

WESTERN AUSTRALIAN GOVERNMENT SUBMISSION

PRODUCTIVITY COMMISSION INQUIRY:

AUSTRALIA'S GAMBLING INDUSTRIES

MARCH 2009

INTRODUCTION

The Western Australian Government's submission to the Productivity Commission's Inquiry into Australia's Gambling Industries in 1998 presented a methodology of gambling regulation with a primary focus on consumer protection. Successive Western Australian Governments have developed a legislative regime requiring licensing and the strict regulation of gaming, wagering and racing in the public interest. Since the publication of the Productivity Commission's 1999 report into Australia's Gambling Industries nothing has changed in this regard. The Western Australian Government's approach to the State's gambling industry remains one with the primary focus on consumer protection. The licensing regime focuses on ensuring the integrity of the gambling industry through probity and ongoing licensing requirements. This combined with strict regulation of gaming, wagering and racing for the public good means that a high level of consumer confidence in the Western Australian gambling industry is maintained. A strict legislative framework operates within the State to;

- Prevent criminal interests from operating gaming activities
- Maintain the integrity of permitted gaming and contain its social costs
- Ensure that legal betting satisfies the recreational interests of punters without adversely impacting on the community or racing industry
- Limit the availability of gambling opportunities in the community through legislation that provides a controlled environment in which the different forms of gambling can be conducted
- Ensure the profits of gambling are returned to the Western Australian community

A further important layer of consumer protection is provided by strict adherence to policies of harm minimisation within the Western Australian gambling industry.

Although the Western Australian Government has not altered its policy or legislative stance in relation to gambling in Western Australia since 1999, it is clear that the market and legal environment in Australia has changed. Cross border wagering is flourishing and there is an increasing threat to Western Australian Government policy from interstate and overseas gambling service providers. The convergence of computing, communications and broadcasting technology embodied in interactive home gambling has serious implications for, and represents a threat to Government policy with respect to gambling. Western Australia's gambling laws have been reasonably effective in enacting Government policy. However, recent successful challenges to Western Australian law in the case of Betfair and by corporate bookmakers have highlighted the ineffectiveness of the law with regards to wagering operators based outside of Western Australia. In regards to overseas based internet gambling service providers, the potential exists to introduce interactive gaming machines into every home in Western Australia. This would seriously undermine the

Western Australian Governments prohibition on poker machines and policy of limiting the extent and character of gaming machine technology in the public realm.

The focus of the Western Australian Government on regulating gambling for the public good has given rise to some unique features of the State's gambling industry. Most notable is the prohibition of electronic gaming machines outside of the casino. With regards to the casino there are no spinning reel gaming machines permitted, no auto play feature permitted on any gaming machine, and all gaming machines must have a time to play period in excess of a minimum of 5 seconds. Since Western Australia is the only State without a gaming machine network, Western Australian expenditure on gaming is relatively low compared with the national average. Partly reflecting the more limited choice of gambling activities in Western Australia, the proportion of expenditure dedicated to the individual gambling activities differs from that nationally. Of the total money spent on gambling in Western Australia by far the largest proportion is spent at the casino and a larger proportion of expenditure is allocated to public lotteries in Western Australia than nationally.

GAMBLING REGULATION IN WESTERN AUSTRALIA

Since the Productivity Commission's Inquiry into Australia's Gambling Industries in 1998 there has been significant changes in the manner in which gambling is regulated in Western Australia. These changes have largely been in the area of wagering with the establishment of one controlling body, Racing and Wagering Western Australia (RWVA) for thoroughbred, harness and greyhound racing in Western Australia; and the merging of the functions of the Betting Control Board with the Gaming Commission to form the Gaming and Wagering Commission of Western Australia. The Gaming and Wagering Commission became responsible for regulating both gaming and wagering activities in Western Australia on a common platform in contrast to the previous arrangement where the activities were administered individually by the Gaming Commission and Betting Control Board. Please refer to Appendix C for a flowchart depicting the Western Australian gambling regulation model.

On 1 August 2003 RWVA was established under the *Racing and Wagering Western Australia Act 2003* as the controlling authority for thoroughbred harness and greyhound racing in Western Australia. As a consequence, on 1 August 2003, the Western Australian Turf Club, Western Australian Trotting Association and the Western Australian Greyhound Racing Association relinquished their respective principal club status and became independent racing clubs responsible for managing racing and associated activities at their own venues. Principal club functions that transferred to RWVA essentially consisted of matters relating to stewards' activities, drug testing, licensing and registration, and industry marketing and promotion.

Effective 30 January 2004, RWVA became responsible for the off course wagering activities of the Totalisator Agency Board (which was abolished). RWVA is a unique entity in the Australian racing industry in that it is both the controlling authority for all race codes and the principal off course wagering operator, with race clubs in the State responsible for on course totalisator operations.

In terms of racing industry governance, RWWA has the following broad duties and responsibilities:

- Undertake principal club functions including, but not limited to, any functions conferred or imposed on RWWA, as principal club, under any national or local rules pertaining to thoroughbred racing, harness racing or greyhound racing.
- Foster the development, promote the welfare and ensure the integrity of metropolitan and country thoroughbred, harness and greyhound racing, in the interests of the long term viability of the racing industry in Western Australia.
- Undertake and manage industry strategic planning, promotion, marketing, sponsorship and administration. Racing clubs continue to undertake these roles where it is club specific.
- Develop and implement a scheme for the distribution of TAB net profits in accordance with legislative requirements and negotiate funding arrangements with individual racing clubs.
- Determine TAB coverage of race meetings.
- In consultation with racing clubs, establish policies for stake money levels and race conditions and programs.
- Establish policies for, and manage the provision of, programs for apprentice jockey, trainee driver and other industry training requirements.
- Liaise with government and interstate/overseas racing authorities with respect to, and represent the interests of, the racing industry in Western Australia.
- Coordinate and facilitate whole of industry issues such as insurance, broadcasting of race meetings and the establishment and maintenance of horse and greyhound training facilities.

In conjunction with the establishment of RWWA the Racecourse Development Trust was abolished and the development of racing and training infrastructure became a function of RWWA. The Trust's obligations and funding source through unclaimed TAB dividends and refunds were transferred to RWWA.

Effective 30 January 2004 the Gaming and Wagering Commission of Western Australia (the Commission) was formed, merging the functions of the Betting Control Board and the Gaming Commission of Western Australia. While the Commission continued to be responsible for its traditional role of regulating casino and community gaming activities, it also became responsible for regulating wagering functions of RWWA and activities permitted under the *Betting Control Act 1954*. The Gaming and Wagering Commission is responsible for the supervision of the gambling operations of RWWA.

Accordingly, the Commission may give directions to RWWA:

- regarding internal controls and administrative and accounting procedures applying to its gambling operations; and
- to adopt, vary, cease or refrain from any practice regarding its gambling operations.

On 29 July 2003, the *Racing and Wagering Western Australia Regulations 2003* (RWWA Regulations) were published in the Government Gazette. These regulations establish the licensing provisions to be observed for Directors and Key Employees of RWWA who are required to hold a licence under section 14 or 24 of the RWWA Act. All licences issued for Directors and Key Employees of RWWA require the approval of the Commission prior to being issued.

Sections 51 and 52 of the RWWA Act relates to RWWA establishing totalisator agencies, and provides for the Gaming and Wagering Commission to direct RWWA not to establish or to close an agency if it is considered the operation of the agency is or will be detrimental to the public interest.

Section 120 of the RWWA Act provides for RWWA, with the approval of the Gaming and Wagering Commission, to establish Rules of Wagering. Matters to be considered in the Rules of Wagering include:

- (i) matters relating to on-course wagering through totalisators on racecourses and persons licensed under the BC Act;
- (ii) prescribing powers and duties of stewards in relation to totalisators on racecourses and persons licensed under the BC Act;
- (iii) matters relating to off-course wagering;
- (iv) matters relating to fixed odds wagering;
- (v) providing for the custody of its property;
- (vi) prescribing the duties of its officers, agents and employees in relation to wagering; and
- (vii) requiring or permitting under the RWWA Act rules to be made or for such purposes as are necessary or convenient for the operation of the RWWA Act, or for carrying out the functions of RWWA, in relation to wagering.

In relation to the regulation of the *Betting Control Act 1954*, the Gaming and Wagering Commission determines matters relating to:

- (i) policy and legislation;
- (ii) licensing of bookmakers, bookmakers' managers and bookmakers' employees; and
- (iii) betting regulation and control.

In relation to betting control and regulation, the Commission is responsible for (amongst other related matters):

- considering investigations relating to bookmaker and on and off course totalisator betting;
- determining appeals in accordance with section 32 of the *Betting Control Act* relating to the outcome of betting disputes involving bookmakers;
- confirming approvals issued under delegation relating to:
 - the conduct of betting by bookmakers at a racecourse other than during a scheduled race day (section 12(3)(a) of the *Betting Control Act*);
 - use of totalisators by race clubs (section 17D of the *Betting Control Act*);
 - calling of the card functions (section 5(2)(b) of the *Betting Control Act*); and
 - approval of any sporting event or specific contingency relating to a sporting event for the purposes of bookmaking (section 4B(2) of the *Betting Control Act*); and
- considering disciplinary action in accordance with section 32A of the *Betting Control Act* against holder of any licence type or authorisation to possess or operate a totalisator, issued under the Act.

The primary responsibility of the Commission in regard to determining the grant of bookmaker's licence is assessing the integrity of a person (or persons as the case may be) to hold a bookmaker's licence

THE GAMBLING INDUSTRY IN WESTERN AUSTRALIA

Provided at Appendix C are updates to the statistics, tables and graphs supplied with the 1998 Western Australian Government Submission to the Productivity Commission's initial inquiry depicting market share and consumer spending applicable to the Western Australian gambling industry.

Gaming

This includes lotteries, gaming machines, casino gambling, football pools and community gaming (raffles, bingo, lucky envelopes and similar activities). Policy decisions of successive Governments have shaped an industry in Western Australia where casino gaming is the ambit of the private sector. Other gaming activities are the ambit of bona fide community based organisations and the Lotteries Commission. Other than the casino, gaming activities cannot be conducted by commercial organisations or for the purpose of private gain. The specific prohibition of gaming poker machines is a unique feature of gaming in Western Australia.

Public lotteries

The Lotteries Commission's primary responsibility is to raise funds for the community of Western Australia using games of chance. The Lotteries Commission provides significant funding for Western Australian hospitals, sports and the arts, and through their direct grants, to thousands of charities and community organisations throughout the State. The Lotteries Commission is directed by a Board of Commissioners comprising of six representatives with commercial and community backgrounds and reports to the Premier; Minister for State Development.

The Lotteries Commission sells its lottery products through a State-wide network of 566 retail outlets. Most are small businesses with the majority operating as newsagencies. Other business categories include kiosks, pharmacies, supermarkets and general stores.

The Lotteries Commission offers a range of lotto games, instant scratch tickets, Cash 3 and Soccer Pools. The Lotto games and Soccer Pools are administered at the national level. In this regards, The Lotteries Commission is a member of a group consisting of other members of the Australian lottery industry known as the "Bloc". The Lotto and Soccer Pools games are administered under five separate Bloc agreements, one for each game. The purpose of the establishment of the Bloc partnership is to create a sufficient prize pool to be attractive to players. The Lotteries Commission is authorised to conduct sports lotteries (games of chance where the results are based on the outcomes of one or more specified sporting events). Currently, Soccer Pools is the only sports lottery offered by the Lotteries Commission.

At the State level, the Lotteries Commission offers instant scratch tickets at various price points marketed under the brand "Scratch'n'Win". This product has been available since 1982 and the current suite of tickets includes games at the \$1, \$2, \$3, \$5 and \$10 denominations. The other product offered is Cash 3. This is a fixed odds numbers game that is drawn daily and has been offered only in Western Australia since 1998. The Lotteries Commission markets these State based products consistent with its Code of Practice that addresses such measures as harm minimisation and responsible advertising of Lotteries Commission products.

The establishment of the Lotto Blocs were founded on the principle of social responsibility and the members of the Bloc developed a national code of practice. The “Australian Lotteries Bloc Code of Practice” incorporates principles that are integral to the responsible provision of lottery games. This Code is followed in conjunction with the relevant lottery licences, legislation, regulations, rule and procedures prescribed for each jurisdiction. The Australian Lotteries Bloc Code of Practice covers the following areas;

- Advertising
- Responsible lottery management
- Provision of information
- Privacy
- Training

The Lotteries Commission is not regulated by the Gaming and Wagering Commission. The Lotteries Commission must obtain a permit from the Minister prior to conducting each lottery game, and prior to the introduction of any new lottery product. This relatively minimal level of regulation of the Lotteries Commission has allowed the Gaming and Wagering Commission to concentrate on the regulation of the more complex wagering and casino gaming operations. Regulatory transfer payments between Government agencies have also been minimised and enabled maximum returns from lottery products to the community.

The Lotteries Commission has provided specific responses to update the report produced as the 1998 Western Australian Government Submission to the Productivity Commission's Inquiry into Australia's Gambling Industries. These updates are provided as Appendix B.

Casino Gaming

Casino style gaming is offered in Western Australia at a single venue, Burswood Entertainment Complex. Successive Governments have maintained a policy of a single casino licence in Western Australia and this policy has not altered since the Productivity Commission's inquiry in 1998. The prohibition on poker machines still applies in Western Australia. Government policy remains one of permitting electronic gaming machines only at licensed casinos and of not extending this type of gaming in the broader community. Likewise, a prohibition on credit gambling still exists. The casino operator is not permitted to extend credit and all Eftpos terminals have had credit access disabled so patrons cannot access credit accounts. All ATM's are located off, and not near to, the gaming floor. This is seen as in keeping with the statutory obligation placed on the regulator by one of the principal objects of the *Gaming and Wagering Commission Act 1988*, which is, to minimise the harm to the community caused by gambling. Smoking is banned in all casino gaming areas with the exception of the international gaming facility.

The Gaming and Wagering Commission (the Commission) maintains an onsite inspectorial presence at the casino to enforce the provisions of the *Casino Control Act 1984* to ensure that adequate controls are put in place to establish compliance with legislative requirements and to monitor the ongoing effectiveness of those controls. Risk based compliance assessment programs are used to assess compliance in relation to casino gaming. The casino tax rate has altered since 1998 with the current rates as follows; domestic table games and keno – 18%; International table games business – 11%; electronic gaming machines and trackside – 20%

Since the 1998 Productivity Commission's inquiry some changes have occurred at the Burswood Entertainment Complex. The casino licensee has commenced redevelopment of the casino with a standalone international gaming facility opening in 2006, and the complete redevelopment scheduled to be completed by 2010. The casino currently has approval to operate up to 1,750 electronic gaming machines and 170 gaming tables in the casino gaming licence area. The casino operator has developed a code of conduct for the provision of responsible gambling (www.burswood.com.au), which includes responsible service of gaming training for all staff. In addition, the casino licensee has trained responsible service of gaming officers on site during office hours to provide direction and assistance to patrons. Referral information is also provided by means of brochures, posters and computerised gaming information terminals located throughout the casino. The redevelopment of the gaming floor has provided for natural lighting in all areas of the gaming floor and clocks are positioned on the gaming floor. The casino continues to have a self exclusion process, which has been administratively strengthened over the years.

The Commission is extremely conscious of the potential for harm associated with gaming machines. The electronic gaming machines approved for use at the casino have a win limit of \$10,000 for non jackpot prizes. All electronic gaming machines must comply with the Western Australian Appendix to the Australia New Zealand Gaming Machine National Standard. Features required by this appendix are as follows;

- The rules of play; odds of winning; a statement of the return to player and instructions on how to play the game must all be displayed on each machine.
- Auto play features are not permitted in Western Australia.
- All machines must provide a minimum 90% return to player.
- Spinning reel slot machines are not permitted.
- The speed of play (from commencement to result) must exceed a minimum of 5 seconds.
- The start of play must be initiated by a separate "play" button.
- All machines are required to have player interaction. For example, the holding of cards in poker; stand, hit or double down in blackjack and pontoon; the number of balls purchased in Arishinko; the number of spots selected for keno; and the winning numbers for roulette, money wheel and sicbo.

The Western Australian gambling legislation prohibits the use or possession of poker machines in Western Australia. When considering the approval of electronic gaming machines for use at the casino the Commission must ensure that poker machines are not approved. It should be noted that in 1985, in the absence of a definition for “poker machine” or “gaming machine” in the Casino Control Act, the Casino Control Committee (the predecessor of the Gaming and Wagering Commission) determined that it would approve gaming machines that replicated table games and that required some intervention or decision making on the part of the patron. Essentially, the Casino Control Committee approved gaming machines that were electronic representations of authorised table games such as poker, blackjack, roulette and keno and variations or derivatives of such games. Any machine, whereby upon the insertion of a coin the automatic action of the machine determined the outcome, was considered by the Casino Control Committee to be similar to a poker machine and was not approved for play at the casino.

The Commission has continued to use the informal guidelines established that, provided there is patron intervention and some decision making, the game meets the definition of a gaming machine and may be approved. As a result of developments in both poker and gaming machine fields, the lines have been blurred and the difference between the two types of machines is not as clear cut as it was in 1985.

The issue confronting the Gaming and Wagering Commission nowadays is that there is a very fine line between electronic gaming machines and poker machines. Manufacturers are increasingly making it difficult to delineate between the types of machines, and in this regard, the Commission is continually testing its own criteria when faced with applications from Burswood for new electronic gaming machine games.

Historically, it would seem that when poker machines changed from manual to an electronic medium they moved closer to gaming machines (not vice versa) and this has made differentiation difficult. For example, the hardware (which is video based) and the features such as double up, second screen and linked machines/jackpots are all part of the modern poker machine operating in the Eastern States and overseas. However, the Commission is not in a position to change or influence these and other aspects of poker machines to differentiate them from gaming machines played at Burswood.

Over the years the Commission has attempted to differentiate between a poker and gaming machine and in October 2002 laid down criteria that it would consider when approving a gaming machine. The matrix below provides the similarities and differences between poker and electronic gaming machines of today.

| Item | Poker Machine | Gaming Machine |
|---|--|---|
| Hardware (In 1985 a poker machine was dissimilar to other machines and could be easily differentiated. Today the hardware is the same) | YES | YES |
| Double-Up option | YES | YES |
| Second screen feature | YES | YES |
| Linked machines and linked jackpots | YES | YES |
| Symbols (In 1985 poker machines had distinct symbols such as 7's, cherries, oranges (fruit), bars and cards (Ace, King, Queen and Jack)) | YES (All types of symbols are being used) | YES (Cards, dice, balls eg. keno, bingo and arishinko) |
| Spinning reels | YES | NO |
| Fixed symbols on reel | YES | NO |
| Return to player | 85 -87 % | 90% & above |
| Bet strategy - number of lines - bet per line | YES YES | YES YES |
| Speed (With harm minimisation issues the speed of poker machines is being increased to 3 – 5 seconds per play) | 1 – 2 seconds | 5 seconds minimum |
| Start button* | NO | YES |
| Winning combinations (lines) | Multi line/multi directional | Horizontal and vertical lines |

*On some poker machines there is no start button. Once a bet is placed and the number of lines is selected, the machine is automatically activated and the result is determined.

The Western Australian Governments policy position of not permitting electronic gaming machines in locations other than licensed casinos is probably its strongest harm minimisation measure. In other Australian jurisdictions gaming is easily available in numerous locations and accessible without necessarily making a conscious decision to visit a gaming venue (convenience gaming) where as in Western Australia members of the community have to make a conscious decision and go out of their way to Burswood to participate in gaming (destination gaming). This provides individuals with ample opportunity to rethink their decision to gamble. The Western Australian Government's policy position in relation to gaming machines is reflected in the gambling statistics. Per capita gambling expenditure in Western Australia is less than half the national average. In 2006-07 per capita gambling expenditure in Western Australia was \$629.74 as compared with the national figure of \$1131.16.

Community Gaming

In Western Australia gaming, other than social gaming, can only be conducted lawfully under a permit issued by the Commission. Section 51 of the *Gaming and Wagering Commission Act 1987* provides that the Commission must be satisfied that, amongst other things, the applicant for a permit is, or is concerned in the administration of and makes application on behalf of, a club, society, institution, organisation, association, or other body of persons which have as the principal object of the proposed gaming the raising of moneys in good faith for the active promotion, support or conduct of any sporting, social, political, literary, artistic, scientific, benevolent, charitable or other like activity detailed in the application. Further, section 51 of the Act also requires that the gaming not be promoted or otherwise conducted for the purposes of private gain or any commercial undertaking.

Social gambling is lawful in Western Australia provided that the gambling is not conducted for private gain or any commercial undertaking; and the chances in the game played are equal to all players involved in the game. The Commission has the authority to specifically prohibit some forms of gambling in the public interest. Police and Commission officers enforce the provisions of the *Gaming and Wagering Commission Act 1988* in this regard.

Community gaming is generally conducted by means of raffles or bingo. Gaming permits authorising the conduct of gaming by the use of gaming tables can be applied for by community based organisations as a means of raising funds. The Commission cannot authorise the conduct of casino games (other than poker) at gaming functions. The Commission exercises control over such gaming functions by a combination of permit conditions and policy decisions. For example, the Commission's policy is that one gaming function may be held at premises once per week. This policy prevents the establishment of de facto gaming houses or casinos. In addition advertising of the function is restricted only to the premises where the function is to be held. A gaming function can only be conducted for a maximum of six hours duration. Permit holders are encouraged to offer only low limit tables and to utilise such permits for the entertainment value rather than for serious gambling. Typically, gaming functions are often held in conjunction with dances or other non gaming entertainment. The Commission has the power to establish table minimums and maximums and can condition permits accordingly.

In the last five years the Commission has experienced an increase in the popularity of gaming function permits for the conduct of *Texas Hold'Em* poker. *Texas Hold'Em* is a variation of poker played with cards and has experienced a significant increase in popularity in recent times. The increase in both community interest and participation has been fuelled by television coverage of major tournaments with large cash prizes and by the targeted promotion of the game by commercial operators, who profit from both assisting in the conduct of games and the hire of equipment.

There are two types of poker events that are conducted and promoted at a variety of venues throughout the State:

1. "Free to play" events, which are generally conducted at licensed premises and participants, do not pay to enter, nor do they win prizes with any value in money or money's worth. Gaming, as defined by the *Gaming and Wagering Commission Act 1987*, does not take place at these events therefore they can be conducted without a permit or any other form of authorisation. Commercial operators typically charge a fee to the licensee for each player who attends the event.

2. Gaming conducted under permit – these events are conducted under a permit issued by the Commission. At permitted events players risk their own money and can win prizes in money or money's worth.

In Western Australia there are currently two major commercial entities that are licensed by the Gaming and Wagering Commission of Western Australia as suppliers and/or operators who assist in the conduct and promotion of gaming functions conducted under a permit issued by the Commission, the Western Australian Poker League (WAPL) and the Australian Poker League (APL).

The increase in the popularity of Texas Hold'Em poker has required an increase in regulatory effort to ensure that the activity conducted by commercial operators is in accordance with the provisions of the Gaming and Wagering Commission Act. In addition to Texas Hold'Em conducted under permits issued by the Commission, there may also be up to 50 free play events conducted within Western Australia each week, which are also monitored and inspected by Departmental Inspectors for compliance with the Act.

Wagering

In the intervening years since the Productivity Commission's 1998 inquiry there have been changes to the wagering segment of the gambling industry in Western Australia. In August 2003 Racing and Wagering Western Australia (RWVA) was established as the controlling authority for thoroughbred, harness and greyhound racing in Western Australia. Previously the industry was controlled by three separate bodies; the Western Australian Turf Club, Western Australian Trotting Association and the Western Australian Greyhound Racing Authority. These three organisations remained as race clubs, responsible for the conduct of racing activities at their respective venues. In addition, to complement this restructure the Betting Control Board and the Gaming Commission of Western Australia were merged to form the Gaming and Wagering Commission of Western Australia (the Commission). These changes provided one single controlling authority for racing and one single regulatory body to oversee the gambling industry in Western Australia.

Effective 30 January 2004, RWWA became responsible for the off course wagering activities of the Totalisator Agency Board (which was abolished). At the same time the development of racing and training infrastructure became a function of RWWA. The Racecourse Development Trust was abolished and the trust's obligations, unallocated funds and funding source (unclaimed TAB dividends and refunds) were transferred to RWWA. The Gaming and Wagering Commission of Western Australia is responsible to regulate RWWA's wagering activities

In relation to wagering, in 2003 the *Betting Control Act 1954* was amended to make it lawful for Western Australians to bet with out of State bookmaker's or a person authorised under the law of another State or Territory to engage in or conduct betting on races or sporting events. The amendment also made it lawful to bet with authorised offshore betting operators.

Following the establishment of RWWA and in recognition of RWWA's obligation to develop racing and training infrastructure, the tax rates paid by RWWA on its wagering activities were altered. The effective rates on Sales Turnover of RWWA wagering activities are as follows;

- On course totalisators – 0%
- Off course totalisators – 3.5%
- Totalisator sports wagers – 5%
- Fixed odds racing wagers – 2%
- Fixed odds sports wagers – 0.5%

RWWA's wagering activities are regulated by the Commission. Harm minimisation measures form an important part of the Commissions regulatory focus. For example, when RWWA seeks to establish a new totalisator agency the Commission requires that RWWA provide a "Social Impact Statement" that details the likely social and economic impacts on the local community that may result if a totalisator agency is established at that locality. In addition RWWA must seek written comments from the Chief Executive Officer of the relevant local government authority; the Officer in Charge of the local Police station; and the Chief Executive Officers of organisations that address health, welfare issues and problem gambling in the local area. The Commission has developed questionnaires for local government, Police and welfare agencies to assist in this regard. RWWA has developed its own responsible wagering code of conduct (www.ozbet.com.au) that includes training for all totalisator agency staff in problem gambling, compliance and responsible wagering.

A recent initiative of RWWA has been the introduction of self betting terminals at totalisator agencies. These terminals enable patrons to place bets through automated machines. The machines do not provide payouts for winning wagers. Such wagers must be processed by a totalisator agency employee. At present approximately 20 self betting terminals are located in venues in Western Australia. The terminals are generally provided at venues that do not have the wagering turnover to justify dedicated manned wagering terminals. In relation to the authorisation process for self betting terminals the Commission still requires RWWA to provide a Social Impact Statement and relevant questionnaires but also requires RWWA to provide details of controls that will be in place at the venue to prevent juveniles accessing the terminals, and to monitor problem gambling.

RWWA will provide a detailed submission to the current Productivity Commission Inquiry through its input to the Australian Racing Board's submission. With regards to this submission RWWA has provided several discussion points which it wishes included. These points are summarised below without any additional commentary;

- Prohibition of "Best of tote" wagering. This is to prevent "free riding" fixed odd bookmaker entities from competing with the tote model without having obtained a license or right to operate a tote and as a consequence, obligated to make financial contribution to the welfare of the industry.
- The duty and standard of care in relation to responsible wagering policy and management of problem gambling must be consistently applied across all state and territories and all gambling product. In particular, regulations that restricts or prohibits offering cash inducements to wager or to open gaming of wagering trading accounts to be introduced and enforced.
- Credit betting arrangements should also be prohibited. In particular the removal of Credit betting by bookmakers as a means of harm minimization.
- That the Interactive Gambling Act (IGA) be unchanged in respect to all forms of gambling. However, it should be recognized that sport funding bodies may not take this view. RWWA believes the racing industry would be disadvantaged if sport were exempted from in the run gambling on line. RWWA would then seek the same conditions for racing.
- A view that Racing is a wagering event that offers entertainment experiences at far less social cost and, that the level of harm that is generated is less than the predominate forms of gaming available and which have grown rapidly in the last 30 years.

- The Australian Racing industry is positioned to retain economic flows and employment opportunities in Australian to a greater extent than other forms of gambling. Its ability to earn export income for breeding of animals is also valuable to the Australian economy.
- A nationally based governance model and leadership structure may also be examined for ensuing benefits to the Racing industry. Notwithstanding that the current model has proved resilient and successful to date but it is facing increasing threats and decline as evidenced in the Australian Racing Board report.
- In the event that State based Race fields legislation is successfully challenged in the federal arena with the result that product fees are ruled invalid, new federal laws might be required to protect the Racing industry and provide fair returns for the providers of the racing product.
- It is imperative for the future of the Racing industry that there is in place an effective means to collect a fee for service of its product from internet and telephone wagering providers. Expansion of the powers available under the *Interactive Gambling Act 2001* may be a useful option to consider. In this regard, a mechanism requiring all internet and telephone gambling providers on Racing and sport in Australia to contribute to the racing and sporting codes by way of product fees would be ideal. Further, a requirement for internet and telephone gambling providers to maintain certain control standards for responsible wagering would be useful.
- The Racing industry will need the ability to collect product fees to ensure its future. The federal Government should consider all options and mechanisms available to secure the rights of the racing industry to collect product fees from wagering providers.

Since the Productivity Commission's inquiry in 1998 a significant wagering development has been the introduction of betting exchanges. With regards to betting exchanges, the Western Australian government has consistently opposed the involvement, in Australia, of the style of wagering offered by betting exchanges. This opposition is based on the system of betting exchanges providing a mechanism for a punter to profit from betting to lose on horse/greyhound racing or sport. The potential exists for unlicensed persons with the capacity or opportunity to affect the performance of a competitor to profit by laying bets against the competitor.

The Western Australian Government requested the Commonwealth Government to invoke its powers under the *Interactive Gambling Act 2001* to prohibit Australians betting through betting exchanges. The Commonwealth Government declined to act stating that the

regulation of wagering providers was a matter for each State jurisdiction individually. The Western Australian Government subsequently enacted legislation to prohibit the establishment and operation of betting exchanges, such as Betfair, in Western Australia. Betfair successfully challenged the Western Australian legislation in the High Court on the basis that it contravened section 92 of the Constitution. The decision by the Commonwealth Government not to invoke its powers to prohibit Australians betting through betting exchanges combined with Betfair's successful High Court action has undermined the Western Australian Government's position with regards to the style of wagering offered by betting exchanges.

The High Court decision has the potential to undermine decisions made by the Western Australian Government in relation to the type, or style, of gambling permitted in Western Australia depending on future trends in the Australian regulatory landscape. The Western Australian Government has developed strong policies on limiting the extent and character of gaming in the community. For example there is prohibition of poker machines in Western Australia and prohibition on electronic gaming machines outside of licensed casinos. In relation to interactive gambling of this type the Western Australian Government will not licence operators to provide internet gambling services in Western Australia. In this regards, the Western Australian Government also relies on the provisions of the Australian Government's *Interactive Gambling Act 2001* which prohibits the provision or advertising of interactive gambling services to a customer physically present in Australia other than exempt services such as the provision of lotteries over the internet and to some forms of online betting and wagering.

A discussion point in this Productivity Commission Inquiry is the regulatory approach to internet gambling including consideration of changes to the *Interactive Gambling Act 2001*. In recent years there has been much discussion of a "managed liberalisation" approach with licensing of sites for probity, consumer protection and taxation. Should this occur and result in one State jurisdiction licensing an internet gambling provider then the implications of the High Court Betfair decision could see the Western Australian Government being powerless to prevent an interstate internet gambling service provider offering internet interactive gaming machines from operating in Western Australia. This would directly contradict the Western Australian Government's position in regards to poker machines and electronic gaming machines and seriously undermine the Government's intention to limit this type of gaming in the community.

PROBLEM GAMBLING

The Western Australian Government submission to the 1998 Productivity Inquiry reported a relatively low level of problem gambling in Western Australia at 0.32%. This figure was

substantially lower than figures provided for other Australian jurisdictions. The two main factors cited for the relatively low incidence of problem gambling are the prohibition on poker machines in Western Australia and the fact that Western Australia restricts access to electronic gaming machines only to licensed casinos, with only a single such venue in operation in Western Australia. Electronic gaming machine expenditure is widely acknowledged as the greatest cause of problem gambling and contributes significantly to the national gambling expenditure. Since the publication of that report there has been no further specific research with regards to the prevalence of problem gambling in Western Australia. Conversely there is no evidence to suggest that the level of problem gambling has increased in Western Australia. Statistics do show that the percentage of household income spent on gambling in Western Australia has decreased. In 1995-96 the percentage was approximately 2.2%. By 2005-2006 that figure had reduced to 1.3% (refer appendix C).

Western Australia has a voluntary partnership between Government and industry representatives to address the issue of problem gambling in the community. The Problem Gambling Support Services Committee ("PGSSC") is comprised of representatives from the gambling industry and government to address the social and economic issues that result from problem gambling in Western Australia. The objectives of the Problem Gambling Support Services Committee 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; and
- facilitate the provision of support services for those affected by gambling related problems in Western Australia.

The Problem Gamblers Support Services Committee continues to fund a specialist, toll-free, telephone counselling and referral service (Helpline) for problem gamblers and their families, who are residents of Western Australia. The Helpline is available 24 hours a day, seven days a week. A significant feature of the service is the provision of on-going telephone counselling (i.e. regular booked sessions) for those people for whom face-to-face counselling is not available or appropriate. This will be particularly beneficial for people in regional and remote parts of Western Australia. To complement the Helpline, the PGSSC also funds a counselling service, which provides free face-to-face counselling. This service is currently operated by Centrecare under the program name "Gambling Help WA".

The Committee conducted a successful public awareness campaign in 2005 concerning problem gambling. After the completion of the Committee's problem gambling awareness campaign in 2005, a follow up awareness campaign was developed and targeted at regional Western Australia, which was launched on 13 July 2007. The campaign included the use of

Sky Channel and regional radio, advertising, convenience advertising in regional hotels and press advertising.

In 2007, the Community and Disability Services Ministers (CDSMAC) Gambling Working Party (GWP) commenced work on the adoption of a consistent 1800 number for all problem gambling telephone help services across Australia. The introduction of a new number provides for flexible transition arrangements by enabling clients in any state or territory to continue to call their current or the national 1800 number. Either way the client will be directed to the state-based helpline service. A single, national number provides a range of opportunities for the sharing of promotional and community awareness collateral around problem gambling and available help services between jurisdictions. It also presents the potential to develop national campaign initiatives so communities everywhere can be provided with the same information to access telephone help services.

Western Australia's 2007 problem gambling awareness campaign, which adopted advertising on SKY TV, was viewed as a trial run of a national approach to this initiative. The State's 1800 Help Line number was aired Australia-wide and consequently broadcast into the pubs, clubs and homes of SKY TV patrons in all jurisdictions.

In addition, the Ministerial Council on Gambling is in the process of establishing an Australian Online Gambling Counselling and Support Program. As a member of the Ministerial Council on Gambling the Western Australian Government is contributing funds to the development of this resource.

Attached to this submission are the following appendices;

- Appendix A –a copy of the November 1998 Western Australian Government Submission to the Productivity Commission Inquiry; Australia's Gambling Industries
- Appendix B – LotteryWest's input to the Western Australian Government Submission to the Productivity Commission Inquiry. This appendices details specific up to date information to the 1998 Western Australian Government Submission.
- Appendix C – contains a flowchart of gambling regulation in Western Australia and updates to graphs and tables supplied in the 1998 Western Australian Government Submission.