

SUBMISSION TO THE PRODUCTIVITY COMMISSION GAMBLING INQUIRY

In response to Draft Report on Gambling, October 2009

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Gambling Inquiry

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INTRODUCTION

Thank-you for the opportunity to contribute once more to the Productivity Commission's Inquiry on Gambling, this time in response to the Draft Report. Kildonan UnitingCare appreciates the Commission's open consultative approach on this matter and its meticulous research and analysis. We are especially appreciative of the Draft Report's strong consumer safety focus and many of its findings and recommendations that aim to uphold this, even while we differ on the detail in several areas.

As highlighted in our first Submission to this Inquiry, we have a particular interest in EGM (Electronic Gaming Machine) gambling as the main source of gambling-related problems for our service users. Thus, we were heartened by the Commission's clear recognition that EGMs are the main source of gambling problems, that a very high proportion of regular EGM gamblers have or are likely to develop gambling problems and that an unacceptably high proportion of revenue for industries and governments comes from the pockets of people with gambling problems. The Productivity Commission cites some of the solid evidence that there is, in fact, a problem with the safety of the EGM product that needs to be addressed and, consistent with this, it challenges the location of all causality for excessive gambling within the putative pathology of the gambler. Thus we concur with the Commission that there needs to be more coherent and effective regulation and policy in relation to gambling, and EGMs in particular.

We also endorse and welcome the Commission's precautionary policy approach, sitting within a public health framework that is holistic, multi-dimensional and fundamentally preventative. As noted by the Commission: '*... an excessively high standard of proof about what would reduce consumer detriment from gambling risks policy paralysis in an area where there are demonstrably large community costs from inaction...*' (p. xxvii). Certainly, the costs from inaction in gambling regulation have been very high, leading to family breakdown, divorce, child neglect, financial crisis, family violence, theft, unemployment, depression and even suicide. In fact, the EGM industry could well be described as one largely built on personal and communal tragedy. Because of this, it is important that we utilise the current Inquiry to facilitate real and meaningful change rather than more policy measures that 'lack bite', to use the Commission's own phrasing (p. xxvi). The policy suggestions we make on the following pages are offered with this very much in mind.

OUR RESPONSE

Game Features & Machine Design (Chapter 11)

Of most importance, we believe that regulation should require that EGMs and their games are safe and do not routinely induce excessive gambling, before they are allowed into the community. Currently the Gaming Machine Standard neglects the dimension of consumer protection, while addressing other considerations such as game fairness, probity and revenue protection. This regulatory deficit needs to be remedied as a matter of urgency, given the high human and social costs of delay. We also believe that EGM safety should be monitored once products are in use in the community and that machine and patron data should also be collected and analysed to inform ongoing consumer protection measures. (Methodologies for tracking the level of problematic gambling in venues and within patron populations are well established and could be drawn on for this purpose. As with the monitoring of health standards in the hospitality industry, this could be carried out randomly, but with substantial penalties for breaches).

As the Commission highlights, current drivers for the shape and direction of the gambling industry are revenue collection for governments and industries. This factor needs to be radically changed within gambling policy and regulation so that consumer and citizen safety becomes a prime imperative. For this reason, we believe that it would be a mistake to overly-rely on detailed prescriptions for change e.g. changes to EGM design features i.e. in the absence of fundamental changes to incentive arrangements. This being said, we endorse the following recommendations of the Commission:

- ***In all jurisdictions, the maximum bet limit on gaming machines should be set at one dollar.*** (However we disagree with the exemptions, particularly for ‘high rollers’ – if these are defined as big spenders they may, in fact, be people with gambling problems).
- ***In all jurisdictions, the maximum amount of cash that can be inserted into a gaming machine should be \$20, with no further cash able to be inserted until the maximum credit on the machine falls below \$20.*** (However we disagree with the exemptions – see above).
- ***Governments should ensure that gaming machine players are informed about the cost of playing, through disclosure of the ‘expected’ hourly expenditure and the percentage cost of play.*** (However, we need to be mindful that current ‘unsafe’ machines provide erroneous information within the course of normal interaction with the machines. This erroneous information is embedded cognitively and in routine bodily processes and is no less powerful for being subliminal. Once someone is ‘hooked’ or has lost control, simple messages are unlikely to counteract this. Thus, we reiterate, the machines themselves need to be safe).

We believe that linked jackpots, as an inducement to people to keep gambling beyond their initial intentions, should be banned. In fact, in a study for the Victorian Government Department of Justice, ‘*Impact of Changes to EGM Characteristics...*’, Schottler Consulting found that ‘problem gamblers’ were more attracted to linked jackpots while ‘recreational players’ were not ‘overly affected’ (2009, p. 8).

Pre-commitment (Chapter 7)

While we endorse pre-commitment as a policy measure to prevent gambling-related harm, we do not believe that an ‘opt out’ pre-commitment system would be generally effective as people with the most

entrenched gambling problems could too easily leave the system. In other words, an 'opt out' pre-commitment system is for gamblers who are still in control of their gambling – not for those who have lost control, which is a key definer of 'problem gambling'. Similarly, a pre-commitment system with no limit to the pre-set figure could be easily circumvented. At the same time, even an 'opt out' pre-commitment system could provide a 'reality check' and prevent some from developing a full blown gambling problem. Certainly with an 'opt out' pre-commitment facility, stringent EGM safety regulation would be absolutely essential (see above) – otherwise gambling policy would 'lack bite' in line with a range of ineffectual policy measures over the last decade (PC, 2009, p. xxvi).

For these reasons, we think that there should be a compulsory daily limit for everyone and we are further suggesting that this might be \$100 per day. To use the Commission's own reasoning in proposing to reduce the intensity of EGM play, if it is just another form of entertainment most people would not need to spend more than this anyway. To support this contention, one study for the Victorian Gambling Research Panel, *'The Relevance and Role of Gambling Machine Games and Game Features on the Play of Problem Gamblers'*, found that problem gamblers' average spending per visit was \$70.00 while non problem gamblers was \$35.00 (AIPC, 2008, p. 17) – so \$100 a day should not be considered to be particularly radical or onerous for most gamblers. In addition, it should be pointed out that \$100 per day could still add up to quite a substantial figure over time, especially for low income earners at whom this product is largely targeted. This study also found that it is the open ended nature of EGM gambling that is hazardous (2008, pp. 18,19) thus we really do need to have compulsory limits on what can be spent or lost if we want to prevent EGM-related harm at a fundamental level or 'upstream' point.

Identification of Problematic Gambling and Self Exclusion

In terms of the technology to be utilised for a pre-commitment system, a card monitoring and tracking system could be extremely valuable as part of a system for identifying people with gambling problems or those on the way to having a problem (as length and frequency of gambling sessions are among indicators identified in the research of in-venue identification of 'problem gamblers'). (For example see the Gambling Research Australia [2007] report: *'Identifying Problem Gamblers in Gambling Venues'*, p. 19). A pre-commitment card could also be invaluable for enforcing universal self-exclusion i.e. if a card was required to play on all EGMs in any venue. In line with these comments, we endorse the following recommendations of the Productivity Commission:

Governments should modify existing self-exclusion arrangements so that:

- self-exclusion applies to all venues in a jurisdiction, triggered by a single, simple application by the gambler concerned*
- people who have self-excluded would be placed on a state-wide database*
- venue staff request identification from gamblers collecting cheques for major prizes.*
- As in Victoria, there should be confiscation of prizes won by persons shown to be in breach of self-exclusion orders.*

Governments should ensure that, in any of the self-exclusion programs offered by venues, gamblers have the choice of:

- immediately invoking self-exclusion at the venue (without interview), or*
- excluding themselves at a place outside the venue, or*
- to the extent, practicable, being able to self-exclude through remote means.*

Governments should ensure a more coherent approach to the diverse set of existing provisions for self-exclusion periods and revocation by requiring that:

- self-exclusion agreements run for a minimum of six months*
- revocation only be permitted after evidence of attendance at a counselling service and the judgment by an appropriate professional about the capacity for the person to safely gamble*
- people seeking revocation should, after a successful application, face a period of up to three months before it takes effect*
- subject to evidence and due process, there be a capacity for family members to make applications for third party exclusions and for nominated venue staff to initiate involuntary exclusions of gamblers on welfare grounds. (This is very important, given the common occurrence of ‘emotionally transmitted debt’ from people with gambling problems to close others, as witnessed first hand by Kildonan financial counsellors)).*

Finally, a pre-commitment system should be implemented well before 2016, given the urgency of the problem and the high human costs of delay.

Access to Cash & Credit

As the Productivity Commission is well aware from its own research, easy access to cash, especially ATMs in venues, is strongly implicated in the genesis and exacerbation of excessive, uncontrolled gambling on EGMs. This has been well established across quite a few studies. Certainly this is a policy area where a Precautionary approach should be applied and ATMs should be banned from venues. (Ref: Gambling Draft Report, 2009, p. xxvii). Otherwise, we endorse other recommendations of the Commission in relation to access to cash and credit, as listed below.

Governments should fine-tune existing regulations of EFTPOS facilities by introducing the following changes in gaming venues:

- Cash withdrawals from EFTPOS facilities should be limited to \$200 a day.*
- EFTPOS facilities should be a reasonable distance from the gaming floor, visible to the public and venue staff, yet not to gamblers from the gaming floor.*
- Warning and help messages should be clearly visible on EFTPOS facilities. (However such a measure should be seen as ‘necessary but not sufficient’ in preventing gambling-related harm. As discussed above, regulation should require the machines to be safe before they become accessible to the public).*

... Governments should prohibit the use of credit cards for gambling (without exemptions).

Governments should require venues to pay any gambling prize above \$250 by cheque or direct credit to the gambler’s account, except for international visitors in casinos (without exemptions for high rollers).

Governments should impose the following cheque-cashing requirements on gambling venues, other than casinos in respect of high rollers and international visitors:

- Winners’ cheques should not be allowed to be cashed*

In relation to: ‘*The Commission seeks views on the practicability of exempting casinos from draft recommendation 9.1 in relation to their high rollers and international visitors*’ we would not endorse this, especially as the term ‘high roller’ could conceivably be used to describe a ‘big spender’, which also characterises people with gambling problems who, incidentally, are not necessarily gambling with their own money.

We would also have the cashing of self-drawn cheques prohibited, especially as this might add to the amount of \$200 accessed through venue EFTPOS facilities, in addition to any funds initially brought into the venue.

Venue Activities (Chapter 8)

We endorse the following recommendations of the Productivity Commission in its Draft Report on Gambling:

Governments should enhance existing compliance and complaints-handling arrangements by:

- enabling their gambling regulators, or accredited compliance auditors, to regularly appraise gambling venues’ compliance with harm minimisation measures, both mandatory and voluntary, and publicly report their findings*
- introducing a mechanism for gamblers and venue staff to make complaints to the relevant gambling regulator about venue conduct contributing to problem gambling. This mechanism should be promoted to gamblers within venues and to staff through their responsible gambling training.*
- enabling their gambling regulators to publish annually the number and nature of complaints about a venue, the action taken and, where the complaint is substantiated, the name of the venue.*

Governments need to enhance gamblers’ capacity to obtain judicial redress against gambling providers that behave egregiously. This could include a new statutory cause of action to apply in circumstances where a venue-based provider has behaved in specified ways that would clearly contribute to harms.

Governments should enhance existing training requirements by:

- preparing problem gambler identification and intervention guidelines for venues, including a short list of commonly agreed indicators of problem gambling*
- requiring gambling venues to provide staff training on these guidelines and on the process for lodging complaints about a venue.*

Governments should prohibit venues from offering inducements that are likely to lead to problem gambling, or are likely to exacerbate existing problems, including offering free alcohol or food to a patron who is gambling. (We would include linked jackpots in such a ban on inducements).

With reference to 'The Commission invites participants to comment on penalties or disciplines that gambling regulators could impose on venues for breaches of mandatory harm minimisation measures', we believe that there should be monitoring of gambler safety as well as venue compliance. As noted above, there are fairly well established methodologies that could be adapted and utilised for the purposes of both evaluation and research. Financial penalties and 'shut downs' of premises in extreme cases would be effective as part of a suite of criminal and civil sanctions, (just as restaurants are shut down when health regulations are breached and public health and safety is deemed to be at risk).

Accessibility of Gaming Machines (Chapter 10)

We strongly endorse the following recommendation and that a compulsory, universal shutdown period be implemented from midnight to 10 am.

Drawing on the Queensland approach, governments should introduce a shutdown period for gaming machines in all hotels and clubs that commences earlier, and is of longer duration, than currently.

In this context, we would like to highlight a study carried out by Borderlands Cooperative in 2002 for Gambler's Help Southern: 'Vulnerable Groups Project', which found that EGM gambling was particularly hazardous for certain shift workers who routinely gambled on EGMs in the early hours of the night.

On line Gambling

Although this submission focuses on EGM gambling, we would like to register our opposition to removing the ban on Internet gambling in Australia. While the Commission appears to reason that Australians will merely replace their gambling on 'hazardous' overseas sites with gambling on 'safe' Australian sites, this flies in the face of the history of gambling expansion over the past forty years i.e. gambling activity tends to expand with de-regulation, the proliferation of new products, increased marketing and a higher level of cultural legitimisation and normalisation. Given that Internet gambling shares many characteristics that render EGMs unsafe e.g. the facility for continuous staking, intermittent reinforcement and easy accessibility, we predict that there would be a substantial increase in excessive and uncontrolled gambling with the legalisation of Australian on line gambling.

National Regulation

Given the general ineffectiveness of state policies since the Productivity Commission's initial inquiry into gambling in Australia in 1999 and the competing imperatives of revenue raising (and revenue protecting) and safeguarding public health, we strongly recommend that the Commission explore avenues for national regulation of the gambling industry, in particular EGM technical standards in relation to consumer safety. As a general principle, we also endorse the proposal for a research body that is independent of the good will of gambling industries and governments which have become dependent on and protective of gambling industry revenue over time.

In the absence of strong national regulation we recommend that states are no longer fiscally rewarded for their gambling revenue dependence within commonwealth-state funding agreements. In particular, state dependence on forms of gambling known to be problematic, such as EGM gambling, should be fiscally penalised in calculations of tax revenue allocation from the Federal Government.

Conclusion

Thank-you for your attention to our second Submission in response to your Inquiry into Gambling. We would like to express our ongoing appreciation for the Commission's conscientious and well-informed analysis of gambling policies in Australia. Please feel free to contact us for clarification of any of the points we have raised.