

CHAPTER 9

OTHER ISSUES – UTILITIES, CREDIT, GAMBLING

9.1 A number of other issues were raised during the inquiry that particularly affect people on low incomes and impact on the incidence of poverty in the community. These issues include:

- access to utilities such as electricity, gas and water for people on low incomes;
- the availability of credit and the adequacy of consumer credit regulation; and
- gambling, especially problem gambling, and its impact on poverty among low income groups.

Access to utilities

9.2 Evidence indicated the importance of ensuring access for low income households to essential utilities such as electricity, gas, water and telephone services. These services provide the basic means by which any household is able to function in a modern society.

9.3 Submissions and other evidence argued that the application of the National Competition Policy to essential utility services in recent years has led to debt recovery practices which penalise low income households and result in disconnection for inability to pay for these services. This in turn adversely affects the living standards of many low income households. The impact of power supplies being cut-off was graphically illustrated in evidence – loss of refrigeration, inability to keep fresh food, frozen food being spoiled, no hot water for cooking or washing, no heating or light. Indeed, submissions argued that access to light, heating and cooking are essential elements to a reasonable standard of living.¹ One submission noted that disconnection is particularly stressful for people with young children, the elderly and infirm and those living alone.² Another submission noted that if a household is unable to pay a utility bill 'then modern views of what constitutes a reasonable standard of living requires that policies and programs are in place to ensure on-going access to essential services'.³

1 *Submissions* 105, pp.1-6 (Energy Action Group); 91, pp.1-6 (Ms Romeril). See also *Committee Hansard* 1.5.03, pp.192-199 (Energy Action Group/Ms Romeril); 28.7.03, p.998 (St Vincent de Paul WA).

2 *Submission* 212, p.2 (SVDP – Riverwood Conference).

3 *Submission* 91, p.2 (Ms Romeril).

9.4 WACOSS stated that in the past 12 months emergency relief agencies in Western Australia have paid approximately \$1.34 million to utility service providers to prevent disconnection or restriction of supply to low income and disadvantaged customers.⁴ The escalating nature of this issue was exemplified in one submission that noted that in Victoria in the 1980s, electricity disconnections averaged 0.7 households per thousand domestic customers each month. The rate of domestic disconnections increased in the late 1980s when Competition Policy was introduced. By 1994, the disconnection rate had doubled to 1.6 households disconnected per month per thousand domestic customers. Later data show that in Victoria there was a 30 per cent increase in electricity disconnections for residential household customers in 2001 compared with the previous year.⁵

9.5 The need for a national approach to ensuring that low income households have guaranteed access to essential utilities has been argued for some time. Consumer advocates have pushed unsuccessfully for many years for mandatory hardship provisions which would require utilities to reduce or waive debt for people who are unable to pay their bills for reasons outside their control. It was indicated in one submission that, to date, no company provides a satisfactory system to meet the needs of people in hardship.⁶ In Victoria there is an agreement that the utilities will not disconnect for debts of under \$100, however it was claimed 'that is kept a dark secret, for fear that low income households will exploit that knowledge...what it does mean is that the utilities can trick households into thinking that, even for debts of under \$100, they can lose access to this essential service'.⁷ It was noted that, as a public service, the former publicly owned Victorian State Electricity Commission had a policy of not disconnecting customers who were genuinely unable to pay their electricity bills.⁸

9.6 Evidence also indicated that advice needs to be provided via home energy advisory services and/or utility companies to assist low income households in relation to energy efficiency. One witness commented that one of the water companies in Victoria operates a particularly effective program for its low-income customers –'it is a combination of assisting them to identify ways of reducing water consumption while negotiating regular payments that are affordable to the household....They are keeping good relationships with the customers, getting the maximum payment from those

4 *Committee Hansard* 28.7.03, p.1028 (WACOSS). WACOSS has just completed a report *Would you like some heat with your trickle of water?* About the cost of utility services and the nature and impact of those costs on emergency relief agencies and their clients.

5 *Submission* 91, pp.2-4 (Ms Romeril).

6 *Submission* 91, p.4 (Ms Romeril).

7 *Committee Hansard* 1.5.03, p.194 (Ms Romeril).

8 *Submission* 91, pp.2-6 (Ms Romeril). See also *Committee Hansard* 1.5.03, p.198-99 (Ms Romeril).

households and assisting the households to keep their consumption at an affordable level'.⁹

9.7 Submissions noted that the energy concessions provided by State Governments often exclude some categories of people on low incomes. NCOSS advised that in NSW the State Government provides energy concession rebates of \$112 per year but this is limited to people who hold a Centrelink or DVA Pensioner Concession Card; receive a DVA Disability Pension; and whose electricity account at their principal place of residence is in their name or jointly in their name. NCOSS stated that these criteria exclude some people on low incomes from receiving the rebate, such as unemployed people, students, sickness beneficiaries and people unable to have an electricity account in their name because of the nature of their housing, such as caravan park and boarding house residents.¹⁰

Recommendation 33

9.8 That public and private utilities have in place hardship provisions that provide for the reduction or waiver of debt to ensure that customers genuinely unable to pay for the provision of utilities retain access to these essential services.

Consumer credit regulation

9.9 Concerns were expressed during the inquiry at the lending practices of some credit providers and the problems caused by the easy availability of credit, especially as it impacts on low income households. One witness noted that:

The financial cost to individuals who use credit, payday lenders or sell or pawn their belongings in order to survive is excessive and again highlights the inequalities in this society that allows the financially vulnerable to be exploited.¹¹

9.10 The Australian Consumers' Association (ACA) articulated this concern:

...we have become increasingly alarmed at levels of debt among Australian households. While that is certainly spread across all income levels and encompasses a variety of sources of credit – not just credit cards but personal loans and, of course, mortgages – we are particularly concerned about the impact on low-income households who have quite high debt to income ratios and their capacity to manage that debt, particularly in the case

9 *Committee Hansard* 1.5.03, p.197 (Ms Romeril). See also *Submission* 212, p.2 (SVDP – Riverwood Conference).

10 *Submission* 143, p.4 (NCOSS).

11 *Committee Hansard* 1.5.03, p.147 (Knox City Council).

of illness or other unexpected life events such as unemployment, and to maintain their capacity to stay out of bankruptcy in particular.¹²

9.11 The ACA stated that, based on numerous studies, it was single parents, renters and others on low incomes that experienced the most difficulties in managing credit card debt. The ACA noted that not only are increasing numbers of these people presenting to financial counsellors with problems arising out of credit card use and other inappropriate levels of lending by financial institutions, but it is also exacerbating the degree to which they can be caught in a poverty cycle through debt traps.

Not only are these people going through the stress of being in a situation of being overcommitted when it comes to their debt levels and their credit card use, but they then become targets for refinancing and the churning that goes on by a variety of agencies wishing to charge them fees to put them into other credit products and further exacerbate the extent to which they are caught in that debt trap.¹³

9.12 Another emerging problem is the increasing debt levels of young people through the use of mobile phones. One financial counselling service noted that many of its younger clients have multiple mobile phone contracts, and they have no understanding of the real costs, the cancellation fees or the consequences of non-payment of these arrangements.¹⁴

9.13 Regulation of most personal credit is covered by the provisions of the Consumer Credit Code which is a set of uniform acts and regulations passed by all the States and Territories. The legislative structure is based on a template scheme. All States have passed enabling legislation which adopts the template legislation and applies it in the particular State or Territory. Any amendments to the Code or Regulations only need to be made to the template legislation; they will then automatically apply in other States without amendment to the States' Enabling Acts.

9.14 The Code covers most types of personal loans and credit arrangements from banks and other financial institutions but does not cover loans for business or investments. It stipulates what sort of information should be disclosed in loan contracts and provides procedures for defaults. States are able to pass legislation on related matters or matters not contained in the Code but cannot pass legislation which conflicts with the Code. Under the Australian Uniform Consumer Credit Laws Agreement 1993 (AUCLA) the Ministerial Council for Uniform Credit Laws has to

12 *Committee Hansard* 20.6.03, pp.735-36 (ACA). See also *Submissions* 182, p.7 (CFA); 99, p.2 (FCRC).

13 *Committee Hansard* 20.6.03, p.736 (ACA).

14 *Committee Hansard* 1.7.03, p.822 (Lismore Financial Counselling Service).

agree to amendments to the Code by a two-thirds majority. All States are required by the AUCLA not to introduce legislation which conflicts with or negates the Code.¹⁵

9.15 The Code does not set maximum annual interest rates. States and Territories are free to set their own rates. In Victoria, for example, the *Consumer Credit (Victoria) Act 1995*, stipulates that the annual interest rate should not exceed 48 per cent for most matters and 30 per cent for mortgages.

9.16 A number of issues were raised relating to consumer credit availability and practices including:

- the availability of credit;
- loan defaults;
- fringe credit providers;
- pawnbrokers;
- the need for more consumer education; and
- the need for more funding of financial counselling services.

Availability of credit

9.17 Evidence indicated that credit from a variety of different sources is too readily available and that many people on low incomes are overcommitted and are at risk of default on their loans.¹⁶ The ACA noted that:

While we see a very rapid rise in levels of credit card spending and credit card indebtedness among [low income] households, we are very concerned that those people are least able to manage what is often very high cost credit. It is the experience of caseworkers and also more detailed analysis of outstanding levels of debt that show it is particularly low-income households who are most at risk of default and of overcommitment when it comes to their credit card usage.¹⁷

9.18 While the Consumer Credit Code requires an initial credit assessment to be conducted it is silent in relation to any subsequent increases in credit limits. Witnesses argued that the onus should be on credit providers to do adequate credit checks, with

15 www.creditcode.gov.au

16 *Submissions* 217, p.1 (Lifeline – Northern Rivers); 99, p.2 (FCRC).

17 *Committee Hansard* 20.6.03, p.736 (ACA).

one witness asserting 'they are fast enough to chase people when they do not pay; they should be put in the situation of checking'.¹⁸

9.19 The ACA stated that there is a need to extend nationally the legislation currently in operation in the ACT concerning assessment of capacity to repay – 'to ensure that when people are granted additional credit it is actually done with reference to their income levels and what other levels of debt they might already have'.¹⁹

9.20 The ACT's *Fair Trading Amendment Act 2002* requires ACT lending institutions to undertake a satisfactory assessment of a borrower's capacity to repay an amount of credit on offer. This has meant that the execution of a satisfactory assessment process has become an integral part of the lending process. A credit provider who fails to comply with these requirements may be subject to criminal penalty provisions under the Act. The Act states that:

- a credit provider must not enter into a continuing credit contract for a credit card unless the credit provider has carried out a satisfactory assessment process; and
- a credit provider must not increase the amount of credit available under a continuing credit card contract unless the debtor has requested the increase in writing, or the credit provider has offered the debtor the increase and the debtor has accepted the offer in writing; and the credit provider has carried out a satisfactory assessment process.

Recommendation 34

9.21 That all States and Territories require credit providers to undertake a satisfactory assessment process prior to an increase in the credit limit available to a client to determine that person's creditworthiness.

Loan defaults and debt recovery

9.22 Concerns were raised regarding the debt recovery practices of some debt collection agencies.

9.23 Loan default procedures are addressed under the Consumer Credit Code. When a default in payment occurs, the credit provider will usually have to serve a default notice before they commence enforcement proceedings. This default notice will give 30 days to allow the debtor to meet the payments, seek further advice or apply to the credit provider for a change to the contract on the grounds of hardship. Before a credit provider or lessor can repossess goods, they have to give 30 days notice and, in some circumstances, obtain a court order.

18 *Committee Hansard* 1.7.03, p.819 (Lismore Financial Counselling Service).

19 *Committee Hansard* 20.6.03, p.736 (ACA).

9.24 Evidence to the inquiry indicated that there is an increasing trend for debt collectors to use intimidation and fear tactics and to make threats to clients that have no legal basis.²⁰ One witness noted that 'scare tactics are the order of the day, not resolution. If a debtor makes a realistic offer, based on their budget, to pay back a debt, they are routinely rejected'.²¹

9.25 The outsourcing of debt collection was also cited as exacerbating the problem by removing the link between the granting of the credit and the collection of the debt. The outsourced debt collectors, it was argued, are less responsive to the needs of clients and the lending agencies are removed from the need to seek solutions when their customers have problems meeting repayments.²² One witness also argued that many debt collectors have little understanding of the law governing debt collection or bankruptcy.²³ Submissions argued that there is a need for stricter rules and monitoring of debt collectors to ensure compliance with the code of practice.²⁴

Fringe credit providers

9.26 Evidence drew attention to increasing problems associated with the insufficient regulation of fringe credit providers, especially payday lenders. Payday lenders offer short term loans of relatively small amounts of money to be repaid on the borrower's next payday.

9.27 There are various credit products available in the fringe credit providers market such as payday loans, cash advances, short term loans and micro-loans. These products generally have the following characteristics:

- money is lent for any purpose, including purposes where traditional lending is typically not available;
- money is typically lent in exchange for a fixed fee rather than charging an annual interest rate;
- some credit providers require security for loans, including bills of sale over motor vehicles or goods (including essential household goods) – others offer unsecured loans;
- the ease and speed with which money can be obtained is promoted;

20 *Submission* 113, p.5 (FCAN); *Committee Hansard*, 27.5.03, p.413 (FCAN).

21 *Committee Hansard* 1.7.03, p.820 (Lismore Financial Counselling Service).

22 *Submission* 222, p.2 (Lismore Financial Counselling Service); *Committee Hansard* 1.7.03, pp.819-20 (Lismore Financial Counselling Service).

23 *Committee Hansard* 1.7.03, p.820 (Lismore Financial Counselling Service).

24 *Submission* 222, p.3 (Lismore Financial Counselling Service).

- money is lent to consumers who have a regular source of income, which includes social security payments;
- loans are for a short term ranging from one week to several months; and
- the most common method of repayment is via a direct debit authority.²⁵

9.28 Fringe credit providers often charge excessively high rates of interest on short term loans (often in excess of 200 or 300 per cent per annum and in some cases higher). One witness noted that 'the worst part of some of those payday lending products is that they apply interest rates of between 200 and 2,000 per cent'.²⁶ These organisations also appear to often target poorer members of the community in need of ready cash to address a debt situation.²⁷ The problems associated with this form of credit were described in evidence:

'Pay Day' lenders are now preying on the weakest in our communities. High interest (some up to 240 %) secured over vehicles or household furniture further impacts on their already dire circumstances....They advertise as being able to help anyone, whatever their circumstances, and this appeals to desperate people needing a quick fix.²⁸

People who cannot access credit are now using payday lenders to get advances on their incomes. They then are unable to repay this and they are sometimes charged up to 897 per cent interest on those particular debts.²⁹

9.29 Evidence also pointed to other fringe lending operations, often franchise organisations providing relatively small loans of up to \$2000 and charging very high interest rates.³⁰ Other evidence pointed to some organisations attempting to circumvent the laws in one State by operating in another.³¹

9.30 In 2001 the Consumer Credit Code was amended to cover fringe credit providers who were previously exempt from its provisions. The Code now requires that

25 Standing Committee of Officials on Consumer Affairs, *Fringe Credit Providers: Discussion Paper*, August 2003, pp.5-6.

26 *Committee Hansard* 20.6.03, p.738 (CFA).

27 *Committee Hansard* 1.7.03, pp.820-22 (Lismore Financial Counselling Service); 20.6.03, p.738 (CFA).

28 *Submission 222*, p.2 (Lismore Financial Counselling Service).

29 *Committee Hansard* 1.5.03, p.137 (Knox City Council).

30 *Committee Hansard* 1.7.03, pp.821-24 (Lismore Financial Counselling Service); 27.5.03, p.414 (FCAN).

31 *Committee Hansard* 1.7.03, p.836 (Lifeline Northern Rivers).

contracts be in writing and that fees and charges be disclosed. The Code also provides borrowers with the legal capacity to challenge harsh and unfair contracts.³²

9.31 However, a number of continuing concerns with fringe credit providers were raised with the Committee, including:

- borrowers' difficulties in determining the true cost of credit loans;
- the imposition of fees that translate to exorbitant rates of interest;
- fringe credit providers taking security over essential household items;
- fringe credit providers use of direct debit authorities; and
- fringe credit providers attempting to circumvent the application of the Code.

9.32 Many consumers have problems in establishing the 'real cost' of loans provided by fringe credit providers. The Code requires interest to be disclosed as an annual percentage rate (APR). This allows consumers to make comparisons between credit providers and to better understand the cost of credit. However, in the fringe credit market, a number of fringe credit providers do not charge borrowers an APR but a flat fee or sometimes a monthly interest rate. For example, a typical payday loan of \$200 over 2 weeks which attracts a 'fee' of \$40 translates to an APR of 522 per cent. A study prepared for the Ministerial Council on Consumer Affairs in August 2003 noted that there is 'uncertainty' surrounding whether or not fringe credit providers who impose a *flat fee only* are required to disclose an APR under the Code.³³

9.33 This study proposed that extra disclosure requirements should be imposed for 'high cost' loans provided by fringe credit providers. These loans would require credit providers:

- to state the comparison rate in the high cost loan offer. A comparison rate is a method of calculating the total cost of a loan, including interest and all fees and charges, to a single percentage rate. This would allow consumers to compare the overall cost of the loan with other loan products in the market.
- to disclose a statutory warning before the contract is signed which would warn consumers that the particular loan is an expensive form of credit.³⁴

32 Credit Providers Discussion Paper, p.10.

33 Credit Providers Discussion Paper, pp.11, 19-20.

34 Credit Providers Discussion Paper, pp.29-30.

9.34 Another concern is the imposition of fees charged for fringe credit loans which can range upwards of 200 per cent per annum. This is a problem in those jurisdictions which do not have an interest rate cap. Currently only three jurisdictions have implemented interest rate caps. In NSW and the ACT the maximum APR that can be charged by a credit provider is 48 per cent. In Victoria, the maximum APR for a mortgage relating to a credit contract is 30 per cent, and for all other credit contracts it is 48 per cent. Interest rate caps are not covered by the AUCLA on which the Code is based.³⁵

9.35 The study for the Ministerial Council stated that one way to address the problem of the imposition of fees that translate to exorbitant rates of interest is for jurisdictions to implement an interest rate cap. The study noted that if a cap is to be introduced, fees and charges need to be included in the calculation of the cap. This would prevent rogue fringe credit providers from reducing interest rates and increasing fees and charges to get around the interest rate cap.³⁶

9.36 An additional concern raised is the practice of some fringe credit providers that are taking bills of sale over essential household goods. Bills of sale of this nature have been described as 'blackmail securities' as the goods required as security are often worth very little and are only taken as security to ensure payment by the borrower through fear of losing their most basic and essential household possessions. One witness argued that there should be a prohibition on bills of sale over household goods.³⁷ The prohibition would remove the threat of repossession of essential household goods.

9.37 Another problem raised is the use of direct debit authorities by fringe credit providers. Some credit providers repeatedly access bank accounts even when there are insufficient funds available in the account. As a result, fees and charges are imposed on the borrower by the bank. Other concerns raised are that fringe credit providers often access borrowers' accounts as soon as their wage or pension is deposited into the bank account. This may leave insufficient funds to pay for the necessities of life, such as food or rent.³⁸

9.38 The study for the Ministerial Council argued that if a consumer signs a direct debit authority, the credit provider should be required to disclose the following in writing to the consumer:

35 Credit Providers Discussion Paper, pp.12, 18.

36 Credit Providers Discussion Paper, pp.12, 43. See also *Committee Hansard* 20.6.03, p.738 (CFA).

37 *Committee Hansard* 1.7.03, p.822 ((Lismore Financial Counselling Service). See also Credit Providers Discussion Paper, pp.25-28.

38 Credit Providers Discussion Paper, pp.13, 20.

- the consumer can cancel a direct debit authority at any time by contacting their bank;
- the consumer can lodge a complaint with their bank if there has been an unauthorised debit; and
- the consumer can contact the Australian Banking Industry Ombudsman for assistance in resolving complaints regarding unauthorised debits.³⁹

9.39 A further emerging problem is that some fringe credit providers are attempting to avoid the application of the Code by setting up the credit transaction as a quasi-pawnbroking arrangement or broker arrangement.⁴⁰ The study for the Ministerial Council argued that the Code should be amended to prevent fringe credit providers from circumventing the Code in this manner.⁴¹

Recommendation 35

9.40 That the Consumer Credit Code be amended:

- **to impose additional requirements for high cost loans provided by fringe credit providers, relating to:**
 - **disclosure of the comparison rate (the total cost of the loan, including interest and all fees and charges to a single percentage rate) on the loan offer;**
 - **disclosure of a statutory warning on the loan offer that the particular loan is an expensive form of credit; and**
 - **disclosure of information regarding the cancellation of direct debit authorities and avenues for complaints on the loan offer.**
- **to clarify that all credit providers must disclose an annual percentage rate (APR).**
- **to prohibit the taking of security over essential household goods.**
- **to prevent fringe credit providers from circumventing the application of the Code by setting up the credit transaction as a pawnbroking or broker arrangement.**

39 Credit Providers Discussion Paper, p.30.

40 *Committee Hansard* 1.7.03, pp.824-826 (Lismore Financial Counselling Service).

41 Credit Providers Discussion Paper, p.38.

Pawnbrokers

9.41 Concerns were also raised in relation to the operation of pawnbrokers and the high interest rates often charged. The Financial Counsellors Association of NSW (FCAN) stated that:

...they do charge quite large interest rates – something like 25 per cent a month...Quite often people cannot manage that interest either and they end up signing over those goods to the pawnbroker. Except for legislation changes, I do not know what would be possible to stop that happening.⁴²

9.42 One witness noted that people struggling to 'make ends meet' and other people, such as those with a gambling problem, often use pawnbrokers.⁴³ Cash Converters, which operates through a series of franchised shops and offers both pawnbroking facilities and trading in second hand goods was also referred to as a source of ready cash for many low income people.⁴⁴

9.43 Pawnbrokers are not generally regulated by the Consumer Credit Code, except for unjust transactions. Pawnbrokers (those who advance money on the security of pledged goods) and traders in second hand goods are regulated by separate State and Territory legislation. Pawnbrokers are seen primarily as dealers in second hand goods rather than credit providers and some jurisdictions combine the regulation of pawnbrokers and second hand dealers into the one Act. For example, in Victoria they must be registered and abide by the provisions of the *Second-Hand Dealers and Pawnbrokers Act 1989* and the *Second-Hand Dealers and Pawnbrokers Regulations 1997*. Some brokers are members of the Pawnbrokers Guild of Australasia, a self regulating industry body.

Recommendation 36

9.44 That a Ministerial Council on Pawnbroking be established to review the adequacy of existing regulation of the industry.

Consumer education

9.45 Evidence pointed to the need for more community education programs, starting in schools, to be available to focus on educating people generally in understanding credit contracts; understanding their rights as consumers of banking and finance products; and providing the means for people to take control of their spending. FCAN noted that:

42 *Committee Hansard* 27.5.03, p.412 ((FCAN).

43 *Committee Hansard* 27.5.03, p.412 (FCAN).

44 *Committee Hansard* 1.5.03, p.137 (Knox City Council).

When we go out and do education for community groups, people do not understand how credit is charged. They do not understand the debt recovery process. They do not understand that a signature binds them to a contract. These are the things that are really important about financial literacy for people. It should start in schools.⁴⁵

9.46 People from low SES backgrounds or with a low standard of education are particularly vulnerable and often have 'no idea' what a contract entails – 'they just want the money. They have no ability to understand the contract'.⁴⁶

9.47 Witnesses argued that more information should be provided by credit providers to allow borrowers to make informed choices when purchasing credit. Clear, 'plain English' information on the contract to be entered into needs to be given to the purchaser by the credit provider before a contract is signed.

Our clients know nothing about their rights. Day after day and week after week we have to go through the very basics of the law on debt recovery. This means that disenfranchised people in poverty are easy prey to pressure, scare tactics and undue harassment...[These people] do not have a clue what their rights are. The credit providers damn well know that and exploit that to the maximum.

Committee Hansard 1.7.03, p.820 (Lismore Financial Counselling Service).

Recommendation 37

9.48 That State and Territory Governments fund more community education programs in relation to credit and credit-related matters.

Recommendation 38

9.49 That credit providers be required to provide clear, 'plain English' information on credit products to potential clients.

Funding of financial counselling services

9.50 Groups argued that there needs to be increased funding for financial counselling services to enable them to provide for the high level of unmet need that currently exists in the community.⁴⁷ One financial counselling service noted that in the first half

45 *Committee Hansard 27.5.03, p.410 (FCAN).*

46 *Committee Hansard 1.7.03, p.823 (Lismore Financial Counselling Service).*

47 *Committee Hansard 27.5.03, p.415 (FCAN).*

of 2003 they experienced a 30 per cent increase in the number of people approaching the service experiencing severe financial stress.⁴⁸

9.51 Financial counselling is a very cost effective way to alleviate financial crises and to deliver strategies to allow people in poverty to address their financial problems. FCAN noted that a recent cost-benefit analysis of financial counselling services found that the ratio of benefits to costs for the community generally was 2:1 – every \$1 provided for these services yielded \$2 in benefits in terms of costs of bankruptcy avoided; reduced debt recovery costs; reduced demand for social security benefits; reduced absenteeism; and reduced illness and related Medicare costs.⁴⁹

Recommendation 39

9.52 That Commonwealth and State and Territory Governments increase funding to financial counselling services.

Conclusion

9.53 Evidence to the inquiry raised concerns in relation to the easy availability of credit and the lending practices of some credit providers and the adverse financial impact this has had on low income households in particular.

9.54 The Committee believes that there needs to be greater regulation of credit providers to minimise the 'debt traps' often faced by low income people; improved consumer education on issues related to credit; and additional funding for financial counselling services so that these services can expand their important work in delivering strategies to allow people in poverty to address their financial difficulties. The Committee believes that the recommendations it has made will address the concerns expressed during the inquiry caused by the easy availability of credit and the lack of effective regulation in this area.

Gambling

9.55 Gambling, and especially problem gambling, was identified during the inquiry as a significant problem for many people on low incomes and a contributor to the incidence of poverty amongst this group. While gambling in Australia takes many forms, the primary focus of evidence to the Committee related to the proliferation of poker machines in casinos, clubs and hotels.⁵⁰

48 *Committee Hansard* 1.7.03, p.816 (Lismore Financial Counselling Service).

49 Study cited in *Submission* 113, p.7 (FCAN).

50 *Committee Hansard* 2.5.03, p.228 (Salvation Army); pp.273-76 (Mr Booth MHA); 29.4.03, p.62 (SACOSS).

9.56 Submissions emphasised the many negative impacts of gambling on the individual concerned, their family and friends and the wider community, including relationship breakdowns, problems at work, bankruptcy, violence, crime, depression and even suicide.⁵¹ Evidence to the Committee argued that problem gambling is often a reflection of other underlying financial, social or personal problems for the individual involved.

You find that gambling, like any addiction, is usually secondary to the initial problem. When you look at poverty, you look at family breakdown and at unemployment. So you look at all these other triggers of which gambling is just one of the symptoms.⁵²

9.57 Social reasons such as the need to combat loneliness also play a part. One witness stated that :

...gambling is there but all it is doing is putting people further into debt – it is not making them poor; they are already poor. They are poor people reaching out for some joy in their life – a quick fix – and gambling is just one of the many that happen to be there.⁵³

9.58 A Productivity Commission report into gambling estimated that there are over 290 000 people or 2.1 per cent of Australian adults that can be classified as 'problem gamblers'. This number comprises 130 000 Australians (about one per cent of the adult population) with 'severe' problems with their gambling and a further 160 000 adults estimated to have 'moderate' gambling problems. Problem gamblers comprise 15 per cent of regular (non-lottery) gamblers and account for \$3.5 billion in expenditure annually – about one-third of the gambling industries' market. They lose on average \$12000 each per year, compared with just under \$650 for other gamblers. The Productivity Commission report found that the prevalence of problem gambling is related to the degree of accessibility of gambling, especially gaming machines. It argued that policy approaches to the gambling industries need to be directed at reducing the costs of problem gambling – through harm minimisation and prevention measures – while retaining as much of the benefit to recreational gamblers as possible.⁵⁴

9.59 Some evidence to this inquiry also suggested that while gambling is a problem for some people, the gaming venues such as clubs and hotels, provide a useful social

51 See, for example, *Committee Hansard* 2.5.03, pp.275-76 (Mr Booth MHA); *Submissions* 190, Appendix 1 (Mr Booth MHA); 110, pp.62-64 (Darebin City Council).

52 *Committee Hansard* 1.5.03, p.171 (Laverton Community Centre).

53 *Committee Hansard* 1.7.03, p.861 (SVDP – Lismore). See also *Committee Hansard* 2.5.03, p.234 (Tasmanian Poverty Coalition); *Submission* 110, pp.62-63 (Darebin City Council).

54 Productivity Commission, *Australia's Gambling Industries*, 1999, pp.2-3.

outlet for many people on low incomes who cannot afford other forms of entertainment.⁵⁵

9.60 Submissions pointed out the disturbing trend of the reliance of State Governments on gaming revenues. The Productivity Commission noted that gambling taxation revenue nearly doubled over the last 10 years and accounted for just under 12 per cent of State and Territory governments' own-tax revenue in 1997-98, ranging from 5.7 per cent in Western Australia to 15.2 per cent in Victoria.⁵⁶ In Tasmania alone, State Government revenue from gaming was \$29 million in 1997-98, \$46 million in 2000-01 and \$40 million in 2001-02.⁵⁷ Submissions noted that gambling taxation is a regressive form of tax, with lower income groups generally spending proportionately more on gambling – and thus shouldering more of the burden of this tax impost.⁵⁸

Response to problem gambling by increased State regulation

9.61 In response to growing community concern about the social impact of gambling some States have introduced increasing legislative controls in recent years. The notion of 'responsible gambling' – the provision of gambling services in a way that seeks to minimise harm to customers and the community associated with gambling – has been imported into legislation and industry codes of practice.⁵⁹ In New South Wales, Victoria, Queensland and the ACT legislation has been introduced to implement responsible gambling programs. However, responsible gambling in South Australia, Western Australia, Tasmania and the Northern Territory continues to be dealt with through self-regulatory codes of practice.⁶⁰

9.62 The States have adopted varying approaches to gambling regulation. NSW has adopted a 'whole of industry' approach, with legislative amendments for all forms of gambling in that State. The *Gambling Legislation Amendment (Responsible Gambling) Act 1999* enables the Minister for Gaming and Racing to make regulations on responsible gambling. These regulations can be made with respect to the adoption

55 *Committee Hansard* pp.171-73 (Chelsea Neighbourhood House).

56 Productivity Commission, pp. 9, 52.

57 *Submission* 190, Appendix 2 (Mr Booth MHA).

58 *Submission* 166, p.27 (Salvation Army).

59 For an outline of measures introduced at Commonwealth and State levels since the Productivity Commission report to address problem gambling, see Minister for Family and Community Services, Senator Vanstone, answer to Question on Notice no.1484, *Senate Hansard*, 11.8.03, pp. 13068-071.

60 Legislation passed in these jurisdictions also provides for some degree of industry self-regulation. See McMillen J & McAllister G, 'Responsible gambling: legal and policy issues', Paper presented at the 3rd National Gambling Regulation Conference, May 2000, p.8.

of responsible practices in the conduct of gambling; the standards to be observed for the purpose of preventing the misuse and abuse of gambling activities; and prohibiting specified inducements that encourage the misuse and abuse of gambling activities.

9.63 The gaming machine regulations include detailed provisions on the provision of player information, including the chances of winning prizes; the cashing of cheques; the payment of winnings by cheque; cash dispensing facilities; advertising; gambling promotions; and the display of information about problem gambling support services. The Government also introduced a requirement for a social impact assessment to be prepared where clubs or hotels apply to increase the number of gaming machines they can operate.⁶¹ In 2001, the NSW Government announced caps on the total number of gaming machines in NSW and a cap on the number of machines in each club venue, while maintaining the current limit on gaming machines in hotels. A number of harm minimisation measures were also announced including a ban on 24 hour-a-day gaming with gaming machine operations in clubs and hotels to be closed down for 6 hours each day; a ban on off-premises gaming machine-related advertising by clubs, hotels and the Casino; a ban on the advertising, signage and other material which may be seen from the outside of clubs and hotels and a requirement that the Casino and all clubs operating gaming machines establish formal links with one or more problem gambling counselling services.⁶²

9.64 In Victoria, the *Gambling Legislation (Responsible Gambling) Act 2000* restricts the number of gaming machines at the Melbourne Casino to 2500 – while retaining the State 'cap' of 30 000 machines; allows for the imposition of regional limits on gaming machines in areas considered vulnerable to problem gambling; prohibits 24-hour gaming venues in rural and regional areas (in metropolitan areas, venues can apply for a 24-hour licence on certain conditions); provides for a mechanism for local councils to have input into the placement of gaming machines in their area; and gives the Government power to make regulations with respect to the provision of relevant information about gaming to the players of gaming machines; and the advertising of gaming.⁶³

9.65 The principal harm minimisation measures that have been introduced are detailed below.

- smoking is banned in gaming machine areas in gaming venues;
- the provision of player information on the odds of winning is to be provided; and a reduction in gaming machine spin rates below current levels is prohibited;

61 McMillen & McAllister, pp.8-9.

62 NSW Government, 'Gaming Reform', *Media Release*, 26.7.01.

63 McMillen & McAllister, p.11.

- gaming venues must be adequately lit and all gaming machines must have the time of day displayed;
- limits apply on access to cash from ATMs and EFTPOS facilities; cash withdrawals are prohibited from credit accounts from ATMs and EFTPOS facilities; \$100 note acceptors are banned on gaming machines; loyalty card schemes are subject to tighter controls;
- all venues, except those approved for 24-hour trading, are required to shut down for a minimum of four hours;
- restrictions on advertising apply – including a ban on inappropriate advertising relating to the playing of gaming machines and a ban on advertising that glamorises gambling; promotes gambling as a strategy to improve a person's social status or financial position; or offers inducements to start gambling on gaming machines.⁶⁴

9.66 Witnesses commented favourably on recent Victorian Government initiatives, especially the smoking ban which it was argued would have a significant positive effect.⁶⁵ Darebin City Council stated, however, that the issue of trading hours remains a problem with local government unable to restrict trading hours for hotels and clubs in Victoria. The Council noted that 'we have a venue directly opposite the council that operates 24 hours a day, and we know a lot of people in our area will end up there on a winter night for the free coffee, which is still being provided, even though they have to smoke outside now'.⁶⁶

9.67 South Australia recently introduced strict new Gambling Codes of Practice, to be implemented early in 2004, to address problem gambling. The Codes will require gambling venues to show the time of day in all gambling areas; display a warning message in the form of a Helpline sticker on each machine, on gaming tables and on ATMs; display responsible gambling information in English and five other languages; prohibit the serving of alcohol to patrons at gaming machines; ensure all staff receive training to help them identify problem gamblers and on intervention techniques; and introduces advertising restrictions.⁶⁷

9.68 The deleterious effect of the widespread availability of gaming machines in hotels and clubs and the lack of effective regulatory controls in some States were commented on during the inquiry. In the case of Tasmania, Mr Booth MHA

64 Gambling Research Panel, *Harm Minimisation Policies in Victoria*, n.d., pp.1-8.

65 *Committee Hansard* 1.5.03, pp.134-45 (Darebin City Council).

66 *Committee Hansard* 1.5.03, p.147 (Darebin City Council).

67 SA Minister for Gambling, 'Tough new gambling codes of practice for SA', *News Release*, 7.12.03.

commented that 'poverty will not be overcome whilst the community is exposed to the current level of readily accessible gaming machines'.⁶⁸ Anglicare Tasmania also commented that Tasmania:

...has all the worst practices that you see on the mainland, so we have buses running from disadvantaged areas to the casino on payday, free tea and coffee and child care provided, movies with children and those practices. We have no betting limits on our machines and we have a monopoly by Federal Hotels to provide all the machines...the community has consistently indicated in surveys that they want no more gambling machines.⁶⁹

9.69 A number of possible approaches were referred to during the inquiry to address the problem of gambling, especially in relation to gaming machines. These included:

- the banning of gaming machines in hotels, clubs and other venues;
- a moratorium on further increases in gaming machines in hotels and clubs and a moratorium on further licensed premises being granted gaming licenses;
- various harm minimisation measures, such as restrictions on trading hours and improved information to gamblers, including the chances of winning prizes, as outlined above;
- a ban on gambling advertising or limits placed on the promotion and advertising of gambling;
- social and economic impact studies on the immediate and long-term effects of any proposed expansion of gaming machines; and
- a review of the adequacy of current funding and services for problem gamblers and their families.⁷⁰

9.70 The need for a national approach to gambling with the Commonwealth taking a leadership role in co-operation with the States, especially in light of the varied approaches adopted by the States in relation to the regulation of gambling, was argued in evidence.⁷¹ The Salvation Army noted that the Commonwealth had taken a positive

68 *Submission* 190, p.6 (Mr Booth MHA). See also *Committee Hansard* 2.5.03, pp.273-76 (Mr Booth MHA).

69 *Committee Hansard* 2.5.03, p.235 (Anglicare Tasmania). See also *Committee Hansard* 2.5.03, pp.234-35 (Tasmanian Poverty Coalition/Tasmanian Catholic Justice & Peace Commission).

70 *Submissions* 190, Appendix 1 (Mr Booth MHA); 110, p.64 (Darebin City Council); 166, pp.27-28 (Salvation Army).

71 *Committee Hansard* 29.4.03, p.62 (SACOSS).

leadership role in relation to the Partnerships Against Domestic Violence initiative and suggested that a similar approach would be useful in response to gambling and its impact on individuals, families and the community.⁷²

Conclusion

9.71 The Committee is concerned that gambling, and especially problem gambling, is having an adverse impact on the lives of many Australians and is impacting on the incidence of poverty and hardship in the community. The Committee recognises that gambling provides a useful social outlet for many people unable to afford other forms of entertainment and its concern is primarily focused on problem gamblers.

9.72 The Committee considers that there needs to be a national approach to problem gambling that addresses current deficiencies in the various State regulatory regimes without interfering in the legitimate rights of recreational gamblers to participate in this form of social activity. The Committee notes that at a recent meeting of the Ministerial Council on Gambling the Commonwealth and the States supported the development of a 'national framework' on problem gambling and requested officials to develop a structure for the framework by April 2004, with a view to it being endorsed by Ministers at the next meeting of the Council in 2004.⁷³

9.73 The Committee acknowledges the positive role played by the Commonwealth in the Ministerial Council and notes the future commitment stated by the Prime Minister in correspondence to the President of the Senate that 'while state and territory governments have primary responsibility for this issue, I remain committed to the Australian Government providing strong national leadership in combating problem gambling'.⁷⁴

Recommendation 40

9.74 That the Commonwealth Government, in co-operation with State Governments through the Ministerial Council on Gambling, continue the development of a national approach to problem gambling, and that this approach examine:

- **the adequacy of current regulatory mechanisms;**
- **the need for further harm minimisation and prevention measures; and**
- **the adequacy of support services for problem gamblers and their families.**

72 *Submission 166*, p.28 (Salvation Army).

73 Ministerial Council on Gambling, *Joint Communique*, 21.11.03.

74 Prime Minister to President of the Senate, dated 6.11.03, in response to a resolution of the Senate of 8.10.03. Letter tabled in Senate on 10.2.04.