

Additional comments by the Chair and Senators Xenophon, Di Natale and Madigan

1.1 While we support the committee's report we believe it does not go far enough in a couple of areas. These include: addressing machine design within the overall approach to reduce harm; and the need for a legislated duty of care for venues to address the lack of staff intervention.

Prevention measures

1.2 We agree that more needs to be done in the area of prevention. The committee heard that the almost exclusive focus on personal responsibility is imbalanced and may be unintentionally increasing the stigma associated with a gambling problem and contributing to low rates of help-seeking. The message of 'gamble responsibly' says to those who can't do so that they are irresponsible and the fault lies in them. This shame and stigma attached to having a gambling problem is one of the main reasons that so few people seek help. The committee heard how work done by organisations such as *beyondblue* in the area of mental health can provide a good basis to draw from in order to work on de-stigmatising problem gambling to get more people seeking help and seeking it earlier. We therefore agree with the recommendations made in the committee report in this area.

1.3 However, there is one area we have decided where further action is required. The committee heard calls for the federal government to put a cap on the number of poker machines (chapter two) and we see merit in a national cap.

Recommendation 1

1.4 That the government cap the number of poker machines nationally and that the Department of Families, Housing, Community Services and Indigenous Affairs investigate a means for nationally capping the number of poker machines.

Advertising and help-seeking

1.5 The committee has already noted that industry promotion of gambling as a harmless form of entertainment is not balanced by clear messages about possible risks. Pro-gambling promotions are also not balanced by information about available gambling treatment services.

1.6 Given the effectiveness of TV advertising in increasing the number of problem gamblers seeking help, we believe the government should facilitate access to TV advertising by gambling counselling and treatment services. For every advert that goes to air promoting gambling, appropriate advertising promoting the risks of gambling and the availability of treatment should be aired in a comparable time slot.

1.7 Such adverts would serve a dual purpose: firstly to draw attention to the fact that gambling is a risky activity and secondly to alert those already suffering from a gambling addiction that help is available.

Industry needs to take more responsibility for a dangerous product

1.8 Consistent with a public health approach, the responsibility for gambling harm needs to be broader than just the individual. Industry must play a larger part. This was explained by Mr Tom Cummings, former poker machine addict and gambling reform advocate:

Things can be done to tighten up the industry and place a greater onus of responsibility on the industry that offers these products, whether it is poker machines, sports gambling or online gambling. Responsibility has to work in every direction. People do need to be responsible, and that is the message that is coming through very responsibly from the industry, but the industry needs to be responsible as well. They 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, though I hate to say it that way. It is certainly something that needs to be looked at by all corners.¹

1.9 We recognise that industry has taken some measures which can help some people, such as self-exclusion, but industry, like government, has a conflict of interest. The committee heard how industry doesn't wish to implement measures that will meaningfully affect their revenue stream. As noted by Mr Mark Henley, Member, Australian Churches Gambling Taskforce:

The primary objective of the industry, appropriately, is maximising profit. That is a construct that is quite contrary to our objective, which is about harm reduction. We would argue that an appropriate level of harm reduction is an area of market failure, if we were to give a purely economic analysis of this. No industry that I can think of, particularly one that is dealing with a moderately harmful product, has ever been effective at self-regulating because the primary objective is quite contrary to the public benefit objective.²

1.10 Dr Mark Zirnsak, Member, Australian Churches Gambling Taskforce, agreed that industry is unwilling to implement strong effective measures:

That is not to say the industry has not taken some measures that have had some positive effect, but it has always been at the soft end. They have demonstrated their unwillingness to take strong measures, even where they have commissioned their own research. They commissioned some research by Alex Blaszczyński in 2001 to look at a range of measures that the New South Wales government was considering at the time. That report certainly made a recommendation that a \$1 bet limit would be a good thing to do. The industry rejected that finding and, in fact, implemented none of the measures that were there. Our experience over a long period of time has been that the industry will not buy into any measure that seems likely to be more effective in this space. It feels more like they are willing to take

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

2 Mr Mark Henley, *Committee Hansard*, 3 May 2012, p. 11.

measures that are at the soft end. The thing they seem most open to is the idea of informing gamblers—the argument about making an informed choice. The evidence seems to suggest that that benefit is not really strong if we look at problem gambling evidence on an ongoing basis. At the other end there is treatment. Once someone says they [have] a gambling problem and they need help, the industry is generally willing to help. But beyond those measures there is very little willingness to really move on effective measures.³

1.11 Therefore the committee heard the focus of the industry is providing treatment once people have already developed a gambling problem. We believe people should not have to hit rock bottom before seeking or accepting help. We can do better than this 'ambulance at the bottom of a cliff' approach. We are reminded of the words of Ms Kate Roberts, Chairperson, Gambling Impact Society NSW, during the first inquiry who said:

I think it is really important that we do not get fixed on this idea that hitting rock bottom is the only way out. With a well-informed community and families that are strengthened and people with an understanding of this issue, we are not going to need people to hit rock bottom before they start reaching out for a variety of kinds of supports to assist them. It is rather an old model that says you have to wait for someone to hit bottom before they will change. In fact there is plenty of evidence that you do not.⁴

1.12 There are a number of ways in which industry can take greater responsibility and one is in the area of machine design.

Machine design

1.13 Through this and previous inquiries the committee has heard about poker machines being the riskiest form of gambling. This was recognised by the Productivity Commission.⁵ The committee has spoken with many former problem gamblers and heard how they enter a trance-like state when playing poker machines. For people who are vulnerable this can lead to them becoming addicted and given the current design of machines, players can lose up to \$1,200 per hour.⁶ Although this figure has unsurprisingly been disputed by the industry⁷ there is no doubt that by using this so-called 'recreational product' in one hour you can lose much more than you would spend on other entertainment products.

3 Dr Mark Zirnsak, *Committee Hansard*, 3 May 2012, p. 11.

4 Ms Kate Roberts, *Committee Hansard*, 4 February 2011, p. 80.

5 Productivity Commission, *Gambling*, vol.1, Commonwealth of Australia, Canberra, 2010, p. 4.1.

6 Productivity Commission, *Gambling*, vol.1, Commonwealth of Australia, Canberra, 2010, p. 2.3.

7 Gaming Technologies Association, *Submission 23*, p. 2.

A dangerous product

1.14 The committee has been told repeatedly of the addictive features of poker machines which trigger a loss of control. With the emphasis placed on individual responsibility the committee heard how an individual's capacity to exercise informed choice in relation to poker machines can become severely impaired due to their essential design features. The product is therefore inherently dangerous. Ms Amanda Jones, Member, Public Interest Advisory Group, Australian Psychological Society, stated:

We are saying that it is [an] inherently dangerous product and therefore the current responsible gambling/informed choice strategies of government and industry really are not addressing that fundamental and will only, therefore, take us so far.⁸

1.15 Mr Tom Cummings emphasised the need to focus more on the product:

However, on a preventative side I ultimately believe that there is a problem with the offering of the product and, in some cases, with the product itself. Poker machines are unique in terms of gambling. They are constantly refined and technologically advanced. New technology is being introduced constantly, all with the aim of getting people playing these machines for longer and spending more money because it is a business. That is to be understood. I have been looking at an American company that has signed agreements with a company here, and they are looking at rolling out machines down the east coast. They have immersive gaming where they have high-backed seats with surround sound and massive screens, and they promote this as such. It is designed to absolutely surround the player and remove all distractions. I really cannot see how that can be a responsibly offered gambling product when the idea is to be not so much a leisure activity but to keep them playing and remove all distractions.⁹

1.16 Mr Cummings elaborated on the need to have more measures to address the safety of the product:

I fully believe that gambling is and should be a legitimate leisure pastime. People have been gambling around the world for centuries; it is nothing new. However, there are markets open at certain points in time. Here in Victoria it was in the early nineties with poker machines, and more recently around the country it has been sports gambling following the court decision that allowed advertising around the country. The opportunities present themselves and businesses move in to take advantage of those opportunities. I understand that these are businesses and will do what they can to maximise their revenue. They have every right to do that legally. The problem is when the product that is being offered such as gambling, poker machines or sports gambling has the potential to cause harm and the industry that is offering those services does not—in my opinion anyway—

8 Ms Amanda Jones, *Committee Hansard*, 14 May 2012, p. 29.

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

take sufficient measures to make sure that does not happen with the product that they themselves are offering.¹⁰

1.17 Ms Kate Roberts, Gambling Impact Society NSW, also stressed the need to look at the product itself which would include:

...looking at changing national standards for safer electronic gaming machines and using the technology to create a win-win for both the community and the providers; reducing the negative impacts by building in those seatbelts and airbags—and we regard smart card technology and \$1 maximum bets as a key component of that; limiting access to high-intensity machines, which I guess we believe should be in the casino and not on every street corner; really making this product truly recreational if it is to be marketed as such.¹¹

1.18 Mr Mark Henley, Member, Australian Churches Gambling Taskforce, also highlighted that gambling can be a dangerous product for some and the exclusive focus on the individual to be responsible with a dangerous product does not take into consideration those who are vulnerable:

We wish to reiterate the Taskforce's clear understanding that gambling is a dangerous product and, as such, needs to be understood from a clear consumer protection perspective. We have observed that, over the last decade, there has been a tendency in the provision of gambling help to move from an approach where prevention is a part of the approach to an approach perhaps more characterised by pathologising people with a gambling problem. This approach is unhelpful. It simply alienates a small group and fails to recognise the range of risks being experienced by another group.¹²

1.19 Dr Jennifer Borrell, Adviser, Australian Churches Gambling Taskforce, also emphasised that the design features of poker machines need to be addressed:

We know the main source of pokie related gambling problems is the design as well as the supply and accessibility of the machines. This is what we need to target for meaningful reform. The Productivity Commission identified that one dollar bet limits and mandatory precommitment looked like effective measures to reduce harm generation from the machines. Of course we support those measures. We also recommend a ban on linked jackpots on gaming machines, as an unacceptable inducement to people, who end up chasing their losses.¹³

1.20 Ms Amanda Jones, Member, Public Interest Advisory Group, Australian Psychological Society, spoke about how the design features of machines contribute to loss of control and impaired decision-making:

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

11 Ms Kate Roberts, *Committee Hansard*, 2 May 2012, p. 36.

12 Mr Mark Henley, *Committee Hansard*, 3 May 2012, p. 9.

13 Dr Jennifer Borrell, *Committee Hansard*, 14 May 2012, pp 20–21.

...there is a significant amount of literature that has been emerging on the nature of EGM gambling experience and the intrinsic design features as powerfully effective in building uncontrolled consumption and impaired decision making. I suppose we would want to be really making a very strong point about differentiating between an informed choice or responsible gambling perspective and product safety consumer protection perspective.

The unsafe product analysis really takes us much more critically into an understanding and acknowledgement that EGMs are designed in such a way to precisely promote the loss of control. That is the point of the product. So it is extremely difficult for people to gamble responsibly when the design of these machines and the setting in which they are consumed are about interfering with that intention, if indeed consumers have that intention, because certainly from our experience the pleasure of loss of control is precisely part of what they are seeking.

The product safety perspective is absent in our view or it is underdone in the responsible gambling frame of reference and public policy agenda. It really represents an industry operator and government failure to apply existing consumer protection law in a way to exercise a duty of care to protect the community.¹⁴

1.21 The committee discussed whether this aspect should be a factor taken into account before the machine is approved. The Australian Psychological Society (APS) thought that this would be helpful and Professor Debra Rickwood, Professor of Psychology, University of Canberra; and APS Fellow, suggested they could be rated along these lines:

Prof. Rickwood: I would think that, with our understanding of the learning principles and the way machines are developed, you could probably rate them in terms of the different elements of their level of impact.

Senator XENOPHON: If you were given a research project of rating these machines—a bit like a safety rating of a car—would you have a set of criterion to make that assessment in a reasonably robust way?

Prof. Rickwood: I would imagine we could. I am not aware of anybody who has done that, except they would probably all be rated very high. There may not be very much variation in them.¹⁵

1.22 Ms Heather Gridley, Manager, Public Interest, APS, supported looking at the design of the machines but noted:

One reason it has been difficult to undertake research in some of these areas is that there is some resistance to trialling things which might disadvantage industry in some way and, unfortunately, governments also become implicated in that when they have a large revenue base.¹⁶

14 Ms Amanda Jones, *Committee Hansard*, 14 May 2012, pp 28–29.

15 Professor Debra Rickwood, *Committee Hansard*, 14 May 2012, p. 32.

16 Ms Heather Gridley, *Committee Hansard*, 14 May 2012, p. 32.

1.23 Ms Leah Galvin, Manager of Social Policy and Advocacy, St Luke's Anglicare, also noted that some machines are more dangerous than others and there are no restrictions on replacing less harmful machines with more harmful machines:

That is an interesting point that you raise, as it relates to one of our other concerns. It is a strange way to describe it, but some machines are safer than others. With the new generation of machines you can lose much more money much faster. There does not seem to be any real restriction on venues, once they have a licence, replacing these lower-loss machines with higher-loss machines. You in fact increase the damage even though you do not have extra licences. So there is the potential for that as well. I do not know if others have spoken about that before the committee.¹⁷

1.24 Witnesses noted other legal products which are highly regulated as a consumer protection measure. They argued that gambling is no different to any other product with which there is a risk.¹⁸

Meaningful messages

1.25 We believe that warning messages on poker machines or online could play a role in alerting gamblers to risky play. The Productivity Commission noted:

Since EGMs are a major source of problem gambling and these are electronic games, the nature of the technology provides a unique capacity to assist in primary and secondary prevention—machine design, exclusion and personalised and generic warnings based on style of play—similar to a speed alert on a car or beeps emitted when people fail to fasten their safety belts. Online gambling shares many of these features.¹⁹

1.26 We note industry and government are looking at dynamic or electronic warning messages. For this to be effective the messages need to be strong enough to reach gamblers on poker machines who are 'in the zone' which is what they use to describe their trance-like state. Ms Julia Karpathakis, Manager, Pokies Anonymous, provided examples of strong messages which could come up during risky play.²⁰

I believe that messages to jolt people out of the trance will be of great use. These messages will trigger people to have to think about their outer surroundings and real life and to change the focus from the make-believe and isolated world of the pokies of to the real world out there.²¹

1.27 We support meaningful messages on poker machines that are able to reach gamblers in that trance-like state that has been described to the committee to provide them with a reality check.

17 Ms Leah Galvin, *Committee Hansard*, 3 May 2012, p. 51.

18 Mr Mark Henley, *Committee Hansard*, 3 May 2012, p. 18.

19 Dr Ralph Lattimore, *Committee Hansard*, 14 May 2012, p. 41.

20 Pokies Anonymous, *Submission 31*, p. 3.

21 Pokies Anonymous, *Submission 31*, p. 2.

Altering parameters of machines would help reduce harm

1.28 It is clear that altering the parameters of the machines to reduce the amount of money that can be lost will lessen the amount of harm for those who lose control. And a key outcome from making the machines safer would be a reduced need for counsellors:

Senator XENOPHON: If you made the machines safer and reduced the demand, that would solve the problem, wouldn't it? If you did not have as many people falling off the cliff in the first place, you would not need to have as many counsellors.

Ms Wilson: I think if there were not as many problem gamblers you would not need as many counsellors.²²

1.29 Ms Amanda Jones, Member, Public Interest Advisory Group, Australian Psychological Society, noted the ability to change machine parameters to make them safer:

We could certainly immediately introduce some sort of regime that requires that they meet certain parameter values. We already know what those are—we are talking about maximum price, maximum bet, load-up limits and all those things, along with a genuine seatbelt type approach through mandatory precommitment.²³

1.30 The committee discussed with Professor Alex Blaszczynski the effects of altering the parameters of the machines:

There is some empirical evidence out there now about people and lotteries, for example. The larger the prize pool for a lottery the greater the number of people who will participate in it. So if you have a situation where, for example, electronic gaming machines are put forward as recreational devices, with large amounts of jackpots in linked machines, it would seem to be sensible to reduce the potential prize pool, which would then reduce the motivation for people to gamble. If I am \$10,000 in debt and I am trying to chase that then I will be prepared to gamble \$2,000 or \$3,000 if the jackpot is \$186,000. I would be less likely to do that if the major jackpot was \$500.²⁴

1.31 Mr Cummings confirmed that reducing the intensity of poker machines by measures such as reducing the maximum bet and jackpots would make a difference to problem gamblers.²⁵ He also spoke about the lure of jackpots and agreed that lowering jackpots to no more than \$500 would discourage people from chasing their losses:²⁶

22 Ms Penny Wilson, *Committee Hansard*, 3 May 2012, p. 29.

23 Ms Amanda Jones, *Committee Hansard*, 14 May 2012, p. 32.

24 Professor Alex Blaszczynski, *Committee Hansard*, 2 May 2012, p. 15.

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

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

I think jackpots are a big lure. I have been looking into that reasonably recently with linked jackpots and venue-wide jackpots. I think they encourage people to play the machine just in case the jackpot goes off.²⁷

1.32 He added:

...I know a lot of people who play just to win jackpots. They look for the machines that have the big signs at the top and that is what they play for. Having said that, when I did win my one big jackpot, the \$5,000, it was an incredible experience. I had about five seconds worth of elation, and then all I could think was that I could use this to start putting more money back in. My experience with that was that it was a lure and it was also an encouragement to keep gambling. If you win one jackpot, you are not going to be satisfied with one: you are going to try and win them all.²⁸

1.33 As in previous inquiries, witnesses again put forward their support for measures which address machine design. These include reducing the parameters of the machine which includes maximum \$1 bets as well as mandatory pre-commitment:

Senator XENOPHON: You talked about how you thought that mandatory precommitment would have been an effective way of doing things.

Ms Karpathakis: Yes, definitely.

Senator XENOPHON: Another proposal, which could be done at the same time as mandatory precommitment, is to have \$1 bets so that you cannot lose more than on average \$120 an hour or to try to limit the losses to much less than that \$120 an hour. Would slowing down the rate of loss have made a difference? I will ask both of you, you and Shonica, that. In other words, it is if a machine could not take so much money so quickly. I think, Shonica, you said that you lost \$250 in 22 minutes.

Miss Guy: It was probably worse than that but I can just remember that one.

Senator XENOPHON: Yes, but, firstly, if there were a lower rate of loss?

Ms Karpathakis: That would be heaps better. Anything would be better than it is now.²⁹

Maximum \$1 bets

1.34 Rev. Tim Costello, Chair, Australian Churches Gambling Taskforce, told the committee that the Taskforce supported \$1 maximum bets on all machines which would limit losses to \$120 per hour. In addition, they support reduced access to cash in gambling venues and restrictions on online gambling in recognition of the explosion in sports wagering.³⁰ In relation to poker machines, he added:

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

28 Mr Tom Cummings, *Committee Hansard*, 3 May 2012, p. 7.

29 Ms Julia Karpathakis and Miss Shonica Guy, *Committee Hansard*, 14 May 2012, p. 14.

30 Rev. Tim Costello, *Committee Hansard*, 14 May 2012, p. 20.

I have never been a prohibitionist and therefore, by implication, I agree that there is an acceptable risk...[T]he risk at the moment is completely unacceptable because the very simple argument of machines that are often banned elsewhere in the world being normal here is not allowed to be given expression, because of the pathologising of the individual. I do believe that if there were \$1 machines, with loss limits of \$120, there would still be damage. There would still be people who could sit there for five hours straight and do some damage to themselves. But it is a far more acceptable risk and loss than what the current situation is, where you can lose thousands of dollars within an hour and go on to commit crime. As the Victorian Justice Department research showed, pokies' contribution to crime is second only to illicit drugs. By implication I think there probably is an acceptable risk. We are nowhere near that at the moment because of the way this debate has been framed. When we are closer to actually seeing what is a much less dangerous machine we will have greater community consensus around the acceptable risk than we do at the moment.³¹

1.35 Mr Tom Cummings also spoke about limiting maximum bets to \$1:

With regard to \$1 bets, I think they are a good measure. They would make a difference. I do not think they would be quite as effective as mandatory precommitment; however, it is not hard to implement without a trial in my opinion as an IT professional for 20 years. Making those kinds of changes can be done and can be rolled out progressively over a period of two or three years. We have done it in Victoria, dropping the bet limits to \$5. Dropping to \$1 is just a matter of degree. And it removes the capacity to think, 'Oh, my luck's in; I'll up my bet.' You can only go so far. I think both measures in combination would have been fantastic. What was originally offered and walked away from would have been a lot simpler than it was put forward to be and, I think, would have been very effective.³²

1.36 Ms Leah Galvin, Manager, Social Policy and Advocacy, St Luke's Anglicare, agreed this would be helpful:

We like any harm minimisation measure! I think the \$1 bet, so that you can reduce the amount of money that can be lost in an hour—given how people behave when they are in front of the machines—would be really great. I think that is a really simple solution, but we also support the other ideas that are being espoused as well; although we think that there are potential weaknesses in the choosing how much you gamble before you do system, and that it will not be that hard for people to manipulate it or to get around it. You would have to design such an airtight system that I think there might be vulnerabilities with that. So we would go for the \$1 bet.³³

1.37 Dr Mark Zirnsak, Member, Australian Churches Gambling Taskforce, stated:

31 Rev. Tim Costello, *Committee Hansard*, 14 May 2012, pp 25–26.

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

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

The Taskforce has a strong position of supporting \$1 bet limits. That was a recommendation of the first Productivity Commission report in 1999, and it is something that we have supported. The research by Alex Blaszczynski in 2001 found three times as many people with gambling problems bet over \$1 when compared to those who are recreational gamblers. The Productivity Commission covered this in quite a bit of detail. The number of people betting over \$1 in the Queensland research had increased quite substantially from that 2001 research. According to the Queensland research, 50 per cent of people with gambling problems were betting over \$1. So, from our perspective, you would not trial a \$1 bet limit; you would simply implement it as a measure. However, from our perspective, it does not remove the need for the ability of people to set themselves enforceable limits.³⁴

1.38 We note that in Victoria the maximum bet was lowered from \$10 to \$5 seemingly without much fuss from the industry. Ms Penny Wilson, CEO, Responsible Gambling Advocacy Centre, said that from historical analysis, the maximum bet limit change:

...went through rather smoothly. Looking back, our staff found there was lots of very robust discussion at the time, but it was achieved and the regulatory measures were put into place to achieve that.³⁵

1.39 The committee wrote to the Victorian Commission for Gambling and Liquor Regulation to discuss the implementation of this change but did not receive a response. We note the bill currently before the committee, the Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012 sponsored by Senators Di Natale, Madigan and Xenophon. The intention was to inquire into this bill at the same time as the government legislation on poker machine reform. However the government legislation has not yet been introduced.³⁶

Pre-commitment

1.40 Witnesses also expressed support for mandatory pre-commitment. For example, Rev. Tim Costello, Chair, Australian Churches Gambling Taskforce, told the committee that the Taskforce strongly supported mandatory pre-commitment.³⁷

1.41 The Chair asked Mr Tom Cummings his view on voluntary measures for problem gamblers. Mr Cummings replied that they would be more suited to a person who is at risk of developing a gambling problem. He then went on to describe how he, as a former poker machine addict, found setting voluntary limits unsuccessful:

I know that for years I tried to voluntarily limit my own spending. I would put money into accounts I could not touch or I would leave my credit cards at home and I would always find a way. The two or three times I tried

34 Dr Mark Zirnsak, *Committee Hansard*, 3 May 2012, p. 17.

35 Ms Penny Wilson, *Committee Hansard*, 3 May 2012, p. 32.

36 Note: The committee has since decided to start its inquiry into this legislation.

37 Rev. Tim Costello, *Committee Hansard*, 14 May 2012, pp 25–26.

leaving my wallet at home when I would go out gambling just strengthened my resolve to make sure I took it with me the next time. I was trying to get myself out of a situation that I had put myself into, and the only way I could see to do that was gambling. I did not feel that I could front up about it. I did not feel that I could walk away from the losses that I had incurred and the secrets that I had kept. The only way that I could see out of it—and it is an irrational concept and I realise that now—was to repair the damage, put the money back and then walk away from it, pretending it had never happened.

When you have that mindset, when you believe in that sort of irrational concept, a voluntary measure for harm minimisation is not going to have a lot of impact, in my opinion.³⁸

1.42 Mr Cummings provided his view on mandatory pre-commitment:

On mandatory precommitment: I know a little bit about smartcards through my work and I have thought for quite some time that mandatory precommitment would have been fantastic for me I certainly would have made use of it. I think it has the capacity not just to bar yourself from all poker machines. Even if I set a high limit and blew all the money so player's remorse kicks in, I would have thought: 'I don't want to do this anymore. I will restrict how much I can play. I'll drop my limit down to \$100 a day or \$50 a day.' I fully believe that would have helped me.³⁹

1.43 Mr Mark Henley, Member, Australian Churches Gambling Taskforce, stated:

We remain absolutely committed to supporting limit setting as a crucial protection measure that is there to make gambling, including poker machine gambling, safer for consumers.⁴⁰

Cost of \$1 bets or mandatory pre-commitment

1.44 Witnesses discussed the cost estimates of mandatory pre-commitment and emphasised that when you look at the amount of money made from gaming machines, particularly over the life of a machine, and even if you take the industry's more extreme cost estimate, you could argue that it is still reasonably affordable. Dr Mark Zirnsak highlighted:

The question is: how much does it actually reduce the revenue that comes through the machines? The Productivity Commission's work suggests 40 per cent of money from electronic gaming machines is coming out of the pockets of people with gambling problems. If it is effective at reducing that—that is probably a larger slice of the pie—but the question is: is it reasonable for an industry to keep living off the back of creating huge harm in the community? They say, 'We don't want one dollar from people with gambling problems.' If that is the case, they need to be willing to give up the money they are currently getting from people with gambling problems.

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

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

40 Mr Mark Henley, *Committee Hansard*, 3 May 2012, p. 9.

It is a contradictory argument, 'We do not want to pay the cost, but we do not want money from people with gambling problems.' Which is it? I am not clear.⁴¹

1.45 Mr Mark Henley added:

Let's also be clear about the cost of implementing precommitment schemes. We already have precommitment schemes operating in this country. In South Australia there is a jackpot group, 60-odd hotels who have a precommitment scheme in place already, and that program has been evaluated...Queensland has some precommitment schemes in place. We have casinos with precommitment schemes in place. So we actually have precommitment already happening in some jurisdictions, at virtually no cost. So let's not get too excited about the outrageous figures that the industry keeps promulgating; because precommitment is in place, it is happening now. So the move to make precommitment mandatory is not a huge expenditure. That can be done in the natural course of replacing central monitoring systems.

The other thing that I think makes perfectly good sense is that the marginal cost of implementing precommitment and \$1 bet limit capability on a new machine is minimal. So simple regulation, as soon as possible—all new machines with precommitment and \$1 bet enabled—is a minimal cost to the industry. So we simply do not buy the inflated figures that the industry promulgates; they are just not based on fact.⁴²

Norway experience

1.46 To discuss the benefits of setting limits, the committee spoke with Norsk Tipping which is a wholly state-owned company under the jurisdiction of the Ministry of Culture in Norway. It is the dominant provider of gambling in Norway, offering lottery and bingo-type games, sports betting and, since 2009, new interactive video terminals which replaced the old slot machines. These new machines have an upper monthly and daily limit set by the government but the individual can also set a limit within the overall limit. The officials were very clear that the new system has worked to reduce problem gambling.⁴³

1.47 This was confirmed by information from the Norwegian Ministry of Culture which stated:

It was an undisputed fact that slot machines were the direct reason for an increase in problem gambling in Norway. Since the ban in 2007 we have witnessed a substantial decrease in problem gambling in Norway, especially in relation to children under 18 years of age.⁴⁴

41 Dr Mark Zirnsak, *Committee Hansard*, 3 May 2012, pp 17–18.

42 Mr Mark Henley, *Committee Hansard*, 3 May 2012, p. 18.

43 Mr Bjorn Hoffmann, Mr Lars Ottesen, *Committee Hansard*, 26 June 2012, pp 1–2.

44 Norwegian Ministry of Culture, Correspondence received 13 July 2012.

1.48 It emphasised that the 'limits have worked well and been well accepted by people. Only around 21% of players reach their limits every month' and not many people have chosen to set their own limits as the limits set by the government were quite low from the outset.⁴⁵

1.49 Regarding whether people moved to online gambling, Norsk Tipping said there was not a huge movement to online gambling but they did see an increase in electronic bingo.⁴⁶ The Norwegian Ministry of Culture confirmed there was not a big shift to online gambling:

One of the big questions related to the Norwegian machine reform was where will the money go. After machines were banned there was a slight rise in turnover on other games on the Norwegian market as well as online, but nothing as equivalent to the turnover from slot machines.⁴⁷

1.50 While the environments and systems differ to those in Australia, it is clear that setting limits in Norway has reduced problem gambling and gambling harm. Limits in Norway have been set by the government, whereas with mandatory pre-commitment the intention is to provide that tool to the gambler to set their own limit.

Disappointment with the current government position

1.51 Witnesses expressed their frustration with the lack of progress on meaningful gambling reform and expressed disappointment at the withdrawal of support for mandatory pre-commitment by the government in January 2012. Rev. Tim Costello, Chair, Australian Churches Gambling Taskforce, told the committee:

I think all members of the Taskforce were very disappointed with what happened on 21 January. I would put on the record that the Stop the Loss Coalition, which involves Neil Lawrence, Sue Cato, the Australian Churches Gambling Task Force and has included the GetUp! campaign. That campaign was actually formed at the direct request of Minister Macklin last year to give the government some respite from the pokies lobby's particular attacks on New South Wales Labor-held electorates. The politics of that, you can imagine, for churches—and I should say this is a united view across all the mainstream churches, from Catholic to Salvation Army to Baptist to Uniting; I won't go through them all—is that there needs to be reform of these dangerous machines. The particular agreement between you [the Chair] and the government was the best chance—a historic opportunity, a once-in-a-lifetime opportunity—to get reform, given that we know that the industry boasted of a \$40 million fund. They applied extraordinary pressure. They certainly had support with some of the Murdoch press outlets, particularly the Daily Telegraph, to say pretty simply that community and junior sport is all at risk if there is reform of

45 Norwegian Ministry of Culture, Correspondence received 13 July 2012.

46 Mr Bjorn Hoffmann, *Committee Hansard*, 26 June 2012, p. 3.

47 Norwegian Ministry of Culture, Correspondence received 13 July 2012.

these dangerous machines. So it has been a highly politicised environment.⁴⁸

1.52 Rev. Costello added:

The Taskforce has voted on a position that says we support the Productivity Commission's recommendation on both \$1 maximum bets, which they recommended without trial; and mandatory pre-commitment, which was the original deal that you [the Chair] had with the Prime Minister; and, if it becomes clear that the government simply will not countenance those then, on the position that something is better than nothing, accept the watered-down bill—which has some good features in terms of ATM withdrawals. But very strongly the Taskforce has, for most of its existence, been advocating for the Productivity Commission's recommendations. It came into existence precisely to support the government and you to see that deal go through. That is still its strongest first position but, should that not have any chance of success, we say that something is better than nothing.⁴⁹

1.53 Ms Julia Karpathakis, Manager, Pokies Anonymous, stated:

If it is that easy to make it voluntary precommitment, it is that easy to make it mandatory precommitment. What is the big hoo-ha about how much money and how much it is going to cost to change the machines? That is ridiculous. It should be mandatory. We need action straightaway. People are actually killing themselves over stupid poker machines. I was at Kmart the other day and I was cursing because this lady asked me for Flybuys. If I knew Flybuys were from Coles or whatever, I would never have got them. I continued to tell her that Woolies and Coles own all the poker machines. She was just a person there at the till and she said that that on Monday a woman she knew killed herself and left behind three kids and a husband, and it was from the pokies. That is a random Flybuys conversation. It is a serious problem.

I know of people who have disappeared and I do not know what has happened to them—they have lost everything. I have helped them go to Cash Converters so that the interest does not have to go onto the car that they have hocked, and they could not even do that. They could not even pay off without the interest so they could get their car back. I do not know what happens to people out there. I think it is really sad that those reforms did not happen.⁵⁰

1.54 Witnesses spoke about the appearance or 'vener' of reform. Dr Jennifer Borrell, Adviser, Australian Churches Gambling Taskforce, expressed her view:

Nonchalance is an interesting word. I can speak for Victoria because that is where I am and where I have done a lot of my research. Reforms will be brought in to great fanfare and everyone thinks, 'They look really good.' But there is always a lot of lobbying from the industry and that lobbying often

48 Rev. Tim Costello, *Committee Hansard*, 14 May 2012, p. 23.

49 Rev. Tim Costello, *Committee Hansard*, 14 May 2012, p. 23.

50 Ms Julia Karpathakis, *Committee Hansard*, 14 May 2012, p. 18.

takes the form of changing it in some operational sense. It is like having a fantastic car but while you were not looking someone sneaked in and disconnected a couple of wires so that it does not work. There has been a pattern. I wrote a thesis about this and I have written about it and studied it, and it has been published as a book. It is basically a pattern that has been going on for a long time. It looks really good that, for example, local communities can say whether they are having pokies in their area, but when it comes to putting it in place there are hearings with judges and QCs with rules of evidence about not using research that shows it is a dangerous product. Once all of that happens the communities do not really have a say, but it has cost millions of dollars. This is the pattern with all gambling reforms.⁵¹

1.55 Dr Borrell said that if reform was done in a meaningful way, revenue for the industry would go down and as the industry does not want to change its business model, any reforms tend to get watered down:

One thing I have been heartened by is the move to look at regulation at a national level, because as you know the states are very dependent on the revenue. The problem as we all know is that the revenue is tied to the generation of harm. Talking about preventing or reducing harm, if you did it meaningfully and industries do not change their business models, the revenue will go down. No-one ever wants to look at anything that will make the revenue go down. So, it is not necessarily people going out and saying, 'Let's sabotage these new reforms.' It is more a matter of, 'We want it to look like we are doing something meaningful, but we still want the revenue to come in.' What happens when you do that when the revenue comes in? A huge proportion of it comes from problem gambling. That is where it happens. People talk about accountability, but it is a complete waste of taxpayers' money.⁵²

Government responsibility

1.56 Governments have introduced a gambling product in poker machines⁵³ that has contributed to mental health and other problems in the community for those who are vulnerable.⁵⁴ Government therefore must share the responsibility to limit the harms. This is currently achieved through legislation, regulation and codes of conduct. However governments are also dependent on gambling revenue so a conflict of interest exists. The emphasis on individual responsibility suits not only the industry but also governments which rely on the revenue. This is captured in the following exchange:

51 Dr Jennifer Borrell, *Committee Hansard*, 14 May 2012, p. 25.

52 Dr Jennifer Borrell, *Committee Hansard*, 14 May 2012, p. 25.

53 Except Western Australia where they are confined to the casino.

54 See discussion between Senator Xenophon and Professor Malcolm Battersby, *Committee Hansard*, 14 May 2012, p. 6. See also Nancy M Petry, *Pathological Gambling: Etiology, Comorbidity and Treatment*, American Psychological Association, 2005, pp 30–33.

Senator MADIGAN: That is it. So, on the one hand, it seems that concern is expressed, but these people are considered to be collateral damage. Would you agree with that?

Dr Glinka: If you mean that we are called upon to treat them and at the same time they are free to undo the treatment as soon as they walk out the door, yes—if that is what you mean.

Senator MADIGAN: Yes.

Dr Glinka: That is eminently totally unreasonable.⁵⁵

1.57 Senator Xenophon and Professor Dan Lubman, Fellow, Royal Australian and New Zealand College of Psychiatrists, also discussed this issue:

Senator XENOPHON: Is the greater obligation on the state? Unlike addiction to, say, heroin, which is illegal, you are dealing with something that has been sanctioned by the state. I know that one psychiatrist in Adelaide, Professor Malcolm Battersby, I do not know if you know him, made a point a number of years ago that struck me. He said that he does not know of any other form of something that is sanctioned by the state that has actually increased the level of mental harm and mental illness in the community compared to poker machines. Do you take into the mix the fact that it is something that is a problem that would not exist but for that sanction?

Prof. Lubman: There are certainly similar parallels with alcohol and various states' struggles with alcohol and drug acts and how you legislate for people who continue to drink despite causing significant damage to their body and who continue to put themselves in life-threatening situations. It is something we struggle with all the time. I do not think there is an easy answer to that. But what it does highlight for the committee is the recognition that there is a significant disorder where people cannot control their behaviour and which leads to significant harms to themselves. There is a recognition that in some way there needs to be safeguards in place to minimise the risks.⁵⁶

1.58 This conflict and the possible effects were also noted by Ms Leah Galvin, Manager of Social Policy and Advocacy, St Luke's Anglicare:

I think it is hard when you rely on those revenues, particularly in financially challenging times. I wonder how conflicted you are then to make a decision that is really about what communities want versus what the state finances might need. Again, all political persuasions are involved in that. This is not political commentary.⁵⁷

1.59 There is a growing call for the federal government to do more in this space. It was recognised by the Productivity Commission which noted that 'generally there is a need for the Australian Government to take a greater leadership role in pushing for, or

55 Dr Natalie Glinka, *Committee Hansard*, 14 May 2012, p. 10.

56 Professor Dan Lubman, *Committee Hansard*, 3 May 2012, p. 40.

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

sustaining reforms'. It suggested there was a particular role for government to create a more policy-oriented and strategic approach to gambling research, for example. It also stated that it was important for the Australian Government 'to actively engage with state and territory government in the development of new machine design features, standards and protocols'.⁵⁸ The committee heard from witnesses in Victoria who wanted the federal government to step in to ensure no more poker machines were forced upon communities there.⁵⁹

Other suggestions to limit harm

Venue-specific measures

1.60 Miss Shonica Guy, Volunteer Coordinator, Pokies Anonymous, proposed other ideas to limit harm such as reducing venue opening hours, taking out ATMs and addressing other design features:

Miss Guy: I think there are a lot of things that they could be doing now that would not cost anything. They could reduce the gaming hours. They could take the ATMs out—they are a huge problem and I think that would make a great difference. Mandatory precommitment in the future would be a good idea....If all the symbols were evenly distributed on all the reels, that would probably be good too. They use starved reels, and that is a cheating device, in my opinion. When I found that out I felt more ripped off than I did before. I felt cheated. I remember when found that out, Julia said, 'Are you all right?'—apparently I was all white and I was shaking because I felt like I had been really taken advantage of.

CHAIR: When you went into play, were you consciously or subconsciously thinking that the machine had to return a certain amount to you, that the odds were not too bad?

Miss Guy: Yes, basically. I do not know what delusion I was under because I never won. I have heard of people winning but I never did. Over the time I played, 14 years, my biggest win was \$4,000 in one session, and that was it. I would get \$100 here and there but I was not a winner at all.⁶⁰

1.61 Mr Cummings summed up what he would like to see happen:

I would like to have seen mandatory precommitment legislated. I do not think that is going to happen. I would like to see advertising limitations legislated. I would like to see things like venue opening hours changed. I would like to see \$1 bets come into effect. There are a number of things I would like to see. I would like to see the state governments taking these things onboard as they should be, at least in terms of poker machine gambling. Failing that, I would like to see it happen at a federal level

58 Productivity Commission, *Gambling*, vol. 1, Commonwealth of Australia, Canberra, 2010, p. 39.

59 Ms Leah Galvin, *Committee Hansard*, 3 May 2012, p. 55. See chapter two of the committee report.

60 Miss Shonica Guy, *Committee Hansard*, 14 May 2012, p. 19.

because, when the states do not act, there is only one alternative as far as I can see...⁶¹

1.62 Ms Leah Galvin, St Luke's Anglicare, said the biggest thing the federal government could do to help would be to ensure numbers of machines are not increased:

That is a simple one for us: no more machines—the pokies. We know that that would be a difficult thing to do, but the reality is that we know that the more machines that get put in the more harm that is done. We are also concerned about the economic harm to communities as well. I have not really mentioned that today, but money that goes into pokie venues does not go into local businesses. This means there are reduced opportunities for employment. In regional and rural cities this is a really big problem. Really, for us, it is a simple one. We have enough machines and, in fact, that is what we campaign on in the Loddon Mallee with a bunch of other faith based organisations. We have been running a campaign saying 'enough is enough'. Others have tweaked onto that as well. But we do think that there are more than enough machines, because there is certainly more than enough harm.⁶²

1.63 Ms Galvin added:

There is also putting coins into machines rather than dollars, because it takes a lot longer and you have to think about it. The other one we like, too—and it was mentioned earlier—was ensuring that people who work in the venues feel that they have the capacity to speak to somebody whom they are concerned about, who has been sitting at the machine for a long period of time. We do know that if they interrupt people when they are in the zone that can have people stop and reassess what they are doing. So having the workers feel empowered to do that and trained to do that would be really great as well.⁶³

1.64 We note the recent announcement by ClubsNSW of a 12 month trial to provide a Salvation Army Chaplain at the Mingara Club on the NSW Central Coast. While we support such initiatives to assist problem gamblers, again this is likely to focus on those who have already developed a gambling problem. Clubs continue to promote the stance that the issue is all about people with problems. This conveniently points at others and away from themselves and their products. However, we are pleased to note that the Salvation Army is funding the trial and therefore they will be independent of ClubsNSW influence.⁶⁴

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

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

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

64 ClubsNSW, 'Clubs and Salvation Army join together to fight problem gambling', *Media release*, 5 August 2012; The Salvation Army, 'Salvos trial new initiative to assist problem gamblers', *Media release*, 5 August 2012.

Loyalty programs

1.65 Membership in loyalty programs at venues and the perceived exclusivity that these programs offer may serve as an inducement to patrons to gamble more in order to achieve a higher membership status.

1.66 We note that the South Australian Mandatory Code of Practice does not apply to the Adelaide Casino. Instead, the Casino is required to abide by the Adelaide Casino Responsible Gambling Code of Practice, which does not have a clause prohibiting inducements.

1.67 Membership to Adelaide Casino's 'REWARDS' program entitles gamblers to a number of 'benefits'. Members of the Platinum Program are given access to a 'private gaming facility', as well as complimentary food and alcoholic beverages.⁶⁵ Clause 6 of the Adelaide Casino Responsible Gambling Code of Practice states that the Casino must ensure that alcohol is 'not supplied to reward, promote or encourage continued gambling'. It is difficult to see how the provision of free alcohol to members who have achieved 'Platinum' status is not a 'reward' for their gambling expenditure.

1.68 Furthermore, as alcohol is a well-known disinhibitor it is highly possible offering free alcohol in an environment exclusively dedicated to gambling will encourage customers to gamble more. The Productivity Commission recommended 'Governments should prohibit venues from offering inducements that are likely to lead to problem gambling, or are likely to exacerbate existing problems, including offering free alcohol to a patron who is gambling'.⁶⁶ We fully endorse the Productivity Commission recommendation.

1.69 We are encouraged by the current South Australian Independent Gambling Authority Codes of Practice Review and will watch with interest the Authority's findings.

Online gambling

1.70 It is also imperative the government takes a proactive approach to preventing the onset of, and increase in, widespread gambling addiction brought about by online gambling. As Rev. Tim Costello has said 'with online gambling it is possible to lose your home without ever leaving it'.⁶⁷ Priority must be given to reducing the risk of gambling addiction from online gambling by way of effective prevention strategies.

1.71 The recent case of 'Eric' and the online bookmaker Bet365 demonstrates how quickly gambling behaviours can escalate to reach problematic levels. Within days of

65 Adelaide Casino, 'Benefits', available at: <http://www.adelaidecasino.com.au/Action-Rewards/Benifits.html>, accessed 14 September 2012.

66 Productivity Commission, *Gambling*, vol. 1, Commonwealth of Australia, Canberra, 2010, p. 12.47.

67 Interview by Laurie Oakes with Reverend Tim Costello, National President Baptist Church, *Sunday*, 23 April 2000, available at: http://sgp1.paddington.ninemsn.com.au/sunday/political_transcripts/article_473.asp?s=1, accessed 18 September 2012.

signing up to Bet365, 'Eric' was placing over 200 bets per day. Within the space of 18 months he had lost over \$40,000.⁶⁸

1.72 Online casino-style games should be prohibited where money is used to participate in a game but where it is not possible to win 'money or anything else of value' as a result of bets placed.⁶⁹ Examples of such games include online roulette, blackjack and poker machines. These games still enable gamblers to lose vast sums of money in short spaces of time in unregulated environments.

1.73 We believe the government must take a more proactive approach to preventing the emergence of online gambling addictions through more rigorous regulation of the industry. This could be achieved—in part—by:

- amending the definition of an 'interactive gambling service' contained in the *Interactive Gambling Act 2001*; and
- prosecuting those websites that have been found to be in breach of the Act.

1.74 Currently Australians are able to use 'real' money to play online casino-style games. However, as long as they cannot win 'money or anything else of value', the website hosting the games is not considered to be a prohibited gambling service pursuant to the *Interactive Gambling Act 2001*.⁷⁰

1.75 Social networking sites such as Facebook are the platform for many of these games. We hold grave concerns that Australia will witness an extraordinary increase in the number of people developing gambling problems due to the sheer number of casino-style games available and the ease with which they will be accessed, particularly by young people.

1.76 Also of concern is that even where the Australian Communications and Media Authority (ACMA) has identified a website as being in contravention of the *Interactive Gambling Act 2001*, the Australian Federal Police (AFP) have not prosecuted nor issued fines to a single website as a result.⁷¹ If the government takes the threats posed by online gambling seriously, it must start by prosecuting those sites that are operating in Australia illegally.

The need for a legislated duty of care

No evidence that anyone has been approached by staff

1.77 As with earlier inquiries, the committee heard again from a number of problem gamblers who spent sometimes years frequenting the same venues, exhibiting signs of problematic gambling behaviour and yet none had been approached by staff.

68 Geesche Jacobson, 'Punter wants return of 'proceeds of crime'', *Sydney Morning Herald*, 25 May 2012, p. 2.

69 Section 4, *Interactive Gambling Act 2001* (Cth).

70 Section 4, *Interactive Gambling Act 2001* (Cth).

71 Senate Standing Committee on Environment and Communications, Additional Estimates Hearing February 2012, Broadband, Communications and the Digital Economy Portfolio, Question Number 60.

A former problem gambler listed all the behaviours they exhibited at the venue they attended regularly, adding that no staff intervened:

Clubs have a duty of care. Most of my gambling occurred at one club and I exhibited well known signs of problem gambling that should have led to intervention by staff but did not. These included:

- I gambled on my own
- I did not interact or talk with other gamblers
- I attended one club on a very frequent basis – 3-4 consecutive nights every week
- I visited this club at an odd time – from midnight to early in the morning, often up to 4.00am when the club closed. As I arrived late, the doors to the club were locked and a staff member was required to let me in
- I usually had large bets, often playing the maximum bet
- I carried on playing even after large wins
- I was secretive about finances
- I made numerous ATM withdrawals on the same night
- I had superstitions - only played certain machines, either sitting on one machine for a very long time or moving quickly between my favourites.
- I talked to the machines or touched/stroked them
- I always sat in the same position
- I gambled for relatively long periods of time without taking any breaks
- I played very fast, putting money in and pushing buttons quickly
- I would get angry and frustrated. I would groan, curse and sometimes hit a machine if I was losing
- I would feel depressed or get edgy or anxious or worried if I was losing but could be euphoric when I won

For staff in gaming venues, the signs of problem gambling are extremely important to know. The club I gambled in claims it adhered to all the legislation governing its activities and responsibilities. BUT they were negligent in my case and breached enacted codes of conduct and regulations governing gaming machines. They did not have a gambling contact officer on duty and if any staff were trained in recognising problem gamblers they did not act on their suspicions. I interacted with staff yet no-one intervened.⁷²

1.78 Ms Julia Karpathakis, Manager, Pokies Anonymous, played for 10 years and was not approached but instead was encouraged to play on as the machine had not

72 Name Withheld, *Submission 57*, pp 2–3.

gone off.⁷³ She exhibited behaviour patterns consistent with a gambling problem such as going back and forth to the ATM.⁷⁴

1.79 Miss Shonica Guy, Pokies Anonymous, told the committee 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.⁷⁵

1.80 Miss Guy and Ms Karpathakis then said that they believe the venue staff know who has a problem:

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.⁷⁶

1.81 Mr Tom Cummings told the committee that he was not aware of anyone who has ever been approached by a staff member about their gambling.⁷⁷ Mr Ralph Bristow, Member, Gambling Impact Society NSW, reported that he had not been approached about his gambling problem over 30 years. He added that his problem would have been obvious from the number of times he got change. He also never saw staff approach anyone else.⁷⁸

1.82 Major Brad Halse, Member, Australian Churches Gambling Taskforce, also mentioned that despite the commentary from industry about trying to assist problem gamblers he has never heard of anyone reporting they have been approached by staff and therefore:

...even at the most basic level this duty of care seems to be overlooked or disregarded. It is a very serious issue.⁷⁹

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

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

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

76 Ms Julia Karpathakis and Miss Shonica Guy, *Committee Hansard*, 14 May 2012, p. 15.

77 Mr Tom Cummings, *Committee Hansard*, 3 May 2012, p. 2, 6.

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

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

1.83 Staff from the Gambling Treatment Program at St Vincent's Hospital recalled there may have been one client who indicated they had been approached by the staff in a venue.⁸⁰

1.84 On 12 July 2012, the ABC's *730* program showed the story of a woman who was about to go to jail for stealing money from employers to feed a poker machine addiction. Her gambling started socially in the late 1990s and escalated after a relationship breakdown. Her losses were almost entirely from three hotels in Adelaide's south:

She says although she was losing more than \$1,000 an hour at times, the venues did not intervene.

"I believe the staff are trained to identify problem gamblers and if they are trained why aren't they doing it?" she said.

"I would see other people spending just as much or more than I was and I never saw them tapped on the shoulder either."⁸¹

1.85 This story, like so many others, illustrates a number of issues. It shows that staff do not intervene and it shows that if the maximum bet was reduced she would have lost much less. It also shows that the hotels which had the trained staff who took no action bear no responsibility even though this woman would have been exhibiting signs of problem gambling.

How to ensure action is taken

1.86 In 2006, the Ontario Problem Gambling Research Centre released a report 'Do Ontario and its Gaming Venues Owe a Duty of Care to Problem Gamblers?' which examined the role of the state to act in the public interest.⁸² Researchers on this issue have stated:

In the gambling literature little has been said about supply-side issues of product safety, host responsibility and player protections, as part of industry or provider corporate social responsibility (CSR); and governments have been slow to embrace these in terms of legislation or regulation; since their vested interests render them limited by conflict of interest.⁸³

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

81 See <http://www.abc.net.au/news/2012-07-12/leanne-scott-pokies-addiction/4127246> (accessed 13 July 2012).

82 William V. Sasso and Jasminka Kalajdzic, 'Do Ontario and its Gaming Venues owe a Duty of Care to Problem Gamblers?', Final report submitted to the Ontario Problem Gambling Research Centre, February 2006. Note: A detailed critique of this paper was prepared by Cameron (2007) a professor of Law at the request of a legal firm which has acted for the Ontario Lottery and Gaming Corporation. See further discussion in Hancock, L, Schellinck, T, and Schrans, T, 'Gambling and corporate social responsibility (CSR): Re-defining industry and state roles on duty of care, host responsibility and risk management', Science Direct, *Policy and Society*, 27 (2008) 55–68.

83 Hancock, L, Schellinck, T, and Schrans, T, 'Gambling and corporate social responsibility (CSR): Re-defining industry and state roles on duty of care, host responsibility and risk management', Science Direct, *Policy and Society*, 27 (2008), p. 66.

1.87 The researchers concluded that a legislated duty of care may place pressure on providers to be more proactive in protecting consumers:

We argue these debates on duty of care have reached a tipping point in relation to electronic gaming machines (EGMs). The spectre of legal liability may put new pressure on providers (and on governments as legitimators of gambling products). It may compel more coercive player-protection interventions, as gaming is bracketed with other social harms such as tobacco and alcohol, in terms of new expectations on both industry and governments to adopt more proactive consumer protection strategies; or face the threat of legal action.⁸⁴

1.88 Dr Mark Zirnsak, Member, Australian Churches Gambling Taskforce, argued that in order to change this situation in Australia, the Taskforce recommends a legislative duty of care to make clear there is a duty of care towards patrons which would encourage different behaviour by venues:

In our submission we make a recommendation about building in a legislative duty of care similar to what governments have done with occupational health and safety—employers have been made responsible for ensuring that there is a safe workplace. If it was made much more clear under law that there was a duty of care towards patrons, I think you would see very different behaviour from gaming venues. You would probably see, as we have seen in some Canadian casinos, a willingness to provide staff intervention when people are displaying clear signs of problem gambling.

But at the moment is very hard to get the courts to uphold a duty of care, even where they have identified that the person has a gambling problem. One of the most perverse cases was in the UK. Despite the fact that the person had a gambling problem and the venue knew they had a gambling problem, the judge made a ruling that the person would have lost their money somewhere else if they had not lost it at that venue, and therefore the venue was not responsible for the person's harm.⁸⁵

1.89 Dr Zirnsak added that currently:

Even in cases where a casino is individually targeting a person with a whole lot of inducements—free gifts, limousine rides and hotel stays—courts have generally not taken a view that there is a duty of care towards that person or that the venue had any obligation to figure out where that person's finances were coming from. And those were cases where people were defrauding their employers or stealing from their employers to provide the finance for their gambling. So, even when somebody has been individually targeted by a gambling provider the courts have not generally seen a duty of care being required.⁸⁶

84 Hancock, L, Schellinck, T, and Schrans, T, 'Gambling and corporate social responsibility (CSR): Re-defining industry and state roles on duty of care, host responsibility and risk management', Science Direct, *Policy and Society*, 27 (2008), p. 67.

85 Dr Mark Zirnsak, *Committee Hansard*, 3 May 2012, p. 12.

86 Dr Mark Zirnsak, *Committee Hansard*, 3 May 2012, p. 12.

1.90 Mr Mark Henley, Member, Australian Churches Gambling Taskforce, said that such legislation is already in place in jurisdictions like Switzerland.⁸⁷ Dr Zirnsak explained that under this proposal they would expect to see a change of behaviour within the industry and a change in culture to adopt a duty of care approach in order to avoid such cases. He pointed out that even now with self-exclusion contracts there is a clause indemnifying the venue against having to enforce the self-exclusion contract in Victoria, which is a deliberate attempt to avoid any judicial action by a gambler.⁸⁸ Dr Zirnsak provided the following example of a successful action:

The case I can think of where there was successful action against a venue in New South Wales, to my recollection, was a case where the venue knew the person had a gambling problem. The person was getting cash advances on their Amex card. From recollection, the venue was assisting them defrauding. The venue was eventually prosecuted by Amex for the misuse of the credit card, not because the venue had been preying on the person with the gambling problem.⁸⁹

1.91 The Productivity Commission identified international examples from New Zealand and Switzerland which have 'mandatory requirements for more 'proactive' identification and intervention in venues'.⁹⁰

1.92 We note a move towards a greater duty of care in some clubs for staff who are not allowed to gamble off-duty due to the results from research that found staff working at gaming venues have a greater risk of developing gambling problems than the general population.⁹¹ Surely a duty of care to staff should be extended to patrons.

Conclusion

1.93 We note the Productivity Commission investigated this issue of a legislative duty of care and initially recommended it in the draft report but it was removed from the final report.⁹² Research has shown that problem gamblers can be identified and there is a checklist of behaviours available. Given developments in this area we believe this issue requires further investigation drawing on international examples.

1.94 The lack of staff intervention was again reinforced to the committee during this inquiry as in previous inquiries. Despite all the claims from the industry about staff training and wanting to assist problem gamblers, the committee has heard from many problem gamblers who gambled at the same venues for extended periods,

87 Dr Mark Zirnsak, *Committee Hansard*, 3 May 2012, p. 12.

88 Dr Mark Zirnsak, *Committee Hansard*, 3 May 2012, p. 12.

89 Dr Mark Zirnsak, *Committee Hansard*, 3 May 2012, p. 13.

90 Productivity Commission, *Gambling*, vol. 1, Commonwealth of Australia, Canberra, 2010, p. 12.38.

91 Mairi Manley, 'Club staff banned from pokies', *My Daily News*, 18 April 2012.

92 Productivity Commission, *Gambling*, vol. 1, Commonwealth of Australia, Canberra, 2010, p. 22.

sometimes years, and were known to the staff. Not one has reported being approached by the staff at a venue.

1.95 We recognise the difficulty and conflict this measure places on staff. These venues are a business and if patrons are spending a lot of money then it is not in the interest of the business to have staff approach them. The committee has heard that some staff fear for their jobs should they do so. In addition, approaching someone exhibiting signs of distress and fearing their response would be a difficult task for a person despite receiving some form of training.

1.96 This proposal would make the industry more responsive to problematic gambling behaviour. Under a legislated duty of care, if a person frequents the same venue for a lengthy period, is known as a patron, exhibits behaviour consistent with a gambling problem on a regular basis, is not approached by staff and subsequently gets into difficulty with their gambling then they would be able to take action against the venue for breaching their duty of care under the law. So for example, people like Miss Shonica Guy who named the pubs she frequented, Ms Julia Karpathakis and others who frequented the same venues, for lengthy periods, were known to staff, were not approached by staff and developed gambling problems would be able to take such action. We believe this would result in a change of behaviour from venues.

Recommendation 2

1.97 That the Problem Gambling Taskforce within the Australian Government Department of Families, Housing, Community Services and Indigenous Affairs commission work by an independent individual/organisation to further investigate a legislated duty of care for venues. This work would draw on international examples, discuss and weigh up the obstacles, benefits and costs and be reported to the COAG Select Council on Gambling Reform and made public.

Treatment, research and data collection

1.98 We support the recommendations made by the committee throughout the second half of the report on treatment, research and data collection. The committee heard from service providers about the range of different treatments for problem gambling, both clinical and non-clinical (i.e. counselling and self-help). We commend all treatment service providers who gave evidence to the inquiry for their dedication in assisting people with gambling addictions and their commitment to find ways to continually improve their services to achieve better and more rigorous treatment outcomes. We also support the work of voluntary self-help organisations such as Pokies Anonymous who provide grassroots community support for people and families affected by gambling problems. We were surprised to hear about the success of online interventions which provides people with anonymity and flexibility. Given the shame and stigma associated with problem gambling, which is a key barrier to accessing help, we are pleased that these flexible models of treatment are becoming increasingly available to assist people with gambling problems, particularly young men.

1.99 We also heard about suggested improvements to the treatment services system, including better integrated services to deal with people who have comorbidities, such as co-occurring gambling and substance abuse problems. We agree that referral pathways to assistance can be strengthened by increasing knowledge and awareness of gambling problems across the health system, particularly among primary care health professionals such as general practitioners.

1.100 In relation to data collection, we support the committee's recommendations on the need for a national research agenda, overseen by an independent research institute on gambling, as well as the designation of problem gambling as a National Health Priority Area under the National Health and Medical Research Council and an associated health priority eligible for funding under the Australian Research Council's National Research Priority on health. We also agree that joint efforts should be made across all jurisdictions towards establishing a national minimum dataset on gambling. Governments should also work together to collect a basic level of nationally consistent industry data.

1.101 Also in line with the committee, we affirm the need for researchers engaged in gambling studies to declare clearly all potential conflicts of interest and funding sources, particularly relationships with industry. Any government-funded research should require full transparency of such relationships. We also support the committee's recommendation to build good outcome measurements and benchmarking practices into treatment services to strengthen evaluation of the best ways to assist people with gambling addictions.

Other issues

Debt repayments and access to credit

1.102 The committee heard that for some problem gamblers, the prospect of having years of debt repayments ahead of them can reduce their motivation to stop gambling. We note that this clearly indicates that it needs to be harder for problem gamblers to access credit, as debt serves as a disincentive to seek help.

Possible triggers for problem gambling

1.103 We note the link between certain medications and the onset of problem gambling. A class action is currently underway against the drug companies that manufacture the Parkinson's drugs 'Permax' and 'Cabaser' where the plaintiffs claim their compulsive gambling was a side effect of the drug. The Adelaide woman who was jailed for six years for stealing over \$800,000 from two previous employers reported that shortly after she was prescribed the antidepressant 'Efexor-XR' she developed a poker machine addiction.⁹³

93 See Guy Stayner, 'Addicts link anti-depression drug to gambling habit', ABC News Online, 24 July 2012, <http://www.abc.net.au/news/2012-07-23/addicts-link-anti-depression-drug-to-gambling-habit/4148950> (accessed 14 September 2012); 'Parkinson's medication "causes sex, gambling addictions"', ABC News Online, 4 June 2010, <http://www.abc.net.au/news/2010-06-04/parkinsons-medication-causes-sex-gambling/854000> (accessed 14 September 2012).

1.104 There is emerging anecdotal evidence of the connection between problem gambling and 'Efexor-XR'.

Recommendation 3

1.105 That an appropriately resourced research facility initiate a study into the possible link between Efexor-XR and the onset of problem gambling.

Mr Andrew Wilkie MP

Chair

NICK XENOPHON

Independent Senator for South Australia

Senator Di Natale

Australian Greens

Senator for Victoria

Senator John Madigan
Democratic Labor Party
Senator for Victoria