

19 December 2009

Gambling Enquiry
Productivity Commission
GPO Box 1428
Canberra City ACT 2601

Dear Mr. Banks

SUBMISSION TO THE PRODUCTIVITY COMMISSION GAMBLING INQUIRY – POST DRAFT SUBMISSION

This submission deals with the Commission's draft insofar as it relates to gaming machines and other aspects of gambling in Australia.

There are many matters upon which I would wish to comment. However, I have run out of time and am thus confining my comments to just a few, and not necessarily the most important, issues.

GAMING MACHINES AS HYPNOTIC DEVICES

At page 11.13 of the Draft Report the Commission accepts that many problem gamblers enter a trancelike dissociative state.

It is not clear why the state is referred to as trancelike. It is clear the machines induce a state of trance in the players.

The Commission seemed to accept that this led to some loss of control. But if the players are playing in a state of trance there is a whole lot that flows from that.

Four questions that should be asked are:

- (i) If the machines induce a state of trance in the player, does this make the machines hypnotic devices?
- (ii) What is the effect of a hypnotic trance on the judgment of the players?
- (iii) Do the machines use hypnotic suggestion?
- (iv) Is the "reasonable man" test applicable?

1. Are the machines hypnotic devices?

The trance induction procedure in the case of pokies is an ergotropic trance induced by auditory, tactile and visual driving. *The usage of repetitive rhythms to induce trance states is an ancient phenomenon. Throughout the world, shamanistic practitioners have been employing this method for millennia.*¹

Trance states can be induced not only by meditation (trophotropic trance) but also by activity (ergotropic trance). One may, for example, observe the role of rhythm in trance induction, in the case of African tribal drumming.²

¹ Source: Wikipedia entry "trance"

² The usage of repetitive rhythms to induce trance states is an ancient phenomenon. Throughout the world, shamanistic practitioners have been employing this method for millennia. [Source: Wikipedia entry "trance"]

*The defining characteristic of a hypnotic trance is that a hypnotist creates an external trance loop which supports the creation of an internal trance loop. Both loops together create the condition for a hypnotic trance to occur.*³

In this case, the trance is maintained by an outside agency, the machine.

The machine creates multiple trance loops using tactile, auditory and visual repetition. This creates a strong trance.

*A hypnotic trance becomes a strong trance when there are multiple trance generating loops. That is, multiple loops create multiple trances⁴, which are additive in effect. The sum effect of multiple trances is a stronger trance. This means that if a hypnotist uses only one type of loop, the trance produced will be very light and easily broken. Generally, hypnotic trances consist of multiple trance generating loops in order to produce a strong or deep trance. However, simple one loop trances are easy to create and can also be effective carriers of suggestion with the right subject.*⁵

Not only are there multiple trance loops but the loops use different modalities.

*In NeuroLinguistic Programming or NLP, hypnotherapists speak of “different modalities”, that is, using words associated with different physical senses. They assert that it is the simultaneous use of different modalities which produces strong trance. The Trance Model makes the analysis somewhat differently. Each modality or sense has a strong cohesiveness of association. The associative contents of each sense do not overlap except metaphorically. So, when different senses are used simultaneously the cohesiveness of association is lowered dramatically resulting in an increase in the wyrd. When a loop is used in that context, a trance is certain to result.*⁶

2. What is the effect of a hypnotic trance on the judgment of the players?

A number of cognitive functions are disabled during any meditation. Moreover, the order in which cognitive functions are disabled will define important characteristics of the specific meditation trance. A meditation trance can result in a variety of dissociative conditions including short-term memory failure, more general temporary memory loss, disabling of normal association structures, decrease in associative cohesiveness, increased literalism, disabling of critical judgment, enhanced inner involvement, including the production of so called delusions and/or visions of other realities. These variations can be enumerated and described more fully by reference to specific cognitive functions and the order in which they are disabled or modified. Because this mechanism of trance creation is not well known, many people make an error by wrongly associating an effect of a trance with a cause of trance. The cause of a trance is the repetition of

³ Dennis Wier, “The Way of Trance” Trance Research Foundation Inc. 2007 at page 84

⁴ [wyrd (W): 1. a measure of the power of a trance to resist any change in the effects of the trance; 2. a measure of the ability of a trance to change destiny; 3. A measure of the energy effects of the changes of cognitive functions due to a trance.]

⁵ Wier at page 89

⁶ Wier at page 89

*cognitive objects; the result of a trance is the set of disabled cognitive functions.*⁷

3. Do the machines use hypnotic suggestion?

Yes. Within the trance state the suggestible subject is subjected to (at least) three hypnotic suggestions.

3.1 “Winning” statements on just about every bet.

Say the player bets 26 lines – say bet of \$10 total. The player is likely to win on average one line out of every eight so with 26 lines the player is likely to win at least one line on each spin but usually less than \$10 - a net loss.

However, the machine takes the winning line as a win and announces something like, “You’re a winner!” Where the player is in a hypnotic trance this statement is accepted on face value and it may be repeated many times during a session of 1,200 pushes per hour.

3.2 Starved reels (near misses) cheating device

This is a cheating device like the crooked cat game or the crooked milk bottle game.⁸ The machines are designed to make getting a line of symbols look much easier than it really is. The players assume the reels are the same. But in fact each symbol, e.g. the Jack, is starved on one of the first three reels. In the reel table shown below, the Jack is starved on reel 2. On reel 2 there is only one Jack whilst there are six and five on the adjoining reels – and four on each of reels four and five. The player will keep getting Jacks on reels one and three but miss the middle reel as the Jack is only about one fifth as likely to come up on that reel.

Machine

Symbol	Reel 1	Reel 2	Reel 3	Reel 4	Reel 5	Combinations	Perceived Combin.	
Nine	1	4	7	1	4	40	604	
Ten	1	5	5	4	4	400	711	
Jack	6	1	5	4	4	20	480	1024
Queen	6	5	1	4	4	240	604	
King	6	1	2	3	4	180	454	
Boat	1	2	1	1	1	6	2	2.5
Ten	1	1	1	1	5	1	1	
Scarab	1	2	1	1	1	1	5.4	
Pyramid	1	3	1	1	1	1	5.2	
Isis	1	1	1	1	1	5	1	1

Note: The table above is a reconstruction of the data shown in the image. The original image contains several callouts and annotations:

- Callout: "Nine starved on reel 1" (points to the '1' in the Nine row, Reel 1 column)
- Callout: "Ten starved on reel 1" (points to the '1' in the Ten row, Reel 1 column)
- Callout: "Jack starved on reel 2" (points to the '1' in the Jack row, Reel 2 column)
- Callout: "Queen starved on reel 3" (points to the '1' in the Queen row, Reel 3 column)
- Callout: "King starved on reels 2 and 3" (points to the '1' in the King row, Reel 2 column)
- Callout: "9, 10, J, Q and K are all starved on one of the first three reels" (points to the '1' in the Nine row, Reel 1 column)

⁷ Wier at page 39

⁸ Concealed asymmetry is the feature of these cheating devices. In the crooked carnival cat game, you throw balls at four stuffed toy cats to knock them off a shelf. The cats look the same but two are weighted so the game looks easy but it is hard to knock all the cats off the shelf and get a prize. The crooked milk bottle game, with skittles shaped like milk bottles, works the same way with three light bottles and two heavy.

3.3 Archetypal symbolism

The relationship between escape gambling and machine symbolism is explained in my lecture to the C. G. Jung Society of Melbourne – “The Zone of the Pokies Addict” 19 June 2009. Put simply, the activity of the escape gambler is akin to ritual worship with the machines and their spiritual symbols taking the place of shrines or altars.

Wier explains it as follows (though archetypal symbolism can in the same way as words trigger emotionally heavy memories or, more significantly, constellate archetypes):

*Words or triggers to emotionally heavy memories will tend to engage a person in internal mental thoughts, visions and memories. These types of word triggers [and I would add, symbols] make it relatively easy to establish trance in those persons who are easily drawn into such internal processes. When such triggers are chosen as mantras, it becomes especially easy to establish addictive trances. With a lot of repetition, isolated practice, devotion, and rituals or practices which anchor somatic secondary trance generating loops these religious addictive trances can become fixed, narrow and centric – where the most important thing in the world is the religion – with a rich range of compulsive and delusional ideas.*⁹

4. Is the “reasonable man” test applicable?

The approach of the Commission to player protection must not apply a “reasonable man” test and assume the player remains in an ordinary waking state. The machines are hypnotic devices and, as Wier points out, a person in a trance suffers from the disabling of a number of cognitive functions including:

- short-term memory failure,
- more general temporary memory loss,
- disabling of normal association structures,
- decrease in associative cohesiveness,
- increased literalism,
- disabling of critical judgment,
- enhanced inner involvement, including the production of so called delusions and/or visions of other realities.¹⁰

The normal consumer protection tests obviously do not apply.

The Commission’s recommendations in Chapters 6 to 11 are predicated on a normal consumer protection model which fails to take into account the trance inducing nature of the machines. Put simply, the recommendations will fail. I see this report as an interesting report on many fiscal aspects of gambling but it has not covered the human side of problem gambling in any depth and that still needs to be done by an organization with different skills.

⁹ Wier at page 60

¹⁰ Wier at page 39

Allied with this is the recommendations are focussed on money and fail to appreciate that much of the distress caused is not the money but the loss of control, the way the machines mess with the problem gamblers' minds. In the case of Sandra Perrett, for example, the amount she stole was only \$6,100, not a large sum. Yet the machines had so deranged her mind that she stabbed an elderly lady sixteen times with a boning knife.¹¹ Although her conduct was inexplicable at the time, it is now clear that she was delusional and acting under a powerful unterminated hypnotic trance.

STARVED REEL CHEATING DEVICE

The mechanism of starving reels has been described as a deceptive device by a number of experts including:

- Warren Weaver, one of the USA's top scientists, director for the natural sciences at the Rockefeller Foundation, vice president of the Alfred P. Sloan Foundation, recipient of the Medal of Merit (USA), the King's Medal for Service in the Cause of Freedom (UK) and an officer of the French Legion of Honour.¹²
- Professor Jerome Herbert Skolnick, former President of the American Society of Criminology.¹³
- Robert N. Peccole, Nevada lawyer, Nevada Gaming Commission member.¹⁴

As I pointed out in my paper "Comments on Near-Miss Slot Machine Design" dated 3 January 2008, "a number of experts over a span of more than seventy years, who have become aware of the near-miss techniques, have all regarded them as deceptive and as having the effect of increasing play by deceiving the player." It is not only these experts but it is clear from the comments of Skolnick and Peccole that it was widely accepted in the industry the device was deceptive and, by reason of that deception, stimulated play.

¹¹ In R v. Perrett (Supreme Court of Victoria, unreported, August 1996), Hampel J. sentenced Mrs Sandra Perrett to four-and-a-half years imprisonment (with a minimum non-parole period of two years) on her plea of guilty to attempted murder, burglary, aggravated burglary and six other charges involving deception and theft. Mrs Perrett was the formerly blameless wife of a policeman and mother of three children employed as a teller with the National Bank of Australia. To feed her gaming machine habit Mrs Perrett stole \$6,100 from the account of Mrs Gladys Lovell (92). In an attempt to cover her crime she went to Mrs Lovell's home and stabbed her 18 times with a 27cm butcher's boning knife. Mrs Perrett, who had been functioning normally before her introduction to the machines was considered barely fit to plead and the anger of the victim's relatives was directed towards the machines. [Source: Herald Sun Newspaper "Attack ruins a life" Lynda Dugdale, "Gambling led to frenzied attack" Wayne Miller and Tanya Giles 2 August 1996 - Herald Sun Newspaper "Poke addict admits knife kill attempt" Norrie Ross 14 June 1996]

¹² "Lady Luck – The Theory of Probability" by Dr. Warren Weaver, Heinemann, London, 1964 at page 158

¹³ House of Cards – the Legalisation and Control of Casino Gambling by Jerome K. Skolnick, Little Brown & Company, Boston, Toronto 1978 at page 64

¹⁴ License to Steal – Nevada's Gaming Control System in the Megaresort Age Jeff Burbank University of Nevada Press 2005 - Chapter 4 titled "Near Miss at page 123

As Roger Horbay and I made clear in the “Unbalanced Reel Gaming Machines” paper¹⁵, the starved reel (referred to in that paper as the “unbalanced reel”) technique is a cheating device.

Now if the device were ok, why should there be a tacit understanding within the media not to publish it. Apart from an obscure reference in the Players Handbook¹⁶ the gambling industry does not alert players to the fact reel starving is used on the machines and the press will not mention it. Three times I have been approached and interviewed by journalists from one media outlet and each time the story was killed. On another occasion, a journalist writing on another aspect of machine design, when I raised the subject of reel starving, simply said, “Oh, we know about that.” The implication was clearly there was some sort of D-notice (or G-notice?) out on the topic.

Sue Pinkerton has stated she sees the excitement and frustration of players in the venues and I have seen the same thing myself. I was in the Hawthorn Football Club when a friend got four symbols, missing on reel two, and he turned to me, his face flushed, and said, “Look at that!”¹⁷ The observations of player behaviour within gaming venues are obviously a far more accurate indication than artificial studies no matter how much the results are tabulated and mathematically examined.

To my knowledge, there is no independent study of the effect of starved reels upon which your Commission can base its view, against a flood of evidence to the contrary, that starved reels:

- are deceptive and
- by that deception, stimulate play by altering the players perception of his or her chance of success.

The University of Sydney study¹⁸ your Commission has relied on does not test on starved reels but confuses the US and Australian machines. Our machines do not use mapping. Mapping does not work with multi-line machines. Some of the near misses were actually winning where multiple lines were played.¹⁹ If they win, they are not near misses.

Other deficiencies with the study were:

The participants:

- were not in a state of trance
- knew they were being tested
- were not in a venue being subjected to auditory and visual stimuli

¹⁵ www.gameplanit.com/UnbalancedReels.pdf

¹⁶ Australian gaming industry player information booklet published by the Australian Gaming Machine Manufacturers’ Association pages 15 & 16

¹⁷ Of course he may have had a near miss rather than the far more probable far miss. But how would we know?

¹⁸ The identification of near misses in electronic gaming machines and its effect on gambling behaviour - Sharpe, Blazczynski and Walker

¹⁹ Pages 61 and 62

- were not playing with their own money^{20 21}
- were not playing on machines (query whether the computer graphics clocked down)
- were not playing truly random games
- would have expected they were supposed to play for a set time
- were not tested by the more scientific methods of galvanic skin response (as is done in the University of Waterloo) or electroencephalography.

These machines are acknowledged to be dangerous and they breach two fundamental gaming regulatory rules. First, their operation is unknown to the player and secondly they use concealed asymmetry and are thus deceptive.

If the Commission endorses the starved reel cheating device it is saying it is ok to cheat. Even if your Commission relies upon the University of New South Wales study it is saying it is ok to cheat - as long as players do not realize. Where does this logic end? The Commission is saying it is ok for Australian casinos to use loaded dice as long as the players do not notice. The Commission is saying it is ok for Australian casinos to short their Blackjack decks as long as the players do not notice.

GAMING MACHINE PLAYERS SUING VENUES

The prospect of a gaming machine problem gambler successfully suing a venue is remote for a number of reasons including:

- The problem gambler is not only broke but suffering severe psychological trauma.
- The problem gambler has probably played in a number of venues and no receipts are issued.
- The industry has a number of high-profile industry experts signed up who will all say staff cannot pick problem gamblers.
- It is beyond the charter of government-funded service providers to give evidence in civil cases.
- In order to be self-excluded, the problem gambler must sign a deed poll which binds the gambler as it contains acknowledgements, undertakings, authorizations, releases and indemnities in favour of

²⁰ Glasgow University carried out an experiment monitoring the heart rates of gamblers. In a simulated game of blackjack the gamblers' heart rates showed a tiny rise. The heart rate of the same subjects playing for money in a casino "shot up" by an average 25 beats per minute. One gambler's heart rate went from 72 to 130. [Spanier "Easy Money - Inside the Gambler's Mind" Penguin 1987 at page 144]

²¹ *"Playing with chance is exhilarating and captivating. ... When stakes are added, you play with risk as well as with chance."* [Source: Rev Gordon Moody MBE "Quit Compulsive Gambling" Thorsons Publishing Group 1990 at page 21]

inter alia, the gaming operators, the venue operators and their servants and agents.²²

- There has been no successful case against a casino in Australia that I am aware of. The Kakavas²³ decision is the latest case in which a problem gambler has failed.
- One problem gambler made a complaint against a venue operator and was publicly ridiculed by the talk-back host in a radio interview.

GOVERNMENTS AND GAMBLING

On a final note, the greatest cost of gambling is the undermining of the faith of the citizen in government, of the breaking down or at least weakening of the social contract. This is expressed by Ramsay Macdonald in the following passages.²⁴

That, I take it, is the most significant feature of the present spread of gambling. It is the evidence of social failure showing itself in the conduct of social groups or classes. It therefore flourishes with other disquieting symptoms, such as the inordinate love of spectacular effect, the demand for mere amusement, the distaste for serious and strenuous effort, the spread of drunkenness—all pointing to a poverty of personality, a bareness of the inner chambers of the mind, occurring in such a way as to indicate that we are faced not merely with the moral breakdown of isolated individuals but with the results of a serious failure on the part of society. We have to deal not merely with individual lapses but with a social disease. From that point of view this paper is written.

...

Other writers in this volume are dealing with the personal and family disasters for which it is responsible - I confine my attention to its influence upon citizenship, upon the persons upon whose intelligence and character rests the fabric of the State and the community.

The gambling disease is marked by a moral and intellectual unsettlement, by an impatience with the slow processes of legitimate accumulation, by a revolt against the discipline of steady growth and sustained action. The gambler lives in a state of unnatural strain. Like an insane person, he stands on the threshold of a grandiose world the high lights of which throw the sober realities of the real into shadow. Moreover, his vice develops the self-regarding instincts into hideous and criminal proportions. What is all this

²² INDEMNITY 17. I and my administrators and assigns now and will at all times in the future INDEMNIFY AND KEEP INDEMNIFIED the Industry Body, the Gaming Operators, the Licensee of the Venue/s, their servants or agents, nominees, contractors, and the legal personal representatives of such persons and the VCGR (the Indemnified Persons) against all actions, liabilities, proceedings, losses, claims, damages, costs and expenses which the Indemnified Persons may suffer, incur or sustain in connection with or arising directly or indirectly from any act, default or omission by or on behalf of the Indemnified Persons in relation to my Self Exclusion. [Source: http://www.ahavic.com.au/deed/deed_2001.htm]

²³ Kakavas v. Crown Melbourne Limited & Ors [2009] VSC 559

²⁴ Essay titled “Gambling and Citizenship” contained in “Betting and Gambling – A National Evil” edited by Seebohm-Rowntree McMillan & Co 1906

but saying that it cuts away the roots of good citizenship? For good citizenship depends upon a moral discipline which enables a man to pursue, undisturbed by outward event, calm amidst storms of fortune, some desirable social end; it is dependent upon the development of the social conscience in the individual; it flourishes only when men seek after the more solid gains which come from honest work and faithful endeavour.

Experience has shown that the gambling industry, once legitimized, will continue to grow until it becomes such a threat to the state that the state will contain it by rigorous means.²⁵

The present gambling industry has learnt well from history and has set itself up very cleverly to prolong its survival. Your second report is part of a continuing rearguard action to hold at bay public outrage at the social damage the industry is doing. Looking at the recommendations in your draft report, it is not likely to stem the tide of public resentment for long.

Kind regards

Tim Falkiner
Melbourne

²⁵ For the United States, this is documented in I Nelson Rose, *Gambling and the Law* Gambling Times 1986 and in Britain in L. J. Ludovici, *The Itch for Play* Jarrods 1962