

**WESLEY COMMUNITY
LEGAL SERVICE**

**SOCIAL and LEGAL
IMPACTS OF
GAMBLING**

PRODUCTIVITY COMMISSION

SEPTEMBER 1998

1. DESCRIPTION OF WESLEY COMMUNITY LEGAL SERVICE

Wesley Community Legal Service (WCLS) is an activity of Credit Line Financial Counselling Services, which is a division of Wesley Mission. We are supported by the N.S.W. Casino Community Benefit Fund and the Dept. of Fair Trading and provide:

- Legal advice to problem gamblers and those affected by problem gambling (such as family members)
- Court representation for problem gamblers facing criminal charges
- Legal advice and assistance to problem gamblers and their families in Family Law
- Public interest and last resort litigation
- Legal resourcing for the State-wide Credit Helpline program
- Referral for financial and gambling counselling
- Counsellor training in legal issues
- Advocacy and Information services

Our service has 3 solicitors and support staff. We are located at:

53 Regent St Chippendale NSW 2008
Tel. 9951-5544 Fax. 9319-5492

Credit Line has branch offices at Penrith, Fairfield, Sutherland and Quaker's Hill.

Referrals to **Wesley Community Legal Service** come from:

1. Gambling counsellors
2. Financial counsellors
3. Gamblers Anonymous
4. G-Line
5. Welfare agencies
6. Legal Aid

We refer clients to:

1. G-Line
2. Gamblers Anonymous
3. Other gambling counselling agencies (free and private)
4. Doctors (GP's and psychiatrists)
5. Mental health agencies
6. Welfare agencies
7. Alcohol treatment agencies, such as William Booth Institute
8. Accommodation services

2. THE NEED FOR GOVERNMENT INTERVENTION

Gambling is of little value to society. Filling in the quiet hours, cheap thrills and the dream of the big win. Gambling doesn't feed the family, pay the rent or save for retirement. It does not educate the young or protect the environment.

Gambling redistributes wealth. Gamblers come from all socio-economic groups, but are predominantly working class and lower income. Gambling provides a negative return on investment of 55-98% on average, with poker machines usually returning 85%. Wealthier people tend to indulge in forms of gambling with a positive return such as shares and real estate.

Despite having the odds against them, gamblers persist in the mistaken belief that they will somehow succeed against the odds.

Whilst gambling is a relatively harmless recreation for most Australians, it is harmful to a few. Gambling is a repetitive activity. The more you gamble, the more of a habit gambling becomes. Eventually the urge to gamble will become a compulsion in itself. For this reason gambling has many similarities with other addictions such as tobacco, alcohol and illegal drugs.

There is a real and pressing need to recognise the harm that is caused by problem gambling, where the urge to gamble overpowers reason; and to provide controls and safeguards to inform and protect consumers.

For problem gamblers, the addiction will cause substantial financial harm or financial ruin. In turn these problem gamblers will affect an average of 10 other people in a significant way - family members, friends, employers and creditors. In extreme cases problem gamblers will leave a path of social devastation where hundreds are their victims.

3. TAXATION ISSUES

The rapid proliferation of gambling in Australia has primarily been fuelled by the archaic and fragmented tax system.

Because gambling is an irrational activity in itself, few gamblers intentionally choose the form of gambling which provides the best statistical return. Instead, other factors predominate, such as the amount of prizes offered by Lotto and similar games. As a result gambling operators and governments are able to extract windfall profits by vigorous marketing and having an organised market.

Of all State governments, N.S.W. is the most dependent on gambling for revenue.

Gambling diverts revenue away from Federal Income tax to State tax for the following reasons:

1. Money gambled is often “black money” on which no income tax has been paid.
2. Money gambled would otherwise be invested (with income tax payable on earnings) or spent (with consequent tax on business profits).
3. Problem gamblers mostly drink or smoke as a result of stress and environmental factors, and both of these activities are significant subsidiary sources of State revenue.

Gambling tax is voluntarily paid by gamblers who are not organised politically or socially. However gambling operators are often politically powerful, with the ability to change government policy and dominate a particular gambling market.

For example, products such as Lotto rely on heavy media marketing and outlet promotion. A close association with a media organisation and newsagents has enabled Lotto to dominate its market. It is now very difficult for competitors to enter this market, because consumers are attracted to Lotto” s large and frequent prizes. Having more operators would be less attractive to consumers because the prizes would be smaller and drawn less often (e.g. the decline in traditional State lotteries).

Government policy is or should be based on the premise that gambling is primarily a form of voluntary taxation or revenue collection. There is an entertainment component, but it is secondary. Gamblers will tolerate quite a low rate of average return on some forms of gambling such as lotteries, but are more sensitive to the rate of return on other forms of gambling, such as casino games.

4. EXPENDITURE ISSUES

Problem gambling causes increased government expenditure including:

1. Unemployment benefits payable where employment is lost due to the distraction of gambling.
2. Health costs arising from gambling caused stress, smoking, alcoholism, malnutrition
3. Welfare costs where all family income has been gambled.
4. Social services required to deal with gambling related problems
5. Police, courts and prisons to deal with gambling related crime
6. Housing required where homes are lost through gambling or rent is not paid
7. Counselling and other forms of treatment
8. Family law costs as a result of family breakdown.

It will be impossible to accurately quantify these costs because statistics often overlook problem gambling as a cause. Gamblers quickly learn to be secretive about their gambling or pretend to be winning more than they lose. Families of problem gamblers share that desire for secrecy to avoid the shame and stigma that problem gambling brings.

5. PROTECTING FAMILY MEMBERS

There is an urgent need for governments to enact legislation to protect family members of problem gamblers. Family members suffer when:

1. Family income is gambled away so their is little or no money for essentials such as rent or food;
2. Family assets are eroded away by gambling causing loss of home and financial security;
3. Relatives lend money to the gambler which is never repaid;
4. The gambler steals the property of family members which is then sold or pawned to raise money for gambling;
5. Family members guarantee the gambler's debts;
6. The gambler forges the signature of family members to borrow money;
7. The stress of gambling causes the gambler to become physically or verbally abusive;
8. Children are neglected whilst parents are out gambling;
9. Creditors are constantly ringing and writing, demanding payment of debts

Relatives of gamblers rarely report crimes committed against them to the police. Instead they put it down to experience and take steps to avoid a recurrence.

In one case, a father kept stealing his son's CD's and pawning them to get money for gambling. The son resorted to installing a bolt and padlock on his bedroom door so his father could not get into his room when he was out.

Family members are frequently angry at a system which encourages problem gambling and provides them with little protection. However, few will speak out publicly, because of public prejudice against gamblers and the shame which falls on the family.

For example, family members want to have the ability to ask gambling providers to bar a breadwinner or at least limit the amount gambled.

Our client K is married to a problem gambler. K approached the club where he gambled and asked them to stop him gambling. K's husband had gambled away all their money and K needed to apply to a charity for emergency welfare assistance to feed the children and herself.

The club told her they were sympathetic, but had no legal right to stop K's husband gambling all his money away.

There are complex legal and ethical issues involved here. It is difficult to provide a balance between the rights of gamblers and the need to provide protection for family members and others affected by them.

Family members are right to complain of lack of protection when the problem gambler is disposing of all family assets and not providing money for the family to live on. It would be simple to pass a law enabling the family member to take the problem gambler to court and obtain some control over assets or income.

However, we are faced with a serious invasion of personal liberty. A problem gambler may simply be spending his or her own money on a legitimate recreation. Why should some officious relative be entitled to interfere ?

The Family Law Act (Cth) and De Facto Relationships Act (NSW)

The *Family Law Act* empowers the Family Court to make orders in relation to financial matters between married persons, and the *De Facto Relationships Act* empowers the Supreme Court to make similar orders in relation to De Facto couples. There is cross-vesting legislation in place which allows the respective courts to exercise the jurisdiction of the other, and there is limited jurisdiction from both Acts granted to the Local Court.

Both laws do not adequately cover the needs of family members of problem gamblers. The legislation is designed to facilitate division of property between spouses or partners upon the breakdown of the relationship. In the case of problem gambling, there is often an urgent need to protect family assets or income before breakdown of the relationship, or in circumstances where there is no wish by the spouse or partner to end the relationship.

Spouse maintenance

A spouse can apply to the Family or Local Court under section 72 for an order for spousal maintenance. Urgent orders can be made under section 77. However, few spouses make such applications because:

1. It is slow, expensive and Legal Aid is rarely available;
2. It may be hard to prove the need for such an order without good evidence.
3. Court proceedings are public and adversarial, and family members are often intimidated by the problem gambler.
4. An application may well fail if the applicant cannot convince the court that the money is needed for the applicant's support.

Child support

In a relationship where both parents are residing in the home and there is apparently adequate income, it is difficult, although not impossible for the non-gambling parent to obtain an order for child support. However, this rarely if ever occurs due to the pressure exerted by the gambling parent.

Family law injunctions

These are expensive to obtain and require substantial evidence which is rarely available.

Other relatives

Neither law provides an adequate process for relatives other than the spouse or de facto partner. This means that parents, children, other relatives or friends of the problem gambler are forced to rely upon remedies available at general law. General law remedies may require proof of a contract or a trust. There are often substantial difficulties and cost obstacles in applying for general law remedies.

State court remedies such as injunctions

Generally, court orders to freeze assets (injunctions etc.) are expensive and difficult to obtain. There has been no recognition by the courts of the special needs of those affected by problem gambling. Ideally, Local Courts would be empowered to prevent the disposal of family assets and orders enabling dependents to have access to the breadwinner's income, when substantially all of that income is being gambled.

6. BANKRUPTCY ISSUES

There is a correlation between the rise in gambling and the rise in consumer bankruptcies. Nationally, bankruptcies increased 26% in 1996/97 over the previous year (from 17,324 to 21,830).

The national statistics only reveal gambling or speculations as a major cause in 1.3 % of non-business bankruptcies and a contributing cause in 1.4% of non-business bankruptcies administered by the Official Trustee but this is unrealistically low. Whilst few bankrupts admit to gambling being the cause of bankruptcy, there is abundant anecdotal evidence available from financial counsellors that gambling is a factor in many bankruptcies. To obtain more accurate figures on gambling as a cause of bankruptcies, it would be necessary to first amend s.271 of the Bankruptcy Act.

Typically a gambler will borrow increasing amounts of money to gamble, disguising the purpose for which money is borrowed by shuffling money from one place to another. For example, a personal loan may be taken out to purchase a car, which is then sold to provide gambling money. On the Statement of Affairs, only the personal loan will be disclosed, not the ultimate destination of the loan monies.

Statistics from the Bankruptcy Act 1966 - 1996/97 Annual Report show that few prosecutions for gambling offences under the Bankruptcy Act are taking place:

Section 271 of the Bankruptcy Act provides:

“A person who has become a bankrupt after the commencement of this Act and:

- (a) *within 2 years before the presentation of the petition on which, or by virtue of the presentation of which, he or she became a bankrupt, whether the petition was presented before or after the commencement of this Act, materially contributed to, or increased the extent of, his or her insolvency; or*
- (b) *during any period between the presentation of that petition and the date on which he or she became a bankrupt, lost any of his or her property; by gambling or by speculations that, having regard to his or her financial position at the time and any other material circumstance, were rash and hazardous, being gambling or speculations not connected with a trade or business carried on by him or her, is guilty of an offence and is punishable, on conviction, by imprisonment for a period not exceeding 1 year.”*

The result of this section is to make many bankrupts potential criminals for participating in a form of recreation which is both legal and strongly supported and promoted by State and Territory governments.

Very few people are aware of this section. If it were vigorously enforced there would be a public outcry, but the reality is that the bankruptcy authorities regard it as an embarrassment and are sparing in its application, only prosecuting those who blatantly gamble in anticipation of bankruptcy. The fact is that very few gamblers gamble in anticipation of bankruptcy. They gamble with the belief they will win. It would be unjust to prosecute such people as criminals when they subsequently lose.

We submit that the law should be changed to reflect reality, which is that the many gamblers who end up as consumer bankrupts, do so without intention to defraud their creditors.

Prosecutions of gamblers also occur under sections 265 and 269 of the Bankruptcy Act (which does not specifically relate to gambling).

Consider the recent prosecution statistics:

1995/96

NSW	Prosecution under s.271 resulted in a 12 month bond; \$500 fine and \$47 costs. 6 successful prosecutions under s.269 and other prosecutions under similar sections
SA	1 successful prosecution under s.269 1 successful prosecution under s.265
WA	4 successful prosecutions under s269 and s265

1996/97

- NSW - 1 successful prosecution under s.265(1)(a)
 1 successful prosecution under s.269(1)(a)
- Victoria - 2 matters under s.271. One was convicted with a 2 years good behaviour
 bond, the other received a letter of caution.
 2 matters under s.269(1)(a)
- Queensland - 1 successful prosecution under s.265(5)
 3 successful prosecutions under s.269(1)(a)
- WA 1 successful prosecution under s.265(1)(a)
 1 successful prosecution under s.269(1)(a)
- Tasmania - a person charged under s.271 was found not guilty.
 1 successful prosecution under s.265(1)(a)

These are very few in comparison with the total number of bankruptcies.

7. INTERNET GAMBLING/OFFSHORE BETTING

There has been much public discussion about the difficulty in controlling internet betting. Internet betting should be considered as simply a variety of offshore betting.

One Stop Betting Shop

If a gambler wants to avoid paying gambling taxes, he/she can simply open an account with the One Stop Betting Shop in Vanuatu, which has been associated with a former prime minister. The One Stop Betting Shop has strong similarities to an SP Bookie.

The bets are a form of contract. There is no need to visit Vanuatu, you can bet by telephone.

The One Stop Betting Shop would prefer the gambler to pay in cash in advance, or provide payment by credit card. However, the One Stop Betting Shop also provides credit betting. Although illegal in Australia, credit betting is apparently legal in Vanuatu.

We have clients who have received letters from the One Stop Betting Shop demanding payment of gambling debts. However, we have yet to come across someone who is the subject of court proceedings brought by this company. The main reason a gambler will pay gambling debts is in order to continue gambling.

We are uncertain as to whether the Australian courts would assist the One Stop Betting Shop in collecting gambling debts. However, if the government wishes to restrict offshore

and internet betting, it may achieve this in part, by refusing to enforce the collection of gambling debts incurred with offshore gambling providers.

This would be a simple extension of the rule of law that courts will usually refuse to enforce the revenue laws of another country.

Credit card payments

The most effective way of controlling or minimising offshore betting is to make the transfer of funds difficult. Typically, an offshore virtual casino will seek payment by credit card, and then the credit card company takes on the role of collecting the gambling debt.

It would be a simple matter to pass legislation prohibiting the use of credit, debit and charge cards for gambling. The onus should be on the credit card company to show that a particular charge is not for gambling. So if a gambler uses his/her American Express/Diner's Club/Visa/Mastercard to gamble at an offshore virtual casino, the Australian courts will refuse to assist the card company in collecting the debt.

A determined gambler could always transfer funds to an overseas bank account and then make arrangements for those funds to be transferred to the virtual casino, but this requires much more time and effort. Without the convenience of credit or charge card payment, few gamblers will go to the trouble of sending money by these means overseas before gambling.

Australian internet betting

Centrebet has proven both popular and successful. Other States are moving rapidly to establish their own internet betting services. One strong argument in favour of Australian internet betting is that it will attract overseas gambling revenue and will greatly reduce the flow of Australian gambling revenue overseas.

Internet betting is borderless, so State and Territory governments will need Commonwealth (and ideally international) legislation to regulate their activities. Such legislation should deal with the following:

1. Uniform rates of taxation to avoid one jurisdiction undercutting the tax rates imposed by other jurisdictions;
2. Uniform consumer protection controls;
3. Identification procedures to prevent minors betting;
4. Strict prohibition on credit betting;
5. Payment controls to reduce the incidence of fraud.

Interactive gambling

Digital cable television technology is now available and being introduced into England and

other places. This technology will enable interactive shopping, banking and other services such as gambling, at a low cost. For example, sports viewers watching television may be periodically interrupted by advertisements offering to take bets on the outcome of a particular sporting event. Such a bet may be placed by simply pressing a button, or possibly, saying what you want to bet into a voice recognition unit.

The ability to offer interactive shopping and gambling may enable the providers of digital cable television to provide a full range of services free, or at low cost. The profit from shopping and gambling will subsidise the installation and ongoing costs of providing digital cable television.

Interactive gambling has the potential to provide a wide range of gambling opportunities from home - virtual casino, poker machines, sports betting, TAB, lotteries, Lotto etc.

Interactive gambling will only lack the atmosphere - the excitement of the races, the crowd at the TAB, the tranquilliser or social aspects of the club or the glamour of the casino. There are similarities with a TAB phone account, but interactive gambling will have the attraction of the TV screen, and will not require any skill or background knowledge (which is a barrier to betting on racing).

Venues will adapt to provide both interactive gambling and atmosphere in an effort to draw people out of their homes. Casinos and larger clubs are already doing this.

Interactive gambling at home will increase the social harm caused by gambling for the following reasons:

1. Children will be present while adults gamble and will be more likely to develop gambling problems as adults;
2. Increased accessibility to gambling will increase the total amount gambled by gamblers;
3. Debit cards and other convenient methods of payment will make it even easier to gamble all one's savings quickly;
4. It will be easier to conceal gambling from family, friends and employers;
5. Whatever security arrangements are in place, credit card fraud and other fraudulent activity will increase.

Whilst the current philosophies of economic rationalism and social Darwinism predominate, it seems pointless to argue against the introduction of this new gambling medium.

At the very least we need systematic education at the level of primary and secondary education to alert children to the risks and odds of gambling. In addition we need to set aside additional amounts in budget estimates to cope with the additional demand on social services which problem gambling will cause.

8. RACIAL DISCRIMINATION (INTERNATIONAL TREATIES AND FEDERAL LEGISLATION)

Some racial and ethnic groups are much more likely to gamble than others. This fact has been exploited by gambling service providers, who have targeted particular ethnic groups with ethno-specific advertising and promotions. The ethnic groups are primarily those of Asian, Middle Eastern and Aboriginal in origin. Many people in these ethnic groups lack the language skills or education to be in the position of the “informed consumer” so beloved by economists. Instead, they are more likely to fall in the category of “mug punter” favoured by the gambling industry.

To date, governments have done little to prevent the selective targeting of racial and ethnic groups by gambling providers. Selective targeting of racial and ethnic groups may be racist, but does not appear to breach the *Racial Discrimination Act 1976 (Cth)*, or the *International Covenant on the Elimination of All Forms of Racial Discrimination*.

Section 9(1) of the *Racial Discrimination Act 1976 (Cth)* provides:

“It is unlawful for a person to do any act involving a distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life.”

So while prohibiting a racial group from gambling would be illegal, it is legal to exploit a weakness that group has to gambling.

9. NATIONAL COMPETITION POLICY

The wide variety of forms of gambling, gambling operators and gambling venues in Australia has created great competition between providers. Compared with essential consumer goods and services, gambling has a proliferation of choices and keen competition between providers. In N.S.W. alone we have 1,433 clubs, 1,808 hotels and a casino offering poker machines, as well as every newsagent offering lotteries, scratchies etc, the TAB which is accessible to every home with a phone, not to mention racing and the myriad of “competitions” on cereal boxes and a million other goods and services. Only Las Vegas offers more gambling opportunities than N.S.W.

Unfortunately we are yet to see a level playing field. Much of this is because regulation is inadequate. In N.S.W. there are different rules and administrative structures for all the different gambling disciplines. These are complex and change regularly.

Worse is the ridiculous competition between States. For example, the competition between N.S.W. and Victorian casinos to reduce their tax rate and attract high rollers.

Such competition is parochial and against the public interest. If we must have gambling, then we should tax it as heavily as possible, to ensure the maximum return to the community.

There is a move towards developing “value added” gambling where gambling providers try to offer more for the gambling dollar. This is a positive step from the point of view of the recreational gambler who can control the amount he/she gambles.

However, the problem is that increased competition leads to pressure to increase the amount of money gambled. Promotions are aimed at increasing the frequency of attendance at the gambling venue and the length of each visit. For example promotions require the gambler to present at the club when a prize is drawn. Or patrons earn “points” for the amount they gamble, which they can then cash in on prizes.

The result is that recreational gamblers are persuaded to gamble more than they can comfortably afford, or are encouraged to follow the path of problem gambling.

As well as uniform tax rates, competition policy should also ensure that gamblers are provided with basic levels of consumer information about the various forms of gambling, such as the rate of return for every dollar gambled, and the chances of winning.

10. THE NEED FOR CONSISTENT HARM MINIMISATION LEGISLATION

Problem gamblers who have a more serious habit will probably commit crimes to obtain cash for gambling. Typically such crimes are non-violent and include embezzlement, forgery, passing worthless cheques, obtaining benefits by deception.

Family members, friends and employers are the most frequent victims. These people are reluctant to report the criminal activity, and will often “bail out” the problem gambler by advancing funds to pay creditors where criminal charges are threatened. Sometimes it is difficult to determine whether the behaviour of the problem gambler is criminal activity, or simply gives rise to a civil debt.

We have seen a number of instances where the problem gambler has forged his/her spouse’s signature on a loan application and mortgage. The spouse or family member is then faced with the dilemma of whether to institute criminal charges or not.

We would prefer to see a broadening of the jurisdiction of the Family or Local Courts to deal with such issues, without claims necessarily resulting in criminal charges.

Physical violence or verbal abuse will often accompany the financial abuse of family members. The present approach to the issue of Apprehended Violence Orders (AVO’s) is that financial abuse is not taken into account. Yet the financial abuse may be behind the physical or verbal violence. The result is that family members may need to make multiple court applications, one for an AVO, one for urgent injunctive relief, one for maintenance,

one for property division; as well as fend off claims by creditors.

Gambling by minors

There is abundant research supporting the proposition that exposure to gambling at a young age is a major factor in developing problem gambling as an adult. In-depth counselling by our family therapist revealed that 9 out of 10 of her problem gambling clients had some exposure to gambling as a child, typically by observing gambling by a relative.

Whilst prohibiting minors from gambling will not prevent them from being exposed to the gambling of significant others, the link between actual gambling by minors and the development of problem gambling exists and there is a need for continued reminders and a robust level of prosecutions of those breaching the law.

Our client B is presently facing over 100 criminal charges for stealing a total of \$145,000 from her employer. All of the stolen money was gambled on the TAB and at the club. Now 26 years of age, B has been gambling since she was a child. Her earliest memories of gambling go back to the age of 6 or 7 when her stepfather took her to the trots and “brought home bundles of money”.

Another client, C, who was recently jailed for embezzlement told us that “I was 4 when Dad introduced me to horses and taught me how to gamble”. C continued to gamble with his father’s encouragement. When he was convicted of embezzlement his father rejected him and said “How dare you steal”. C replied “How dare you teach me to gamble.” C and his father no longer speak to each other.

D commenced gambling at 16 years of age at the TAB and is now 27. D placed bets in person and his age was never queried. He has been a problem gambler all his adult life. D has had several broken relationships. His family have continued to bail him out (pay his gambling debts) until this present day. They provided about \$270,000 over 10 years and lost one home. Now his mother and father are about to divorce as a result of stress brought about by D’s gambling.

The issue of internet gambling provides a technical challenge. Public awareness about problem gambling may be more effective than trying to prevent children obtaining access to the many internet gambling sites.

E was duty manager at a Sydney club. He gambled in excess of \$20,000 in one day on Keno fraudulently and whilst on duty. He was dismissed and immediately obtained a

similar job with another club. That club only became aware of E's criminal behaviour when they read about it in a newspaper.

State governments are dependent upon gambling tax and are hostage to the powerful gambling industry. Consider the situation in N.S.W. where the Registered Clubs Association threatened to contest marginal seats in protest at increases in the tax levied.

We need uniform legislation to provide basic harm minimisation protection in all gambling disciplines and all States and Territories.

In particular, governments must legislate for mandatory consumer protection in the following areas:

a. Warning signs

Melbourne's Crown Casino has prominent notices on its bars announcing the responsible service of alcohol. When inspected by us a year ago, there was not a single sign about the responsible service of gambling.

b. Inducements to gamble

Consumption of alcohol impairs judgment. We spend a huge amount warning people not to drink and drive, because of the danger of road accidents. Yet nothing is done to control the relationship between drinking and gambling. No wonder there are so many financial accidents. Consider these examples:

F was a patron of a Sydney hotel. Over the course of 18 months he lost approximately \$300,000 gambling on the hotel's poker machines. One factor in his gambling was the provision of free alcoholic beverages by the hotel while he was gambling on the machines which impaired his judgment.

A businessman was a regular gambler at a club. He stated:

"After a while the club would always give me free drinks (schooners of VB beer). I would begin by betting \$20, then double it to \$40, then \$80, and so on. The more I drank, the more I bet, and as the drinks were free, I simply kept on drinking. I would bet as much as \$5,000 on a single Keno game."

c. Controls on promotions and advertising

Nearly all advertising emphasises winning. This contrasts with the fact that gamblers can expect to lose over time.

Our concern is that the current industry approach is “If it’s legal, we can do it”. Courts have allowed advertisers tremendous freedom in advertising. Court decisions often differ from community standards and this is where the Gaming Commissioner may assist.

In particular, the disclosure of the odds of winning must be considered, otherwise consumers are liable to believe that they will win at gambling.

There needs to be an advertising code and an investigation of the impact of advertising on potential problem gamblers.

Examples of promotions

One promotion advertised “The more you gamble, the more chances you have of winning in the draw.” This was clearly targeting problem gamblers chasing losses.

A gambling provider sends birthday cards to frequent gamblers with free gambling vouchers on their birthday. Birthday cards have been received by problem gamblers who were self-excluded at the time.

The Departments of Health and Fair Trading have worked hard to promote warnings of all types on products which may affect consumers. For example we now have serious and prominent health warnings on tobacco products, such as “Smoking Causes Heart Disease”, “Smoking Causes Lung Cancer” and “Smoking Kills You”. Yet there is no requirement on providers of gambling to provide any type of warning.

Where warnings have been provided voluntarily they are sometimes too weak to have any impact. We feel that “Bet with your head, not over it” (Star City slogan) is too vague. We would prefer something like “*Gambling may cause problems in your life. Star City advises caution.*”

Client G is a former problem gambler. She was attracted to the club by cheap \$2 meals. The money she “saved” she was soon gambling on the poker machines. After counselling G stopped going to the club. She said “The \$2 meals were costing me \$52.”

Star City promotions now involve a “package” where gamblers pay \$10 for a return bus trip to the casino, and receive a free or subsidised lunch and \$10 worth of gambling chips. For many, this sort of offer is sufficient to get them hooked. They are stuck at the casino for 4 or 5 hours with nothing to do except gamble on the machines.

As the gambling market reaches saturation point, promotions to lure gamblers are becoming more and more persuasive.

d. Prizes

At present there are few limits on prizes. If a small-medium prize is won on a poker machine, the gambler has the option to either call the attendant and obtain the prize, or simply play on. This practice is designed to make it difficult to stop gambling as the “easy choice” is to simply play on. To be fair, gamblers should be forced to consider whether they want to play on.

e. Controls on cashing of cheques

The Commonwealth has responsibility for cheques, conferred by s.51(xvi) of the Constitution. Cheques are frequently the vehicle by which problem gamblers get into serious debt to gambling venues. Unlike normal businesses, many gambling providers will cash all sorts of cheques for large amounts on the tacit understanding that the cash will be gambled at the gambling venue.

Why would a gambling provider cash third party cheques before cleared by a bank ?

In N.S.W. it is an offence to pass valueless cheques. Section 178B of the N.S.W. Crimes Act provides:

“Whosoever obtains any chattel, money or valuable security by passing any cheque which is not paid on presentation shall, unless he proves:

a. that he had reasonable grounds for believing that that cheque would be paid in full on presentation; and

b. that he had no intent to defraud,

be liable to imprisonment for one year, notwithstanding that there may have been some funds to the credit of the account on which the cheque was drawn at the time it was passed.”

In short, because the State police are available to assist as debt collectors with the added persuasion of possible criminal sanctions. The situation is similar in other States.

J received a \$22,000 bank cheque after the sale of her property and intended to use it to pay her creditors. The cheque was payable to a third party. However the urge to gamble overtook her and J took the cheque to a club where she was known to be a problem gambler. J obtained \$7,000 credit from the club to gamble before they even banked the cheque. The balance of the \$22,000 was provided to her after the cheque was banked and she gambled the lot. The club was willing to provide her with this credit even though the cheque was payable to a third party. Her indorsement of the cheque made her personally liable under s.75 of The Cheques and Payment Orders Act 1986 (Cth)

f. ATM machines

According to Sir Lawrence Street:

“Any gains through the credit and cheque-cashing restriction are likely to be lost if automatic teller machines (ATMs) are permitted in the casino. A gambler intent on chasing losses could get the funds to do so either from his or her own account, or by a cash advance on a credit card. There are strong grounds for prohibiting ATMs from the casinos and I recommend accordingly. It should be noted, however, that even if ATMs were to be excluded from the casino premises they could not reasonably be prohibited from installation outside casino property and I do not recommend that any attempt should be made to do so. Members of Gamblers Anonymous expressed the view that the enforced leaving of the premises and its gambling-permeated aura in order to access an ATM installed outside could in some cases bring about an effective interruption of the drive to continue a gambling episode.”

Report of the Inquiry into the Establishment and Operation of Legal Casinos in New South Wales 1991

This wise advice was subsequently ignored in the establishment of the temporary casino, as it has been in countless clubs and hotels throughout the State. However, to its credit, the permanent casino has located its ATM's off the main gaming floor.

However the use and abuse of ATMs, particularly to obtain credit, is a matter which needs regulation and enforcement.

The key issue is the maximum daily limit available. Some cardholders now have the capacity to draw out up to \$5,000 per day from ATM's.

We see many cases where all or substantially all of a problem gambler's pay is withdrawn at an ATM located in a gambling venue and gambled away. When they have withdrawn their daily limit, problem gamblers may wait at the venue until after midnight, so as to withdraw the next day's limit as well.

g. Mandatory Self exclusion program

Because problem gamblers may live close to State borders or be able to travel to other States, a national self-exclusion database should be developed, to control access to all gambling venues throughout Australia.

CONCLUSIONS

There is a pressing need for strong leadership at a Federal level to bring together State governments and develop a national approach to gambling issues. Problem gambling must

be recognised as a significant social issue and be addressed by effective harm minimisation legislation.

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