

**SUBMISSION TO THE PRODUCTIVITY COMMISSION'S  
INQUIRY INTO AUSTRALIA'S GAMBLING INDUSTRIES**

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## The Inquiry into Australia's Gambling Industries

### *Executive Summary and Recommendations*

#### Executive Summary

Recorded expenditure on gaming has grown over recent years. Part of this may be due to the recording of previously illegal activity. However there has also been rapid growth fuelled by the availability of new gambling forms, in particular casinos, electronic gaming machines (EGMs) and new forms of lottery.

The fundamental approach to assessing the benefits of gaming is to recognise that these represent the preferences that people express in their spending decisions. Where gambling is prevented, consumers' expenditures are redirected towards goods and services from which they would expect to enjoy less satisfaction.

The increased in consumer benefits will not always be recorded in measured estimates of gross domestic product but are, nonetheless, significant. The benefits are substantial and potentially measurable in the attraction of tourists and the reduction in siphoning of expenditures to areas which enjoy more liberal gambling regulations. These benefits represent the equivalence of an increase in competitiveness of the locale where gambling is liberalised.

Gaming also represents a relatively easy source of taxation revenue. Although such taxation represents a distortion to consumer choice, the relatively low demand elasticity exhibited by gaming and the "guilt" felt by gamblers has meant governments have had little difficulty raising revenues from the sector. This matter has assumed considerable importance in Australia due to the State Governments' reduced access to certain forms of taxation. As a result of this and the reduced availability of other taxes, gaming, which already accounts for up to 15% of the States' own revenue raising, is likely to amount to some one-fifth in future years.

The freedom of the individual to spend his or her money as he or she sees fit is fundamental both to economic welfare and to individual liberty. Some people characterise gambling as a form of "sinful" activity. This facilitates government imposition of punitive taxation on the activity. The level of tax, at 42 per cent on a wholesale sales tax basis, is far in excess of that imposed on almost all other goods and services.

While there is a case for restraining activities that might cause social harm, gambling does not fall within that category. It is an activity that has long been firmly established in most cultures. Although small numbers of people are afflicted with pathological problems regarding gambling, these amount to only some one per cent of the adult population. Their affliction does not threaten the overall peace and security of the community. Moreover, similar, if not greater numbers are afflicted with eating or alcohol related disorders and a great many more engage in certain sports with what

many would regard as recklessness. It would not be reasonable to curtail the enjoyment that the vast majority obtain from the activity because of a tiny minority.

As well as being very heavily taxed, gambling is and remains highly regulated. In addition, the tax rate varies considerably both between forms of gambling and between gambling venues. For example, in Victoria pubs pay an effective 33 per cent more tax than licensed clubs on EGM revenues. Even if gambling is to remain more heavily taxed than most other activities, there should be some consistency in taxation between the different forms and venues. Without this there is a distortion to spending patterns and a reduction in the value consumers obtain.

These principles are even more appropriate in the case of the regulatory structure. Limitations on numbers of gaming machines (and their outlawing outside of casinos in Western Australia) creates shortages and monopoly “rents” for those operators who have machines. The high profits are extracted from the benefits that would otherwise accrue to the consumer.

Similarly, the exclusive licences granted to casinos reduce availability of this form of gambling and increase the profits of the operators at the expense of the consumer. Where those profits are, in part, required by government regulations or tendering processes to be redirected to other venues in the casino complex, they would tend to distort the competitive framework and disadvantage other retailers and activities vying for the consumer dollar.

### Recommendations

1. Governments should remove regulations that prevent or impede gambling activity other than those regulations designed to protect minors.
2. Taxation of gambling should be reviewed so that it is brought into line with taxation rates on other goods and services; or at least made consistent across different types of gambling and different venues.
3. Monopolies on the supply of gaming machines and requirements on market sharing for these machines should be abolished.
4. Although the “property rights” in the form of exclusive contracts that have been extended to existing casinos should not be rescinded, new casinos that do not infringe on those rights should be readily permitted.

### **The Nature of Gambling**

The Commission in its Issues Paper identified the main gambling products as

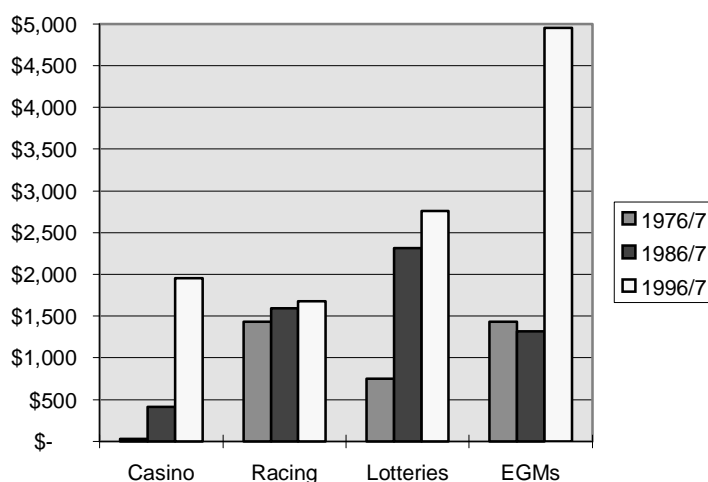
- gaming machines (49% of activity)
- racing (17% of activity)
- casinos (19% of activity)
- lottery products (12% of activity).

This is reasonable classification of the industry components. All the products should be included in the Inquiry.

As the Issues Paper illustrates, total measured gaming expenditure was growing relatively slowly until the 1990s but has expanded rapidly since then. Although part of this growth may be due to legalisation of some forms of gaming which were previously illegal and unrecorded, it is clearly in the main due to the increased availability of casinos and electronic gaming machines (EGMs).

The following chart illustrates the real growth of the different products.

**Australian Real Gaming Expenditure (\$m)**



Source: Tasmanian Gaming Commission

Although all products are within the Inquiry's ambit, the terms of reference puts particular emphasis on the social impacts of the industry, its regulatory arrangements and the revenue implications to governments. Accordingly, our own submission places its main focus on casinos and EGMs which have rapidly grown to dominate expenditure in the industry, and about which most concern has been expressed.

## ***Net Economic Benefits of Gambling***

### **Increased Economic Activity**

Many see tourism and support for industries like racing, building and employment generally as the main value of gambling activity. Walker, for example, suggests tourism as the main benefit from casinos<sup>1</sup>. Others see an expenditure multiplier providing a benefit. Dickerson<sup>2</sup> places this at between 1.3 and 1.7 to arrive at an expenditure impact for the Sydney casino of \$459 million for 1993/4 compared to expenditure, less costs, of \$270 million.

Neither of these bases are the correct way of analysing the benefits of casinos. Indeed, the application of a multiplier is flawed because it assumes that the money spent on one good produces more expenditure than would occur if it was spent on the goods that would otherwise be bought. In addition, the notion of expenditure as a guide to income and wealth needs to be treated carefully. Clearly, we would be no better off if expenditure were to be increased merely because of an expansion in the number of links in the chain from producer to consumer.

The benefit of gaming to those undertaking the activity is the enjoyment they obtain from it compared with the enjoyment they would obtain from their next best form of expenditure and activity. Those benefits are gained either when tastes change so that people prefer to allocate more of their expenditure to gambling, or, more commonly, when a latent demand is tapped due to reduced regulatory restraints.

Those benefits normally stem from shifts in consumption expenditure. They may also stem from a shift out of savings towards consumption. Indeed, this was the finding of a report published by the Victorian Casino and Gaming Authority in March 1997<sup>3</sup>. That report found that increased gaming expenditure in Victoria following the introduction of EGMs and the casino, had not led to lower retail spending but had brought about lower levels of savings. The report did not standardise for the changes in the taxation regime confronting savings, e.g. in superannuation. Hence it is not clear whether the availability of a new form of expenditure led to a shift in the inter-temporal spending patterns (savings representing deferred consumption) or whether it was coincident with other measures that reduced the relative attractiveness of deferring consumption. It may be that the retail sector would have enjoyed even greater growth had it not been for gambling expenditure. In overseas jurisdictions that the report examined, rapid increases in gaming activity did appear to lead to some offsetting reduction in other retail activity.

Individuals' benefits from gambling are obtained both by the people in the location where gambling is relaxed and by those who undertake travel from areas where gaming controls remain stringent. In the case of the former, the relaxation of gaming controls

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<sup>1</sup> Walker M. *Gambling Government* UNSW Press, 1998

<sup>2</sup> Dickerson M, Allcock C, Blaszczycki A, Nicholls B and Maddern R, A Report to the Casino Community Benefit Fund, NSW 1996

<sup>3</sup> Victorian Casino and Gaming Authority, *The impact of the expansion of gaming on the Victorian retail sector*, prepared by National Institute of Economic and Industry Research and Spiller Gibbins Swan, March 1997

allows greater benefits per dollar spent. It is not likely that such improved benefits would be reflected in measured levels of increased GDP.

Part of the benefits from increased tourism are similar to those gained by gamblers if the previous measures forbidding the activity were suppressing some preference on the part of consumers. The growth of gaming wherever its control has been relaxed is overwhelming evidence that the people who increase their spending on the activity perceive such benefits. And this measure of benefit is the only one that can be legitimately used in a democratic society.

In the presence of constraints on gambling more relaxed regime, some expenditure may leak from the economy to other locations. This would tend to be reflected in lower measured GDP levels—economic activity would be transferred outside the area itself. In the case of a particular country, those lower income levels may be transmitted via a slight devaluation of the exchange rate to enable the restoration of the previous equilibrium in the balance of payments through choking off some imports and stimulating greater exports.

For these same reasons, the attraction of expenditure from areas that have not benefited from a relaxed regulatory regime brings a tourist gain in income. This is akin to a gain made from increased exports of goods that have become more competitive. That gain is magnified if the availability of gaming increases demand for other goods and services sought incidental to or jointly with gaming. Of course, if gaming expenditure merely replaces other tourist expenditure, the gain is less, though still positive—the tourists by their actions will have shown a preference for gaming expenditures and can be presumed to have obtained greater satisfaction from the holiday experience. They would be all the more likely to repeat it and to promote its merits to others.

Many people would be attracted to a location only because it offers gambling facilities. At least prior to the recent economic downturn, the “Asian high-roller” market was a much publicised and clearly significant part of the Victorian casino business. Similarly, one of the driving forces in the liberalisation of State controls on gaming has been the observance of income leakage to other States. This was visible in the growth of gaming activity north of the Murray to cater for Victorians prior to that State's market liberalisation.

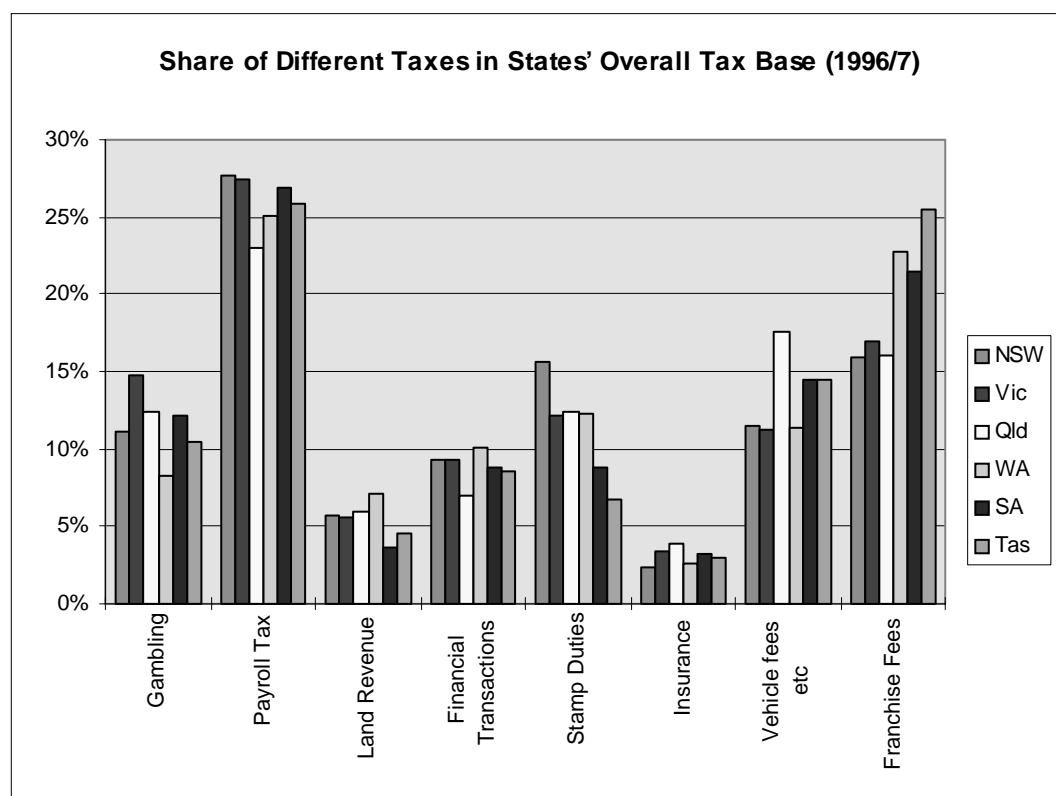
To the degree that gaming activity enhances the general attraction of a location, there are additional benefits in the form of increased real demand for associated goods and services. Those benefits can also be seen on a smaller scale in the case of EGMs in pubs. Work conducted for the Australian Hotels Association by the Tasman Institute in 1993 indicated that the introduction of EGMs to pubs was accompanied by a 40% increase in turnover with only half of this due to the revenue from the machines themselves.

### Increased Efficiency of Taxation

Gaming accounted for between 8 and 15 per cent of State Governments' revenues in 1996/97.

The considerable reliance of State Government finances on gambling taxes was amplified by the High Court judgement that ruled franchise fees on petroleum, alcohol and tobacco unconstitutional. That reliance will further be enhanced with the removal of nine taxes imposed at the State level if the Commonwealth enacts the Government tax reforms. Collectively, these nine taxes are estimated to reduce State Government revenues by over \$12 billion in 2001/2 and be replaced by the States gaining all the GST revenues and facing a balancing reduction in Financial Assistance Grants<sup>4</sup>

The \$12 billion eliminated taxes and the loss (transfer to the Commonwealth) of the franchise tax collections (\$5.2 billion in 1996/7) reduces the States' own tax raising base to less than half its 1996/7 level. The chart below illustrates that level. The importance of gambling taxes, even if their growth were to be a the same rate as expenditures generally, is therefore more than doubled in terms of the tax base State Governments have under their own control.



Source: Commonwealth Grants Commission

The loss of gambling taxation revenues to the States would force a complete overhaul of State taxation and perhaps expenditure. Ways of recouping the loss would be very difficult. For example, it would require a lift in Payroll taxes from the present top rates of 6.85% in NSW and 6.25% in Victoria to about 10% in both cases, an increase that would, at least during a transition, have some significant effects on employment rates.

<sup>4</sup> Tax Reform: not a new tax, a new tax system, the Commonwealth Treasurer August 1998 p. 103

(If the loss of gambling revenues was due to an enforced cessation of gambling, the loss in income/employment would be permanent).

Taxes on gaming have proven a more effective and less painful way for governments to pluck the taxpayer goose than alternative taxes. Indeed, in order to ameliorate pressure groups opposed to gaming, State Governments have set up special funds in the form of casino and gambling levies and have used these funds to staff gambling related agencies and finance studies into the effects of gaming. Thus, in the case of the Sydney Casino, over 9 per cent of tax revenues are paid to the Casino Community Benefit Trust. The readiness of State Governments to incur such expenditure is a reflection of the great ease of raising the revenues in the first place.

There may also be some advantage to government in promoting pressure groups that oppose gaming. Those groups create a general climate that gives gamblers a feeling of guilt in the exercise of their consumer choices. This facilitates placing a tax burden on them far in excess of that on most goods. In wholesale sales tax equivalence, the tax on gambling is 42 per cent<sup>5</sup>, compared to the average level of tax on all goods and services of less than 6 per cent.

The facility of raising money through gaming is a clear benefit to government exchequers. To the extent the collection costs are relatively low, there is a real benefit in terms of conserving resources in the economy.

That aside, there is little merit in raising taxes from gaming rather than other means. One line of argument in favour of this particular form of taxation can be developed through assessing the consumer response. In general, it can be argued that taxes that lead to the least response in expenditure patterns are most efficient<sup>6</sup>. However, it is not clear that taxes that leave demand for the targeted goods relatively unaffected do not have an offsetting deleterious effect on all other goods by their effect on the available levels of expenditure. In other words, although a tax on a particular good may have little effect on its demand, by reducing the income available for other spending, its distortion on overall activity can be just as great as a tax on a good that exhibited a more responsive demand.

### ***Juxtaposing Individual Freedoms with the Problem Gambler Issue***

The freedom of people to engage in gambling activities is not commonly associated with individual liberties. Even so, the ability of the individual peaceably to behave and spend his or her money as he or she pleases is an important test of a free society. Even if it is only a minority of the people who want to engage in an activity ( and gambling is far from a minority pastime in Australia) their ability to do so should be respected.

This is not to argue against any laws that forbid certain activities. There is wide support for laws aimed at protecting minors from activities that are widely tolerated for adults, and are sometimes even intrinsic to a great deal of adult social intercourse—

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<sup>5</sup> see Moran A, *Soaking the Poor*, IPA Backgrounder Vol 8/6 1996

<sup>6</sup> Such taxes are referred to as Ramsey taxes.



alcohol consumption falls within this category. Similarly, there is general agreement on the need for restraints on minors engaging in gambling activity.

Of course, some activities that may be labelled “victimless crimes” may be legitimately prevented. Thus, most western societies have long banned activities like dog and cock fighting in spite of the lack of harm this apparently imposes on other individuals. Many also place impediments on the access to pornographic material. And most forbid the general consumption of many forms of narcotic drugs. The general reasoning behind such restraints is that the activities have a capacity to undermine some basic features of the social fabric. Thus, the lack of respect for living creatures that is characterised in having animals fight to the death may be transposed to human life.

General restraints on people engaging in gambling activity cannot be classed within such categories. The activity is one which has had a place within almost all societies since time immemorial. It clearly has not had a destructive effect on society as it has developed. And there are very few voices who would judge it wise—or even practicable—to forbid all forms of gambling. Even so, governments, have often been slow to permit newer forms of gambling. Bowing to pressure from those with a moral objection to gambling and to fears that gambling may engender anti-social activities on the part of the gambler, new forms have often been allowed to emerge only when their suppression became too difficult. This has been the case in Australia, notwithstanding the major revenue gains that gambling activity allows.

Excessive behaviour is a major rationale for limiting access to gaming and has been the subject of several studies in Australia<sup>7</sup>. Yet, excessive behaviour patterns are common to almost all human activities. They are certainly present with alcohol and even with eating. The conditions that cause such disorders are serious for the individuals and for society. But, unless they undermine some basic foundations of society, their resolution is best left to the individuals most directly concerned to rectify. This rests on the well founded premise of a democratic society that the individual is primarily responsible for his or her actions. It is not to argue against the community offering assistance to people seeking to combat activities that cause harm to themselves and others.

It is also important to place the magnitude of problem gambling in perspective. A recent Harvard study synthesized information from 120 different studies and found that approximately 1.29 percent of the adult general population could be classified as having serious pathological problems with gambling. This represented an increase from 0.84 percent from the position in the 1970's. The study indicated that the increase was due to a number of reasons other than the increase in gaming activity. These included an increased social acceptance of gambling as well as an increasing desire to participate in risk-taking activities<sup>8</sup>.

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<sup>7</sup> See for example, *Definition and Incidence of Problem Gambling, Including the Socio-Economic Distribution of Gamblers* - Victorian Casino and Gaming Authority, August 1997

<sup>8</sup> Shaffer Howard J., *Estimating the Prevalence of Disordered Gambling Behavior in the United States and Canada: A Meta-analysis* — Harvard Medical School Division on Addictions, 1998.

The level of problem gamblers estimated in the Harvard study appears to have received corroboration from a number of other studies<sup>9</sup>. Hence, serious though the problem is to the individuals afflicted with the pathology, it is not of a sufficient magnitude to justify denying the population as a whole of their liberties.

### ***Controls to Prevent Criminal Activity***

Gambling has long been associated with criminal activity. Ostensibly, a major reason why Victoria had no casino prior to 1995 was the report of the Connors Inquiry in 1983<sup>10</sup>, which recommended against a casino due to fears about the effect on crime and corruption.

The cash nature of gambling will always give rise to criminal money laundering. Moreover, high profits associated with an activity that has monopoly power is likely to bring corruption, if not conventionally perceived criminal activity. However, the risks of this are far greater if the activity itself takes place outside of the law. In contrast to the judgements made in the Victorian Inquiry by Justice Connors, the NSW inquiries saw legalized casinos as a means to prevent illegal activity that has widespread public appeal and the capacity to bring about corruption in the police force<sup>11</sup>.

Commonly, the allegations of harm as a result of reducing the regulatory impediments to gambling are most forcefully supported by those that have most to lose, often because of the privileged position they currently hold. The licensed clubs were forceful opponents of the NSW legalisation of casinos as was the Liberal Opposition<sup>12</sup>.

### ***Regulatory Issues***

#### **Gaming Machine Limitations in Outlets**

##### THE REGULATORY STRUCTURE

Gaming machines are controlled in all States, with the NSW regime being the most liberal and Western Australia, where they are allowed only in casino, the most restrictive. Victoria introduced machines pursuant to the Gaming Machines Control

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<sup>9</sup> Submission by the New Zealand Business Roundtable, *Toward a more efficient Policy framework for gaming*, December 1996. Insight Canada Research, *Prevalence of Problem & Pathological Gambling in Ottawa Using The South Oaks Gambling Screen*, [www.cfeg.on.ca/prevale.htm](http://www.cfeg.on.ca/prevale.htm)

<sup>10</sup> Connors F X, Report of the Board of Inquiry into Casinos, Victorian Government, 1983

<sup>11</sup> Lusher E A, *Report on the Inquiry into Legalization of Gambling Casinos in New South Wales*, Parliament of NSW, 1977. Lloyd Jones, *Report on the Inquiry into Legalization of Gambling Casinos in New South Wales*, 1895

<sup>12</sup> In this respect, all major liberalizations of gambling laws in Australia have been implemented by Labor Governments. This is arguably because they were less beholden to those that might suffer loss of business as a result of new competition for the consumer's dollar and because their expenditure policies had a more urgent need for increased revenue.

Act 1991 (the "Act") which sets out the general principles for the operation of the Victorian gaming industry.

The Act and its ancillary regulation have created the following market framework.

- The total number of gaming machines allowed to operate in Victoria is set by the Government. Under the current moratorium, that number is set at 27,500.
- Two gaming operators, Tattersalls and TAB, own all gaming machines. Each gaming operator is entitled to own 50 percent of the total number of machines allowed in Victoria.
- Machines are operated in licensed venues by venue operators. Either pubs or clubs may be venue operators. Each class of venue operator, that is, clubs and pubs, is entitled to a maximum of 50 percent of the total number of machines allowed in Victoria.
- Machines are distributed to venue operators throughout metropolitan Melbourne and country Victoria on a 80/20 split.
- The number of machines clubs and pubs may operate is limited to a maximum of 100 machines with no bet limit in restricted areas. A maximum of 5 machines with a \$2 bet limit is permitted in unrestricted areas.
- Employees working in restricted areas must be licensed by the Victorian Gaming and Casino Authority.

The Victorian Gaming and Casino Authority is responsible for overseeing the gaming machine industry, issuing licences and researching the impact of gaming machines in Victoria.

No less than 87% of the total amount wagered must be returned to players for clubs and pubs. At present the machines are returning approximately 91%-92%.

The taxation position varies between pubs and clubs:

**Clubs:**

*Venue Operator: 33 1/3% of net daily take.*

*Gaming Machine Operator: 33 1/3% of net daily take.*

*Government Consolidated Revenue: 33 1/3 % of net daily take, to be paid into either*

- (i) the Hospitals and Charities Fund; or
- (ii) the Mental Hospitals Fund

**Pubs:**

*Venue Operator: 25% of net daily take.*

*Gaming Machine Operator: 33 1/3% of net daily take.*

*Consolidated Revenue: 33 1/3 % of net daily take, to be paid into either*

- (i) the Hospitals and Charities Fund; or
- (ii) the Mental Hospitals Fund

*Community Support Fund: 8 1/3% of net daily take to be paid:*

- (i) towards the expenses of the Victorian Gaming and Casino Authority (VGCA);
- (ii) to the Research and Development Fund (established by the VGCA);
- (iii) not less than 70% of the remainder to the Minister for Sport and Recreation to be spent for the benefit of Sport and Recreation Clubs, and the Minister for Community Services, for the provision of financial counselling services, gambling or for the treatment or rehabilitation of persons who are problem gamblers; and
- (iv) the balance to Ministers for: the Arts, for the promotion of the arts; and the Minister for Tourism, to be applied for the promotion of tourism.

Most of these measures—and other States have their own variations—distort the exercise of consumers' preferences and producers' abilities to meet these. In the case of NSW, the limitation on pub installation numbers offers a major advantage to clubs.

Where governments confer advantages on particular outlets at the expense of others, this is always likely to offer benefits to the former at the expense of the consumer. With such advantages made available by regulation, the beneficiaries are likely to offer rewards to the political organisations promoting them (or to penalize political parties that seek to take them away). Buying support through regulatory measures that bring a net loss to the community is a corruption of the political process.

#### EFFECTS OF THE EGM LIMITATIONS

The restriction on EGM numbers reduces the benefits consumers obtain by restricting the choice of venue and diminishing competition. As a result, those pubs (the restriction on clubs is largely redundant because demand is fully accommodated) with machines obtain excess profits (economic rent). The number of machines allowed in Victoria, (27,500) represent a shortfall of the number that consumers would prefer of over 30,000 based on the number of machines in NSW, (91,000). This is a conservative estimate, since there is a limit of 10 on the number of machines in NSW pubs, (with no limit in clubs).

Aside from loss of Government revenue, the limitations mean reduced consumer satisfaction and risks of locking in a less than optimal industry structure.

##### *Reduction in consumers satisfaction levels.*

By and large, a regulatory intrusion which prevents consumers spending their own money in ways they prefer - and businesses from moving to meet these consumers' demands - brings about less value to consumers per dollar spent. Economists refer to this as a loss of consumer welfare. Distortion of demand by regulatory measures means that people's spending pattern's are shifted away from that which gives them what they judge to be best value for their money. The consumer is disadvantaged by a distortion to the market which has an effect equivalent to a loss in measured national income.

##### *Risks of creating and locking in excess profit levels.*

With a mature market and no barriers to new entrants offering to supply the service (as long as they conform to standards of integrity, etc. common to all providers), there will be no "super" profits earned. This does not deny that well managed pubs might make high returns but simply maintains that, as a whole, the industry will receive incomes which provide for a "normal" return on capital and labour.

If this were not the case, the very profitable opportunities would bring more entrepreneurs to enter the marketplace. The increased supply leading to pressure on margins until an equilibrium 'normal' profit levels are reached. With a limitation of supply, there is, however, a grave risk of "normal" returns being brought about by a revaluation of assets. This would be the counterpart of what happened with taxi-plates. Government limits on the number of taxi-plates has resulted in a premium in the price at which they change hands. As has been amply demonstrated (Swan<sup>13</sup>) the upshot is an increased capital value which the consumer pays for but for which the lucky holders of the scarce licence achieve super profits. (Economists call these "economic rents".)

As a form of passive shareholder in the revenue of gaming machines, through their revenue shares, Governments would also be major losers from the capitalisation of scarcity rents that would inevitably accompany a continued supply limitation.

#### TAXATION ARRANGEMENT'S. THE TILTED PLAYING FIELD

Under the present distribution, arrangements are discriminatory. In Victoria, the government and gaming operators each receive  $33\frac{1}{3}$  percent of net gaming revenue. Where the venue operator is a club, the venue operator keeps the remaining  $33\frac{1}{3}$  per cent. However, where the venue operator is a pub,  $\frac{1}{4}$  of the remaining  $33\frac{1}{3}$  ( $8\frac{1}{3}$  of the total net gaming revenue) is paid to the Community Support Fund.

This means that on gross returns of 9 percent, the pubs receive 2.25 percent while clubs receive 3 percent. This competitive advantage is equivalent to pubs paying an additional 33 percent tax to that of the clubs.

Offering one class of institutions preferred treatment over others is seldom beneficial to the community as a whole. It is argued that clubs are not-for-profit organisations and undertake valued community work (like assisting in continued viability of the world's greatest code of football) and as such warrant government assistance. However, incorporating a hidden extra tax is an inefficient method of providing this assistance. In the final analysis, all taxes are passed through to the final consumer, either through higher charges or through costs being added on. Accordingly, the measures in place represent a hidden extra tax on the pubs' customers and confer a competitive advantage on clubs.

Moreover, such additional taxes are inimical to Governments' preferred administrative approach. Governments are attempting to remove hidden taxes and even subsidies (eg.,

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<sup>13</sup> *On Buying a Job: the Regulation of Taxi Cabs in Canberra*, Swan P., Centre for Independent Studies monograph, 1979

on water and electricity provision) for the very good reasons that they distort output, thereby generating excessive costs, and that they are difficult to monitor, making it difficult to determine whether they do in fact provide the value intended of them. The result of a discriminatory tax is that consumers adjust their behaviour so that due to distortionary losses the true costs cannot be determined.

If a Government wishes to support the types of activities undertaken by clubs, it should do so in an open, transparent and readily scrutinised subsidy specifically targeted on the activities favoured.

The present lack of visibility and contrived distortion is, arguably, all the more regrettable because, in the main those being discriminated against by the present taxation arrangements are small businessmen and women, who are the proprietors of pubs. Over recent years, changing social behaviour and tougher drink-driving laws have contributed to a marked downturn in their business levels.

#### OTHER DISTORTIONS

Gaming machines have been introduced successfully throughout most of Australia. They have brought financial advantage to both pubs and clubs and have augmented Government revenue. Moreover, there is competition and no suggestion of the criminal involvement, often accompanying gaming machines. Even so, the introduction was one of excessive government intrusion into what should have been purely commercial decision. For Victoria, that intrusion includes

- the 50/50 club/pub installation rate rules;
- the strict 50/50 rule between TAB and Tattsлото machines and the illegality of other machines;
- the 80/20 city/country rule; and
- the maximum capacity levels on numbers and a location of certain machines.

#### *Discrimination between EGM Availability at Clubs and Pubs*

Setting a parity between clubs and pubs cover no purpose. Clubs are far less numerous than pubs. They would be unlikely to have a similar demand for machines to that of pubs even if there were a relaxation on number of machines per establishment.

The parity rule therefore essentially means clubs can obtain machines more readily than can pubs. Like the taxation arrangements, this favours clubs. And while this is understandable, even if not legitimate in the case of sports clubs, it is of doubtful merit in the case of other large class of clubs: those based on ethnic origin or supporting a particular political party. There is, of course, nothing wrong with people of different ethnic backgrounds or preferences or other values setting themselves up in a club that excludes or limits the presence of outsiders. However, it would seem to be quite wrong for governments to be setting out to favour such venues at the expense of those like pubs which seek to offer their services equally to all.

At the present juncture the 50/50 pub/club rule in Victoria is misdirecting the available machines towards clubs where demand for machines is close to maturity (at least on

present maximum machine number rules) and the community, the government and the operators would all gain from a relaxation of this 50/50 rule so that commercial considerations would direct a greater share of available machines to pubs.

### The TAB/Tattslotto Monopoly

The present arrangements in Victoria allow only TAB and Tatts to offer machines in Victoria. They also require a strict 50/50 installation rule. This goes much further than the long discredited duopoly that once characterised airline operations. It insists that, irrespective of consumer preferences or costs, each supplier will service the same share of the market. These measures constrain the greater efficiency, lower costs and enhanced market orientation that is the natural outcome of competition.

Not only does the forced duopoly constrain competitive effort between the two suppliers, it prevents any of the dozens of alternative suppliers from offering their services. A duopoly tends to limit competition in ways that do not generate the diversity of service the market would normally want.

### ***The Privileged Position of Licensed Casinos***

All the Australian jurisdictions have granted forms of exclusive licenses to casino operations. The limitation on machines in pubs in Victoria and preventing their installation forbid is an added protection to casinos (as well as to clubs).

Government licensing of casinos has the purpose of, and is designed to, limit their supply. By restricting supply, Governments are thereby increasing the costs to the gambler. In these terms, the regulatory restrictions are a form of tax on those wanting to use casinos.

With no further restrictions, the holders of the licenses obtain the financial benefit. But governments have usually required some of these "rents" be dissipated in other developments. Casino projects have usually been associated with planning schemes designed to increase the attractiveness of the casino complex. The casino's approval is made conditional on other facilities being constructed, facilities that are, in effect, subsidised by the high profits from the casino operations. Favouring a particular area in this way is likely to have an offsetting effect on rival geographic locations. In net terms the privileges extended to the favoured area are more likely to bring a net reduction of aggregate real income than an increase.

Accordingly, the preferred approach is to readily approve casino developments, although this should not be done in ways that abrogate agreements that governments have previously entered into.