

Man is born free and everywhere is in chains (Jean Jacques Rousseau).

Industry submitters claim that “the freedom of individuals to spend their own money, including on gambling, is fundamental to a free and open society”.

Duty of Care only wish this were true...if it were, we would have the right to choose to pay no tax...We would also be free to choose to purchase highly addictive drugs and make a fortune from selling them to others as “the best vitamin pill and aid to sexual performance that money can buy”.

The major problem with the ‘individuals right to do as they please’ argument is that a free and open society cannot function without rules. Consumer protection legislation one set of rules upon which society functions. Occupational Health and Safety (OH&S) regulations are one another.

In factories throughout Australia, OH&S regulations require that any machine capable of trapping and/or severing the hands of operators have safety gates added - gates that prevent a machine from being turned on until the safety gate is in place.

If a factory reported that 5% of its workers lost at least one hand in one of their machines, community outrage would be loud and strong. OH&S officers would threaten to shut the factory down until the machine responsible was modified. If the owners of the factory failed to modify the machine after a worker was injured and a second person was subsequently injured, OH&S officers have the power to follow through with their threat.

No-one would dare suggest the psyche of the worker should be examined to try and establish why he chose to put his hand into the machine in the first place and/or what predisposing personality traits led him to be injured. The public outrage would be strong and immediate if a factory owner tried this tactic. Yet gambling industry proponents continue to suggest the psyche of gamblers be explored ad infinitum to establish why gamblers gamble and why some gamble excessively. Worse yet, they harshly criticise any research that suggests their product might be unsafe and refute the findings of any research with which they disagree.

The freedom of people to gamble on any form of gambling that has been legalised in Australia is not in question. What is in question are what rules and protections that govern the provision of some gambling products need to be in place. Duty of Care would argue that as so many people are harmed by gambling machines, the rules that govern them need to be rigidly constraining. Federal government legislation allowing for the mandatory use of smart technologies capable of;

- (1.) switching a machine on,
- (2.) enabling users to pre-set daily, weekly and/or monthly spend limits,
- (3.) automatically excluding any individuals’ use of any gambling machine once their pre-set limit has been reached and
- (4.) tracking ALL gambling machine use by ALL individuals

is essential to protect the rights and freedoms of ALL Australians (including those of problem gamblers, non-problem gamblers, their families, their friends and their co-workers).

One issue has not been adequately addressed by any submission I've read thus far – namely, suggestions as to how state reliance on gambling taxes can be reduced?

Duty of Care provided three possibilities in our first submission, but recognise that our suggestions are limited by our lack of expertise in political law.

Contributing to the difficulty states have in reducing their reliance on gambling taxes is the growth of financial dominance of the states by the Federal government. Federal government dominance of the states has occurred because of two developments.

- (1.) Limitations on the range of taxes available to the States – for example, the States' loss of access to income tax in 1942, and the High Court's interpretation of Section 90 of the Constitution that prohibited the States levying 'duties of custom and excise'.
- (2.) The use of 'specific purpose payments' (SPP's) – also referred to as conditional or tied grants – made under Section 96 of the Constitution by the Commonwealth¹

Together, these changes have resulted in a Vertical Fiscal Imbalance between state and federal governments wherein, by 2002 the Commonwealth was raising about 20% more revenue than it used for its own purposes and the states were raising from their own sources, less than 60% of the money they spent. Changes to Australia's system of taxation as a direct result of the introduction of Goods and Services Tax, have seen the states lose even more of their own indirect taxes since 2006.

Until (or unless) this vertical fiscal imbalance is addressed, state governments will fight to retain gambling taxes and ignore the harms some forms of gambling cause to the people of their state.

Duty of Care ask the Commission to invite economists and constitutional lawyers to recommend ways that states may increase state taxes so they are able to raise revenue for state government needs.

Another issue not raised by stake-holders is the issue of money laundering through gambling machines and requirements of Anti Money Laundering/Counter Terrorism Financing (AML/CTF) regulations.

Duty of Care hereby provides instructions on how to launder money through a gambling machine and avoid prosecution under AML/CTF regulations.

¹ Parkin, Andrew; Summers, John; Woodward, Dennis. 2006. "Government, Politics, Power and Policy in Australia" 8th Ed., Pearson Longman Australia. Page 139.

1. Take \$10,000 of ill-gotten gains in \$50 notes to large pokies venue.
2. Insert \$9,900 worth of \$50 notes into a poker machine, \$50 at a time.
3. Set bet at one credit.
4. Press spin button once only – betting one credit, one line.
5. Press collect.
6. Ask for “winnings” to be paid by cheque.
7. Move to different pokies venue.
8. Repeat steps 1-7 until you have \$1 million worth of cheques.
9. When police ask how you collected \$1million, show them bank statements with multiple deposits of venue cheques and claim you had a lucky spell.

AML/CTF regulations require all gambling providers be able to identify their customers. Without mandatory player registration, identification of individual gambling machine users is impossible. Further, without mandatory tracking of individual gambling spend across all venues, identifying the amount of money laundering that is occurring in some venues is going to prove impossible.

In their submission, Clubs Australia claim the SOCGS and CPGI are invalid and unreliable measure of problem gambling, and that relying on self-reports of gambling spend are also inaccurate and unreliable.

Duty of Care agrees with Clubs Australia’s assessment. Unfortunately, Clubs Australia does not offer any valid alternative to improve the validity and reliability of research. Duty of Care suggest that the accuracy of problem gambling spend and prevalence would be significantly enhanced by the introduction of a centrally monitored system to which all gamblers must register and which must be used before any person is able to gamble.

By allowing researchers access to actual gambler data (the data could be encrypted and provided in a form that made the identification of individual gamblers from the data impossible), the prevalence of problem gambling AND accurate gambling spend would be possible.

The Division on Addictions, Cambridge Health Alliance, (a Harvard Medical School teaching affiliate) have created a data repository (“The Transparency Project”) that will allow scientists from around the world to engage in a free exchange of data from privately-funded research.² (Attached to this submission as Appendix A).

Clubs Australia also claim that the evidence indicates that numbers of problem gamblers are dropping...less than two pages later, they claim, “the key trend in the characterisation and prevalence of problem gambling is the boon in online and mobile gambling offerings. **There is clear evidence that the growth in internet and mobile gambling has seen the birth of a new**

² Shaffer, Howard J; LaPlante, Debi A; Chao, Y. Evelyn; Planzer, Simon; LaBrie, Richard A; Nelson, Sarah (eds). 2009. “Division on Addictions Creates First Ever Public Data Repository and Exchange”. The Brief Addiction Science Information Source (BASIS). April 2009.

breed of problem gambler; moreover, those who already had problems have been presented with another, far less regulated outlet”.

Duty of Care note that Clubs Australia provide NO EVIDENCE in support their claim that internet and mobile gambling has increased the incidence or prevalence of problem gambling - this despite criticizing others for basing claims of gambling harm on rumour and innuendo and/or for producing research with unreliable and invalid methodology.

This suggests Clubs Australia’s predominant concern is about generating profit and, especially with regards to internet and mobile gambling, with protecting their share of gambling revenue, rather than with providing safe, fun filled entertainment for adults, supporting the community or with fostering responsible gambling. While most businesses in Australia are profit driven and protective of their market share, most do not claim otherwise.

In their submissions, all hotels and clubs claim to have Responsible Gambling programs in place and mention that they are committed to complying with all RG regulations. Unfortunately, the vast majority of clubs have failed to provide on shred of empirical evidence of the efficacy of their programs For example, Just one club provided data relating to the number of interventions their staff make in a year. They did not mention how many customers they have had to approach numerous times therefore they failed to indicate how successful or otherwise of their programs are.

Having a responsible gambling program in place but (a) not actively seeking to identify problem gamblers, (b) not intervening to prevent further losses or (c) not documenting interventions means the programs effectiveness is not measured and alterations to the program to improve effectiveness are unlikely to occur. Having a responsible gambling program in place but not using it, is like having a lawn mower but never mowing the lawn. RG programs are worth nothing without them being actioned. With no evidence collected, how are clubs to know if the programs are working, where they are working, where they are not working and where changes need to be made to improve their effectiveness? Mandatory player registration and tracking of gambling spend patterns would enable gambling providers to also track the effectiveness of their responsible gambling programs.

Clubs Queensland submission (page 25/26) “**Any policy position that is developed must be based on a detailed cost-benefit analysis.** A cost-benefit analysis will reduce the likelihood of onerous requirements and red tape being imposed on machine gaming. In other words, it will also ensure gaming venues are not faced with measures that result in negative outcomes, whilst bringing minimal or no discernable benefits to problem gamblers”. Duty of Care fully agree. We wonder however precisely when hotels and clubs will begin releasing individualized gambler loyalty card data to researchers so that

- the numbers of players, the amounts of money they spend and the frequency of each player’s visits to gambling venues are known, and
- a reliable and valid cost-benefit analysis can be conducted?

To date, the industry has refused to release such data declaring the information to be “private in confidence”. That they could release the data to researchers with individual identifiers removed seems to have escaped their attention (or worse, are deliberately ignored to prevent evidence that might challenge their claims that problem gamblers make up only a very small proportion of their customer base).

Duty of Care note that Gaming Technologies Australia’s (GTA) submission relies heavily on the findings of “The Assessment of the Impact of the Reconfiguration on Electronic Gaming Machines as Harm Minimisation Strategies for Problem Gambling” by Blaszczynski, Sharpe, Walker. This piece of research was originally published in 2001.

We also note that the concerned sector have been criticized many times in the last few years by various sections of the gambling industry – GTA included - for relying on research that is old, outdated, no longer relevant and/or no longer current.

It behooves us to point out that gambling machine design has changed significantly since the research of Blaszczynski, Sharpe and Walker was conducted.

We recommend that GTA up date their research on the matter and explore configurations of gambling machines that were not available at the time Blaszczynski, Sharpe and Walker conducted their research.

Sue Pinkerton, founding member, national President, South Australian representative of Duty of Care, problem gambling research consultant and former gambling machine addict, would welcome the opportunity to speak to our submission during any public hearings the committee holds and to respond to any questions the committee may have regarding our submission.