



AUSTRALIAN BANKERS' ASSOCIATION INC.

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Mr Gary Banks
Chairman
Productivity Commission
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Dear Mr Banks,

Gambling Inquiry

The Australian Bankers' Association (ABA) welcomes the opportunity to provide comments on the Productivity Commission's inquiry into gambling and the *Gambling Draft Report*.

1. Opening remarks

The ABA acknowledges the Federal Government's commitment to address problem gambling as a social policy concern. We support encouraging socially responsible programs and effective and workable strategies for addressing problem gambling. A national approach to developing harm minimisation strategies which promote responsible gambling should be adopted through a shared response from governments, business (in particular the gambling and hotels, pubs and clubs industries which directly benefit from electronic gaming machine (EGM) revenues) and the community.

The ABA provided extensive comments in our submission on the Issues Paper with regards to research, access to cash, harm minimisation strategies, self-exclusion schemes and telephone and Internet gambling. In this submission we limit our comments to the key findings and recommendations involving access to cash via ATMs and EFTPOS facilities and Internet gambling.

2. Specific comments

Draft finding 9.1: While causality is hard to demonstrate conclusively, easy access to ATMs/EFTPOS facilities appears to increase spending by problem gamblers. Problem gamblers use these facilities far more than other gamblers and say they would prefer to see ATMs removed from venues so they can better control their spending.

The ABA believes that policy implemented to address problem gambling should be evidence-based. The draft report indicates that based on available survey data, there are around 90,000 to 170,000 Australian adults suffering significant problems from their gambling (0.5%-1.0% of adults), with a further 230,000 to 350,000 experiencing moderate risks that may make them vulnerable to problem gambling (1.4%-2.1% of adults). Measuring the extent of problem gambling or the number of problem gamblers is inevitably difficult due to the practical, conceptual, and psychological challenges with surveys.

Having said that, we consider it is vital that thorough analysis of problem gambling in Australia is conducted in a manner that gives close consideration to the behaviours of problem gamblers and the implications and impacts of reform proposals designed to address the incidence of problem gambling on all Australians, including:

- *Consumer interests:* We believe that detriment to consumers should be considered in terms of early intervention and prevention, psychological and personal impacts, regularity of gambling by individuals with a gambling problem (or at risk of having a gambling problem), problem gambling management, supplier conduct and regulation, consumer protection and information/misunderstandings about gambling products, and gambling-related issues (i.e. social dislocation, relationship harm, etc).
- *Other impacts:* We believe that strategies identified for addressing problem gambling must be considered in terms of dependence on revenue from gambling taxation, gambling revenues derived from gambling expenditure used in EGMs, different regulatory approaches across States and Territories to imposing restrictions on access to cash in gambling venues.

Furthermore, the ABA believes that consideration should be given to understanding the following issues: what are the drivers of problem gambling, what are the early signs and symptoms of a gambling-related problem, what measures deliver improved outcomes in prevention and rehabilitation, and what targeted measures will have a real impact on addressing problem gambling.

The ABA believes that it is important for public policy developments to be accompanied by sound research to determine if changes to current cash restrictions should be made, the extent of any changes (including technical capabilities, costs and timing implications, and interaction with harm minimisation strategies), and the effectiveness of various measures to mitigate problem gambling. Any changes should be thoroughly examined in terms of the costs and the benefits for the community as a whole.

The ABA notes that the Council of Australian Governments (COAG) has determined that current research into problem gambling is required to assist in identifying meaningful strategies to address problem gambling. The draft report indicates that while far from certain, problem gambling prevalence rates appear to have fallen somewhat, in particular since the Productivity Commission conducted research into problem gambling in 1999. It is unclear to what extent this reflects natural adaptation or the impact of government policy or actions by gambling venues.

Notwithstanding, the ABA believes that gambling regulations, counselling support services and other harm minimisation measures should continue to be funded and supported appropriately by governments and businesses supplying gambling services and equipment and operating gambling venues, in particular counsellors that service the needs of people in the community with a gambling problem must be adequately funded and resourced.

We consider it is vital for harm minimisation strategies for problem gamblers to adopt a multi-faceted approach, including:

- Education materials and confidential financial and problem gambling counselling services, provided by governments; and
- Self-exclusion schemes, pre-commitment technologies and store value systems, provided by the gambling industry; and

- Gambling support programs, provided by the gambling industry and via the community sector; and
- Demand reduction or supply control initiatives, including removing or restricting access to EGMs in these venues (such as caps on EGMs, restrictions on spin rates and note acceptors), implemented by the gambling industry and governments.

The ABA believes harm minimisation strategies that consider cognitive and behavioural factors and focus on the supply and demand of gambling services have a greater positive impact in stopping the further expansion of gambling or minimising the incidence of problem gambling. Harm minimisation strategies should form the basis of a national strategy to address problem gambling.

Draft finding 9.2: Although a ban on ATMs from gaming venues has the potential to assist problem gamblers, it has uncertain benefits and costs, including the risk that problem gamblers seek to subvert the ban. An evaluation of the Victorian ban on ATMs should provide useful evidence.

The ABA does not believe that removing ATMs from gambling venues will substantially address the incidence of problem gambling.

As at September 2009, there are 26,556 ATMs in Australia, with bank branded ATMs accounting for around 46% of ATMs. Non-bank ATMs make up a significant and important part of the overall ATM network. The ABA understands that around 25% of ATMs in Australia are located in a gaming venue¹. As at March 2009, 84 bank branded ATMs are located at gaming venues, which represents around 1% of ATMs in gaming venues throughout Australia. Only a small number of ATMs located in a gaming venue are bank branded.

The significantly vast majority of ATMs in gaming venues are not operated by banks or other financial institutions, but rather operated by "third party ATM deployers". Third party ATM deployers are not financial institutions and do not have card holders of their own, but instead their business model relies on arrangements with ATM acquirers to provide them with a flow of card holders and transactions.

The Victorian ban on ATMs in gaming venues due to take effect in 2012 will result in the removal and/or relocation of a significant number of ATMs across the network. We consider that a post implementation review and evaluation should be conducted to assess the effectiveness of removing ATMs from gaming venues in addressing the incidence of problem gambling.

Draft recommendation 9.1: Governments should fine-tune existing regulations of ATMs/EFTPOS facilities by introducing the following changes in gaming venues:

- *Cash withdrawals from ATMs/EFTPOS facilities should be limited to \$200 a day.*
- *ATMs/EFTPOS facilities should be a reasonable distance from the gaming floor, visible to the public and venue staff, yet not to gamblers from the gaming floor.*
- *Warning and help messages should be clearly visible on ATMs/EFTPOS facilities.*

The ABA is concerned with the Commission's recommendation to introduce further restrictions on access to cash in gaming venues.

¹ Submission to inquiry into Poker Machine Harm Minimisation Bill 2008. ATM Industry Reference Group. 8 August 2008. http://www.aph.gov.au/senate/committee/clac_cte/poker_machine_harm_minimisation/submissions/sub07.pdf

Firstly, we disagree that such a measure would be an effective way of addressing the incidence of problem gambling. We are opposed to recommendations that would impact the payments and banking systems without thorough consideration for universal access to ATMs; competition and cost-effectiveness of the network; efficiency and integrity of the network; and the costs for the community as a whole.

Secondly, imposing a limit on cash withdrawals from ATMs in gaming venues that differs from the withdrawal limit from all ATMs is not simple. A system would need to be designed that either introduced new ATM hardware and/or limit management software ('ATM level' option) or changed the bilateral arrangements between every card issuer across the electronic payments network ('card issuer level' option). We are opposed to recommendations that would result in changes being made via a 'card issuer level' option.

The ABA believes that capping the amount of cash that can be withdrawn over a day from ATMs and EFTPOS facilities in gaming venues is not an effective measure in addressing problem gambling, and therefore further cash restrictions should not be introduced. However, if further cash restrictions are recommended, it is important to clearly articulate how such restrictions would be introduced. We consider that any further cash restrictions should be the responsibility of the licensee of the gaming venue and delivered via ATM technology and not in a manner that impacts more broadly across the payments and banking systems or that impacts on competition and cost-effectiveness in delivery of cash facilities.

The ABA notes that initiatives overseas to restrict access to cash in gaming venues have been delivered through a combination of self-exclusion and ATM technology, whereby transactions may be blocked at the venue following disclosure of the card number and limit by the card holder. Furthermore, initiatives overseas have also taken into consideration access to cash within the community.

The ABA strongly believes:

- Further restrictions on access to cash in gaming venues should avoid transferring costs of regulation across the payments and banking systems and more broadly the community as a whole. Restrictions should not impose costs on banks, and other financial institutions, card issuers and all their customers; require banks to determine how bank customers access their money or monitor and/police how bank customers choose to use their money; limit access to cash for non-gambling businesses and patrons; and restrict access to cash services, especially in regional, rural and remote locations.
- Further restrictions on access to cash in gaming venues should identify workable and meaningful strategies. Strategies should be implemented in a coordinated manner and on a national and uniform basis to avoid haphazard and complicated responses that would be difficult to implement and costly for all users of the electronic payments network.
- Further restrictions on access to cash in gaming venues should not be implemented in a manner that would affect all banks, other financial institutions and card issuers. Obligations should be imposed on licensees of gaming venues to ensure the effectiveness of proposed strategies and to ensure that restrictions are implemented on the cash facilities within their venue. Licensees should be required to ensure that the operator of the device – that is, the ATM deployer or the merchant – have in place technologies, protocols or processes to restrict access to cash, including:

- *ATMs*: To ensure that implementation costs, technology changes and unintended consequences are minimised and all ATMs are subject to the same limits, any further regulations should prohibit ATMs from gaming venues or limit access to cash beyond the maximum prescribed limit, whereby the deployers of ATMs in these venues are able to implement a technology solution suitable to their business model (including either independently or in conjunction/agreement with their ATM acquirer or ATM switch) to restrict access to cash at the 'ATM level'.
- *EFTPOS*: To ensure that implementation costs, technology changes and unintended consequences are minimised and efficiencies in the EFTPOS network are not compromised, any further regulations should require merchants to implement a protocol, whereby their staff do not provide cash to their patrons beyond the maximum prescribed limit at the 'EFTPOS facility level'.
- Further restrictions on access to cash in gaming venues should take into consideration the social and economic ramifications, including the potential impact on all patrons and businesses of gaming venues, the potential impact on merchants due to the possibility for anti-competitive or unconscionable practices by ATM deployers, the impact on all customers using the electronic payments network (especially in regional, rural and remote locations), and the impact on the wider community. In particular, special consideration should be given to the impact on regional, rural and remote communities that have limited numbers of cash facilities, including ATMs and EFTPOS facilities.

The ABA believes that the gambling industry, licensees of gaming venues and deployers of ATMs in these venues should be called upon to take responsible steps in relation to the use of their facilities and services. Obligations should be imposed on licensees of gaming venues to ensure the effectiveness of proposed strategies and to ensure that ATMs in their venues comply with the regulations. This approach recognises that it is impractical for banks, other financial institutions and card issuers to implement further cash restrictions and that it is appropriate for licensees of gaming venues to be responsible for limiting access to cash via cash facilities in their venues and for the ATM deployers that profit most from ATMs in gaming venues to be responsible for implementing any further measures.

ATMs

The ABA understands that numerous ATM deployers (including members of the ATM Industry Reference Group) have developed the ATM technology and ATM functionality required to comply with the Victorian withdrawal limit restricting a person from withdrawing from one debit card more than \$400 in total in a period of 24 hours due to take effect in 2010. In the absence of being able to impose a withdrawal limit at the 'ATM level', these ATMs would need to be removed from gambling venues in Victoria (with the exceptions for rural and regional areas upon decision by the Minister).

The ATM Industry Reference Group indicates that "...the members of our group now have technology available which will enable us to develop a solution to meet the above requirements that have been imposed by the Victorian Government."² The ATM Industry Reference Group's technology solution will be able to block a debit card upon reaching the

² ATM Industry Reference Group (2009). *Submission from the ATM Industry Reference Group to the Productivity Commission Inquiry into Gambling*. 31 March 2009. p13.

maximum \$400 limit at that ATM. (Restrictions are already in place so that withdrawals cannot be made from a credit card at an ATM in a gaming venue.) Additionally, where a problem gambler has executed a "Deed of Exclusion", technology will be able to block a debit card from being used entirely at that ATM. We note that this technology solution promises to provide licensees of gaming venues and ATM deployers with an option to restrict access to cash at ATMs in gaming venues.

The ABA endorses this technology solution as an example of an 'ATM level' option and recommends that if the Commission is minded to recommend further cash restrictions that this type of approach be specified. This approach would clearly place the onus for developing a technology solution on the ATM deployer, rather than exposing ambiguous restrictions to interpretation that may result in substantial changes to the payment and banking systems. It would also enable the technology solution to be adapted, for example, if it was decided to exempt casinos or parts of casinos, such as the high rollers area. Having said that, restrictions will not be imposed on ATMs located outside gaming venues (or otherwise exempt). Problem gamblers will be able to access cash up to their maximum daily withdrawal limit from other cash facilities across the network.

EFTPOS

The ABA notes that the EFTPOS network is a much simpler network than the ATM network. Due to technology and network limitations, it is not currently possible to limit access at certain merchants while enabling full access to other merchants. EFTPOS was developed to facilitate the execution of payments for goods and services. However, merchants can decide not to accept certain cards through their facility or choose not to accept to give cash out to customers. Obviously, merchants can decide not to have an EFTPOS facility in their venue at all.

The ABA recommends that if the Commission is minded to recommend cash restrictions be imposed on EFTPOS facilities, that an approach requiring the licensee of the gaming venue to implement protocols at an 'EFTPOS facility level', thereby restricting their staff from processing cash withdrawal transactions beyond the maximum prescribed limit. This approach would clearly place the onus on gaming venues to monitor transaction processing. If this approach were deemed too administratively complex, the alternative would be for the licensee to restrict cash out entirely from EFTPOS facilities in their venues.

Other measures

The ABA does not believe that locating cash facilities a reasonable distance from the gaming floor or placing warnings and messages clearly visible on cash facilities presents any implementation problems.

The ATM Industry Reference Group indicates that "...the ATM industry has been widely supportive of many of the measures to limit the harm caused by problem gambling including no cash withdrawals from credit cards; maximum amounts per transaction in various states; placement of ATMs away from gaming machines; and messages on the ATM about the risks of gaming."³

³ ATM Industry Reference Group (2009). *Submission from the ATM Industry Reference Group to the Productivity Commission Inquiry into Gambling*. 31 March 2009. p14.

Measures already implemented by banks

In addition to ensuring compliance with existing regulations and restrictions on access to cash from ATMs in gaming venues and locations of ATMs in gaming venues, banks have in place a number of procedures and programs to assist their customers manage their finances, including:

- *Maximum daily withdrawal limit*: Banks offer customers options to manage their finances and expenditure, including upon request, varying their maximum daily withdrawal limit (where possible)⁴. This approach requires a customer (card holder) to contact their bank and request that the maximum daily withdrawal limit on their debit card be reduced. Depending on the type of bank account, the bank would respond to the request by implementing a maximum daily withdrawal limit that differs from the standard limit.
- *"Two to sign"*: Some banks offer customers further options to manage their finances and expenditure, including upon request, introducing a "two to sign" process (where possible). This approach requires the customer (account holder) to impose a restriction on the use of their account (i.e. no debit card) and a nominated additional account signatory to agree to a restriction on the withdrawal of money from the account (i.e. over-the-counter in a bank branch).
- *Financial hardship*: Banks provide customers that have borrowed money from the bank with processes for assisting customers experiencing financial difficulty.
- *Financial literacy*: Banks offer a variety of financial literacy resources and financial capability education programs to help consumers effectively manage and take control of their own financial affairs⁵.

Draft recommendation 9.2: Other than for online gambling, and for high rollers and international visitors in casinos, governments should prohibit the use of credit cards for gambling.

The ABA does not believe that prohibiting the use of credit cards in ATMs in gaming venues – that is, cash advances against credit cards – presents any implementation problems. The Commission should be aware that currently ATMs located in gaming venues generally do not have a 'credit button', or if there is a button, it has been disabled.

The ABA believes that if the Commission were contemplating prohibiting the use of credit cards for Internet gambling, further consideration of current practices undertaken by online gambling service providers to manage accounts and further consultation with the credit card companies should be undertaken as a discrete review. Some practical, technical and legal issues that would need to be addressed include distinguishing legal and illegal online gambling services, feasibility of identification of legitimate or illegitimate transactions, implications for transaction costs, implications for privacy (i.e. monitoring customer data and making judgments about customer spending), implications for possible failure to execute transactions, etc. We note that blocking and/or voiding transactions at the point of the bank would be extremely problematic.

⁴ The ABA notes that the new maximum daily withdrawal limit would apply across all points of access (ATM, EFTPOS and cash facilities), not just ATMs in gaming venues. Furthermore, a bank would not take this action without an explicit instruction from their customer requesting that the maximum daily withdrawal limit on their debit card be reduced, for example, to assist them manage their gambling expenditure.

⁵ For example, the consumer booklet "Smarter Money: Take control of your finances" contains a budget to assist customers manage their money, keep accurate financial records, understand their expenses and find ways to cut costs, put in place savings strategies, use debt effectively and identify the warning signs of getting into financial trouble. Customers are encouraged if they feel out of control with their money or are suffering a financial crisis due to, among other causes, gambling, to speak to their bank or other lender and get in touch with a financial counsellor.

3. Concluding remarks

It is the ABA's view that further cash restrictions should not be introduced. However, if any further restrictions on ATMs and EFTPOS facilities are deemed appropriate and necessary, regulations must be implemented in a manner that does not impose costs on banks, other financial institutions, card issuers and all their customers.

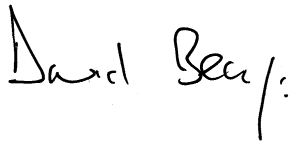
Imposing obligations on licensees of gaming venues to ensure that a technology solution implemented via an 'ATM level' option and an 'EFTPOS facility level' protocol is implemented has a number of advantages, including:

- Properly targets measures at the potential detriment and properly implements remedies without interfering with, or imposing undue costs across, the payments and banking systems and the wider community.
- Recognises that it is unreasonable and impractical for banks, other financial institutions and card issuers to implement further cash restrictions and that it is appropriate for licensees of gaming venues to be responsible for limiting access to cash via cash facilities in their venues.
- Enables the ATM industry to develop a technically feasible response and would not impose costs on banks, other financial institutions, card issuers and all their customers.
- Identifies a practical approach to restricting access to cash (including from EFTPOS facilities) and recognises that remote, rural and regional communities could be disproportionately impacted by further cash restrictions.

The ABA notes that Senator Xenophon stated at a recent hearing for this inquiry "...but the whole issue of ATM access at venues, I think would be sidelined if you had effective pre-commitment technology, pre-commitment measures in place. It would be superseded I think by effective pre-commitment technology if that was mandated.⁶"

If you have any queries regarding the issues raised in this submission, please contact me or Diane Tate, Director, Financial Services, Corporations, Community on (02) 8298 0410: dtate@bankers.asn.au.

Yours sincerely



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⁶ Senator Nick Xenophon. Transcript of proceedings for gambling inquiry held at Sydney on Tuesday 1 December 2009. http://www.pc.gov.au/data/assets/pdf_file/0014/93200/20091201-sydney.pdf