

FURTHER SUBMISSION BY THE
VICTORIAN LOCAL GOVERNANCE ASSOCIATION (VLGA) TO
THE PRODUCTIVITY COMMISSION INQUIRY INTO
AUSTRALIA'S GAMBLING INDUSTRIES
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Background to VLGA Follow-up Submission:

VLGA Submission to Productivity Commission Hearings – 1998

The VLGA took advantage of the opportunity to make a submission to the First Round of Melbourne Hearings of the Productivity Commission's Inquiry into Australia's Gambling Industries on 23 November 1998.

The Productivity Commission Hearings gave Victorian local governments an opportunity to collectively assess the impact of gambling upon their communities and the local strategies that were being employed to address that impact.

Prior to the Hearing last November, local governments in Victoria had been acting individually and in isolation to address community concern about the impact of the rapid spread of electronic gaming machines (EGMs) in Victoria.

The VLGA co-ordinated local governments' presentations to the Inquiry. There were three municipalities that availed themselves of the opportunity although many others took a close interest in the submissions.

Victorian Local Governments' Action on Gambling – 1999 **Formation of the *Local Government Working Group On Gambling***

Victorian local governments have become increasingly active around the issue of managing gambling locally since last November. The VLGA established and convenes monthly a *Local Government Working Group On Gambling* (LGWGOG). There are some twenty eight councils actively participating in the work of the LGWGOG. Many of these local governments have either already developed local *Responsible Gambling Strategies* or are in the process of so doing. The LGWGOG has been actively promoting the use of local *Responsible Gambling Strategies* as a means of injecting some level of local management over the gambling industry.

Recent members of the LGWGOG have included two local governments with very low ratios of EGMs per head of population and reasonably high socio-economic status. The local governments of Boroondara and Yarra Ranges have been active in the monitoring of gambling because they have been sensitive to community concern about the spread of gambling and because they feel a responsibility toward the more vulnerable members of their communities.

The LGWGOG has a diverse range of councils represented. The common thread has been the frustration that a high impact industry is being allowed virtually uncontrolled entry into their community.

Role and Purposes of the LGWGOG

The LGWGOG has been convened by the *VLGA* and is a valuable resource for local governments and communities wishing to minimise adverse effects of excessive gambling in their area. In particular, the LGWGOG provides a forum to:

- share knowledge and understanding about trends and developments in the gambling industry, particularly that major segment of the industry which operates local gambling venues;
- develop innovative and relevant research projects which inform local governments about the social and economic impacts of gambling at the local level;
- develop practical policy frameworks and policy instruments to maximise the leverage of local governments in their interactions with their local communities, State Government and the gambling industry;
- develop and share expertise and knowledge in relation to the planning process as it relates to local gambling venues; and
- develop and implement appropriate campaigns to highlight relevant issues related to gambling, particularly the need for adequate planning controls and other regulation of the gambling industry.

The LGWGOG has also convened a conference, *Managing Local Gambling*, which attracted well over a hundred councillors, council officers, industry representatives and members of the community. Several high profile speakers made presentations in support of the theme that local government had a responsibility to become involved in the management of gambling.

Activities of the LGWGOG

Currently the LGWGOG is putting together a publication which explores the role of local governments in management of gambling. It is intended to distribute this publication widely through *VLGA* member councils.

This publication follows a research paper commissioned by *VLGA* local governments and prepared by a Victoria University of Technology research team. LGWGOG councils are funding follow-up research work. The main purpose of such research has been to inject some rigour into gambling research in the state and to arm councils with supportive ammunition to make highly informed planning decisions with regard to gambling applications.

Increase in Community Concern over Gambling

Since the November 1998 Productivity Commission Inquiry Hearings, community concern about gambling has escalated. There has been a growing awareness, further informed by the Productivity Commission Draft Report, about the link between gambling and other social problems. The Victorian Government's reliance on gambling revenue has seen the portion of income in the state budget emanating from gambling rise to in excess of 15% of all revenue.

At a local government level there has been anger directed at the Victorian Minister for Planning and Local Government when he attempted to dissuade local governments from linking *Responsible Gambling Charters* to consideration of planning permit applications.

Research continues to show that gambling is an issue of great community concern in Victoria. Work undertaken by Boroondara City Council has highlighted the extreme level of concern in a community with a low concentration of EGMs. This community has also shown a high level of expectation that its local government take on the issue. Some local governments that have been slow to act in support of their communities are now facing local criticism for their inaction.

The LGWGOG has met with the Minister for Finance, Minister for Gambling and believes this meeting will constitute the first step in improving relationships between local and state governments in the management of gambling.

Victorian Local Government Reaction to the Productivity Commission Inquiry Draft Report:

A Significant Report for Local Governments

The internal local government debate around management of Australia's Gambling Industries has been advanced considerably by the release of the Draft Report of the Productivity Commission Inquiry into Australia's Gambling Industries.

Dispersing Responsibility for the Management of Gambling

Publication of the Draft Report reinforced *VLGA* views that gambling management should no longer be the sole preserve of state governments. State governments have such vested interest in promoting and protecting gambling to sustain and enhance a revenue stream.

Consequently, the *VLGA* is calling for **all** levels of government and the community to play a role in managing and controlling the industry. There is a strong need for a Federal Government role in management of the industry.

The *VLGA* supports a proposal that the Federal Government establish a national independent control commission (along the New Jersey lines) and a national regulatory body. The *VLGA* believes that a national regulatory body needs to report to and be advised by a *Community Consultative Committee*. This approach would serve to ensure that the national regulatory body retains contact with community values and undertakes research and support tasks that are in tune with the community.

The functioning of the Victorian Casino and Gaming Authority in Victoria is being heavily criticised by the community sector as being out of touch with community values, as being too open to influence by the State Government and for producing research that is of little value to local governments and their communities.

The Draft Report acknowledges that local governments and their communities must be consulted and involved and is seeking advice as to how that will happen. The LGWGOG has considered this request and this *VLGA* submission provides advice on the role of local governments in local management of gambling.

The general role proposed for the community needs to be made more specific and local governments need to be central to community level management of gambling as local governments have the resources and authority and contact with their communities to be able to play a realistic management role.

Local governments have a traditional responsibility to manage noxious and high impact industries in order to minimise the adverse effect on the community. In Victoria, when it comes to gambling, this responsibility has been wrested from local governments and must be returned.

Strong Focus on Consumers of Gambling Services

Local governments are highly supportive of the Draft Report's strong focus on the impact on consumers of gambling services. The Draft Report endorses Victorian local government research findings that a very small highly vulnerable section of the community is bearing the brunt of the impact of the spread of electronic gambling machines. Local government research also supports the link between accessibility and problem gambling.

The LGWGOG has continued to support the need for capping of the number of machines in Victoria. However, the LGWGOG argues that both regional caps and venue caps need to be introduced to reduce accessibility to gambling by the most vulnerable sections of our communities. Maribyrnong City Council focuses on these issues in its submission.

Victorian local governments strongly support the call to widen the choice for consumers in both the area of *informed consent* and of *consumer control*.

With regard to *informed consent* the VLGA supports use of mechanisms like mandatory expenditure statements, full and simple explanation of how games work, full price information, highly visible health/wealth warnings and ethical promotion of the industry and its services.

Consumer control mechanisms are also supported. Measures like restriction of credit, reducing access to ATMs, building in breaks in play and the use of *pre-commitments* (or predetermined gambling ceilings) are all worthwhile.

The LGWGOG has been promoting the development of *Responsible Gambling Strategies*. The strategies usually contain *Responsible Gambling Charters*, about which the Victorian Minister for Planning and Local Government has been critical. These charters have become one of the few mechanisms open to local governments to facilitate *informed consent* and to achieve a modicum of *consumer control*. The VLGA urges the Productivity Commission to advocate for the development of *Responsible Gambling Charters*. Far from being undermined by the State Government, such charters should be given force of planning legislation. Moreland City Council was one of the first local governments in Victoria to introduce a *Responsible Gambling Charter* and its submission to the Productivity Commission outlines some of the key features of such charters.

Community Views on Gambling

The LGWGOG continues to find that, in line with comments in the Draft Report, public opinion is running strongly against any expansion of the introduction of further electronic gambling machines.

In the lead-up to the Victorian State Election the Premier has provided assurances that there should be *no further expansion* of the gambling industry. Boroondara City Council outlines research it has undertaken on this issue of community reaction to gambling.

Internet Gambling:

Local governments support the proposed policy of the Draft Report that growth in Internet gambling is best managed through an approach of *managed liberalisation*. This includes a mix of licensing and Commonwealth Government management. The LGWGOG has been disturbed by recent suggestions from the Victorian Government that it should be in control of the management of Internet gambling.

Gambling Benefits Outweigh the Cost

The Draft Report concludes that the benefits of gambling outweigh the costs. The *VLGA* argues that this cannot be supported. Costs have been under-estimated due to the endemic problem of under-reporting, a feature of all surveys of gambling activity. (*see box*)

At the same time the benefits of gambling activity have been over estimated because of problems inherent in the economic model employed. In particular there are problems with the use of the parameter 'consumer surplus'. (*see box*)

So, due to questionable methods of measuring the benefits of gambling, as well as the reliance on gambling self-report data, it is likely the Draft Report substantially underestimates the social costs of gambling.

Maribyrnong City Council advances these arguments in more detail on behalf of the LGWGOG.

Costs are Under-estimated

According to a study commissioned by the VCGA on the 'Impact of Gaming Venues on Inner City Municipalities' in 1997, self report data on gambling activity is unreliable as *'it has been well established that individuals under-report their gambling expenditure by approximately 100 per cent'* (p 46). However, research conducted at the Workplace Studies Centre at the Victoria University of Technology this year found the problem to be of much greater magnitude with survey under-reporting of gambling expenditure in the realm of about 900 per cent. According to this research: *...it is precisely the heavy users who are unlikely to be open and honest about the true extent of their gambling'* (Doughney, 1999:28). As a result of his work in this area, Dr Doughney has concluded that under-reporting is an endemic problem in any survey method to find out the extent of people's gambling behaviour.

The same issue was raised in the submission by the Australian Bureau of Statistics to the Productivity Commission in which it was stated that there is a significant degree of under-reporting of gambling in the Household Expenditure Survey (HES). For example, the reported expenditure for 1993-94 was only 23.7% of the actual figure. According to the Australian Bureau of Statistics the problems with accurate reporting of gambling expenses in surveys are an international problem, not just restricted to Australia.

Most importantly, the Productivity Commission itself concluded that findings from its National Gambling Survey were likely to under estimate prevalence of problem gambling: *'...it is possible that the most people who actually experience severe problems with gambling may fail to disclose this in surveys intended to measure prevalence rates'* (6.34).

Benefits are Over-estimated

1. Reliance on *consumer surplus*

The benefits of gambling activity in Australia have been over-estimated by the Productivity Commission due to its reliance on the parameter *consumer surplus* as applied to gambling activity. This fails to take into account the activity surrounding the industries that gambling is displacing, in the context of the Commission's finding that *production side* benefits of gambling industries in Australia, in contrast to those from consumption, are largely illusory. Furthermore, if these industries did not exist, most of the resources would be employed in other uses, creating similar levels of income and jobs to gambling itself (XXV):

'Thus while there may be instances where additional jobs or income are generated - say in depressed regions - most of the resources in the gambling industries will have been diverted from other industries' (XXV).

Thus the *consumer surplus* associated with gambling activity cannot be said to be representative of added value brought to the economy by the gambling industry - but representative of a displacement of consumer activity from other industries.

2. Limited Economic Model

There is also a problem with the economic model employed by the Productivity Commission in that it fails to take into account the negative aspects of the community and social context within which excessive gambling occurs. In this model consumer willingness to spend on gambling is used to calculate a measure of value - rather than as a possible reaction to poverty, disadvantage and social isolation as evidenced by a rich body of research.

Several recent studies on women and gambling in Victoria, conducted by the Financial and Consumer Rights Council of Victoria and by Women's Health West, have highlighted that new forms of gambling have filled a void experienced by many women because their social needs are not being met due to a break-down in community structures. Similarly, a study commissioned by the VCGA on the impact of gaming venues on inner city municipalities found that EGM venues are attracting those who previously stayed at home due to a lack of social alternatives:

'This appears to be especially so in the case of the unemployed, women, the newly retired and elderly, NESB migrants and the disabled for whom there are very few non gambling based community, social and cultural alternatives and for whom community centre services have been reduced in recent years' (1997).

In a recent study commissioned by Boroondara City Council it was found that migrants were particularly susceptible to problems with gambling. Settlement difficulties which were said to exacerbate and lead to the acceleration of problem gambling included the feeling of a loss of dignity or pre-migrant status, a lack of feeling of involvement in the Australian community, a feeling of guilt for a lack of success in the new country and, in the face of a variety of language and cultural barriers, the absence of a general sense of belonging. It was also proposed that the situation is worse for older people who are more isolated and less integrated and for overseas students, some of whom have gambled away their funds out of loneliness (p.68).

(NB: the notion of *selling hope* is useful, and helps to explain why people in lower socio-economic situations spend more on gambling. Such people, having less money to begin with have a greater need for hope, especially in financial terms, and primarily that is what gambling offers them, as well as the ability to escape from their situation for a while.)

Within this context, there are obviously many problems with associating a willingness to spend on gambling as an economic, or even social, 'positive'.

3. *Dollars Spent* is not an Adequate Measure

Dollars spent, or likely to be spent if gambling *prices* were higher, is also a simplistic measure of value, in the context of research evidence of gambler ambivalence in relation to their own gambling. According to the recent VCGA commissioned study *Sixth Survey of Community Gambling Patterns and Perceptions*:

- *People reporting dissatisfaction with EGM gambling activity continued to participate as it was a social activity, and because they hope to win.*
- *There was a low level of appeal for playing EGMs amongst those who played them in the preceding 12 months (1999).*

4. Decisions to Gamble are made *in Ignorance*

Importantly, it should also be noted that most EGM gamblers are ignorant of the true odds of winning. The Productivity Commission reported that:

'There are... features of the activity which can lead to poorly informed decisions by many consumers, including the opacity of the odds and ignorance or misunderstanding about what determines gaming machine payouts (XXXV).

Thus, it could be surmised that the willingness of gamblers to spend on EGMs is based on ignorance rather than on rational and enlightened decision making as implied by an economic model incorporating *consumer surplus* as a measure of consumer attributed value.

Gambling Revenue as Regressive Taxation

The Draft Report concludes that gambling revenue operates as a regressive tax on both individuals and communities:

'It is well established that gambling taxation is regressive, with lower income groups generally spending proportionately more on gambling - and shouldering more of the burden... The Commission's analysis suggest that taxes on lotteries and gambling machines are the main source of regressivity' (LVIII).

The Commission also estimated that problem gamblers account for about one third of total expenditure on gambling in Australia (XXVIII). Importantly, the Commission endorsed local government research findings that in Victoria gaming machines are more densely located in lower income areas (XXXVI).

Subsequent research carried out by the City of Maribyrnong has demonstrated a correlation between socio-economic disadvantage (using the ABS 'SEIFA' index) and EGM density, giving further evidence that EGM revenues are drawn disproportionately from disadvantaged communities in Victoria.

Although the Commission proposed that the high density of EGMs in low income areas in Victoria may be partly due to the effect of the cap - it is hardly conceivable that a lifting of this would lead to less EGMs (or less gambling activity) in disadvantaged areas, where they yield the greatest profit. It is more probable that a greater number of EGMs would be placed in the most disadvantaged areas until reaching saturation point - and then, by grades, be placed in areas of the next highest likely return.

Maribyrnong City Council advances this argument on behalf of Victoria's local governments.

Role of Government in Gambling Regulation

From the Productivity Commission initial findings it is clear that the public interest cannot be left to market forces and the profit-making objectives of commercial interests. This is especially apparent when regarding aspects of gambling industry submissions to the Commission. For example, the following was said by the General Manager of Corporate Affairs for Tabcorp in answer to a question by Commissioner Robert Fitzgerald:

'I would say there is - well, again, that we target where there is the demand and that there is a skew towards more - a tendency among blue-collar workers to be attracted to this product. So it's, I suppose, a bit chicken and egg. In fact we're putting machines where there is demand' (Wunsch, 1998:534).

Representation of the public interest is the clear role for governments, through policy and regulation, however, tensions emerge through the conflicts of interest inherent in current gambling policy objectives. The Draft Report notes that policies for the gambling industries lack coherence and are complex, fragmented and often inconsistent. Significantly, it was noted that: *'governments are participants in and promoters of gambling activity, while also attempting to reduce social harms'* (XXXIX).

This is clearly an issue in Victoria as gambling provided the State Government with its third highest source of taxation revenue (after Payroll tax and tax from financial and capital transactions) for the financial year 1997-98. Gambling revenue has increased dramatically since the introduction of EGMs into Victoria and the establishment of a casino - from \$401,722 million in the year 1992-93 to \$1.3 billion in the year 1997-98. Thus, the State Government has a clear interest in the future prosperity of the gambling industry in Victoria and a disincentive to regulate in ways which will reduce gambling profit or to fund research which will expose social harms generated within the current regulatory framework.

The conflicting interests of the Victorian government are played out in the statutory functions of the Victorian Casino and Gaming Authority (VCGA). As noted in the Draft Report (in citing a submission) the VCGA is required

'...to promote tourism, employment and economic development generally in the state through the administration of the various Acts'
(21.11)

as well as to regulate gambling. As pointed out by the Commission:

***promoting** gambling, whether for tourism or any other reason, should not be the role of the regulator'* (p 21.11).

State regulatory bodies such as the VCGA need to be co-ordinated by the proposed national regulatory body. State bodies need to have nationally consistent charters and need to incorporate broad independent community interests including local governments. Research proposals need to be far more responsive to community requirements.

As previously stated in this submission, Victorian local governments are in strong support of the need for a national regulatory body to oversee the operations of the gambling industry and to represent the public interest in a context where State Governments have been largely compromised in achieving this objective.

An increased Commonwealth role in overseeing gambling operations in Australia due to developments such as Sports betting and Internet gambling would be supported by the VLGA.

Another factor which would seem to justify a national regulatory body is the *cost shifting* between States and the Commonwealth which occurs when those suffering from the effects of excessive gambling, either directly or indirectly, engage Commonwealth-funded assistance (Productivity Commission, 1999:21.35).

In this context, it should be noted that:

'...Commonwealth-State financial arrangements provide the context for the approaches of State and Territory governments towards gaming and gambling taxation' (Productivity Commission, 1999:21.35).

Consultation with Local Communities

The Draft Report endorses the views expressed in many local government submissions to the original Hearings - that local communities should be consulted in decisions around gambling license applications (LXV; 21.27). The control authority should at least be required to consult with local communities in making decisions about license applications (LXV). This can really only be effectively managed through local governments.

The VLGA welcomes strong statements supporting consultation, but would add that local governments are best placed to act as a conduit for such consultation. Local governments have the infrastructure and intimate contact with local communities to monitor and research opinions on gambling and to evaluate its local impacts. There is no other community structure well placed to play such a role.

Role of Local Governments

As is already beginning to happen in Victoria, partly due to the inadequacy and *unusability* of the research of the VCGA, there is an important role for local governments in monitoring and researching issues, impacts and opinions related to operation of the gambling industry in local communities. Local government is the sphere of government with the most intimate links to local issues, needs and concerns, and with the greatest capacity to understand the complex interplay of social and economic relationships that comprise the local community. It is in the best position to evaluate the likely impact of expansion in local gambling activity. More than any other sphere of government it is able to respond sensitively and flexibly to local needs and feeling, particularly in its planning decisions when legislation permits this.

Amendment S22 of the Gaming Machine Control Act stipulates that a permit for a gaming venue is only required when gaming machines exceed 25% of the total licensed area where liquor can be sold. This provision drastically reduces the capacity of local governments in Victoria to regulate gambling within their municipalities.

It is paramount that legislation be amended to allow Local Governments greater control over planning decisions around the establishment and operations of gaming venues in their municipalities.

Current Victorian legislation gives local government little power over the allocation of EGMs and operations of gaming machines. However, Section 60(b) of the Planning and Environment Act 1987 does provide for the consideration of social and economic impacts in town planning decisions as well as traditional planning concerns such as noise, traffic and urban design. This applies to planning decisions where gaming machines exceed 25% of a venue's licensed area.

Although many limitations are imposed on consideration of social and economic impacts, some recent Victorian Civil and Administration Tribunal decisions have demonstrated a willingness to take into account social and economic impact when there is sufficient evidence. A recent decision endorsed Maribyrnong City Council's requirement that a venue operator demonstrate that there would be no adverse social and economic effects arising from a proposed expansion in gambling hours.

The Community Support Fund

The Productivity Commission has registered the need for clear and transparent processes in the distribution of gambling revenue. Specifically, in relation to the earmarking of gambling revenue it noted that:

'direct grants generally escape budget scrutiny and prioritisation' and 'accountability and transparency of funding decisions have not always met budgetary standards' (LXII).

In Victoria, the Gaming Machine Control Act 1991 provides for the establishment of a fund known as the Community Support Fund (CSF), legislation requiring that 8.33% of daily net balances from hotel venues be paid into this. The operation of this fund has been the subject of vigorous community debate.

Following 1996 amendments, the Premier has *sole discretion* in the distribution of the substantial funds accrued through the CSF. Clearly, revenue distributed in this way sidesteps the normal budgeting and allocation processes and does not conform with proper standards of public accountability.

In recognition of this, a review of the CSF by the Auditor General's Office identified the need for a consistent approach to assessment and approval of distributions from the fund and a representative community body to provide an advisory role on funding priorities (Auditor General of Victoria, 1996).

Further, it is clear that in Victoria the community support fund is not acting as a vehicle for returning gambling proceeds to the communities that make the greatest contribution. In fact, on the contrary, the regressive nature of gambling revenue is frequently referred to as *inverse Robin Hood*, robbing the poor to pay the better off. The VLGA has had to resort to action under FoI legislation to obtain basic information about where the funds are being raised. Local governments believe this information should properly be available to the general public.

It is therefore vital, in the interests of public accountability, that clear and transparent processes guide the distribution of funds from the CSF and that a community consultative committee be formed to advise on and oversee the distribution of these funds.

It is essential that local government, as the level of government most involved in and knowledgeable about local community issues, be represented on such a committee.

Recommendations:

1. The VLGA supports the proposal to establish a national independent control commission and a national regulatory body. The VLGA believes that a national regulatory body needs to report to and be advised by a *Community Consultative Committee* (with meaningful community representation including that of local government). Research undertaken by these bodies needs to respond to perceived community issues and needs;
2. Victorian local governments strongly support the call to widen the choice for consumers in both the area of *informed consent** and of *consumer control***;
3. The VLGA urges the Productivity Commission to advocate for the development of locally based *Responsible Gambling Charters*;
4. Internet gambling should be nationally managed through an approach of *managed liberalisation* that includes a mix of licensing and Commonwealth Government management;
5. The VLGA supports the need for capping of the number of machines in Victoria – this cap should be gradually reduced in Victoria and similar caps should be introduced in other states;
6. Regional and venue caps need to be introduced to reduce accessibility to gambling by the most vulnerable sections of our communities;
7. Local governments must be involved in any state or national appraisal of the gambling industry – the Productivity Commission has established an important precedent – such as the mooted Victorian Government’s Inquiry into the operation of the gambling industry in Victoria;

8. Counselling services need to be better resourced and better publicised and the effectiveness of counselling methodology needs to be better evaluated;
9. The return of gambling proceeds to research and amelioration measures must be increased to a national figure of 10%;
10. Decisions over disbursement of funds through the Victorian *community support fund* must be made more transparent and a community consultative committee which includes local government representation on the CSF is most important to ensure probity and equity;
11. Victorian legislation should be amended to allow local governments greater control over planning decisions around the establishment and operations of gaming venues in their municipalities; and
12. Advertising standards for the gambling industries should be set nationally by the national authority.

* With regard to *informed consent* the VLGA supports use of mechanisms like mandatory expenditure statements, full and simple explanation of how games work, full price information, highly visible health/wealth warnings and ethical promotion of the industry and its services.

** *Consumer control* mechanisms are also supported. Measures like restriction of credit, reducing access to ATMs, quantity and access restrictions, self-exclusion, cheque payouts, building in breaks in play and the use of *pre-commitments* (or predetermined gambling ceilings) are all worthwhile.

Mike Hill
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