

# **Inquiry into Australia's Gambling Industries**

## **The Council of Community Clubs of Australia and New Zealand**

### **Public Hearing Presentation**

**9.00am Monday 16 November 1998**

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## **Introduction of Panel**

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**Garrie Gibson**, Deputy Director, Clubs Queensland

**Lindsay Somerville**, Partner Ernst & Young, Advisors to the Council

## **2. Approach to Presentation**

This presentation will provide a brief review of the club industry's perspective on matters raised by the Productivity Commission in their Issues Paper, and the panel welcomes the opportunity to respond to any questions posed by the Presiding Commissioner and Associate Commissioner.

It is proposed that today's presentation will be complemented by further written submissions providing a more detailed review of the matters referred to in the Issues Paper and such other matters raised by the Commission as part of this Inquiry.

## **3. Status of the Council of Community Clubs of Australia and New Zealand**

The Council of Community Clubs of Australia and New Zealand is the peak body representing the interests of the clubs registered or licensed in the various State and Territory jurisdictions throughout Australia. Membership comprises six State/Territory Associations, and extends across the Tasman to encompass New Zealand Chartered Clubs (Inc.).

The Council, through the Branch Associations, directly represents the interests of some 80% of the 5,600 plus registered and licensed clubs in Australia.

## **4. The Club Movement - Past and Present**

Clubs have been part of the social fabric of Australia since the earliest days of colonisation. Prior to 1905, a number of small clubs existed, however these were mainly of the exclusive sporting and business type. In the following decades, the number of clubs rose dramatically as a response to the increasing level of wealth in the community and growth in demand for leisure and cultural activities.

Clubs provide a major social outlet for the people of Australia. They touch many facets of everyday life and are an important factor in the economic structure of the nation. Clubs cover a vast array of interests, including sport, social, community, workers, national, cultural, religious, RSL and ex-services. Sporting clubs make up approximately half of all registered and licensed clubs. Almost every club provides facilities for many subsidiary clubs and organisations following special interests, such

as indoor bowling, snooker, hockey, darts, euchre, bridge, backgammon, travel and external sporting activities such as fishing, cricket, football, golf and lawn bowls.

More than nine million people from all walks of life are estimated to belong to the 5,600 plus Australian registered and licensed clubs.

The membership statistics alone demonstrate the significant role and presence the club industry has within the Australian community and the enormous support mechanisms clubs provide to the public.

To the individual patron, who may or may not participate in gaming activities, clubs offer a low cost, safe, controlled environment, providing facilities and support in keeping with the club's objectives. To the larger community, the existence and continued good fortune of clubs means the provision of financial and in kind support often not readily available from alternative sources within the community, or at a regional or state level. Not only do clubs recycle their gaming surpluses into the community, but they do so with a clear non-profit focus, responding to specific needs at a local level in a highly efficient and cost effective manner.

## **5. Gambling Turnover**

The latest statistics provided by the Centre for Regional Economic Analysis, University of Tasmania as recorded in their publication "Australian Gambling Statistics 1972-73 to 1996-97" show continuing growth both in total gambling turnover and per capita turnover throughout the period covered by that report.

Clubs share of turnover or expenditure for each category of gambling product, is not readily available from that report, however statistics compiled by the New South Wales Department of Gaming and Racing, as reported in its "Gaming Analysis 1996-97", estimate New South Wales club poker machine turnover to be \$24 billion, representing 30% of total Australian gambling turnover (1996 \$22bil, 30%). Other gaming products offered by clubs, subject to State/Territory legislation, include keno, club and charity bingo (housie), raffles, sweeps and calcuttas as well as trade competitions. Two-up is offered on a restricted basis. Clubs are also involved in wagering activity through TAB agency relationships, however as a source of revenue, this activity does not have a substantial impact on clubs operations.

These statistics highlight the significance of the club industry as a component of the Australian gambling industries and the significance of gambling revenue to the club industry.

## 6. Regulation of Clubs

Policies pertaining to the allocation of gaming rights between operators, limitation on machine numbers, ownership of equipment, technical specifications, reporting requirements etc differ somewhat across the various State and Territory jurisdictions. However, the underlying intent of this regulation is broadly consistent.

Regulation, as it pertains to the conduct of gaming and wagering by clubs throughout Australia, addresses the following fundamental principles:

- ◆ Gaming and wagering are accepted forms of leisure and entertainment in Australia.
- ◆ Community owned gaming, as conducted through the club industry, offers the greatest opportunity to recycle the surpluses derived from gaming back to the community.
- ◆ Clubs are non-profit organisations focussed on the provision of support to the community. This support is achieved through two avenues:
  - Provision of services and facilities to their members, consistent with the objectives of the individual clubs.
  - Provision of cash and non-cash benefits to that part of the community that extends beyond club members.
- ◆ The conduct of gaming and wagering is a privilege, and carries with it significant responsibilities, particularly in the area of harm minimisations.
- ◆ The exposure of gaming and wagering to corrupt elements of society should be minimised. In particular, the acquisition and operation of gaming machines, and conduct of gaming generally, should reflect a high degree of integrity, security and safety for patrons and staff of venues, while observing the practical realities imposed by over-regulation.
- ◆ Gaming equipment should be of a high standard, both in terms of its technical features and entertainment value to players.
- ◆ Machine gaming should attempt to provide adequate entertainment value for the gaming expenditure incurred by recreational players.
- ◆ Gaming and wagering taxes and duties provide significant income to State and Territory Governments. Regulation should ensure that these revenues are collected in an effective, accurate and cost efficient manner.

That regulation has broadly achieved its objectives, as they pertain to the club industry, is evidenced by the growth in gaming turnover, gaming taxes and the value of community support provided by the club industry.

The club industry is cognisant of society's concerns pertaining to problem gambling and is actively involved in the ongoing development of strategies to be implemented by clubs which will assist in minimising gambling related harm, while permitting recreational players of gaming machines to continue to enjoy this pastime.

## **7. Taxation of Clubs**

In recognition of their non-profit status, and contribution to the community, successive Governments, at both State and Federal levels have provided concessional taxation environments for clubs.

### **Federal Income Tax**

At the Federal level, registered and licensed clubs fall into one of two categories:

- ◆ Those clubs exempt from taxation under the legislative provisions of section 50-10 as tax exempt community service clubs or under section 50-45 as tax exempt sporting clubs.
- ◆ Those clubs subject to the common law principle of mutuality which isolates and taxes receipts pertaining to non-members, that is club visitors and members guests, using the services and facilities of the club. Members' receipts are excluded from taxation on the basis that a payment by a person to himself or herself, which will be used for the benefit of that person in accordance with that person's wishes, is not income of that person.

Our submissions to the Commission will include:

- ◆ Examples of the operation and calculation of these concessions;
- ◆ Supporting arguments for retention of the principle of mutuality in relation to all activities of clubs;
- ◆ Analysis of the net benefit to Government of retaining the current mutuality taxation regime;
- ◆ Supporting arguments why clubs are better placed to channel surplus funds into local communities than Government;
- ◆ Demonstration of the vital role that clubs play in reinvestment of surpluses in lower socio-economic areas.

Annexure 1 provides detail on the application of the exemption provisions and mutuality principles referred to above.

Our advisor, Mr Lindsay Somerville will be happy to respond to any questions put by the Commissioners in regard to taxation of clubs.

## **State Gaming Taxes/Duties**

Concessional gaming tax/duty rates legislated by the various State and Territory Governments as applicable to clubs, recognise the essential differences between community owned gaming and privately owned gaming. The Working Party established by the New South Wales Government in mid 1997, noted “It is in recognition of Clubs’ contribution to their members and local communities that governments have granted the right to provide liquor and gaming services on a concessional basis...”<sup>1</sup>

### **8. Overview of the Contribution of Clubs to the Community**

As previously mentioned, clubs have been part of the social fabric, the very culture, of Australia since first settlement. While a similar comment can be made in respect of the hotel industry, the essential difference, and the basis for the concessional taxation treatment provided to clubs, has been the clubs ongoing philosophy and practice of community support.

By law, no group or individual can derive any profit, benefit or advantage from the operation of a registered or licensed club that is not available to all members of the club.

As clubs are non-profit organisations, surpluses cannot be distributed to members. Clubs can therefore, only utilise surplus funds by way of the provision of facilities and services to members and to the broader community.

The 1997-98 New South Wales Working Party considered “that the primary role of Clubs in New South Wales is to provide a means for people to come together for the benefit of each other and for the broader community. To this end, Clubs strive to:

- ◆ provide a wide diversity of facilities, services and other support to local communities;
- ◆ enable segments of the community, via their Clubs, to allocate resources in a cost efficient way to meet identified community needs;
- ◆ respond to changes in community social structures;
- ◆ respond to changes in demand for social, cultural and recreational pursuits; and
- ◆ respond to local workforce needs by providing employment opportunities and/or training.”<sup>2</sup>

As part of the Working Party process, Chartered Accountants, Pannell Kerr Forster (PKF), were engaged to undertake a survey of registered clubs in New South Wales and analyse and report on data collected. In addition, local Government instrumentalities were surveyed for their views on the contribution of clubs to their individual regions.

As part of its analysis, PKF sought to quantify clubs’ contribution to the community. A club’s ‘Community Support’ was defined as “goods or services contributed by the Club, to the benefit of persons in the community, and where costs of such provision

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<sup>1</sup> NSW Club Industry Policy Framework, 1998, page 6.

<sup>2</sup> NSW Club Industry Policy Framework, 1998, page 6.

are met, fully or partially, explicitly or implicitly, by the Club.”<sup>3</sup>

PKF estimated the value of community support, excluding capital investment, provided by the New South Wales club industry during 1996-97 to be some \$155 million. Additionally, an estimated \$280 million was reinvested by these clubs in non-gaming related buildings, facilities and equipment. PKF commented that “The figure of \$155.1 million is perhaps best regarded as the lower bound of the real costs to clubs of providing community support. The benefits to residents of the State may be much higher. In any case, one point remains clear: the type of community support which Clubs provide to the residents of New South Wales are broad ranging in their scope and affect important minority groups including the least privileged members of society”<sup>4</sup>.

In addition, they observed that the “...submissions by councils addressing the scope and amount of community support given by the Club industry reveal the extent to which Clubs relieve the financial pressures on local government to provide essential social, sporting and cultural infrastructures.”<sup>5</sup>

### **Other Economic Benefits**

In addition to the contributions outlined above, direct benefits flow to the economy through the payment of federal income tax, state gaming taxes and duties, and a range of other state and federal taxes including payroll tax, fringe benefits tax, land tax, financial institution duty, bank account debits tax, liquor tax and wholesale sales tax.

Indirect contributions to the community flow through a range of support industries such as catering, cleaning and entertainment.

A further very significant economic benefit arises through the use of labour, both paid and voluntary, by the club industry.

### **Regulation**

Regulation pertaining to the formality and reporting of clubs contribution to the community varies between State and Territory jurisdictions.

#### *New South Wales*

On the initiative of the RCA, legislation was enacted in New South Wales in 1998 to formalise requirements for the provision of community benefits by the club industry.

Minimum percentages of gross gaming revenue are to be allocated to:

- ◆ Specific community welfare, development, social services and employment assistance activities; and to
- ◆ Other community development and support.

Should individual clubs not meet the minimum community benefit percentages

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<sup>3</sup> NSW Club Industry Policy Development, A Report to the Joint Working Party, 1998, page 29.

<sup>4</sup> NSW Club Industry Policy Development, A Report to the Joint Working Party, 1998, page 35.

<sup>5</sup> NSW Club Industry Policy Development, A Report to the Joint Working Party, 1998, page 35.

prescribed, then additional tax, equivalent to the difference between the prescribed level and the amount applied to specified community development and support, is payable to the State Government.



### *Australian Capital Territory*

In the ACT, mandatory reporting of contributions by gaming machine licensees to charitable and community organisations, subject the activities of clubs to public scrutiny.

### *Victoria*

In Victoria there is no mandatory reporting of club contributions to the community. However under the self-regulating Victorian Gaming Machine Industry Codes of Practice, clubs are required to make an annual contribution of \$5 per electronic gaming machine to fund the costs of the Gaming Independent Complaints Resolution process and the Self Exclusion process for problem gamblers.

### *Queensland*

Within the Queensland State tax structure, three specific levies are raised as a contribution by clubs to the social development of that State. The Gaming Machine Community benefit Fund currently receives 8.5% of total gaming taxes raised in clubs and hotels. The Sports and Recreation Benefit Fund receives 23%, and the Charities and Rehabilitation Benefit Fund receives 13% of gaming taxes. The remaining 55.5% of gaming taxes is applied to Consolidated Revenue for general administration of the State. Since July 1997, these contributions have occurred by Cabinet decision, rather than by regulation.

### *South Australia*

In South Australia, all clubs operating gaming machines are required to pay duty to the State Government as well as a per machine monitoring fee to the Independent Gaming Corporation. By Statute, the Government annually contributes \$2.5 million to the Sport and Recreation Fund, \$3 million to the Charitable and Social Welfare Fund and \$15.5 million to the Community Development Fund. As a matter of policy, the Independent Gaming Corporation annually contributes \$1.5 million to the Break Even program and a further \$400,000 to a range of charitable organisations.

### *Western Australia*

Further information will be provided as it comes to hand.

## **Limitations on the Provision of Benefits Provided by the Club Industry**

The capacity of clubs to maintain their contribution levels is directly related to current taxation policies, both at the State and Federal level. Any changes to current policies, which would reduce the clubs surpluses, would diminish the industry's capacity to continue to provide support to the community at the levels that it currently provides.

## **9. Harm Minimisation - Problem Gambling**

A time line of significant innovations shows that other than the legalisation of machine gaming in 1956, most gaming developments or enhancements have occurred in the 1980s and 1990s.

This pattern reflects the impact of technology on gaming equipment, the increasing sophistication of players, and society's continued acknowledgment of gaming as an acceptable pastime, particularly when linked with the return to the community of surpluses arising therefrom, notwithstanding its recognition of problem gambling issues.

Finally, the expansion in the range of gaming and wagering opportunities and increase in the number of gambling venues, especially outside registered and licensed clubs, can be viewed as a function of Governments' increasing reliance on gambling based revenue.

Community service agencies have, in recent times, reported a significant increase in the level of problem gambling across the country. Factors such as the social and economic climate - level of unemployment, per capita income etc - may impact individuals' propensities to gamble.

The Council believes that the expansion in gaming opportunities for operators of privately owned gaming, through the increase in both game variants and venues, combined with a more aggressive approach to advertising, may bear a responsibility for the anecdotal increased level of problem gambling.

The Council recognises that a small number of patrons who engage in club gambling activities may be adversely affected, and that this may have a harmful impact not only on them, but also on their families and the community.

As with regulation pertaining to the operation of clubs generally, regulation pertaining to the responsible provision of gaming varies between the jurisdictions.

### *New South Wales*

In New South Wales the Liquor and Registered Clubs Legislation Amendment (Community Partnership) Act 1998 established a legislative framework for social responsibility in the conduct of gaming within New South Wales registered clubs. Strategies have been developed in consultation with the Australian Institute for Gambling Research, University of Western Sydney, utilising an industry reference group as a channel for community and industry views on problem gambling issues. These strategies are currently being tested and refined for implementation by registered clubs throughout New South Wales during 1999.

### *Australian Capital Territory*

During 1997 the club industry together with the ACT Government, gambling counselling and support agencies and other sectors of the gaming industry cooperated to develop a voluntary Code of Practice for gaming services. In keeping with the

Code, the club industry has introduced and is maintaining a self-exclusion program for patrons who experience problems with gambling.

#### *Victoria*

In late 1996, the Victorian gaming machine industry, consisting of the Licensed Clubs' Association of Victoria Inc., Australian Hotels and Hospitality Association, Crown Limited, Tabcorp and Tattersalls, developed a self-regulating Gaming Machine Industry Accord and a number of Codes of Practice. The Accord and Codes were launched on 5<sup>th</sup> February 1997, and came into operation on 17<sup>th</sup> February 1997.

A working group consisting of representatives of the signatories to the Accord has been responsible for the implementation and operation of the Accord and the Codes.

The working group has:

- ◆ Maintained dialogue and worked with interested community groups and problem gambling support services.
- ◆ Established a workable, credible Independent Complaints Resolution Process.
- ◆ Introduced "Responsible Service of Gaming" and "Responsible Service of Alcohol" training for venue staff.
- ◆ Acknowledged that a small percentage of patrons may experience problems associated with gambling and has made a commitment to assist these patrons.
- ◆ Established a self-exclusion process from gaming venues that has patron acceptance.

#### *Queensland*

Clubs Queensland has been an active participant in the Responsible Gambling Committee established by the State Department of Family Services (the Department) to develop appropriate policies and strategies to manage problem gambling. Member clubs work closely with the relevant agencies funded by Government from gaming levies to provide counselling and assistance to 'problem gamblers' and their families. Member clubs in the areas of Cairns, Mt Isa and Rockhampton are cooperating in the Department's trial of a new telephone 'help line' in those centres. Further, Clubs Queensland are closely monitoring the trial of the RCA's responsible gambling program strategies.

#### *South Australia*

The South Australian club industry is involved in the Smart Play program, which provides players with a comprehensive guide to understanding the operational aspects of gaming machines in order to maximise pleasure and enjoyment while minimising the risks of excessive gambling. The program includes the identification, through brochures and posters, of avenues available to individuals seeking assistance with a perceived gambling problem. In addition, a 24 hour hotline will shortly be established.

The industry recognises its responsibility to ensure that clubs are managed professionally, especially in regards to the provision of gaming, in accordance with community expectations. As part of its voluntary code of practice, the industry assists in the development of guidelines for responsible advertising, promotion and the use of gaming machines.

## **10. New Technologies**

The Council recognises the potential risks associated with improved technologies, particularly with regard to Internet based gambling opportunities. Internet gambling has various forms and represents a new development that has the ability to render the established principles and mechanisms of regulation and control traditionally applied to gaming ineffective. In addition, it has the potential to cause significant structural change to the club industry which over the years has invested and continues to invest hundreds of millions of dollars into both the community and the supporting industry infrastructure and facilities.

In NSW, the RCA has indicated its strong opposition to the introduction of Internet gaming to the recent State Government Gaming Inquiry, stating that there are two significant areas of concern with respect to Internet gambling:

- ◆ Effective regulation that can ensure integrity and security of the gambling activity; and
- ◆ Responsible gambling, particularly in areas involving minors.

Various approaches are emerging in the different State and Territory jurisdictions, and worldwide, which range from banning the activity by means of legislation to licensing of operators by known and reputable regulators.

Additionally, there could be a significant reduction in the number of people employed in the club industry, with consequent effect on local economies.

## 11. Concluding Comments

Gaming is an important commodity for the community. It provides entertainment for many, but also has the potential to cause harm to a minority of players, potentially with a flow on effect on their families and the community. As such, the right to offer gaming and wagering products is a privilege which must be both respected and jealously guarded.

The Council purports that gaming and wagering as conducted through the club industry satisfies four critical tests of providing gaming and wagering products, in the public interest:

- ◆ Surpluses from gaming and wagering activities are channelled/recycled back into the community.
- ◆ Integrity of gaming is achieved, providing player satisfaction through the provision of adequate entertainment value, including variety of game styles.
- ◆ Responsible provision of gaming strategies acknowledge the value of patron care behaviours consistent with the basic philosophy of clubs being "by the members, for the members". It is contended that harm minimisation is best achieved by clubs, through the provision of a safe, secure, friendly environment which is conducive to problem gamblers recognising that have a problem and providing avenues to seek help for that problem in a non-confrontational and private manner.
- ◆ Accountability and transparency of transactions associated with gaming is best achieved through the club structure, which requires management by the members' representatives, and regular reporting to the members, and to Government.