

**NORTHERN TERRITORY  
GOVERNMENT  
SUBMISSION**

TO

**JOINT SELECT COMMITTEE ON  
GAMBLING REFORM**

***NATIONAL GAMBLING REFORM  
BILL 2012***

**A bill for an act to provide for national  
gambling reform to gaming machines, and  
for related purposes**

## **Northern Territory Submission – *National Gambling Reform Bill 2012***

The Northern Territory Government is pleased to provide this submission on the exposure draft bill titled ***National Gambling Reform Bill 2012***. The Northern Territory has participated in the Council of Australian Governments (COAG) Select Council on Gambling Reform and the various senior working groups that report to the council.

The Northern Territory Government does not support the legislation as it stands and is unconvinced that the high level objectives are achievable based on the arguments and evidence associated with the bill's measures

The Northern Territory Government is of the view that for this bill to be acceptable a clear detailed cost benefit analysis is required in the form of a detailed Regulatory Impact Statement that would allow for more considered, better informed and less hasty legislation being passed.

### **Background**

While the Northern Territory does have its share of problem gamblers using gaming machines, the scale of the issues are small compared to other jurisdictions. The Northern Territory has less than 1% of Australian community gaming machines and a government enforced limit on gaming machine numbers in community/public venues.

The Northern Territory is arguably in a better position to address problem gambling than other jurisdictions as its gaming machine regulatory regime is already more conservative than most other jurisdictions and is consistent with previous Productivity Commission recommendations regarding harms and low risk gaming policy settings in jurisdictions.

In July 2008, the Northern Territory Government introduced a cap of 1190 community gaming machines and currently only 1130 of these are deployed. These machines are currently located in approximately 80 venues across the Northern Territory. As a comparison, Penrith Panthers and Parramatta Eels league clubs in New South Wales have a combined number of 1105.

Machine numbers for clubs and hotels are capped at 45 and ten respectively, note acceptors are not permitted and the maximum bet is five dollars (\$5).

Traditionally, gaming machines in Northern Territory clubs and hotels have been purchased second hand from other jurisdictions and more than 50% are seven or over years of age, thus not providing the 'bells and whistles' currently seen on new machines.

There are no linked jackpots amongst clubs or hotels, loyalty programs are heavily scrutinised and very rare, and all gaming machine venues must abide by the mandatory Code of Practice for Responsible Gambling.

## **Too Much Regulation for Too Little Benefit**

The Northern Territory does not support the pre-commitment system in its current form. Aside from the issues detailed later in this submission, overall, Northern Territory clubs and hotels will incur substantial expense in adhering to system requirements which ultimately hardened problem gamblers are unlikely to use.

The Northern Territory would like to see provisions adopted, through Regulations if necessary, to ensure that the registration process is simple and that it can be achieved via a number of formats as discussed by the jurisdictions at the various working groups. This should include face to face, written (both in person and via the internet) and over the phone. Similarly, the Northern Territory position is that the tool used to allow a registered user to access the pre-commitment system should be unobtrusive and subtle to enable the user to gamble within the pre-commitment scheme without losing privacy or expanding identification theft risks.

Given that the Northern Territory is a small jurisdiction, with very few clubs (approximately 21%) utilising their maximum of 45 gaming machines, a levy and regulatory structure aimed at larger, Eastern state clubs could have a ruinous affect on the local industry and the community a large through a significant decrease in grants from the Community Benefit fund.

Community Benefits Grants support:

- organisations that provide interventions that reduce problem gambling,
- gambling research programs, and
- community development and improvement projects.

In addition there were 160 small community organisations that received grants of less than \$5000 to support projects that improve the wellbeing and lifestyle of Territorians and clubs provided over \$2.8 million in 'in-kind' support to the community in 2011-12 constituting 11% of aggregate annual profit.

A reduction in community benefit funding availability and community support brought about by these reforms would have a significant impact on the lifestyle and wellbeing of the community in general and could potentially see many organisations that benefit from the fund struggle, valuable programs discontinued, or cost of these community programs would have to be met by government.

As a consequence of the lack of any information contained in the package of bills or the draft regulations there is no baseline from which to assess costs to implement this legislation. However, it is clear that costs to industry and state and territory jurisdictions will be substantial. As a consequence of not having a fully costed Regulatory Impact Statement that provides this necessary information, the Northern Territory cannot support the legislation until the Commonwealth has properly engaged with states and territories regarding financial impacts and has negotiated appropriate funding agreements.

## Legislation Issues

The short time frame for jurisdictions to review and provide comment on a three bill package is unwarranted. There is no necessary driver for the urgency of this approach.

### Venue Size

While it is acknowledged smaller venues are catered for in the bill, the Northern Territory has strong concerns with the way this part of the legislation has been presented. The legislation proposes that a venue with between 11 and 20 gaming machines be classed as a small gaming machine venue but then provides additional exemptions for venues with ten or less gaming machines.

It is the position of the Northern Territory that the legislation could simplify the bill's exemption and time limit variations to reflect not only the size of a venue, but the type of venue. It is suggested that the venue size analysis would be better predicated on the venue type with the number of machines characterising 'small' as this would take into consideration the fiscal capacity of 'not for profit' clubs.

The legislation provides for all Northern Territory Hotels to be classed as small venues as they have ten or less gaming machines. However, by the same definition at least 75% of Northern Territory Clubs will fall into the large venue category.

The table below shows that overall, the size of the Northern Territory's community gaming machine industry is well below other jurisdictions consistent with the Northern Territory's population as a percentage of Australia's population.

Jurisdiction	Hotel		Clubs		Total EGMs
	Venue Max	State Cap	Venue Max	State Cap	
NSW	30	25 980	450	78 020	104 000
VIC	105	13 750	105	13 750	27 500
QLD	40	NA	280	NA	
TAS	30	NA	40	NA	
ACT	10	Varies	80	Varies	5200
NT	10	1190	45	1190	1130

To illustrate the effect of venue sizes, and fiscal capacity, St Mary's Football Club arguably the Northern Territory's most successful and well supported Club, has 30 gaming machines as compared to the Broncos Leagues Club which currently has 280.

The aggregate tax paid by Northern Territory Clubs is not even as much as the taxes paid by some of the individual large clubs in New South Wales. The average profit of Northern Territory Clubs in the 2011-12 financial year was \$1.282 million and aggregate tax paid was \$12.35 million. This is compared with Rooty Hill RSL in New South Wales which earned \$43.2 million and paid \$13.1 million in taxes in the 2010 reporting year.

It is the position of the Northern Territory that a small venue should be classed as one that has 50 gaming machines or less based upon a proportion of the national mean average of club gaming machine numbers to clubs.

This position acknowledges the significant differences in fiscal capabilities between small and large venues and specifically clubs as weighed up against a raft of new regulatory requirements and costs that many Northern Territory Clubs will simply not have the financial ability to meet.

A club is primarily established for the benefit of the members and the surrounding community. Many clubs give generously (funding, time and venue space) to many local groups and the general community and this should be recognised in the legislation.

Additionally, the regulatory requirements for large venues will create additional compliance burdens for many of the Northern Territory's relatively small and sometimes, quite remote venues with limited technology availability that will either struggle, or not be able to be compliant within the timeframe for their venue size.

To subject the majority of Northern Territory clubs to the same legislative requirements as these larger clubs and hotels is inequitable and would possibly result in a number of them ultimately closing.

Aside from significant economic downsides and reduced employment, the flow on effect for the Northern Territory would then be lost own source revenue through reduced gaming machine taxes, and a corresponding increase in untied grants payments from the Commonwealth.

The uniqueness and vulnerability of the Northern Territory industry therefore warrants consideration in this bill. Aside from reiterating the recommendation that all Northern Territory venues be classified as 'small gaming machine premises' for the purposes of the legislation, a transition period should be established whereby the Northern Territory is provided with more time to transition to the new requirements. This could best be achieved by requiring clubs and hotels to transfer to the new technology as and when they replace their old gaming machines after December 2020.

Given the new technology has to be available on all new gaming machines manufactured on or after 31 December 2013, and the average life expectancy of a gaming machine is seven years, all clubs and hotels in the Northern Territory could reasonably be expected to have substantially transitioned to by 31 December 2020.

However, the absence of a realistic transition model for the Northern Territory will potentially place many clubs with more than ten gaming machines at risk of not being able to source second hand machines after 2016, leading to further costs to purchase compliant machines. This is yet another example of the lack of consideration in developing the legislation that disadvantages the Northern Territory's smaller and less financially flexible 'not for profit' clubs.

### *Gaming Machine Numbers*

The legislation refers to gaming machines 'for use' and while it can be clearly interpreted as a gaming machine that a member of the public can place a bet on, the issue becomes a little cloudy when looking at the proposed levies.

In the Northern Territory, venues are approved a certain number of gaming machines for use in their venues however it is up to the individual licensees as to the number of actual machines they operate. This may change from time to time, especially during peak tourist season when interstate and international visitors to the Northern Territory increase dramatically. Likewise, in the height of the wet season, demand may decrease and licensees may sometimes 'switch off' machines not being played.

This changing number of machines 'in use' will make it difficult for the Regulator to calculate the levies as proposed by the legislation. Additionally, due to the remote locations of some gaming machine venues in the Northern Territory, machines, that have been turned off to wait repairing, may sit 'off line' for anywhere up to two months. There are concerns how this scenario may affect the amount of any levy that may be charged on unused machines.

It is recommended that the Northern Territory be consulted regarding the calculation of levies on machines in 'use' and the Northern Territory recommends that the definition of an operating machine be revisited so as not to unfairly disadvantage small and remote venues .

#### Pre-commitment Registration

As stated earlier, the Northern Territory does not support the pre-commitment system in its current form.

The legislation as it stands does not take into consideration; and disadvantages very small venues and Territorians in remote locations that do not have access to technology to facilitate 'real time' monitoring and transmission requirements and Territory wide registration linkages as set out in the bill. These venues simply do not have the ability to comply with the legislation within current technological restraints. Realistically, options available to these venues then, are to either incur substantial costs to install satellite technology (which often fails during the Northern Territory's severe weather conditions) or surrender their gaming machines and licenses contributing to the resultant government, industry and community impacts outlined earlier in this submission.

Section 21(2) refers to a cooling off period for a registered user who cancels their registration. While it is assumed that this cooling off period is in place to prevent a registered user from circumventing the system by reaching their limits, cancelling their registration, re-registering and then continue playing, the Northern Territory questions whether this is in fact necessary considering the person can simply choose to continue playing as an unregistered player given that registration will be voluntary.

The Northern Territory's position is that all persons wishing to register for pre-commitment must be allowed to do so in spite of having recently ceased their existing registration without having to wait for a cooling off period to pass. After all, the intent of the reforms is to encourage as many people as possible to use pre-commitment functionality and enhance consumer sovereignty.

If the intent of section 21(2) is to stop a person circumventing the system then it is recommended that consideration be given to having the pre-commitment system retain the 'remaining value' of the person's limit at time of cessation of registration and automatically apply that limit upon re-registration.

The approach and structure of the bill in relation to the appointment of a pre-commitment provider and the needlessly intensive administration process poses the risk that no organisation will find it a commercially viable proposition.

### Time limit period commences

It seems at odds with the intention of the legislation and the overall desired outcomes of the gambling reforms, that a person registering to use the pre-commitment system can choose the time it commences or has that commencement set by the state/territory, as stated in section 25(5). Given that registration is voluntary, any person who registers is likely to want the limit period to commence immediately. Requiring the start time to be set by a jurisdiction is undesirable as it would likely require changes to local legislation and wide consultation to determine an appropriate start time.

Given that it is very likely that gaming machine manufacturers will have a sizeable role in determining the 'pre-commitment tool' (say a card) used to access the pre-commitment functionality on their gaming machines, the Northern Territory's position is that the limit (both time and amount) commences upon first use of the pre-commitment system by the registered user. This could be built into the gaming machine and the system by the manufacturer. This would be a more effective way of having the chosen limits commence once the registered user enters the 'pre-commitment tool' into the gaming machine and would be cleaner from a legislation drafting perspective.

### Dynamic Warnings

The Northern Territory cannot support this aspect of the bill in its current form.

The bill is quite vague as to the dynamic warnings requirements and it is disappointing that further details are not available as to how this will be achieved. Given that there is an intention to draft regulations which prescribe the contents of the messages, it would have been preferable to have them available with the proposed bill.

For the warnings to have any benefits, they must be presented in a manner that is meaningful to the player, especially for those where English is not their first language. Given that the Northern Territory has a high Indigenous population, not to mention the numerous other nationalities that call the Territory home or that visit each year, the messaging must be designed to cater for the various gambling demographics.

It is recommended that jurisdictions have input to, or be consulted on the drafting of regulations for dynamic warnings and this would best be achieved through a public Regulatory Impact Statement.

### ATM Withdrawal Limits Exemptions

The Northern Territory has already made clear its position (via the Senior Officials Working Group on Gambling Reform) on ATM withdrawal limits and the impact that this will have in the Northern Territory. ATMs in gaming venues, especially in remote locations, are readily used as a community banking facility and any reduction of services will have a negative impact.

For example, in a number of remote locations in the Northern Territory, the ATM at the local club is the only after hours banking facility available. These experience high usage, especially over weekends and public holidays and should the maximum amount be withdrawn for gambling use, there would be no access to further funds for 24 hours for essentials like food and petrol. This will have a negative impact on local residents and families as well as tourists.

The Northern Territory also has concerns regarding the impact that ATM withdrawal limits may have in urban areas, particularly those that are known tourist destinations. With limited facilities in the Northern Territory, such as 5-star hotels, boutique bed and breakfasts etc, many venues are multifaceted.

The provision of gaming machines is ancillary to the provision of food and drink and the implementation of an ATM withdrawal limit will have a negative commercial impact on those venues that also happen to offer gaming machines, especially hotels in which gaming machines numbers are limited by legislation in the Northern Territory to ten.

Not including Casinos in this measure further disadvantages clubs and hotels, particularly where gaming is ancillary to other facilities such as food and beverage supply.

Ideally, the legislation should reflect the ability for a licensee to seek an exemption based upon maintaining relative competitive neutrality with respect to the impact an ATM withdrawal limit will have, where the venue is located in an acknowledged tourist precinct that is frequented by tourists on a regular basis.

#### *Inspectors and Delegation of Regulator's Authority*

The bill discusses inspection of gaming machines, associated powers of those persons undertaking inspections and the delegation of the Regulator's authority. While it is sensible to delegate power to the appropriate jurisdictional authority, the matter does raise a concern for the Northern Territory.

While the Regulator may delegate its authority to a government agency or department, section 105 also allows for direct delegation to an individual officer or employee of an agency. This is significant in that it lends itself to issues of conflict for the officer/s involved when faced with competing priorities from his/hers own Minister or the Commonwealth Minister/Regulator.

This would allow cost recovery of the administration and reporting requirements that the proposed legislative regime will impose on jurisdictions, which is likely to necessitate additional resources.

In the face of the proposed legislation, the Northern Territory does not support the option to individual delegation of the Regulator's power and will only support the delegation to the appropriate state/territories agency/department.