

Additional comment to the Productivity Commission 2009 Draft Report on Gambling

DRAFT RECOMMENDATION 5.5

A nationally consistent and publicly available dataset, including agreed outcome measures, would improve the evidence base on gambling help services. The collection of data could be coordinated by the Commission's proposed gambling policy research centre (draft recommendation 15.3) or the Australian Institute of Health and Welfare.

The Commission seeks feedback on the need for a national accreditation system for problem gambling service providers.

We believe most jurisdictions have highly qualified counselling staff. In Tasmania the qualifications are specified in the contracts with the service providers. From the current Anglicare Service Agreement: "The Organisation will employ and maintain appropriately tertiary qualified counsellors in the Personal and Family Counselling Services and the Facilitated Group Session programs for those affected by Gambling. These staff will hold at least a degree level in social work, psychology or equivalent, and will be eligible for registration with the relevant professional body."

While high level qualifications are implemented in Tasmania, accreditation in gambling may not be an ideal addition. In our arrangements, Anglicare Tasmania and Relationships Australia Tasmania must provide appropriate training and supervision for gambling counsellors. Also, for smaller towns, counsellors are not solely working on gambling clients, they are generalists. Requiring additional accreditation is costly in these cases.

One solution might be to consider accreditation in addiction treatment rather than accreditation in gambling treatment.

Another approach, suggested by the co-ordinators of our Break Even Services at Anglicare Tasmania and Relationships Australia Tasmania, might be to utilise a short online training package for accreditation. Existing counsellors could complete modules at work, and in most cases it would be a quick process confirming existing skills and knowledge. For new gambling counsellors it would be an induction training package that can also be completed at work. All counsellors would have to complete a short online test for each module. A national accreditation scheme would have to recognise state and territory differences in terms of legislation, industry and help services.

DRAFT RECOMMENDATION 6.3

As gaming machines and networks are replaced, governments should require any new equipment to be compatible with systems that can provide player statements and dynamic warnings.

Given the potential for growth in online, mobile phone and television-based quizzes, competitions and auctions — particularly with convergence of online and broadcasting

technologies — there are sound reasons for increased regulatory oversight of such gambling. However, it is not clear who should have responsibility. The Commission seeks views on this matter.

Where the licensing of the activity is a Tasmanian matter under the *Gaming Control Act 1993*, the appropriate responsible authority would be the Tasmanian Gaming Commission. Where the gambling is national, or cross jurisdictional a new entity would be appropriate. This might be a new national regulator. Alternatively, utilising a cooperative model, the jurisdictions could fund one state to provide national oversight and recommendations to the states for (common) regulatory response.

Considering the relative ease with which the states provided a national response for the online counselling facility by building on Victoria's requirements and then cost-sharing, the latter response appears to be quite feasible. The facility was organised through the Gambling Working Party which is set up under Community and Disability Services Ministers' Conference (CDSMC).

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.*

The Break Even coordinators have concerns regarding revocation only to be permitted after evidence of attendance at a counselling service and the judgement by an appropriate professional about the capacity for the person to safely gamble. This provision places the counsellor in a position where they have to make a judgement about another person's capacity to change behaviour. Making a judgement is most difficult without working closely with the client for some period of time. Predicting that clients will not gamble or gamble safely after revocation of a self-exclusion, in other words, will be safe from a gambling problem in the future, is an impossible call to make.

The current situation in Tasmania involves clients seeing a Break Even counsellor to initiate or revoke a self-exclusion. This brings the client into contact with someone who can provide ongoing professional help but it does not mandate that the client has to accept help. Mandated counselling is unrealistic in this context.

Re people seeking revocation should, after a successful application, face a period of up to three months before it takes effect...

A one week ‘cooling off’ period seems to work well in Tasmania.

DRAFT RECOMMENDATION 7.5

In advance of the full implementation of the pre-commitment system, governments should:

- *determine the exact limits and other options available in the default and opt-out modes of the system, and the design of the interfaces with gamblers*
- *market test and trial the appropriate set of user-controlled options and ensure technical standards that would enable a common system to be deployed across Australia*
- *give priority to the development of national standards that would permit machine manufacturers to sell machines during the transition period that would be network-compliant when the system was ‘switched on’*
- *develop approaches to ensure probity in the system, deter tampering with cards or other pre-commitment devices, and ensure the system meets national privacy regulations*
- *determine marketing of, and information provision about, the pre-commitment system to consumers.*

The Commission seeks feedback on the appropriate detailed aspects of the design of a pre-commitment systems meeting the broad criteria in recommendation 7.4, including: the viability of using one-off small denomination cash cards for occasional gamblers to use on machines, with only minimal identification requirements the capacity to configure machines to play in a low-intensity ‘safe mode’ if no pre-commitment method is being used any requirements that might apply to players who opt out of pre-commitment measures to avoid identity fraud the appropriate transition to a pre-commitment system and the capacity of some jurisdictions to provide systems prior to 2016.

Focusing on the harm minimisation objective of the pre-commitment system, some principles which might be applied:

- **Simplicity.** Each and every gambler to have a card is the simplest system, similar to having to have a licence to drive a car. The pre-commitment card removes the point of purchase from the machines themselves, a notorious time for loss of impulse control¹. To have an extra system for occasional gamblers is another regulated item to be implemented plus it implies that at some low level, EGM gambling doesn’t need control. It would be preferable to have the same system for both occasional and regular gamblers without making any distinctions as this would be unwieldy in practice, and may have the unintended consequence of misleading gamblers to make unhelpful comparisons between themselves and more regular gamblers, leading them to believe they are not at risk of developing problems.
- **Analyse the player needs in terms of consumer protection – what information and choices should be communicated and how frequently for new and returning patrons.** Consumers should have a voice – where to ask questions about the gambling product,

¹ Dickerson, M. (2003). Exploring the limits of ‘Responsible Gambling’: Harm minimisation or consumer Protection? Proceedings of the 12th Annual Conference of the National Association for Gambling Studies, Melbourne.

or lodge complaints must be clearly communicated – and not passively, but in a changing range of messages that require attention. Safety: see next points on prevention and intervention.

- Analyse the harm minimisation needs in terms of prevention. Active prevention messages should show when a patron becomes a regular gambler (defined as playing once a week or more regularly), or when 120 minutes is exceeded in a single session (from Schellinck & Schrans²), or when \$300 is exceeded in a single session (following Hafeli & Schneider³). As gambling builds, so does the frequency and tone of the prevention messages. Escalating gambling is denoted by the number of sessions per week or month, the expenditure per week or month and the time per session average.
- Analyse the harm minimisation needs in terms of intervention and safety. The safe limits of EGM gambling are exceeded when patrons are involved in harmful gambling. The principles of identification of problem gamblers are well understood for EGM gambling following very thorough Australian research into the issue⁴.

The *Identifying Problem Gamblers in Gambling Venues* report is a comprehensive study that builds on Canadian and Swiss research. Surveyed were 120 venue staff in SA, ACT and NSW; 15 counsellors in SA; 700 regular EGM players; additionally the study contained 140 hours of observation in venues in SA and ACT. Results showed include several measures that can be programmed into the EGM pre-commitment system.

The main indicators that can be programmed are:

- Gambling more than three hours without a break
- \$300 or more per session
- Gambling every day of the week
- Stopping only when the venue closes
- Gambling through dinner or lunch

(These measures are conservative suggests one of the Break Even coordinators. Gambling for three hours without getting up and stretching is unhealthy in an OHS sense; \$100 is more appropriate for many problem gamblers; and some clients gamble once a week or once a fortnight and still have a problem with loss of control and spending.)

Also,

- 90% of problem gamblers gamble more than three hours per session
- 75% of problem gamblers are present when venues close

The Canadian and Australian research found the more the cues, the higher the reliability of problem gambling being identified. The suggested interventions linked to these measures are that the EGM ‘guides’ the patron to maintain a safe level of gambling by 1) issuing warning that problematical gambling is likely, and 2) withholding service as appropriate if the behaviour continues.

² Schellinck, T & Schrans T, Identifying problem gamblers at the gambling venue: Finding combinations of high confidence indicators. *Gambling Research* 16(1) May 2004

³ Hafeli, J & Schneider, C *Early Detection in casinos – A new Instrument for the casino staff* Lausanne 2005

⁴ *Identifying Problem Gamblers in Gambling Venues* Gambling Research Australia 2007

- Utilise the technology. Requiring staff to intervene with each gambler is difficult, costly and likely to have a highly uneven response. Evidence based programmed intervention based on the technology skirts these problems and allows economy of scale and standardisation.

DRAFT RECOMMENDATION 8.1

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.*

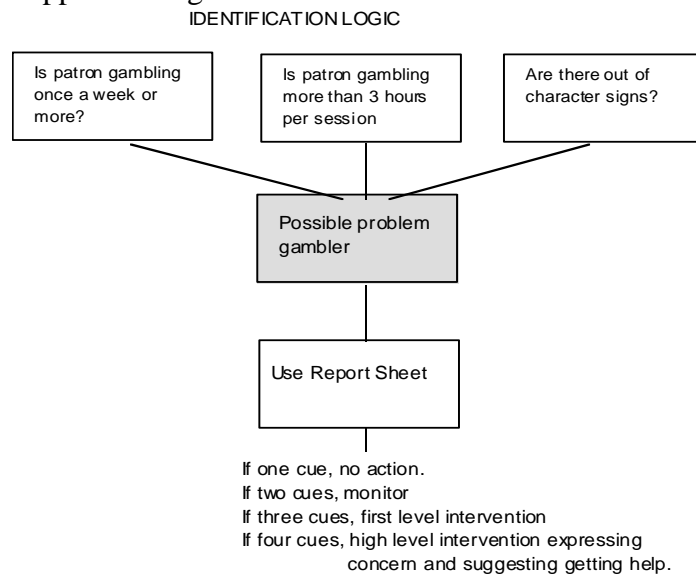
The Commission invites participants to comment on penalties or disciplines that gambling regulators could impose on venues for breaches of mandatory harm minimisation measures.

While this measure would help, we believe a two stage approach, commencing with a set of mandated identification and intervention items with clear penalties, should be part of regulation. This system, based on the Australian, Swiss and Canadian research mentioned in reference to Draft Recommendation 7.5 above, would be used up until a working pre-commitment system with adequate harm minimisation is in place.

There are some gambling related behaviours which are fundamental indicators of problem gambling or harm from gambling. These can be considered as the 'must respond' set:

- Unattended children in the premises or in car
- Patron declares himself/herself to be in debt, has to sell the house etc
- Patron declares that he/she can no longer control his/her gambling habit
- Patron declares that his/her gambling habit is causing problems at home or work
- Third parties (family members, partners, colleagues or employers) contact the venue to express concerns about the patron's gambling habit.
- Other patrons express concerns about the patron's gambling habit.
- Patron tries to sell objects of value in the venue
- Patron so concentrated on gambling that he/she forgets to go to the toilet
- Patron no longer able to control his/her feelings (e.g. crying fits, howling, screaming etc).
- Displays suicide 'red flags'
- Sleeping at the machine
- Asking to self-exclude
- Vomiting on the gaming machine or in the venue
- Asked venue staff to not let other people know that they are there
- Seen to be shaking while gambling

Once staff are trained and familiar with the requirements and responses - and the penalties for not responding - attention can be given to the more complex combinations of behaviours, and training. Suggested approach might be:



The report sheet would be based on:

Emotional Responses

- Vocally displays anger (e.g., swears to themselves, grunts)
- Kicks or violently strikes machines with fists
- Signs of defeat: Looks very sad or depressed (after gambling) OR cries after losing a lot of money OR sits with head in hand after losing

Frequency Duration and Intensity

- Gambles every day of the week
- Gambles for three hours or more without a break of 15 minutes or longer
- After winning on poker machines, plays on quickly without even stopping to listen to the music or jingle
- Rushes from one machine or gaming table to another

Impaired Control

- Stops gambling only when the venue is closing
- Starts gambling when the venue is opening

Irrational Attributions / Behaviours

- Blames venues or machines for losing
- Complains to staff about losing
- Swears at machines or venue staff because they are losing

Other Behaviours

- Appears to avoid cashier - appears evasive - only uses cash
- facilities
- Significant decline in personal grooming and/ or appearance over several days

Raising Funds/ Chasing Behaviour

- Gets cash out on 2 or more occasions to gamble using an ATM or EFTPOS at venues
- Borrows money from other people at venues
- Asks for a loan or credit from venues
- Puts large win amounts back into the machine and keeps playing
- Appears to have run out of all money including all money in purse or wallet
- Uses coin machine at least 4 times

Social Behaviours

- Has friends or relatives call or arrive at the venue asking if the person is still there
- Is rude or impolite to venue staff
- Becomes very angry if someone takes the person's favourite machine or spot in the venue
- Stands over other players while waiting for his or her favourite machine

If patron continues with high level EGM gambling after verbal advice, a venue exclusion should be enforced. Material and advice detailing self-exclusion (which gives the patron more control over the length and location of exclusion) and the availability of professional help, would be sensitively supplied.

Feedback for non-compliance can come from the recommended sources and also from problem gambling service clients. Often counsellors are the first to be alerted to unsupportive behaviour of venue staff. Admittedly, some of the adverse reporting might be biased, but such reporting can alert gambling regulators or accredited compliance auditors to focus their attention on certain venues.

DRAFT RECOMMENDATION 8.2

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.

The Commission seeks views on whether a new statutory cause of action should be established and what criteria would be appropriate.

This extends the 8.1 considerations. If a gambler asks for help, say to be excluded, and the venue doesn't provide help, there should be straight-forward grounds for the gambler to obtain redress. The 'must respond' set of behaviours listed above are very plain to see. Any patron or member of the public should be able to report venue staff failing to respond. The list can be part of the mandated code of practice and be promoted in venues. It could also be run periodically (hourly?) as an EGM display, inviting patrons to report issues to the venue first and then if no appropriate response is made, to an appropriate authority, who must check that a response is made. Communicating with an appropriate authority can be via a hotline set up for the task, maybe as part of the 24 hour gambling helpline service – but not the same number as the helpline. Messages would be transferred to both the regulatory authority and the appropriate venue management for action.

‘Allowing an excluded person to gamble’ is not on the ‘must respond set’ because of identification problems. The principle might be that venues must check patrons displaying ‘must respond’ behaviours to see if they are excluded. Penalties can then be sheeted home to venues that ‘allow an *identified* excluded person to gamble’ because the onus is on the venue to check the identification of these high risk patrons. Duty of Care legislation could be introduced to allow a person to seek redress for breach of duty of care and repayment of losses, where losses can be realistically tracked with a loyalty card or similar mechanism.

DRAFT RECOMMENDATION 10.1

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.

The Commission seeks feedback on the period of shutdown that would best target problem gambling, with least side-effects on recreational gamblers.

Perhaps harm minimisation should be the primary consideration in at risk communities. At risk could be defined as lower than average on the SEIFA index? The period of shutdown would be in proportion to level of risk.

Our Break Even coordinators suggest:

“A gambling period from 10 am - 12 pm would provide 14 hours (= ample time) of gambling for the recreational gambler a day but limit access to gambling in the early morning hours for shift workers e.g. taxi drivers who might be tempted to gamble their cash takings when other venues, shops, coffee shops etc. are closed. Parents of school aged children who have a problem with gambling had more time in the morning available to be with their children, prepare their breakfast and lunch and take them to school. They would feel less pressured to rush off to play the pokies when they know that the venues are still closed. Similarly early morning weekend players (8 am starts in some venues) would have the opportunity to have family/leisure/social time away from the influence of the pokies thus giving them the opportunity to relearn adaptive leisure pursuits.”

DRAFT RECOMMENDATION 11.3

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.

- *Expected hourly expenditure should be shown as a range, from the minimum based on a low intensity rate of play to the maximum permitted within the machine’s parameters.*
- *The percentage cost should be calculated as 100 minus the return to player percentage.*

The Commission seeks feedback on the use of loss-limited gaming machines as an appropriate harm minimisation measure. It seeks views on the specific option outlined in chapter 11, and in particular, on design features that could make it practical to implement. It also seeks views on any other option that would have essentially the same harm minimisation benefits.

In view of the limited research on the effects of jackpots on gaming machine play, the Commission seeks further views and information about whether any changes are warranted and, if so, what form they should take and the likely associated costs and benefits.

Loss limiting gaming machines: we asked two senior Break Even counsellors for their opinion.

“This is a very confusing proposal and was wondering how our clients would perceive the concept. Would it not encourage gambling? Or would people opt for the non-progressive machines that are still available?” – Angela Lutz, Co-ordinator Break Even Services, Anglicare Tasmania.

“I find the airbag proposal incomprehensible at first reading, I think this may or may not limit losses, but we are not talking about a homogenous group with cash to burn, we are talking about conditioning of players to lose control over their gambling behaviour, and thusly their self esteem, leading to shame, guilt, depression etc right up to suicide and appalling effects on their friends, family, and society. It is immaterial whether someone spends \$50 or \$5000 and gets 100% return to player (THEORETICALLY) if the gambling behaviour has a negative impact on the individual.

It assumes that people will select the loss limiting progressive machines, it assumes that we believe that EACH patron playing progressive machines will win, and will win 100% of their spend back. Personally I think this not a transparent proposal, it is unnecessarily complex, it is not a blanket approach as it still has opt out options i.e., players can still use other non-progressive machines, it is misleading again inferring that players will get 100% return on their spend, actually it just means that 15% is not being taken out of the pool for that player's spend?” – Kath Heading, Co-ordinator Break Even Services, Relationships Australia Tasmania.

Given many gamblers’ ability to confuse issues the concept might not work unless it is built into the smart card option and gamblers are given no choice (regular gamblers focus on the wins, not their loss!)

Jackpots add to the possibility of winning large amounts, but the probability of such wins is remote. Gamblers focussed on winning will find jackpots more valuable than they really are. If jackpots were banned from EGMs, would recreational gamblers be upset? Probably not. Would regular gamblers and problem gamblers benefit from such a ban? Yes. And the ability to show the odds of winning on an EGM is simplified as well.

Interestingly, one of the Break Even coordinators reports that many of her clients report avoiding jackpot machines and prefer to play for free spins which become a ritual for them. More research on the gamblers behaviour around the features is indicated.

Players being able to understand the cost of playing would be enhanced if the point of purchase is removed temporally and geographically from the highly impulsive/compulsive situation at the EGM (Eggert 2004)⁵.

⁵ Eggert, K. (2004). Truth in gaming: Toward consumer protection in the gambling industry. Maryland Law Review, 63, 217-286.

DRAFT RECOMMENDATION 15.4

In the event that governments do not implement draft recommendation 15.3:

- *the Australian Government's Department of Families, Housing, Community Services and Indigenous Affairs should administer the work of Gambling Research Australia*
- *the functions of Gambling Research Australia should be made to align wherever possible with those proposed in draft recommendation 15.3*
 - *with particular emphasis on evaluating the effectiveness of harm minimisation measures and facilitating improved evaluation by jurisdictions.*

The Commission seeks feedback on the suitability of different parties for evaluating and reviewing gambling programs, regulations and legislation. In particular, views are sought on ways to balance the appropriateness of reviewers and evaluators, considering both their expertise in gambling regulation and policy, and the importance of minimising any potential for conflicts of interest.

Gambling Research Australia has produced some most valuable work, notably on identification of problem gamblers in venues. The discussion is really to do with the reform agenda – if all jurisdictions agreed with the Productivity Commission reform agenda, the strategic direction of GRA would probably fall into line with the new priorities.

Within jurisdictions there are often two government bodies involved in gambling – the 'regulators', usually allied with Treasury, and the 'social impact response' bodies often allied with community services or health departments. Legislation has usually grown up from the regulatory side. Resolving this inherent conflict with a truly independent body whose objective is clearly in the public interest should also solve the research evaluation and review question – it would be the same independent body.

Contribution from Angela Lutz, Coordinator, Break Even Services, Anglicare Tasmania; and Kath Heading, Co-ordinator Break Even Program, Relationships Australia Tasmania, is acknowledged.

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