

RESPONSE TO THE ISSUES PAPER

“AUSTRALIA’S GAMBLING INDUSTRIES”

The National Advisory Council on Consumer Affairs (NACCA) is an advisory body to the Hon Joe Hockey, Minister for Financial Services and Regulation. NACCA’s membership comprises persons with expertise in business and consumer issues. Appendix 1 sets out the membership of NACCA.

Overall Comments

NACCA welcomes the Productivity Commission’s Inquiry into gambling. There is no doubt that the issue of gambling is of concern to many people in the community. The Inquiry’s equal focus on both the economic and social impacts of gambling is therefore particularly important.

NACCA’s submission is a broad one and focuses on the consumer issues arising from gambling.

Whilst we raise a number of these issues, we have not always taken the next step and recommended solutions. As you are no doubt aware, many of the issues are complex and there is a clear need for further research.

Consumer Issues Arising from Gambling

Services to assist gamblers

As the Issue Paper notes, a percentage of the people who gamble become “problem gamblers”. All state governments appear to have recognised this issue and fund various types of community services to assist problem gamblers and their families.

The important questions are whether these services are:

- adequately funded – it would be useful if the Commission were to provide comparison data between states on funding levels;
- addressing the needs of problem gamblers – for example, whether counselling programs are effective or whether there are other better options that should be explored.

Internet and home gambling

As internet usage by Australians increases, home gambling using this technology is almost certainly increasing at the same time. Access to gambling via the home computer brings a whole new dimension to the debate – consumers do not have to leave their lounge rooms to gamble so it becomes much more accessible, whilst governments and industry alike will be concerned at any loss of revenues.

Whilst the law protecting consumers applies equally to electronic commerce as it does to other forms of commerce, and therefore applies to internet gambling, it is much more difficult to enforce:

- government regulators may be powerless to control the activities of gambling operations located in another country;
- the ability to protect minors from gambling is more problematic.

The attached “Consumer Protection in Electronic Commerce: Principles and Key Issues”, a document prepared by NACCA and released in April 1998¹, sets out a number of best practice principles for commercial transactions in the electronic marketplace. These principles discuss the roles and expectations of consumers, sellers, industry associations and governments.

The principles of particular relevance to electronic gambling transactions are as follows:

- Principle 2- “Consumers must be able to establish the identity and location of businesses they deal with.”
- Principle 5 - “Sellers should ensure they receive confirmed consent from consumers for a purchase of goods and/or services.”
- Principle 7 – “Consumers are entitled to have their complaints and enquiries dealt with fairly and effectively.”

Regulation of the internet gambling industry either through self-regulation or black letter law, should reflect these principles.

Home gambling will also have implications for the EFT² Code of Conduct and, in particular, the broadening of the scope of that Code or the drafting of a new Code applying to non-card based transactions will be necessary.

¹ By the Minister for Customs and Consumer Affairs, the Hon Warren Truss MP.

² Electronic Funds Transfer

The actual experience of consumers who gamble over the internet is also of potential concern. It may be that the “gambling experience” is quite different to say a club or casino - whether this has a detrimental or positive effect would be a subject of interesting research.

Consumer protection

The fundamental philosophy underpinning consumer protection laws around the world is that consumers are in a weaker bargaining position than traders. Legislation therefore aims to redress this imbalance by, for example, requiring that consumers be given information about a product or service before they purchase it, that goods be replaced if they are not fit for the purpose for which they were purchased or that traders not mislead or deceive consumers.

Similar consumer protection arguments apply in the provision of gambling services. Consumers should be given, or have ready access to, information about gambling services. Such information should include details of the odds of various gambling games and where to get assistance if gambling begins to be a problem.

There may even be reason for the provision of warnings to consumers at the point of purchase about the dangers of gambling in the same way that there are warnings about the dangers of smoking.

Gambling service providers should also be monitored to ensure that any statements made in advertising materials are not misleading.

Control of the proliferation of gambling

Gambling, once illegal, is now commonplace. There is undoubtedly community concern however about the ongoing proliferation of gambling services.

Each state is adopting different policy positions on the type of gambling services allowed, how they are taxed and so on. Based on the Commission’s research about the economic and social impacts of gambling, it would be useful if the Commission could make recommendations about the “optimum” type, number, regulation and taxation of gambling services in the community.

Gambling and the community – costs and benefits

The Commission will be assessing the costs and benefits of gambling to the community. This is going to be a difficult task given that social costs such as family breakdown or illness are hard to measure. Do benefits such as grants to community groups counteract these costs?

NACCA is in the unique position of having members with backgrounds in both consumer issues and small business. This submission has touched on the consumer issues associated with gambling; small business is also feeling the effect of the increase in gambling in the community. Although anecdotal, small business reports that the advent of increasing gambling in a geographic area has a quite clear detrimental effect on trading. The ramifications of the effect on small business are many and it would be useful if the Commission could assess the extent of this impact in particular.

Appendix One – Membership of the National Advisory Council on Consumer Affairs

Mr Colin Neave	Ombudsman, Australian Banking Industry Ombudsman Scheme
Mr Don Armstrong, AO	Deputy Chairman, Small Business Coalition
Mr Kevin Burrows	Managing Director, Sun Alliance Life Assurance Ltd
Ms Di Collins	Director, Public and Consumer Affairs, American Express
Ms Elizabeth Connolly	Member, Australian Small Business Association
Ms Aviva Freilich	Vice-President, National Council of Women of Australia
Ms Fiona Guthrie	Queensland Consumers' Association
Mr Peter Kelly	General Manager, Corporate Services, Nestle Australia Ltd
Ms Catrina Mulderry	Legal Research Officer, Victorian Employers Chamber of Commerce and Industry
Mr Phil Naylor	Chief Executive, Australian Retailers Association
Assoc Prof Suzanne Russell	Chair, Victorian Consumer Affairs Advisory Committee
Ms Louise Sylvan	Chief Executive Officer, Australian Consumers' Association