

This is the response of the Australian Hotels and Hospitality Association Inc to the Productivity Commission's issues paper on Australia's gambling industries.

This response addresses most of the questions raised by the Commission in the issues paper and generally follows the format of the issues paper.

For ease of referral, there is a detailed list of the questions addressed in the response paper included as the contents pages of this paper.

Also included with this response paper is a copy of the oral address made by the officers of the Association to the Productivity Commission during the hearings in Melbourne.

We are grateful to the Commission for the opportunity to lodge this submission. We are available to answer any queries that any person may have in respect hereto. Please contact myself or Margaret Kearney at our Malvern office at any time.

ALAN GILES
CHIEF EXECUTIVE OFFICER

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Chapter 1

THE NATURE AND DEFINITION OF GAMBLING

? *What constitutes gambling?*

There are different forms of gambling.

1. GAMING

The exchange of money in a game of chance, e.g. roulette, pokies, bingo scratchies. Gaming involves a random event over which a player has no control. The player can only increase his/her chances by increasing participation i.e. spending more money.

2. BETTING AND WAGERING

Staking money on a future event e.g. horse racing or football or TAB betting or playing cards.

3. SPECULATION

Gambling on stock markets or real estate.

Gaming does not involve an element of skill. Betting, wagering and speculation all involve some degree of skill, where odds are calculated on form. Speculation, as defined, results in the speculator having an asset, be it of higher or lower value, at the end of the speculation. The other forms of gambling, as defined, do not result in any asset if the gambler loses, other than the entertainment value of participation.

The authors of the issues paper identify that “gambling” is defined by perception. “Investing” in a risky stock-holding may be considered a “gamble”. But this activity is not considered to be part of the “gambling industry”.

This paper contends that “gambling” as part of the “gambling industry” is best defined as an activity where the only product is the actual bet. If the bet is lost, the bettor has no residual asset except the intangible entertainment value of having placed the bet. In contrast, other risk

taking activities- non-gambling for these purposes - usually leaves the risk-taker with some potential tangible asset, albeit diminished in value. A gamble on the stock market, or in a new business, which does not pay off, does, at least potentially, leaves the investor with an asset that can be sold for a loss. A gamble on the races, at the roulette table or on Tattsлото which does not pay off has no potential residual tangible value.

Hence, gaming, wagering and betting should be considered to constitute gambling. Speculation should not be considered as gambling.¹

? *What should the Commission include as gambling in its inquiry?*

For the purpose of this inquiry, “gambling” should include any activity where what is produced is a bet, and not some other service or goods. For example, with horse-racing the product is the race, a further service is provided, namely the taking of a bet. Only the latter is properly included as gambling.

A cricket match is a product in its own right, as is an Olympic swimming event. Contesting in these events does not constitute gambling. However, a service provider may take bets on these events. This service provider is involved in the gambling industry. Holding a raffle is also gambling. The holder of the raffle is offering participants a chance to win a prize. That is the service offered.

This distinction between the game and the gambling is not new. Playing a game of poker in a hotel is not illegal, however, placing bets on the card game is illegal.

For the purposes of this inquiry “gambling” should include all activity where the only product is the gamble, and if the gamble is lost, there is no potential residual tangible asset.

This definition will pick up casual bets between friends, for example – “I bet you lunch next week that you don’t get sacked.” While such an activity is gambling, it is not part of the “gambling industry”. The Treasurer referred Australia’s gambling *industries* for inquiry. This would limit consideration of gambling to where the activity can be said to be part of an industry- a business. If one of the friends in the above example was in the business of making such wagers, he would be in the gambling business. If he entered such deals on a regular basis with the intention of making an income from the arrangement, he could be said to be in the gambling industry.

It is submitted that the Commission should include as gambling in its inquiry all gambling that is carried on as a business. It should include legal and illegal gambling, regulated and unregulated.

¹ For the remainder of this paper, “gambling” will be taken to refer to gaming, betting and wagering as defined, and not to include speculation as defined.

? What are the characteristics of gambling that call for community or government action that is different to that for other activities?

Gambling is an entertainment option. It is a pastime, or it is the means to increase enjoyment of an event by adding another dimension to the event.

An example of the former is the use of gaming machines as a means to pass the time, in exactly the same way that watching a movie or riding the “big dipper” are means to pass the time. Many people buy an essentially unwanted cappuccino to justify sitting for hours in a cafe. Other people pay to use gaming machines to justify passing time in a gaming venue.

An example of the latter is the cricket fan who places a bet on the Australian team to heighten the interest in a test match. A game of cards is more exciting when there is a wager involved.

A visit to the cinema, a ride on the Big Dipper and a play on the pokies are all totally consumed once the experience is finished. With the exception of offering refreshments, which has a nutritional value, this is the case for all entertainment products and services. Gambling is no different. The consumer is left with only the intangible asset of having passed time in an enjoyable fashion, and with a memory of the experience.

The major distinguishing feature of gambling is that the consumer may have a win, and thereby be left with a tangible asset at the conclusion of play, as well as the memory of the experience. The prospect of the win is the defining characteristic of gambling which sets it apart from other entertainment products.

It is apparent that this characteristic of the gambling product, (ie the ability to win tangible assets as a result of participation) is the major reason why community and governments call for action that is different to other activities.

Research² has shown that some consumers of the gambling product develop inappropriate behaviour patterns because they “become addicted” to chasing a win. Some researchers³ have compared the gambling addiction to substance addiction. It is the incidence of excessive and inappropriate gambling patterns that concerns community and government.

However, it is submitted that excessive and inappropriate spending habits in other areas have not attracted anywhere near the same scrutiny nor censure that spending on gambling has received. To be precise, it is not gambling per se that receives this scrutiny and censure, but rather one form of gambling, namely gaming.

² Refer to the literature cited in “Definition and Incidence of Problem Gambling, including the Socio-Economic Distribution of Gamblers – A Report Prepared for the Victorian Casino and Gaming Authority” Dickerson, McMillen, Hallebone, Volberg, Woolly – Champion Press August 1997 Hereafter referred to as “The Dickerson Report”.

³ ~~XX name the researchers~~ See the discussion in the Dickerson Report at p25 ff especially the discussion of Orford's work on p 26 paragraph 2.4

It is difficult to ascertain why gambling, and gaming in particular, has been the subject of near hysterical condemnation. Misuse of consumer credit has been the cause of many bankruptcies⁴. Attached are some newspaper clippings from the time of the introduction of credit cards. Some people were rightly concerned that this new product would be dangerous to some people. However, we did not see the rise of “anti-credit-card” political parties, like we have “anti-gaming” political parties.

Alcohol continues to be the cause of much detriment to society. The abuse of alcohol results not only in financial loss, but also short and long term health problems and trauma. Yet society is on an intractable path of de-regulation of the liquor industry. Temperance movements have been relegated to the annals of history.

Tobacco is universally condemned as a carcinogenic, with no redeeming features beyond the immediate pleasure of consumption. Deaths from tobacco are reported at about 18,000 each year⁵. There is no “safe” level of tobacco use. Despite all this, the government has not considered it appropriate to ban smoking. Neither has it attempted to place regulatory limits on the number of outlets where cigarettes can be bought. There is no single issue “anti-tobacco” political party.

It is an enigma that gaming has met with such antipathy, at just the time when wagering on horse racing and sports-betting is being encouraged and applauded. One particular ABC radio announcer in Victoria has stated his opinion that "gaming" should not be described as an industry. Media commentators often comment on the proliferation of gaming venues as an abhorrence. And yet, on one occasion a caller into an ABC radio call back program was met with active sympathy when he complained bitterly about TABCORP's policy of reducing the number of off course TAB Agencies.

It has been asserted earlier that it is the ability to win that is the characteristic of gambling that calls for community or government action that is different to that for other activities. But this statement just begs the question. The real question is: “why is it that the ability to win engenders the response that it does?”

Many commentators deny that their concern with gambling is essentially a disapproval of the activity of chasing a win. Commonly, anti-gambling (and more often anti-gaming) protagonists make comments like the following: “Nothing against gambling itself, its just that it causes problems - people become addicted”. While this is the ostensible rationale of such protagonists, there is a steadfast rejection to approach the subject in a way that will assist the problem gamblers. Instead, policies adopted by these protagonists support restricted access and limited numbers, neither of which has ever been proven to assist the addict. It suggests that abolition is in fact the real agenda. The authors of this paper suspect that the answer to the Commission’s question as to what it is that differentiates gambling lies in the realms of religious puritanicalism, elitism and sexism.

Society is prepared to accept a level of alcohol abuse resulting in chronic short and long term

⁴ The precise incidence of bankruptcy occasioned by inappropriate use of consumer credit is not known to the authors of this paper. Neither has there been a comparison of the numbers of bankruptcies occasioned by misuse of consumer credit compared to that occasioned by inappropriate gambling.

⁵ As reported by the Anti-Cancer Council of Australia in telephone inquiry of 10 February 1999

trauma. It accepts continued bankruptcies from misuse of consumer credit. A flutter on the horses continues to be portrayed as sophisticated and almost patriotic. Betting on one's footy team is the sign of a "true believer". Purchasing shares in the privatised Victorian TABCORP was encouraged by all, including the Premier. But use of gaming machines continues to attract derision. This phenomenon defies rational explanation.

Another characteristic of gambling (other than the ability to win) that sets it apart from other activities is that it is a ready source of taxation revenue for state governments. Constitutionally the states' ability to raise taxes is limited. Taxing gambling is constitutional and is not perceived as a disincentive to business. Further, while the perception persists that gambling is somehow "naughty", there is little resistance to high level of gambling taxes.

Some commentators have suggested that a distinguishing feature of gaming (cf other forms of gambling and entertainment) is that the consumer receives insufficient information about what it is he/she is buying. The authors of this paper refute this suggestion. It is submitted that gaming provides the consumer with real, albeit ephemeral, value with each bet. For ten cents the customer buys a chance to win. For one dollar the customer can increase the chances of winning. It is true that the customer does not know how long each visit to the gaming venue will last. That depends on the outcome of each bet. It is inappropriate to criticise the marketing of gaming because the customer is unaware of how long each visit will last. It is each individual bet which is purchased. Each time the customer buys the chance to win and the chance to increase the length of the visit. Each transaction is exactly the same as the purchase of a ride on a ferris wheel. The entertainment value of a ferris wheel ride is intangible and ephemeral. A single play on the pokies takes less time than the ride, but has the added bonus of the chance of a win.

It has also been suggested that gaming is different because the actual odds of winning are unknown to the customer when each bet is laid, in effect the customer does not know what chance of winning is being bought. It is exactly this risk that makes the product appealing. The customer knows what prizes are possible, what the customer does not know is when the prize will be won. In each transaction the odds are calculated according to the law and there is no objection to publicising how the odds are calculated. However, in Victoria it is not helpful or informative to publish the odds that have been paid out by each machine in the past. In Victoria the odds are calculated for each venue, not for each machine and over a twelve month period. It can be unhelpful to publish the payouts at any particular machine or venue.

Another characteristic of gambling that sets it apart is its association with criminal activities. Historically Casinos, in particular, are associated with money laundering and other illegal practices. All Australian (and it is suggested overseas) jurisdictions consider it necessary to regulate the gambling industry to avoid criminal conduct.

Chapter 2

THE INSTITUTIONAL CONTEXT – REGULATION

? *What are the detailed regulations applying in each state? What are their rationales?*

This paper will only consider the Victorian situation, and in the main restrict itself to the regulation of gaming.

CASINO

There is one licensed casino in Victoria, Crown Casino. Crown has a legislated monopoly. The operations of the casino are governed by the Casino Control Act 1991 and the Casino (Management Agreement) Act 1993

The rationale underlying the allocation of monopoly rights to Crown includes some of those objectives set out in the issues paper, namely consumer protection, minimisation of criminal activity, containing of social costs of gambling, maintaining and protecting a significant revenue base for government.

Some commentators⁶ have suggested that there is a pre-occupation in Victoria with the objective of maintaining the revenue base in respect of the casino.

There is nothing in the Victorian legislation which limits the ability of Crown to exploit its monopoly market position. Of course, the casino is subject to the provisions of the Trade Practices Act 1974 (Cth) and the Fair Trading Act 1984 (Victoria).

ELECTRONIC GAMING MACHINES

There are a myriad of regulations governing the operations of gaming machines in Victoria. The major enactment is the Gaming Machine Control Act 1991. The legislation governing the casino also impacts on the operations of gaming machine venues. The Liquor Control Act and the Racing Act and the Gaming and Betting Act are pertinent. The town planning provisions

⁶~~XX – name the journalists, the Rev Ray Cleary - letter to the editor Herald Sun 3 July 1998, Terry McCann Herald Sun 29 October 1998, opposition spokesperson on gaming, Mr Hulls~~

are also relevant. Further, the Victorian Casino and Gaming Authority is empowered to make rules and regulations in respect of the operation of gaming machines, and section 12 of the Gaming Machine Control Act provides the Minister with the discretion to make “directions” from time to time in regard to specified matters relating to gaming machines.

The following is a summary of the structure of the industry as it has developed to date.

INTRODUCTION OF GAMING MACHINES

In 1991 the then Labour Government introduced legislation providing for electronic gaming machines to be available in hotels and clubs in Victoria. Later, legislation was passed providing for the establishment of a casino. It was later decided that there would be an upper limit of 45,000 gaming machines in the state, 2,500 of which are in the casino. The limit on the number of machines available to hotels and clubs is contained in the Casino Management Agreement Act, 1991. The motivation for limiting the number of machines available outside the casino was to protect the casino against competition, not to protect potential problem gamblers.

The Gaming Machine legislation provided for the licensing of two Gaming Operators vis: Tattersalls and TABCORP. These two Gaming Operators own the gaming machines and place the machines in venues of their choice. The minor limitations on the scope of Gaming Operators discretion are discussed below. The Gaming Operators are allocated equal numbers of machines.

Using section 12 directives the Minister released the machines in “tranches”, and in equal numbers to each Gaming Operator. Thus only a certain number of machines were released at specified times, not all the machines were released at once. This gave a distinct financial advantage to those hotels and clubs which were in the first tranches.

MORATORIUM

In 1993, the Government placed a moratorium on the release of gaming machines. The maximum number of gaming machines available for gaming in the state was capped at 20,000. The moratorium was to allow for community and government consideration of the future direction of the industry. The government established a review committee to consider the future direction. This committee was chaired by Mr Michael Shilling.

The Shilling Report of the Review of Electronic Gaming Machines was released by the Minister for Gaming in June 1994. The report made some recommendations as to venue numbers and also found that in the year 2000 the level of gaming machines was expected to be between 43,000 and 45,000. The cap was lifted.

Further gaming machines were released for distribution in “tranches”. In 1997 a further moratorium was placed on the number of gaming machines available in the state. The new cap was set at 27,500 machines. This moratorium was announced after completion of a series of review and research projects commissioned by the Victorian Casino & Gaming Authority (VCGA). However, there was nothing in these reports, or in the Shilling Report which

recommended that a moratorium on numbers would have any beneficial effect. The cap was announced during a by-election contested by an “anti-gaming” candidate. The proliferation of gaming machines was perceived to be an election issue. Just prior to then, an “anti-gaming campaigner” had been elected to the South Australian upper house, and this was considered to be influential in the decision to call a moratorium on release of machines.

There was nothing scientific in setting the cap at 27,500. That was simply the number of machines released when the government placed the moratorium. The Premier has stated that this cap will remain in place until a further review in the year 2000.

At present there are 253 hotels, operated by about 140 different operators, and 274 clubs with gaming machines in Victoria.

GAMING OPERATORS

The system provides for two licensed gaming operators - Tattersall’s and TABCORP. These two companies are the only entities who can legally own, install and operate gaming machines in Victoria (excluding the machines at the casino). The proprietors or operators of the Victorian gaming venues do not own the gaming machines at their venues. They are all owned by the gaming operators. This situation is unique to Victoria. In the other jurisdictions the proprietor of the venue owns the machines and the operators control the monitoring systems only.

TABCORP has paid an up-front licence fee for its privileges in this respect⁷. Tattersall’s is paying a licence fee on an on-going basis calculated on profit from the machines. Most of the arrangements details between the government and the two operators is contained in “commercial in confidence” contracts which are not available for analysis. The licences are valid until 2012.

There is one ground only for the cancellation or suspension of a gaming operator’s licence - the wilful contravention or failure to comply with the provisions of the Gaming Machine Control Act. Only the Supreme Court can discipline the operators in this way, and only if the VCGA applies to the Supreme Court for such action.

The gaming operators are required to provide on-line real time monitoring of all transactions that occur on the machines in their respective systems under the supervision of the VCGA. They must comply with extensive reporting and auditing requirements.

Subject to the rules and regulations set out below, it is at the complete discretion of the gaming operators where machines are placed, i.e. in which hotels or clubs, and how many machines each venue will have.

The gaming operators contract with the committees of the clubs, or the proprietors of the hotels for the provision of gaming machines. The machines remain the property of the gaming

⁷ The licence fee paid by the newly privatised TABCORP covered not only the gaming licence, but also the wagering and sportsbet licences.

operator. The exact legal relationship between the proprietors of the venues and the gaming operators has not been definitively categorised. Liquor Licensing Commissioner Horsfal has described the arrangement as a bailment.⁸ Many of the characteristics of a franchise exist.

The contracts between the venue proprietors and the gaming operators set out the terms and conditions by which the machines will remain in the venue. The terms are, on any objective assessment, favourable to the gaming operators. In the final analysis the contracts provide for large investments from venue proprietors with no real tenure of machines, and no compensation if machines are removed.

The gaming legislation does not regulate the terms and conditions of the contracts.⁹ Of course, the Trade Practices Act and the Fair Trading Act apply. To date, the terms and conditions of the contracts have not been tested against the requirements of these enactments.

LICENSED VENUE OPERATORS

Only persons with a venue operator's licence issued pursuant to the Gaming Machine Control Act may conduct a gaming venue. It is an offence against the Act for a person who does not have a venue operator's licence to be in possession of a gaming machine or to conduct a gaming venue.

Applicants for a venue operators licence must pass a thorough probity test, as do all associates of the applicant.

An applicant for a venue operator's licence can make application and undergo probity without specifying from what premises the licence is to operate. However, in order to be granted a licence, the applicant must nominate the premises and lodge plans of the premises. There must be a relevant liquor licence in force in respect of the premises, and the applicant must have a contract for the provision of machines with either one of the gaming operators.

The Gaming Machine Control Act provides for any person to object to the granting of a venue operator's licence on the grounds that the applicant or an associate of the applicant is not a fit and proper person. The Authority considers the character, honesty integrity, and the financial background of the applicant and any associates. The Authority also considers the suitability of the premises when assessing an application. The Gaming Machine Control Act 1991 does not require the VGCA to inquire into the social and/or economic effects of gaming at a particular venue when considering an application by a venue operator for a gaming licence. The VCGA's responsibility is to assess the suitability of the applicant only.

Applications can be refused and, if granted, can be removed if the applicant proves unsuitable.

The rationale for licensing venue operators appears to be consumer protection, eliminating criminals, and maintaining and protecting the government's revenue base. The rationale for linking the gaming licence to a liquor licence appears to be to restrict use of the product to

⁸ Citation?? Decision of the Liquor Licensing Commission Decision Number 546 13 September 1996

⁹ The now repealed sections of the Gaming Machine Control Act required the VCGA to approve these contracts and not to approve any contract which was harsh and unconscionable. No such provision remain.

those over 18 years of age, and to entrust the delivery of the product to a section of the community which is practiced in the responsible delivery of potentially harmful products.

OTHER LICENSEES UNDER THE GAMING MACHINE CONTROL ACT

The Gaming Machine Control Act prohibits any person from working with or on gaming machines unless that person has either a special employees licence or a technicians licence. Manufacturers of gaming machines must be included “on the Roll”. These licensing provisions are obviously concerned with maintenance of integrity and probity of the product.

50:50 RULE - TATTERSALLS AND TABCORP

This rule requires that the number of machines released must be divided equally between the operators. This means that Tattersalls and TABCORP have exactly 50% of all the machines (excluding those at the casino) available for placement in hotels and clubs.

The rationale for this rule would appear to be the limitation of exploitation of monopoly market positions. By providing a duopoly, the intent is apparently to legislate for competition.

However, the imposition of the cap, and the requirement that each operator has an equal share of machines defeats any such intent. The result is a legislated monopoly of two, not a competitive duopoly.

80:20 RULE

This rule requires the gaming operator to maintain at least 20% of the machines in country areas and no more than 80% in metropolitan areas.

It was anticipated that without this rule, nearly all machines would be placed in the city and suburbs. Machines in metropolitan Melbourne perform better¹⁰ than machines in country venues.

The objective of this rule is apparently to ensure that country businesses and customers have the opportunity of participating in gaming, and maybe also that the benefits which accrue from the gaming industry are enjoyed by country communities.

50:50 RULE - CLUBS AND HOTELS

This rule requires the gaming operator to maintain an equal balance between the number of machines in hotels and the number of machines in clubs. That means that 50% of each

¹⁰ That is: have a higher net machine revenue

operator's machines must be in hotels and 50% in clubs. The balance must be achieved when all machines in each tranche are placed.

It is not clear who was to be advantaged or protected by this rule when it was originally enacted. However, now the rule acts to ensure that clubs have an equal share of the machines. Machines in hotels are much more profitable than machines in clubs. This phenomenon is usually explained by reference to the professionalism of the hotel proprietors compared to the voluntary management of clubs.

The objective is correctly identified by the issues paper as "ensuring that some of the benefits [of gaming] accrue more directly to the local community". It is considered that this objective is achieved because clubs, as non-profit organisations, re-invest their profits into the club facilities.

However, it is not certain that the objective is realised. More fundamentally, it is not certain that the objective is based on valid assumptions.

Professional managers are attracted to clubs. The profits from gaming are distributed via the management agreement, and the objective of ensuring community benefit can be thwarted.

Further, and more fundamentally, clubs are not generally community assets. They are exclusive organisations set up to benefit the members. A golf club or football club which provides stadium and public facilities may fit the intended objective. However, social clubs, such as the Manningham Club, or private clubs like the Melbourne Club, can hardly be described as community assets.

RESTRICTED AND UNRESTRICTED AREAS

There are many rules governing the layout of machines at a venue. When gaming was first introduced these rules were very restrictive, involving heights of walls, types of delineation between areas, service of meals etc. But as time has passed, these rules have been gradually relaxed. The major conditions now concern the difference between restricted and unrestricted areas.

◆ *Restricted area*

An area within an approved venue set aside for the purposes of gaming. Restricted areas are subject to a number of rules:

- Limit of 100 machines;
- No bet limit;
- Meals can now be served;

- No minors allowed in the restricted area unless the minor is a registered apprentice and is required to enter the area in the course of his/her apprenticeship;
- Entertainment now allowed;
- There must be continual physical and/or electronic surveillance of the gaming machine area
- ATM and EFTPOS machines must not be accessible by any person for the purposes of withdrawing cash within the restricted area.

◆ *Unrestricted area*

An area within an approved venue, other than a restricted area, e.g. the public bar in a hotel

- A limit of 5 machines;
- A maximum bet limit of \$2;
- Minors allowed in the area but may not participate in gaming;
- Must have continual physical and/or electronic supervision of machines.

MAXIMUM NUMBERS OF MACHINES AT ANY ONE VENUE

The rules set out the maximum number of machines that may be placed in any restricted area and in any unrestricted area of a venue. The maximum number of gaming machines in the restricted area is 100, and the maximum number of gaming machines in the unrestricted area is 5. The maximum number of machines that may be placed in any one venue is 105. If the venue has, for example, 80 gaming machines in the restricted area, it can still only have a maximum of 5 gaming machines in the unrestricted area.

TOWN PLANNING

A town planning permit will be required for the installation of gaming machines at any venue where the restricted gaming area is more than 25% of the total floor area of the venue. An existing venue operator who wants to install a gaming room in the venue will not require a town planning permit for the gaming machines if the area of the gaming room is not more than 25% of the total floor area of the venue.

In 1995 the government introduced a prohibition on the installation of gaming machines into shopping centres. This prohibition related to mall style shopping centres such as the Westfield and Gandel complexes. When the prohibition was introduced some venues were already operating in shopping centres. Specific exceptions were made for those existing venues.

In 1998 the planning schemes were altered to prohibit the establishment of new gaming venues in “strip shopping centres”. “Strip shopping centres” are defined as two or more commercial

buildings side by side.¹¹ Provision was made for municipal councils to nominate any strip shopping area, in their respective municipality, which was to be exempt from the prohibition. Many municipal councils nominated areas for exemption.

The prohibition relates to any new venue. Hotels or clubs which had a liquor licence in December 1997 remain eligible to install a gaming area which is not more than 25% of the total existing area of the venue.¹² The installation of gaming machines into such a venue does not require a town planning permit. Any hotels or clubs that existed prior to December 1997 and did not have gaming machines will, in future, be restricted to a gaming area not more than 25% of the total floor area that existed in 1997.

The effect of this prohibition is that new gaming developments cannot be in commercial areas. They are restricted to nominated exempt areas, industrial areas, residential areas or greenfield sites. If a new development in any of these “non-commercial” areas includes a gaming room of less than 25% of the floor area, no planning permit is required for the gaming machines.¹³ If the gaming room is to be larger than 25% of the total floor area, then the town planning permit must specifically allow the gaming area.

The town planning requirements for gaming are very complicated. The requirements have evolved in an ad hoc manner as a response to perceived political imperatives. The media reports on this issue suggest that the rationale is to contain social costs of gambling by making access by the product difficult. It is doubtful that the town planning requirements achieve the containment of social costs or make access to the product difficult. A cynic may say that the town planning requirements merely protect the privilege of the entrenched, and do nothing to address the social costs of the product.

FINANCIAL AND BANKING RECORDS

The gaming operators and every venue operator must keep accounting records in the form required by the VCGA. The accounting records must correctly record and explain all the transactions and the financial position of the gaming business.

The records must be kept at the gaming premises, unless the VCGA gives its approval that the accounting records be kept at premises other than the gaming premises.

The gaming operators and every venue operator must keep and maintain separate gaming bank accounts for their gaming operations, separate from the other parts of their business.

RETURNS TO PLAYERS

¹¹ s69 and s70 of ~~XX~~. A copy of the Explanatory Report is attached

¹² The operation of s69 and s70 and the cap and the fact that placement of machines is at the discretion of the gaming operators means that it is most unlikely that any existing venue which does not have machines will be able to acquire them.

¹³ Of course a Town Planning Permit will be required for the development per se whether or not it is required to include specific mention of gaming machines.

The Act requires that the gaming operator ensures that the return to players from the machines at any particular venue must not be less than 87% in any one year.

The gaming operator may increase the return to player at any venue to higher than 87%. At present the average return to player is approximately between 90-92%.

The calculation of the 87% return to player is made after deducting the amount paid out for jackpot special prizes.

The rationale for this provision is apparently to ensure the quality and integrity of the product. In a monopolistic environment, it is probably necessary to legislate for guaranteed returns spread across the system so as to avoid extraction of monopoly rents and concentration of big or small payouts in vulnerable areas.

THE BREAK UP OF THE GAMING DOLLAR

The net machine revenue is divided between the participants as follows:.

- 33 $\frac{1}{3}$ % to the Government
- 33 $\frac{1}{3}$ % to the gaming operator that is Tattersall's or TABCORP
- 33 $\frac{1}{3}$ % to the venue operator.

If the venue operator is a hotel then 8 $\frac{1}{3}$ % of the 33 $\frac{1}{3}$ % paid to the venue operator must be paid to the community support fund.

If the venue operator is a club the club keeps the entire 33 $\frac{1}{3}$ %, that is no contribution is made to the community support fund by the clubs.

? *Do the regulations achieve their intended outcomes?*

The Victorian regulatory regime for gaming machines has delivered an industry of unquestionable integrity and probity. There has not been any reported significant incidence of impropriety or criminal activity in respect of the gaming machine industry.

The gaming product delivered to the Victorian consumer is state of the art, and Victorians have voted with their feet, they love being able to play pokie machines at their local venues.¹⁴

A secure, readily accessible, and socially acceptable revenue base has been established and maintained. Many clubs now have the financial means to up-grade facilities, and the community support fund has been established to further re-distribute income from hotel gaming.

¹⁴ 86% of Victorians gamble, and 40% of Victorian use gaming machines Fifth Community Gambling Patterns Survey VCGA December 1997XX statistics on how many play and where.

Hence, the authors submit that the system achieves the objectives of consumer protection, minimising criminal activity, maintaining and protecting a significant revenue base, and to some extent, ensuring that benefits accrue directly to the local community.

On the other hand, the system has glaring and very detrimental flaws.

It is not submitted that the Victorian system is the only or the best way to achieve the desired ends. In other jurisdictions, where the regime ensures greater participation and autonomy by many more business people, equally satisfactory results are achieved in respect of these objectives. Taxation revenue in other systems is higher, as the operator's share of the dividend is reduced (Queensland) or non-existent (South Australia).

The Victorian regulatory regime is, at best, neutral in respect of the other objectives of containing social costs and limiting exploitation of monopoly market positions. At worst, the system is actually detrimental to achieving these outcomes.

The system offers no real tenure over machines by venue operators. It allows comparative measures of machine performance to dictate whether machines remain at a venue or not. The system denies the venue operator at the coal face the discretion to limit or alter the supply of the product so as to minimise social costs.

The exploitation of privileged, if not monopolistic, positions is reinforced by the regulatory regime. The structure of the industry delivers to the gaming operators almost unfettered control over all levels of involvement. This allows the operators to decide who will participate. It creates privilege and exclusion based on the vagaries of the operators' preferences. Together with the arbitrary state limit, it confines the benefits of gaming to the few, and creates entrenched vested interests of huge privilege which inexorably continue to exploit their position at the expense of the excluded.

Other hospitality venues, which are excluded from offering gaming, are disadvantaged by gaming venues which subsidise their non-gaming product with profits from gaming. Tea and coffee and biscuits are routinely offered free of charge in gaming rooms. Cheaper meals and entertainment options are also offered.¹⁵ This is in addition to the general advantage that a lucrative profit centre provides in matters such as refurbishment and fit-outs.¹⁶

Other retailers besides hospitality providers also complain that gaming has impacted on their sales.¹⁷ The competition between hospitality venues which offer gaming and non-gaming venues is not as simple as the competition between, say movies and pubs for the leisure dollar. A consumer's discretionary dollar can be spent on a dress, a night at a pub or at the movies. Gaming is now an integral part of the hospitality package that customers expect from venues. Denying some venues the right to provide this service is equivalent to legislating for the range of dresses that particular dress shops can sell, or the type of movies that particular cinemas can screen while allowing the competition to market a full range.

¹⁵ Hames Sharely "Community Facilities Resulting from the Providers of Gaming in Victoria" VCGA October 1997 pp32-33 Venue Operators identify that meals are subsidised, other facilities are offered free of charge eg bus trips to the venue, free morning/afternoon tea etc

¹⁶ previous note at pp 41-42

¹⁷ The VCGA study does not bear this out. Gaming expenditure has had no negative impact on other retail sales. NIEIR The Impact of the expansion in gaming on the Victorian retail sector VCGA March 1997

Apart from the objectives identified in the issues paper, the Gaming Machine Control Act sets out a further objective of “promoting tourism, employment and economic development generally in the State”.¹⁸ This objective is not supported by the present regulatory regime in Victoria. All three elements of the purpose would be more readily achieved by allowing more businesses access to the gaming product. If more venues could access the gaming market, then more venues would be up-grading facilities, refurbishing, employing more staff, making money and taking holidays. More venues would present as viable, safe hospitality outlets which are the quintessential tourist attraction.

The present system of operator control and the cap encourages the concentration of machines into as few venues as possible, and as few multi-venue operators as possible. This is a simple matter of economies of scale. Large strategically placed venues can best exploit the restricted resource. Free bus trips are already in use to convey patrons to remote venues.¹⁹ Mega-entertainment venues are best placed to monopolise the sponsorship deals available with local community clubs and charities. The pub who sponsored the cricket team in return for patronage finds it impossible to meet the deals offered by the gaming venue which ends up with a monopoly on the sponsorship arrangements. The economic benefits that flow from gaming²⁰ would be multiplied many times by spreading the machines around more operators and venues.

In particular, if smaller businesses were afforded some access to the gaming market then the objective of promoting tourism, employment and economic development would be even further commended. Small hospitality venues are labour intensive (thus encouraging employment), supporters of local businesses (plumbers, painters, butchers), and the providers of the local entertainment that tourists like to find. The present regime denies smaller operators any real participation in this very lucrative industry. The operator system, together with the cap favours large businesses over small, and multi-venue operators over single venue operators.

As Hilmer reported, and the COAG Agreement endorsed,²¹ industry is best served by the dismantling of restrictive regulatory barriers. The only regulatory barriers that should be maintained are those that can be proved to be in the public interest. There is no evidence whatsoever that the operator system, the cap, or the exclusive licensing system has any public benefit at all. The incidence of problem gambling is broadly uniform across Australian states, if not more prevalent in Victoria than other states with gaming machines.²² The other states do not have an exclusive gaming operator system, and do not have a state limit on machines numbers.²³

¹⁸ Gaming machine Control Act 1991 (Victoria) s1(e)

¹⁹ Community Facilities Report p 31

²⁰ As identified in Reports : Impact of EGMs on Small Rural Communities, Impact on Retail and Impact on Employment

²¹ ~~Citation~~ National Competition Policy Report by Independent Committee of Inquiry 1993

²² Dickerson’s report p 34. The authors of that report express some concern with the SOGS, but resorted to it as the best available indicated.

²³ ~~XX check whether or not Tas has a state limit~~ Other states limit the numbers per venue, but not the numbers in the state.

The Dickerson Report identified that making new forms of gambling available has tended to increase the incidence of measured problem gambling. The report also points out that surveys of counselling service data showed that problem gambling is more prevalent in metropolitan NSW than country NSW.²⁴ Dickerson supposes that this may be due to ease of access in the city compared to the country. This supposition is surprising. The anecdotal reports of the Break-Even counsellors in Victoria is contrary. The data was collected from counselling services, and the results may have been influenced more by the access to counselling services than by the access to gaming machines. Dickerson himself acknowledges that access as a factor in problem gambling has been neglected and no conclusions can be drawn.

All other data which the authors have been able to locate do not support a proposition that increasing the number of machines above 27,500 would lead to increased problem gambling. The data may support a proposition that availability of counselling services results in increased reporting of problem gambling, and that there is a positive correlation in the numbers of gamblers in an area and the number of problem gamblers in an area. There is absolutely no data that suggests that the incidence of problem gambling is altered when the number of gaming machines is reduced. Five thousand gaming machines in a locality does not produce half the problem gambling that ten thousand gaming machines produce.

At any rate, the proposition that the cap limits access to machines by problem gamblers is simply unsustainable. As has already been said, venues “bus-in” customers. The operators have carefully planned their placement of machines to ensure a maximum return from the machines rather than convenience for players. There is simply no evidence to suggest that a cap of 27,500 machines has any effect whatsoever on the incidence of problem gambling.

The evidence in respect of alcohol contradicts the proposition that increasing numbers of outlets results in an increase in problematic use of the product. In Victoria over the period to 1987 to 1997 the number of liquor licences in Victoria increased from 5212 to 8240.²⁵ Over the same period the consumption of alcohol in Victoria decreased by approximately 13%.²⁶ There has not been any significant increase in the short or long term ill-effects of alcohol over this period of expansion in outlet numbers²⁷.

Perhaps a more pertinent question to ask than “do the regulations achieve their intended outcomes?” is “what are the *un*intended outcomes resulting from the regulations?” The unintended outcomes from the Victorian regulations are:

- ⇒ a concentration of resources in the hands of a very few,
- ⇒ the exclusion of most small business from participation in the industry,
- ⇒ the exploitation of privilege and use of cross-subsidisation to unfairly impact on the businesses of the non-gaming hospitality providers
- ⇒ the consequential marginalisation of the non-gaming hospitality industry.

²⁴ Dickerson Report p61

²⁵ *Final Report of the National Competition Review Panel into the Liquor Control Act 1987 (Vic) April 1998 State Government of Victoria page 18. Table 2.1. Figure 2.1 on page 19 shows the considerable increase in numbers of licences per 10,000 Victorians.*

²⁶ *Previous note at page 19 figure 2.2*

²⁷ *The Report cited in note 25 gincludes a survey of the literature in Appendix 5 with a summary at page 38*

⇒ the adoption by some non-gaming licensed hospitality businesses of undesirable, irresponsible service and business practices in an effort to maintain market share.

? *What are the lessons for policy from the arrangements that exist in [the Victorian] jurisdiction, and has any government implemented a preferred regime?*

It is submitted that the Victorian system was misconceived from its inception. The National Competition Policy and all modern economic theories denounce exclusive licence systems and vertical control by any player in an industry. It is acknowledged that the system does provide for two operators, but, as explained above, the cap and the 50:50 Rule renders any competition illusory and results in a monopoly of two.

Another lesson for policy is to ensure that the general debate on the issues stays focused. Those Victorian protagonists that would limit the social costs of gaming became fixated on the number of machines, with no analysis of what influence the numbers of machines has on social costs.

The social costs of gambling are all contingent upon irresponsible or problem gambling. It is accepted that some commentators have an objection to gambling *per se*. This objection may be religious or moral. It is impossible to counter arguments that are based on the protection of one's mortal soul. This paper does not attempt to counter these arguments, except to say that they have no place in modern social policy. Policy makers should ensure that regulations are properly targeted to address the legitimate concerns of public policy, namely inappropriate use and its contingent costs.

It is apparent from the above discussion setting out the Victorian regulatory regime, that regulations that are not properly considered and target-specific end up doing little else than creating a complicated lawyer's picnic, and entrenching unproductive vested interests. The complex interaction of town planning and gaming regulations, and indeed the cap, has done nothing to reduce the incidence of problem gambling. The incidence in Victoria is the same as that in any other state, and uncannily similar to the incidence in other countries.²⁸

This paper submits that the South Australian model which allows any holder of a general licence or club licence to install up to 40 machines is probably the preferred regime, although the maximum number of machines is probably optimum at more than 40. Venue operators have control over their own business practices, and the benefits of the new industry is available to all licensed hospitality providers. Anecdotally "all pubs in Adelaide are doing well", while in Victoria only 253 out of 1800 general licensees have machines. Amongst those venues that do not have access to gaming, probably some 90% would welcome the opportunity to install some machines.

²⁸ VCGA report on the definition of gambling

? *Are current regulations governing gambling appropriate? What changes should be made and how should they be introduced?*

The current regulations are not appropriate. They hinder the free flow of resources and the entrepreneurial spirit, and do nothing to contain the social costs of gaming. Other jurisdictions have successfully provided for probity and integrity without passing almost unfettered control to the operators. Other systems have contained the social costs of gaming just as successfully, or no less unsuccessfully, than Victoria. These jurisdictions do not have ubiquitous influence of the operators or the complexity of Victorian town planning regulations.

If the opportunity arose to start again, undoubtedly the regulations would be different. In the present circumstances, the changes that should be made may be impossible. The contracts between the operators and the government are, as stated above, not available for analysis. Hence any proposal made here may be rendered infeasible because of the contractual terms.

However, in Victoria much could be achieved by removing ownership of machines from the operators. It is submitted that this could be done without disturbing the operators' gaming licence which provides for the operators' monitoring role and for their 33¹/₃% return of the profits.

The cap on the number of machines should be lifted. As stated above, there is no evidence whatsoever that the cap is effective in containing the social cost of gaming. Also as stated above, modern social and economic policy avers that regulation should not artificially restrict entrance to an industry. Rarely does this type of regulation produce the desired effects.²⁹ More productive and equitable means of addressing legitimate concerns is to directly deal with the concerns themselves, for example providing counselling to problem gamblers, and early education to potential users of the product. Such techniques are more effective than setting caps and exclusive licences which, for example, excludes one country pub from providing gaming when the pub on the next corner has the product.

It has been argued that restricting the venues at which gaming is available³⁰ provides problem gamblers with an alternative non-gaming venue at which to socialise. The veracity of such a supposition has not been proven. It may have some merit. However, it is curious that a problem gambler can resist the temptation of a gaming venue by visiting the non-gaming pub on the next corner, and yet cannot resist the temptation of a machine that is in the next room to the bar.

What is more, it is unfair, to say the least, that without any reference to the proprietor, some third party decides which pub will be the non-gaming venue, thus depriving the proprietors of a lucrative income because a small minority of potential customers may have a problem with the product. It would be ludicrous to arbitrarily prohibit some banks from providing credit

²⁹ Hilmer report pp

³⁰ Representatives of Break-Even Victoria have made such comments to the authors on numerous occasions.

cards because a percentage of customers can not use them responsibly. This restriction is an imposition on the rights of the businessperson and on the customers.

It is not suggested that the incidence of the short and long term ill-effects of alcohol will be diminished by introducing a law which restricts the sale of beer to only a few well dispersed hotels. All that would happen is that the few hotel operators will become wealthy.

? *How should regulations be administered?*

The Gaming Machine Control Act provides for the issuing of gaming licences by the VCGA and for objections to be received to the issue of a licence on the sole ground of suitability of the applicant.

The Liquor Control Commission issues liquor licences which are a pre-requisite for a gaming licence. The Liquor Control Act provides for objections to liquor licences to be grounded in community interest.³¹

Municipal councils issue town planning permits, which are in many cases a pre-requisite for a gaming licence. Town planning legislation provides for objections to town planning permits to be grounded in amenity and community interest.

In reality, anti-gaming campaigners use liquor and planning forums to raise objections to gaming venues. The process of acquiring a gaming licence is thus unjustifiably protracted.

It is submitted that it would be preferable for one authority to administer the regulations, issue the licences and hear all objections to the establishment of gaming venues. It is further submitted that it is appropriate for gaming and liquor matters to be administered by the one authority.

? *What are the compliance burdens associated with the existing regulations?*

Just a cursory appraisal of the extent and nature of the regulatory regime in Victoria as outlined above reveals that compliance costs of the existing regime is immense.

The operator system in Victoria adds a further, and more insidious compliance cost on venue operators. In order to ensure continued tenure of machines, venue operators must meet the requirements of the gaming operators for refurbishment and promotion of their gaming services. The decision as to what resources should be allocated to gaming is not made by the

³¹ The new Liquor Reform Bill provides for objections to be grounded on community amenity.

person who bears the cost. This compliance cost is extraordinarily high, and in many cases this leads to inefficient allocation of resources.

? *Would there be gains from harmonising regulations across Australian jurisdictions or across different gambling types?*

Apart from the ALH group of hotels, the incidence of interstate involvement in gaming is limited. Harmonising the regulations nationwide would have only minimal effect on the compliance costs if all that is achieved is harmonisation. However, if a nationwide regulatory system was non-exclusive and provided for wide participation while promoting the other objectives, then it would be preferable to the Victorian system.

Constitutionally, regulation of gambling is a state matter.

It is submitted that harmonisation of licensing regulations across gambling types is ostensibly desirable. It is incongruous that a hotel proprietor is able to conduct wagering at the hotel, without a wagering licence, despite all the opportunity for corruption and perfidy, but is excluded from installing gaming machines.

Regulations which ensure integrity of the games played or the proper working of machines or protection of state revenue will have to discriminate between gambling types.

? *What is the appropriate role for government, if any, in the promotion and advertising of gambling?*

The only appropriate role for government is the promotion and advertising of responsible use of the gambling product, and the counselling services for problem gamblers and other services which are designed to reduce the social costs of gambling.

As an advertiser of tourist facilities, state governments may feature the state's gambling facilities in tourism advertisements.

In Victoria gambling is, and will remain, a private industry. Apart from the two exceptions above, it is submitted that there is no role for government in advertising or promoting the private interests of business entities.

? *Is information disclosure adequate, and if not, what is the appropriate nature and extent of disclosure?*

Some commentators in Victoria³² suggest that there should be disclosure of information about the specific pay-outs on particular machines at particular venues. It is considered that this would result in a more informed clientele, and would disclose “loss leader” style tactics by operators in particularly low socio-economic areas.

The authors of this paper are at a loss as to understand how such disclosure will achieve such a result .

The Act provides for a minimum return to player of 87%. Rather than encouraging appropriate gaming behaviour, publishing more specific statistics may result in ill-informed customers chasing the “better paying” machines or venues.

Apart from the disclosure of the contracts with the operators, the provisions for disclosure are, it is submitted, adequate.

? How effective are regulatory controls and oversight mechanisms at dealing with risks [of criminal activity]?

As stated above, the Victorian gaming industry has not experienced any significant allegation of impropriety. It would appear that the regulatory controls have been effective in dealing with the risk of criminal activity.

However, the authors reiterate that this is not to say that the Victorian system is the only or most effective system. Other jurisdictions have achieved similar results without the other undesirable consequences.

TAXATION

? To what extent are [the stated] arguments a valid basis for higher taxes on gambling? To what extent do the regulatory and taxation regimes interact?

Gambling is a highly taxed activity. The authors of the issues paper have identified two justifications for the high tax, namely - that higher taxes are needed to compensate for the high cost of dealing with “problem gambling”, and that providers of the product should pay more tax to the government because the government’s regulations have provided them with a very lucrative protected business.

³² Rob Hulls, [bBreak-eE](#)ven

It is submitted that the real reason that gambling taxes are high is because it is a “soft target”, especially tax on gaming machine play. It is a readily accessible service tax that the states can collect independently of the Commonwealth. Also, it has general acceptance, players do not care that at least $33\frac{1}{3}\%$ of what they lose goes to the government, they are more concerned that at least 87% of what they play comes back in prize money.

The proposition that exclusive licensing systems should be established so as to allow for increased revenue collection is anathema to National Competition Policy and best government practice. It is surprising to see this proposal so baldly stated.

Further, it is submitted, that the proposition that higher taxes are paid by the provider of the product for participation in a protected industry is also flawed. The fact that the industry is protected ensures the ability of the tax payer to simply pass on the tax to the consumer. So it is the consumer who pays a higher tax for the provision of protection to the providers. If providers had to compete, then maybe a higher percentage of the tax would be born by the provider of the product and not the consumer.

? What is the appropriate way of determining the right level and form of gambling taxes?

It is outside the expertise of the authors of this paper to give a definitive answer to this question. The following general comments are offered.

As a service tax, gaming tax is collected regardless of the profitability of the business. The service itself is taxed, and not the income of the provider. Gaming provides the most return to government of all entertainment options. As such, the direct social benefit of having a play at the pokies outweighs the social benefit of going to see a movie. The former option delivers more into the general coffers.

Taxation rates should not be so high as to amount to a penalty on those who use the product responsibly, and thus amount to a disincentive to use the product. The returns to players must be attractive enough to entice players. A tax rate which reduces the return to players below what the market considers attractive will “kill the golden goose”. The failure of Keno in Victoria is, in part, explained by the return to player being too low. Consumers are very sensitive to these issues, and a drop in return could well result in a consumer preference shift to other entertainment options.

Taxation rates should also allow the provider to make enough profit to continue to improve and invest in the venue. Licensed hospitality is a labour intensive industry (one of the few remaining) and the foundation of the burgeoning tourism industry. It is imperative that taxation regimes do not stifle initiative and expansion.

? *Should different forms of gambling be taxed differently?*

For historical and practical reasons, the authors suggest that it is unlikely that there could be one form and rate of taxation across all forms of gambling. Wagering taxes are levied differently on TABCORP than they are on fixed price book-makers. Some gambling may be appropriately taxed on turnover, eg the price of the ticket contains a fixed tax cost. In other circumstances it is appropriate to tax the profits, eg in gaming machines. In some instances, a mixture of systems may be appropriate.

Also with the rates of taxation, it is unlikely that a general rate could be fixed. The rate that is levied on any form of gambling is probably what the authorities at the time assess to be generally acceptable - what society approves, and what the market will bear.

Whether or not different providers should be taxed differently is a vexed question. Clubs do enjoy a favourable taxation position. In Victoria clubs with gaming machines are not required to pay into the Community Support Fund. There are justifications for these differentials, some more valid than others. Suffice this submission to say that taxation regimes should not be used to advantage some providers of the product in the market place. The tax schemes should be established to properly provide for the legitimate need of society generally, not to give one group of business people an advantage over another group.

? *What is the impact of gambling taxation on gamblers?*

Obviously, taxation adds a cost to each gamble. Hence a losing gambler runs out of money sooner because some of the money is going to the government.

Of course, gamblers benefit along with the rest of society when a decision is made to spend the discretionary dollar on gambling rather than a lesser taxed entertainment option.

It is true that gambling taxation is regressive. Lower income people are highly represented amongst gamblers who use gaming machines. Thus lower income people pay a high percentage of the gambling tax. This is a universal fact in respect of all indirect taxes and is unavoidable³³. At least gambling is a discretionary spend and no lower income person is forced to pay the tax.³⁴

? *Should part of the revenue for gambling be earmarked for particular purposes, and if so, for what purposes?*

³³ Witness the present debate over the GST

³⁴ Unlike the arguments in respect of the GST on food.

The benefit of earmarking is that it exposes the good that can come from gambling. Politically, earmarking is desirable.

The earmarking of revenue for remedial action - eg problem gambling services - is probably helpful in ensuring adequate funding is maintained for those services.

Otherwise, earmarking is simply a matter of budgetary style. It is irrelevant to ask “does it simply result in cutting back of public funding?” The relevant question is “does it better provide for adequate funding?”

When a certain amount of funding is earmarked for employment of problem gambling counsellors, for example, it is easier for the disgruntled to argue firstly that the amount is inadequate, and secondly that the earmarked funds are not being spent.

The introduction of gaming machines in Victoria has provided a new and vast source of government income. If the community support fund can provide for a new aquatic centre, it is irrelevant to ask why the money should not come from somewhere else.

? Is the current process of distributing earmarked funds appropriate and effective? Are the mechanisms suitably open, well-understood and subject to accountability requirements? Are they an improvement on normal government budget processes?

There is always room for improvement in these matters.

The mechanisms controlling the distribution of the community support fund remain a mystery to just about everyone. Despite detailed prescription in the Gaming Machine Control Act, the process of access to the fund is not widely understood.

As the issues paper question appears to suggest, budget processes are generally mysterious.

Chapter 3

WHO GAMBLES AND WHY?

? What research and information in this area is most instructive?

The Commission is referred to the series of research reports commissioned by the VCGA, a list of which is attached. This series of research reports is limited to gaming.

? What additional research would be warranted?

The recent hysteria about gambling has arisen because of the introduction of gaming machines into states other than NSW. It would be instructive to have some qualitative research undertaken to explain why there is such a disparity between the public opinion in respect of different types of gambling.

Gaming is generally portrayed in detrimental terms - mothers robbing piggy banks. Punting on the horses is portrayed in glamorous terms - hats and fancy dresses and expensive golf clubs. Mystery betting on the horses is gaming, ie wholly dependent on chance, but it receives no where near the adverse publicity as does the use of gaming machines. To the casual observer, it appears that there are some basic prejudices at work that require examination if we are to understand why people gamble, and why people object to gambling and what particular types of gambling are more or less used and objectionable.

There is also a lack of quality research into what regulatory measures effectively minimise harm. Much research into effectiveness of policy has been conducted in respect of alcohol.³⁵

³⁵ *Final Report of the National Competition Review Panel into the Liquor Control Act 1987 (Vic) April 1998 State Government of Victoria at page XX-38 sets out the Research*

Chapter 4

BENEFITS AND COSTS TO INDIVIDUALS

? *What is the nature and extent of the benefits that individuals receive from gambling?*

The benefit that accrues to the providers of gambling is self-evident. It is a popular, protected and lucrative business.

In Victoria, gaming has added a 1% net increase in employment.³⁶ By 1996 new gaming in Victoria had benefitted 34,700 individuals by providing them with employment. This figure is net of any loss of employment from other sectors of the economy.

Customers are benefitted by having a new and popular entertainment option. The rate of participation by Victorians in gaming machine play is evidence of popularity.³⁷ The Victorian market was obviously ready for this product.

Gaming venues are, without exception, comfortable, well furnished and maintained, establishments. The games and machines engage the latest in technological developments. The community generally is benefitted by this improvement in entertainment facilities, by the increase in employment and by the advance in Australian technological know-how.

Both gaming operators agreed that at least 80% of their gaming equipment and services would be sourced locally. The Department of Business and Employment, in consultation with the VCGA, undertook an audit of this requirement in 1993/1994 and confirmed that both the Operators had met this requirement. This acquisition of Australian equipment as well as installation and maintenance services has provided an important stimulus to Australian manufacturers and service providers.³⁸

There is an interesting phenomenon that presents itself in the series of VCGA research reports. Respondents consistently report a perception that gaming delivers more “bad” than “good”³⁹. Even when the respondents use gaming machines and have a positive perception of their own

³⁶ Impact on Employment Study

³⁷ ~~XX Cite the participation rates from the Surveys~~ 86% of Victorians gamble, and 40% of Victorian use gaming machines Fifth Community Gambling Patterns Survey VCGA December 1997

³⁸ Impact on Inner City Municipalities page 64 Impact of Electronic Gaming Machines on Small Rural Communities, table 5.12 at page 176, Social and Economic Effects of Electronic Gaming Machines on the Non-Metropolitan Communities table 3.34 at page 70

³⁹ Impact on Inner City Municipalities page 64 Impact of Electronic Gaming Machines on Small Rural Communities, table 5.12 at page 176, Social and Economic Effects of Electronic Gaming Machines on the Non-Metropolitan Communities table 3.34 at page 70

use, their response is generally that gaming has an overall “bad” effect. It is difficult to reconcile or explain this phenomenon. The authors believe that negative press reports probably contribute. People form the view that "Although I am in control, the papers report that “those people out there” are badly affected" Also, to some extent, the attraction of the product is enhanced by a perception of it being somehow slightly illicit. "Bucking the system" has become an accepted and interesting element in the Australian culture. Gaming machine players enjoy the product more while it is risqué, and the continued reporting of negative perception by users of the product continues to reinforce this element of enjoyment.

? *How do such benefits differ between different groups (for example, among people of different ages, gender, income ethnicity)?*

Providers of gaming are, on the whole, men or corporations controlled by men. The ages of the people involved is not a readily accessible statistic. Without conducting a survey on the matter, it is suggested that most of the people are Australian born.

With respect to those employed in the industry, what information that is available is set out in the VCGA study “The Effect of Gambling on Employment in Victoria”. Pages 65-68.

For information concerning the customers of gaming venues, the Commission is referred to the VCGA “Surveys of Gaming Venues” published 1994-1997.

COSTS TO INDIVIDUALS

? *What is problem gambling?*

Substance abuse (whether it is cause or symptom) always gives rise to physical measurable harm. Liver disease, lack of mental capacity, road trauma and cancers, these are the legacy of the abuse of legal and illegal substances, as well as the financial loss due to the price of the substance and loss of earning capacity. These direct outcomes provide the definitions of problem drinking and smoking. In respect of gambling, the harmful outcomes, except for the financial loss, are always indirect. This indirectness makes the formulation of a definition of “problem gambling” elusive.

Dickerson's study⁴⁰ conducted for the VCGA last year reviews the Australian research on this topic together with many international studies. His recommended definition of "problem gambling" has been widely accepted in Victoria. It is :

"Problem gambling" refers to the situation when a person's gambling activity gives rise to harm to the individual player, and/or to his or her family, and may extend into the community."

As Dickerson himself accepts, any definitive definition of problem gambling will be illusive. Value judgments, and subjective interpretation are almost impossible to avoid. The definition recommended by Dickerson begs the definition of "harm". An observer who has a moral objection to gambling may consider that the harm caused is the threat to the immortal soul of the gambler. Another observer may consider that any pastime which intrudes on family time is harmful (such reasoning was at the root of the 6 o'clock closing regulations). Yet again, a generally disgruntled husband may resent any money spent on gambling by his wife. Whether or not the money is truly discretionary, the gambling may be the cause of arguments. This may result in discord in the family, which gives rise to harm (physical or otherwise) and be assessed as extending to family and community.

At the extreme end, "harm" is readily identifiable. If gambling results in suicides, inability to afford basic food, neglect of children or loss of valued assets, eg the family home, it is obviously harmful to the gambler and to the gambler's family and the community. However, this is the very extreme end. The measured incidence of problem gambling is not a measure of this extreme. In fact, the authors are unaware of any scientific studies that identify the incidence of this extreme harm. What evidence does exist⁴¹ makes no effort to isolate gambling as the only, or major, cause of the identified harm. As is noted elsewhere, gambling is often a symptom, not a cause. A retrenched worker who cannot keep up the mortgage payments on the home, may, in desperation, gamble the last repayment. This is an inappropriate response, but the final gamble was not the cause of the foreclosure.

The Dickerson definition invites value judgments. What of the punter who chooses to live in hostel accommodation, to eat basically, even badly, and to dress inelegantly so as to leave, maybe, 80% of his/her income available for gambling? Does this amount to problem gambling? Some in the community may consider the life-style to be inappropriate. Short of a big win, this person has no prospect of home ownership, or wealth accumulation, and will inevitably be reliant on the state in old age. This may be considered "harmful" to the community. Just the same can be said of the "clubbers" who spend all their income on clothes and "making the scene". Wealth accumulation is not considered, and reliance on social security in old age is an expectation. Except for the instances where the gambler wants to change his/her gambling habits, Dickerson's definition cannot avoid including lifestyle preferences.

⁴⁰ Definition and Incidence of Problem Gambling, Including the Socio-Economic Distribution of Gamblers August 1997

⁴¹ ~~XX get figures from Break Even and the Coroner's Report last year~~ The Coroner's Report is quoted "the number of gamblers taking their lives has grown to 13".. Herald Sun 10 September 1997 p15

? *How big a problem is [problem gambling]? How many Australians are problem gamblers?*

The Commission is again referred to The Dickerson's Report which includes most of the recent Australian research in this area.

Measuring problem gambling is problematic. Dickerson's study uses the South Oaks Gambling Screen (SOGS) . This procedure has been used widely in U.S. studies.⁴² However, the procedure is designed to measure *potential* problem gamblers (scores of 3 or 4) and *probable* pathological gamblers (scores of 5 or more). Dickerson alters the scoring criteria to suit the Australian experience, and changes the terminology to "problem gambling"⁴³. This does not change the fact that the questions are designed to assess the *risk* of problems occurring rather than the *incidence* of problem gambling. Dickerson himself identifies this problem.

The Dickerson definition of problem gambling relies on the incidence of *harm*. Hence, it is necessary to measure the incidence of harm that is caused by problem gambling to get any real measure of how big a problem we have.

With substance abuse, it is possible to measure the incidence of liver disease, the number of over-doses or the incidence of lung cancer. The authors are unaware of any scientific Australian data which isolates gambling as the cause of any of widespread harm. Dickerson's review of the seven Australian studies which used SOGS (as modified) results in an estimated "at risk" group of between 1% and 3%.⁴⁴ However, the authors of Dickerson's report do not accept this as an estimate of prevalence of problem gambling, "but one measure of the level of problem gambling in the community."⁴⁵ Dickerson acknowledges on page 35 that the figure of 2% for Victoria is probably over-stated.

Just as a definitive definition of problem gambling is elusive, so is a definitive methodology for measuring problem gambling.

Non-scientific and anecdotal reports about the increased harm caused by the introduction of gaming abound.

Problem-gambling-counsellors report people contemplating suicide because of gambling habits, and the Coroner's Court statistics for 1997 identified gambling as being an element in 13 suicides for that year.

A recent ACOS Study⁴⁶ investigated the cause of increase in demand for welfare services. The services surveyed reported an Australian wide increase in demand for their services. The reasons given for the increased demand were numerous often related to staffing and funding. However, gambling was not cited as a cause. What is more, although the specific results have

⁴² An over-view of the US and other international and national literature is set out in the Dickerson Report

⁴³ Dickerson Report page 37 ff

⁴⁴ Executive Summary p 2

⁴⁵ p35

⁴⁶ Australian Living on the Edge XX – A survey of the community sector ACOSS November 1998

not been collated, there is nothing so far to suggest that the increase in demand is not uniform across the nation. This indicates that the increased demand for welfare services is about the same in Western Australia as it is in Victoria, even though the former state does not have gaming machines.

A magistrate in Victoria has commented that offenders in his court often quote gambling problems as the motivation for their transgressions⁴⁷. He has noticed the phenomenon is more prevalent since the introduction of the casino and gaming machines into Victoria. The authors suggest that the phenomenon has more to do with the ingenuity of defence lawyers in finding new exculpating motives, rather than an increase in problem gambling amongst the clients of the criminal justice system. It would be interesting to note whether or not fewer offenders are claiming to have been sexually abused as children since that phenomenon is not flavour of the month with journalists.

It is noted by the authors that while there is much concern about problem gambling in respect to use of gaming machines, there is no interest in the incidence of problem betting on the horses or sports betting. It is suggested (although not scientifically investigated) that, as a rule, large dollar gamblers punt on the horses.

How big a problem exists with problem gambling remains unknown. Dickerson comments that the methodology used may tend to over-state the problem⁴⁸, others suggest that the “actual level of problem gambling is probably higher than the published estimates”⁴⁹.

What ever is the case, all efforts to measure problem gambling support the argument that the Victorian cap on numbers has had no effect on the measurable incidence of problem gambling. The incidence in Victoria is almost identical to that in NSW, where the number of gaming machines per population is about three times that in Victoria. The incidence in South Australia is also similar where there is no cap and the number of machines per population is about double that in Victoria

There were studies conducted before the introduction of gaming machines into Victoria. The “Connor Report”, in the 1980s, showed that problem gambling would be an inevitable consequence of the introduction of machines. Unless the policy is prohibition, some level of harm is to be expected and tolerated. Minimisation of the harm should be the imperative. The policies for control of gaming at present are designed to meet political imperatives and have nothing to do with harm minimisation.

? *How enduring is the problem for an affected gambler? What are the costs and other impacts for the problem gambler?*

⁴⁷ As reported in the Herald Sun October 16 1996.

⁴⁸ as in Victoria - page 35

⁴⁹ Leiseur, H. (1994) “Epidemiological Surveys of pathological gambling: critique and suggestions for modification”, Journal of Gambling Studies, 10, 4, pp. 385-98

These questions are best answered by experts in the field. The authors doubt that the answers will be consistent across all problem gamblers. As has been said above, the phenomenon does not have the characteristics of substance abuse which displays uniform detrimental effects. Excessive alcohol will always cause a problem to the liver, smoking will impair lung capacity, glue sniffing will impair mental facilities. These are enduring injuries which persist even once the addiction is overcome. Gambling on the other hand, is finished once the addiction is overcome.

The financial loss endures, but is repairable. Other indirect detriment, for example family break-down and loss of employment, may endure. Any inappropriate behaviour can cause these outcomes, like irresponsible over-spending on luxury items or over-eating. These problems, although real, are not life threatening, and appropriate behaviour will allow the reformed sufferer to survive and thrive.

The real problem with gambling is the distress that the inappropriate behaviour causes. A large gambler who is not distressed about the loss of money, and who has no dependents, has no problem - Unlike a large drinker who is not distressed by the amount of alcohol he/she consumes. The drinker still has problems - liver disease, loss of facilities, obesity.

? How many others are affected by problem gambling? What are the effects on the problem gambler's family or the community more generally?

The "ripple out" effect of problem gambling is exactly the same as the "ripple out" effect for any dysfunctional behaviour. A man whose uncontrolled use of credit cards leads him to default and legal judgment against him and bankruptcy and depression, can exhibit the same distress response as a problem gambler. The behaviour leads to the same ever increasing circle of affected people. This process is well documented. Gambling is not unique in this regard.

? How should we go about measuring these costs in a meaningful way and are there useful existing estimates in Australia or overseas?

As discussed above, any meaningful definition and measurement of the cost of problem gambling is elusive. Research experts will evolve increasingly more sophisticated means for defining and measuring the phenomenon as long as their remains funding for doing so. Any attempt to measure the incidence must take account of the inherent value judgments in the accepted definitions, and of cultural sensitivities.⁵⁰

⁵⁰ Dickerson p 58

Dickerson's report explored the limitations and the advantages of the various methodologies and research tools. The Commission is referred to this report.

? *What are the appropriate methods for determining the numbers of problem gamblers, and their social impacts? Is the South Oaks Gambling Screen from the USA a useful instrument for identifying problem gambling in Australia?*

The Commission is again referred to the Dickerson report where these matters are discussed at length. The limitations of the SOGS is discussed in that report, and also above in this paper.

? *What is the nature of the problems affecting people at different points along this continuum [of severity of problem gambling]?*

This question is best answered by experts in the field. Suffice for this paper to reiterate that the nature of problem gambling is the same, and exhibits the same continuum, as all inappropriate compulsive behaviour. Problem gambling is not unique as a dysfunctional behaviour.

? *What is the nature of people's transitions from one state of problem gambling to another? Is it possible to identify those on the path to chronic and severe problem gambling from those who are not?*

The Commission is referred to the answer to the previous question.

? *What is the nature of each specific [gambling related] problem and how can it be measured?*

The nature of the problems identified in the issues paper are the problems themselves. The nature of homelessness is being without a home, the nature of poverty is being poor. The statistics reporting the incidence of these problems are available from the relevant government authorities. The authors of this paper are unaware of any scientific studies that show what percentages of problem gamblers engage in criminal activities, or how problem gambling has increased the incidence of these problems.

This is not surprising, given the elusiveness of an empirical definition and measure of problem gambling.

As stated above, newspaper reports have highlighted an increase in reporting of gambling habits as a motive for crimes in the magistrate's court. However, there are no studies showing an increase in overall criminal activity since the introduction of gaming machines.⁵¹

Problem gambling services keep some data on their clients. They are probably able to give percentages of people seeking help who report that gambling habits have been the cause of problems identified in the issues paper.

The authors of this paper would only point out that gambling is often the symptom and not the cause. It is just as legitimate to ask how often job loss results in problem gambling as it is to ask how often problem gambling results in job loss.

Further, in any study it will not always be possible to isolate the cause of the problem. Unhappiness because of family problems may cause problem gambling. The gambling then becomes the object of the study, and the resulting family break-down is blamed on the problem gambling, not the problem family. There may be many causes for family break-down. Gambling may be a cause (minor or major) or a symptom of many other problems.

? *What are the behaviours of problem gamblers (in terms of frequency of play, typical expenditure, motivations, type of play, social interactions with others?)*

The questions in SOGS probably indicate the behaviour which is *indicative* of problem gambling. However, such behaviour is not always problematic, it will always depend on the gambler. Some wealthy people gamble to chase losses, and are totally unsociable. This does not mean their gambling is a problem.⁵²

It is possible to collect the data in respect of those who present as problem gamblers to counselling services. These services probably have data on the occurrence of particular behaviour amongst their clients. Users of the problem gambling services are the only sample from which this information can be reliably gleaned. Self assessment has been rejected as a reliable measure of problem gambling.⁵³ Hence this information should be used as indicative only, and not conclusive.

⁵¹ Victoria Police Media Director's Office Media Releases 31 July 1998 and 10 February 1998 VICTORIA POLICE ANNUAL CRIME FIGURES *crimes against property* was stable for the year 1997-1998 "*Crimes against the person* did show an increase of 2%. Victoria's crime rate is below the national average in 11 of the 12 categories.

⁵² Reverend Tim Costello, in his verbal submission to the Commission in Melbourne, made much of the fact that many people he spoke to admitted to spending more than they wanted to spend on EGMs.

⁵³ Dickerson Report page 60

? *To what extent do people with a gambling problem suffer from deeper underlying problems, of which gambling is only a symptom? To what extent is problem gambling associated with other problems?*

The authors of this paper are not aware of any scientific research in this area. However, as observers of human nature, and the Association's involvement in the Self Exclusion Program, it appears to the authors that problem gamblers always suffer from some underlying problems.

At the very least, problem gamblers have a compulsive behavioural disorder which results in them being unable to control their gambling. Some studies have attempted to show that gambling addiction is actually a substance addiction. A chemical is released by the body when the player gambles, and the player becomes addicted to this chemical⁵⁴. This may well be true, however, it is no different to any compulsive behaviour disorder - it can be treated by amending the behaviour only. It is quite different to substance abuse where the functioning of the body becomes dependent on the substance, and rapid withdrawal causes bodily harm.

In many cases the underlying problem is social - empty nest syndrome, loss of employment, economic failure. Other respondents to the issues paper will be better placed to report on the extent and interaction of these matters than the authors of this paper.

? *How much of total expenditure on gambling is accounted for by people with gambling problems?*

Given the elusiveness of a definitive definition of, and a satisfactory measure of, problem gambling, it is impossible to know how much expenditure on gambling is accounted for by people with gambling problems.

? *Does problem gambling affect some groups more than others? What is the evidence of this?*

Dickerson's report explores the research literature on the demographics of problem gamblers as defined by SOGS.⁵⁵ Dickerson points out that the data is not reliable in many respects, and in particular in respect of Aboriginal families and communities⁵⁶.

⁵⁴ ~~XX ask Margot at the SA office for these studies.~~ The verbal submission by Ms Gabriele Byrne in Melbourne referred to just this phenomenon.

⁵⁵ p66

⁵⁶ p68

The summary at page 69 of the Dickerson report sets out “the most consistently found conditions in which problem gambling is *likely to be reported*”. These figures relate to self assessed and self-reported problem gambling. This is not to say that the people who are implicated when the conditions exist are necessarily the most problematic of gamblers, just that they are more likely to report as problem gamblers.

There is scientific data on the users of gaming machines, and the amount of money they spend.⁵⁷ This information may give some indication of where any problems may exist.⁵⁸

? *Is it more difficult to detect or treat problem gambling within particular groups? What implications would any differences between groups of problem gamblers have for the design or implementation of policies aimed at the prevention or management of problem gambling?*

These questions are best answered by professionals in the field.

? *What is the evidence that some forms of gambling are more addictive than others?*

Dickerson’s review of the research literature on types of gambling products lead him to conclude that problem gambling is most consistently likely to be reported “when players prefer continuous forms of gambling such as electronic gaming machines, betting and casino gaming”.

It is interesting that betting on the horses was included as a “continuous” form of gambling. Although some studies have differentiated between gaming machines and horse racing, the conclusion does not support the hypothesis that EGM gambling is more addictive than, say, punting on the horses.

The authors also draw attention to the very narrowness of the conclusion, and the self-assessed nature of many of the subjects of the studies.⁵⁹

⁵⁷ However, there is no data on the incidence of mis-reporting expenditure by gamblers - see Dickerson p XX58

⁵⁸ VCGA Surveys on Community Gambling Patterns 1992-1997 XX

⁵⁹ Break-Even date collected from clients in Victoria and Queensland.

? *Are there features of gambling technology which are designed specifically to encourage high levels of gambling?*

The authors of this paper are not engineers, however, it is common commercial sense that gambling technology is designed to encourage gambling. It is designed to make it appealing and to entice customers to return.

There is nothing sinister about this. Methods of increasing the spend of customers are widespread. The aim of each retailer is to maximise the spend of each customer. No-one suggests that the cashier at Macdonald's is being pernicious by asking the customers if they would like to up-grade to a large drink, or "will there be fries with that order?" Sugar is a major ingredient in Macdonald's food, and sugar is addictive. Nonetheless, it is not suggested that Macdonald's' selling techniques are inappropriate.

The sales assistant who sells a customer a new tie to go with the new suit is specifically encouraging high levels of spending. The sales assistant is not expected to know that the customer has a problem controlling his use of credit cards. The customer who spends her discretionary dollars on a day at the pokies may not be able to afford a new dress. That is what competition for the discretionary dollar is all about - making sure that the customer spends it at your establishment.

This is not to say that some technical features of the machines do not cause difficulties for people with gambling problems. Just as advertising chocolates causes problems for clinically obese people. However, neither are designed with the problem-people in mind.

? *What is the nature and extent of behaviour [which intensifies problem gambling]?*

The phenomena described in the issues paper are discussed above in this paper in the section on the regulations. The practice is uncompetitive, and predatory, but, the intent is not to cause problems to the problem gambler. Rather it is to increase the venue's share of the discretionary dollar. There is no empirical data which suggests that such practices impact at all on the incidence of problem gambling/gaming.

Provision of complimentary drinks and refreshments, and personal promotions is widespread. These practices are encouraged by the gaming operators, and the venues can be "penalised" for not making such provision.

? To what extent [is there pressure on venues to maximise turnover to ensure continued tenure of machines]?

Again, this paper addresses this matter above in the regulations section. In Victoria, contracts for the supply of machines provide for the removal of machines from venues where net machine revenue is in the lower percentile of comparable venues. There is constant competition between venues to maintain relative net machine revenue and to ensure continued tenure of machines. This means that the pressure to maximise turnover is, in Victoria, ubiquitous and constant, and undermines any concerns for responsible service or minimisation of harm.

? Are there consumer issues which may produce costs for individuals - for example pressure selling, misleading advertising or other practices?

In respect of gaming in Victoria, there is an Advertising Code of Ethics to which the two gaming operators and the venue operators are signatories. A copy is attached to this submission. The Code of Ethics dictates that gaming advertising should not mislead as to the odds, should not encourage irresponsible consumption or use by minors.

On the whole in Victoria, gaming advertising concentrates on the “good times” theme.

Other forms of gambling are not subject to the Code.

DEALING WITH PROBLEM GAMBLING

The Commission has specifically invited those with experience in the social welfare field to answer the questions set out in this part of the issues paper.

The authors of this paper do not have such experience. However, the Australian Hotels and Hospitality Association does have experience with respect to Self-Exclusion Programs and Codes of Practice. The comments in this part of this paper will be restricted to these two areas.

? *The Victorian self exclusion program for pubs and clubs?*

The Australian Hotels and Hospitality Association Inc and the LCAV developed an industry supported self-exclusion program which has been operating with great success since early last year. At present 512 patrons are on the program.

The program is completely industry regulated. There is no government regulation in respect of the program. The program was developed in consultation with the problem gambling services and legal advisers. The program is a tool for counsellors and gamblers, it is not a panacea for all inappropriate gambling behaviour.

The designers of the program were advised by the counsellors that enforced exclusion was not therapeutic, the exclusion must be *self*-exclusion. Further, the gambler must have reached a point in the his/her personal process where he/she is ready to acknowledge the problem and to take appropriate action. The reforming gambler may require assistance to maintain resolve. The legal advice was that participation in such a program was a litigious minefield for venue operators. Potential for law suits abound in the enforcement of the exclusion, the failure to enforce the exclusion, the risk of claims in assault and in defamation.

With all this in mind, the program was designed to be initiated by the gambler, and to provide every opportunity to the gambler to receive professional assistance. It was also designed to provide the venue operators and staff with the maximum possible protection from law suits.

The gambler wishing to self excluded is required to contact the Australian Hotels and Hospitality Association Inc. This can be done by telephone or by using a reply paid envelop requesting advice on the program to be sent to the gambler. The gaming venues and other community services have the supplies of these envelops which are not marked with any identifying annotation.

The gambler is sent a written explanation of the program, or this is explained to the gambler over the telephone. If the gambler still wishes to proceed, an interview is arranged between the gambler and two officers of the Australian Hotels and Hospitality Association. The gambler is advised that he/she may be accompanied by any person/s at that interview, and is asked if he/she would like the Association to arrange for a problem gambling counsellor to be present at the interview. The gambler is required to nominate the venues from which he/she seeks self exclusion.

At the interview the gambler has the process explained again. The gambler is required to execute a Deed, a copy of which was included in the written explanation of the program forwarded to the gambler earlier. The Deed is carefully explained to the gambler clause by clause, and the gambler is encouraged to ask questions. The conditions of the Deed provide that the process is *self* exclusion, and not prohibition by the venue operators, that entry into the program is voluntary, and that the gambler will release and indemnify the venue operator and staff etc. from any legal action. The gambler nominates the period of self exclusion which may be for a minimum of six months and a maximum of two years. The Deed is executed and witnessed. Photographs are taken of the gambler.

The AHHA then sends each venue nominated by the gambler two copies of the photograph of the self-excluded person and the relevant information - name, period of exclusion, advice as to confidentiality and sensitivity.

The Australian Hotels and Hospitality Association contacts the self-excluded person one month prior to expiration of the period to advise that the self-exclusion period is almost at an end, and to advise how the person may extend the period. No response to this communication by the self-excluded person will result in the termination of the self-exclusion and the person will be at liberty to use the gaming machines again.

The exclusion relates to the gaming room and poker machines only and not to other areas of the venues.

The program has wide acceptance amongst the venues and has proven a popular tool for counsellors. Venue operators are strongly advised not to enter any other arrangements for the exclusion of problem gamblers, as no other arrangements provide for the release and indemnity. All indications are that the program has satisfied all its objectives.

? *Codes of Practice*

In Victoria the industry participants have entered a responsible Service of Gaming Accord. The Accord consists of four Codes - The Gaming Operators Code of Practice, The Venue Operators Code of Practice, Crown's Code of Practice and the Gaming Advertising Code of Ethics. Each of the participants agrees to support the others in maintaining the Accord and the particular Codes.

The Codes include a commitment to the self exclusion program and the responsible service of gaming, along with a commitment to train workers at the retail end of the industry in the principles of responsible service. The Accord also provides for a independent complaints resolution process whereby signatories to the Accord and Codes can be called to account on their delivery of the objectives of the Accord.

The codes of practice have been very effective in addressing problem gaming. By requiring a commitment to the self exclusion program, they support the only tangibly productive scheme devised to provide immediate assistance to problem gamblers. Further, by requiring commitment to responsible service the Accord provides a means of reducing the probability of problems arising.

? *Are there aspects of the codes of practice which should be in regulation?*

It would defeat the purpose of self regulation for the government to regulate the codes of practice. Some issues, for example placement of machines, have been regulated, to some extent, in recent times in Victoria. This is discussed above in the regulations section under “Town Planning”. The result is a complicated, unwieldy mess. The existing complicated town planning quagmire has developed because the regulators try to “fix” problems which are the unintended consequences of previous regulations. In the matter of town planning, the regulators set a cap and gave the operators the discretion to place the limited number of machines. Consequently, there has developed a concentration of machines in areas where the return on investment is most profitable, ie shopping centres in lower socio-economic areas. This concentration of machines is thought, by anti-gaming lobby groups, to foster irresponsible gambling. Instead of addressing irresponsible gambling, or re-considering the existing regulations (the cap and operator control) the regulators made further complicated town planning regulations to address the problem. This is invariably the outcome of inappropriate government restrictions. They result in further inappropriate government restrictions to remedy the consequences of the first lot of restrictions, and so the process continues. Best to leave the details to the more flexible and less proscriptive processes of industry self regulation than to continue the “chasing the tail” process of government interference.

Further, the sanctions inherent in government regulations are necessarily criminal. It is not appropriate to make criminals out of business people who fail to meet industry standards of responsible service. If the government regulated in this area, offenders would defeat the spirit of the regulations by availing themselves of all the processes for the protection of their rights contained in the criminal law. If, instead, these matters are left to industry self regulation, enforcement of standards will be more effective when offenders are not facing criminal charges.

? *What is the appropriate role for advertising in the gambling industries?*

In Victoria the issues involved in the advertising debate are complicated by the involvement and situation of the two gaming operators. The gaming operators’ role in the industry has evolved into that of advertising agent. It is probably unique worldwide for any organisation to have as its main operation the advertising of gaming, almost to the exclusion of any other service offered. Casinos advertise all their services, with gaming as an adjunct. The only service that the gaming operators offer is that of gaming, the other hospitality products provided by the venue are the business of the venue, not the gaming operator.

Chapter 5

BENEFITS AND COSTS FOR LOCAL COMMUNITIES

? *How important are gambling establishments to their local communities?*

The Commission's attention is drawn to the VCGA's reports "Community Facilities Resulting from the Providers of Gaming in Victoria". and "The Effect of Gambling on Employment in Victoria".

The first-named report above points out that many people are ignorant of the direct contributions that proprietors of gaming establishments make to local communities.⁶⁰ In some cases this is so even when the respondent is the beneficiary of the largess.⁶¹ It appears from the survey, that perceptions of respondents to surveys are not good indicators of the level of importance of gambling establishments to local communities.

Most obviously, gaming in venues has provided communities with re-furnished, comfortable and multi-faceted hospitality outlets. This is often in country towns where, previously the pubs and clubs were run down and marginalised. This new product has provided a new customer base and the funds necessary to allow the revitalisation of the establishments. Often the dominant building in town is the pub, an old Victorian building of huge proportions, taking pride of place on the best commercial site. The local community is benefitted when these buildings are given the means to transform from a crumbling eyesore into a thriving well-maintained historical monument.

All hotel gaming venues also make compulsory contributions to the Community Support Fund. The government has been criticised for the way the fund is distributed. Critics say that too small a proportion of the fund finds its way back to the local communities from whom it was raised. These criticisms may have some merit, and interested parties should lobby the government for a greater share of the fund. However, the fact remains that gambling is a highly taxed pastime. As such it provides more revenue for the community than other forms of entertainment. Visiting a cinema will provide tax revenue if the cinema owner makes a profit which is taxed. Gambling provides revenue regardless of, and in addition to, the taxable profit made by the proprietor of the business. Much has been made of the large contribution that gambling taxes make to the Victorian coffers, this added to the Community Support Fund

⁶⁰ Page 62

⁶¹ page 62.

means that gambling establishments are very important to all local communities as they provide funds for all public works across Victoria.

In the case of bona fide clubs, especially sports clubs, gambling contributes funds directly for the facilities that the clubs provide and maintain.

As discussed above, the positive effects on the community would be multiplied many times if more businesses had access to the product. Hospitality is a labour intensive industry. Four gaming venues with 25 machines each would employ more people than one gaming venue with 100 machines. What's more, the indirect employment factor would also be multiplied - plumbers, carpenters, carpet suppliers, butchers would all benefit from more venues providing the product.

? *How important are gambling related sales to the operation of small businesses such as newsagents and TAB outlets?*

The scope of this paper is limited to gambling in hotels. Wagering facilities provided through PubTAB outlets, ie TABCORP products - horse racing, sportsbet betting - are, on the whole, provided as a service by hotel proprietors to their customers. PubTAB products do not return profits to the hotels. The commission paid to the publican by TABCORP is not sufficient to cover the costs of providing the product. However, the publicans consider the service to be part of the entertainment package that they provide. Depending on the clientele of the business, and whether or not the business is fortunate enough to have gaming, the wagering sales are varyingly important.

Gaming sales are vitally important to gaming venues. Even in establishments where gaming sales are only a proportion of the turnover figures, the fact that gaming is available at the venue is an essential element in the establishment's attraction as a leisure destination. The added allure of having another diversion gives a gaming venue an advantage as a dinner destination over a non-gaming venue. This is so even when the cost of the dinner is not subsidised by the profits from gaming.

? *Is there evidence for greater impacts in smaller regional communities? How are small towns without gambling facilities affected by the existence of nearby towns with gambling facilities?*

The Commission is referred to the VCGA report on "The Impact of Electronic Gaming Machines on Small Rural Communities". The authors note that this report contains accounts

of respondents' *perceptions* only, and not empirical evidence as to the facts. The authors of the report declare this fact, and acknowledge that the perceptions may be wrong.⁶²

It appears from the report that small regional communities with gaming facilities are not any more disadvantaged than other communities by the presence of gaming machines, in fact, there are some advantages. On the other hand, the report identifies that small regional communities without gaming facilities are disadvantaged generally vis a vis other communities which have gaming facilities.

“Loss of gaming expenditure to “out of town” venues and associated retail and leisure enterprises” and “some loss of employment opportunities in retail and leisure/entertainment venues competing against “out of town” EGM venues” are identified in the report as disadvantages for regional communities without gaming.⁶³ These scenarios are easy to envisage.

Again, the phenomenon is a direct result of the state cap and the control by the operators. It has no effect on the incidence of problem gambling. There is no evidence whatsoever that a person who is unable to control a gambling habit will be deterred by 5 or 25 kilometers. The anonymity and extra effort involved in reaching the venue may, in fact, encourage irresponsible behaviour.

? *To what extent has the development of, for example, new clubs, social venues and community facilities been influenced by their ability to provide gambling services?*

The authors of this paper are not in possession of accounts for community based clubs that would allow for an accurate answer to this question. However, the boon which gaming has provided for those clubs which have gaming is obvious to even the most casual of observers.

? *Is the provision of community funding via not-for-profit clubs more effective than the traditional form of funding via the distribution of taxation revenue through government?*

The authors of this paper believe the answer to this question is a most emphatic NO.

Clubs are private organisations set up to benefit the members, not the community as a whole. It is totally appropriate to use members' funds to provide facilities for the benefit of the members, for example, the provision of golf courses and football ovals and reading rooms and

⁶² p191

⁶³ p xix of the Executive Summary

cheap meals or travel. However, the club gaming venues are businesses which provide goods and services unrelated to the purposes of the club, and in competition with the other venues. Funds are raised by marketing the business to the general public, not from contributions from members. It is totally inappropriate in these circumstances to provide tax advantages which result in privileges accruing to private members of the clubs. Distribution via these means does not result in the provision of facilities required by the community as a whole, but rather in the provision of facilities which the privileged members desire.

A perfect example of this inequitable distribution, with the resultant inappropriate investment in facilities, is the expenditure by the Victorian Racing Committee. The VRC is a not-for-profit organisation which is provided with funds from wagering and gaming far in excess of what it requires. Consequently, the VRC invests in bigger and better grandstands and facilities at race courses. These facilities are utilised to their potential on one or two spring carnival race days a year. Further, on the days that one race course is utilised during the spring carnival, the other two stand dormant. At all other times during the year, the three courses are alternative hosts to the small and diminishing numbers of punters who actually visit the courses. If the proceeds of the VRC were collected through taxation and redistributed on a needs basis, a more equitable and efficient appropriation would provide the community with a better balance of facilities.

The inequality of providing gaming tax advantages for the members of clubs with gaming is even more perverse in the Victorian environment. Only 274 clubs have access to gaming. So, in reality, the gaming operators decide on the distribution of would-be tax revenue. The gaming operators decide which clubs will have gaming and in their absolute discretion deliver to the members of these clubs the very substantial financial advantages that accrue to clubs with gaming⁶⁴. The members of the Veneto Club in Bulleen are able to enjoy subsidised dining, travel and sporting facilities because the club is able to offer gaming to the public.

The authors of this paper do not suggest that clubs should not profit from their business activities. However, it is not equitable or rational for government to abrogate its duty to provide community facilities in this way. Without any guidelines or obligation, clubs are given tax advantages in the hope that the committee members of the clubs will make what community provision is required.

? *What are the ways in which communities may be adversely or beneficially affected by gambling?*

For beneficial effects, the Commission's attention is drawn to the VCGA reports on the "Impact of Electronic Gaming Machines on Small Rural Communities", the "Social and Economic Effects of Electronic Gaming Machines on Non-Metropolitan Communities" the "Impact of Gaming on Inner City Municipalities", the "Effect of Gambling on Employment in Victoria", "Older People and Gambling" "The Queen of Hearts Study", "Community Facilities

⁶⁴ Clubs do not contribute to the Community Support Fund as well as the income and other federal tax advantages

Resulting from Providers of Gaming in Victoria” the impact on charities and “Summary of Findings 1996-1997 research Program”.

All these studies attest to the measurable and considerable benefits accruing from gaming in Victoria. The benefits are quantifiable and enjoyed, in varying degrees, by all Victorians.

In contrast, the adverse effects of gaming “are difficult to quantify and the research conducted to date is inconclusive and provides limited verifiable information about the extent and magnitude of adverse social impacts associated with gaming.”⁶⁵ Despite the inconclusiveness of the evidence of the adverse effects, the authors of the Summary Report conclude that “the research discloses that measurable economic benefits have occurred however these have been accompanied by observable *net* adverse social impacts.”⁶⁶ This conclusion is simply unsustainable on the facts as presented in the Summary Report. Such inconsistencies detract from the Summary’s credibility. In the same paragraph where the authors of the Summary Report make the quoted conclusion that there is a net adverse social impact they continue on to say “these social impacts are uncertain in terms of magnitude and extent.” Given that the benefits are certain in both magnitude and effect, it is extraordinary indeed that the authors conclude that the net effect is adverse!!!

In chapter 8 of the Summary, the authors have used data from the surveys which related to perceptions and presented such data on *actual* effects. For example on page 60 “Effects on families and households” the authors of the Summary Report cite the data in the study “Impact of EGMs on Small Rural Communities” as the source of the negative impacts on families. However in the cited study, those impacts were only *perceived* by the respondents, they were not actually observed or quantified by the researchers.

Any cursory analysis of the VCGA Reports (including the Summary Report) will reveal that it is the *perception* of the respondents that is adverse. The actual adversity has not been empirically observed or measured.

As the authors of the Summary Report point out, this adverse perception may be fuelled by the media⁶⁷. It may also be explained as a “gut reaction” to a cultural or moral aversion to gambling. A skeptic may suggest that the authors of the Summary Report may toil under some similar deep-rooted moral aversion.

The authors of this paper do not deny that there are some adverse effects of gambling. However there is nothing to say it is widespread or unmanageable. To suggest that the “social fabric of local communities” is under threat from gaming is sensationalist fear-mongering. Gaming may represent a shift in consumer preference. So be it, such is competition. It is not sinister manipulation of poor people any more than providing escapism cinema. One is put in mind of the song from the musical “The Music Man” ... “that starts with G, that rhymes with T and that stands for Trouble”.

As has been said before in this paper, the adverse social effects of alcohol are quantifiable, documented and much greater than the adverse social effect of gaming. However, there is no

⁶⁵ Summary p 23

⁶⁶ Summary p 26

⁶⁷ Summary page 75.

longer a credible Temperance movement. There has been an evolution of a “chardonnay set” and the re-defining of “plonk” as no longer a working-class escapist vice, but rather a middle-class sophisticated indulgence. Since this evolution society has become increasingly intolerant of any restriction on its access to alcohol, regardless of any harm occasioned to the few irresponsible users, and their families.

Again, it is pointed out that as an entertainment option, gambling is comparatively highly taxed. As such, it returns the highest yield back to the general state coffers. All Victorians benefit from this revenue.

? *How important are such venues and facilities in the life of the communities concerned? How important is the support which such facilities provide to, for example, sporting and recreational activities in the communities in which they reside”?*

Obviously, the answer is very important. Any business is important to the community in which it operates. A major hospitality venue is even more important. The pub is still the centre of activity in most Victorian communities. Through sponsorships, donations, catering, employment and provision of the local meeting place, the pubs contribute to the life of the local communities. Pubs with gaming are able to make larger contributions. Sporting clubs also make significant contributions to the life and facilities of the local communities. The commission is referred to the VCGA report on the “Community Facilities Resulting from the Providers of Gaming in Victoria” for empirical data on the contributions made by such venues.

? *Has [gaming] affected social norms and the patterns of relationships within local communities?*

Undoubtedly, for some people it has, but not always for the worse.

Irresponsible use of gambling products will cause disruptions within relationships, especially if the gambler has dependents. This is a real problem which requires attention.

On the other hand, gaming has provided many people, women in particular, with a social outlet that did not exist before. Women like gaming venues⁶⁸, so do older people.⁶⁹ Women and older people attend gaming venues. This in itself may affect “social norms and patterns of

⁶⁸ See the anecdotal evidence provided in the Queen of Hearts Study. Although this study contains no useful empirical evidence, it is interesting to note that the vast majority of respondents enjoyed the entertainment experience provided by the venues.

⁶⁹ VCGA Report “Older People and Gambling” September 1997

relationships.” When grandma is not always at home because she sometimes goes to the pokies, this may alter her relationship with her family. Is this for better or worse? Grandma may be delighted with her new social life, even if she is no longer always available to baby-sit.

Gaming is not “threatening social norms”. It is a new addition to the entertainment package that is offered by hospitality outlets. It is popular, and some people may now buy less flowers or dresses because they spend their money on gaming. As has been said before, this is the market at work. We did not protect cinemas from competition from videos. Hospitality providers are retailers just as the dress shop owner. It is not the role of government to dictate consumer preferences between retailers.

? *What has been the effect on charity fund raising activities, such as Lions clubs, church raffles and bingo. Has [gaming] affected the extent of volunteering?*

The Commission is referred to the VCGA report on “The Effect of Electronic Gaming Machines Upon Charity and Non-profit Organisations in Victoria”.⁷⁰

Any adverse impact on these activities could be readily addressed by directing the funds collected through taxation and/or the Community Support Fund to compensate for any loss and any increased demand.

? *Are there ways in which governments, gambling providers and others can increase community benefits or decrease the community costs of gambling?*

The benefits of gaming in Victoria would be multiplied many times by making the product available to all appropriately licensed establishments. There is no plausible economic or social justification for limiting state numbers to 27,500 machines, or for allowing the gaming operators to distribute the machines.

Providing for venue ownership of machines (as distinct from gaming operator ownership) would not only increase the benefits, but may also decrease some of the community cost of the product. As discussed above, the competition between venues for continued tenure of machines encourages irresponsible delivery of the product. A venue operator whose investment is jeopardised by falling returns in comparison with other venues is not likely to restrict use by problem gamblers, or be interested in identifying which of the customers may be at risk and require assistance to control an inappropriate gambling habit. Even when a venue operator is satisfied with the profits from the venue’s gaming machines, this may not be

⁷⁰ Praxion (July 1995)

satisfactory to the gaming operator. The gaming operator may withdraw the machines if the venue's returns are not keeping pace with the competition.

Publicans have learned how to manage the delivery of alcohol. They have become aware of the detrimental long and short term effects of irresponsible service of alcohol on their customers and their businesses. They know that the immediate benefit of higher sales is not sustainable when it involves inappropriate service practices. Licensees are not at liberty to make such judgments in respect of gaming. Without the immediate benefit of higher sales, regardless of how inappropriate the service practice, there may be no gaming business to sustain in the future.

The Victorian Gaming Industry has developed a comprehensive and widely commended Accord and Codes of Practice. Adherence to the principles of the Accord and Codes will do much to minimise any adverse effects of gaming. However, the effectiveness of the Accord and Codes are seriously undermined in the face of tenure of machines based on comparative turnover.

Problem gambling counsellors advocate clocks in venues, slower games, naturally lighted gaming rooms, warnings on machines and coin receptors. These innovations may or may not be effective. The reality is that responsible service is the purview of the venue proprietor. While the venue proprietors do not have tenure over the machines, and the criterion for maintaining machines at a venue is comparative turn-over, there is no motivation for moderation. Venue operators who are at risk of losing their machines will be able to circumvent any moderating tactic. The first and essential step in minimising the adverse effects of gaming in Victoria is to remove the control of machines from the gaming operators.

Chapter 6

BENEFITS, COSTS AND IMPACTS AT THE ECONOMY-WIDE LEVEL

? *How informative are the existing estimates of economic impacts of the gambling industries? Are the methodologies used meaningful, appropriate and robust? How could they be improved?*

The Commission is referred to the studies commission by the VCGA. The economic impact studies have been conducted scientifically and have empirical conclusions. The methodologies employed are detailed in the reports, and the authors of this paper are satisfied that the methodologies were meaningful, appropriate and robust.

The same cannot be said in respect of the Summary Report. The concerns about the conclusions drawn in the Summary Report are set out above, and the authors of this paper recommend that caution be employed when considering the conclusions in the Summary Report.

BENEFITS

? *Are there better wages (and conditions) for workers and better returns on capital employed in the gambling industries compared to other industries? On average? At the margin?*

WAGES AND CONDITIONS

Employees in the gaming rooms are classified as level 3 under the relevant Federal Award.⁷¹ Bar staff and kitchen staff are, on the whole, classified as level 2. This disparity is justified on

⁷¹ ~~XX name of Award~~ The Hospitality Industry - Accommodation, Hotels, Resorts and Gaming Award 1998

the basis of a higher level of training for gaming room staff. In the past in Victoria it was required by the VCGA that all gaming room staff undergo a Special Employees Course. This is no longer the case. However, it is still a requirement of gaming room staff that they obtain a special employees licence from the VCGA. The licensee must pass probity, but no training is required.

The authors of this paper are unaware of any studies that have been undertaken on the results of enterprise agreements in the gaming industry, and whether or not such agreements have resulted in higher wages and conditions for staff.

Gaming venues in Victoria are more successful than non-gaming venues. As such, employment in gaming venues is probably more secure than employment in non-gaming venues. Also employment in gaming venues is probably more likely to provide career pathing than employment in non-gaming venues.

RETURN ON INVESTMENTS

The gaming operators' return on investment is very good. TABCORP's last annual report declared an "ebit" was \$117.3 million. Tattersalls is not a public company and not open to public scrutiny of its accounts. There is nothing to suggest that the return to Tattersalls is less than that to TABCORP. The cap on the numbers of machines, and the operators' discretion in placing them ensures maximum return to the gaming operators from each machine.

While the two factors mentioned above, the cap and gaming operators' discretion, work to maximise gaming operators' returns, they ensure that the venue operators' expenses for gaming are constant and very high. The venue operator bears the cost of refurbishment, staffing and venue promotions. These costs are often well in excess of a prudent allocation of resources, however, the allocation is not a decision of the venue operator. Although the venue operator bears the cost, such expenditure is dictated by the gaming operators. As well as the costs mentioned, there are also the general operational overheads, cost of compliance with regulations and contribution to the community support fund.

Having said that, the return on investment to the venue operator is good, and without exception, each venue operator's financial arrangements would rely on the continued tenure of machines at the venue. Even in venues which the gaming operators consider to be "at the margin" the return on investment is satisfactory for the particular venue operator. . The authors are aware of many venue operators who have been satisfied with the returns, even though the gaming operators have not been satisfied, and the machines have been removed from the venues despite the protests of the venue operators.

? *Is gambling a significant tourist drawcard in Australia, both for international tourists and for Australians from outside the local area? To what extent does gambling revenue rely on local patronage, and how does this differ for different types of gambling? What export opportunities arise from gambling?*

While this question begs a consideration of the casino experience, this answer will be limited to consideration of tourism vis a vis electronic gaming machines in hotels.

A thriving, diverse hospitality industry is the basic ingredient for a thriving tourist trade. Attractive, clean and safe entertainment venues, easily accessible to the visitor is what makes a destination interesting and makes a holiday memorable. Tourists, both international and domestic, like to meet the locals in the hospitality venues around town and feel safe doing so.

As has been discussed above, the present system for distribution of machines favours larger venues in metropolitan or larger provisional towns. The system puts non-gaming establishments at a gross disadvantage. This disadvantage is two-fold, first of all the hospitality package offered by non-pokie venues is not complete, and secondly, the non-pokie venues cannot subsidise the cost of the traditional hospitality products with profits from gaming. Consequently many non-gaming venues are “going to seed” especially in smaller towns. As businesses become marginalised, they become more likely to adopt undesirable practices like encouraging underage drinkers and binge-drinking sessions, allowing drunks and undesirables on the premises, and grossly underpricing alcohol in order to attract volume if not profit. To the visitor (and the resident), the premises appear seedy and unsafe and reflect badly on the whole locality.

Local, cosy, quaint and safe establishments are what tourists like to find. The present system threatens the day-to-day viability of these types of hospitality outlets, and therefore detracts from the Victorian tourism experience.

Further, increasing the spend of holiday makers in Victoria has been a major focus of the tourism industry.⁷² A tourist who finds a small country venue may well be encouraged to have a flutter, even if such behaviour is not usual for that person. While much is made of the spending patterns of tourists to the Casino, to date little is said of the potential of increasing the spend of visitors through pokies in pubs and clubs. The present regime favours large, mainly suburban dedicated rooms. These venues are not designed for tourists. The gaming operators ignore the tourism element of inner city and small town Victoria. Machines in the smaller ubiquitous local pubs would be more readily available to attract the tourist dollar.

⁷² ~~XX get a quote from~~ Tourism Victoria's Strategic Business Plan 1997-2001 Tourism Victoria 1997.

? Does the growth in gambling industries have stimulatory effects? Where and why?

The obvious stimulatory effect from the perspective of this paper is the refurbishment of the pubs which have been able to secure gaming machines. In many instances these buildings are beautiful examples of Victorian architecture, that until the advent of gaming were run down and neglected.

In many country towns, the pub has the pride of place. A deteriorating eye-sore in the middle of town produces an effect that pervades the entire town. When the pub is provided with the means to be restored, the entire town takes on a different posture.

The VCGA report into “The Impact of the Expansion in Gaming on the Victorian Retail Sector” identified that the money for gaming came primarily from what used to be household savings. This also represents the utilisation of what are idle resources. The report did not suggest that people were dipping into their savings to play pokies, rather it reported that people were not putting as much away into savings each period.

There are many reasons why people change savings habits. People save more in harder economic times. As the report itself identified, during the research period Victoria was pulling out of the worst recession in 60 years. As well, compulsory superannuating has done much to alleviate in people’s minds the need to save.

Commentators will differ on their attitude to a decrease in savings. Some consider it retrograde. Others consider spending to be a more productive use of resources.

COSTS AND OTHER ECONOMIC IMPACTS

? Which activities benefit, and which lose, from increased gambling activity? What have been the impacts on consumers, workers and producers of these changes?

These questions have been answered in the above discussion.

To recap briefly, hospitality venues with gaming have benefited from the introduction of gaming. Hospitality venues without gaming have suffered, not just because customers spend their money on gaming and not on traditional hospitality products, but because these non-gaming venues are denied the opportunity to provide a full hospitality package. Gaming

venues are also able to subsidise the cost of the traditional products on which the non-gaming venues rely for their profit.

The Commission is referred to the VCGA study “The Impact of the Expansion in Gaming on the Victorian Retail Sector”. The authors of this paper make the point that hospitality (including gaming) is also part of the retail sector. The empirical evidence is that the gaming dollar has come from household savings and not from the non-gaming retail sector. There is much anecdotal evidence to the contrary, but the research is not supportive of the contradictory propositions.

The Commission is also referred to the VCGA report on “The Effect of Gambling on Employment in Victoria” and the VCGA Series of Surveys on Gaming Venues.

? *How do people fund their gambling? Does this differ in any systematic way for different groups of Australians, and if so can this be identified? Has household and national saving been adversely affected, and if so, with what implications?*

The Commission is referred to the series of VCGA Reports covering these topics. In particular the report into “The Impact of the Expansion in Gaming on the Victoria Retail Sector” identifies that the funds for gaming come from savings. As discussed above, the funds are not withdrawn from the bank, it is just that less goes into the bank.

There is little to be added to these reports, except to comment on the conclusion drawn by the authors of the “Impact on the Retail Sector” that because gaming expenditure is “inelastic” it will have adverse effects in the future.⁷³ The authors of this paper consider this conclusion to be highly speculative. The very best that can be said of the outcome of applying the regression models is that there is an implication that other retail expenditure will suffer in a future recession. Undoubtedly, so will gaming expenditure.

The authors of the report acknowledge that this conclusion is “one of informed judgment which can only be validated by the outcomes yet to occur and probably not before early in the next century at the earliest”.⁷⁴

? *What effect do different hours of operation for gambling and for retail trade have on these activities and on the communities in which they are located?*

⁷³ p118-119

⁷⁴ p119.

In Victoria all non-liquor retail trade is 24 hours. In fact liquor and gaming trading hours are more limited than other retail hours. The authors are unaware of any empirical evidence, and have no personal opinion on the effect of the different trading hours.

? What are the economic impacts of the distribution of gambling revenues and profits?

This question has been addressed in the preceding discussions. Suffice here to reiterate that the authors of this paper consider the present system for the distribution of gaming machines and thereby the profits from gaming to be inequitable, and to have adverse economic effects.

? Are there ways to increase the economy-wide benefits or decrease the economy-wide costs of gambling?

The central submission of this paper is that the benefits of gaming would be multiplied many times by a wider and more equitable distribution of the machines.

The state-wide cap in Victoria does absolutely nothing to increase the benefits or decrease the costs of gaming. The system of ownership of machines by gaming operators renders asunder any efforts at responsible service of the product. Venue operators are forced to compete with each other to maximise return from machines, and failure to do so results in removal of machines. There is no incentive to control any excesses. Victorians do not gamble less because of the cap. All that the cap does is to render each gaming machine more profitable.

Measures to decrease the cost of gambling should be directed at the problem. If the product is to be a legitimate entertainment option, then those for whom it presents a problem should be helped to address the problem.

Education of the consumers, targetted programs like the self-exclusion program, and allowing venue operators to control their businesses is the appropriate way to address the problems.

Attachment 3

Oral submission delivered in Melbourne

The Australian Hotels and Hospitality Association Inc will be making will be making a detailed submission addressing the issues raised in the issues paper. In the meantime, we consider it appropriate to give this interim verbal presentation to address some inaccuracies and misconceptions that have been revealed here in the hearing.

Firstly, we would like to recommend a useful definition of gambling. TABCORP yesterday defined gambling very, we would concur. However, it is our submission that gambling is a superset with some subsets. Another participant in these hearings proclaimed that the word "gaming" has come into vogue as a "softer" word than gambling and that gaming is somehow euphemistic for something more sinister.

Definitions

As the issues paper asks about the definition, we have proposed a definition which is set out in our written submission [the presenter then proceeded to paraphrase the definitions proposed in the written submission pp 1-5]

Cost:benefit analysis

The Victorian government made an informed decision to legalise gaming machines in Victoria. This decision was made for revenue reasons. For its own purposes, before the introduction of machines into Victoria, the Australian Hotels and Hospitality Association Inc conducted a count of the buses crossing one bridge into NSW. 100 buses crossed one bridge in one day. These buses were taking Victorians to play the NSW pokies. It is estimated that the lose revenue to Victoria was in the vicinity of \$0.5 billion to \$1 billion a year. Presently the average bus trips across the border are one per day. Clubs on the NSW side of the border are going broke. The decision to introduce pokies into Victoria was made for revenue reasons.

When the decision was made, it was understood that there would be a percentage of people who would have a problem controlling their use of the product. This is a given. It was the evidence available to the government at the time of the introduction of machines. The level of "problem gamblers" is within the range that the evidence

suggested it would be. The international studies reviewed in the Dickerson Report show very similar levels of problem gambling in all jurisdictions when new and varied forms of gambling are introduced.

Much anecdotal evidence has been produced about increased demand for welfare services due to an increase in gaming, and the increasing incidence of gambling as the cause for family stress. There are no statistics supporting a proposition that the increase in demand for welfare services in Victoria is greater than the increase in Western Australia where there are no gaming machines in pub or club venues. The recent ACOSS Study - Living on the Edge - documented the increased demand for welfare services. It did not cite gambling as a cause of stress on welfare services. Although the data on which states experienced greater demand has not been collated, the early indications - relayed by the researcher in a telephone conversation, is that the increase in demand is constant Australia wide.

All participants who have appeared before the Commission over the past few days have stated categorically that they are not opposed to gambling or gaming in particular, How could they be? Obviously Victorians enjoy this new product. The TABCORP representative gave the statistics yesterday. 60% of Victorians use this product annually. Half a million people use it weekly. With this level of patronage the product is more than an addictive sinister commodity. It is a welcomed addition to the entertainment package provided by our hospitality venues. If 1% of people have a problem, 99% of people do not have a problem.

Realistically, this product, like alcohol, chocolate, powerful cars, will be misused by a small percentage of people. The stories accompanying the misuse are horrible, just as the stories accompanying misuse of alcohol and powerful cars are horrible.

The only way to eliminate all inappropriate use of gaming machines is to ban gaming machines. This may stop the use of gaming machines in Victoria , but it will not eliminate problem gambling. We are told that total bans are not the intention of the participants at this hearing. However, they have nearly all expressed a zero tolerance

for any harm. Zero tolerance should be the ideal, but it is not realistic unless the real agenda is zero gambling.

What is required are considered and effective measures to assist persons at risk to control their behaviour. Programs should be directed at the problem, not broad-brush responses that disadvantage the many for the few. It is impossible to ban the machines a little bit. Which leads us to the cap.

The cap

Nearly all participants in this hearing have recommended a cap on machine numbers. None of the participants have explained how the cap will assist those with problems. One respondent suggested that there is a relationship between the number of machines and the indicators of problem gambling. Our understanding of the research reveals no such relationship. In overseas studies there has been an increase in the indicators of risk related to the introduction of new types of gambling. However, once a new type of gambling is introduced, there is no evidence that the number of outlets is related to an increase in risk factors. The relationship is between the amount of money spent on gambling and the indicators of problem gambling.

The cap in Victoria has done nothing to reduce the amount of money spent on gaming machines. All it has done is make those machines that are available very profitable. Victorian machines turnover nearly three times the turnover in the other states. NSW average turnover is around \$700.00 per machine per day. In Victoria the average turnover in hotels is around \$1900.00 per day.

The cap is an attempt to ban machines a little bit. I repeat there is no evidence that the cap does anything at all to reduce problem gambling. Problem gambling is best addressed by attending to the person with the problem, not by creating artificial restrictions on entrepreneurial activity.

Dealing with problem gambling is a complicated process, as all the experts bear witness. In nearly all cases the gambling is symptomatic, and not the major cause.

Capping machine numbers is an ineffective, knee-jerk reaction that achieves nothing beyond publicity for the people who are able to do the capping. It is simple for politicians to say no more machines, and then avoid doing anything concrete to address problem gambling. Like it's simple to build more gaols to lock up more criminals rather than do something about crime.

The experience with alcohol is that when licensing was deregulated and the number of licensed outlets in Victoria was increased by about 50%, alcohol consumption decreased by about 20%. The evidence presented to the Neibenhuesen Inquiry was that there was no relationship between abuse of alcohol and increased number of outlets. This has proved correct.

What has worked in respect of alcohol is education and de-mystifying the product. If it is not a "forbidden fruit" it has less appeal. People tend to use it more responsibly when they are made aware of the dangers and it is simply another option, not a limited hidden vice.

Regional caps

Just as state caps do nothing to reduce problem gambling neither do regional caps. If there are to be no more, or less, machines in City of Maribynong, all that would achieve is that the machines that are there would be very profitable, and genuine non-problem patrons would be inconvenienced.

Concentration of machines in lower socio-economic areas

There are more machines in those areas identified by Marilyn Webster because the people in those areas like to use gaming machines. There is no sinister plot to visit upon the residents of these areas a seriously debilitating affliction. There are less fine dining restaurants and art galleries in those areas because the people who live there, on the whole, don't like them. This is not surprising.

The majority of people who use gaming machines would probably disagree with the subsidies to ballet and opera.

What is surprising is the proposition that the operators should be forced to place limited machines in those areas where they won't work. The reason there are few machines in the City of Stonnington is because the people who live there don't like using them. Forcing machines into areas where they are not profitable will only force the proprietors of the venues to "bus in" the clientele.

If there was not state cap, there may be more machines in Stonnington than at present. However, there would still be only a fraction of the machines that were in Maribynong, because more people in Maribynong use them. They want to go to pubs that have machines, so publicans want to offer an entertainment package that includes gaming. As it is, there is a state cap, and therefore it simply does not make sense to suggest that the commercial activities of the operators (who have paid for the right to carry on these activities) should be regulated so as to deny them the right to maximise the returns on limited resources.

Gaming representing a cultural shift

Yes, this new product represents a new and popular form of entertainment. Just as television did before it, and electronic games and credit cards and the internet - they all effected cultural change. Every middle-aged person will remember the threat that TV dinners posed to family life!!

The boom in consumer credit resulted in unprecedented bankruptcies, but we did not experience anti-consumer credit political parties, and there was no call to cap the number of credit cards, so that only two of the four banks could provide credit cards. This would have been an inappropriate and unfair means of curbing the excesses of consumer credit.

Instead, codes of practice were introduced for banks covering the issuing and provision of consumer credit. This is tolerated, because to restrict everyone's use of credit cards would be unconscionable.

Likewise it is an inappropriate means of curbing excess gambling to allow only a few hospitality providers to provide the product. It just simply makes no sense. It would be an inappropriate response to liquor abuse to allow only a few hotels to sell beer.

As with credit cards, the appropriate measures are codes of practice which encourage provision of full entertainment experiences, not just gambling. Maybe the initiatives regarding advertising will work, warnings may be helpful. What are required are processes that address behaviour of customers, not convoluted caps and regulations that create protected business environments and interfere with legitimate commercial operations.

Effect on Retailing

Hotels and pubs are part of the retail sector. Although the evidence to date does not support the proposition that gaming has negatively impacted on other retail expenditure, so what if it does. If gaming is a legitimate leisure option, why should other retailers be protected from the competition it represents for the discretionary dollar.

No-one sprung to the aid of cinemas when videos poached their market. No-one campaigned on behalf of traditional pubs when McDonalds captured the family restaurant trade. This is the market at work. If gaming loses its appeal, and new entertainment options becomes more popular, that will be the market at work.

Representatives from the municipal councils bemoaned the perceived concentration of trade that has occurred since the introduction of gaming. This is a direct result of the cap, and would only be exasperated if regional caps were introduced. Country people now drive to and shop in larger regional towns because gaming is available there. This is at the expense of local traders.

This argument is more fully explored in the full submission, suffice to say here, if more pubs and clubs had access to gaming machines, the productivity factors would be multiplied many times, with more employment, more refurbishment, more local spending.

Taxation and revenue collection

Much has been made of the regressive nature of the gambling taxes. All indirect taxes are regressive, at least this one is voluntary.

Gaming machine customers do not complain about the amount of tax.

It is submitted that the real reason that gambling taxes are high is because it is a "soft target", especially tax on gaming machine play. It is a readily accessible service tax that the states can collect independently of the Commonwealth. Also, it has general acceptance, Players do not care that at least 33% of what they lose goes to the government, they are more concerned that at least 87% of what they play comes back in prize money. (The figure is closer to 91%)

It could be argued that a lower tax would allow for more returns to players. It is doubtful that this would minimise any harm.

Gaming provides the most return to government of all entertainment options. As such, the direct social and financial benefit of having a play at the pokies outweighs the social and financial benefit of going to see a movie. The former option delivers more into the general coffers.

There should be no embarrassment about the taxation revenue collected from gambling. So long as the product is delivered responsibly, it is no different to the taxes collected from any other source. Usury was once scorned. There is now no objection to the government taking its share of bank profits.

What is the relationship between the increased revenue from gaming and government regulations?

This question has been asked of most presenters. We believe that if gambling was revenue neutral to the state government there would be much less regulation. It is because licence fees have been paid that there are only two operators. It is to protect the casino's market that the state cap of 45,000 machines was introduced. (The cap is contained in the Casino legislation)

Alcohol is a much more dangerous product than gaming. Now that the government does not collect liquor licence fees, there is no incentive to regulate and the government is on an inexorable path of deregulation. However, we submit that the licensed hospitality industry has sustainably reduced misuse of alcohol by adherence to codes of responsible service.

Community Support Fund

Hotels are proud of the contribution they make through the Community Support Fund. If gaming is a legitimate leisure option, why not advertise that the aquatic centre was built with money from gaming? It couldn't have been built on the money from cinema tickets.

People who use gaming should also know that they are contributing large amounts to the general revenue and the Community Support Fund. Just the same as they should know the chances of winning. Contribution to the Community Support Fund is an added advantage that gaming has over other entertainment options.

As to the distribution of the Community Support Fund, we do not disagree with the criticisms we have heard. We see no reason why funds cannot, to some extent, be used to fund projects in the areas from which the funds were raised.

Control by local government - the 25% rule and s69

Gaming is now part of the entertainment package that customers seek from a hospitality venue. As discussed above, de-mystifying the product is a major measure in addressing misuse. The "as of right" 25% rule encourages the incorporation of gaming as an ancillary entertainment option.

A pub which has 30 pool tables, and no food, is probably better described as a pool room. A pub which has 2 pool tables in the public bar, and a dining room etc, is still a pub. Likewise with gaming.

Apparently milk bars have to apply for a permit for a pinball machine. Milk bars are not hospitality outlets. Pubs have to apply for a town planning permit to provide hospitality at the site. Gaming is part of the hospitality product. Pubs did not have to apply for permits for pinball machines because they already had a permit for hospitality.

Conclusion

The above discussion is only an interim discussion which addresses some of what has been presented by the participants at the hearing in Melbourne. A full written submission will follow.

Suffice to conclude here with a reiteration of our contention that it is not possible to ban gaming a little bit. If the government has decided that gaming is legitimate, then the appropriate action is to minimise the harm. This involves changing the behaviour of the problem gambler and instituting responsible service. Caps on numbers of machines simply do not address behavioural problems.