

Submission

on the

Prevention and Treatment of Problem Gambling

to the

Joint Select Committee on Gambling Reform

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1. Introduction

On 09 February 2012 the Senate referred the following matter to the Joint Select Committee on Gambling Reform for inquiry and report.

- (a) measures to prevent problem gambling, including:*
 - (i) use and display of responsible gambling messages,*
 - (ii) use, access and effectiveness of other information on risky or problem gambling, including campaigns,*
 - (iii) ease of access to assistance for problem gambling;*
- (b) measures which can encourage risky gambling behaviour, including:*
 - (i) marketing strategies,*
 - (ii) use of inducements/incentives to gamble;*
- (c) early intervention strategies and training of staff;*
- (d) methods currently used to treat problem gamblers and the level of knowledge and use of them, including:*
 - (i) counselling, including issues for counsellors,*
 - (ii) education,*
 - (iii) self-exclusion;*
- (e) data collection and evaluation issues;*
- (f) gambling policy research and evaluation; and*
- (g) other related matters.*

The Committee has invited public submissions on the terms of reference which are due by 30 March 2012.

2. Problem gambling

The Productivity Commission report finds that there are between 80,000 and 160,000 Australian adults suffering significant problems from their gambling, with a further 230,000 to 350,000 experiencing moderate risks that may make them vulnerable to problem gambling.

It is estimated that problem gamblers account for 22 to 60 per cent of total gaming machine spending (average of 41). The likely range for moderate risk and problem gamblers together is 42 to 75 percent.¹

Proposing harm minimisation measures seems an inadequate response to an industry that derives perhaps as much as three quarters of its revenue from people who are gambling beyond their means and experiencing or at risk of significant harms to themselves and their families.

It seems doubtful, even if all the various harm minimisation measures designed to reduce the level of problem gambling were to be implemented, that these measures would result in a substantial reduction in problem gambling.

It is time to consider whether the entertainment value gaming machines provide to non-problem gamblers is of sufficient value to outweigh the social cost of problem gambling. Australians are able to access many alternative forms of entertainment, including alternative forms of gambling. The alternatives are generally associated with a lower rate of problem gambling than with gaming machines.

State governments are responsible for ensuring the peace and good order of their State. Now that they have become dependent on revenue from gambling, and have become reluctant to restrict access to gambling in any substantial way, are they failing in their primary duty?

The fundamental social question is whether the alleged benefits of gaming machines – revenue for non-profit clubs and enjoyment for “recreational” non-problem gamblers – are worth the social costs associated with problem gambling.

If State governments will not act to curb this social harm then the Commonwealth could use taxation to force the reduction and eventual elimination of gaming machines.

The *Poker Machine Harm Reduction Tax (Administration) Bill 2008* proposed one possible mechanism for doing so.

Recommendation 1:

In addition to any recommendations made on other partial measures to prevent and treat problem gambling, the committee should recommend to the Commonwealth government that, unless each of the States commit to the complete removal of gaming machines from hotels and clubs by 2018, it should introduce a taxation scheme similar to that proposed by the Poker Machine Harm Reduction Tax (Administration) Bill 2008.

3. Pre-commitment scheme

The Productivity Commission has recommended that:

Each state and territory government should implement a jurisdictionally-based full pre-commitment system for gaming machines by 2016, subject to initial development, trialling and compatible monitoring systems.²

A full pre-commitment scheme requires the implementation of a mandatory identification system of some kind for all users of gaming machines, apart from a possible ancillary system of ‘safe play’ mode allowing very limited expenditure per hour of play.

Critical aspects of a successful pre-commitment scheme would appear to include sufficiently rigorous identification systems in place, so that any card, device or password issued to a registered player is backed by a robust system of identification, before payouts are made. This lessens the incentives for problem gamblers to steal or borrow the IDs of other players.

Secondly, the system would need to prevent a player from increasing playing limits or waiving self-exclusion periods for a fixed period of time. The Productivity Commission suggests six months as a suitable non-revocation period.³

Individuals should be able to select longer periods of self-exclusion with no revocation possible. Why should a problem gambler, determined to break the destructive habit once and for all, have to face the recurrent temptation every six months of renegeing on his efforts and giving in once again to his demons?

Additionally there is merit in the possibility of allowing family members, under certain circumstances, to request that a problem gambler be excluded from gambling or have rigorous limits imposed on weekly spending on gambling. The Productivity Commission supports such a proposal.⁴

The Productivity Commission cites a proposal by Mark Dickerson that maximum spending limits be linked to the financial capacity of the gambler using a model akin to a credit card application.⁵ The Commission dismisses this as “removing consumer sovereignty”.

This is too glib a response to a sensible proposal.⁶

Dickerson explains:

The limits to the amounts of money and time that an individual could pre-commit to his/her card would be transparently computed along the same sort of lines by which mortgage and other credit/loan levels are currently established. There would be the opportunity for individuals to make a special case that they had greater levels of discretionary monies than the standard levels but such claims, as in any other major purchasing context, would be open to verification. For the majority of players it is likely that their preferred expenditure would be well within the regulated limits.

It is not evident that a scheme that protects problem gamblers from spending above their means is an assault on consumer sovereignty.

The apparent abandonment by the Gillard government of its commitment to a pre-commitment scheme should not be the end of this matter. The criticisms of the proposed limited trial in the ACT by Mr Wilkie and others are justified.

The onus is now on the joint select committee to transcend the party politics on this issue and recommend real reform.

Recommendation 2:

The committee should support a genuine pre-commitment scheme which includes the following features:

- ***Rigorous identification systems at registration and at payouts;***
- ***Non-revocation periods of at least six months before spending limits could be increased or self-exclusion waived, with consideration for longer periods of self-exclusion with no revocation allowed;***
- ***Opportunity for family members, under certain circumstances, to request that a problem gambler be excluded from gambling or have rigorous limits imposed on weekly spending on gambling;***
- ***Maximum spending limits linked to financial capacity in a way similar to mortgages and other credit and loan arrangements.***

4. Advertising

In its 2009 report the Productivity Commission cited evidence from studies that “a proportion of people with gambling problems (with estimates ranging from 5 to 20 per cent) are likely to substantially increase their gambling expenditure in response to advertising”.⁷

Binde reports on three ways in which advertising may contribute to the prevalence of problem gambling:

(a) Advertising recruits new players, some of whom later become problem gamblers.

This effect ought to be at its strongest when a new game is introduced and when the market is immature. For example, people may be persuaded by advertising (Web banners or TV commercials) to try Internet poker, a game that for some becomes an obsession. Had it not been for advertising, a number of these persons would not have started playing and others would have done so later, when they were perhaps more aware of the risks involved or when Internet poker operators had increased their implementation of measures to counter excessive gambling.

(b) Advertising intensifies established gambling habits.

On the continuum between problem-free gambling and pathological gambling, some people will, because of advertising impact, move a little towards pathological gambling. A problem-free gambler may develop at-risk gambling behaviour, an at-risk gambler may become more of a problem gambler, and a problem gambler may behave more like a pathological gambler.

(c) Advertising may sustain and aggravate established problem gambling by providing hard-to-resist impulses for gambling that make it harder to adhere to a decision to quit or cut down on gambling.⁸

The first mechanism would be important to consider if online poker is allowed on Australian hosted internet sites. Its introduction should be accompanied by restrictive advertising rules that limit the times for broadcasting advertisements and the nature of such advertisements, including requiring accurate information about the potential losses that could be incurred from gambling.

Advertising for sports betting has become more prevalent since the High Court decided in 2008 that section 92 of the Constitution which guarantees the absolute freedom of interstate trade and commerce effectively invalidated a Western Australian law restricting advertising to betting agencies registered in the State.⁹ This has opened up advertising to sports betting agencies registered under looser laws in the Northern Territory.

The High Court decision makes it constitutionally problematic for individual States to adequately control gambling advertising. This puts the onus on the Commonwealth to take the lead in promoting a co-operative federalist approach to this issue.

On 27 May 2011 the Council of Australian Governments Select Council on Gambling Reform issued the following communiqué on live odds promotion during the playing and broadcasting of sports events.

Ministers have agreed to take action to reduce and control the promotion of live odds during sports coverage.

Governments are concerned that promotion, including commentary by sporting role models, is becoming insidious in live sports coverage. We are concerned that this can significantly influence vulnerable and young people and normalise gambling behaviour.

Ministers agreed consultation will be undertaken with industry as to the scope of the measures designed to reduce and control the promotion of live odds during sports coverage.

Ministers acknowledge that racing will be exempt due to its long standing integral connection with wagering.

In the first instance, industry will be provided with the opportunity to address this issue through amendments to their existing industry codes.

However, if satisfactory amendments are not in place by the end of June 2012, the Australian Government will consider the need for legislation, noting that the measures would not apply to pre-existing contracts for the promotion of live odds during sports coverage as of 1am today.¹⁰

This approach is supported although it may be more prudent to move directly to legislation rather than relying on industry to amend codes of practice and possibly delaying an effective remedy unnecessarily.

More generally the foreshadowed legislation should look more broadly at limiting gambling advertising, including a ban on all broadcasting of gambling advertisements during sports events and news programmes during G classification time zones.

Recommendation 3:

- ***If online poker is allowed on Australian hosted internet sites its introduction should be accompanied by restrictive advertising rules that limit the times for broadcasting advertisements and the nature of such advertisements, including requiring accurate information about the potential losses that could be incurred from gambling.***
- ***The Commonwealth should move directly to preparing and introducing legislation banning the promotion of live odds betting during sports events.***
- ***The Commonwealth should consider further legislative restrictions on the nature of advertisements for sports betting, including restrictions on the broadcasting such advertisements during sports events and news programmes in the G classification time zone.***

5. Inducements to gambling

Schedule 2 of the *Interactive Gambling and Broadcasting Amendment (Online Transactions and Other Measures) Bill 2011* would amend the Interactive Gambling Act 2001 to prohibit inducements to gamble.

A game would be defined as an inducement to gamble if “the game is a game of chance or a game of mixed chance and skill; and the service for the conduct of the game is provided to the customer with the intention of inducing the customer to use a gambling service”.

In his second reading speech Senator Xenophon gave the examples of a website advertising a free chance to practise your poker skills or offering free credits for online gambling.

This a useful proposal as it aims to reduce inducements to gamble.

Recommendation 4:

The Interactive Gaming Act 2001 should be amended to prohibit inducements to gamble as defined in the Interactive Gambling and Broadcasting Amendment (Online Transactions and Other Measures) Bill 2011.

6. Endnotes

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6. *Gambling: Productivity Commission Inquiry Report 06/2010*, p 10.37:
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9. *Betfair Pty Limited v Western Australia [2008] HCA 11 (27 March 2008)*:
<http://www.austlii.edu.au/au/cases/cth/HCA/2008/11.html>
10. Council of Australian Governments Select Council on Gambling Reform, *Communique*, 27 May 2011:
http://www.jennymacklin.fahcsia.gov.au/statements/Pages/jm_comm_gamblingreform_27may2011.aspx