment support services

All state and territory governments in Australia provide free counselling and treatment support services for people experiencing problems with gambling, as well as family or friends who may be affected (box J.1). Services are provided through a variety of government and non-government organisations (many of which are community-based agencies). Services include:

- 24 hour gambling helplines (a national 1800 number) offering telephone crisis counselling, information and referral services
- gambling help websites providing information, self-help material and tools
- face-to-face counselling, including intensive clinical therapy, financial counselling and group support
- community education activities and problem gambling research programs (box J.2).

Specialist services for Indigenous and Culturally and Linguistically Diverse (CALD) communities are also provided by a number of the jurisdictions.

Box J.1 State and Territory funded counselling and support services

All state and territory governments provide a 24 hour, seven days a week telephone service providing information, referral, counselling and support to problem gamblers and their family members. Funding is also provided for community education campaigns and research programs.

New South Wales

The Responsible Gambling Fund (RGF) funds a range of organisations to deliver gambling counselling and support services. In 2008-09 there were:

- 38 individual services conducting face-to-face counselling
- 5 multi-region services offering specialist assistance for CALD communities and a state-wide Aboriginal service providing a range of workforce development and awareness raising initiatives
- 3 specialist support services providing, respectively, training for gambling counsellors, expert legal advice for individuals and services on gambling related matters, and advice and advocacy on gambling issues as they affect people with disabilities.

Victoria

The Victorian Government currently funds 16 agencies to deliver Gambler's Help problem gambling and financial counselling from approximately 100 sites across metropolitan, regional and rural Victoria. There are also:

- specialist services to develop links across problem gambling, mental health, alcohol and other drugs and family services
- a Recovery Assistance Program providing material and financial assistance when gambling has resulted in financial crisis
- specialist services to CALD (Centre for Culture Ethnicity and Health) and to Indigenous communities (Victorian Aboriginal Health Service and the Victorian Aboriginal Community Services Association)
- mobile, outreach and after-hours services
- a Problem Gambling Research and Treatment Centre.

Queensland

The Gambling Help Service System includes:

- 14 face-to-face counselling services from approximately 30 sites across the state offering addiction, relationship, financial and group counselling
- a residential treatment program
- culturally appropriate assistance.

(Continued next page)

Box J.1 (continued)

South Australia

Services to address problem gambling in South Australia (Gambling Help Services), are run by both government and non-government agencies and include: intensive therapy, financial counselling, general counselling, group support, as well as services targeted to CALD, Aboriginal and other specific population groups.

Western Australia

Services are currently operated by Centrecare under the program name Gambling Help WA. Services include face-to-face counselling (general and financial) and phone counselling (where face-to-face counselling is not appropriate or available, such as for people in regional and remote parts of WA).

Tasmania

Tasmania's Break Even Gambling Services provide counselling services, including financial counselling and group sessions. The Gambling Support Program also provides problem gambling support services, including gambling community education and health promotion.

Australian Capital Territory

Gambling Care (Lifeline Canberra) provides face-to-face counselling and related financial counselling for people experiencing problems with gambling. It also provides community education services.

Northern Territory

The three funded counselling services (Amity Community Services, Anglicare NT and Somerville Community Services) offer general counselling, gambling intervention, addictions and financial counselling. Funding is also provided for an Indigenous Gambling Intervention Service Network and money management workshops targeting remote communities in the Alice Springs Region.

Sources: RGF (sub. 38, p. 4), Victorian Government (sub. 205), South Australian Government (sub. 225), Western Australian Government (sub. 139, p. 19), Tasmanian Government (sub. 224), Office of Liquor, Gaming and Racing Queensland (sub. 234), Problem Gambling Services: Action Plan, Department of Families and Communities, Government of South Australia, 2007.

In late 2008, the Ministers from each Australian jurisdiction signed a Memorandum of Understanding to undertake a three year trial of a national on-line gambling counselling service. The national on-line 24 hour gambling counselling service began operating on 31 August 2009. Email support and self-help material are also available on the website (www.gamblinghelponline.org.au).

Gambling help services are also available from industry-funded counselling agencies (such as BetSafe, ClubSafe, RSL Assist), voluntary groups (such as Gamblers Anonymous, Gam-Anon), religious and community groups, public and private hospitals and clinics.

Box J.2 Strategies aimed at raising community awareness

All states and territories have in place strategies for raising community awareness about gambling and help services, including media campaigns, gambling websites, community education events, problem gambling material.

Media campaigns are conducted using television, radio and print advertising. Printed material (including player information brochures, posters and contact cards) are made available in venues and in the general community. Printed material is generally available in a range of languages.

Media campaigns and printed material are generally aimed at assisting people to make safe gambling choices, raise awareness about risks of gambling and promote help services:

These strategies assist people to make informed choices about if, and for how long, they should engage in various gambling activities, and to alert them to the availability of help if their participation leads to problems (New South Wales Government, sub. 249, p. 54).

The objective of the communications component of the strategy is to explain the personal and social impact of problem gambling and encourage those with gambling problems to seek assistance. It aims to increase community awareness about the harm caused by problem gambling, enabling people to develop an understanding of how to gamble responsibly, and to increase the number of people accessing Gambler's Help services (Victorian Government, sub. 205, p. 79, attachment 3).

All jurisdictions sponsor Gambling Awareness Weeks. Examples of activities undertaken during this week include media campaigns, information stalls in shopping centres, workshops and seminars highlighting developments in problem gambling, and refresher courses for venue staff on responsible service of gambling.

Some of the community awareness strategies are targeted at specific groups in the community at risk of developing a gambling problem. For example, the New South Wales Government conducted a campaign targeted at young males during the second half of 2008. The campaign, *Gambling Hangover*, aimed to increase awareness among young males, to create dissatisfaction with problem gambling and provide self-help strategies for changing behaviour, including where to get help. The media were chosen to specifically capture the target audience 'during the morning after, remorse, phase of a gambling binge' and delivered the message 'don't ignore it, get onto it' by calling G-Line or going to the Gambling Hangover website (New South Wales Government, sub. 249, p. 59).

Non-government agencies also play a role in community education. For example, *isee-ilearn.com* has been harnessing the oral story telling traditions of Indigenous groups in central Australia.¹ The Waltja Tjutanku Palyapayi Aboriginal Corporation have also been holding workshops in Indigenous communities in central Australia to discuss the impacts of gambling.

Source: http://www.fahcsia.gov.au/SA/GAMBLINGDRUGS/PUBS/PROGRESS_REPORT_NFPG/Pages/default.aspx

¹ <http://www.isee-ilearn.com/gamblingstories/index.html>

J.2 Clients using gambling support services

Gambling help calls

Gambling helplines are an important first port of call for people experiencing problems with gambling. The helplines provide 24 hour services including referrals, counselling and support for people experiencing problems with gambling. In 2007-08, there were around 31 000 calls made to gambling helplines in Australia. The majority of callers were from the target group (gamblers, family and friends, table J.1). In Tasmania, around 77 per cent of target group callers to the gambling helpline were first time callers.

Table J.1 **Gambling Helpline, 2007-08**

	<i>NSW</i>	<i>Vic^a</i>	<i>Qld</i>	<i>SA</i>	<i>WA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT^c</i>	<i>Total</i>
Target callers	6757	-	-	1536	885	536	-	52 ^d	
Non-target callers	4789	-	-	641 ^b	536	404	-	64 ^e	-
<i>Total calls</i>	11 546	11 153	3376	2177	1421	940	266	116	30 995

^a Includes 183 contacts associated with the RTC program. ^b Includes prank calls, hangups, wrong numbers. ^c Includes only calls made outside normal business hours. ^d Gambling related calls (counselling, information or referral). ^e Calls answered.

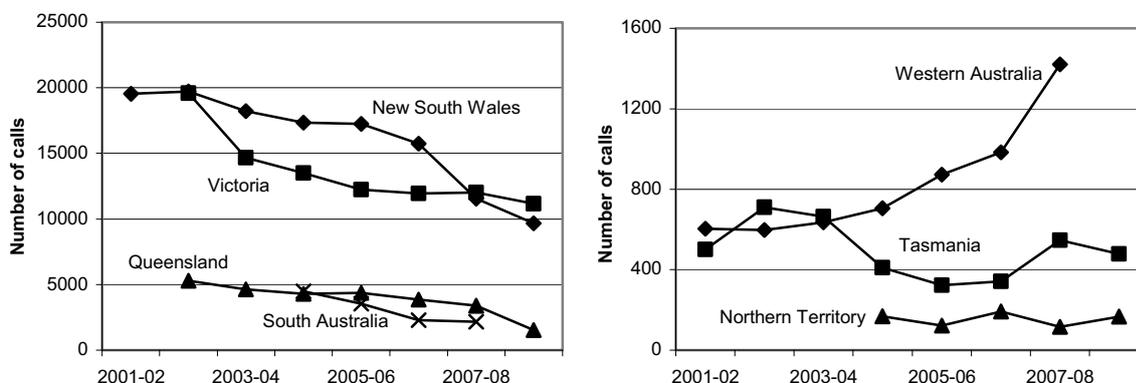
Data sources: RGF Annual Report 2007-08, Lifeline Canberra Annual Report 2007-08, Lifeline Canberra (sub. 123), Gambling Helpline Tasmania, Annual Report 2007-08, data provided by state and territory governments.

In a number of jurisdictions (New South Wales, Victoria, Queensland and South Australia), calls to the gambling helpline have trended downwards in recent years (figure J.1). The total number of calls to the gambling helpline in New South Wales, for example, almost halved over the period 2002-03 to 2008-09 (over the same period the target group calls declined from over 13 000 to around 6 400 calls).

The Victorian Government, commenting on the decline in calls to the Gambler's Help Line in that state (where the total number of calls declined from around 19 000 in 2002-03 to around 11 000 in 2008-09), said:

It is difficult to accurately identify the reasons behind the reduction in calls to the Gambler's Help Line. This trend may be attributed to a number of factors, including (but not limited to) a decline in the number of people requiring problem gambling services in Victoria, a decline in help-seeking of problem gamblers, a larger cohort of problem gamblers seeking alternative sources of assistance and/or gamblers displaying natural recovery from their gambling issues. (Victorian Government, sub. 205, p. 74)

Figure J.1 Trends in gambling helpline calls



^a For Tasmania calls are target group calls only.

Data sources: RGF Annual Reports, data provided by State and Territory Governments.

In Western Australia, the number of calls to the gambling helpline more than doubled over the period 2001-02 to 2007-08. In Tasmania, the number of ‘target group’ calls to the gambling helpline declined from over 700 calls in 2002-03 to around 320 calls in 2005-06 before increasing to almost 540 calls in 2007-08 (figure J.1).

Counselling and treatment services

Client data collected by the states and territories suggests that around 17 500 people attended gambling and treatment services in 2007-08 (table J.2). Most of those seeking help did so for their own gambling problem, with around 4000 people seeking help for someone else’s gambling problem. The data, however, are not strictly comparable (some jurisdictions collect data on ‘all’ clients, others on ‘new’ clients, some jurisdictions include clients attending gambling financial counselling). The data also exclude people seeking help from privately provided or voluntary gambling help services (such as Gamblers Anonymous and private psychiatrists) and those seeking help from generic community services and financial and relationship counselling agencies.

The Commission’s 1999 gambling report estimated that *well in excess* of 12 000 people had attended problem counselling agencies in the previous 12 months (based on data collected as part of the Commission’s survey of counselling services).

Table J.2 Clients of gambling help services, 2007-08

State/Territory	Number of clients	Type of client	Gender	
			Male %	Female %
NSW	4 880	Person with gambling problem — 71% Partner/ex-partner — 14% Family member — 8% Friend — 3%	58 Gambling clients — 68% male	42 Partner/ex-partner or family member — 74% female
Victoria	5 843 (problem gambling counselling) 3 060 (problem gambling financial counselling)	Family and friends — 20%	48 (problem gambling help) 42 (financial counselling)	52 (problem gambling help) 58 (financial counselling)
Queensland	926 (new clients)	Gambling clients — 83% Other clients — 17%	50	50
South Australia	1 306 (new clients)	Gambling clients — 76% Other clients — 24%	49	51
Western Australia	297		67	33
Tasmania	385	Gambling clients — 85% Partner/other — 15% ^a	43 ^a	57 ^a
Northern Territory	367		39 ^b	61 ^b
ACT	224 (gambling counselling clients) 144 (financial counselling clients)	Gambling clients — 109 new, 101 existing, 14 new family member clients	59	41
Total	17 432	Gambling clients 13 492 Other clients 3 940^c		

^a Based on client data for the period July 2000 to June 2007. ^b Based on data for clients attending two Northern Territory counselling agencies. ^c For Western Australia and for two counselling agencies in Northern Territory, it was assumed that 20 per cent of clients were attending counselling services for someone else's gambling behaviour.

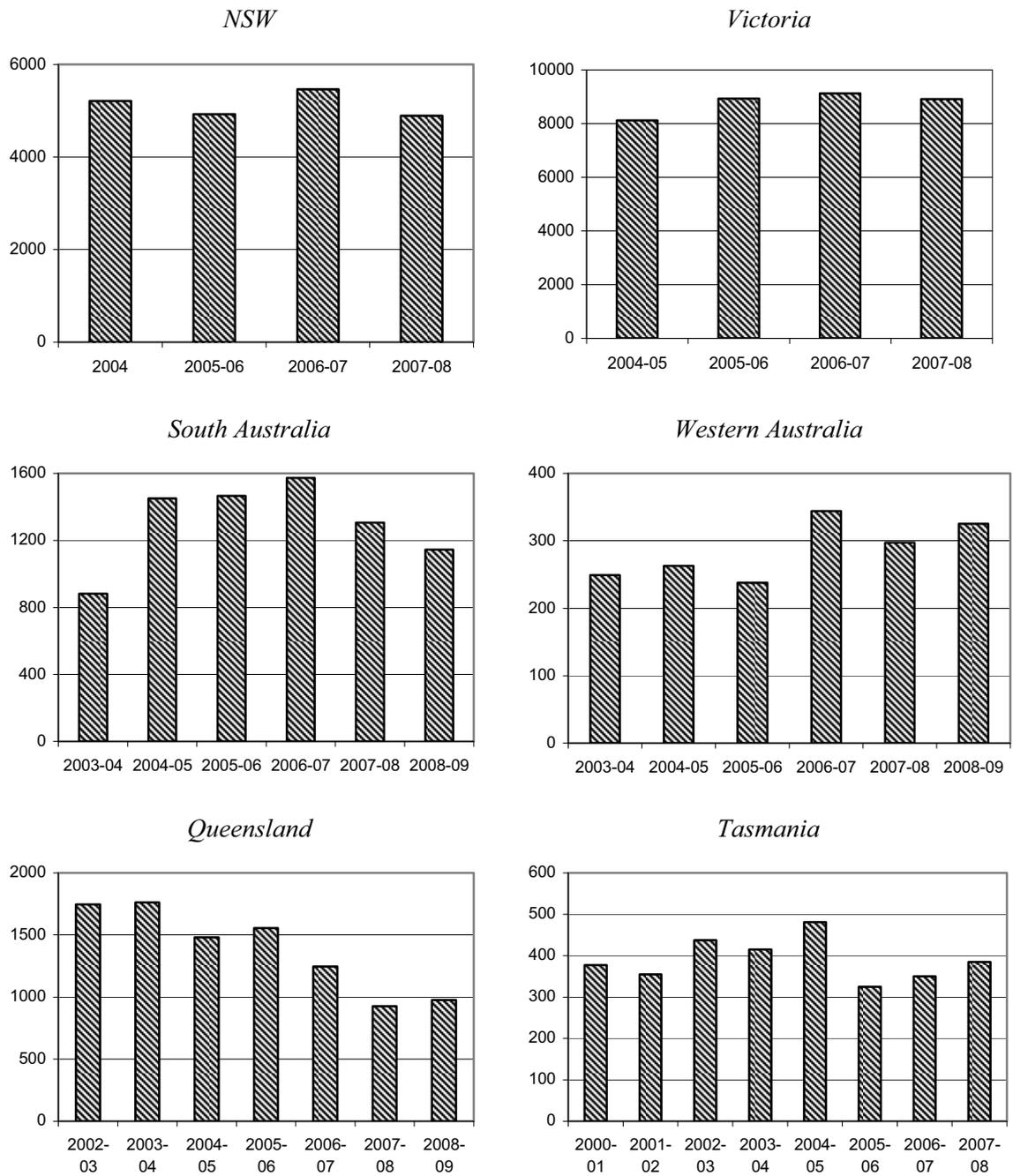
Data sources: RGF Client Data Set 2007-08 Annual Report, RGF Annual Report 2007-08, Victorian Government (sub. 205), Department of Health and Human Services Break Even Gambling Services Client Information July 2000 to June 2007, Lifeline Canberra 2007-08 Annual Report, Lifeline Canberra (sub. 123), *Taking Action on Problem Gambling – A Strategy for Combating Problem Gambling in Victoria*, Department of Justice 2006, data provided by state and territory governments.

In terms of clients attending counselling services, data collected at the state and territory level show that:

- in both New South Wales and Victoria the number of clients receiving counselling for gambling has remained ‘reasonably’ stable in recent years (figure J.2). However, in Victoria, over the period 2004-05 to 2007-08, client hours for problem gambling financial counselling more than doubled, increasing from 8197 to 17 976 hours, with the average number of hours of counselling per client increasing from 2.9 to 5.9 hours (figure J.3). The Victorian Government noted that ‘throughout these years there were significant state-wide television advertising and other media campaigns that promoted Gambler’s Help services, as well as the state-wide 1800 number’ (Victorian Government, sub. 205, p. 72).
- new clients seeking help for gambling in Queensland declined from more than 1700 in 2002-03 to just less than 1000 in 2008-09 (there are, however, some concerns about the reliability of the data).
- in Tasmania, demand for counselling services was reasonably stable over the period 2000-2008, with the highest number of clients seeking help over the three year period 2002-03 to 2004-05. As the Tasmanian Government said ‘demand for services has proven to be fairly stable over time’ (sub. 224, p. 33).
- in South Australia client numbers increased over the period 2003-04 to 2006-07 (the highest number of clients seeking counselling help in 2006-07), before declining in the last two years.
- in Western Australia client numbers were reasonably stable over the period 2002-03 to 2005-06 before increasing in 2006-07. The number of counselling sessions attended by gambling clients increased by around 35 per cent over the period 2003-04 to 2008-09 (figure J.3).

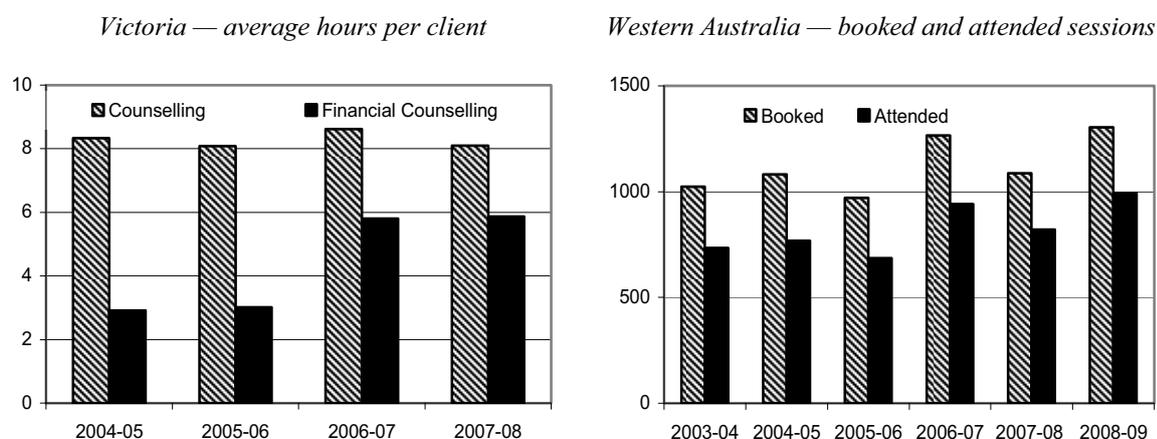
Figure J.2 Trends in clients attending counselling services

Number of clients



Data source: RGF Client Data Sets (various), Victorian Government (sub. 205), Department of Health and Human Services, Break Even Gambling Services Client Information, July 2000 to June 2007, data supplied by state and territory governments.

Figure J.3 Changes in client hours and sessions booked and attended



Data sources: Victorian Government (sub. 205), data provided by the Western Australian Government.

Electronic gaming machines — the main form of gambling causing problems

Most clients who call gambling helplines and access counselling and treatment support for gambling are experiencing problems with gaming machines or identify these as their main form of gambling (tables J.3 and J.4). In all jurisdictions except Western Australia, 74 per cent or more counselling clients identified EGM's as the main source of gambling problem/preferred gambling activity (table J.4).

Among those clients seeking gambling counselling, a higher proportion of females than males cited EGMs as their main form of gambling. For example, in New South Wales 93 per cent of female problem gamblers reported gaming machines as their preferred form of gambling, compared with 72 per cent of males. Similarly, in Queensland 87 per cent of females and 64 per cent of males reported EGMs as the form of gambling causing most problems.

The other forms of gambling causing problems for counselling clients include betting on horse and dog racing/TAB, casino and card games and keno (table J.4). Men are more likely than women to report problems with racing, sports betting and casino games. In New South Wales of those problem gamblers specifying a principal gambling activity, 12 per cent of males and 1 per cent of females nominated racing. In Queensland, 7 per cent of male and 2 per cent of female clients cited casino table games as the form of gambling causing most problems.

Table J.3 Forms of gambling causing most problems, helpline callers, 2007-08

	<i>NSW^a</i>	<i>Vic^b</i>	<i>Qld</i>	<i>SA</i>	<i>WA^c</i>	<i>Tas</i>
1.	EGMs 54% target group	EGMs 83%	EGMs 82%	EGMs 78%	TAB 41%	EGMs 69%
2.		Races, off-course 15%	Races 10%	TAB 5%	Table games/Keno — casino 33%	Races, off course 23%
3.			Cards 4%	Casino games 4%	EGMs – casino 12%	Cards (Blackjack, Poker) 3%

^a Percentage of target group callers reporting gambling on gaming machines. ^b Main gambling issue. ^c Preferred form of gambling activity. Multiple responses were allowed on forms of gambling. Percentages exclude category 'not known'.

Data sources: Data provided by state and territory governments, RGF 2007-08 Annual Report.

In Western Australia, TAB and casino games rank highest among preferred forms of gambling activity.

Very few clients report lotteries as the source of their gambling problem. Just 1 per cent of clients of counselling services in New South Wales, Victoria and Queensland, 2 per cent in Tasmania and 4 per cent in Western Australia reported lotteries as the principal gaming activity/main form of gambling causing problems.

The proportion of clients citing EGMs as their principle preferred form of gambling activity has declined in recent years. For example, over the period 2004-05 to 2007-08, problem gamblers identifying EGMs as their preferred form of gambling activity declined from 84 to 79 per cent in New South Wales, from 76 to 74 per cent in Victoria (clients main gambling issue) and from 80 to 74 per cent in Queensland.

Table J.4 Forms of gambling causing most problems, clients of counselling services

	<i>NSW^a</i>	<i>Victoria^b</i>	<i>Qld^c</i>	<i>WA^d</i>	<i>Tasmania^e</i>	<i>ACT^f</i>	<i>NT^g</i>
1. EGMs	79%	EGMs 74%	EGMs 74% hotels, clubs 69% casinos 5%	EGMs 22%	EGMS 76% hotels, clubs, 41% casinos	EGMs 77%	EGMs 75% ^c
2. Races ^d	8%	Races ^d 15%	Races ^d 12%	TAB 21%	TAB, races 15%	TAB 10%	TAB 13%
3. TAB, phonetab	4%	Card/dice games, roulette 7%	Table games casino 5%	B-jack, card, casino 13%	Keno 8%	Casino gambling 6%	Casino table games 13%
4. Casino table games	3%	Other gambling 2%	Keno 3%	Roulette, casino 10%	Casino table games 6%	Lotteries, scratchies, sports betting 4%	
5. Other	2%	Sports matches <1%	Lotteries, instant lottery 1%	Stock- market 6%	Lotteries, Xlotto, Powerball 2%	All forms of gambling 2%	
6. Lotteries, sports betting, card games	1%	Lotteries <1%	Bingo 1%	Lotteries, bingo, phone betting, other casino games 4%	Card games 1%		

a Principal gambling activity. **b** Main gambling issue. **c** Type of problem gambling. **d** Preferred form of gambling activity. Multiple responses were allowed on forms of gambling. **e** Form of gambling causing problems. Data for Tasmania is for the period 1 July 2000 to 30 June 2007, multiple responses were allowed on forms of gambling. **f** Most problematic form of gambling. **g** Based on data from one counselling agency in the Northern Territory. **h** Horse, dog races.

Data sources: RGF Client Data Set Annual Report 2007-08, RGF Annual Report 2007-08, Department of Justice Victorian Government. Lifeline Annual Report 2007-08, Department of Health and Human Services Break Even Gambling Services Client Information July 2000 to June 2007. Data provided by state and territory governments.

Referral sources

Brochures and notices at gambling venues, the telephone book or directory assistance are the main current referral sources nominated by callers of gambling helplines (table J.5).

Table J.5 Main referral sources — helpline callers 2007-08

	<i>NSW^a</i>	<i>Vic</i>	<i>Qld^b</i>	<i>SA^c</i>	<i>Tas</i>	<i>NT^d</i>
1. Gambling venue notices	27%	Telephone book, directories 36%	Family, friend 10% Telephone book 10%	Telephone book 39%	Telephone book, directories, 25%	Poster/venue notice 6%
2. Telephone book	9%	Information in gambling venues 32%	Poster, venue notice 8%	Hotels 26%	Gambler 15%, family, friends 15%	Phone book 4%, casino staff 4%, family, friends 4%
3. Other services	5%		Gambler 7%	Family, friends 13%	Poster/venue notice 10%	

^a 42 per cent of callers did not indicate how they learned about Gline (NSW). ^b The referral source for 39 per cent of callers was unknown and for 8 per cent of callers the referral source was not applicable/ stated/ missing. ^c Main referral sources of target group callers. ^d Excludes unknown/ not applicable which made up over 70 per cent of callers.

Data sources: RGF Annual Report 2007-08, data provided by state and territory governments.

For clients of gambling counselling services, gambling helplines are important referral and information sources — in 2007-08 gambling helplines accounting for 22 per cent of referrals in New South Wales, 18 per cent in Victoria and Queensland and 16 per cent in Tasmania. Family, friends and neighbours also play an important role, referring in 2007-08, 17 per cent of clients in Tasmania, 16 per cent in New South Wales, 8 per cent in Victoria and 6 per cent of clients in Queensland. Self referrals were relatively high in Victoria, accounting for around 50 per cent of referrals in 2007-08, while other agencies were an important source of referral in New South Wales (table J.6).

Very few clients of gambling counselling services say they are referred to counselling services by health professionals (table J.6). Also, few clients say they are referred to counselling from gambling venues. For example, in 2007-08:

- in New South Wales around 3 per cent of clients said their referral source to counselling services was venue staff/notices
- in Victoria 1 per cent of clients said they were referred from the Crown Casino Customer Support Centre and 2 per cent from the AHA Self Exclusion program
- in Queensland around 8 per cent of clients said they were referred to the gambling helpline by venue staff/notices.

Table J.6 Referral and information sources for clients of counselling and treatment support services, 2007-08

Per cent

<i>Referral source</i>	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>Tas</i>
Self-initiated	8	50	-	-
Family/friend/neighbour	16	8	6	17
Gamblers helpline	22	18	18	16
Another agency/service	23	3	4	9
Brochure/advertising/media	6	-	3	16 ^a
Other therapist/counsellor	4	3	3	11 ^b
Medical/health service	2	5 ^c	1	4
Correction service, court/legal	5	5	1	2
Venue (staff, notice)	3	3	8	-
Phone book/directories	3		5	
Self-help group	2	<1	1	10
Employer	1		-	1
Gambler/client	1		<1	4
Other referral source/ not known	3	4	50	11

^a Includes phone book, Breakeven advertising. ^b Includes, Anglicare, Relationships Australia, financial counsellor. ^c Includes referrals from community and mental health services.

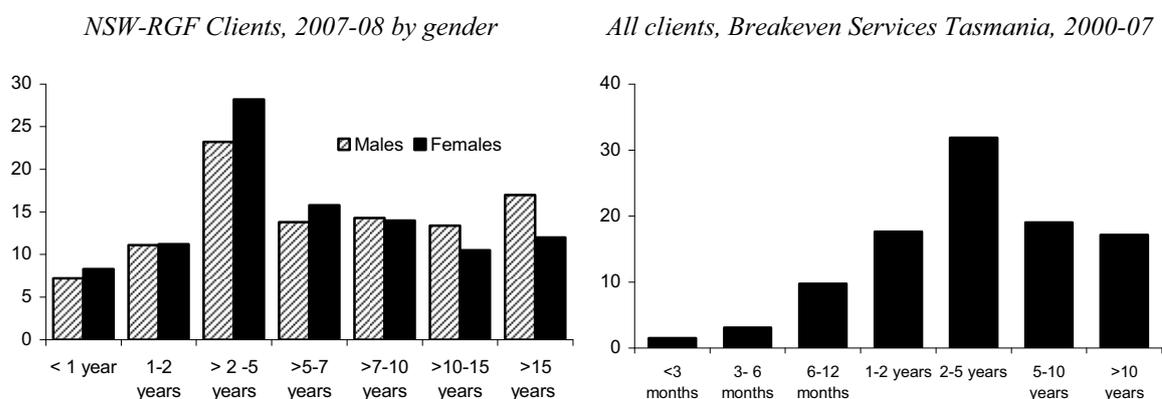
Data sources: RGF Client Data Set Annual Report 2007-08, Department of Health and Human Services Break Even Gambling Services Client Information July 2000 to June 2007, data provided by state governments.

Problems experienced for extended periods of time

Most people seeking help for gambling have experienced problems for some time. Data collected in both New South Wales and Tasmania show the most commonly reported length of time experiencing problems with gambling is 2 to 5 years (25 per cent in New South Wales and 32 per cent in Tasmania). In New South Wales, more male problem gamblers (58 per cent) reported experiencing problems for more than five years than female problem gamblers (52 per cent). Around 17 per cent of males and 12 per cent of females in New South Wales in 2007-08 reported having experienced problems for more than 15 years (figure J.4).

The least reported time period for experiencing problems is one or less years (8 per cent in New South Wales and 14 per cent in Tasmania).

Figure J.4 How long has gambling been causing a problem for clients?



Data sources: RGF Client Data Set, Break Even Gambling Services Client Information, Gambling Support Program, Department of Health and Human Services, Tasmania.

Prolonged periods of treatment typically not required

Most clients seeking formal help don't have prolonged periods of treatment. For example:

- In New South Wales, an average session to client ratio of 4 was reported in 2007-08, with 30 per cent of problem gambling clients and 49 per cent of financial counselling clients receiving only one counselling session.
- In Victoria, problem gambling counselling averaged around 8 hours per client over the period 2004-05 to 2007-08. Over the same period, average hours of problem gambling financial counselling increased from 2.9 hours to 5.9 (figure J.3, Victorian Government, sub. 205).
- In Queensland, 85 per cent of clients in 2007-08 had between 1 and 5 sessions, and just 5 per cent had more than 11 sessions.
- In Tasmania, over the period 2000-07, 73 per cent of clients had between 1 and 5 sessions or activities, 15 per cent between 6 and 10 sessions and 5 per cent between 11 and 15 sessions.

J.3 Funding for counselling, treatment and support services

There are diverse funding arrangements across the states and territories for counselling treatment and support services for problem gamblers — including

differences in the degree to which levies are mandated and varying requirements for contributions from specific industry segments (table J.7).

- In New South Wales, the Responsible Gambling Fund derives its income from a levy (set at a rate of 2 per cent of the casino's gaming revenue) paid by the operator of the Sydney Casino (RGF, sub. 38). This arrangement was originally for 12 years, commencing in 1994. On 30 October 2007, the New South Wales Treasurer announced the settlement of the casino taxation negotiations, resulting in the continuation of the RGF levy at 2 per cent for a further 12 years to 2019 (New South Wales Government, sub. 247).
- In Victoria, under the *Gambling Regulations Act 2003*, net gaming revenues from hotels with gaming machines are subject to an additional tax of 8.33 per cent. The revenue from this tax is paid into a Community Support Fund. The additional tax payable by hotels does not apply to club venues provided clubs make a community benefit contribution of at least 8.33 per cent to their net gaming revenues (Victorian Government, sub. 205).
- In Queensland, 8.5 per cent of all gambling taxes (gaming machines, wagering, keno, lotteries and interactive gambling but excluding casinos who have their own community funds) are allocated to the Community Investment Fund (CIF). The CIF provides funding back to the community through the gambling Community Benefit Fund program, gambling help services, responsible gambling strategies and projects of state-wide significance. Each of the casinos pay 1 per cent of gross profits into a casino community benefit fund.
- In Tasmania, the Community Support Levy (CSL) is derived from 4 per cent of gross profits on gaming machines in hotels and clubs. In addition, 4 per cent of Tasmanian monthly betting exchange commissions from brokered wager events held in Australia is paid to the CSL.
- In the Northern Territory, revenue for the Community Benefit Fund is derived from a levy on EGM revenue received by licensed hotels. Licensed clubs involved in the operation of EGMs are not subject to a contributions levy, but are required to make a direct contribution to community development and improvement. The level of contribution is expected to be commensurate with the level of gambling activity undertaken.
- In the ACT, the casino, gaming machine licensees and sports bookmakers pay taxes and the casino and sports bookmakers also pay an annual licence fee. These monies are directed into consolidated revenue, from which the ACT Government provides funding to Lifeline Canberra and Care Inc for counselling and support services, including for gambling and financial matters. ClubsACT and ACTTAB also provide funding to Lifeline Canberra Inc to deliver specialist gambling and financial counselling services to participating clubs and ACTTAB

patrons. Some gaming machine licensees also choose to make contributions to alleviate problem gambling as part of the community contributions scheme.

In South Australia, Gambling Help Services are funded by the Gamblers Rehabilitation Fund (GRF) which is recurrently funded by contributions from the Australian Hotels Association, Clubs SA, Skycity Adelaide and the South Australian Government (South Australian Government, sub. 225).

Western Australia has a voluntary partnership between government and the gambling industry to address the social and economic issues that result from problem gambling. The Problem Gambling Support Service Committee (PGSSC) is made up of representatives from the gambling industry and government. The objectives of the PGSSC are to:

- promote the concept of minimising harm from problem gambling in the community
- provide direction to the gambling industry and public to minimise problems with gambling behaviour
- identify and determine the appropriate support services for people with gambling related problems
- facilitate the provision of support services for those affected by gambling related problems in Western Australia.

Funds for the PGSSC are administered through the Department of Racing, Gaming and Liquor.

Table J.7 Funding sources – problem gambling services, by jurisdiction

	<i>Fund</i>	<i>Funding source</i>
NSW	Responsible Gambling Fund	Levy paid by the operator of the Sydney Casino (2 per cent of the casino's annual gaming revenue).
Victoria	Community Support Fund	Derived from 8.33 per cent of net gaming revenues from hotels with gaming machines. The additional tax payable by hotels does not apply to club venues provided they make a community benefit contribution of at least 8.33 per cent of their net gaming revenues.
Queensland	Gambling Community Benefit Fund funded via Community Investment Fund	8.5 per cent of gambling taxes (excluding casinos which have their own community benefit fund) are allocated to the CIF. Each of the casinos pay 1% of gross profits into casino community benefit funds. The CIF provides funding to the Gambling Community Benefit Fund, gambling help services, responsible gambling strategies and projects of state-wide significance.
South Australia	Gamblers Rehabilitation Fund	Contributions from the Australian Hotels Association, Clubs SA, SKYCITY Adelaide and the SA Government.
Western Australia	Problem Gambling Support Services Committee	Voluntary contributions from Burswood International Resort Casino, Racing and Wagering WA, WA Bookmakers Association, Senses Foundation, Lotterywest.
Tasmania	Community Support Levy	4 per cent of gross profits derived from gaming machines in hotels and clubs and from Betting Exchange commission.
Northern Territory	Community Benefit Fund	The fund receives the 10 per cent levy on players losses from EGMs in licensed hotels, unclaimed prizes paid to the Director of Licensing and proceeds from items forfeited under the Gaming Control Act.
ACT		The ACT Government provides funding to Lifeline Canberra and Care Inc for counselling and support services. ClubsACT and ACTTAB also provide funding to Lifeline Canberra Inc to deliver specialist gambling and financial services to participating clubs and ACTTAB patrons. Some gaming machine licensees also make contributions to alleviate problem gambling as part of the community contributions scheme.

Source: Responsible Gambling Fund (sub. 38), Victorian Government (sub. 205), South Australian Government (sub. 225), Community Benefit Fund 2007-08 Annual Report, Gambling and Racing Commission 2008, Community Contributions made by Gaming Machine Licenses, 1 July 2007 to 30 June 2008, www.fahcsia.gov.au/sa/gamblingdrugs/pubs/NationalSnapshotHarmMinimisation/Pages/EducationalPublicAwarenessPrograms.aspx

How funds are spent

In some jurisdictions, only a proportion of the funds raised by the gambling industry are used to fund support help services for problem gamblers. For example:

- In Victoria, of the revenue paid into the Community Support Fund (\$142.7 million in 2007-08), \$45 million is set aside each year for the Victorian Drug Strategy (under a legislative arrangement for a period of 8 years from 1 July 2004), with the remainder available to be allocated to uses specified in the *Gambling Regulation Act 2003*, including:
 - programs for the prevention and treatment of problem gambling and research into problem gambling and the economic and social impacts of gambling
 - programs for drug addiction/abuse treatment, rehabilitation or education
 - financial counselling and assistance for families in crisis
 - programs for the benefit of youth
 - research on pilot programs relating to community advancement
 - programs for the promotion or benefits of the arts
 - program developing tourist destinations, facilities or service or the promotion of tourism
 - purposes related to the support or advancement of the community as determined by the Minister
 - meeting the costs of administering and managing the Community Support Fund (Victorian Government sub. 205).
- In Queensland, in 2007-08, \$34.8 million from the Gambling Community Benefit Funds and \$5.3 million from the three casino community benefit funds were distributed across the state. Around \$3.7 million was allocated to the network of gambling help services to treat and support problem gambling (Queensland Treasury Annual Report).
- In Tasmania, the *Gaming Act* requires the Tasmanian Treasurer to distribute the Community Support Levy for:
 - research into the prevention of compulsive gambling, treatment of compulsive gamblers, community education and other health services (50 per cent)
 - sport and recreation clubs (25 per cent)
 - charitable organisations (25 per cent).

- In Northern Territory, the Community Benefit Fund received \$2.47 million in 2007-08 of which \$839 336 was allocated to Gambling Amelioration Grants, \$542 230 for gambling-related research and \$202 167 for ‘Closing the Gap’ (addressing Indigenous disadvantage) initiatives. The majority of the remaining funds were allocated to community organisation grants (Community Benefit Fund Annual Report 2007-08) .

In New South Wales, an original objective of the RGF was to provide funding for projects and services considered to provide benefits to the community generally. In 2006, following the IPART review of responsible gambling matters (including the role of the RGF), the ‘community project’ objective was removed to ensure that funded activities and services focused on gambling-related matters (New South Wales Government, sub. 249, p. 53).

How much is spent on gambling counselling and support services?

In 2007-08, around \$48 million was spent Australia-wide on specialist gambling counselling and support services, community education and research (table J.8).

Table J.8 Funding allocated to counselling and support services, 2007-08

<i>State/territory</i>	<i>Counselling services</i>	<i>Community awareness, education</i>	<i>Research</i>	<i>Other</i>	<i>Total</i>
	<i>(\$m)</i>	<i>(\$m)</i>	<i>(\$m)</i>	<i>(\$m)</i>	<i>(\$m)</i>
NSW	9.27	1.8 ^a	0.31 ^b		11.38
Victoria	14.2	5.0	1.30	0.90	21.39
Queensland	3.7	0.2 ^c			3.90
SA	5.46 ^d			1.0 ^e	6.47
WA	0.29	0.11 ^f			0.40
Tasmania	0.78	0.43	0.23	0.73	2.17
NT	0.84	0.20	0.54		1.58
ACT					0.65 ^g
Total					47.95^h

^a Approved funding from the RGF for a statewide problem gambling awareness campaign over 2 years. ^b Research grants approved in 2007-08. In December 2007, the Minister for Gaming and Racing approved the allocation of up to \$1.16 million from the RGF for several research projects and activities to be undertaken between 2008 and 2010. ^c In 2006-07 Queensland allocated \$0.2 million to social marketing campaigns. The budget for 2009-10 is \$1.65 million. ^d Includes funding for community education and communication projects and research/evaluation. ^e One-off projects. ^f Includes funding for awareness campaigns and research.. ^g Includes ACT Government funding and community contributions from licensed clubs. ^h Figures may not add due to rounding.

Sources: RGF Fund Trustees Annual Report 2007-08, Victorian Government (sub. 205, p. 69), Tasmanian Gaming Commission 2007-08 Annual Report, Community Benefit Fund Annual Report 2007-08, Queensland Treasury 2007-08 Annual Report, Department of Disability, Housing and Community Services ACT Annual Report 2007-08, data provided by state and territory governments.

Victoria allocated the most funds to counselling treatment and support services in 2007-08 (\$21.39 million in 2007-08). It was also the jurisdiction with the highest number of clients attending counselling services (almost 9000 in 2007-08, table J.2).

The Queensland Government reports that over the period 2002 to June 2009, funding for the state-wide system of problem gambling treatment and support services amounted to \$26.8 million (Office of Liquor, Gaming and Racing Queensland, sub. 234, p. 29). Funding estimates over the longer term were also provided by New South Wales and Victoria:

- In New South Wales, between 1999 and 30 June 2008, the RGF allocated \$77.4 million to problem gambling counselling and support services, community education and awareness activities and research. Of this, \$64.1 million was allocated to gambling counselling and support services, \$5.5 million to research and \$7.8 million to education campaigns (New South Wales Government sub. 247, p. 53). The RGF also noted that because of the increased costs associated with providing counselling services a larger proportion of funding is now directed towards these services.

The rising cost of providing gambling counselling and support services has meant that the proportion of RGF funding directed to counselling and support services has steadily increased over recent years. The percentage of RGF funding directed to counselling and support services in 1999/2000 was 36% and in 2007/08 was 75%. (RGF, sub. 38, p. 17)

- Victoria reported that since 1999, around \$87 million was spent in that state on problem gambling, including more than \$54 million on specialist services to help problem gamblers and their families. Expenditure is projected to be around \$34 million in 2010-11 (Victorian Government, sub. 205, pp. 69-70).

K Advertising

K.1 Advertising has two sides

The term advertising covers a range of activities undertaken by businesses to promote sales of their products. It covers traditional ‘ads’ on television, radio, print media and the internet, as well as commercial arrangements for editorial coverage of their products. Other examples of advertising mediums include the use of poster, billboards, flyers, mail out campaigns and sponsorship of sport and cultural events.

Advertisements can serve several valuable functions for gamblers:

- they can inform them about the characteristics of a business’s products, prices and location
- they can promote competition, as consumers are aware of their capacity to choose between multiple suppliers. This is particularly important if new entrants to a market are trying to attract customers from incumbent businesses with market power (which is relevant to wagering and online gambling)
- by building up ‘brand’ identification, they create strong incentives for businesses to provide high quality services to avoid losing the market value of such branding. For example, a lapse in probity would be costly for a casino’s brand value, and provides an additional motivation for high standards beyond those resulting from regulatory oversight.

Nevertheless, advertising also poses risks for consumers, which can sometimes justify regulation. The main rationales for regulation of gambling advertisements are to ensure that they are not misleading or deceptive and that they are consistent with societal norms and values. In addition, like alcohol, gambling is subject to a range of other restrictions because of its potentially harmful effects and the particular vulnerabilities that people may face when gambling. These restrictions are premised on concerns that:

- advertising may exacerbate commonly held misperceptions about gambling, undermining people’s ability to gamble within responsible limits
- advertising can normalise the perception of gambling, thereby encouraging more people to gamble

-
- children are particularly susceptible to advertising
 - advertising could undermine efforts by people who have impulse control problems with their gambling.

Inquiry participants have raised several specific concerns about gambling advertising (box K.1):

- marketing of some gambling products may deceive or mislead consumers
- inconsistent and burdensome regulations
- gambling advertising can exacerbate gambling problems
- whether advertising undermines social norms.

Box K.1 Participants' concerns about gambling advertising

A range of inquiry participants raised concerns about existing advertising undertaken by parts of the gambling industry. For example, the Gambling Impact Society (NSW) stated

There needs to be a reduction in advertising a 'dream' without the benefit of truthful information. The majority of those who gamble will in fact lose money and people need to understand that more gambling leads to progressively more losses over time. We have reduced advertising for liquor and tobacco we need similar approaches for gambling. (sub. 59, p. 4)

Some participants were particularly concerned that at risk groups may be explicitly or inadvertently targeted by some forms of advertising.

Current research suggests that older women may be a vulnerable subgroup of problem gamblers due to a complex interaction of individual and social factors, including the characteristics of the games and the gambling setting. ... Social factors that may increase the risk of problem gambling amongst this group are gambling industry marketing strategies, including advertising and EGM design, which target older women as gambling consumers. (Victorian Local Governance Association, sub. 75, p. 14)

Youth have been identified as being particularly at-risk for the development of gambling problems and it is essential that the impact of advertising on this vulnerable population be carefully evaluated. (sub. 58, Sally Monaghan, p. 2)

A recent study found that 42 per cent of youths reported that gambling advertisements make them want to try gambling and 40 per cent of young people cited advertising as the primary reason for gambling. (Clubs Australia, sub. 164, p. 32)

Because of its addictive nature, we would like to propose that gambling advertising, in all its forms, be banned. Young children see TV advertisements promoting the 'Lotto life', and can be unduly influenced by the messages which they see. (Women's Christian temperance Union, sub. 6, p. 1)

Concern has also been raised about the in commentary advertising of odds during sporting events. In particular, participants were concerned about the potential impact such advertising could have on children.

During the 2008/09 cricket season, Channel Nine promoted Betfair sporting odds during their broadcasts. Betfair was also featured as the sole sponsor on the boundary line, providing the company with television exposure whenever a 'four' was hit. (Clubs Australia, sub. 164, p. 32)

When criticising the Commissions draft recommendation to liberalise internet gambling, the NSW Shadow Minister for Hospitality and Tourism, Racing and Major Events also commented on the problematic prevalence of sports betting advertising.

The saturation media advertising, ground signage, sports and racing commentator advertorial content, incentives and enticements for new gamblers, credit card gambling by telephone or the internet, are but a few of the abuses to the principle of responsible gambling already evident. (sub. DR379, p. 2)

(Continued next page)

Box K.1 (continued)

A number of industry participants also raised concerns about the regulation of gambling advertising. Typically these concerns relate to the variations in the regulation of differing forms of gambling advertising or the cross jurisdictional inconsistency in regulations.

Also of concern is the 'line of credit' offered by online wagering agencies and complimentary 'start up' amounts which are used to entice people to play, along with advertising on mainstream media, which is banned for gaming machines. (sub. DR374, RSL and Services Clubs Association, p. 12)

In advertising and these other promotional activities we would again like to see a mechanism adopted to ensure that cross-jurisdictional (competitive) consistency is created and preserved for the national wagering market. (sub. 241 Australian Bookmakers Association, p. 16)

But in most jurisdictions, the differential regulation of gambling advertising reflects the difference in the potential for harm to arise from each type of gambling. Based on their explanation of gambling advertising restrictions, it is clear that the NSW Government has included the potential scope for harm from different forms of gambling when developing their regulations.

Current NSW legislation generally prohibits the advertising or promotion of gaming machines.

The policy objectives of these provisions is to limit 'at risk' gamblers' awareness of the availability of gaming machines. The intent of any advertising is to encourage consumers to 'purchase/use' the product by raising their awareness of the product. In this case the product is gaming machines.

Advertisements for products other than gaming machines, while permitted, are subject to various controls. For example, advertisements for wagering, lotteries and the Sydney casino must not transgress community standards, encourage a breach of the law, or depict children, while those for wagering products and the casino must not promote the consumption of alcohol while gambling. Relevant legislation also limits the portrayal of the outcomes of gambling, and requires that advertisements for wagering, lotteries and the casino contain reference to the G-line (NSW) service. (sub. 247, p. 33)

BetSafe also suggested that the introduction of some of the draft harm minimisation proposals may negate the need to prohibit advertising of EGMs.

For example in NSW, there is a statutory prohibition against the external advertising of gaming machines. This would no longer be appropriate in an environment where internet gambling was widely advertised. It would be more appropriate to allow both industries to advertise their products and impose the same precommitment and other responsible gambling restrictions on each. (sub. DR345, p. 10)

Existing rules on gambling advertising

An extensive array of rules already guides how gambling products can be advertised in Australia. In some jurisdictions, gambling advertising is subject to government

rules that can be either mandated or legislated (table K.1), an industry code of conduct, an advertising industry code and — depending on the form of the advertising — also a media code of conduct (table K.2). This array of regulations, guidelines and codes covering gambling advertising will be referred to as the advertising rules.

Table K.1 Regulations that cover gambling advertising

<i>Regulator</i>	<i>Legislation</i>
Victoria The Victorian Casino and Gambling Authority www.vcga.vic.gov.au	<i>Gaming Machine Control ACT 1991, Gaming Machine Control (Advertising) Regulations 2001. Repealed by the Gambling Regulation ACT 2003 on 1 July 2004, Gambling Legislation Amendment (Problem Gambling and Other Measures) Act 2007</i>
NSW Department of Gaming & Racing www.dgr.nsw.gov.au	<i>Gaming Machines ACT 2001 Gaming Machines Regulations 2002</i>
ACT ACT Gambling and Racing Commission www.gamblingandracing.act.gov.au	<i>Gambling & Racing Control ACT 1999 Gambling and Racing Control (Code of Practice) Regulations 2002</i>
Queensland Office of Gaming & Regulation www.olgr.qld.gov.au	<i>Gaming Machine ACT 1991</i>
South Australia Office of the Liquor & Gambling Commissioner www.olgc.sa.gov.au	<i>Gaming Machines ACT 1992 [name of venue] Advertising Code of Practice 2001</i>
Tasmania Gaming Operations Branch www.tas.gov.au Tasmanian Gambling Industry Group	<i>The Gaming Control ACT 1993</i>
Northern Territory Northern Territory Racing Gaming & Licensing Commission www.nt.gov.au/ntt	<i>NT Gaming Control ACT, NT Gaming Machine ACT</i>
Western Australia The Department of Racing Gaming & Liquor www.olgr.wa.gov.au	<i>The Gaming Commission ACT 1987</i>

Source: Australian Institute for Primary Care (2006, p. 36).

Table K.2 Industry gambling codes that deal with advertising

<i>Jurisdiction</i>	<i>Industry</i>	<i>Code</i>	<i>Industry Body</i>
NSW	Clubs	Club code of practice	ClubsNSW
Victoria	Clubs	Victorian Clubs Code of Conduct	Clubs Victoria
Northern Territory	All gambling operators	Code of Practice for Responsible Gambling	Responsible Gambling Advisory Committee
Western Australia	Racing	Responsible Wagering Code of Practice	Racing and Wagering Western Australia
Queensland	All gambling	Queensland Responsible Gambling Code of Practice	Queensland Office of Gaming Regulation
Victoria	Casino	Responsible gaming code of conduct	Crown
Victoria	Clubs and Pubs	Responsible gambling Code of Conduct	Tabcorp and Tatterstalls
Tasmania	Casino, clubs, hotels, Taskeno and TAB outlets	Advertising Code of Ethics	Tasmanian Gambling Industry Group
Western Australia	Casino	Responsible gambling code of practice	Burswood Entertainment Complex
South Australia, Northern Territory, Queensland	Racing	Responsible Gambling – UniTab policy	UniTab
All areas in Australia where signatories operate	Lottery products (draw and instant lottery products)	Lottery Blocs Code of Practice	
Victoria	Lottery products (Tattersall's and their agents)	Tatts Responsible Gambling Code of Conduct	Tattersall's
Victoria	Lottery products (Intralot and their agents)	Responsible Gambling Code of Conduct	Intralot
Northern Territory	Casino	Responsible Advertising Code of Practice	SkyCity Darwin
NSW and Victoria	Racing	Tabcorp Responsible Gambling Code of Conduct	Tabcorp
National	Internet based wagering	Tabcorp Responsible Gambling Code of Conduct	Tabcorp
National	Commercial Free to Air Television	2010 Commercial Television Industry Code of Practice	Code registered with the ACMA
National	Advertising Industry	AANA Code for Advertising & Marketing Communications to Children	Australian Association of National Advertisers
National	Pay Television	Codes of Practice 2007 Subscription Broadcast Television	Australian Subscription Television and Radio Association

Scope for deceptive or misleading gambling advertising

Competitions

Some quizzes, competitions and auctions — subsequently referred to as competitions — may be marketed in a way (or assume a form) that misleads consumers. The common element of these competitions is that people pay a fee for an opportunity to win a prize. They can involve elements of skill, but all involve a large element of chance. Such competitions have been increasingly marketed on television and the internet — with entry typically through premium mobile phone message services. The specific concerns about these competitions include:

- it is not clear they are subject to oversight or approval by gambling regulators
- the rules of the games and the cost are not always clearly stated, which can result in unexpectedly large bills
- they are targeted at minors and other vulnerable groups
- there appears to be an absence of probity checks on some competitions.

Both the Australian Competition and Consumer Commission (ACCC) and the Australian Communications and Media Authority have attempted to address questionable practices in this field through:

- the development of a new industry standard requiring more explicit notification before customers are subscribed to a premium message service
- extensive descriptions and examples of questionable competitions on the ACCC website and on the government ‘scamwatch’ website
- the ACCC taking action against a range of companies running questionable competitions.

However, most of the ACCC actions have dealt with competition issues, such as providing accurate information to consumers, but not regulation of the games themselves.

In the draft report, the Commission sought views on the need for additional regulatory oversight of these activities and, if necessary, who should provide such oversight. Several participants supported greater regulatory oversight of such competitions (Uniting Care Australia, sub. DR387; Council of Gamblers Help Services, sub. DR326; and Canberra Southern Cross Club, sub. DR319). The Council of Gamblers Help Services also stressed the need for the regulations to fall under the federal government because ‘delivery of these gambling forms will not be

confined to state borders, rendering state based regulation at best questionable’ (sub. DR326, pp. 15–6).

Nevertheless, as observed by the Northern Territory Government and the Tasmanian Department of Health and Human Services, competitions and similar forms of gambling are not entirely unregulated. For instance, many competitions and quizzes are already regulated under provisions for trade promotions. The Northern Territory Government also indicated that online wagering (for example through pay television) ‘can easily be managed within the wagering regulatory scheme’:

While quizzes and competitions remain promotions in the marketing sense the existing framework for regulation would seem to be adequate. It would benefit from a clearer harmonisation program but that is underway. More formalised gaming and gambling activity in these environments can be properly regulated by State and Territory jurisdictions (sub. DR410, p. 2)

However, the Tasmanian Department of Health and Human Services saw the possibility for a more cooperative and comprehensive approach to competitions and similar forms of gambling:

Where the gambling is national, or cross jurisdictional a new entity would be appropriate. This might be a new national regulator. Alternatively, utilising a cooperative model, the jurisdictions could fund one state to provide national oversight and recommendations to the states for (common) regulatory response. Considering the relative ease with which the states provided a national response for the online counselling facility by building on Victoria’s requirements and then cost-sharing, the latter response appears to be quite feasible. The facility was organised through the Gambling Working Party which is set up under Community and Disability Services Ministers' Conference. (sub. DR370, p. 5)

Given some of the gaps in existing regulations, especially in relation to gambling supplied nationally, there are benefits in a more coherent approach, though involving cooperative arrangements by jurisdictions, rather than any new national regulator (chapter 8).

Accurate and sufficient representation of gambling services

Where gambling advertisements are permitted in Australia, regulations or codes of conduct require that gambling advertising is not misleading or deceptive (FAHCSIA 2009b). In particular, most jurisdictions explicitly prohibit overstating the chances of winning. Yet some participants are concerned that these provisions are not very effective, arguing that gambling advertisements can meet the formal provisions, while still providing a misleading impression of the chances of winning.

For example, the Hunter Council on Problem Gambling noted:

Much of the current advertising of gambling ‘products’ uses language that encourages the individual to play, without providing the balance of information relating to the odds of play or responsible gambling. For example, Lotto advertisements are known to sprout messages such as ‘You’ve got to be in it to win it’, ‘You could spend the rest of your life’, ‘Scratch me happy’, yet do not provide a balance of information relating to safe and responsible use of their product. (sub. 111, p. 3)

The Gambling Impact Society of New South Wales suggested that ‘There needs to be a reduction in advertising a ‘dream’ without the benefit of truthful information’ (sub. 59, p. 4).

To address this, the Inter Church Gambling Taskforce suggested the wider adoption of the Queensland gambling advertising standards (sub. 220), which states:

Advertising and promotions will not encourage the public to gamble by directly or indirectly misrepresenting the probability of winning a prize. Winning will not be presented as the probable or likely outcome in each playing instance or session of play. Advertising and promotional campaigns which show winning should be shown with a balance of winning and non-winning play images. (Queensland Office of Gaming Regulation 2005 p. 6)

The goal of showing a ‘balance of winning and non-winning play images’ is compelling, given consumers’ already exaggerated perceptions of the likelihood of winning. But giving effect to that goal faces several obstacles, in particular, the ambiguities about what would constitute images compliant with the regulations. That said, the Queensland Government’s experiences may help guide other jurisdictions about what may be practical.

On a lesser note, some gambling suppliers provide information about games that may reinforce faulty cognitions. In particular, some lotteries provide the history of past winning numbers (for instance, the state government-owned SA Lotteries and NSW Lotteries — figures K.1 and K.2). Of greater concern, both sites have a tool that allows gamblers to generate a set of numbers based on the most common and the least common numbers drawn. The provision of this information may well reflect demands from gamblers, however, it creates an incongruity. On the one hand, governments promote education programs to teach children that numbers drawn in lotteries or gaming machines are randomly drawn, with the history of past wins or losses being irrelevant. On the other hand, governments permit (and sometimes themselves provide) information to consumers based on the false premise that numbers are *not* randomly drawn. That may not pose much of a problem for those engaged in lotteries, but it may encourage false beliefs that carry over to other riskier gambling forms, with potential implications for regulation (chapter 8).

Figure K.1 SA Lotteries

SA Lotteries Dreams live here. Keyword search GO Find an Agency | Help | Site Map

Home Games Results Easisplay Club Agencies Responsible Play Winners & Community News About Us Contact Us

Number Frequency

Enter your search options:

Select the game: **Lotto - Monday & Wednesday**

Drawn: Most Least

Search

Your search for **most drawn** numbers for **Lotto - Monday & Wednesday** returned the following results:

Numbers	Total number of times the number has been drawn from Draw 2508 to 2902	Number of weeks elapsed since number last drawn
45	93	0
35	85	4
24	83	14
27	81	3
2	81	8
31	80	9
32	78	8
26	78	3
10	77	23
38	77	0

Latest Draw Broadcasts
Most Recent Results
Past Results
Number Frequency
Results Services
Subscribe

Data source: Screenshot from <http://www.salotteries.com.au/Results/Frequency.aspx?p=46> (accessed on 9 February 2010).

Figure K.2 NSW Lotto



Prize Offer: \$2,000,000.00
Next Draw: Wed 10/02/2010

LIVE A Lotto LIFE

Number Frequency: Monday/Wednesday/Saturday Lotto

Lotto

Monday

From 20 August 90 to 15 April 2004 including supplementary number

1	2	3	4	5	6	7	8	9
127	147	124	115	122	144	129	122	117
10	11	12	13	14	15	16	17	18
128	117	135	138	141	121	116	137	136
19	20	21	22	23	24	25	26	27
120	120	128	120	150	115	133	132	122
28	29	30	31	32	33	34	35	36
137	128	117	130	146	128	125	134	144
37	38	39	40	41	42	43	44	
117	147	123	121	146	118	131	156	

Wednesday

From 20 August 90 to 15 April 2004 including supplementary number

- > Latest Results
- > How To Play
- > Prices
- > Entry Form
- > Syndicate Planner
- > Number Frequency
- > Systems Prize Table
- > Game Odds
- > Game Rules
- > 2009 Luck Map

RESULTS AND NEWS EMAIL SERVICE

LOG IN

REGISTER NOW

Data source: Screenshot from http://www.nswlotteries.com/lotto/sub_numberfreq_static.html (accessed 9 February 2010).

Harm minimisation and gambling advertising

Empirical evidence suggests that gambling advertising can have adverse effects on susceptible people, but not for many others. A detailed review of studies (Binde 2007) found that:

- not all advertising increased gambling, either because of ineffective marketing or because the main purpose of the advertising was to divert demand away from other gambling services
- the combined effect of gambling advertising is a small to moderate increase in gambling expenditure

-
- a proportion of people with gambling problems (with estimates ranging from 5 to 20 per cent) are likely to substantially increase their gambling expenditure in response to advertising
 - people who do not suffer gambling problems are less likely to substantially increase their gambling expenditure
 - children are more likely to recall advertising than adults.

In a follow up study, Binde (2009) interviewed a small sample (25) of problem gamblers in Sweden to explore the impact of gambling advertising on their behaviour. Most indicated that advertising had little or no impact on their desire to gamble or on the amount they actually gambled.

Other groups can also be particularly susceptible to gambling advertising. For example, a Canadian study found 42 per cent of youth reported that gambling advertisements made them want to try gambling and that 11 per cent of males and 3 per cent of females sometimes or often gambled after seeing an advertisement (Derevensky et al 2007, p. 27).

Gambling advertising and children

Several issues need to be distinguished when considering children and gambling advertising.

First, some people argue that children should not be exposed to gambling because of its inconsistency with social norms (Women's Christian Temperance Union, sub. 6, PokieWatch, sub. 119). This is a fraught area as it is hard to establish the legitimate boundaries of social values — especially in a society where people have diverse views about many moral issues. There is certainly no consensus that gambling is bad:

- gambling is a widely accepted and legal recreational pursuit in Australia, and most children would be aware of this
- in practice, many parents do not conceal their own gambling from their children, so it is, in any case, a normalised activity
- television coverage of horse racing carnivals in Australia have for decades typically included segments quoting the odds for various horses.

Secondly, there is the clearly legitimate concern that advertising does not encourage underage gambling or encourage the development of faulty cognitions that promote hazardous gambling when children become adults (Clubs Australia, sub. 164, Monaghan, sub. 58, Victorian Local Governance Association, sub. 75). These

concerns — if likely to be significant — could reasonably be reflected in regulations about advertising content and the accessibility of minors to advertising.

Existing codes of advertising practice reflect some of the above concerns, though it is not clear whether social norms or potential harm is the principal driving force.

The stipulation that gambling advertising should not be targeted at children can be found in almost every industry code and some gambling regulations in every Australian jurisdiction. For example, the advertising Code of Practice in South Australia states:

(2) The gambling provider will ensure that, when it advertises its gambling products, the advertising—

(a) is not directed at minors; (OLGC, 2008, p. 3)

The code of practice for lottery providers in Australia also prohibits targeting advertising to minors.

1.1 Advertising will be conducted in a responsible manner in accordance with relevant advertising requirements contained within the respective lottery industry legislation, lottery licences, the Trade Practices Act, regulations and codes of practice (including the World Lottery Association Best Practice Marketing/Communications Guidelines and the Australian Association of National Advertisers Code of Ethics), and will not:

1.1.3. Be targeted towards minors or people not of legal lottery playing age in each jurisdiction; (Lottery Blocs, 2009, p. 3)

The recently revised *2010 Commercial Television Industry Code of Practice* (FreeTV Australia, 2009) attempts to provide practical guidance on how to avoid advertising gambling to children. That code, which has effect from March 2010, directs that:

Except for a commercial broadcast in a news, current affairs or sporting program, a commercial relating to betting or gambling must not be broadcast in G classification periods Monday to Friday, nor on weekends between 6.00am and 8.30am, and 4.00pm and 7.30pm.

A commercial relating to betting or gambling does not include:

A commercial relating to such things as Government lotteries, lotto, keno or contests (FreeTV Australia, 2009, p. 33).

However, it is notable that the above code provides exemptions for government lotteries, lotto and keno, and for commercial broadcasts in a news, current affairs or sporting program. The first exemption appears inconsistent with the code of practice for lottery providers. The second exemption appears to be inconsistent with the general principles concerning exposure to gambling by children. That inconsistency may be becoming more marked as the frequency of in-commentary gambling

promotions during televised sport increases (through, for example, continuously posted odds and the conspicuous identification of betting agencies).

There are several ways to address these inconsistencies. One would be a prohibition on advertising on gambling in any form of media highly accessible to children, or an approach that addresses inappropriate content, but not the availability per se of advertising. As a practical matter, restrictions on gambling advertising during nominated children's TV watching times (see above) do not cover all periods when children customarily watch TV, and yet extending times to those conforming to observed patterns of behaviour might mean an almost universal bar on such advertising. Similarly, given the demand for news reporting and for live televised sporting events, a prohibition on implicit advertising (say through sponsorship logos on football jumpers) might sometimes effectively act as a prohibition on sponsorship.

More sweeping changes to limit advertising that *could* reach children would have to make a case:

- that there were genuine risks of harm from incidental exposure (as compared with exposure to inappropriate material, where the case for regulation is strong). That case does not appear to be supported by much evidence
- for stricter regulation based on community norms, but the desirability of this should be left in the political arena.

Consistency in advertising restrictions

While jurisdictions have adopted common principles for regulating the content of gambling advertisements, the actual regulations vary significantly across different gambling forms. (Participants had divergent views on the appropriateness of such regulatory variations — box K.2.)

Box K.2 **Should uniform advertising standards be applied?**

Industry participants do not share a united view on whether the same advertising restrictions should be applied to all forms of gambling. For example Clubs Australia — whose members have limited opportunity to advertise gambling under current arrangements — notes that:

Advertising is another area where lax regulation has not only led to gross discrepancies in the restrictions on different gambling formats but put Australians at risk. (sub. 164, p. 32)

In contrast, Tatterstalls provides an argument against uniformly stringent advertising standards.

There is certainly no published research evidence which suggests that lottery advertising can be linked to an increase in problem gambling behaviour (due to the inherent attributes and nature of the product). (sub. 87, p. 7)

The main concern raised by Betfair is that they should have to work within the same regulations as any other firm involved in racing.

A uniform national advertising code of practice should be implemented across the online and offline wagering industry. (sub. 181, p. 4)

A number of other participants have based their position on societal risk factors. The Women's Christian Temperance Union of Western Australia supports the prohibition of all gambling advertising as a means of limiting future harm (sub. 6).

- Jan McMillan and Sally Monaghan noted concerns around gambling sponsorship and advertising during sports telecasts (sub. 223, sub. 58). Sally Monaghan then argues for a range of uniform national advertising standards to reduce the chance of children being exposed to gambling messages.

Typically, governments have adopted more stringent regulations for gambling forms with the greatest potential for harm (for example, see IPART 2004, pp. 53–55). In particular, advertising for electronic gaming machines is typically the most restricted while lottery products tend to be the least restricted.

As noted by the Council of Gamblers help Services:

Jurisdictional bans on EGM advertising support the view that some gambling forms carry high potential for harm and therefore should not be promoted. (sub DR326, p. 32)

However, there are some (typically small) inconsistencies in the treatment of EGMs across jurisdictions. While, advertising for EGMs is generally not permitted in most jurisdictions, New South Wales allows advertising of EGMs in trade magazines and both New South Wales and Victoria allow venues to send advertising material to members that contain images of EGMs. In South Australia, clubs and hotels who comply with an Industry Responsible Gambling Agency Agreement are exempted from some advertising regulations (South Australian Government, sub. 225). Only

Tasmania has no existing restrictions on EGM advertising — but is about to introduce them as part of its next mandatory code.

The appropriate rules for racing and sports betting advertising is an emerging area of contention. The changes to advertising rules appear to have been triggered by the High Court challenge by Betfair to the Western Australian wagering regulations (chapter 16).

Although, traditionally, advertising restrictions have made it difficult for wagering operators to attract customers from outside the jurisdiction in which they are licensed. However, as a result of the Betfair decision most states and territories have removed, or are in the process of removing, restrictions on advertising by wagering providers not licensed in that jurisdiction. (ACCC, 2009, p. 28)

But as Tabcorp indicated, the resulting period of regulatory uncertainty contributed to a dramatic increase in wagering advertising.

In September 2008, governments in both NSW and Victoria indicated that the advertising restrictions applying in those states would be repealed, and, until such time as they were repealed, existing laws would not be enforced. This opened the door to an advertising onslaught from corporate bookmakers during the 2008 Spring Racing Carnival. (sub. 229, p. 14)

From a consumer perspective, the capacity for new entrants, such as Betfair, to advertise is likely to be an important driver of competition. (This will also be true for domestic suppliers of online poker if this market is liberalised as recommended by the Commission.) Incapacity to tell consumers about a new product or to attract them away from incumbents could prolong the costs of existing market power. That consideration has to be weighed against any concerns that the advertising has adverse effects on gamblers. Again a prime question may not be the existence of advertising or promotions per se, but their content. Australian states and territories are presently reviewing advertising controls for wagering products — and should balance both considerations when determining the appropriate regulatory stance.

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