GAMING TECHNOLOGIES ASSOCIATION

Submission to the Productivity Commission

Public Inquiry into Gambling
March 31, 2009

Contents

Introduction

The Gaming Technologies Association ("GTA") is a not-for-profit industry representative body, formed in 1990 as the Australian Gaming Machine Manufacturers Association for the purpose of promoting the development of the manufacturing resources of Australia.   GTA's members and their respective companies collectively supply virtually all of the gaming machines for use in Australia and most of those supplied worldwide.

GTA appreciates this opportunity to participate in the Productivity Commission's inquiry into gambling.   For convenience, this submission follows a similar format to that of the Commission's Issues Paper of December 2008.

GTA considers that some of the topics in the Issues Paper are appropriately the domain of venue operators and their representative associations.   However, GTA and its members hold strong opinions about every aspect of the gaming industry and will readily share those views on request.

GTA commissioned The Centre for International Economics (CIE) to research the economic contribution of gaming machines to the Australian economy and to provide reliable data for this submission.   CIE's report "Gambling with policy" of March 2009 is attached as appendix A and is referred to in this submission as the "CIE report".

Since 1999, GTA has regularly commissioned a global survey of gaming machine numbers by respected research company Taylor Nelson Sofres (TNS).   The overall conclusion of this continuing survey is that the proportion of the world's gaming machines located in Australia is at most 2.4%.   Even the 2.4% statistic is quite probably overstated, as only those machines whose numbers could be reliably verified were included.   The most recent TNS "World Count of Gaming Machines" survey report of April 2008 is attached as appendix B.

No gaming machines operate in Australia without previously undergoing comprehensive testing and technical review.   Manufacturers deliver every aspect of design, development, manufacture and operation in comprehensive submissions to independently licensed testing laboratories and to government regulatory authorities, before any gaming machine is approved for use.   Once installed, every gaming machine is electronically monitored to ensure that each machine operates in accordance with its approvals.

This submission is presented from the point of view of gaming machine manufacturers, whose primary interest is the maintenance of an economically viable and socially responsible gambling industry in Australia.

The GTA has noted the Terms of Reference for the Inquiry and also the various discussion questions that are posed in the *Issues Paper* that the Commission published in December 2008.

This submission does not attempt to address all of the Terms of Reference, nor all of the questions that were posed in the *Issues Paper*. Rather, they concentrate on matters that are of most concern to the GTA and its members in so far as those matters are relevant to the Commission's Terms of Reference.

Those matters include:

- The importance of gambling activity in Australian society and its contribution to the economy.
- The need for problem gambling to be properly and clearly defined for the purposes of specific public policies and for the purposes of regulatory schemes that address problem gambling.
- The costs associated with having to comply with the multiple schemes of regulation.
- The need for evidence-based regulation.

Executive Summary

Without the gaming machine industry, Australia's employment would be 140,000 people lower and economic activity would fall by $13.5 billion (or 1.2%) in the short-run[1].

Despite this massive contribution to Australia's economy, all states and territories have caps of one form or another on gaming machine numbers.   The industry has stagnated as a result of caps and due to restraints on innovation. From a manufacturer's perspective, capped markets require a focus on designing and manufacturing product aimed at replacement of existing machines and software, rather than new and innovative products.

The regulatory arrangements have changed markedly since the Productivity Commission's 1999 review.   But in areas such as technical standards, the inconsistencies and over-regulation increase business costs for no purpose.[2] No rationales, benefits or costs of any new regulatory measures are apparent to GTA or its members since 1999.   However, those same costs associated with new regulatory measures are massive for GTA members, whose business has dramatically declined in recent years. One of the many side-effects of this decline is that new features such as on-screen clocks and dollar meters simply do not find their way into the field.

Some products will never be developed for Australia because of the prohibitive cost of multiple redevelopment to comply with the different requirements of Australia's jurisdictions.   In most cases, the complying product would be so far removed from the original product that it will have lost its appeal to recreational players.

GTA and its members have been considering various technologies which empower players to gamble responsibly for many years.   Gaming machine manufacturers should be actively encouraged to trial their own innovative measures that are intended to address problem gambling.

From the current position of ad hoc regulation, the best regulatory approach will involve removing regulations that are not effective and imposing regulations that do effectively target the costs and prevalence of problem gambling. As technology evolves, the set of regulatory options will also expand, providing more effective ways of regulating the industry. This can be a win-win for industry, recreational gamblers, problem gamblers and their families and the broader Australian community.[3]

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[1] CIE report, page vi
[2] CIE report, p24
[3] CIE report, page vii

Section 1 Overall Focus: Problem Gambling

The overall focus of this Inquiry is tackling problem gambling.[4]

The Commission's 1999 Report did not adopt any authoritative definition of problem gambling and conceded that there is a "*lack of precision in the definition of problem gambling*"[5]. The Commission noted that there is a variety of definitions, although most emphasise:

- psychological aspects, such as a lack of control by the gambler over his or her gambling behaviour; and/or
- a variety of personal, economic and social harms associated with gambling, but particularly financial losses (relative to the gambler's means).[6]

The Commission also recognised that some members of the community may experience moderate difficulties with their gambling behaviours and others more severe problems.

Others who are involved in the gambling industry have used the expressions "problem gambling", "pathological gambling", "at-risk gambling", "moderate" and "severe" gambling in combination with one another or even interchangeably.

A further difficulty with the definition of problem gambling is actually measuring it.

A common measure used to define what constitutes problem gambling and to assess the rate and severity of problem gambling, is the quantum of gambling expenditure by problem gamblers. However, experts have expressed serious reservations about the accuracy and reliability of estimates of gambling expenditure by problem gamblers. They note that a number of studies have found significant differences between self-reported expenditures and actual reported gaming revenues.[7]

The lack of a precise definition and measure of problem gambling is to be expected, given the range of professional disciplines involved in the study of gambling, the diversity of opinion within those disciplines, and the different ways that users of gambling products are affected by them.

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[4] *New Productivity Commission Inquiry into Gambling* - Joint Media Release by Hon Chris Bowen MP and Hon Jenny Macklin MP (20 October 2008); Productivity Commission *Issues Paper* (December 2008) at 7
[5] 1999 Report at 19
[6] 1999 Report at 17
[7] Blaszczynski, Alex and Nower, Lia, (2008) *Final Report on report prepared by the Australian Institute for Primary Care for the Independent Gambling Authority of South Australia.*

Nevertheless, any government policy, and especially any law, that addresses problem gambling can only be useful and fair to all parties who are affected by it if it is based on a clear definition of problem gambling. Unless the concept is properly defined, the policy or law is addressing an elusive concept.

GTA's view is that better support and better information are the primary means by which players can be encouraged to avoid problems and gamble responsibly. In-venue support is an area where significant progress has been made in the last decade and GTA congratulates stakeholders in that regard.

GTA has undertaken the following initiatives in relation to empowering players to gamble responsibly through the provision of better information:

1. Player Information Displays (PIDs).

    GTA members noted the Productivity Commission's comments in its 1999 Report in relation to meaningful information about the effective 'price' of playing poker machines[8].

    In 2001, GTA (then AGMMA) proposed to the National Standards Working Party (NSWP) that uniform PIDs be implemented in all Australian jurisdictions.

    Since then, a form of PIDs has been implemented in Victoria, a similar version has been required to be implemented in Tasmanian casinos and an entirely different version is currently being implemented in Queensland. Other jurisdictions have not implemented PIDs. (Note that yet another entirely different version is currently being implemented in New Zealand.)

2. The process of developing PIDs involved major investment in research, development and compliance by gaming machine manufacturers – much of which could be considered unrecoverable. PIDs are discussed further in the section on inconsistencies across jurisdictions in the application of the Gaming Machine National Standard, starting on page 27.

3. Production and distribution of "Responsible Gaming Machine Play" leaflet.

    This leaflet outlines how gaming machines work and highlights the reasons why they are designed to entertain; and are not designed to make players money on any regular or long term basis.

    The leaflet includes a win/lose table which indicates how players are likely to fare on a single session of play and the proportion of players who will experience returns at various levels.   Over 70,000 paper copies of the leaflet have been distributed without charge since its publication in November 2007 and many more have been downloaded from GTA's website www.gamingta.com.

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[8] Productivity Commission Inquiry Report 26 November 1999 Summary p40

4. Production and publication of the Gaming Machine Information Presentation

   The Gaming Machine Information Presentation is a 12 minute interactive video (comprising 12 mini videos) which provides the information from the above leaflet in a more "digestible" and accessible form.   The presentation was completed in July 2008 and was distributed via a USB memory stick to 1,000 delegates at the Australasian Gaming Expo in August 2008.

   Legal advice recommended that some regulatory amendment was desirable in order to ensure that no Australian statutes could be interpreted as having been breached by publishing the presentation.   The presentation was published online in December 2008 after the NSW *Gaming Machines Amendment (Responsible Conduct of Gambling Training) Regulation 2008* was gazetted and GTA congratulates the NSW Government for supporting this initiative.

   The Gaming Machine Information Presentation can be accessed via http://www.gamingta.com/gaming_machine_information.html.

   Since being published online and with no promotion or advertising, there have been 7,262 clicks on the video link.

5. Development of "smart gaming" technologies

   GTA and its members have been considering various technologies which empower players to gamble responsibly for many years.

Section 2: Gambling Activity in Australia

Focus Issue: Gambling Forms, Availabilities, Expenditure and Impacts (emphasis on EGMs).

The number of gaming machines in Australia has been broadly stable in recent years, ranging from 199,002 in 2001-02 to 200,850 in 2005-06[9] or an increase of 0.9% during this period.

Expenditure increased from $8.9bn to $10.4bn or an increase of 16.4% during the corresponding period[10].

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[9] CIE report table 1.1 p2
[10] *from* CIE report table 1.4 p3

What new technological platforms for gambling are emerging?

2009 sees a confluence of factors directly impacting technological platforms for gambling.   Of these factors, possibly the most significant is the ageing of the first "Internet generation" to adulthood.

Technological factors specific to gaming machines include:
- The emergence since 1998 of confirmed global standards for gaming machine data communications under the auspices of the Gaming Standards Association (GSA), whose membership includes GTA members.
- The evolution of the Information and Communications Technology (ICT) industry and components it supplies – from which gaming machines are built.

What are the impacts of these changes on gamblers, businesses, and the likely social costs and benefits of gambling?

The above, among other technological factors, are likely to significantly improve the flexibility with which gaming can be supplied to players with a view to tailoring gaming services to individual players' expectations.   As well as ensuring a player is fully informed before, during, and after the gaming session this type of technology can also offer the means to allow the player to fully manage their gaming session from the point of view of total monies committed, time on the machine and such.

What have been the changes to gaming machines (numbers, location & characteristics?)

Of the 201 000 gaming machines in Australia in 2005-06, 58% were located in clubs, 35% in pubs and 6% in casinos[11].   The overall change in numbers of gaming machines from 2001-02 to 2005-06 was less than 1%.

Since 1999, a number of gaming machine characteristics have changed with a view to enhancing the responsible delivery of already fair games to informed players.   For example, all new gaming machines supplied in Australia since January 2008 include:
- Dollar meters (which supplement existing meters showing the current number of credits, win and bet)
- On-screen clocks.

Several new characteristics exclusive to Australia and New Zealand were implemented early in the 2000s including preventing "button jam" continuous

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[11] CIE report p2

play and removing auto-play functionality.　Standard wording on artwork has been sought, as has clearer indication of wins.

What future trends are likely in the characteristics of gaming machines?

GTA is of the view that games and machines will continue to evolve according to what is popular at any given time.

Given our comments above in relation to the aging of the "Internet Generation" to adulthood, the evolution of ICT components and the emergence of global standards, GTA is of the view that gaming machines will migrate naturally to networks such that their characteristics will necessarily involve a sense of "connectedness" in order to meet players' expectations.

Has the gaming machine market matured?

All states and territories have caps of one form or another on gaming machine numbers and these are summarised in the CIE report[12].　GTA is of the view that the industry has stagnated as a result of caps on gaming machine numbers, due to uncertainties created around venue operators' capacity to fulfil demand and their potential to maintain existing gaming equipment inventories.

This stagnation is also due to restraints on innovation.　It seems that regulators are hesitant to introduce anything new, in case it may be viewed as exacerbating problem gambling.　Where innovative product is created, new regulations are often put in place to restrict the way it can be implemented (usually without supporting evidence), thus further restraining the entire industry.　It is simply not worthwhile to develop innovative products for Australian jurisdictions when others are more flexible and more willing to implement new concepts.

From a manufacturer's perspective, capped markets require a focus on designing and manufacturing product aimed at replacement of existing machines and software, rather than new and innovative products.

What roles have harm minimisation measures played?

GTA is unconvinced of the harm minimisation efficacy of caps on gaming machine numbers.　GTA urges the Productivity Commission to recommend independent research on the efficacy of caps on gaming machine numbers in all Australian jurisdictions.

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[12] CIE report p13-14

GTA wholly supports any requirement that harm minimisation measures must be proposed within a policy framework that requires an evidence based approach to evaluating, selecting and modifying the measures implemented.

Regrettably, regulatory bodies responsible for approval of new gaming machine games and game concepts have, in pursuit of their statutory harm minimisation objectives, created their own policies and "rules of thumb" regarding the acceptability of game features. Of greatest concern is a consistently applied "rule of thumb" by certain regulators, that where a new feature or concept is submitted for approval, it is considered likely to cause or exacerbate problem gambling (unless the manufacturer can prove otherwise) and is therefore unacceptable. These ad hoc policies and rules have absolutely no evidentiary basis for their imposition. Their application is further complicated by there being no clear definition for statutory decision making purposes of "problem gambling" or "harm minimisation".

The combination of no evidence to support these ad hoc policy positions, and ambiguous definitions results in most cases with the unintended consequence of regulators imposing an effective prohibition at the compliance level on the introduction of new game concepts into the Australian gaming environment, with no measurable or actual reduction in the incidence of problem gambling. This has inhibited the implementation of technology-based advancement of the Australian gaming industry and its capacity to offer competitive and innovative new products to offshore export markets. Today, Australia's locally developed gaming machine technologies have declined from being regarded as 'world's most innovative and entertaining' to 'declining'.

GTA submits that all regulatory bodies responsible for game approvals should be required to apply a policy framework that requires an evidence based approach to evaluating, selecting and modifying the rules against which new games, concepts and features are approved when considering their statutory obligations to minimise harm.

Given there is no credible or reliable evidence that any particular game feature causes or exacerbates problem gambling, GTA submits that the focus of regulators and policy makers should shift away from the game itself and should focus specifically on player protection measures that are proven to assist players to manage their own gambling and behaviour.

What factors explain the increased share of gaming machine expenditure in total gambling expenditure since 1999?

GTA is of the view that two factors explain the increased share of gaming machine expenditure in total gambling expenditure since 1999 – the overall popularity of gaming machines and the absence of measurement of some gambling activities.

Gaming machines are designed to entertain and this is evident in their popularity.   Gaming machines in Australia operate under legislation and regulation which is regarded as the world's toughest and this is well known to gaming machine players.

To many players, everyone is equal in front of a gaming machine – it has no emotion, no means of behavioural bias or prejudice.   Gaming machines' Return To Player is superior to other forms of gambling and as a result, machines deliver greater entertainment value for money than other forms of gambling and other forms of entertainment.   People enjoy playing gaming machines in the high quality, secure environment of modern hospitality venues.

During the last decade, gambling opportunities have increased significantly. Interested players in 1999 would most likely not have considered betting online or on their mobile telephone on international cricket leagues, or US College basketball, or the host of other sporting events available from Australian websites.   It will be very interesting to observe survey data on these activities over the next decade.

Further, despite the *Interactive Gambling Act 2001*, it remains possible to play casino games on offshore websites where "Instant Welcome Bonuses of up to $1000 Free" and "7 x $500 free rolls for new depositors" are available[13].

In addition, financial activity associated with the proliferation of poker games in clubs and hotels throughout Australia appears likely to have significantly increased the overall expenditure on gambling over the last decade and is not measured.

Section 3: Participation & Profile of Gamblers

Focus Issue: Prevalence of Gambling and Participation Rates

About 30 per cent of Australian adults use gaming machines as a source of entertainment.   Usage is fairly similar across the states and territories except for Western Australia.[14]

Focus Issue: Problem Gambling Prevalence

In its 2008 Review of the Registered Clubs Industry in NSW, the Independent Pricing and Regulatory Tribunal (IPART) said that *"…it appears that greater*

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[13] Quotes from 2 casino websites, 11 March 2009
[14] CIE report p2

access to gaming machines between states does not necessarily translate into a higher incidence of problem gambling."[15]

IPART noted that NSW leads the country in access to gaming machines; and also considered *incidence* (as opposed to *prevalence*) of problem gambling and found that "NSW has a similar incidence to Victoria and Tasmania, both of which have less than half the incidence of gaming machines than NSW".[16]

Section 4: Impacts of Gambling

Focus Issue: Impacts of Gambling – Communities and Regions

GTA's view is that clubs and hotels were, by and large, established in their current locations before gaming machines became available.   If one accepts this proposition, it is difficult to accept that problem gambling prevalence is inter-related to socio-economic distribution.   However, GTA believes this matter is appropriately the domain of venue operators and their representative associations – and perhaps the domain of unbiased researchers who derive their conclusions from the application of robust, academically peer reviewed empirical research.

Section 5: Taxation & Regulatory Arrangements

Focus Issue: Jurisdictional Difference & Levels of Taxation

How do gambling taxes affect the 'odds' of gambling for consumers, and with what distributional outcomes for consumers and effects on problem gamblers?

Gambling taxes do not affect the 'odds' on gaming machines, as such taxes are levied on revenue after Return To Player.   There are no consequent outcomes.

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[15] IPART report, June 2008 p235
[16] IPART report, p236

Focus Issue: Government Regulation, Policy Making Processes & Institutions

The regulatory arrangements have changed markedly since the Productivity Commission's 1999 review.   But in areas such as technical standards, the inconsistencies and over-regulation increase business costs for no purpose.[17]

Case study – the regulatory scheme in South Australia

In South Australia, the *Gaming Machines Act 1992* and the *Casino Act 1997* require gaming machines and games to be "*approved*" by the Liquor and Gambling Commissioner.[18] The Commissioner must refuse any application for approval of a game if the Commissioner is of the opinion that approval is "*likely to lead to an exacerbation of problem gambling.*"[19]

When considering applications for approval, the Commissioner must have regard to any guidelines issued by a separate body, the Independent Gambling Authority, "*for the purposes of assessing whether a game is likely to lead to an exacerbation of problem gambling.*"[20]

The guidelines, which are known as Game Approval Guidelines, are issued for the purpose of assessing whether approval of a new game is likely to lead to an exacerbation of "*problem gambling*".

The present Guidelines provide, in effect, that if a game has certain characteristics, it is presumed in the absence of evidence to the contrary as likely to lead to an exacerbation of problem gambling. The Commissioner is effectively bound by the Game Approval Guidelines.

The Game Approval Guidelines were promulgated in 2003. It is not clear what, if any, evidence the Independent Gambling Authority relied on when it identified certain game characteristics as problematic.   Interestingly, however, the game characteristics in question are characteristics that are permitted by regulators in other Australian and international jurisdictions, but not in South Australia.

The Game Approval Guidelines are subject to review, as occurred in 2008. Interestingly, in connection with that review, the Independent Gambling Authority commissioned research about the possible connection between game characteristics and problem gambling. This, in the GTA's view, was an implicit acknowledgment that the original Game Approval Guidelines had been formulated without regard to evidence and, therefore, their possible usefulness.

The South Australian scheme, under which it is exceedingly difficult to obtain approval for a new game, is a good example of how a regulatory scheme

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[17] CIE report, p24
[18] *Gaming Machines Act*, section 40(1), *Casino Act*, section 40(1)
[19] *Gaming Machines Act*, section 40(3), *Casino Act*, section 37A(2)
[20] *Gaming Machines Act*, section 40(2), *Casino Act*, section 37A(1)

becomes unworkable because it implements measures without any credible evidentiary basis. Worse, the reverse onus of proof on a matter that is inherently contentious means that the present Game Approval Guidelines operate as a de facto prohibition of games that have been approved for play in other jurisdictions.

Another of the difficulties with the regulatory scheme in South Australia is that neither the *Gaming Machines Act* nor the *Casino Act* define "*problem gambling*". Thus, the authorities are required to formulate guidelines and consider applications for approval for games without any meaningful description of the problem that they are actually required to address.

Case study - Victoria

In Victoria, the *Gambling Regulation Act* now provides for the responsible Minister to make an interim ban order in respect of a "*gambling product*" or a "*gambling practice*" if the Minister "*considers that the product or practice undermines or may undermine a responsible gambling objective.*"[21]

The term "*responsible gambling objective*" is defined[22], although in part by reference to "*problem gambling*", which is not defined.

If the Minister makes a banning order, the Victorian Commission for Gambling Regulation must investigate and report on the gambling product or gambling practice that is the subject of the order. The report must contain a recommendation that a fixed term ban order be imposed or that the interim ban order be revoked.

Such provisions are aimed at addressing problem gambling. However, they are rendered unworkable by the absence of a definition of problem gambling.

What have been the main developments in state/territory regulations applying to gambling since 1999?

Since the Productivity Commission review in 1999, most state and territory governments have required additional information disclosure to players, as recommended by the 1999 inquiry.

All states have a gambling hotline (as well as the national gambling hotline).

The states and territories have implemented a raft of additional regulations on what gaming machines can and cannot do. The regulations vary considerably across the jurisdictions (and across venue types)[23].

The regulators in each Australian state and territory and New Zealand have developed a Gaming Machine National Standard and this is further discussed from page 25.

As the Commission noted in its 1999 Report, policy decisions have been made without a sound evidence base that would support and justify them. It also observed that when formulating policy, decision makers lacked access to objective information and independent advice.[24] This continues to be the case.

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[21] See Part 2.5A
[22] Section 1.1(2)
[23] CIE report, table 2.3 p16-17
[24] 1999 Report at 4, 12.1

Regulators continue to make policy without proper research into and consideration of the usefulness of measures.

This is not only the GTA's view.

The Chairman of the Productivity Commission, Mr Gary Banks, noted in 2002:
> *"...there is a burning need for more research on what actually works among the many possible harm minimisation measures. (This is particularly important for those which can involve significant compliance and other costs.) If we are serious about doing things that are effective, rather than just being seen to be doing things, trialling and testing of different approaches is critical. In many cases, this needs to be done before measures are introduced."*[25]

Or as the Centre for Gambling Research stated in 2005:
> *"...overall, there is insufficient evidence or consensus between the various groups and individuals interviewed for this study to sufficiently understand the effectiveness of the measures in minimising the potential harm from gambling. Further, while the study has provided indicative findings on each of the three measures, we do not consider that the evidence provides a sufficient basis on which to make firm recommendations for improvements."*[26]

In 2007, the Australasian Gaming Council noted that *"to date, there has been no systematic research into the concept of informed choice in gambling or the type of data necessary to facilitate healthy decision making."*[27]

The lack of a sound evidence base to support regulations means that measures have continued to be implemented on what is effectively an experimental basis.

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[25] Banks G, *"The Productivity Commission's Gambling Inquiry: 3 years on"*, presentation to the 12th Annual Conference of the National Association of Gambling Studies, 21 November 2002, page 30, cited in *"Gambling with policy: The economic contribution of gaming machines to the Australian economy"*, Centre for International Economics, March 2009, page 22.

[26] Centre for Gaming Research, Australian National University, *"Review of the ACT Government's Harm Minimisation Measures"*, commissioned by ACT Gambling and Research Commission, March 2005, cited in *"Gambling with policy: The economic contribution of gaming machines to the Australian economy"*, Centre for International Economics, March 2009, page 22.

[27] *"The Gaming Environment 2007: Changes since 1999"*, Australasian Gaming Council, 2007, page 15, cited in *"Gambling with policy: The economic contribution of gaming machines to the Australian economy"*, Centre for International Economics, March 2009, page 22.

What are the rationales, benefits and costs of any new regulatory measures?

No rationales, benefits or costs of any new regulatory measures are apparent to GTA or its members since 1999.   However, those same costs associated with new regulatory measures are massive for GTA members, whose business has dramatically declined in recent years.   An example of this decline is the number of "new gaming machines installed" in NSW clubs and hotels, which fell 63% from 18,062 in 2002 to 6,672 in 2008.
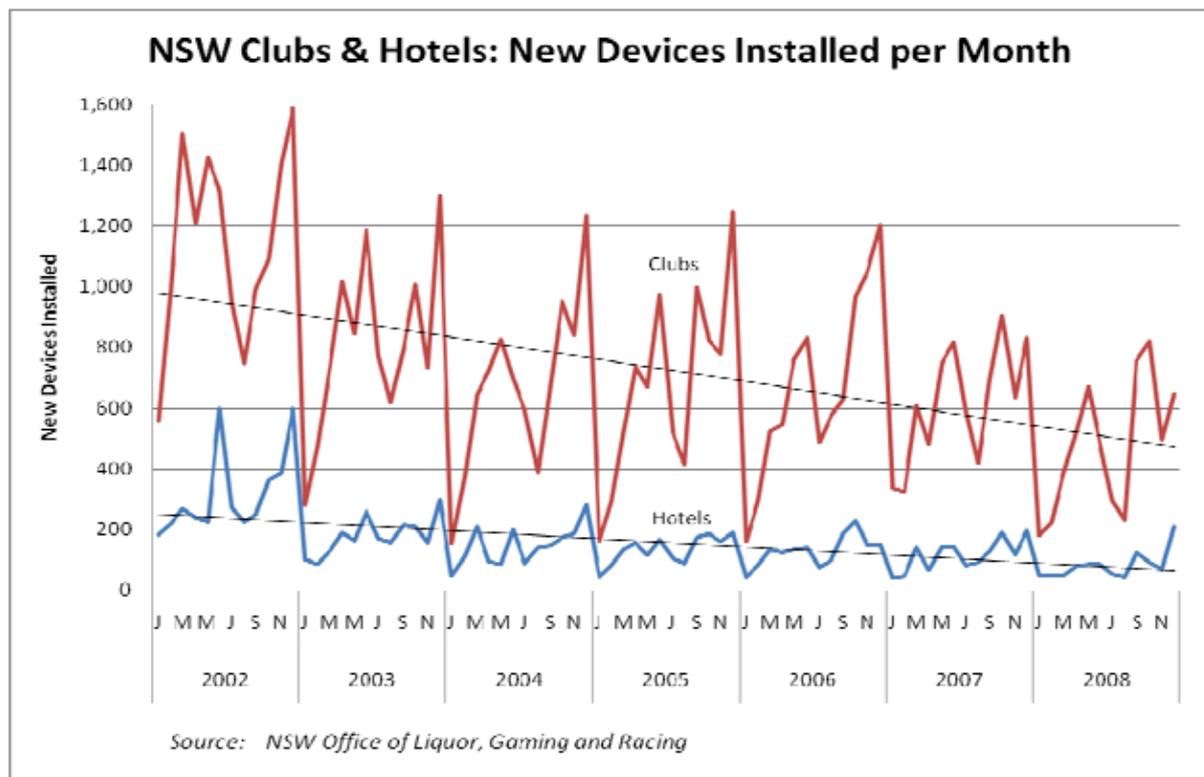
One of the many side-effects of this decline is that new features such as on-screen clocks and dollar meters simply do not find their way into the field.

To what extent has technological change affected the ability of state/territory governments to regulate gambling?

Technological change has been slow in Australia due to the draconian state of the regulations. There has been some movement towards making it easier to monitor and collate data in relation to gaming machines in some states, but overall there has been little attempt to bring in the best of the ICT Industry. The only way to deliver the level of detail necessary for meaningful analysis is

through the use of advanced data communications protocols such as those made available through the GSA.

Has regulation impeded technological innovation within Australia's gambling industries?

Government regulation and policy making processes can directly impact on technological innovation, as the prospect of new technologies tends to create a level of regulatory uncertainty. This uncertainty in embracing and understanding new and innovative technology can impede progress.

Some regulators are quite willing to consider new technologies by allowing "field trials" of new concepts.   However, there are other regulators whose approach and process to review new and innovative technologies are not documented and rely solely upon the general technical knowledge contained in its respective government department without considering the input of independent technical experts.

Another industry concern in relation to technological innovation is the interpretation of technical requirements.   If a regulator makes a decision that a new innovative product is not acceptable, there is no obligation for them to justify their decision.   Often, even when a reason is provided, there is no empirical evidence or policy investigation provided to support their decision.   A regulator can simply indicate that a decision was made not to accept the innovation and the manufacturer has no choice but to accept the decision.   This can result in aborted research and development efforts, strategic re-evaluation and enormous waste of human and technology resources.

GTA members are acutely aware that new technology provides the flexibility to meet audiences' expectations and should be embraced.

A consequence of regulation impeding technological innovation is that gaming machine manufacturers are now tending to develop all their new and innovative products for overseas markets. These products will never be proposed for approval in Australia because they would need to be modified to such an extent as to remove their core entertainment concepts and features.

To what extent are different forms of gambling regulated differently?

Numerous limitations and restrictions have been imposed upon gaming machines in recent years, including advertising prohibitions and a range of operational constraints.   Many gambling opportunities operate with a fraction of these restrictions – including lotteries, instant scratchies, keno, sports betting and any gambling on mobile telephones or televisions.

In particular, telephone account betting and online casino gambling using funds from credit card accounts seem, to GTA members, to be examples of inequity in gambling regulation environments compared to gaming machines.

What impacts have any differences in regulations had?

The compliance burden of these gaming machine limitations and restrictions has resulted in stagnation and limited the potential for suppliers and operators to address expectations.   In particular, gaming machine manufacturers employ more than 2,200 staff in Australia – whose particular skills are ideally suited to innovation, but whose time and efforts often focus on compliance administration.

Have they led to problems or distortions in gambling activity?

GTA is confident that regulatory differences for different forms of gambling have resulted in unmeasured increases in gambling activity, which have skewed observable survey outcomes. Further, lesser regulatory requirements for some gambling activities could conceivably have distorted player expectations and demand.   GTA's view is that the limitations and restrictions imposed on gaming machines are unreasonable compared to other forms of gambling – in particular, where advertising of lotteries, instant scratchies and keno is permitted, then the same conditions and permissions should apply to gaming machines.

Have any differences in regulation, and consequent impacts, changed since 1999?

GTA's view is that the impacts of differences in regulation, particularly the technical requirements of gaming machines, have increased significantly since 1999 but are unknown because no apparent attempt has been made to measure them.

To what extent has there been greater harmonisation of regulations across the state/territories or across different gambling forms?

The states and territories do not have a consistent set of policies for gaming machines.   Gaming machines are viewed differently depending on the state or even region and venue in which they are located[28].

No harmonisation of regulations is apparent to GTA, across the state/territories or across different gambling forms – and GTA believes that this must change.

In GTA's view, since 1999 jurisdictions have purposely embarked on different routes in their respective well-intentioned attempts to address problem gambling.

What have been the main changes to state and territory regulatory frameworks for gambling since 1999?

The main changes are well documented in *A National Snapshot of Harm Minimisation Measures in Australia* which was distributed with the Commission's Issues Paper of December 2008.   It is, perhaps, ironically self-evident that a document with this title describes the main changes to state and territory regulatory frameworks over a decade.

How have the governance and administration of regulatory frameworks changed?

The Productivity Commission's (1999) findings could easily be repeated today. Regulations remain complex and fragmented, although perhaps less so than they were in 1999.   Regulatory assessments have been of a low quality, both before regulations are put in place and when regulations are reviewed.   While consultation has improved, in some cases this has largely been for appearances only.   States and territories have continued with and even tightened restrictions on competition and state-wide caps.

Whilst levels of communication between regulators and suppliers have increased, the ad-hoc implementation of policy since 1999 suggests that the states and territories may need ongoing efforts to hold policymakers to account[29].

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[28] CIE report p20
[29] CIE report p21

What impacts have any changes had on the quality of policy and regulation-making in the jurisdictions?

The most compelling example of jurisdictional difference is possibly that of Player Information Displays, which GTA suggested nationally in 2001.   This is outlined further in the discussion of inconsistencies across jurisdictions in the application of the Gaming Machine National Standard, from page 27.

Focus Issue: Regulatory/Policy Measures & Research

The Australian Constitution does not confer specific legislative power on the Commonwealth in relation to gambling and, in practice, it has been left to the States to regulate gambling. The Commonwealth does not presently attempt to regulate gambling and any relevant Commonwealth laws affect activity indirectly. The Commonwealth does, however, co-operate with the States and Territories in addressing certain issues in relation to gambling.

The gambling sector, and in particular the supply and operation of gaming machines, is highly regulated by State and Territory governments.

GTA accepts the need for appropriate regulation of gaming machines. Indeed, the GTA and its members co-operate with all regulatory authorities and have developed good working relationships with them over many years.

Nevertheless, GTA members face significant difficulties arising from the systems of regulation under which they operate. These include the costs and resources required to comply with the multiple schemes of regulation.

The need to comply with multiple schemes of regulation is a common complaint by organisations that operate in more than one jurisdiction, nationally or (in GTA members' case) internationally. This is because State and Territory laws regulate a very wide range of commercial activities.

The Productivity Commission is aware of the difficulties that arise from multiple schemes of regulation. For example, in its inquiry report on *National Workers' Compensation and Occupational Health and Safety Frameworks* in 2004, the Commission said:

> *"It is not clear to the Commission why there is a need for each jurisdiction to draft its legislation in different ways to that used elsewhere in Australia, particularly as there is such a high level of agreement on the objectives that such legislation seeks to achieve."*

The Commission also recognised that:

> *"The multiplicity of OHS and workers compensation arrangements, their divergent elements and their constant change impose a significant compliance burden and cost, particularly on multi-state employers."*

These observations are as relevant in the area of gambling regulation as in any other area.

To what extent have the measures implemented been supported by research, especially field trials and evaluations?

In general, measures implemented have not been supported by research and this continues to be the case – in fact, the practice appears to be escalating. For example, the Victorian Government announced in March 2008 that from 2010 all new gaming machines would have "mechanisms that allow pre-set time and loss limits to be set prior to commencing play".

GTA is not aware of any research informing or supporting the introduction of this measure.   Unfortunately there remains no specification of this measure for the design, development, testing, accreditation, submission and approval of new games or machines – and this is now highly unlikely to be achieved by 2010.

GTA is aware of few instances in the last ten years where field trials were conducted on measures being considered for implementation.

Among these few instances, GTA members supported the field trial of Ticket-In-Ticket-Out functionality during 2007 in NSW after several years of discussion about this simple service enhancement which results in convenience for players and less cash handling for operators.   'Harm minimisation' surveys were conducted during the field trial process, but the outcomes were not provided to GTA or its members.

GTA members are strongly of the view that Ticket-In-Ticket-Out functionality empowers players to address any potential concerns in relation to reckless gambling by facilitating immediate exit from the gaming machine.

What has been the quality of this research against such criteria as validity, reliability, independence, and transparency?

GTA is of the view that this area has been a comprehensive failure.

The only research report on operational gaming machine activities conducted since 1999 in which GTA and its members are confident is the University of Sydney's *"Assessment of the Impact of the Reconfiguration on Electronic Gaming Machines as Harm Minimisation Strategies for Problem Gambling"* report of November 2001 – precisely _because of_ its validity, reliability, independence, and transparency.   A copy of the report is attached as appendix C.

How effective has the Ministerial Council on Gambling been in addressing its objectives?

As GTA understands it, the aim of the Ministerial Council on Gambling is to minimise the negative social impacts of problem gambling, by exchanging information on responsible gambling strategies, and discussing common issues to facilitate the development of effective interventions and responses[30].

GTA is of the view that this is an area which requires a more active and collaborative approach, whereby all stakeholders are afforded the opportunity to provide input toward a national approach – thereby eliminating jurisdictional bias and establishing objectives and timelines for all states and territories.

To what extent has the National Framework on Problem Gambling been applied by state and territory governments?

As GTA understands it, the National Framework on Problem Gambling 2004-2008 was based on four central themes: prevention, early intervention and continuing support, building effective partnerships and national research and evaluation.

GTA is of the view that national research has not been adequately addressed; and that evaluation has hardly been addressed, if at all. GTA has observed no evidence of mutual and co-ordinated application of the National Framework on Problem Gambling.

How effective has Gambling Research Australia been in addressing its objectives? Are its priority areas of research appropriate?

Gambling Research Australia's objectives are not clear to GTA or its members, who have never had the opportunity to provide input.   GTA's perspective is that research should be conducted in a far more collaborative and transparent manner than has been the case – and that all stakeholders should be provided with a genuine opportunity for input to all research matters.

Further, GTA is strongly of the view that development of the research program (and of research topics within that program) should be approached collaboratively and transparently.   In GTA's experience, this has not been the case.

As GTA understands it, Gambling Research Australia's priority areas of research include the following:

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[30] From www.facs.gov.au The Ministerial Council on Gambling (MCG)

- National approach to definitions of problem gambling and consistent data collection;
- Feasibility and consequences of changes to gaming machine operation such as pre-commitment of loss limits, phasing out note-acceptors, imposition of mandatory breaks in play and the impact of linked jackpots;
- Best approaches to early intervention and prevention to avoid problem gambling;
- Major study of problem gamblers, including their profile, attitudes, gambling behaviour and the impact of proposed policy measures on them;
- Benchmarks and on-going monitoring studies to measure the impact and effectiveness of strategies introduced to reduce the extent and impact of problem gambling, including studies of services that assist problem gamblers and how effective these services are;
- To research patterns of gambling and consider strategies for harm reduction in specific communities and populations, such as Indigenous, rural, remote or culturally and linguistically diverse communities, young people or older people.

GTA is of the view that, had the above priority areas of research been developed collaboratively and transparently in partnership with all stakeholders including the gaming operators and suppliers, their composition as well the research outcomes would be quite different and more likely to contribute to meaningful actions and initiatives.

What changes, if any, should be made?

A new national gambling research institute should be set up involving key gaming operators and suppliers, along the lines the Productivity Commission suggested in 1999: "a national research facility to provide a central focus for data collection and research, including achieving greater national consistency in information"[31].   This has not yet been achieved.

Focus Issue: Gaming Machine National Standard

Regulators in each State and Territory have developed the Australian/New Zealand Gaming Machine National Standard (GMNS). The purpose of the GMNS is to ensure that gaming on gaming machines occurs in a manner that is fair, secure and auditable. Although the GMNS is not legally binding, regulators in practice have regard to it when considering whether to approve gaming

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[31] Productivity Commission Inquiry Report 26 November 1999 Summary p61

machines and games. In practice, it operates as an additional layer of regulation.

Games and machines are currently approved by each state and territory regulatory authority under the (GMNS) version 9 and related requirements. GMNS version 10 dated 24 December 2008 was developed by the regulators' National Standards Working Party (NSWP), is attached as appendix D to this submission and will provide the basis under which regulatory approvals are issued from around October 2009.

The states and territories do not have a consistent set of policies for gaming machines.[32]   The GMNS itself appears to lean toward perpetuating inter-jurisdictional inconsistencies with the statement "Each jurisdiction will provide an Appendix to the above setting out any additional or differing requirements for that jurisdiction"[33].

Gaming regulators have not been able to agree a common set of technical requirements (without unduly onerous appendices) and a common set of principles to meet concerns regarding responsible gambling.

This appears to be evidence of a lack of regulatory harmonisation across Australia. Examples of regulators' divergent views on specific items abound, including during NSWP forums discussing the GMNS.

A key concern with the NSWP process is that a single regulator can continue to enforce a specific requirement without clear justification.   As a result, a manufacturer must either ensure that all games are designed to comply with the "rogue" jurisdictional requirement or develop alternate versions of the software. Both of these options require significant costs and resources, affect time to market and thereby stifle the development of the industry.   In addition, rogue requirements in one jurisdiction will often be different to rogue requirements in another jurisdiction – resulting in very significant redevelopment costs associated with supplying products to both jurisdictions.   Such requirements are often subjective and clearly specific to each jurisdiction, preventing accurate forecasting of the resources required for product design and development.

For example, at the recent NSWP forum the font size of the Credit, Bet and Win meters was discussed.   The standards stipulate that the Credit, Bet and Win meters must be displayed in the currency value (i.e.: dollars and cents) and credit value; and the size of each meter displaying these values must be consistent (i.e.: both the credit meter currency and credit value are displayed in font size 10).

The concern raised by industry participants was that across a number of jurisdictions the font size of the individual credit, bet and win meters could be of

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[32] CIE Report, p20
[33] GMNS v10 s1.1.2 p12

different sizes, but the same font size must be displayed in each meter for the currency and credit value. However one regulator confirmed its requirement that all meters (credit, bet and win) must be the same font size and shape without providing any explanation or justification.

Each regulator incorporates characteristics specific to its jurisdiction into its individual GMNS appendix.   The jurisdictional characteristics included could vary significantly from other jurisdictional characteristics without any apparent consideration of the impact to the gaming machine manufacturers or operators. In some cases, the jurisdictional appendix may be inconsistent or in direct conflict with both the GMNS itself and other jurisdictions' appendices.

This lack of harmonisation is evident when gaming machine manufacturers seek to introduce new innovative game features.   In NSW, the Office of Liquor Gaming and Racing (OLGR) maintains the Gaming Machine Prohibited Features Register[34] which is a list of items not listed or approved as part of the GMNS, again without consultation or any opportunity for industry input. The NSW Casino, Liquor and Gaming Control Authority (CLGCA) has adopted this register and will not approve games that fall outside the guidelines listed.

GTA questions the policy investigation and analysis performed on the Prohibited Features Register and considers it should be subject to regular review. Whilst such a list provides some guidance as to what is NOT acceptable, no such guidance is available for what IS acceptable.

In all jurisdictions, the regulator may refuse to approve a game because it simply does not like the game (or some aspect of it) or understand how the game works.   GTA members regard it as imperative that games are approved against a clear evidence based mandate and specific requirements, so that members' human and technology resources are not wasted; and equally imperative that some form of 'appeal' mechanism be implemented whereby gaming machine manufacturers are apprised of reasons for declined submissions, have the opportunity to address or refute those reasons and thus avoid repeat declined submissions.

Are there any inconsistencies across jurisdictions in the application of the Gaming Machine National Standard?   Are these justified?

Since its inception in 1998, the GMNS has been progressively adopted by the Australian regulators.   This "National" approach was expected to unify and simplify the technical requirements and submission process throughout Australian and New Zealand jurisdictions, which should have resulted in

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[34] *www.olgr.nsw.gov.au/liquor_lab_tech_stnds.asp*

significant cost reductions to industry. Unfortunately after ten years, the respective regulatory authorities continue to hold divergent views.

The regulators cannot agree to a set of universal technical requirements. Each regulator insists on the inclusion of jurisdictional appendices, some of which are unduly onerous.

GMNS item 1.2 identifies the purpose of the established NSWP is to work towards a common technical requirement for the evaluation of gaming machines and to ensure any difference in technical requirements between jurisdictions are for valid and unresolvable reasons. At the NSWP forum held on 27 August 2008 the proposed changes from the NSWP contained very few items or recommendations intended to remove the current requirements for individual jurisdictional appendices.

The benefit of a true "National Standard" is that equipment designed for one jurisdiction can be approved and operate in all jurisdictions. This methodology is whole-heartedly supported by the industry. The approach should be similar to other standards maintained by Standards Australia.

The approach to responsible gambling is another example where regulators cannot agree on a consolidated solution. For example, the Victorian Commission for Gambling Regulation (VCGR) identified and adopted Player Information Displays (PIDs) that led to the development of detailed screens containing specific player information which included player tracking sessions. The Queensland Office of Liquor, Gaming and Racing (QOLGR) also decided to incorporate PIDs and implemented an approach with different information displayed on the help screen display.

In Queensland, gaming machines report the number of times that the PID is entered via the "QCOM protocol". GTA members question whether this PID entry information has been reviewed as a measure of efficacy. If it was determined that players do not utilise this feature, then an alternate method of delivering PID information should be identified. Ongoing research and evaluation of the effectiveness of any responsible gambling initiative using a consistent "National" approach should be mandatory.

Other states have not required PIDs; however, they have required some responsible gambling guidelines. The benefit in each jurisdiction implementing a different approach to responsible gambling is questionable. The cost of these ad-hoc responsible gambling guidelines can range from $50,000-$100,000 per jurisdiction.

The introduction of Approved Testing Facilities (ATF's) throughout all jurisdictions has been of major benefit to the industry. The ATF process has introduced a competitive approach to the approval process. Although it may have taken much longer than expected in some jurisdictions, there has been a

positive response within the industry for introducing an independent testing and approval process.

The ATF testing process has increased costs to gaming machine manufacturers. However, it has provided the greater benefit of more timely approvals and improved the predictability and stability of the supply process.

What impact do they have on the gambling industries?

Under the laws of each jurisdiction, GTA members must gain approval for new gaming machines and games before they can be introduced into a given market. Obtaining approval is not straightforward, is time consuming and is costly.

Obtaining approval for game software can take between three months and three years. Obtaining approval for game hardware typically takes three years. Given that approval must be obtained from each regulator, these delays will be repeated in each jurisdiction in which approval is sought.

The impact of the different interpretations and additional requirements is onerous on manufacturers and the industry, creating untold administrative burden and outright frustration.

For example, a standard game approval in jurisdiction A may externally cost a manufacturer approximately $18,000 in regulatory approval charges. That exact game concept destined for jurisdiction B, may require additional external costs of approximately $12,000 for the same game concept complying with the same version of the GMNS. If the GMNS was universally adopted without jurisdictional variations, a reasonable administration fee should suffice. It would not be necessary for another regulator to re-evaluate the game completely against the same standards if it were not for the jurisdictional variances as detailed in the GMNS appendices.

This dilemma regarding excessive and additional costs is further illustrated by the following example:

A manufacturer already has a gaming machine platform approved and operating in three Australian jurisdictions. The manufacturer then sought to expand its market by submitting the same platform to a fourth jurisdiction where a detailed evaluation ensued.

Despite the platform already operating in three other jurisdictions with no field security or integrity concerns, the fourth regulator decided this was insufficient evidence and insisted that a full evaluation was necessary. At the conclusion of the transfer/approval process, the manufacturer incurred an additional $25,000 in direct costs, plus foregone revenues and market share over the six months it took to evaluate the platform in the fourth jurisdiction.

In addition, the manufacturer must engage an ATF to undertake independent verification of all software and various other matters, the report of which is then provided direct to the respective regulator by the ATF. This process is required independently by each regulatory authority (although limited economies of scale can apply in some instances). GTA members collectively pay ATFs an estimated $20 million to $30 million annually to provide this service.

Another outcome of the different interpretations and additional requirements between jurisdictions is that it is virtually impossible to provide one common game or gaming machine across all Australian jurisdictions, as (for example) parameters to tolerate the differences are very difficult to "build in" to game or machine architecture.

Arguably the greatest impact of the different interpretations and additional requirements is on human resources. The impact of massive compliance administration workload is not conducive to generating creative proposals to address current issues or meet future players' expectations.

As previously observed, GTA accepts the need for appropriate regulation of gaming machines. However, the requirement to obtain regulatory approval in up to eight jurisdictions whose requirements differ markedly, imposes a significant compliance burden and significant costs. These costs detract from the capacity of manufacturers to invest in innovation for Australian markets.

Another major impact is the manufacturers' shift of focus from Australia to other less restrictive markets such as US jurisdictions and Macau. Some products will never be developed for Australia because of the prohibitive cost of multiple redevelopment to comply with the different requirements of Australia's jurisdictions. In most cases, the complying product would be so far removed from the original product that it will have lost its appeal to recreational players.

Are the individual gambling policy objectives of jurisdictions unduly affecting the technical orientation of the National Standard?

The GMNS includes policy decisions and detailed technical solutions, when it should instead provide a regulatory framework focusing on principles governing operational <u>integrity</u> and <u>security</u>.

Consistent with other standards (e.g.: ISO 9001:2000 quality management systems requirements, or the AS3806 Compliance Program) the GMNS should list principles with which manufacturers must comply and provide clear guidelines as to how this can be achieved. The GMNS is far too prescriptive and should contain only technical requirements, instead of solutions.

Note that gaming machines are subject to standards beyond GMNS, including:
- EMC emission and immunity testing to EN 55022, AS/NZS CISPR22, FCC Part 15, EN 61000-3-2, EN 61000-3-3, EN 61000-4-3, EN 55024.

- Electrical Safety testing to AS/NZS 60950.1, AS/NZS 60950-1, AS/NZS 61347.1, AS/NZS 61347.2.3, IEC 60335-2-82.
- Climatic testing to IEC 60068-2-1 (-5°C), IEC 60068-2-2 (+45°C), IEC 60068-2-3 (90% RH at +35°C).

Further, within the GMNS regime gaming machines are tested to:
- Magnetic Interference of 10 Gauss at a distance of 5 cm from the surface of the gaming machine to Mil-Std-461 and Mil-Std-462
- ESD +/-15 kV for air discharge and +/-7.5 kV for contact discharge to EN 61000-4-2 Category A and Category B
- EN 61000-4-3 Category A
- Application of a fast transient voltage of 2.5kV to AC power lines (rise: 5ns, duration: 50ns) and 1kV to external I/O lines
- Injection of a surge voltage of 2kV to AC power lines (rise: 1.2ms, duration: 50ms)
- Continued operation at voltages within the legislated supply variations to which utility companies are required to comply (typically +/-10% of 230 VAC (New Zealand) and 240 VAC (Australia))
- Surges or dips of +/-20% of the supply voltage. Note that it is acceptable for the equipment to reset provided no damage to the equipment or loss or corruption of data is experienced
- Repeated switching on and off of the AC power supply
- Jiggling the AC cord at the wall outlet

An example of the prescriptive nature of the GMNS is section 2.2.2 Gaming Machine Approvals[35], which indicates that "Information on the process involved in obtaining an approval can be obtained from the relevant regulatory body". This allows – and perhaps, encourages – each regulator to specify unique jurisdictional characteristics without consultation with (or review by) its peers or other stakeholders. In some cases those characteristics could be in conflict or inconsistent with other regulators. A truly "National" standard for gaming machine approvals should be universally adopted by all regulators.

Another example is the regulation surrounding Cabinet Identification, which refers to a simple piece of metal used for identification purposes (i.e.: compliance plate). There are additional and specific requirements in NSW[36] and QLD[37] for the Compliance Plate that exceed what is stipulated in the GMNS.

Following the inclusion of sophisticated monitoring systems operating across all Australian jurisdictions many requirements of the GMNS could be considered as dated, inappropriate or no longer required. It is questionable whether the requirement to install hard meters in future gaming machines is both necessary and warranted.

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[35] GMNS v10 p15
[36] NSW Appendix to the GMNS v10, 14 January 2009 s2.3.1 p8
[37] QLD Appendix to the GMNS v9.0.1, 3 October 2007 Q2.3 p5

The GMNS should cover only the operational <u>integrity</u> and <u>security</u> of gaming machines operating in Australia. There are a number of subjective requirements referring to the quality of construction and design – which is not a regulatory issue but might be considered important to the player and venue operator.

Gaming machines are designed to operate in the hospitality environment and are required to meet a range of standards before being allowed to operate. For example, this includes safety standard AS/ISO 60950. It is unclear why information relating to specifying operating voltage, fuse ratings and On/Off power positions are included in the GMNS when they are specifically required by other mandatory standards. This leads to interpretation and inconsistencies between established safety standards and the GMNS.

The GMNS specifies a solution rather than a requirement several times, such as Section 3.2.14 Program Execution from Secondary Storage Media[38]. This section defines a complete solution rather than the requirement.

Another internationally recognised Gaming Machine standard is GLI-11[39] and its corresponding requirement to Section 3.2.14 of the GMNS is detailed in Section 3.15.3 Control Program which states "The control program (software that operates the gaming device's functions) shall allow for the gaming device to ensure the integrity of all control program components during execution of said components"[40]. This item in the GLI-11 standard still requires that the gaming machine maintain its security and integrity without implementing a specific solution.

Note that the NSW OLGR has advised that it will 'trial' a NSW Appendix to the GLI-11 Gaming Machine Technical Standard at some stage.

The GMNS should provide a regulatory framework focusing on principles governing operational <u>integrity</u> and <u>security</u> of gaming machines and technical requirements, rather than specific detailed solutions. The removal of technical requirements covered by other standards (e.g. electrical safety standards) should also become a focus for future standards development.

Section 6: Consumer Protection Measures

GTA is of the view that gaming machine manufacturers should be actively encouraged to trial their own innovative measures that are intended to address problem gambling; and that where such measures are developed, existing policy

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[38] GMNS v10 p28
[39] Available at www.gaminglabs.com "GLI Standards"
[40] GLI-11 v2.0 April 20, 2007 p51

should be relaxed in order to foster the development of technology for responsible gaming.

One example of such a measure is the active collection of massive datasets to assist the research process and demonstrate the effectiveness of innovative measures. This is only possible through technology within the game.

Focus Issue: Industry & Government Actions

Measures mentioned earlier in this submission which have been implemented by industry include PIDs, on-screen clocks, dollar meters and a range of information initiatives.

Does the National Snapshot of Harm Minimisation Strategies provide a complete representation of government actions?

GTA is of the view that the National Snapshot of Harm Minimisation Strategies provides a complete representation of government actions.

What harm minimisation measures are in prospect?

Potential harm minimisation measures in prospect are somewhat unclear to GTA members and often appear to develop without consultation.

GTA is of the view that that key elements in considering such measures include budgets, in-screen messages, an holistic approach to player empowerment (where the whole player information and empowerment process must be considered, rather than simple individual components) and ensuring continued operational integrity. GTA is strongly of the view that such measures should not be considered for implementation without comprehensive prior testing in order to provide assurance of their efficacy and ensure that their potential for unintended consequences is minimised.

To what extent have the development of harm minimisation measures reflected regulatory best practice (such as clear objectives, evidence of likely efficacy, consultation with stakeholders, coordination with other measures, and cost-effectiveness)?

GTA is not aware of any consideration of regulatory best practice in the development of harm minimisation measures. A case in point is the South Australian Independent Gambling Authority's Game Approval Guidelines, which

presume that certain characteristics of a game will be likely to lead to an exacerbation of problem gambling.

Whilst the Authority has engaged in public consultation, GTA is of the view that this has not been effective. Consultation processes have not produced any credible evidence to support the Guidelines. The Game Approval Guidelines should be scrapped immediately because they are not based on evidence.

What changes, if any, in regulatory processes in this area are warranted?

GTA believes that more focus on self-regulation by allowing the manufacturers to develop their own innovative proposals for responsible gambling is warranted. Governments should encourage manufacturers to develop innovative solutions through Technical Standards that encourage and foster such measures.

The plethora of inter-jurisdictional inconsistencies demands the imposition of a truly national structure and discipline over current policy development and regulatory outcomes.

All NSWP deliberations and processes should be subject to a rigorous and formal standards development framework whose primary objective is the elimination of inter-jurisdictional inconsistencies. The measurement of success of such an initiative would be the elimination of appendices to the GMNS within a defined period or its eventual replacement with a single, truly national standard.

Another measurement of success of such an initiative would be a single national game and machine approval process, applicable to all Australian jurisdictions.

The GTA considers that the suitability of gaming machines and games can be objectively and sensibly measured. If a product can satisfy such a measure, it ought to be approved for all jurisdictions.

Are there inconsistencies in harm minimisation measures across jurisdictions, as well as across the different forms of gambling?

Examples abound of inconsistencies in harm minimisation measures across jurisdictions, as well as across the different forms of gambling.

Some examples include inconsistent and conflicting requirements for Player Information Displays, for game feature related ante-bet parameters and the number of permissible free games, to name a few. In every case for game

feature related measures, there is no credible body of evidence to justify or support the application of these requirements.

What problems or distortions do any inconsistencies cause?

The biggest problems for GTA members resulting from inconsistencies in harm minimisation measures across jurisdictions involve wasted expertise and resources which would be better applied to developing solutions and innovation.

Further, products developed for other countries are becoming increasingly difficult and more costly to redevelop different versions for each of the Australian jurisdictions.

Focus Issue: Assessing the Effectiveness of Harm Minimisation measures

Is the Commission's approach to evaluating consumer protection or harm minimisation measures still appropriate?

GTA observes that the Commission's approach was based on the principle of empowering all consumers, including problem gamblers, to make informed and deliberate choices about their gambling. GTA believes that this approach remains valid.

To what extent have industry and government actions since 1999 dealt with the inadequacies in arrangements previously identified by the Commission?

GTA is of the view that actions since 1999, whilst clearly well-intentioned, have generally not successfully dealt with the inadequacies in arrangements previously identified by the Commission because of their inconsistent application across jurisdictions.

What have been the impacts of harm minimisation measures that have been introduced?

GTA is of the view that impacts are unknown, simply because particular measures have not been assessed.

Focus Issue: New Technologies

The advancement, adoption and benefits of new technologies is evident when you consider other industries, namely Telecommunications and Computers. Industry leaders such as Nokia, Ericsson and Apple invest heavily in Research and Development in their home country and in some cases with the aid of programmers in the Indian sub-continent.

Australian gaming companies are amongst global leaders in leading edge technology with respect to international gaming markets (not local markets).

It is critical that the local regulatory authorities encourage the development of new technologies in gaming and accept other recognised international jurisdictions technical requirements and opinions. This will ensure that Australian companies are not disadvantaged by unnecessarily lengthy, cumbersome and inconsistent approval processes of new technologies in the local market. Without the application of consistent rules to new technologies there will be barriers to entry created that will "make" or "break" Australian gaming companies.

For example, a GTA member embarked on introducing the new technology of a closed source Operating System (OS) into their platform approximately four years ago. The complete evaluation period through a particular regulatory authority was approximately two years.

The investigation and acceptance of the OS alone required approximately one year and involved the regulator requesting access to the closed source code.

The cost of this approval delay to the manufacturer greatly impacted on the ability to create a Return on Investment, and reduced their ability to provide new and innovative products to the market in order to maintain their current market share.

It is envisaged that future technological advancements in the gaming industry will consist of already developed and released technology (or common off-the-shelf items). It will also consist of common communications protocols (such as the GSA's G2S protocol) where machines can be designed and accepted in world-wide markets.

The acceptance of the G2S protocol by all regulators in Australia would allow manufacturers to reduce the amount of R&D capital required to maintain multiple software platform architectures. It would also reduce the cost to industry and government as it could be used as a *one size fits all"*. The G2S protocol has been designed and developed for maintaining and increasing the

security and integrity of gaming operations, whilst utilising cutting edge technology and not stifling innovation.

What new technologies might enhance or support harm minimisation measures?

Any technology that allows the gaming machines to be monitored and controlled, in real time, has the potential to deliver harm minimisation measures. Ideally this technology would allow the offering of gaming services integrated within the function of the gaming machine that can be tailored to a player's particular needs or behaviours.

Are there examples of such technologies being used here or overseas?

There are numerous examples of network and system based technologies being implemented developed or offered both within Australia and overseas. These technologies can facilitate the availability of responsible gaming initiatives as determined by the relevant government or regulator's required policy prescription. This may include, for example, the implementation of appropriate player messaging and player pre commitment settings at the stand alone machine level through to a venue or statewide network configuration. GTA refers the Commission to a recently compiled review of the literature to date concerning example technologies commissioned by the UK Gambling Commission.[41]

Are there regulatory impediments to the adoption by the gambling industries of these new technologies?

Suppliers are of the opinion that they are increasingly impaired by regulatory authorities' insistence on formulating specific requirements based solely on their respective interpretation without due consideration or consultation with their peers and without providing any justification. The fact that some jurisdictions (in some cases it can be a single regulator) cannot agree with the remaining states and territories, continues to hinder gaming machine manufacturers and waste valuable human and technology resources.

Manufacturers are aware of a particular regulatory authority where policy has historically been created on an ad-hoc basis during meetings whilst demonstrating and discussing new game design concepts. The same regulatory

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[41] "Cashless and card-based technologies in gambling", Dr Jonathan Parke, University of Salford, December 2008 *www.gamblingcommission.gov.uk*

authority holds discussions with internal technical services staff to interpret rules and graphical representations.   The above processes create an environment promoting "regulation on the fly" and where no empirical evidence is provided to demonstrate a robust and fair evaluation of the product.   This leads to inconsistencies regarding approval decisions.

A recent development in the Northern Territory to introduce a new approval process has been welcomed universally by all manufacturers. The new approval process empowers the ATF to provide certifications which are considered as the approval.   This process is very similar to a majority of North American jurisdictions where an ATF certification is sufficient to allow approval of equipment for supply in that jurisdiction.

GTA believes that this change in the approval process facilitates substantial reduction in state spending and improves regulatory efficiency.   The GTA fully supports the approach of the Northern Territory and encourages other jurisdictions to adopt a similar strategy on submissions and approvals.

Focus Issue: Regulation of Access

What key developments have there been since 1999 to regulating access to gaming machines in the states and territories?

The number of gaming machines in South Australia was reduced by 20% from approximately 15,000 to around 12,000 with effect from 1 July 2005.   GTA noted that this made virtually no difference to total revenue, with a slight increase in 2005-06 over 2004-05.[42]   GTA queries whether this initiative has had any material impact in achieving its policy objective of reducing problem gambling prevalence rates in South Australia.

Have there been any data or studies showing what impacts regulating access to gaming machines has had on problem gambling or on the broader social impacts of gambling?

GTA is aware of no data or studies showing what impacts regulating access to gaming machines has had on problem gambling or on the broader social impacts of gambling.

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[42] Source: Office of the Liquor & Gambling Commissioner website *www.olgc.sa.gov.au*

Are there changes in prospect that would increase/decrease access to gaming machines (for example, increasing caps or extending the location of gaming machines)?

GTA is aware of no immediate changes in prospect – but notes that changes have tended to be made in recent years without consultation or notice.

What changes should be introduced?

No changes should be introduced without wide collaboration across interested sectors and spokespeople.

As to the need for proper evidence to support regulatory measures, it is important when formulating policy and laws to distinguish between the effects and causes of problem gambling.

As the Commission's 1999 Report identified, there are a number of problems, behaviours and other difficulties that are widely recognised as characteristics of problem gambling even if they do not all have to be present.[43]

GTA accepts the Commission's view that such characteristics can be associated with gambling and that public policy has a significant role to play in addressing them. A range of harm minimisation measures (summarised in the *National Snapshot of Harm Minimisation Strategies*) are in place in all jurisdictions that are aimed at ameliorating harm.

Whether or not these measures are useful might be the subject of debate. However, it is much easier to agree about what are the effects of problem gambling rather than the causes. Public policy therefore has a useful role to play in addressing these effects.

What is much more problematic is where public policy attempts to address the causes of problem gambling. It is one thing to identify the effects of gambling. It is quite another to identify the causes.

Thus, the basic flaw with regulatory schemes such the South Australian scheme is that it attempts to address the cause of problem gambling even though there is such uncertainty about what causes it. One has only to consider the number of competing definitions and measures of problem gambling to appreciate the complexity of the issues involved with identifying the cause of problem gambling.

This is not to say that public policy should not attempt to address causes of problem gambling. However, government should not implement policies or pass

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[43] 1999 Report at 6.4

laws to address causation without credible evidence. Unless there is credible evidence, policy proceeds on the basis of a leap of faith. It is experimental.

Focus Issue: Regulation of the Internet & Emergent Gambling Technologies

What trends are likely in relation to internet gambling and other platforms such as mobile phones and digital TV?

GTA considers it probable that 'new generation' delivery mechanisms will inevitably bring increased access to internet gambling.

Is the regulation of internet gambling justified?

The Internet provides unregulated access to gaming products delivered directly to personal home and mobile users. It is the opinion of the GTA that this is an unacceptable position that potentially exposes the public to inappropriate services provided by unlicensed, untaxed, unknown operators. GTA would welcome a regulatory environment such as that currently applied to gaming machines, for Internet gambling.

What other impacts of the regulation have there been?

As the Commission points out in its Issues Paper, as reputable providers of gambling emerge overseas, they may become increasingly attractive to Australian consumers.   Thus taxation revenue may be denied for Australian jurisdictions and Australian consumers could be subject to environments potentially lacking the probity and integrity required of current 'land-based' gambling.

What changes should be introduced to the regulation of internet gambling within Australia?

Internet gambling should be regulated within Australia and the probity and integrity standards should match that required for current 'land-based' gambling.

Section 7: Government Programs Relevant to Gambling

Focus Issue: Gambling Education & Financial Literacy

GTA believes that gambling education is an integral part of empowering all consumers, including problem gamblers, to make informed and deliberate choices about their gambling.   Further, improved financial literacy is the 'broader picture' which would benefit all Australians.

Conclusion and Recommendations

As the Commission noted in its 1999 Report, policy decisions have been made without a sound evidence base that would support and justify them. It also observed that when formulating policy, decision makers lacked access to objective information and independent advice.[44] This continues to be the case. Regulators continue to make policy without proper research into and consideration of the usefulness of measures.

The regulators cannot agree to a set of universal technical requirements.   Each regulator insists on the inclusion of jurisdictional appendices, some of which are unduly onerous. The requirement to obtain regulatory approval in up to eight jurisdictions whose requirements differ markedly, imposes a significant compliance burden and significant costs. These costs detract from the capacity of manufacturers to invest in innovation for Australian markets.

Some products will never be developed for Australia because of the prohibitive cost of multiple redevelopment to comply with the different requirements of Australia's jurisdictions.   In most cases, the complying product would be so far removed from the original product that it will have lost its appeal to recreational players.

Recommendation 1: Independent research on the efficacy of caps on gaming machine numbers in all Australian jurisdictions.

Recommendation 2: Review of all harm minimisation measures that have been introduced within Australia to determine the evidentiary basis of each measure and the conduct of research into each measure's effectiveness. Where it is apparent there is no evidentiary basis for the measure, or no evidence to support its effectiveness, each such measure should through regulatory action and statutory amendment, cease to apply.

Recommendation 3: A truly "National" standard for gaming machine approvals should be universally adopted by all regulators.

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[44] 1999 Report at 4, 12.1

Recommendation 4: A new national gambling research institute should be set up, along the lines the Productivity Commission suggested in 1999: "a national research facility to provide a central focus for data collection and research, including achieving greater national consistency in information".

Recommendation 5: Gaming machine manufacturers should be actively encouraged to trial their own innovative measures that are intended to address problem gambling; where such measures are developed, existing policy should be relaxed in order to foster the development of technology for responsible gaming.

Appendices

Appendix A: "Gambling with policy" research report on the economic contribution of gaming machines to the Australian economy – The Centre for International Economics, March 2009.

Appendix B: "World Count of Gaming Machines" research report – Taylor Nelson Sofres Australia, April 2008.

Appendix C: "Assessment of the Impact of the Reconfiguration on Electronic Gaming Machines as Harm Minimisation Strategies for Problem Gambling" – University of Sydney, November 2001.

Appendix D: "Australian/New Zealand Gaming Machine National Standard version 10", 24 December 2008.