



October 2009

The Chair,
The Productivity Commission
Locked Bag 2, Collins St East
Melbourne VIC 8003, Australia

Re: Productivity Commission Report into Gambling

We welcome the release of the Productivity Commission's Report on Gaming.

The West Heidelberg Community Legal Service Inc. (WHCLS) has had and continues to have many clients with gambling problems. Often at first clients may not present as having a specific problem that is caused by their gambling addiction because of the client's embarrassment or shame. Often the connection to gambling is made over a period of interviews after trust has been established or on seeing further documentation where it becomes evident that gambling losses have formed an important part of the legal issues. The legal work often takes the form of advising clients or their families who are caught up in either criminal charges around theft, deception or dismissal from employment, eviction, debt, bankruptcy or the effect of domestic violence generated by the pressures created by gambling.

This letter is a response to your recent report on gambling and makes additional suggestions particularly around the implications for the legal system of gambling, some key concerns around transparency, provision of accurate information by both the gaming industry and state governments and cost shifting to the Commonwealth Government.

1. Background to the West Heidelberg Community Legal Service

The WHCLS commenced operation in 1975 with the volunteer legal services of John Cain, the former Premier of Victoria. Informed of the high levels of legal need in the area¹ he offered his services to the newly established West Heidelberg Health Service on a Monday night. The legal service is based within the Olympic village of 1956, the facilities of which were handed over for public housing. Today, due to tightly targeted, segmented waiting lists, many but not all, of the clients of the service come from significantly disadvantaged social backgrounds including families fleeing domestic violence, newly arrived and older migrant communities with a large proportion of people from the Horn of Africa, people with some form of disability

¹ M Cass, R Sackville, *Legal Needs of the Poor*, Australian Government Printing service (1975); M Noone and S Tomsen, *Lawyers in Conflict: Australian Lawyers and Legal Aid* (2006) 216 and J Dickson, '25 Years of Clinical Legal Education at La Trobe University' (2004) 29(1), *Alternative Law Journal*.

or mental health issues, people with poor income support or on social security benefits.

West Heidelberg is one of the most disadvantaged communities in Victoria, Australia. In research into social disadvantage in Victoria conducted in 2006, West Heidelberg was ranked twentieth in the 40 highest-ranking postcodes (out of a total of 726) for general disadvantage. This level of disadvantage was similar in 1999 and 2004. This research looked at 24 indicators, the major ones being computer use, internet access, low-income families, post-school qualifications, disability/sickness support, intervention by State child protection agencies, early school leavers, low work skills, year 12 incomplete, dependency ratio and criminal convictions.²

The legal service operates on a holistic model of problem-solving, appropriate referral, representation and advice, and active involvement in law reform and community education emerging out of identified client problems and emerging systemic issues. It is co-located with Banyule Community Health. The legal service may take on test cases to improve outcomes for community members however its capacity to do this is constrained due to its resources. The main areas of assistance of our legal service relate to criminal law with some representation, debt, fines, social security law and domestic violence. The WHCLS sees clients mainly from the West Heidelberg area but extends its catchment to include referrals made from other areas and non legal services that refer many of our clients.

2. The Problems of Gambling

One of the issues that WHCLS finds, which is of ongoing concern, is the fact that the gaming industry often seeks to narrow and limit the definition of who has a problem with gambling. This overlooks the role of industry, particularly the poker machine industry as they target vulnerable communities with opportunities for free lunches and bus trips including newly arrived CALD communities. The industry recognises these groups are susceptible to gambling because for many of these groups they have minimal opportunities of getting out of the poverty cycle for which gambling present a perceived opportunity of the 'much longed for win'. As your own research reveals, the odds are stacked against this outcome of a win for the community. Once hooked, particularly for isolated members of the community they gamble their rent money, get caught in a web of deception and lose the trust of family members and friends further isolating them. In addition, many of our clients with gaming problems experience mental health conditions such as depression and anxiety stemming from their loss of money, family breakdowns and lack of self trust. In some instances, it may well be that these people use gambling as a form of connecting and feeling better and being in a space where others rather than on their own when in fact the very nature of gaming when one visits venues with EGMs is solitary.

As long as the definitions around economic 'benefits' of gambling are narrowly defined then the full economic and social costs of gaming will remain hidden. Such economic costs include loss of income, dismissal, costs for responses to domestic violence emerging from the stress strain, frustration and anger felt by many gamblers towards family members, and the cost to businesses of deception, fraud and theft.

² Vinson T, *Dropping off the Edge: The Distribution of Disadvantage in Australia*, Jesuit Social Services Australia (2007) 66-70.

We were pleased in your Report to see that it is acknowledged that prevalence's of gamblers expressed as shares of the adult population are misleading given that most of the population do not gamble regularly. This means that the burden of losing is held by often those in the community who have the least discretionary income. The gambling situation is made even more difficult by the fact that State Governments, particularly in Victoria, (including both the current and previous government) have themselves become hooked on gambling as they rely on it now for revenue raising in their core business. This makes it very difficult as they are less than up-front about their commitment to gambling and **use money to off set social costs** which could be averted were gambling more tightly controlled and regulated in the first place. For our clients, the devastation caused to their family members, friendship circles and employers could be avoided with a genuine attempt to limit gambling and control the industry but the ongoing tension caused by this clear conflict of interest of State Government prevents any effective structural process to deter gambling. This includes Funding and Service Agreements with a variety of service agencies which limit their ability to speak out and advocate about what they see when there are harmful effects of gambling.

When the GST was introduced, one of the requests from the then Federal Treasurer, Mr Peter Costello, to the States was that the GST ought reduce the States reliance on Gaming. Unfortunately, as your own figures reveal gambling losses are on the increase as are the numbers of gamblers and the GST has not seen a reduction in the reliance on gaming revenue by State governments. In addition, there is a lot of cost shifting in terms of the costs of gambling that goes on from the States to the Commonwealth Government (see later discussion).

3. Response to Key Recommendations from your Report

Gaming Limits

It states in the Productivity Commission Report that a reduction in prevalence might be expected. This is interesting given that in our experience, the ramifications on individuals who gamble too much and feel compelled to do so are long lasting. Some take the form of very long prison terms, loss of livelihood and the trust necessary to obtain further work and family breakdown. We suggest that the impacts are long lasting for many people

The recommendations around placing bet limits given Electronic Gaming Machines (EGM) to limit the losses of up to \$1200 are a sensible suggestion.

We agree with the shut down periods being extended and commencing earlier.

Education and responsible representations to community members

Pre-commitment schemes often place pressures back onto the consumer which in a context of people who are addicted or feel compelled to gamble shifts the burden from industry back to the consumer. We suggest that by moving around or shifting and changing their pre-commitments this may not be effective and lets the industry of the hook for their often keen marketing of gaming, targeting of vulnerable communities such as areas where there are significant numbers in public housing or the elderly.

The WHCLS therefore supports pre-commitment in the context of gambling. None of our clients actually set out to lose all their money, they get caught up in the trance like state at the machine and lose all control and all their money. Whereas when they set their pre-commitment amount they are thinking a bit more logically.

WHCLS is worried about the Productivity Commission's suggestion that when gambler's reach their pre-committed amount that they can then opt out. Problem gambler's will opt out, and thus harm themselves and their family, while the so called recreational gambler would be only slightly inconvenienced and can easily increase their limit after the lock out period has expired.

We suggest that by moving around or shifting and changing their pre-commitments this may not be effective and lets the industry of the hook for their often keen marketing of gaming, targeting of vulnerable communities such as areas where there are significant numbers in public housing or the elderly.

WHCLS agrees with the call for better education at venues but notes that many people susceptible to gambling because of the low socio-economic status have low literacy and limited English language skills. WHCLS also agrees with the need for improved disclosure by industry of the rates of losses and not just wins (often the adverting literature of venues spruiks the winnings and not the losses), the amounts of spending, the myths around recovery of losses by continued play, the rapid repetition of the games and so on. Machine shut downs are critically important for people to have time to reflect on what they are doing and walk away. We are not surprised that over time industry has expressed a lack of willingness to allow 'time out' and have had to be encouraged to do so.

At the end of the day, the industry aims to make money from gaming. Given that huge amounts of losses are coming from a section of the community with the most to lose and little discretionary income, it is unrealistic to expect the industry itself to take any measures which effectively reduce their earnings. The fact that many State governments themselves (including Victoria) are addicted to gaming revenue means that there is even more need for stricter regulation on industry rather than the historic emphasis of self exclusion which is problematic.

We agree with the removal of ATMs from the vicinity of gaming venues and their lower cash withdrawal limits.

On line Gaming

The WHCLS also is concerned about the largely hidden impacts of on-line gambling and the lack of tight Commonwealth regulation to control this sphere.

Audits

We also suggest that there be regular spot checks of venues to see that they are compliant with regulatory measures recommended. Some sort of monitoring body needs to take proactive action to assess which venues are acting responsibly and also to monitor the advertising materials to ensure they are not misleading and deceptive. WHCLS recently wrote to the Australian Consumer and Competition watchdog raising concerns about advertising of winnings only in a local paper by a venue. Some years ago a group of La Trobe University Clinical Legal Education students based at

the WHCLS did spot checks on venues and found that they were not complying with agreed codes around the provision of information. We suggest a more proactive approach be taken with the auditing of gaming venues with an agency required to send inspectors with support staff and supervisors to spot poor gaming compliance.

Research on legal costs and ramifications

WHCLS is concerned at the lack of independent research into the effects of gaming before the regulatory bodies can effectively advise and the decision-making around the locations and numbers of venues for gaming that occur without good solid information, transparency and a granting of contracts. This recently occurred in Victorian with the granting of Casino licenses.

We are pleased that the Productivity Report recognises that there are significant harms caused to people by people not seen as 'problem gamblers' and note that the gaming industry continues to try to narrow definitions so that these significant harms are not effectively measured. We suggest that data collection using people who assist gamblers should be a strong source of the impact of gaming on people's life and significantly more quantitative and qualitative data from the service providers is necessary.

The WHCLS key purpose in writing this submission is to note that from time to time there has been a discussion of gathering research about the criminal costs and incidence connected to gaming. We would suggest that there are also significant other non-criminal legal issues that pertain to the costs and impact of gaming which should also be the subject of research and may be of relevant to State and Federal Attorneys General. Not only are there costs associated with criminal charges for deception, theft and fraud (as well as implications for businesses of such activities) and the court cases that flow from these that should be measured but there is an impact of debt, family breakdown and domestic violence on the legal system. It is also noted that legal problems have recently been linked to poorer health and well being outcomes. In the whole debate on gaming the costs of running a legal system to deal with problems emerging from gaming is a cost that should also be researched and measured when looking at the impact of gaming. In the past it has been stated that to measure the legal costs of gaming would be too difficult. The reality is that daily health, community, legal and social service take case histories which reveal gaming as a root cause or trigger for many legal issues and so it would not be to difficult to come up with a research methodology in this area which the author would be happy to share.

Case Study: Andrew is a problem gambler. He suffers huge losses on a regular basis and has not been paying household bills or debts and taking time off work and has borrowed from friends and work colleagues to gamble more. He loses his job, divorces, goes bankrupt and gets depressed.

4. Who Pays?

Centrelink picks up the tab for New Start Allowance, the Child Support Agency has to chase him for child support, the Federal Family Court deals with the family law property and child access issues. ITSA has to administer his bankruptcy, Medicare picks up the tab for Andrew's psychologist appointments and his initial doctor's appointments, and the PBS pays for his depression medications. All federally funded.

The State Government holds onto the gambling taxes and leaves the Federal Government to pick up the costs. If the State Governments were paying for all the above would they still be so enamoured of gambling revenues? Can the Federal Government change the State/Federal funding models to reflect the cost burdens placed upon them by gambling addicted states such as NSW and Vic?

We are also sending this letter to the Prime Minister and the Ministers for Social Inclusion, Families and Community Service and the Federal Attorney General in view of the Federal Governments potential to better regulate the gaming industry, the issues that gaming present for community members, the cost shifting to the Commonwealth and the isolation it causes and in view of the comments above about the tensions created for State Governments who are so reliant on gaming revenue.

Should you have any queries or questions on the key issues raised in this letter please do not hesitate to contact the writer on (03) 94502032.

Yours faithfully,

Dr Liz Curran
Director

cc. The Hon. Mr K. Rudd
Prime Minister

The Hon. Jenny Macklin
Minister for Family and Community Services

The Hon. Rob McLelland
Attorney General

The Hon. Julia Gillard
Minister for Social Inclusion