



Submission to the Productivity Commission's Inquiry into Australia's Gambling Industries

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Introduction

ALH Group (ALH) welcomes the Productivity Commission's inquiry into Australia's gambling industries. We consider that the inquiry represents a significant opportunity for the Government to reflect on the changing nature of Australia's gambling industries and think about ways in which gambling-related policy can be formulated with increased rigour, harmony and robustness.

ALH is a board member of the Australian Gaming Council (AGC), an industry body responsible for providing input into gambling policy and research, and as such has worked closely with the AGC in the preparation of their submission. ALH is also represented on the national executive of the hotel industry peak body, the Australian Hotels Association (AHA). ALH supports the material and views outlined in their respective submissions to the inquiry.

As the AGC and AHA submissions specifically address the Commission's questions contained in the Issues Paper (December 2008), this submission is designed to highlight the key issues of regulatory design and structure and the impact of new technologies as they affect ALH's business and the wider gambling industries.

About ALH Group

ALH has 276 licensed venues and more than 450 retail liquor outlets across Australia. We operate venues across Victoria, New South Wales, Queensland, South Australia, Tasmania and Western Australia. ALH offers a diverse array of hospitality services, including bistros, bars and restaurants, cafes, sports bars, accommodation and night clubs. Gambling products offered through our venues include varying combinations of electronic gaming machines, wagering, sports betting, and KENO.

ALH operate more than 11,000 gaming machines across Australia and have over 200 PubTAB's in their hotels.

ALH employs more than 14,500 people across Australia, including full time, part time and casual employees across our venues. ALH is a jointly owned between Woolworths Limited (75%) and the Mathieson family (25%).

Executive summary

- ALH welcomes the future introduction of proven measures that will reduce the prevalence of problem gambling in Australia. The key is to minimise the level of problem gambling while at the same time preserving the utility of responsible gamblers. The focus should be on “keeping responsible players responsible” and informed choice.
- Similar gambling products should be subject to a similar level of regulation. Traditional hotel and club venues in Australia have been subject to more stringent regulation than emerging internet and remote access gambling products. Regulatory neutrality does not imply all gambling products being subject to the same of regulation. Gambling products offered through remote means may need to be subject to an even stricter level of regulation due to the lack of physical interface and the inability to apply traditional responsible service of gaming measures.
- A formal, structured framework for gambling policy is needed to ensure regulators and government consider the policy objectives, alternative ways to achieve those objectives, and consider the social costs and benefits of each proposed policy measure. The impact of problem gambling policies on recreational (responsible players) has largely been ignored in policy making - measures should only be implemented where the expected social benefits outweigh the social costs.
- Proposed policy measures to combat problem gambling should be supported by robust scientifically-based evidence and research. Anecdotal evidence or prima facie cases are insufficient to support the introduction of policy measures. Differences in international jurisdictions must be taken into account when drawing on the experience of other countries for input into Australian gambling regulation.
- Industry participants are a critical contributor to problem gambling minimisation through self-regulation. Traditional venues are often in the best position to formulate, implement and review policy measures as they provide a physical interface between the customer and gambling product. ALH has developed its own programs and procedures to minimise problem gambling and is an active participant in local and state working groups.
- A harmonised regulatory framework across all Australian states and territories would reduce significant transactions costs for businesses operating across multiple jurisdictions and strengthen consumer protection policies.
- ALH supports The Australian Gaming Council (AGC) view that “A public health framework for understanding gambling and gambling related problems needs to be developed. The framework should take account of the costs and benefits of gambling and recognises prevention, harm minimisation and treatment strategies for vulnerable sections of the population”

Gambling regulation and policy

Introduction

Industry, government, community and the individual have a shared responsibility for the promotion, development and practice of responsible gambling. We acknowledge that problem gambling is a serious community issue and that a small proportion of customers are harmed by their gambling activities. However, and despite best efforts by industry and government to combat problem gambling, some small level of problem gambling will persist. This will occur regardless of the form of gambling, whether it is wagering, casino games, lotto or gaming machines, or how it is delivered. The key is to minimise the level of problem gambling while at the same time preserving the utility of responsible gamblers. ALH believe the focus should be on “keeping responsible players responsible” and informed choice.

Regulatory neutrality and the changing gambling industries

Introduction

It is important that the principle of regulatory neutrality is applied in the regulation of Australia’s gambling industries, that is, regulate like gambling products in a like manner. Regulatory neutrality does not imply all gambling products being subject to the same regulation, differences in regulation may be necessary where products present different risk profiles or other substantive grounds. However, where risks are comparable, regulation should be evenly weighted and consistent. In many cases, there does not appear to be any substantive justification for different regulatory approaches and many inconsistencies persist in Australia’s gambling industries.

Impact of new technologies

The nature of the gambling industry is changing. Product innovations and new forms of gambling mean that people are now able to engage in sports betting, casino games, and other gambling products via remote delivery channels providing greater options to gamble away from the traditional licensed venues (hotels, clubs and casinos). Remote delivery channels for gambling such as the internet, mobile phones and pay television have contributed to, and will continue to change, the nature of gambling in Australia.

Spending on electronic gaming machines has declined since 1999 as a percentage of household disposable income.¹ The reduction in expenditure has been impacted by many factors including a natural maturing of the market and smoking bans. However, migration to other forms of gambling has occurred (such as sports betting and internet

¹ Australian Gaming Council, Fact File, Chapter 3 Electronic Gaming Machine Expenditure 3.5.1, May 2008 (Proportion spent on **all** gambling forms in Australia by State / Territory (2001/02 – 2005/06) Source: Office of Economic and Statistical Research (2007)

gambling) in response to the unevenness of gambling-related policy. Gaming machines have been subject to quite heavy-handed regulation while other forms of gambling, for example, sports betting and internet gambling have been subject to light-handed or very little regulation. Such migration is likely to continue unless gambling products are subject to similar levels of regulation regardless of their type or delivery channel. A difference in level of regulation should only be tolerated where there is substantive evidence that a different approach is justified based on robust evidence.

There are significant risks associated with internet gambling in particular. It is our view that customers will migrate to internet gambling if they feel that legalised gambling at hotels, clubs and casinos becomes over-regulated or unduly restricted. Internet gambling sites are already in operation and provide significant risk to consumers, regulators and government. For example, there are no restrictions on credit betting – via credit cards – imposed on users of internet betting, and no maximum bet limits. Further, it is difficult to regulate underage betting and it is impossible to impose the responsible service of gambling (RSG) in a ‘virtual’ jurisdiction. Self-exclusion measures are also more difficult to enforce. Licensed venues have the advantage of specially trained staff in the responsible service of gambling who are trained to assist patrons in need. As a result, gambling products offered through remote means may need to be subject to an even stricter level of regulation than traditional venues due to the lack of physical interface and inability to apply traditional RSG measures.

The Commission and the Government needs to look closely at the issue of regulatory neutrality and provide a level playing field in the regulation of Australia’s gambling industries. The growth of gambling by remote means has the potential to reduce the level of consumer protection provided to Australian gamblers and at the same time would provide the government with less control over problem gambling in the long run.

A more robust, evidence-based approach to gambling policy making

Introduction

ALH is committed to the development and implementation of policy measures to minimise the level of problem gambling. However, we are concerned that the current approach to policy making has lacked a robust policy framework. We support the introduction of a logical, disciplined framework within which new gambling policy should be formulated and tested to ensure that only policy which provides a net social benefit is introduced into the Australian gambling environment.

Regulatory impact statement approach

ALH proposes the adoption of a Regulatory Impact Statement (RIS) type framework to apply to the development and formulation of any substantive policy measures affecting the gambling industries, and particularly, problem gambling measures. This would ensure a more rigorous, formal approach to gambling regulation.

For example, the Australian Government RIS has seven key elements, setting out:

- the problem or issues which give rise to the need for action;
- the desired objective(s);
- the options (regulatory and/or non-regulatory) that may constitute viable means for achieving the desired objective(s);
- an assessment of the impact (costs, benefits and, where relevant, levels of risk) on consumers, business, government and the community of each option;
- a consultation statement;
- a recommended option; and
- a strategy to implement and review the preferred option.²

A RIS-type framework for gambling policy will ensure regulators and government consider the policy objectives, alternative ways to achieve those objectives and, critically, consider the social costs and benefits of the measure. It is important to assess the impact of problem gambling policies on recreational (responsible players) and take this impact into account in policy making. This significant cost has largely been ignored in policy formulation. A formal mechanism for review of the policy option some time after implementation in order to assess its effectiveness is a key part of the RIS framework that is lacking in current gambling policy.

The prompt introduction of a RIS-type approach is particularly important given the current state and federal government focus on the potential introduction of player pre-commitment mechanisms and restriction on customer access to cash in venues that offer gambling products. Player pre-commitment measures impose a significant cost on industry participants and such measures should only be introduced where they can be shown to be justified on a RIS basis. Similarly, cash access at licensed venues is an important service for patrons and any further limitation is likely to reduce consumer utility and enjoyment at licensed venues. Access to cash at our venues is a whole hotel requirement with our customers utilising ATM's to obtain cash for bar, bistro, nightclub as well as gambling; wagering, KENO and gaming machines transactions. The costs of policy must be integrated into policy making decision and policies only implemented where costs of doing so are outweighed by the benefits.

Evidence-based approach

Many gambling regulations have been introduced to combat the prevalence of problem gambling since the Productivity Commission's last report on Australia's gambling industries in 1999. ALH is concerned that there has not been enough evidence-based research, both prior to, and post implementation, to determine policy effectiveness.

² Australian Government, Dept of Finance and Deregulation, Office of Best Practice Regulation, Australian Government RIS website, www.finance.gov.au, 4 March 2009.

Further, there have been so many policy measures adopted since 1999 that it is now difficult to isolate the impacts of each policy in order to assess their relative effectiveness. Evidence-based research into likely policy efficacy must be undertaken prior to any policy implementation. Further, already implemented policy measures should be reviewed and assessed as to their effectiveness in reducing problem gambling. Where policy effectiveness cannot be demonstrated based on robust evidence, measures should be abolished.

For example, the restriction of trading hours in licensed venues is widely used to attempt to combat problem gambling in Australia. While such a measure is likely to result in a drop in the overall level of expenditure in venues, it may have no impact on the level of problem gambling, or at its most perverse, may actually increase the level of problem gambling. There must be robust, scientific evidence to support the introduction of such policy measures, otherwise, the policy simply ends up imposing costs on recreational gamblers and other hotel patrons whilst providing minimal or even negative benefits in terms of effective reduction in problem gambling.

Differences in international jurisdictions should be taken into account when drawing on the experience of other countries for input into Australian gambling regulation. There are significant differences in consumer demographics, industry ownership and structure between countries. A one-size-fits-all approach to problem gambling policy will not effectively address this complex social issue. Australian-based research is critical to support any substantive policy decisions.

A Public Health Framework

We support the The Australian Gaming Council (AGC) recommendation that “A public health framework for understanding gambling and gambling related problems needs to be developed. The framework should take account of the costs and benefits of gambling and recognises prevention, harm minimisation and treatment strategies for vulnerable sections of the population. This Framework should aim to build resilience in the community.

The Framework should be consistent with public policy approaches for other industries associated with personal risk and potential negative social outcomes such as alcohol or motor vehicle usage, where a public health model has been adopted. To reduce alcohol abuse, public health policy seeks to understand vulnerable groups and risk factors. Strategies include active promotion of responsible drinking habits by providing consumer information on the consequences of excessive consumption and targeted campaigns aimed to influence “at risk” groups, i.e. youth binge drinking.”

Two recent documents produced by the National Centre for Responsible Gambling (NCRG) - US address the issue of Gambling and Public Health.³

Self regulation

It is important to note that problem gambling initiatives can also be industry-driven³ through a form of ‘self-regulation’. Industry participants are often in the best position to assess and formulate effective policies to address issues occurring in their own businesses. Further, the initiatives can be fine-tuned post-implementation to ensure maximum effectiveness based on staff and customer feedback. This is particularly the case for traditional pub and club venues as they provide a physical interface between the customer and gambling product.

For example, ALH engages David Schwarz, a well known former AFL footballer and media identity, who has overcome a significant gambling problem as its Responsible Gambling Ambassador to provide employee education and customer awareness about the importance of “being honest with yourself about your gambling”. This initiative is now in its third year and successfully supports ALH’s objective for its gambling facilities to be enjoyed as a social recreation by responsible individuals who choose to use them. David has completed an accredited Responsible Service of Gambling course and provides additional support to existing state-based initiatives.

Key elements of the program include:

- State venue manager and staff meetings covering David’s personal experiences and learning’s with the aim of assisting our staff in interacting with problem gamblers. ALH invites interested community groups, welfare agencies and local government representatives to many of these meetings.
- Venue posters and other material highlighting the importance of “being honest with yourself about your gambling”.
- Working with ALH management to further identify opportunities where we can proactively assist those who have a problem with their gambling.

David’s role includes being available for our staff to discuss any gambling problems they or their families and friends may be experiencing.

ALH also uses other indirect methods to combat the level of problem gambling. ALH positions its venues at the family and community level, they are frequently the hub of a local community - a meeting place for friends, family and social and community groups. ALH venue managers are encouraged to engage with local community groups and to facilitate the use of our venues for fundraising and events. ALH does not sanction or approve of any promotions that may encourage the rapid or excessive consumption of alcohol in any of its venues such as “happy hours” and employees are required to encourage and promote responsible consumption of alcohol. We believe that the environment and level of community feeling in ALH venues is an important contributor to detecting and addressing problem gambling when it occurs, and minimising the overall level of problem gambling.

Finally, ALH considers itself an industry leader in participating in state and local government gambling working groups to assist in identifying and developing appropriate

³ National Center for Responsible Gambling (NCRG), Increasing the Odds, Gambling and Public Health, Volume 3, Part 1 and Volume 4, Part 2 2008

responsible gambling initiatives.

So while ALH fully complies with the respective regulatory frameworks and codes of practice applicable within each state of operation, we actually go above the legislated level through self imposed measures to ensure that our venues can be enjoyed as a social recreation by responsible individuals who choose to use them.

Regulatory harmonisation

ALH believes there should be greater harmonisation between the states and territories in regards to gambling regulation and legislation. Each State and Territory appears to operate in a silo in regards to policy making. Regulatory harmonisation reduces compliance and transactions costs for firms operating across multiple state and territory jurisdictions. It can also benefit regulators through economies of scale in the production of gambling-related policy and simplifies consumer understanding of protection measures.

From an industry perspective, ALH currently incurs significant transactions costs in understanding and complying with different sets of changing regulatory regimes across Australia. In Victoria alone, there have been 41 problem-gambling legislative changes since 1999.⁴ Taken across all jurisdictions in which ALH operates, there have been over 90 legislative changes all attempting to achieve the same end.⁵ Our experience in operating across several different Australian jurisdictions (Victoria, Tasmania, New South Wales, Queensland, South Australia, and Western Australia), does not support or indicate any substantive basis for having different regulatory regimes. A national, standardised legislative regulatory framework would assist both regulators and industry alike.

A uniform regulatory approach would also assist industry players in adopting self-regulatory measures to combat problem gambling. Resources that are currently invested in understanding and complying with many different sets of regulations across states could be better expended on problem gambling prevention.

⁴ Australian Hotels Association (VIC) - attached

⁵ Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) 'National Snapshot of Harm Minimisation Strategies' 2008.