

Chapter 6

How effective are industry measures?

6.1 A public health approach encourages the involvement of industry as it is seen as having a responsibility to protect its patrons from the harmful consequences of problem gambling.¹

6.2 As indicated in earlier chapters, the committee heard of the need for more balance regarding the causes of problem gambling. This would involve the current emphasis on the need for the individual to act responsibly, but also include the role and influence of the industry and gambling products on those who are more vulnerable. The committee acknowledges that clubs, hotels and casinos do undertake a number of measures to assist problem gamblers. These include staff training to identify problem gamblers and self-exclusion. However, the committee heard of the real limitations of these measures² and their focus on gamblers who have already developed a problem.

Lack of industry engagement in the inquiry

6.3 The committee received submissions from Clubs Australia, the Australian Hotels Association (AHA) and the Australasian Casino Association (ACA). With the current emphasis from Clubs Australia on being 'part of the solution'³ to address problem gambling, the committee was surprised and disappointed that they refused to attend a public hearing despite measures such as self-exclusion and staff training clearly falling within the committee's terms of reference. The committee was keen to discuss these measures with industry, beyond information provided in their submissions, so they could respond to the evidence from witnesses and to discuss what improvements might be possible. Unfortunately Clubs Australia and the AHA declined two requests to appear before the committee while the ACA suggested a site visit to Crown Casino to their Customer Support Centre to speak to their General

1 Dr Paul Delfabbro, Dr Alexandra Osborn, Dr Maurice Nevile, Dr Louise Skelt and Professor Jan McMillen, *Identifying problem gamblers in gambling venues*, Gambling Research Australia, 19 November 2007, pp 8–9.

2 Research has highlighted the significant limitations of responsible gambling codes, 'including: a lack of compliance by some venues, non-membership in peak bodies that co-ordinate the codes, and the absence of mandatory penalties for noncompliance'. See Dr Paul Delfabbro, Dr Alexandra Osborn, Dr Maurice Nevile, Dr Louise Skelt and Professor Jan McMillen, *Identifying problem gamblers in gambling venues*, Gambling Research Australia, 19 November 2007, p. 9.

3 On 15 June 2012, Clubs Australia announced a national campaign, Part of the Solution, to highlight the measures clubs have put in place to help problem gamblers. See Clubs Australia, 'Clubs launch TV and radio campaign: getting on with the job of gambling reform', *Media release*, 15 June 2012.

Manager, Responsible Gaming and their Responsible Gaming Psychologist. The committee notes that unlike a public hearing any such informal discussions would not have been on the public record and available to others.

Committee comment

6.4 The committee expressed its disappointment to each of these organisations for their refusal and/or reluctance to engage in a meaningful way with the inquiry, by discussion at public hearings. It would have provided industry with the opportunity to respond to the evidence received by the committee from witnesses, particularly in relation to staff training and self-exclusion. Therefore the committee can only outline the evidence received and is unable to include complete responses from industry obtained through discussion at a hearing. Given the emphasis, particularly by Clubs Australia, on helping problem gamblers the committee finds industry reluctance to further participate and discuss these areas in detail with the committee puzzling and worrying.

6.5 In order to provide the industry with an opportunity to respond to some of the evidence, the committee asked whether they would be willing to answer written questions on notice. They agreed to do so and a number of questions on notice outlining the evidence received were forwarded. A response was received from Clubs Australia in the timeframe requested. The Australian Hotels Association and the Australasian Casino Association requested additional time. The answers have been made available on the committee website.⁴

Greater attention on the dangers of the product

6.6 Witnesses argued that along with individuals taking responsibility, there needs to be greater responsibility taken by industry for the dangers of gambling products. The Productivity Commission (PC) recognised that some forms of gambling are riskier than others. It was very clear in recognising that electronic gaming machines (EGMs) are the riskiest form of gambling with the likelihood of harm rising steeply and continuously with the frequency of EGM gambling and expenditure levels.⁵ The committee's first report covered this aspect in detail.⁶ During that inquiry, Mr Alan Moss, Independent Gambling Authority (IGA) SA, told the committee that the IGA recognised the danger of EGMs for some people:

4 See Clubs Australia, answers to questions on notice, received 27 July 2012; Australasian Casino Association, answers to questions on notice, received 5 September 2012; and Australian Hotels Association, answers to questions on notice, received 17 September 2012.

5 Productivity Commission, *Gambling*, vol.1, Commonwealth of Australia, Canberra 2010, p. 4.24.

6 Parliamentary Joint Select Committee on Gambling Reform, First Report: The design and implementation of a mandatory pre-commitment system for electronic gaming machines, May 2011, chapter 3, pp 23–48.

We believe that electronic gaming machines are potentially dangerous products. In the hands of a large section of the population they do not cause any trouble, but there certainly is a cohort of EGM users who cannot handle the machines in a way which does not cause them harm. As with any potentially dangerous product, the authority believes it makes ethical and governmental sense to introduce some measures of regulation. We do it for cars, we do it for guns, we do it for food—anywhere there is potential for some harm, government generally sees it as being appropriate to regulate.⁷

6.7 During this inquiry the risk associated with regular use of EGMs was also highlighted. St Luke's Anglicare pointed out that in relation to poker machines:

Research about pokie design has uncovered how unsafe EGMs are, particularly for problem gamblers. Overseas initiatives in Scandinavia have seen EGMs redesigned to improve their safety. This includes eliminating "false" reward signals such as sounds and flashing lights that imply success, when in fact the gambler is losing. Free spins also induce gamblers to keep gambling. The recent cigarette packaging laws have set a precedent which demonstrates that government do have the ability and authority to make products safer for users. Other redesign suggestions include returning to coin only machines to reduce the ease of feeding large amounts of cash into EGMs.⁸

6.8 Dr Samantha Thomas, a public health sociologist from Monash University, emphasised the need for industry to take equal responsibility for the potential harms of their product:

At the most basic level there is nothing wrong with asking people to take responsibility for engaging with a product. However, some individuals may be more able to take 'responsibility' than others. Furthermore, it is important that industry takes equal responsibility for the potential 'harms' that their product may cause – particularly with vulnerable groups of individuals or communities.⁹

6.9 This was supported by Mr Tom Cummings, former poker machine addict and gambling reform advocate, who stated that 'responsibility has to work in every direction' including the individual. A greater onus of responsibility should be placed on the industry that offers these gambling products:

They [industry] are offering this product and providing it for people to use, so they need to have a responsibility to do so ethically and with a minimum of harm. I think there is also a legislative responsibility. Industry will do what they can within the rules that apply. So it is almost a three way street,

7 Inquiry into pre-commitment, *Committee Hansard*, 1 February 2011, p. 23.

8 St Luke's Anglicare, *Submission 13*, p. 5.

9 Dr Samantha Thomas, *Submission 52*, p. 3.

though I hate to say it that way. It is certainly something that needs to be looked at by all corners.¹⁰

Dynamic messages

6.10 During the inquiry the work on dynamic messaging on poker machines was raised by the industry as a harm minimisation measure. Mr Ross Ferrar, Chief Executive Officer, Gaming Technologies Association Ltd (GTA), explained how these messages could provide effective information to players and put forward GTA's view on how best to deliver them:

In our view, a strict set of requirements must be present for messages to provide any meaningful information to poker machine players. Such messages must be delivered in the right place at the right time and must contain information that is relevant to the player. The right place is on the 'game play' screen and not on some display device located away from the player's direct line of sight. The right time is between reel spins, not on an ad hoc basis determined by factors outside the player's frame of reference. The right information is about the player's current activity; it is not about patronising phrases. Without these preconditions efforts to provide effective responsible gambling messages will, in our opinion, fail.¹¹

6.11 The committee asked whether there was any evidence to back up the GTA view about when a player would be most receptive to such messages and Mr Ferrar replied:

To us that is self-evident. While the reel spin is occurring the player is preoccupied, the player is waiting for the outcome of the reel spins. Then the player is looking at if they have won and what they have won. Then there is a pause while they make their decision to play again. So to us the optimum time to deliver a message is in that pause. The reverse side of that coin is to us we do not see much point in delivering messages while the player is preoccupied with the reel spin, hence our statement.¹²

6.12 Mr Cummings was asked if he thought messages on the screen about current play, amount lost or suggesting a break would have an effect. Mr Cummings responded that it may make a small difference for some but when he was playing, if a message suggesting a break would have come up, he would have just continued playing.¹³

6.13 Ms Julia Karpathakis, Manager, Pokies Anonymous, was of the view that messages on the machines need to be of sufficient intensity to provide a reality check

10 Mr Tom Cummings, *Committee Hansard*, 3 May 2012, p. 5.

11 Mr Ross Ferrar, *Committee Hansard*, 2 May 2012, p. 45. See also Gaming Technologies Association, *Submission 23*, p. 4.

12 Mr Ross Ferrar, *Committee Hansard*, 2 May 2012, p. 46.

13 Mr Tom Cummings, *Committee Hansard*, 3 May 2012, p. 4.

for people playing. She suggested alternative pop-up messages and pictures to have on the screen including 'Do you have food?' or 'Do you have enough petrol?' or 'Did you pay the mortgage?' or 'Are your bills due?' or 'Reach out for help' or 'Is the rent due?' or 'Have you picked up your children?' She explained to the committee that such messages would have helped 'snap her out of it' and provided a reality check:

That would be a much quicker wake-up call than anything, I believe. It would not be shunned. I would not have felt so awful, so guilty and ashamed about what I was doing. I may have gone for help more quickly if it was seen as a normal problem, say, like going to the doctor if you have an earache.¹⁴

6.14 The committee notes that electronic warning messages and cost of play displays are part of the government package of gambling reforms.¹⁵

Player activity statements

6.15 Player activity statements show the customer's spending and are linked to loyalty programs.¹⁶ Players can request to see them but only a small proportion of people do so.¹⁷ The Australian Hotels Association (AHA) advised that loyalty programs in Victoria must provide annual player activity statements and in NSW they must be provided on request.¹⁸ The Australasian Gaming Council advised that the Tasmanian Responsible Gambling Mandatory Code of Practice includes a requirement for the provision of Player Activity Statements to loyalty program members at least once a year.¹⁹

6.16 The Australasian Casino Association advised that at Crown Casino:

Play Safe for gaming machines is only available to Crown Signature Club members who have agreed to receive and have viewed their Player Activity Statements within a 12 month period, who have a PIN and who are not excluded from the Casino for any reason.²⁰

At least once a year, Player Activity Statements are made available to EGM Crown Signature Club members. Members who play FATGs [Fully

14 Ms Julia Karpathakis, *Committee Hansard*, 14 May 2012, p. 14. See also Pokies Anonymous, *Submission 31*, p. 3, pp 5–13.

15 The Hon Jenny Macklin MP, the Hon Julia Gillard MP, the Hon Bill Shorten MP, Senator the Hon Stephen Conroy, 'Tackling problem gambling in Australia', *Joint media release*, 21 January 2012; Department of Families, Housing, Community Services and Indigenous Affairs, *Submission 20*, p. 2.

16 Clubs Australia, *Submission 29*, p. 11; Australasian Casino Association, *Submission 46*, p. 7.

17 BetSafe, *Submission 32*, p. 5.

18 Australian Hotels Association, *Submission 43*, pp 7–8. See also NSW Gaming Machine Regulation 2010, Regs 48 and 101.

19 Australasian Gaming Council, *Submission 33*, p. 17.

20 Australasian Casino Association, *Submission 46*, Attachment 1, p. 4.

Automated Table Games] are able to collect a Player Activity Statement on request, at any Crown Signature Club desk. Player Activity Statements provide information on each member's EGM or FATG play, including all wins and losses for the period of the statement. Crown's responsible gambling message 'Stay in Control', as well as information regarding the availability of the Code, is incorporated in and forms part of Player Activity Statements.²¹

6.17 Mr Daniel Symond, Operations Manager, Betsafe, thought providing player activity statements on a regular basis could be useful 'because one thing that problem gamblers are good at is forgetting about the losses and remembering the winnings'.²²

6.18 Ms Rhian Jones, Member, Gambling Impact Society NSW, said she was not aware of these records until they were released to her ex-husband but they clearly showed her escalating gambling:

...you asked before what can be done by the venues. I was not aware that there were player tracking records until they were released as a breach of privacy to my ex-husband during our divorce case. It was blatantly obvious from the records that there was a lead-up to a massive addiction. When you are an addict—addiction is extremely secretive—you tend to hide the addiction not just from your family members but from yourself as well. It was obvious to me that the only people who had records were the actual venue. They were the only people who were aware of what was going on.²³

6.19 The committee notes that the Productivity Commission (PC) also found that gamblers have difficulty remembering losses and that the data from the Australian Household Expenditure Survey shows that people significantly underestimate their gambling spending. The PC pointed out that this is relevant for policies such as the provision of player activity statements and player information displays.²⁴

Committee view

6.20 The committee agrees that industry has a part to play in taking responsibility for the potential harms of its product, in this case poker machines, but this applies equally to online gambling.

6.21 The committee notes that features of poker machines are regulated by each state. For example when more immersive poker machines with earphones, which already exist in NSW, were planned for Victoria, the Victorian Minister for Gaming introduced an interim ban order prohibiting the use of the earphones for 12 months while the Victorian Commission for Gambling Regulation investigated whether it

21 Australasian Casino Association, *Submission 46*, Attachment 2, p. 13.

22 Mr Daniel Symond, *Committee Hansard*, 2 May 2012, p. 30.

23 Ms Rhian Jones, *Committee Hansard*, 2 May 2012, p. 39.

24 Productivity Commission, *Gambling*, vol.1, Commonwealth of Australia, Canberra 2010, p. 4.6.

should be banned for up to 10 years.²⁵ The committee points to continuing research by the states into harm minimisation measures such as dynamic messaging on poker machines to achieve the best balance of evidence-based harm minimisation measures for vulnerable people, which do not adversely affect the playing experience for the majority of recreational players. The committee notes some research has been undertaken into dynamic messaging.²⁶ However, it agrees that messages on a poker machine need to be sufficiently strong to penetrate the trance-like state that some people experience while playing.

6.22 The committee notes that player activity statements could be a useful reminder to people of how much they have spent but would need to be provided on a much more regular basis than annually. The committee notes that the availability of player activity statements could be part of a range of harm minimisation measures for online gamblers as well.²⁷

6.23 The Chair, Senator Xenophon and participating Senators Di Natale and Madigan have provided additional comments in relation to dangers of gambling products and the role of the industry, which follow the committee report.

Staff training and intervention

Staff intervention in theory

6.24 Staff in venues are required to undergo 'responsible gambling training'. As noted by Clubs Australia:

A feature of the majority of current training courses is to provide venue staff with a range of commonly agreed indicators of problem gambling, to help them identify potentially problematic player behaviours.²⁸

6.25 Clubs Australia added that:

Staff interventions typically involve approaching patrons displaying the signs of problematic gambling and starting a respectful conversation to enquire about the patron's welfare and where necessary, offering them assistance such as self-exclusions or referral to appropriate help services.

25 Richard Willingham, 'Immersive pokie machines lashed', *The Age*, 26 October 2011. Minister for Gaming, the Hon Michael O'Brien MP, 'Victorian Coalition Government bans isolation audio technology from gaming machines', *Media release*, 22 December 2011.

26 Sally Monaghan and Alex Blaszczyński (2007), 'Recall of electronic gaming machine signs: A static versus a dynamic mode of presentation', *Journal of Gambling Issues*: Issue 20, pp. 253–267; Sally Monaghan and Alex Blaszczyński (2010), 'Impact of Mode of Display and Message Content of Responsible Gambling Signs for Electronic Gaming Machines on Regular Gamblers', *Journal of Gambling Studies* 26:1, 67–88; Sally Monaghan and Alex Blaszczyński (2009), 'Electronic Gaming Machine Warning Messages: Information versus Self-Evaluation', *The Journal of Psychology* 144:1, 83–96.

27 Betfair, *Submission 21*, p. 10.

28 Clubs Australia, *Submission 29*, p. 7.

Staff interventions create an additional level of safety that is unique to land-based gaming operators and is lacking in the online environment.²⁹

6.26 Delfabbro et al noted that a current national competency standard exists to provide guidance concerning the appropriate content of staff training courses. However, the content is very much governed by the regulatory environment prevailing in each state or territory.³⁰

Organisations assisting industry

6.27 Clubs are assisted in staff intervention by organisations such as BetSafe. BetSafe's members are predominantly larger NSW registered clubs:

BetSafe Pty Ltd provides an independent, comprehensive and integrated responsible gambling program for a group of leading NSW and ACT gaming machine venues as well as consultancy services and seeks to provide the highest standards in staff training, problem gambling counselling, self-exclusion and all other aspects of its program. BetSafe programs cover approximately one-tenth of the gaming machines in these jurisdictions.³¹

6.28 Clubs Australia has its own program called ClubSAFE³² although this was not mentioned in the Clubs Australia submission. The committee understands that ClubSAFE is run by ClubsNSW while BetSafe is a private operation. They offer similar services to help venues comply with legislative responsible gaming requirements but at different prices and each has different options for venues of different size. ClubSAFE only operates in clubs but BetSafe offers its services in clubs and hotels. In answers to questions on notice, Clubs Australia reported that ClubSAFE has provided a comprehensive service to more than 1,100 NSW clubs since 1999. In addition it has introduced more recently ClubSAFE Premium services which offer larger club groups a greater level of service, training and compliance support.³³

29 Clubs Australia, *Submission 29*, p. 8.

30 Dr Paul Delfabbro, Dr Alexandra Osborn, Dr Maurice Nevile, Dr Louise Skelt and Professor Jan McMillen, *Identifying problem gamblers in gambling venues*, Gambling Research Australia, 19 November 2007, pp 10–11.

31 BetSafe, *Submission 32*, p. 2.

32 See http://www.clubsnsw.com.au/About_Us1/ClubsNSW_Services1/ClubSAFE_Program.aspx (accessed 10 July 2012).

33 Clubs Australia, answers to questions on notice, received 27 July 2012, p. 7.

6.29 The committee understands that in Victoria there is a program called the Venue Support Program which provides training and support in responsible gambling practices and environments for gaming venue staff and management.³⁴

6.30 The Australasian Casino Association reported that The Star Casino in Sydney uses the services of BetCare which has been appointed to 'provide gambling counselling and assistance for customers who identify with problem gambling behaviours'.³⁵

Identifying problem gamblers is possible

6.31 The committee is aware of research which lists clear indicators of problem gambling. Staff and counsellors interviewed agreed with the vast majority of indicators identified by the researchers.³⁶ The most salient indicators of problem gambling in venues included: strong emotional responses to losing such as people who became angry, depressed or violent towards the machines, rudeness to staff, complaints about losing, sweating a lot while gambling, trying to keep gambling at closing time and gambling for long periods. In addition, changes in expenditure patterns, mood states, and personal appearance such as trying to disguise their presence were also considered to be important indicators of gambling problems.³⁷

6.32 However, the research also found that the most significant barrier to identifying problem gamblers was lack of staff training addressing direct interventions with gamblers:

The most significant barrier to identifying problem gamblers was not staff turnover, the length of shifts, or even the size of venues, but the lack of staff training relating to direct interventions with gamblers on the gaming floor. Most staff did not feel confident about how patrons would respond if they were approached. For this reason, there was strong support for the introduction of further training to assist this process.³⁸

34 See <http://professionals.problemgambling.vic.gov.au/venue-support> (accessed 11 July 2012). See also Ms Simone Rodda, *Committee Hansard*, 3 May 2012, p. 46; the Hon Michael O'Brien MP, Minister for Gaming, 'Venue support program proving a success', *Media release*, 17 May 2012.

35 Australasian Casino Association, answers to questions on notice, received 5 September 2012, p. 2.

36 Dr Paul Delfabbro, Dr Alexandra Osborn, Dr Maurice Nevile and Dr Louise Skelt and Professor Jan McMillen, *Identifying problem gamblers in gambling venues*, Gambling Research Australia, 19 November 2007, p. 14.

37 Dr Paul Delfabbro, Dr Alexandra Osborn, Dr Maurice Nevile and Dr Louise Skelt and Professor Jan McMillen, *Identifying problem gamblers in gambling venues*, Gambling Research Australia, 19 November 2007, pp 14–15. See chapter 3.

38 Dr Paul Delfabbro, Dr Alexandra Osborn, Dr Maurice Nevile and Dr Louise Skelt and Professor Jan McMillen, *Identifying problem gamblers in gambling venues*, Gambling Research Australia, 19 November 2007.

6.33 The report made the following suggestions to enhance the ability of staff to identify and assist patrons experiencing gambling problems:

Staff should be given more extensive training into the nature of gambling and the range of visible behaviour that might be observed. The findings in this study could be usefully included in this training.

Staff require greater specific training relating to interactions with staff, e.g., how to approach gamblers, anger management, conflict resolution and counselling.

Expenditure and machine usage data might be more effectively tracked within venues so as to obtain objective information concerning player expenditure and time on machines.³⁹

6.34 This research was highlighted by Mr Mark Henley, Member, Australian Churches Gambling Taskforce:

Can I just make one more point on this issue to highlight some research done by Professor Paul Delfabbro in Adelaide. He looked at the question of whether there are observable signs in a venue on any particular day that would suggest that a person may have a gambling problem. If we go back five years the industry was saying, 'There are some pretty good physical indicators that a person has had too much to drink but with gambling it is impossible to tell.' But Paul Delfabbro has identified combinations of observable behaviours: sweating, abusiveness, going to ATMs frequently, kicking machines. There is a whole range of observable behaviours on a gambling floor at any time which give clear indications of a high likelihood of gambling harm. That research has shown very clearly that there are observable signs that gambling staff can be looking out for. So that argument, 'We can't tell who's got a gambling problem,' really does not stack up any more because of that very sound research that has been undertaken by Paul Delfabbro.⁴⁰

6.35 In answers to questions on notice the Australasian Casino Association (ACA) referred to the research undertaken by Professor Paul Delfabbro on the identification of problem gamblers. The ACA said its members were aware of the research 'and in many cases it has been used to develop many of the processes, resources and staff training programs related to identification of problem gambling behaviours'.⁴¹ In answers to questions on notice, the Australian Hotels Association also reported that this research forms part of training packages.⁴²

39 Dr Paul Delfabbro, Dr Alexandra Osborn, Dr Maurice Nevile and Dr Louise Skelt and Professor Jan McMillen, *Identifying problem gamblers in gambling venues*, Gambling Research Australia, 19 November 2007, p. 20.

40 Mr Mark Henley, *Committee Hansard*, 3 May 2012, p. 13.

41 Australasian Casino Association, answers to questions on notice, received 5 September 2012, p. 2.

42 Australian Hotels Association, answers to questions on notice, received 17 September 2012, p. 2.

The reality as told to the committee

6.36 The committee heard from a number of witnesses who have experienced gambling problems during this and previous inquiries. They told the committee that although they gambled for considerable periods of time at the same venues, sometimes over a number of years, no staff member ever approached them to discuss whether they had a problem and needed to seek help. Ms Julia Karpathakis, Manager, Pokies Anonymous, told the committee that she played poker machines for 10 years and during this time she was not approached by any staff:

I never got tapped on the shoulder. In fact, I was encouraged: my machine had not gone off and it could go off. I was basically encouraged to play on the machine that had not gone off...⁴³

6.37 Ms Karpathakis said she used to go back and forth to the ATM and changed the money into coins with a person behind the counter until she had nothing. She recalled that once she spoke to a staff member to express that she was worried and they gave her a card with a gambling helpline number which she never used.⁴⁴

6.38 Miss Shonica Guy, Volunteer Coordinator, Pokies Anonymous, spoke about her more recent experience. Miss Guy said that she could spend up to 10 hours in a session and was known as a regular at a few hotels: the New York Bar and Grill, the Flagstaff Hotel and the Tonsley Hotel. She told the committee that no staff member ever approached her as indicated in the following exchange:

Senator XENOPHON: Did anyone ever come up to you when you were playing?

Miss Guy: No.

Senator XENOPHON: Did you ever say anything to anyone as you were changing money?

Miss Guy: No.

Senator XENOPHON: So you never indicated anything to anyone that you were having problems?

Miss Guy: No.

Senator XENOPHON: But you were there for a prolonged period?

Miss Guy: Yes.

Senator XENOPHON: Did you notice other regulars there while you were there?

Miss Guy: Yes, usually the same people were there. I used to play, although I do not actually know what it is called now, this particular machine and there would be about another four people that would want to play that. There were only three machines, so it was who could get to them

43 Ms Julia Karpathakis, *Committee Hansard*, 14 May 2012, p. 11.

44 Ms Julia Karpathakis, *Committee Hansard*, 14 May 2012, pp 12–13.

first sort of thing. There were at least four regulars that I knew just for the machine that I liked. But the same people were there every time and they would say, 'How are you going?' or 'I just got here' or 'How long have you been here for?' There was no conversation but we knew that we were always there.

Senator XENOPHON: Can I ask for any obvious tell-tale signs. Did you ever get upset when you were playing? Did you ever say anything to anybody while you were losing a lot of money?

Miss Guy: I remember once really early on, probably over 10 or more years ago or 12 years ago, getting free games and this older lady next to me said, 'Oh, free games,' and I said, 'Yeah, I'm not getting too excited yet because it probably won't give me anything.' Then I said, 'I shouldn't even be here anyway because I have got a bit of a problem,' and she goes, 'Oh no, dear!' She was horrified.

Senator XENOPHON: Was it one of the staff?

Miss Guy: No, this was just a lady sitting next to me. She said, 'Oh no, dear, because I wouldn't want that to happen to you. I am an old lady and I've already had my life and I'm established. I wouldn't want that to happen to you.' After the free games finished I felt so bad that I just cashed the money and left. I did not want to sit there anymore.⁴⁵

6.39 In answers to questions on notice, the Australian Hotels Association responded:

Without knowing the time frame of when these events occurred it is difficult to respond specifically. However SA Code of Practice requirements have changed significantly. Obligations to develop internal reporting processes, management reviews. The Introduction of Gaming Care whose role is to assist venues with compliance, and establishing relationships with local Gambling Help Services. Venue visits with Gambling Help Services together with enhanced training of senior staff have all been implemented to enhance early intervention with problematic gambling behaviour.⁴⁶

6.40 Miss Guy described the environment at the venues:

There is usually only one staff member. There used to be more when there was smoking. They are serving and trying to do their thing. They are not watching what is going on. One person cannot do all that.⁴⁷

6.41 She and Ms Karpathakis then said that they believe the staff know who has a problem:

45 Miss Shonica Guy, *Committee Hansard*, 14 May 2012, p. 13.

46 Australian Hotels Association, answers to questions on notice, received 17 September 2012, p. 3.

47 Miss Shonica Guy, *Committee Hansard*, 14 May 2012, p. 13.

Miss Guy: I think they know but—

Ms Karpathakis: Of course they know.

Miss Guy: But it is like here. Looking out here we know exactly who is here. Everyone in there is hooked, as far as I am concerned. You can see it. They are like zombies. The 40 per cent or whatever of people who have got problems with pokies, I think, is an underestimate, because any time I have been in venues everyone in there is hooked, basically. There are no people coming in there just for two seconds or for \$5 and leaving that I have ever seen. Usually, everyone is there and they are there for a long time, along with me.⁴⁸

6.42 Mr Tom Cummings spoke about this issue to the committee:

I think I mentioned in my submission the staff in gambling venues. I still pop into gambling venues regularly as part of what I write about to have a look around. I have yet to see one staff member approach a player and say, 'I think there's an issue,' or 'I think you might be gambling a bit too much; maybe you ought to take a break.' I have yet to see it happen.⁴⁹

6.43 In response to the committee, Mr Cummings emphasised that he is not aware of anyone who has ever been approached by a staff member about their gambling:

Senator DI NATALE: You mentioned in your submission that you had never been approached by a staff member. In your experience in this area, do you know of any other people who have been approached by staff members because their gambling is getting out of control? If so, has that intervention had any impact on their gambling?

Mr Cummings: I cannot answer the second question, because the answer to the first question is no. I do not know anyone, and I have spoken to a number of poker machine addicts in the last couple of years through my blog. I do not know of anyone who has ever been approached by a staff member.⁵⁰

6.44 Mr Ralph Bristow, Gambling Impact Society NSW, told the committee about his experience:

I have attended most clubs in New South Wales because I used to work out in the country. I lived in Sydney—I was born here. I have lived in Wollongong and Lane Cove and there were clubs I frequented quite regularly when I was home. Not once in 30 or so years would anyone have approached me as to my gambling problem. It would have been obvious from the number of times I went up to get change in those days but not once did I see an employee [approach] anyone as to their gambling problem.⁵¹

48 Ms Julia Karpathakis, *Committee Hansard*, 14 May 2012, p. 15.

49 Mr Tom Cummings, *Committee Hansard*, 3 May 2012, p. 2.

50 Mr Tom Cummings, *Committee Hansard*, 3 May 2012, p. 6.

51 Mr Ralph Bristow, *Committee Hansard*, 2 May 2012, p. 41.

6.45 Major Brad Halse, Member, Australian Churches Gambling Taskforce, also spoke on this point:

That is a comment that our social workers and our counsellors hear so often. It is often brought up in these types of venues. For all the commentary from the industry about trying to assist a potential problem gambler we never hear of people who were approached for whatever reason—the amount of time they are spending or when there are obvious signs of distress and concern—so even at the most basic level this duty of care seems to be overlooked or disregarded. It is a very serious issue.⁵²

6.46 Ms Abigail Kazal, Senior Clinical Psychologist and Program Manager, Gambling Treatment Program, St Vincent's Hospital, told the committee that she may have had one client who indicated that they had been approached by the staff in a venue. Dr Katy O'Neill, Clinical Psychologist, Gambling Treatment Program, St Vincent's Hospital, was not sure that she had anyone referred that way.⁵³

6.47 The committee notes that recently the media reported an Adelaide woman was jailed for six years for stealing more than \$800,000 from two employers to feed her poker machine addiction. While accepting responsibility for her actions the woman questions 'why the venues where she gambled away the cash over seven years had never once approached her to ask if she had a problem'.⁵⁴

What could staff intervention achieve?

6.48 Former problem gamblers highlighted that an approach from staff would have made them stop and think. In the following exchange, Ms Rhian Jones, Member, Gambling Impact Society NSW, told the committee that if someone had approached her she believed it would have been sufficient to take action:

Ms Jones: ...If somebody had come up to me and said, 'I think you have a problem', that would have been enough for me.

Ms BRODTMANN: That would have been from the staff in the venue.

Ms Jones: Yes.

Ms BRODTMANN: Would there be anyone from the floor, the person selling drinks?

Ms Jones: It is quite funny because everybody knew. Everybody had access to the records so yes, but I would have preferred somebody who had some experience. I would have liked somebody who had some training and would have been able to come up to me and say, 'Excuse me but I think you might have a problem,' not somebody who serves drinks.

Ms BRODTMANN: What would your response have been at that stage?

52 Major Brad Halse, *Committee Hansard*, 3 May 2012, p. 13.

53 Ms Abigail Kazal, Dr Katy O'Neill, *Committee Hansard*, 2 May 2012, p. 23.

54 'Theft to pay for pokies', *Northern Territory News*, 14 July 2012, p. 12.

Ms Jones: As I said, it is an extremely secretive problem. If somebody had told me that they knew then it would have been enough to stop me.⁵⁵

6.49 Ms Jones added:

Ms Jones: ...Staff training and recognition of that problem would have been fantastic, and early intervention would have been brilliant. If somebody could have mentioned to me that I was an addict or that I was becoming an addict or that other people were aware of it, it would have helped me enormously, and I am sure it would help others as well. So early intervention and—

Senator XENOPHON: Mr Symond from BetSafe gave evidence earlier today and the tenor of his evidence was that that would not work. That can actually delay a recovery by years. You do not agree with that?

Ms Jones: Absolutely not. It would have taken one person to mention it to me.

Senator XENOPHON: It could have jolted you into action?

Ms Jones: Absolutely.⁵⁶

The difficulties with staff training

6.50 The committee was told at this and previous inquiries about a number of shortcomings with staff intervention which included: conflict of interest, casual workforce and the reluctance of younger staff to approach patrons displaying aggressive behaviours. Mr David Pigott, National Manager, Government Relations, Mission Australia, spoke about the conflict of interest for staff:

...There is inherently a potential conflict of interest with staff within venues having that role, but our early experience in the ACT is that those roles have been quite effective. As far as training goes, yes, I think there can always be more training, and I think it is a very useful expenditure of funds to do that. I am not an expert in the sort of training required, but I am not convinced national accreditation and those sorts of things are the way to go. Part of our concern relates to even our own staff having adequate backup and counselling support behind them to deal with these difficult issues.⁵⁷

6.51 This conflict was recognised by Professor Alex Blaszczyński:

The difficulty basically is that in my view they are not as proactive as they could be in identifying and responding to problem gamblers, because they are in a conflict position where their profits are derived from gambling. A proportion of their revenue is derived from problem gambling, and therefore they are in a conflict situation...⁵⁸

55 Ms Rhian Jones, *Committee Hansard*, 2 May 2012, p. 41.

56 Ms Rhian Jones, *Committee Hansard*, 2 May 2012, p. 39.

57 Mr David Pigott, *Committee Hansard*, 2 May 2012, p. 2.

58 Professor Alex Blaszczyński, *Committee Hansard*, 2 May 2012, p. 13.

6.52 Ms Amanda Jones, Member, Public Interest Advisory Group, Australian Psychological Society, spoke about the difficult position staff are put in:

I suppose that on principle, consistent with our opening statements, I would take the position that an on-the-floor venue responsible gambling approach in and of itself is woefully insufficient and problematic in many ways, not least the fact that a venue has a vested interest and it puts its staff in a pretty invidious position to be performing that kind of role.⁵⁹

6.53 The committee also heard that the makeup of the venue workforce also has an effect:

Mr FRYDENBERG: But you also say that a lot of the staff are university students and, therefore, it might be too much to expect them to have the self-confidence to approach someone.

Mr Cummings: Absolutely.

Mr FRYDENBERG: So how do we get over that?

Mr Cummings: I wish I knew. I have spoken to a number of Gambler's Help counsellors in the last couple of years, and very clearly the message coming to me from them was, through my writing, 'Please do not give people advice on how to stop gambling or what to do.' And I fully agree with that. I am not qualified. I do not have the years of experience or the training to counsel someone. I fail to see how a university student with an RSG could provide the same sort of service, even as an intervention measure, to someone that they suspect may have an issue with their gambling. It might be that having some sort of counselling service available in-venue might be an option, but we have a lot of venues and that is an awful lot of people.⁶⁰

6.54 Professor Linda Hancock spoke with staff from Crown Casino where they reported it being easy to identify problem gamblers, but floor staff are instructed not to intervene themselves and to refer such cases to a supervisor/manager. Despite the instruction, staff reported being too scared to intervene anyway because of uncertainty about how patrons would respond, lacking the skills to intervene or being scared of losing their job if they were seen to intervene. Almost 18 per cent of staff reported that they felt under pressure by management to keep people gambling.⁶¹

6.55 In answers to question on notice the Australasian Casino Association reported that 'Casinos train their staff to report observable signs that may indicate problem gambling behaviours'. It also advised that 'many casinos operate an independent (third party operated) "whistle-blower" service to take and handle any staff or supplier complaint or concern (which may be made anonymously) in relation to matters

59 Ms Amanda Jones, *Committee Hansard*, 14 May 2012, p. 30.

60 Mr Tom Cummings, *Committee Hansard*, 3 May 2012, p. 2.

61 Linda Hancock, *Regulatory Failure? The case of Crown Casino*, Deakin University, Australian Scholarly Publishing, 2011, pp 66–81.

including but not limited to, any issues of integrity, including harm minimisation matters. Casino operators regularly conduct awareness programs about the service'.⁶²

6.56 Showing the fraught nature of such staff/patron interaction, Mr Paul Symond, General Manager, BetSafe expressed the view that in his experience tapping people on the shoulder if they think they are displaying problematic behaviour forces people into therapy, which is then not very helpful:

Mr Symond: I will give you a 'for instance': in South Australia and the ACT they have to go up and tap someone on the shoulder if they think they are displaying behaviour that looks like they may have a problem. I have got some issue with that, because my experience has been that when you force someone into therapy I think it could probably knock them back five to 10 years therapeutically.

Senator XENOPHON: How do you say that, though?

Mr Symond: It is just my gut feeling on that, because most people who are forced into therapy resist it like you would not believe. We have seen them up here, where they are not forced to come in but the pressure on them by the family is very heavy. They come in, and I do not think the counselling session is all that helpful, because they are there under duress.⁶³

6.57 Contrast this view with that of an experienced clinical psychologist:

In terms of people who come really motivated to quit, there are those whose partner has said, 'You have to go.' As an overall thing, people who come off their own bat may be more motivated. But certainly with the other ones, you have them in your office so there is a chance to do something. Quite a lot of them will have come in saying, 'I don't have a problem but my wife thinks I do.' You question them and after a while, they think, 'Yes, I'll stick around for a bit.'⁶⁴

Committee view

6.58 The committee was very concerned to hear that despite showing obvious signs of problematic gambling, none of the former problem gamblers who spoke to the committee had been approached by staff. In addition, the counselling and other professional health services could not recall any clients mentioning they had been approached by staff. Unfortunately the committee was unable to discuss the experiences of the witnesses described above with the peak bodies such as Clubs Australia, the Australian Hotels Association and the Australasian Casino Association as they declined to appear at a public hearing.

62 Australasian Casino Association, answers to questions on notice, received 5 September 2012, pp 2–3.

63 Mr Paul Symond, *Committee Hansard*, 2 May 2012, p. 29.

64 Dr Katy O'Neill, *Committee Hansard*, 2 May 2012, p. 24.

6.59 The committee majority notes the government announcement on 21 January 2012 of a number of actions to assist problem gamblers and their families which included improving training for staff in poker machine venues.⁶⁵ No further detail on how and when this will occur or what aspects will be improved has been made available. The committee is not aware of any response to the campaign launched by Clubs Australia which makes mention of improving staff training by providing training that encourages staff to directly intervene when they suspect problem gambling.⁶⁶ This appears to be an admission that the current training focused on staff intervention is not working as well as it could, as evidenced by the personal experiences described above. While this initiative may equip staff with better skills to directly address problematic behaviour it does not address the other limitations mentioned.

6.60 Without having had the benefit of speaking with industry the committee will attempt to make some concrete suggestions to address these limitations. To further address the issues of conflict of interest and the difficulty in approaching people displaying problematic gambling behaviour, the committee is reminded of a suggestion by Ms Julia Karpathakis from Pokies Anonymous during the committee's first inquiry. Her idea was to have people visit venues wearing an 'ask me' t-shirt so players can ask them if they need help. They could also work with venue staff. Ms Karpathakis pointed out from her personal experience that it is very difficult to confront someone with a gambling problem and it may be more realistic for someone to reach out.⁶⁷ As it was not the focus of the first inquiry, details were not discussed. Building on this and similar suggestions,⁶⁸ there could be merit in venues exploring partnership arrangements with non-government organisations and counselling providers who would talk to staff on a regular basis to see if there is a player they are worried about and they would then approach the individual. This would not replace the current arrangements and venue responsibilities but supplement them. The committee notes the recent announcement by ClubsNSW of a 12 month trial at Mingara Club on the NSW Central Coast to have a Salvation Army Chaplain available at the club.⁶⁹ Unfortunately, as industry did not attend public hearings, the committee was unable to discuss this trial in detail.

65 The Hon Jenny Macklin MP, the Hon Julia Gillard MP, the Hon Bill Shorten MP, Senator the Hon Stephen Conroy, 'Tackling problem gambling in Australia', *Joint media release*, 21 January 2012; Department of Families, Housing, Community Services and Indigenous Affairs, *Submission 20*, p. 4.

66 Clubs Australia, 'Clubs launch TV and radio campaign: getting on with the job of gambling reform', *Media release*, 15 June 2012.

67 Pokies Anonymous, *Submission 34*, p. 5 (First inquiry into a pre-commitment scheme).

68 See Ian, *Submission 53* and *Submission 53A*.

69 ClubsNSW, 'Clubs and Salvation Army join together to fight problem gambling', *Media release*, 5 August 2012.

6.61 In addition, the committee notes the model used by casinos where staff are trained to report observable signs that may indicate problem gambling behaviours. It appears that the staff who directly approach and assist customers who may be experiencing gambling problems have further training and in some cases there are dedicated staff to do this.⁷⁰ This seems a useful model to address the natural reticence that younger and inexperienced staff may have in approaching people themselves who are showing signs of problematic gambling behaviour.

6.62 The committee also notes the model used by many casinos of an independent, third party operated 'whistle-blower' service where staff may anonymously report issues of concern including harm minimisation matters. Casinos with the service conduct regular awareness sessions about it.⁷¹ This could also be a useful model to address concerns expressed to the committee during its inquiries about staff feeling pressured to keep people gambling.⁷² The independence of such a system would be essential. The committee notes the Productivity Commission recognised the limitations of existing complaint systems through peak bodies and recommended there be a more visible mechanism for consumers and staff to make complaints to the regulators in each state and territory.⁷³

6.63 The committee was not able to discuss these models with the industry but would encourage all casinos as well as clubs and hotels to investigate putting in place such programs to further improve the ability of their staff to assist problem gamblers.

Self-exclusion in theory

6.64 Self-exclusion operates by self-identified problem gamblers 'voluntarily surrendering the right to enter the gaming areas of their local venues.' Clubs Australia advised the committee that:

There are a number of ways in which existing self-exclusion schemes can be improved upon. ClubsNSW is currently rolling out a state-wide multi-

70 Australasian Casino Association, answers to questions on notice, received 5 September 2012, p. 1.

71 Australasian Casino Association, answers to questions on notice, received 5 September 2012, p. 3.

72 Parliamentary Joint Select Committee on Gambling Reform, First report: the design and implementation of a mandatory pre-commitment system for electronic gaming machines, May 2011, pp. 59–62.

73 Productivity Commission, *Gambling*, vol.1, Commonwealth of Australia, Canberra, 2010, p. 31. Note: The purpose of the COAG Select Council on Gambling Reform is to develop a national response to the findings and recommendations of the 2010 Productivity Commission report and its final report was due at the end of 2011. The committee is therefore unaware of any progress on reviewing existing complaint systems. See: <http://www.fahcsia.gov.au/our-responsibilities/communities-and-vulnerable-people/programs-services/problem-gambling/coag-select-council-on-gambling-reform> (accessed 19 September 2012).

venue self-exclusion scheme, which allows patrons to exclude themselves from multiple clubs in their local area through a single application.⁷⁴

6.65 In February 2012, ClubsNSW launched online technology where through a secure website at their local club problem gamblers can complete a legally binding self-exclusion document in the presence of a gambling counsellor or a trained facilitator. They can choose to ban themselves from multiple clubs whereas previously patrons had to visit each club individually. In a six month trial of 51 clubs in Broken Hill and the Central Coast, 136 problem gamblers chose to ban themselves from a combined 569 clubs. They advised that self-exclusion was introduced by clubs and hotels in 2000 with an estimated 3,000 people banning themselves from a club or hotel each year.⁷⁵

6.66 In answers to questions on notice the Australasian Casino Association (ACA) advised that:

...casinos' experience in Self-Exclusion Programs is robust and extensive. While there are slight variations in casino Self-Exclusion Programs due largely to individual state jurisdictional differences, all operate on the principle that Self-Exclusion is a tool made available for those persons who wish to use it in assisting to manage and/or address their problem gambling behaviours. This tool importantly allows the individual to take a pro-active step towards making a positive change in their behaviours.⁷⁶

6.67 The ACA added that as part of the process people applying for self-exclusion are required to agree to legal and casino requirements. These include the request for the person to seek counselling and treatment and the release of liability against the casino.⁷⁷

6.68 Regarding self-exclusion programs, the Australian Hotels Association (AHA) noted that:

Self-exclusion is proven to help problem gamblers. It is one of a suite of measures, such as counselling and education that can help the small percentage of the population with gambling problems.

6.69 The AHA added:

Different self-exclusion schemes operate in all Australian States & Territories. A feature of self-exclusion is that venues keep on hand

74 Clubs Australia, *Submission 29*, p. 10.

75 ClubsNSW, 'Clubs launch online support for problem gamblers', *Media release*, 8 February 2012.

76 Australasian Casino Association, answers to questions on notice, received 5 September 2012, p. 3.

77 Australasian Casino Association, answers to questions on notice, received 5 September 2012, p. 4.

information, such as a photograph, of the self-excluded patron. This allows venues to identify self-excluded patrons and prevent them from relapsing.⁷⁸

The reality as described to the committee

6.70 Experiences of self-exclusion appear variable. Research undertaken by Dr Samantha Thomas asked gamblers about their experience of self-exclusion. One gambler:

...described how even though she was currently “excluded” from the three gaming machine venues in her local area, two of the three venues were not enforcing the conditions of the program, and would always “turn a blind eye” when she went there to gamble.⁷⁹

6.71 Others spoke of the difficulties they faced when trying to self-exclude:

“For a person like me who has taken advantage of everything I can, the one that I couldn't really do easily was get excluded from TABs. It's much more of a difficult process. You had to write away and...you couldn't just have it as a blanket sort of thing, it was almost going to be a TAB by TAB thing. It was going to be quite difficult whereas the Hotel's Association one is relatively easy. You go in for an interview, you know, they pull up on a computer all the different venues, they write to them all for you. It's all done within an interview, you know, and it's quite well-maintained. [Do we need look at maybe some easier ways with the TAB?] I think so and then the online gambling. I don't know how people self-exclude from all the online stuff that's happening.” (Male, 49 years old)⁸⁰

6.72 This was contrasted with another gambler's positive experience of self-exclusion at Crown Casino:

“...the way I was treated I thought that was exceptional, the way they took care. So I mean based on what I know and based on what I've done, I was very happy.” (Male, 22 years old)⁸¹

6.73 One player who participated in the study by Dr Thomas said she felt the need to reapply had led to her relapses:

78 Australian Hotels Association, answers to questions on notice, received 17 September 2012, pp 4–5.

79 Dr Samantha Thomas, Ms Sophie Lewis, *Conceptualisations of gambling risks and benefits: A socio-cultural study of 100 Victorian gamblers*, report prepared for the Office of Gaming and Racing, Victorian Department of Justice, May 2012, p. 70.

80 Dr Samantha Thomas, Ms Sophie Lewis, *Conceptualisations of gambling risks and benefits: A socio-cultural study of 100 Victorian gamblers*, report prepared for the Office of Gaming and Racing, Victorian Department of Justice, May 2012, p. 69.

81 Dr Samantha Thomas, Ms Sophie Lewis, *Conceptualisations of gambling risks and benefits: A socio-cultural study of 100 Victorian gamblers*, report prepared for the Office of Gaming and Racing, Victorian Department of Justice, May 2012, p. 69.

One female participant, who at the time of the interview was gambling daily on gaming machines, and scored 13 on the PGSI, criticized the AHA self-exclusion program because it required her to reapply every two years as opposed to Crown Casino where self-exclusion is for an indefinite period, and individuals need to reapply to be included back into Crown. She described how she believed this had directly led to relapses with her addiction with gaming machines. She questioned the two-year maximum imposed by the AHA self-exclusion program, and asked whether this put the welfare of “lifetime” problem gamblers like her at risk.⁸²

6.74 Ms Karpathakis described the system in South Australia:

CHAIR: How does the system of self-exclusion work in South Australia? Is it little photos on sheets of paper?

Ms Karpathakis: That is right. If you physically go into the IGA, they take your photo but you can self-exclude at a pub.

Miss Guy: They do not have photos at the pubs.

Ms Karpathakis: Not in the venue; not if you self-exclude. I can [go] into a venue and say: 'Bar me from here. I don't want to come here anymore.' If I go to the IGA, there is a photo and the records go to different places.

CHAIR: That is distributed to all venues?

Ms Karpathakis: The venues that you have requested.

CHAIR: How effective is that system?

Ms Karpathakis: We have had people who have gone into the venues they are barred from and they have never been noticed. I have one member who has been noticed and he ran away and never went back there, but he went to some other place because he was so freaked out. So there has been one record of one person, to my knowledge from my group, who has been picked up.⁸³

6.75 Dr Katy O'Neill, Clinical Psychologist, St Vincent's Hospital Gambling Treatment Program, described how they tend to refer back to the clubs for programs like self-exclusion and commented on the variability of it:

We tend to refer back to the clubs. In terms of, say, self-exclusion, I have said to clients, 'You should go and self-exclude.' A lot of clients are reluctant to and ironically enough those who are most reluctant to are probably the ones for whom it is going to be most effective because if you do not care about being embarrassed it is an easy thing to do. One of [the] things that happens is that some clubs really do not do it properly and we have had to ring up the RGF and say, 'That club is not doing it the way it is supposed to be done.' Other clubs just do it perfectly: the person is treated

82 Dr Samantha Thomas, Ms Sophie Lewis, *Conceptualisations of gambling risks and benefits: A socio-cultural study of 100 Victorian gamblers*, report prepared for the Office of Gaming and Racing, Victorian Department of Justice, May 2012, p. 69.

83 Ms Julia Karpathakis, *Committee Hansard*, 14 May 2012, pp 16–17.

with respect and they can do it instantly. As to how the person is treated really varies when they go for self-exclusion.⁸⁴

6.76 Ms Leah Galvin, Manager of Social Policy and Advocacy, St Luke's Anglicare, spoke of the difficulties with self-exclusion systems:

...I understand that it is a manual system. I think this is one of the weaknesses. People can self-exclude, and there is a process that you go through to do that. I think you can do it either through the venue or through, again, a regulatory body. But sometimes those systems are really quite ad hoc; they might have pictures of you in a security area or something like that, and so if the security people are not alert it would be quite easy for you to pass through.⁸⁵

6.77 The committee notes recent media reporting that gamblers who self-excluded from The Star Casino returned 'numerous times'. Dr Keith Garner from Wesley Mission stated: 'It is common knowledge that self-exclusion schemes do not work as stand-alone interventions. Self-exclusion and gambling counselling must go hand in hand'. He called for a universal approach. The Star responded that 'it is explained to, and acknowledged by, patrons that when they self-exclude that ultimately this is their responsibility'.⁸⁶

Involuntary and third party exclusions

6.78 Mr Paul Symond, General Manager, BetSafe, reported on the availability of involuntary and third party exclusions:

Currently we have got a large number of self-exclusions. We also go into involuntary exclusions and this helps us out when we have got family and other people associated with the gambler. Also we have got third-party exclusions. We have got a fairly stringent readmission procedure. So when the six months or two months or three months of self exclusion is up, people cannot just walk back into the club, they have got to come to us and go through questions and an interview...⁸⁷

6.79 Mr Daniel Symond, Operations Manager, said BetSafe was in favour of full venue exclusions, not just the gaming area, and provided more detail on involuntary exclusions:

The other thing that Paul [Symond] mentioned earlier on—and this is something that is not legislated in New South Wales—is what we call involuntary exclusion. That is where a venue becomes aware that someone has a gambling problem and the venue excludes that person. In New South Wales at least, there is no legislative requirement to do that. It is very

84 Dr Katy O'Neill, *Committee Hansard*, 2 May 2012, p. 24.

85 Ms Leah Galvin, *Committee Hansard*, 3 May 2012, p. 55.

86 Zoe Nauman, 'Casinos bet on dodging gambler ban', *Sunday Telegraph*, 15 July 2012, p. 23.

87 Mr Paul Symond, *Committee Hansard*, 2 May 2012, p. 28.

common that a patron will approach a staff member, tell them they have got a gambling problem but refuse to self-exclude. Under the current legislation, there is no obligation on the club to do anything. Under our program and in our venues, we provide independent advice in those situations, and in general our venues will exclude someone, particularly if there is clear evidence of a gambling problem.⁸⁸

6.80 The committee notes the Clubs Australia campaign which proposes legislation empowering family members to approach gambling venues when they suspect a relative has a gambling problem.⁸⁹

6.81 In answers to questions on notice the Australasian Casino Association reported that third party exclusion is available in some jurisdictions (Tasmania, Western Australia and Queensland).⁹⁰

Making self-exclusion more effective

Jurisdiction-wide self-exclusion

6.82 In the absence of industry attending any public hearings, the committee discussed how to improve self-exclusion arrangements with others including Mr David Pigott, National Manager, Government Relations, Mission Australia. Mr Pigott pointed out some of the difficulties with self-exclusion including that it is currently not jurisdiction or venue-wide. While people may self-exclude from one club they could go to a nearby venue that does not participate. He suggested that self-exclusion should be across a whole jurisdiction for it to work effectively and added:

The fact that they have self-excluded is a positive step—as you say, they have recognised that they have got an issue. I guess then it is up to us to assist them in making that commitment.⁹¹

6.83 Clubs Australia responded to the suggestion of a jurisdiction-wide self-exclusion program via questions on notice:

All clubs do offer self-exclusion, a requirement in every jurisdiction. A mandatory jurisdiction-wide self exclusion zone would undermine the effectiveness of self exclusion programs. By limiting self exclusion to the local geographic residence and/or workplace of the individual gambler, the system does not become overburdened with venues required to identify and enforce the procedure for problem gamblers who are unlikely to enter the

88 Mr Daniel Symond, *Committee Hansard*, 2 May 2012, pp 32–33.

89 Clubs Australia, 'Clubs launch TV and radio campaign: getting on with the job of gambling reform', *Media release*, 15 June 2012.

90 Australasian Casino Association, answers to questions on notice, received 5 September 2012, p. 4.

91 Mr David Pigott, *Committee Hansard*, 2 May 2012, p. 6.

premises. By limiting programs to those venues the individual is likely to enter assists venues with focusing their attention more effectively.⁹²

6.84 Mr Pigott also said that anecdotal advice from staff in NSW is that asking staff to identify people from photographs for self-exclusion is patchy in terms of effectiveness. He added:

It sounds like it [self-exclusion] has to be universal and, again, I am not familiar with the Tasmanian situation, but ideally, if you self-exclude from a venue here then it ought to be able to be recorded elsewhere. That is, again, presumably a reasonably complicated process. If alerts go out or whatever, I am not sure that that is ideal either. As I said, the whole idea of self-exclusion is that the onus is on the gambler to take some responsibility for his or her actions. Our role is to help and support them in meeting that commitment. How big a stick you use, I am just not sure. And what sort of technology you use to enforce that is also challenging.⁹³

6.85 Further illustrating the limitations of self-exclusion, the committee notes the problem gambler who banned himself from four Hobart venues. While he was turned away from three of the venues he was able to gamble undetected in one hotel for extensive periods and lost more than \$3,000.⁹⁴

Having effective systems in place

6.86 In order to increase effectiveness, Ms Leah Galvin, Manager of Social Policy and Advocacy, St Luke's Anglicare, spoke about swipe-in systems which can easily identify self-excluded gamblers:

This is one of the things where we think that greater protection could be offered for problem gamblers who have made that decision that they want to reduce or stop their gambling. I have heard of a system where there is almost like a swipe-in, so there is some sort of identification that is needed before people can proceed into venues. I understand it operates in some of the clubs in New South Wales; if people have self-excluded, the moment they try to swipe themselves into the venue—I am sure it is not all bells and whistles—they are discreetly removed from the venue.

It would be really great to strengthen that part of our system, because it is not strong. We do hear stories about people who have self-excluded because of their difficulties with gambling still being in venues and losing vast sums of money.

CHAIR: And in fairness to the staff in some of these venues, even the very best staff struggle to cross-reference hundreds of photos with thousands of people walking through the door.

92 Clubs Australia, answers to questions on notice, received 27 July 2012.

93 Mr David Pigott, *Committee Hansard*, 2 May 2012, p. 6.

94 Hannah Martin, 'Penalties for Pokies', *Hobart Mercury*, 30 August 2012.

Ms Galvin: Yes. I totally agree with that. It is certainly not any commentary about their capacity or their willingness; it is just that the system is not very strong. It makes it very hard for them actually to do the right thing by people who have tried to self-exclude as well.⁹⁵

6.87 The committee notes that ACT clubs are increasingly using scanning systems in order to facilitate access to venues. This system could be used to improve self-exclusion schemes; however, currently its use is optional.⁹⁶

Linking to prizes

6.88 The Productivity Commission recommended that prizes won by people shown to be in breach of self-exclusion orders should be forfeited to government revenue.⁹⁷ Clubs Australia also supported this action and stated that it would serve as a means of reducing the incentive for patrons to breach their self-exclusion agreement. Clubs Australia recommended that the forfeited prizes are remitted to a government fund dedicated to addressing problem gambling.⁹⁸

6.89 The committee understands that the forfeiture of prizes is not currently supported by legislation. This means that although it can be included in a self-exclusion agreement, it cannot be enforced and no patrons have handed back any prizes. Mr Daniel Symond and Mr Paul Symond, BetSafe, supported such legislation to act as a deterrent for people to breach self-exclusion agreements.⁹⁹

6.90 In answers to questions on notice, the Australasian Casino Association advised that sanctions for breaches by self-excluded persons vary from state to state:

For example, Victorian Legislation provides for the prosecution of persons who breach their exclusion in the casino. In addition, Self-Excluded persons must forfeit their winnings (including prizes) for the State for payment into the Community Support Fund (Casino Control Act 1991 (Vic) s 77A and s 78B respectively).¹⁰⁰

Committee view

6.91 The committee accepts that self-exclusion can be helpful for some gamblers but it also has limitations and should not be used as a stand-alone intervention. This is recognised by industry which advocates self-exclusion and counselling. The system

95 Ms Leah Galvin, *Committee Hansard*, 3 May 2012, p. 55.

96 Christopher Knaus, 'ACT clubs scanning your licence', *The Canberra Times*, 23 July 2012.

97 Productivity Commission, *Gambling*, vol.1, Commonwealth of Australia, Canberra, 2010, p. 53.

98 Clubs Australia, *Submission 29*, p. 10.

99 Mr Daniel Symond, Mr Paul Symond, *Committee Hansard*, 2 May 2012, p. 28, 33.

100 Australasian Casino Association, answers to questions on notice, received 5 September 2012, p. 4.

for some self-exclusion programs appears complex and given the shame involved, asking people to identify themselves as a problem gambler and possibly have their photo taken as well as reapply after a period of time may be difficult for them. The fact that people can't self-exclude from all venues at one time is problematic. They may only have to travel a short distance to be able to gamble at another venue. The committee sees merit in investigating state-wide self-exclusion programs to make it simpler for those wishing to self-exclude.

6.92 The committee notes the recent program launched by Clubs Australia which is attempting to assist problem gamblers by allowing them to self-exclude from multiple venues by doing so from their local club. The committee is pleased to see a person can also avoid gaming venues and complete the process in the office of a certified gambling counsellor.¹⁰¹ While the committee acknowledges this is a step forward, the program is not currently jurisdiction wide, although it notes the intention to expand the system across NSW over the next 12 months. The system should then be expanded to cover other states. However, it is unclear how venues will effectively identify people who have self-excluded. Venues should have effective systems in place to do so in order to assist their patrons. The committee notes the response of Clubs Australia which seems to indicate a preference to limit self-exclusion to the local geographic area of an individual gambler.¹⁰² As Clubs Australia refused to attend a public hearing the committee is unable to reconcile this response with their program outlined above.

6.93 The committee supports legislation for the forfeiture of prizes by those who are self-excluded as recommended by the Productivity Commission to act as a deterrent to breach self-exclusion agreements.

6.94 The committee notes the government announcement on 21 January 2012 of a number of actions to assist problem gamblers and their families which include strengthening self-exclusion arrangements.¹⁰³ However, no further detail on how and when this will occur or what aspects will be strengthened has been made available.

Recommendation 5

6.95 The committee recommends that as part of strengthening self-exclusion arrangements, governments, through the COAG Select Council on Gambling Reform, work with industry towards jurisdiction-wide venue exclusion as well as legislative changes which mean that prizes won by people in breach of self-exclusion orders should be forfeited to government revenue as recommended by the Productivity Commission.

101 ClubsNSW, 'Clubs launch online support for problem gamblers', *Media release*, 8 February 2012.

102 Clubs Australia, answers to questions on notice, received 27 July 2012.

103 The Hon Jenny Macklin MP, the Hon Julia Gillard MP, the Hon Bill Shorten MP, Senator the Hon Stephen Conroy, 'Tackling problem gambling in Australia', *Joint media release*, 21 January 2012; Department of Families, Housing, Community Services and Indigenous Affairs, *Submission 20*, p. 4.

Incentives to gamble from venues

Gifts and drinks

6.96 The committee heard that venues offer incentives to people to keep gambling. Ms Dorothy Webb, Secretary, Gambling Impact Society NSW, told the committee about her son:

We did not know our son was addicted for nearly 15 years; it went on for 20 years. Early intervention certainly would have helped him. We know absolutely, particularly after going recently to our local club for a sandwich, that these EGM players are nourished very, very well with drinks from the bar. We were there for half an hour, and four times in that half hour it came over the microphone to the poker machine area: 'If you would like a drink from the bar'—that first phrase gets them used to listening to a voice—'If you would like a drink from the bar, please'—then the emphasis—'press the blue button at the right-hand side of your machine and it will be brought to you.' This is what happened to our son and of course he developed a severe drinking problem as well; the two seem to go together.¹⁰⁴

6.97 Ms Kate Roberts, Chairperson, Gambling Impact Society NSW, said that player tracking through loyalty schemes can be used to target customers:

...player tracking is used specifically to target customers who are seen as good customers, which I am sure you are aware of. I have already quoted a number of scenarios in the submission where people have been selected out as good gamblers, people having brochures sent to them from for instance the casino with their personal name on it when they have just lost seven grand or whatever. So it is not only that the consumer protections and the early interventions are not there; it is the adverse side of that, which is that it is actually being used to market to people who we know are vulnerable. Last year at our seminar we heard from a woman who is now serving four years in jail for embezzlement. It took four years for the case to be heard. She talked about how, during that time, the club would send her flowers, they would send her taxis, they would ring her up and tell her that she had not been there for a while. They basically very clearly targeted her to come back, knowing that this was a woman who was spending thousands and was clearly not in a position to do that.¹⁰⁵

6.98 Jurisdictions differ in their regulation of inducements. The committee notes the following table outlining regulations covering inducements provided by the Australasian Gaming Council:¹⁰⁶

104 Mrs Dorothy Webb, *Committee Hansard*, 2 May 2012, p. 42. See also Mission Australia, *Submission 17*, p. 5; Relationships Australia, *Submission 18*, p. 8; Mr Tom Cummings, *Submission 22*, p. 3; Gambling Impact Society NSW, *Submission 30*, p. 8; Pokies Anonymous, *Submission 31*, p. 17.

105 Ms Kate Roberts, *Committee Hansard*, 2 May 2012, pp 41–42.

106 Australasian Gaming Council, *Submission 33*, p. 17.

ACT	No specific ban however the mandatory Code of Practice places restrictions on inducements including a prohibition on offering free or discounted alcohol.
NSW	Legislation bans gambling-related inducements offered by clubs, hotels and casino. Inducements cannot include free or discounted liquor or offer free credits to players.
NT	A ban on all gambling related inducements
QLD	No legislated bans on gambling inducements however the voluntary QLD Responsible Gambling Code of Practice provides that gambling providers are to develop and implement strategies to ensure advertising and promotions do not involve any irresponsible trading practices by the gambling provider.
SA	The mandatory Code of Practice outlines a strict ban on all inducements. ¹⁰⁷
TAS	Inducements are restricted by the mandatory Code of Practice.
VIC	No specific ban on inducements however provisions under the mandatory Responsible Gambling Codes of Conduct govern the activities of the gaming provider
WA	Gaming and Wagering Commission Regulations 1988 govern the activities of the casino.

Venue opening hours

6.99 Mr Tom Cummings also suggested looking at venue opening hours:

...little things like venue opening hours—there is no standard across the country for when things can be open. Sometimes I start work early at 7 o'clock, and the venue that I walk past on the way to work is open and there are people playing at 7 o'clock in the morning. I used to when I was playing. Some of the other venues are still open at 4 o'clock in the morning or 6 o'clock in the morning.¹⁰⁸

Is there a need for a legislated duty of care?

6.100 Witnesses emphasised to the committee that currently there is no onus on venues for early intervention by staff. Ms Kate Roberts, Chairperson, Gambling Impact Society NSW, elaborated:

107 Other than participation in an acceptable loyalty program. See Clause 6A, *Gaming Machines Responsible Gambling Code of Practice (South Australia)*.

108 Mr Tom Cummings, *Committee Hansard*, 3 May 2012, p. 5.

Among some of the things that we have raised in our submission is that the evidence—we know from studies both in Australia and in Switzerland et cetera—strongly suggests that people are demonstrating problems with their gambling; yet, at the moment, certainly in New South Wales, there is no onus of any kind on host responsibility for early intervention. We know, for instance, that the casinos in New Zealand have player tracking data and have used it to do exactly that, whereas in New South Wales that is not the case.¹⁰⁹

6.101 The Australian Churches Gambling Taskforce pointed to the need for a legislated duty of care for poker machine venues:

While there is value in training of venue staff to be able to identify clear signs that a patron is engaging in problematic gambling and that they are skilled to deal with such patrons, such skills will count for little if venue owners and managers do not authorise such assistance being given. Research with venue staff has shown that in some venues staff [are] unwilling to intervene with a patron displaying problem gambling behaviour out of fear of disciplinary action by the venue owner for causing a loss in revenue for the venue. The Taskforce therefore believes there should be a legislated “duty of care” for EGM venues to take reasonable steps to prevent problem gambling, including intervention when a person is displaying clear signs of a gambling problem. This is already the case in Switzerland.¹¹⁰

6.102 Dr Jennifer Borrell, Adviser, Australian Churches Gambling Taskforce, also called for duty of care regulation:

At a venue level, cash needs to be less accessible, and venues should be made responsible for not causing and profiting from harm, through duty-of-care regulation. In the past, people from the industry used to say, 'You can't tell if someone has a gambling problem,' but it has been in solid research for quite some time now that you actually can detect it. Some years ago in Canada, Schellinck and Schrans did very good, solid research on that, and I believe Delfabbro in South Australia has also done research. So there is no truth in saying that we cannot tell if people have gambling problems.

From my own research at a community level, talking to people who work in venues, actually often they do know, but they need their jobs, so they keep it to themselves. But they actually do know. They do see the people who are distressed coming in, day in, day out, spending all night, so they can detect gambling problems. They need to be responsible if they are taking their money.¹¹¹

6.103 Industry responses via questions on notice did not support duty of care legislation. Clubs Australia responded:

109 Ms Kate Roberts, *Committee Hansard*, 2 May 2012, p. 38.

110 Australian Churches Gambling Taskforce, *Submission 50*, p. 10.

111 Dr Jennifer Borrell, *Committee Hansard*, 14 May 2012, p. 21.

Existing legislation is already comprehensive, and club compliance with the legislation has resulted in falls in the prevalence of problem gambling in every Australian state and territory. Given research into this issue is continuing..., it would be difficult to legislate further at this time.¹¹²

6.104 Regarding a legislated duty of care provision, the Australasian Casino Association advised:

The Australian Churches Gambling Taskforce's suggestion that there should be a legislated duty of care provision is based on the false assumption that there is something so insidious or systematically improper about the gambling industry that it requires the introduction of a new statutory cause of action, which is not faced by businesses in other industries. This suggestion is based on the mistaken assumption that resolving conflicts through the courts is a desirable or optimal state of affairs. This assumption is fundamentally flawed. The underlying assumption appears to be that because very few gamblers have successfully brought proceedings against gambling venue operators that this means the law needs to be changed.

The ACA submits that it is more likely that this is indicative that gambling venue operators have not breached their duties and responsibilities to gamblers and this is in fact why few successful cases have been brought. The ACA would further submit that in order for a problem gambler to deal with his or her problem they must recognise that they have a problem and commit to deal with the problem. This is an accepted point by many researchers in this area. Accordingly, the threshold tests for a breach of common law duty of care or breach of existing consumer protection legislation should remain relatively high, as they are now. The Productivity Commission also accepted that it would be preferable for governments to pursue the enhancement of compliance and complaints handling mechanisms and that this "would improve incentives for venues to effectively implement and apply harm minimisation requirements".¹¹³

6.105 The Australian Hotels Association responded:

Venue staff are now trained in the responsible conduct of gambling. In addition harm minimisation signage is currently on display in all gaming rooms. All gamblers are also alerted to free telephone help lines.¹¹⁴

Committee majority view

6.106 The committee majority notes that the Productivity Commission looked very closely at the provision of a statutory duty of care but did not recommend it:

112 Clubs Australia, answers to questions on notice, received 27 July 2012, p. 6.

113 Australasian Casino Association, answers to questions on notice, received 5 September 2012, p. 5.

114 Australian Hotels Association, answers to questions on notice, received 17 September 2012, p. 4.

In the draft report, the Commission floated a statutory duty of care as a possible way of providing better redress for gamblers. While conceptually attractive, there are several obstacles to its practical implementation:

- actions would be likely to be slow and costly
- there would be difficulties in defining ‘egregious behaviours’ and distinguishing them from unconscionable conduct (which is subject to legal action under the Trade Practices Act and the common law).

Given such difficulties, the Commission has recommended enhanced compliance and complaints-handling arrangements — in particular, strengthening penalties and disciplines for serious breaches — to strongly discourage any inappropriate venue conduct. If governments did not implement these measures or they failed to deter egregious venue behaviour, a statutory cause of action could be given further consideration in the future.¹¹⁵

6.107 The Chair, Senator Xenophon and participating Senators Di Natale and Madigan have provided additional comments in relation to this issue which follow this report.

115 Productivity Commission, *Gambling*, vol.1, Commonwealth of Australia, Canberra, 2010, pp 31–32.