



ACT Government submission

Productivity Commission's Draft Report into Gambling

December 2009

The following comments are provided in relation to selected draft recommendations and findings of the Productivity Commission's (PC) Draft Report on Gambling. The ACT notes that a significant number of the Productivity Commission's recommendations would require a coordinated and/or national approach. These recommendations will need to be considered by the Ministerial Council on Gambling following the release of the PC's final report.

Draft Recommendation 5.4

Governments should ensure that, existing funding mechanisms for help services are based on greater contributions from those gambling forms found to involve the greatest social harms.

Comment:

This draft recommendation and accompanying text suggests that the gambling industry should be required to fund help services through hypothecated taxes/levies. While noting concerns about models where taxes are collected in a discriminatory fashion across gambling sectors to fund help services, the ACT does not support this recommendation as drafted.

In the ACT, ClubsACT and ACTTAB have provided \$1m over 3 years to Lifeline Canberra to deliver specialist gambling and financial counselling services to participating clubs and ACTTAB patrons. Some gaming machine licensees also choose to make contributions to alleviate problem gambling as part of the community contributions scheme. In this regard, the gaming machine and racing and wagering gambling sectors are making a substantial contribution to alleviating the social harms associated with gambling.

The casino, gaming machine licensees and sports bookmakers pay taxes and the casino and sports bookmakers also pay an annual licence fee. These monies are directed into consolidated revenue, from which the ACT Government provides

funding to Lifeline Canberra and Care Inc for counselling and support services including for gambling and financial matters.

Draft Recommendation 7.3

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*
- *people signing deeds of exclusion be able to reverse their agreement within 24 hours*
- *agreements for periods of three years or less cannot be revoked until at least six months after their starting date, while agreements for periods of more than three years cannot be revoked until at least one year after their starting date*
- *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.*

Comment:

The ACT suggests that self-exclusion requirements should have some flexibility in the detail of their operations to allow venues to tailor an individual's needs. In this context the ACT's mandatory Code of Practice deliberately does not prescribe minimum periods of self-exclusion or when and on what basis agreements can be revoked.

The scheme outlined by the Productivity Commission does not seem to be a voluntary self-exclusion scheme as it appears that a participant cannot choose to leave at any time. Such a scheme would run into problems of contractual relationships and enforceability.

Importantly, if a person in the ACT chooses to revoke a voluntary agreement with a venue and the licensee considers that the person's problem gambling issue still places them at risk, the licensee must then initiate a "licensee exclusion".

The current ACT scheme is designed to provide each licensee with a degree of flexibility to deal with each case in accordance with the specific circumstances. The trained Gambling Contact Officer (trained to assist people with problem gambling issues) in each venue assists the person undertaking the exclusion to determine the appropriate timeframe and requirements (for example single or multi-venue exclusion).

Exclusion requirements that are too prescriptive can have the perverse effect of discouraging a person from self-excluding as they may be perceived as being too onerous.

In relation to third party exclusions, these can be undertaken in the ACT indirectly through existing mechanisms whereby a family member can confidentially discuss a loved one's gambling behaviour with a venue's trained Gambling Contact Officer (GCO). The GCO must then act on this information although it is not mandatory for the person to be excluded. The Gambling and Racing Commission's regulatory experience with the casino where third party exclusions used to be available under the statute indicates that third party exclusions can be problematic with vexatious complaints.

Draft Recommendation 13.1

The Australian Government should work with state and territory governments to develop a national funding model for the racing industry. This model should be underpinned by national legislation and should replace state and territory based arrangements. The key element of this model would be a single levy, universally paid on a gross revenue basis:

- *The levy should replace all other product fees currently paid by the wagering industry, but need not affect other funding channels, such as sponsorship of race meetings.*
- *The levy should be set and periodically reviewed by an independent national entity with the object of maximising long-term consumer interests.*

In setting the levy, the entity should engage in public consultation, and the bases for its decisions should be detailed in a public document.

Comment:

The ACT has actively promoted a national product fee scheme with the other States and the Northern Territory. The ACT approached other jurisdictions on this issue which resulted in an investigation into options for a national scheme by the State only Heads of Treasuries.

While it is noted that a national approach lead by the Commonwealth would achieve the desired national approach, there may be difficulties in achieving this outcome. Therefore it would be helpful for the Productivity Commission to analyse or explore possible alternative approaches to achieving a similar national or co-ordinated outcome. For example, states and territories could work towards adopting a harmonised scheme that would reduce the regulatory and administrative burdens imposed by the current schemes.

Draft Recommendation 15.1

All jurisdictions should improve the usefulness and transparency of gambling survey evidence by:

- *conducting prevalence surveys at the same time and using a common set of core questions*
- *making de-confidentialised unit records of gambling surveys available in a public domain data archive, at no cost to users.*

Comment:

While common measures across prevalence surveys would be useful, the ACT considers that it is not appropriate or desirable for jurisdictions to have to conduct surveys at the same time. If a 'national' survey is required then this should be a separate exercise funded by the Australian Government.

In relation to the establishment of common measures, it is important these not be based on the 'lowest common denominator'. The choice of measures should be informed by high quality national and international research. The measures should be established as having a high degree of reliability and validity by existing peer reviewed literature, or via a rigorous evaluation process. The instruments would also need to be administered as specified by guidelines to ensure comparability. The ACT stresses the importance of being open to improvements in research methods and instruments over time and the need for jurisdictions to collaborate to determine how best to incorporate such improvements within prevalence surveys.

There would also need to be appropriate controls for the use of de-confidentialised unit records from gambling surveys, at no (or limited cost) in a data archive. The establishment of a data archive must conform to the Privacy Act and guidelines for ethical research (NHMRC). For instance, to access the Household, Income and Labour Dynamics in Australia (HILDA) datasets, potential users must apply and agree to stringent protocols regarding data storage, use, security, confidentiality, and reporting. Potential users must also specify their research topic, and be

affiliated with an appropriate institution who also approves their application. These requirements are a part of the guidelines for ethical research.

Draft Finding 10.1

The prohibition on the casino in Canberra from operating modern gaming machines is not warranted. Permitting the casino to operate gaming machines within the existing ACT cap, subject to the application of appropriate regulatory harm minimisation measures, is not likely to increase accessibility or increase gambling harms.

Comment:

The ACT has adopted a community gaming model whereby the profits from gaming machines are returned, directly, to the community. This is a longstanding policy of governments in the ACT. The rationale behind restricting gaming machines from the casino is in keeping with the community gaming model, it is not directly related to a harm minimisation strategy.

When the Canberra casino licence was offered for sale by tender in the early 1990s it was made clear at that time that gaming machines would not be permitted as part of the development.