

PRODUCTIVITY COMMISSION SUBMISSION

GAMBLING INQUIRY

CONTROLLING THE “AGENDA” THROUGH TECHNOLOGY

CATEGORY:

- **TAXATION AND REGULATORY ARRANGEMENTS**
- **CONSUMER PROTECTION**

INTRODUCTION

In recent times, through the advent of developments in technology and the increasing application of technology to gambling, we have seen an unprecedented growth in the gambling industry on a global scale. Traditional forms of gambling are either being assisted or replaced by technology and new forms of gambling are emerging. The range of gambling products is growing and the accessibility of these products increasing.

Technology in the 20th Century has played an integral part in both the commercial expansion and the ability to regulate, tax and audit gambling activities and operations. The extent to which there has been a balance between commercial expansion and regulation in Australia has been a matter of government policy.

Irrespective of the motivator for the policy, albeit government, beurocratic, or societal, the realisation of policy decisions has been a matter of choice based on the reality of the wherewithal to control the technology, the operators, and to a lesser extent, the consumers.

The control is what determines the efficacy of public policy: prohibition, decriminalisation or deregulation. Control of gambling technology is realized through the enforcement of compliance with Technical Standards and Operating Procedures.

A technical standard or procedure, no matter how relevant, is useless if it is unenforceable or not enforced.

A technical standard or procedure, if enforced, is pointless (and possibly counterproductive) if it does not trace back to policy.

If there is:

- (a) a divide between policy, the procedures and standards, and
- (b) the efficacy of the standards and policy are not demonstrably proven,

those who control the perception, who set and enforce the technical standards and procedures (regulator and testing company) are arguably the true masters of policy.

To the best of my knowledge, no research into matters such as those proposed below, has ever been conducted into the regulation of gambling technology, globally. One must ask; “How therefore, do we truly know the efficacy of government policy?”

PURPOSE OF THIS SUBMISSION

It is my intent to stimulate some lateral thinking, possibly resulting in research being conducted to investigate reasons for, and alternatives to, accepted practices related to gambling technology and regulation thereof. This should not be taken as a criticism of existing practices or that indeed the existing practices are not optimum.

However, “success” is only “success” if it can be measured.

SUGGESTED RESEARCH

Given the significance of technology in the gambling industry, the objective of this submission is to recommend to government that research be conducted into:

1. One National Standard for gambling technology, independently administered, and providing for mutual recognition. This will become more critical as technology dictates a need for central control (e.g. communications based gambling). The objective being a reduction in regulatory overhead for industry, consistency in policy, and benefit for players (As discussed in my paper on standardisation¹, Attachment A) one of the unintended consequences of significant diversity in product is a higher rate of defect, or “malfunction”, which as per standards “voids all pays and plays”.
2. Moving the National Standards away from gambling regulators and into the hands of an independent body that is truly representative of all stakeholders (including community, who currently have no input). Such a body could logically be

¹ “What can be Achieved in Standardisation”, National Standards for Gaming Machine Control Conference, Le Meridian Hotel, 495 Collins St, Melbourne, 24 - 25 February, 1994, Stephen J. Toneguzzo

Standards Australia², or perhaps more appropriately, the Board of a National Gambling Research Institute with appropriate governance structure. In any event, the process could mirror the approach to setting National and International Standards, which has been tried and tested domestically and internationally through the development and publication of 1000s of standards, even dealing with matters far more complex and perhaps political than gambling, such as nuclear power³.

3. The need to look beyond the technology to the technology development processes as the S.E.C. have done with material financial reporting systems (including gaming systems, if “material”), in the USA⁴. As gambling technology becomes more complex the need for quality and security in design and development to insure the integrity, availability and security of data become paramount. If it is good enough for shareholders to help protect the the stock they have invested in, why not gamblers for the game they have “invested” in?
4. Mapping gambling “standards” to policy and risk and providing for greater flexibility to the industry to offer solutions as outlined in the initial sections of the paper on “Regulated Risk Management”⁵ at Attachment B. The objectives being to:
 - (a) Provide for “Root cause analysis” enabling the trace of each standard to policy, and in doing so
 - (b) Reduce the risk of over-regulation of existing gambling standards,
 - (c) Provide for “Regulated Risk Management”⁶, and
 - (c) Provide an objective basis on which to measure the effectiveness of the policy implementation and perhaps manage “policy creep”.
5. Ensuring all aspects of the gambling technology are regulated to the same extent as gambling machines (e.g. There are 100s of pages of standards for a gambling device and perhaps, one page for an online wagering system and even less for

² Standards Australia is recognised by the Government as Australia's peak Standards body. It coordinates standardisation activities, develops internationally aligned Australian Standards® that deliver Net Benefit to Australia, and facilitates the accreditation of other Standards Development Organisations. Through the Australian International Design Awards it promotes excellence in design and innovation. Source: <http://www.standards.org.au/>

³ http://www.iso.org/iso/search.htm?qt=nuclear+power&published=on&active_tab=standards

⁴ following the legislation commonly known as SOX (Sarbanes Oxley) Act of 2002

⁵ as outlined in the attached paper; Toneguzzo, S. & K. Copher (2006) Gambling regulation: The case for managed risk, *Gaming Industry & Public Welfare Conference*, Beijing, 29 May.

⁶ as outlined in the attached paper; Toneguzzo, S. & K. Copher (2006) Gambling regulation: The case for managed risk, *Gaming Industry & Public Welfare Conference*, Beijing, 29 May.

lottery) and to an appropriate extent – not overregulated (this ties back into Point 4).

6. As mentioned earlier, there are 1000s of international standards published by the International Standards Organization (ISO), for all manner of things, so for the gambling industry which generates billions of dollars in tax revenue and creates 1000s of jobs:
 - a. Why are there no formal standards existing internationally or even at a National level apart from:
 - i. An Australian / New Zealand standard” (managed and developed by regulators, but not following the standard setting process) and
 - ii. A South African Standard published and managed by the South Africa Beureau of Standards and following due process?
 - b. Why and how is the closest thing to an international Standard for gambling devices (some 400 jurisdictions) controlled by a private testing company, who tests gambling equipment for compliance against their own standards and is therefore the defacto “regulator” and final say for what products and what technology gets approved (and sold), for a majority of jurisdictions world-wide. Does this impact products released to the Australian market in any way, and what are the likely risks or benefits of this approach to Australia into the future?
 - c. The Gaming Standards Association (an international industry association) is developing an international communications protocol for gaming device communication and interoperability. Will this open up the market to new entrants or present greater barriers to entry? How will this impact creative development and what good or bad impacts might the adoption of the GSA communication standard mean for the Australian industry and consumers? How does the home grown version (Q-Com) or even open internet standards compare?
 - d. What is the impact, if any, on quality, security, and product variation, of regulators allowing licensees to have a direct financial relationship with a the testing company that “appoves” the licensee to sell or operate gambling equipment? On what demonstrable criteria are the testing companies approved by regulators?
 - e. How have Australian technical “Standards” evolved from the early 90’s to today? What impact have the technical changes had on the industry and community and from where did the changes originate?

A LITTLE HISTORY

The very first technical standards in Australia existed in New South Wales, and were modelled on New Jersey, USA for mechanical and electro-mechanical gambling devices. Stephen Toneguzzo (author of this submission) and Mr Patrick Miller (from Victoria) co-authored the original versions of what is today, the various “National” technical standards that have evolved for gambling equipment in Australia and New Zealand. As I was one of the authors, I can speak with authority, that when the original technical standards were written:

1. They were done so, more as “specification documents” than standards (and there are many historic reasons related to industry product quality, for that).
2. The State regulators desired to control policy and effect “policy change” through the management of technical standards without the need to consult with government or community on the little-understood computer based gambling devices,
3. The testing laboratories were largely government controlled (Queensland and New South Wales Governments and Monash University), not private.
4. Mutual recognition was Government to Government (e.g. The NT accepted anything approved in NSW) and not recognition via the approval of a private testing company.

In 1993, Toneguzzo started a push for National Standards for gaming equipment, gaining support from people and groups such as the AHA, Jim Henry of the Club Managers Association, Brian Frost, founder of the Australian Gaming Machine Manufacturer’s association (known today as “Gaming Technologies Australia”). As industry pushed to reduce the complexity of different standards, State regulators, lead by South Australia, took on the mandate with the first “National Standards for Gaming Machine Control” conference held in Le Meridian Hotel in Sydney, 24 – 25 February 1994. I presented a “road map” paper at that conference which is attached herewith⁷. The other significant paper was presented by Mr Patrick Miller.

Since 1994, the following matters of note (relevant to my 1994 paper are):

1. “National Standards” have been developed with minor inconsistencies due to policy variations between the States and Territories. Where possible, policy variations are realized through programable aspects of gambling equipment to minimise the amount of product variation between markets. In my professional opinion, the Australian market is the most advanced (internationally) in terms of cooperation. The Standard is controlled by the regulators. The process does not involve representation from all stakeholders in the industry.
2. Each State and Territory must still decide to approve the product for operation, or not. There is no “mutual recognition” other than to the extent it is provided by

⁷ “What can be Achieved in Standardisation”, National Standards for Gaming Machine Control Conference, Le Meridian Hotel, 495 Collins St, Melbourne, 24 - 25 February, 1994, Stephen J. Toneguzzo

private testing companies for a fee, The testing companies having a direct financial relationship with the industry.

CONSOLIDATION?

Almost 20 years on from when I first applied my hand to drafting technical standards for the Queensland Government, we now in Australia have essentially the same technical standards from state-state, with the same companies supplying and operating and testing those products (all of whom undergo essentially the same licensing in each state), so prime-face, there seems to be an extensive duplication of effort that could either be shared between the states or amalgamated into one national regulatory body. Perhaps this also is worthy of researching to what extent the policy variation from State to State demands the need for unique regulatory arrangements?

WORTH NOTING

In 1992 (albeit with very little business acumen), I wrote, and later presented at a National Association of Gambling Studies Conference in 1993, a paper that was the first of its kind internationally. This paper was later published in 1996 and is included at attachment C⁸. It speaks to ATMs and other forms of technology associated with Gambling and Gambling devices and 17 years later, is seemingly as relevant to the technology and standards debate now, as it was then.

Yours sincerely,

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ATTACHMENTS (Recommended Reading)

⁸ Toneguzzo, S. 1992 (1996) Socially responsible introduction of gaming machine technology. In J.McMillen, M.Walker and S.Strurevska (eds.) *Lady Luck in Australia*, National Association of Gambling Studies, Sydney University Australia pp145-155.

Attachment A: “What can be Achieved in Standardisation”, National Standards for Gaming Machine Control Conference, Le Meridian Hotel, 495 Collins St, Melbourne, 24 - 25 February, 1994, Stephen J. Toneguzzo

Attachment B: Toneguzzo, S. Copher, K (1996) “Gambling Regulation: The Case for Managed Risk”. Conference Proceedings, Peking University, Beijing 100871, China. ISBN: 99937-58-26-4

Attachment C: Toneguzzo, S. 1992 (1996) Socially responsible introduction of gaming machine technology. In J.McMillen, M.Walker and S.Strurevska (eds.) *Lady Luck in Australia*, National Association of Gambling Studies, Sydney University Australia pp145-155.