

**PRODUCTIVITY COMMISSION
GAMBLING INQUIRY 2009
DRAFT REPORT
CALL FOR SUBMISSIONS
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**PRIVATE CITIZEN SUBMISSION
LIBBY MITCHELL**

The federally-driven body, the Ministerial Committee for Consumer Affairs, is currently finalizing their recommendations for new consumer law to be applied nationally as the Australian Consumer Laws. The new laws will replace individual state consumer laws for consumer affairs and fair trade. Regarding customer receipts, it is hoped that the Victorian law especially sec 161a (FTA 1999) that provides for automatic consumer receipts to be given for purchases over \$50 and for consumers to have the right to request a receipt for purchases under \$50, could be retained as 'best practice' legislation for all Australian consumers, to include pokies consumers, when the new national consumer laws are defined.

The analyses and assumptions contained in the recent Productivity Commission Gambling Draft Report that covered this same legislation have caused me much alarm generally, especially the assumptions that related to lack of consumer request for pokies gambling receipts.

All 'higher-spending / higher impact' pokies gambling consumers (not only the 1-2% or other figure of 'problem' gamblers) need the added protection of getting *automatic* customer receipts, perhaps more than any other consumer group. Pokies consumers must be educated to the real value of having a purchase

receipt or spending record, not just as a record of 'proof' in disputes, but also as a moderator / decision-making and recording tool for future planning and efficient personal consumer management.

I fear that for other gambling industry profit reasons that pokies gambling consumers might remain unprotected or exempted from the new MCCA legislation. We often are told that 'problem gamblers' are a small group so any reform to help them alone, is wasteful and detrimental to other gambling consumer freedoms. However, if all other 'higher spending' consumers benefit from having automatic receipts for spending over \$50, as they surely do, then so should any pokies gambler, as a normal consumer?

Pokies gambling consumers cannot now get any form of receipt automatically, so they tend to lag behind other consumer groups in their responsible budgetary management, as may be much evidenced by their often high degree of disorganised, uncontrolled spending and likelihood for over-spending. Despite this lack of available resources, pokies consumers are frequently viewed as some 'idiot' group who may not want, need or deserve receipts because they will simply over-spend on pokies and then get addicted, no matter what is done to help them. That is wrong thinking.

The current system where a handwritten poker machine receipt can only be requested, (if that system is present at all in venues...and effectively it is not), is so draconian and destructive of any 'paid for' consumer experience, as to be insulting and to be avoided. Few sensible paying consumers would ever ask for pokies gambling receipts because of the inordinate amount of time required to get them, frequently 10 times during each venue visit, from already over-worked, resentful pokies venue staff. To get receipts would take around 5 hours. Gambling venues must know that they cannot provide receipts as promised, in the Draft Report.

Instead, governments and the public are being misled that getting a pokies gambling receipt is easy to request and to get. Moreover we are told that pokies gamblers appear not to want receipts? It is therefore wrongly deduced that pokies consumers do not need or want a spending record of any kind, simply because they do not currently ask for numerous handwritten, individual poker machine receipts.

That is erroneous analysis that offends the rights of pokies gambling consumers. Gambling consumers provide good example why the new Australian laws must cover all consumers, regarding automatic receipts. Far too often disorganized spending amongst pokies gamblers is wrongly expected to derive from addiction, rather than from lack of consumer safety protections such as spending records, that might cause addiction to arise in the first place. Had all higher-spending poker machine gambling consumers been given a spending record from the time they begin using a poker machine, then presumably, like other consumers, these

patrons may have often been better fore-warned about their loss and could have curbed it, to thus avoid habitual over-spending, mounting anxiety and eventual gambling addiction.

Gambling consumers like others also generally lack full awareness on their purchasing rights and responsibilities. Receipts preferably in the form of monthly spending records, for them would be an effective consumer wake up call like no other. They must be given every spending record that is possible to avoid habitual over-spending. Since poker machines over-spending is very likely to cause addiction, the spending receipt becomes a prime safety tool for consumers, so long as the receipts are given.

Duty of Care Inc first asked the Victorian government to legally enforce upon the pokies industry the very protective Sec 161(a) consumer legislation in 2004/5. Action is still delayed in Victoria.

Victorian poker machines are still being operated illegally and there still seems to be a misleading attempt to present a false view that whilst poker machines are not complying with the legal demand to give automatic receipts for consumer spending, that the current situation is nevertheless safe, acceptable, indeed preferable and more desirable for pokies consumers. That stance conflicts with consumer safety 'best practice' and clearly over protects an irresponsible industry and business interest. Consumer sovereignty is lost for poker machine gambling consumers, every minute, in all Australian pokies venues.

That disempowerment is an unsafe situation for gamblers and innocent families. Indirect consequences also include greater community loss of resources, if pokies gamblers over-spend as they seem to be doing. Their actual rate of spending and loss is so hard for poker machine gamblers to calculate, it is well nigh impossible to know exactly. The explanation for this ignorance may also lie in how a pokies gambler generally uses his consumer recreation time in a pokies venue and how he pays for his consumer service. The recreational gambling environment is letting its consumers down, by allowing ignorance to occur.

Given that a moderate to heavy poker machine gambler might use up to 40-50 different machines in a week, in around 5-6 separate venues, to expect her to be forced to request and to collect paper, handwritten gambling receipts for every machine used, that currently would take many hours to receive, is unacceptable, unrealistic and oppressive. Yet that expectation is being pushed as a solution to meet the issue of Sec 161(a) illegality? Because getting poker machine receipts is so unwieldy and unpleasant, the consumer tries instead to guess her spending. So for pokies consumers, enforced guess work about rate of spending is considered to be a reliable consumer protection?

Because pokies consumers may use a rich combination of cash coins and notes in pockets, handbags and purses, hidden 'reserve' money stashes, debit cards,

money in car glove boxes, multiple credit cards or finally cash borrowed or stolen, in multiple gambling venues often daily, it is obscene that the situation of consumer ignorance and lack of spending information has been tolerated, to benefit the industry who profits from 'misery money' so often.

No regular pokies gambler could possibly be expected to keep reliable track of spending if her typical gambling consumer money-handling behaviours are rightfully acknowledged. Consumer law should be protective when viewed in context. There seems to be tacit acceptance that the regular gambling consumer is so deviate that she would not care for more spending information, so why worry? That is a consumer and human rights concern in itself.

No wonder pokies receipts are not requested often. They are a nightmare to get and a nuisance the way they are presented. However mostly they are unknown services. Gambling consumer rights seem to be lessening if anything, following the latest PC gambling draft report. Such disempowerment impacts badly upon consumer safety outcomes. The new Australian Consumer Law should be helpful to all consumers, equally.

In the Productivity Commission's Gambling Inquiry Draft Report many good consumer initiatives seem to have been strongly countered, often illogically. I am worried if the pervading rationale influences the MCCA thinking, regarding the new national consumer laws.

If it is ultimately found that because *"few people utilise existing opportunities to access player statements, it would be difficult to justify an expensive retrofit of existing electronic gaming machines to increase the number of venues that can provide player statements."*...as stated in the Gambling Draft Report, I would find that most disconcerting. No such inaction regarding provision of consumer receipts may be justified, on basis of the fact that people are not asking for gambling 'player statements' at present, or that industry costs may rise as a result. Besides what is 'expensive' for the pokies industry?

The fact that Victoria's representative on the MCCA committee, Hon Tony Robinson MP, is both the Minister for Gaming and the Minister for Consumer Affairs, cautions me that the new national consumer legislation may be more attuned to overly accommodate poker machine gambling business interests of cost-saving, profit and convenience, rather than meeting wider consumer interests of consumer protection, education, responsible asset protection and personal consumer budget management.

The Victorian minister may find it very hard to be objective, since the consumer issues relating to his portfolios are quite mutually contradictory, given the nature of illegal poker machine gambling services, addiction, product harms and usual patterns of pokies consumer behaviours that are evidenced in his state. If gambling policy is least protective of its consumers, then consumer interests are

compromised. How the minister juggles the demands of both his conflicting portfolios remains in question.

The following statement from the Gambling Draft Report rang bells for me... "*Whether such changes [automatic receipts] would be desirable in respect of gaming machines is a moot point.*" That sounded like a call for exclusion from the new laws might be suggested, from the gambling sector? It should be much opposed I believe on ethical and practical safety grounds and would be unjust for consumers.

If the new national consumer laws exempt or exclude pokies venue operators from having to provide any poker machine receipt automatically to their patrons, even if the new consumer laws cover every other sector of consumers responsibly, it would be a pokies consumer safety disaster.

It is my unswerving professional and consumer view that if all poker machine gamblers were mandatorily given automatic spending records, or receipts in the form of spending statements, that much of that group's consumer harms from addiction would be alleviated or avoided. Spending statements would help to give the gambler earlier pause to reflect later when cool and away from gambling. Families could help more quickly if alerted to gambling over-spending. Certainly addiction tendencies would be flagged earlier. Over-spending could be better monitored generally.

Apart from ensuring that all pokies gamblers are licenced to use these dangerous machines, to educate and to warn gambling consumers of risks before they ever use a poker machine, the mandatory 'spending record' is the other most effective tool for poker machine consumer protection that could be introduced.

No lack of legislative enforcement or inferior legislation should ever justify the loss of consumer rights or safety protections for consumers or innocent others, least of all in a high-risk recreation such as pokies gambling. The Gambling Draft Report indicated that this might be over-ridden for pokies gamblers.

I believe that best practice consumer policy that supports giving a purchase receipt automatically to all consumers for all significant spending (eg over \$50), serves to remind the consumer of the 'hip pocket nerve' and to allow for calculated evaluation of her spending. Such legislation is responsible and is written for a good reason. If it does not suit the gambling industry to comply, that industry should be made to comply. Instead after five years the industry has created a well amplified but false case to exempt it from its business responsibilities to its customers, who are already harmed enough by the product it is allowed to operate.

Most worrying for me were the PC Gambling Draft Report's observations that:

"Consequently, it would be unlikely that a requirement to issue receipts for gaming machine play would meet a cost-benefit test were the only concern the additional consumer protection this might have for gamblers."

I strongly question that comment. It is a fundamental role of a consumer receipt, to provide cautionary consumer protection to better avoid over-spending and harms. A receipt promotes consumer empowerment as a tool for sovereignty, that was the prime objective of the consumer law reform, above other business considerations whenever possible. The benefit for gambling consumers should take precedence over any willingness of the gambling industry to place its own interest over the need to cooperate with improving consumer safety, especially amongst 'at risk' or 'problem' gamblers who tend to mostly over-spend by habit, that forms over time. Pokies consumers need more warnings regarding spending. Right now they get none, save ATM receipts that might account for a fraction of their spending.

I suspect that the commissioners may have been ill-informed, especially about the merit of the supposed consumer information services that are already available in some venues, like handwritten receipts and loyalty programs. The cost of introducing mandatory, multi-functional 'smart cards' would be more than manageable for the gambling industry, on balance with consumer safety benefits to be gained. Loyalty program cards that are merely venue marketing ploys to drum up repeat business are entirely inappropriate tools to be used for consumer protection. It was a shock to see that the commissioners had even considered that 'loyalty card' pathway as a valid alternative. I am sure that they have been very misled with anecdotal tidbits via the industry, to downplay the value of automatic spending receipts, to the continued disempowerment and peril of all poker machine gambling consumers.

A far more likely reason for not making licence cards, 'smart cards' or any other all-embracing consumer safety technology mandatory, is an observed willingness by the gambling industry to maximise its own business profits. Otherwise licences and 'smart cards' are undeniably the way to go. They are easy to implement, monitor and maintain, could reduce high cash amounts in venues that would in turn reduce robberies and hold ups and would provide many consumer safety features, not just one.

Our society runs on 'smart cards'. We all have around 5-10 each in our wallets at any one time...so what is new or fearsome about a pokies gambling card, that it is now assumed more to be a tool for abuse, than for benefit? All cards have risks yet we seem to cope well with card security risks usually and most people would not misuse their pokies cards in my opinion. Fears are often raised illogically to mask other gambling industry motives I fear, but those objections come at gambling consumer safety and expense.

The nature of the pokies gambler is that if she is expected to seek out a receipt that is hard to get, bulky and hard to manage, she will not bother. Many patrons could have around 50 paper receipts every week.

The existing hand-written receipt process in gambling venues is impossibly onerous in practice and takes anything up to an hour to get a receipt, for each machine used. If the consumer must sit at a machine waiting for even an average 20 minutes to get information, any possible consumer experience of recreational enjoyment is reduced. Duty of Care Inc trialed the exercise for requesting hand-written receipts in venues over 2005 - 2008 period. Three witnesses were regularly together in any venue, to time, report and to compare the receipt-getting exercise. Results of our trials convinced us that hand written receipts for EGM gamblers would never work in a normal, lightly staffed gambling venue. More importantly the service is an insult to a recreational consumer who pays for good service.

The fastest poker machine receipt given to our researchers took a total of 22 minutes, from the time that the attendant's help was requested to when the receipt was finally written. The longest took 90 minutes and included a call to a manager's home, to discover if we had the right to request receipts at all. There simply are not the available venue staff available to assist for that purpose. Even three people asking for a receipt at any one time blew the staff apart. They served other patrons and always left us waiting. They served drinks and counted cash. They re-filled hoppers. They did every other job before they went to find the receipt pad and then they had to service our machines and record the spending data. It was an absurd exercise whenever we did it. It was oppressive and I think unconscionable behaviour.

Signs announcing any receipt service were mostly conspicuously absent or were covered over or turned back to front in venues. Venue staff seemed to delay, be annoyed and to not be able to find the forms to give the receipts to us. It is insulting for consumers even as a partial 'bandaid' solution, that is if they ever knew the service exists? Since pokies gamblers change machines frequently, the receipt service is unworkable, yet under-use has been used to give grounds that consumers do not want receipts, simply because they do not make the enforced request that is now their only option for protection. It destroys any recreational experience, to dare to ask. In consumer protection and legal terms the situation is abusive.

In fact the apparent 'consumer request' service that gambling venues now dubiously refer to as being in workable operation, runs by default if at all, because it is presumed that few consumers will ever ask. If they did ask en masse, any current pokies handwritten receipt system would fail, yet more than it does now in practice. The whole suggestion that a responsible receipt service is there to be used is just not realistic or accurate, in consumer protection and/or rights terms, for pokies gamblers.

Such claims by venues that a good system is in place already, that thus negates need for an automated receipt system are misleading, as well as not being fully compliant with the Victorian law. Problem and 'at risk' gamblers supported the introduction of an automated receipt / statement of spending system. That path would be better followed. Education and promotion of the smart card as a safety tool to include an efficient receipting system is required, rather than having or tolerating less legislative protection if poker machine consumers are not given the same protections as other consumers, under the new laws.

There is no compelling evidence that poker machine gamblers are simply not interested in knowing what they have spent, just because right now they rarely ask for receipts. They may be ignorant and/or unaware of consumer toolkit benefits. They may be too much in a hurry to wait for a receipt that is too hard to get. They might prefer getting an automatic receipt in monthly statement form and they may prefer a durable, plastic personal smart card as being a more efficient multi-purpose, cleaner and seamless tool for self-management, than having to ask for individual gambling receipts 50 times a week.

The test of worth to consumers, of receipts, should not be measured by who actually asks for them or not. By law, Victorian pokies consumers should not have to ask anyway, if they spend over \$50. They are forced to meet the 'no receipt or slow receipt' restrictions that are imposed by the gambling industry, to not get that legal protection that they should get and deserve already...automatically..via a proffered receipt They really have no viable consumer choice at present. That situation is abusive of consumer rights. To force gambling consumers to accept it when other consumers get automatic receipts is a form of subtle bullying, singling out, inequitable treatment and victimisation of pokies gamblers.

The gambling industry who surely knows its market foibles, is not being responsible for its consumer safety. Yet nobody seems to feel that a gambling consumer might be able to accuse the gambling industry of unconscionable conduct, in refusing to stick to the law or 'best practice' consumer standards, that then causes harm and loss? Vulnerable pokies gamblers should be able to make more legal claims, not less, however lack of spending proof restricts that course. For how long must we all have to read between the lines here?

This statement by the gambling inquiry commissioners reveals just how much it has been lulled into non-urgent treatment of the consumer receipt issue. *"While a scheme that would have such extensive functionality could not be implemented for a number of years, it would be sensible to incorporate the supporting capacity into new machines and networks as they are installed — but only if such a scheme were not excessively costly."* That is an irresponsible, near-sighted conclusion.

Therein lies the truth about the Gambling Inquiry for me. The gambling industry has had years already to gear up. To pretend that it is still too cash-strapped to introduce receipting and other consumer safety mechanisms as a matter of extreme urgency for all poker machine gambling consumers, is laughable.

At whose cost exactly will the gambling industry cost-cutting goals be met? Its customers and perhaps all of society, if poker machine losses are so widely pervasive in their impacts?

I beg the PC Gambling Inquiry Commissioners and other influential government decision-makers to rethink the 'receipts' issue through more thoroughly, before it is finally concluded that automatic gambling receipts are unnecessary and should not be mandatory, for 'higher spend' poker machine users.

Libby Mitchell