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Commissioners  
Gambling Inquiry  
Productivity Commission  
PO Box 80  
BELCONNEN ACT 2616

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Dear Commissioners,

**RE: Inquiry into Australia's Gambling Industry**

I wish to make a short submission to the Commission's Inquiry into Australia's Gambling Industry. The following sets out my view on some aspects of the gambling industry, which relate in particular to your terms of reference © and (d) - the economic and social impacts of gambling.

Fundamentally my view is that government reliance on gambling for income is revenue raising by preying on addictive behaviour. In particular, I focus on the combined effects of alcohol and gambling, and I put forward some suggestions as to schemes to limit the detrimental effects of alcohol gambling on family finances.

**Poker machines as a source of government revenue & tax reform**

Whilst gambling, poker machines in particular, has become a popular form of recreation the fact remains that people who play, as a rule, lose much more money than they win. For example an IPART inquiry into gambling in NSW found that more than \$3.6 billion was lost by the NSW population in 1997. This massive loss gives some idea of the economic impact of gambling on families. Many negative social consequences flow on from this.

Statistics and case studies on the economic and social consequences of gambling have no doubt been canvassed by other submissions to the Commission. One question which arises is whether the government should derive significant revenue from activities which have such negative economic and social consequences.

In essence, deriving revenue from poker machines is dependent on people's vulnerability, and (in some cases) addiction, similar to deriving revenue from tobacco sales. It is not difficult to justify taxation of gambling in order to fund the social costs of gambling addiction - such as counselling and family support. Equivalent arguments have been made out for taxes on alcohol and cigarette consumption.

However, beyond funding rehabilitation, should the funds from gambling revenue be used to buttress consolidated revenue? The inherent problem is that governments will increasingly rely upon it as a source of income, and as a consequence will seek to expand it. This creates a conflict of interest for the government: as the provider of licenses for poker machines from which it derives significant revenue; as the industry regulator; and as the legislator for the welfare of its citizens.

## **Taxation system**

A fundamental reason states rely on gambling revenue is the lack of adequate revenue flowing from the Federal government. The vertical fiscal imbalance means that the states are relying on the federal government for revenue and what they are receiving is not adequate for their spending purposes. Ultimately the gambling revenue-raising issue is a taxation issue, which must be addressed through reform of the taxation system. In principle tax should be levied by the government which spends it. That government should have the authority to raise the funds so it can be held accountable for them - a fundamental principle of democratic accountability.

## **Drinking and gambling**

One of my main concerns is not gambling per se, but the combined effect of drinking and gambling and the effect alcohol has on a punter's ability to make clear judgements, in particular about their own financial capacity.

In my conversations with counsellors they have indicated the large part alcohol plays in people losing more money than they might had they been sober. With the increase of poker machines in pubs the combined effect of alcohol and gambling looks set to have a greater impact on the population (in NSW at least) over the next few years.

## **Unconscionability**

I understand there have been some submissions in relation to unconscionability, and it is my belief that the industry preys on the disability of some players. Inequality in bargaining power exists between the provider of the entertainment and the drunk patron

I believe that gambling industry is vulnerable under Part V Trade Practices Act. A gambling contract entered into by an inebriated person may also constitute an unjust contract for the purposes of the Contracts Review Act NSW. Additionally, at common law a contract is voidable if entered into under the influence of alcohol.

Clearly, given the status of the law on unconscionable dealing, there must be a tightening up of consumer protection provisions in relation to gambling.

## **Consumer protection**

The following measures are some suggestions of ways to bring about greater consumer protection in the gambling industry in relation to drink-gambling in particular.

### **1. Creation of a new Tribunal**

- Establishment of a Tribunal to deal with disputes between gamblers and the industry.
- In circumstances where a person has been drinking and gambling, they may seek a remedy before the tribunal (based on the unconscionability of contracting with inebriated people).
- The rules of evidence applying to the Tribunal should include a presumption in favour of the gambler being intoxicated in circumstances where they have lost in excess of a statutorily prescribed amount within a designated time frame (eg 12 hours). This would place the onus on the provider to prove that the player was not affected by alcohol at the time of losing the money. If they could not show this, then player would be entitled to a refund of the amount lost in excess of the prescribed amount.

## 2. Users' playing card

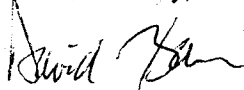
- For the purpose of documentary proof in a matter before the Tribunal, the issue arises of how to determine how much money an individual has put in the machines. A system could be devised utilising a registration and identification card.
- Players could voluntarily obtain this "smart" card. The card would be inserted into each machine whilst playing, and could keep a record of the time the player 'logged on', the amount of money won and lost (on each machine) and the time play Non use of the card would provide evidentiary difficulties for any consumer seeking a remedy from the Tribunal.
- Gambling addicts could have a voluntary limit (below the prescribed amount) placed on their card. The card could operate to block further play once the limit was reached.
- Once the prescribed amount or voluntary limit is reached this could be flagged to the provider, who would be required to give the customer a warning. Proof of warnings given could constitute a defence before the Tribunal.

Encouraging gambling as an industry comes with serious opportunity costs. Money spent on poker machines by gamblers is money which could have been put to alternative uses in other sectors of the economy. The gambling industry's gain is at the cost of other sectors'.

The gambling industry is a multi-billion dollar industry which has developed without adequate controls to protect vulnerable consumers. These proposals are not exhaustive, and I do not claim that they are necessarily easy to implement. However, given the size of the industry and the impact it is having on the community it is imperative that strong measures be taken to protect vulnerable consumers.

The balance needs to be redressed by requiring the industry to give effect to consumer protection measures such as those I have outlined and an industry code of practice such as that advocated by Wesley Gambling Counselling Services.

Yours sincerely,



David Barr