

Productivity Commission – Inquiry into Gambling

Submission in response to Draft Report

C. Livingstone¹ and R. Woolley²

¹Department of Health Social Science, Monash University

²Centre for Industry and Innovation Studies, University of Western Sydney

Introduction

We welcome the Commission's draft report and strongly support its direction, notably its focus on the most harmful gambling products (Electronic Gaming Machines - EGMs) and on ways of addressing and reducing the harm creating capacity of the EGM system. This focus is in our view entirely warranted and the core recommendations of the Commission's draft report address the harm producing capacity of this system well.

We do wish to address some aspects of the draft report's recommendations and this submission briefly does so. In addition, we are aware of some criticisms of the Commission's approach contained in submissions to the inquiry and presented at public hearings, and wish to briefly address some of those.

Evidence

Some industry organisations have suggested that the Commission's findings and recommendations lack an empirical evidence base. This argument is predictable in that it seeks to defend the status quo, maintaining 'business as usual' and forestalling action to address harm (as we suggested in Livingstone & Woolley 2007). As we said in an earlier submission to the Commission, attempts to generate controversy over propositions such as prevalence rates, the expenditure share of problem gamblers, or the lack of overwhelming evidence in support of a *specific* course of action, appear to us to be an attempt to delay change for as long as possible. This is no doubt due to the probability voiced by the Commission that reduction in harm production will negatively influence revenue, at least in the short run. We are strongly of the view that these two issues, although linked, represent problems that require separate remedies.

We continue to support the proposition that public debate should be as well-informed as possible, and that research should generate the best possible evidence to inform debate, inquiry and policy formation.

However, we also recognise that absolute certainty is close to impossible in scientific research. Public policy must be formed on the basis of an approach which draws on available evidence to act in favour of the public health and well-being wherever possible – if necessary, taking a precautionary approach. There is ample evidence of the harm inflicted by current regulatory regimes for EGM use in Australia as the Draft Report identifies. There is also evidence that actions of the type proposed by the Commission are highly likely to reduce the harm associated with EGM use, and create an environment for relatively safe use of EGMs, minimising the risks of excessive consumption and providing, for the first time, arrangements which permit individuals to monitor and control their consumption.

Pre-commitment, technology and venue differences

There are several technical solutions available at present for the provision of effective pre-commitment in the use of EGMs. Certainly, the limitations of existing monitoring networks in some Australian jurisdictions must be addressed. Pre-commitment will come at a cost. However, this is not a cost beyond the capacity of the EGM system to bear, especially given the very long lead times proposed by the Commission for the introduction of pre-commitment. We understand that Australian EGM platforms are typically turned over in a five year cycle, so a six year lead-in time for pre-commitment would see most existing devices retired and replaced by those with built-in capacity to support pre-commitment. In any event, trials in Queensland have demonstrated the feasibility of retro-fitting existing stock at relatively modest cost. These costs could be met by slight alteration of RTP, as the Commission has suggested.

We are concerned with the Commission's approach insofar as it canvasses an option to opt-out of pre-commitment. In our view, regular EGM users should be required to utilise pre-commitment. This means that they must establish an account with expenditure and time parameters established. Default settings should be relatively modest, but may be altered by users at reasonable intervals away from gambling environments. Thus, those who wish to use EGMs intensively may do so, but a record of their activity should be maintained in their pre-commitment account. An opt-out arrangement for pre-commitment would also undermine the advantages of the pre-commitment system for those who wish to exclude themselves from using EGMs. As long as a card is required to access relatively high intensity EGMs, self-exclusion will be effective.

In our view, the only exception to pre-commitment should be access to very low intensity EGM games – e.g., maximum bets of 10 cents (\$0.10) and very low prize levels. Such games should be available for use without referral to a pre-commitment account to accommodate irregular and/or low/negligible risk use.

Doubts were raised by some submissions that gamblers would accept pre-commitment. We believe this is based on flawed logic. In contemporary society consumers are required to establishment of an account involving a user name and password for access to a an enormous range of activities (ranging from education to on-line retail and special interest blogs). Consumers are accustomed to such forms of access also providing them with quick and efficient access to their preferred personal consumption or other preferences. A requirement that use of a potentially harmful product such as an EGM be dependent on establishment of an account involving a reasonable degree of data capture and with access limited by a secure system is neither unusual nor exceptional, and is in fact in keeping with many widely accepted and currently available consumption practices.

We also note that EGM games are rapidly evolving towards server based systems. As we understand the situation in the United States casino sector, these systems utilise loyalty programs to collect data, profile user preferences, and offer users those preferences when they log in to the system. As we have previously described (AIPC 2006), data generated by EGM systems are effectively used by operators for

marketing and ‘intensifying’ their operations (see also Schull 2005, attached). These data systems can also be used for harm reduction purposes, and pre-commitment systems are an excellent conduit for this purpose. A pre-commitment system will introduce a necessary safeguard into the coming proliferation of server-based gaming products. The future access of poker machine gambling consumers to their personal preferences for games (and for particular parameters or structural characteristics) must include a mandatory overall spending pre-commitment capability, integrating harm minimisation into the gambling environment.

We do not see any persuasive reason to permit exceptions amongst EGM gambling environments from use of a pre-commitment system. Venues wishing to offer only very low intensity EGMs (i.e., max bets of \$0.10 or less) would be in a position to do so, without requiring pre-commitment, and some may wish to do so. The agency and ‘rationality’ of EGM users is bounded by a range of factors and there is no doubt that large gaming floors can generate a casino like buzz or excitement level, that can exacerbate harm. Nevertheless, high intensity EGM gaming remains a product with high harm producing downside risk, even in smaller venues. A jurisdiction wide pre-commitment system should, in our view, be just that, and preferably with a capacity to operate beyond the boundaries of any single jurisdiction. In other words, the pre-commitment solution should utilise a common national protocol with capacity to permit access to individual accounts and pre-commitment limits from jurisdictions other than the one in which the individual user is normally resident.

The issue of differential parameter settings may be used to confuse this issue. Casinos, for example, might wish to make themselves exceptional in terms of the parameter settings available to EGMs in their venue. This is already the case in some. We do not believe, however, that this presents a compelling reason to exclude them from a pre-commitment system. Some users may enjoy the opportunity to use EGMs with high bet limits. As long as expenditure of time and money falls within the limits they have set, the potential for harm to occur is reduced (subject to our comments in the section which follows).

A further opportunity for harm reduction may be offered, however, where high EGM parameters are permitted. In return for the opportunity to utilise high intensity EGMs, data generated by users may be subjected to scrutiny by software designed to identify emerging patterns of gambling problems. Such software is under development in Canada and appears to be effective in identifying those at risk. The principle proposed is that EGMs be graded according to scale of potential for harm creation (as is the case in the proposed UK system), but with concomitant intensification of harm reduction measures to provide reasonable levels of consumer protection, as follows:

- Very low intensity EGMs (maximum bets of \$0.10 or less) may be used without restriction.
- Moderate intensity EGMs (maximum bets of between \$0.10 and \$1.00) must be used with universal pre-commitment.
- Higher intensity EGMs (maximum bets in excess of \$1.00) must be used with pre-commitment and data generated scanned by software designed to identify emerging gambling problems. Eventually this form of data monitoring and alert flagging could be extended to consumers of moderate intensity EGM gambling at individual request, as a further harm minimisation strategy.

The emerging future of EGM gambling is the delivery of server-based gaming products and, potentially, of wireless hand-held games in casinos. This future provides enormous potential data collection and analysis benefits for gaming operators. Their capacity to customise products and marketing to more narrowly defined groups and to individuals will be greatly enhanced. This future also contains within it the capacity to ‘weed out’ a great proportion of problem gambler spend. The three levels of access and pre-commitment described above represent a starting point for this process.

Importance of ‘two pillars’

In seeking to make policy recommendations designed to reduce harm production by introducing pre-commitment and scaling back system parameter values the Commission has developed a balanced policy approach. This approach will not unduly restrict gaming operators’ capacity to profit from non-problem and not-at-risk gambling consumers. However, we argue strongly that the success of this policy approach is predicated on its universal and dual implementation.

As significant as the Commissions’ policy propositions are, they do not address the underlying harm producing capacity of the EGM system: the potential to create harm even at relatively low parameter settings. For example, an individual who sets their pre-committed levels of expenditure to even modest levels, such as \$100 per day, could still incur considerable harm if that level was achieved each and every day. In some cases, even more modest levels of expenditure would be associated with significant harm. It’s also likely that those who do experience problems with their gambling may set their expenditure limits at unrealistically high values.

Pre-commitment thus takes advantage of technology to provide one arm of a dual solution. The other, and necessary, arm is the restriction of EGM bet limits, load up values, and other parameter values which reduce the EGM systems’ capacity to produce harm. Such material changes alter behaviour in observable ways that can be evaluated in relation to public health objectives. Gambling consumers should be making pre-commitment decisions about consumption of a safe product, in an environment that does not permit an undue risk of significant harm.

Accordingly, we don’t believe there should be any trade-offs between, opt-outs from, or roll-backs of, the Commission’s proposals for pre-commitment and lower parameter values. Both are necessary to bring about real harm reduction. It can be strongly argued that such high parameter values should never have been the norm. The Australian mistake – as it referred to overseas – lay in permitting high impact EGM gambling to colonise local social venues. In the vast majority of the rest of the world, and certainly in those locations with balanced and reasoned public health policy approaches, high intensity gaming is restricted to gambling-specific venues. The Commission’s recommendations simply and efficiently move us in the direction of lower intensity gaming consumption in social venues and a reduction in the harm currently being produced. This would be a most welcome development.

Dependency issues

Gaming operators do not want revenue from problem gamblers. Resistance to the Commission's proposals thus do not relate to the stated objectives of these measures. Neither, in our opinion, does resistance relate to the likely success of these measures in achieving their objectives. Rather, resistance to change is directly related to concern about declining revenues, particularly in the short run. It is our belief that if the Commission's policy recommendations were demonstrably revenue neutral then they would be more broadly supported.

It is clear that various stakeholders have become highly dependent on EGM revenue, including clubs, hotels, state governments and in some cases researchers and their institutions, and charitable and philanthropic organisations. Although the community makes various provisions for support of registered clubs (including tax concessions and application of the principal of mutuality) these organisations do appear to be resistant to the introduction of the measures recommended by the Commission, on the basis that they would result in revenue decline. The extent of this decline is arguable, although it is very likely that there would be some such effect. It is likely this effect could be ameliorated to some extent by organisations that are early adopters of principles of safe consumption for their members and/or customers.

However, it remains important to consider that this problem of dependency is not the same problem as the problem of harm production engendered by the current EGM system and its configuration, which the Commission has in our view addressed very well. The solutions to these two problems are discrete. The existence of one does not justify the perpetuation of the other.

Revenue dependency on the part of these stakeholders is thus an important issue and one we believe needs to be subjected to independent research. This research should identify the extent of likely impacts, but more importantly canvas strategies to support venues and governments through a process of change in gaming policy.

The Henry Review of the tax system provides an opportunity for important aspects of this transitional process to be identified, and in our view the Commission should communicate with the Henry Review to flag these issues for consideration in that review.

References

- Livingstone C. Woolley R. (2007) 'Risky Business: A Few Provocations on the Regulation of Electronic Gaming Machines' in **International Gambling Studies**. 7(3): 361-376
- Australian Institute for Primary Care (AIPC) (2006) The Changing Electronic Gaming Machine Industry and Technology, Gambling Research Panel/Dept of Justice, Melbourne
- Schull N. (2005) 'Digital Gambling: The Coincidence of Desire and Design' in **The Annals of the American Academy**. 597: 65-81 (attached)