
13 Regulatory arrangements for major forms of gambling

Box 13.1 Key messages

Regulatory arrangements are characterised by:

- *exclusivity* arrangements and other limits on competition between providers (or potential providers);
 - monopoly (or near-monopoly) arrangements exist for casinos, the TAB and lotteries; in some cases, with the operators effectively endorsed by government;
 - in return for a tight regulatory regime, close supervision and heavy taxation (and licence fee), licensed operators may have exclusive access to a particular geographical market for some period;
- *restrictions on the supply* of gambling services (such as limits on how many gaming machines or gaming tables a venue may have)
 - all jurisdictions impose some restrictions on gaming machine numbers, whether by a maximum allowable in particular types of venues, a cap on the number permitted to operate in a region or in total, or both
- extensive *monitoring* of gaming and *probity checking* of licensees and some employees
 - measures have been put in place in all jurisdictions to allow regulators to monitor the integrity of gaming, and to provide greater certainty that the correct amounts of tax are being paid
 - but there is significant variation in the approaches taken for different modes of gambling
- *requirements based on the type of venue* involved (for example, what clubs, hotels and casinos can and cannot do); close regulation of casino operations
- differences with respect to the amount and type of *consumer information* provided to gamblers;
 - information on odds and payout rates is variable.

13.1 Introduction

Australia's gambling regulations reflect a blend of pragmatism, historical accident and the inevitable variation provided by the mix of gambling forms and the objectives of different governments and interest groups.

This chapter does not examine all aspects of these arrangements. Instead, it provides a snapshot of the regulatory environment faced by each major mode of gambling. It seeks to highlight appropriate regulatory features, as well as major inconsistencies and shortcomings, by concentrating on:

- *exclusivity* arrangements and other limits on competition between providers (or potential providers);
- *restrictions on the supply* of gambling services (such as limits on how many gaming machines or gaming tables a venue may have, global caps and prohibition of note acceptors);
- *requirements based on the type of venue* involved (for example, what clubs, hotels and casinos can and cannot do); and
- *the role of 'consumer information'* to gamblers.

While arrangements vary among jurisdictions, large parts of the gambling industry are characterised by some form of monopoly (or near-monopoly) for casinos, the TAB and lotteries; in some cases, with the operators effectively endorsed by government. In return for a tight regulatory regime, close supervision and heavy taxation (and licence fee) arrangements, licensed operators may have exclusive access to a particular geographical market for some period (which may or may not be defined).

By way of illustration, box 13.2 sets out arrangements applying in Victoria. Many aspects of these arrangements are also found in all other jurisdictions.

The industry sectors may be linked across modes of gambling and across jurisdictions. For example:

- Victoria's totalisator operator, Tabcorp, is also a major owner and operator of gaming machines, and is finalising its takeover of Star City Casino;
- the owner of Tasmania's casinos also operates all gaming machines in clubs and hotels in Tasmania;
- Tabcorp, Tattersall's, Jupiters and the Queensland TAB are among the licensed monitoring operators for gaming machines in clubs and hotels in Queensland;

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- the New South Wales totalisator operator, TAB Ltd, has the contract to monitor the state's gaming machines;
 - MGM Grand is licensed to operate keno throughout the Northern Territory; Jupiters has the licence for Queensland for 10 years (a further 15 years after which another licence may only be issued to Golden Casket); and
 - Jupiters owns Centrebet, the sports betting agency based at Alice Springs.

Box 13.2 Licensed gambling in Victoria

Gambling in Victoria is characterised by licensing schemes that grant exclusive rights to private operators with respect to specific gambling products and venues. For example, there are:

- two licences to operate gaming machines in clubs and hotels in Victoria (plus the casino has approval to provide up to 2500 gaming machines in its premises). The clubs and hotels market is divided between Tabcorp and Tattersall's, which each have about 13 500 gaming machines in about 270 venues;
- one casino licence, which provides for monopoly provision of casino services in Melbourne and Victoria for set periods;
- one wagering operator's licence (Tabcorp);
- two licences providing exclusive rights for Tattersall's and Tabcorp to operate Club Keno; and
- one licence to operate the major lotteries (Tattersall's).

A range of legislation provides for the regulation of wagering, gaming and betting, including totalisator and fixed odds betting. It covers probity standards, monitoring, technical standards, crime prevention matters, inspection and direct funding of social programs from gaming machine revenues. It also provides for the powers and functions of the Victorian Casino and Gaming Authority, and the management of Crown Casino.

Source: submissions.

Some Australian-based gambling providers also have ownership links or other associations with major international gambling interests: for example, Darwin casino is owned and operated by MGM-Grand, while Conrad International and Casinos Austria also have interests in Australian casinos.

This chapter looks at each of the major forms of gambling in Australia — poker machines, casino gaming, racing and sports betting and lotteries. Minor gaming is addressed in the final section. While not a 'neat' categorisation — it covers both gambling mode and venue type — it helps group the discussion in a more convenient way.

Closer analysis and assessment of some key issues, including exclusivity arrangements, restrictions on the quantity of gambling able to be offered, restrictions on venues, player information and access to credit is undertaken in the following three chapters. Some key governance issues are dealt with in chapter 22.

13.2 Electronic gaming machines

While some forms of legal gambling have been around for a very long time, gaming machines are relatively new to most jurisdictions. It is also the form of gambling which has grown most rapidly in the last decade or so. Gaming machines now loom large in terms of gambling expenditure, government revenue generation and the reporting of problem gambling (chapter 6).

All jurisdictions impose some restrictions on gaming machine numbers, whether by a maximum allowable in particular types of venues, a cap on the number permitted to operate in a region or in total, or both. And there are rules about the type of machine permitted (for example, there are poker machines, draw card machines and multi-terminal gaming machines such as for horse racing or roulette), approval arrangements for manufacturers, and monitoring and revenue verification requirements. As the Australian Gaming Machine Manufacturers' Association noted:

There are seven States/Territories that allow geographically dispersed gaming machine operations. There are as many regulatory agencies each with their own peculiar approach to taxation, licensing, control mechanisms, disclosure, special purpose hypothecations, venue access limitations, technology planning, consumer focus, and inter-jurisdictional coordination (sub. 50, p. 3).

Venue restrictions

All jurisdictions place restrictions on the type of venue in which gaming machines may be placed (generally limited to licensed clubs, hotels or casinos, with different rules for each). This is generally defended on the grounds of limiting accessibility by underaged persons, although it is criticised by others because of the effects of alcohol on gambling behaviour (chapter 14).

Government policy towards the operation of gaming machines in clubs and hotels varies considerably across jurisdictions. And while New South Wales has licensed machines since 1956 (and has over half of Australia's 185 000 gaming machines), most jurisdictions have introduced them only in the 1990s. But numbers have expanded considerably in recent years. Table 13.1 provides a snapshot of current machines numbers in Australia.

Table 13.1 **Where are the gaming machines?^a**

	<i>Clubs</i>	<i>Hotels</i>	<i>Casino(s)</i>	<i>Total</i>
New South Wales	74 206	23 966 ^b	1 500	99 672
Victoria	13 479	13 632	2 500	29 611
Queensland	17 948	11 308	3 138	32 394
Western Australia	not permitted		1 180 ^c	1 180 ^c
South Australia	1 468	10 681	763	12 912
Tasmania	226	1 125	1 099	2 492 ^d
ACT	4 953 ^b	60 ^e	not permitted	5 013
Northern Territory	508	136	608	1 252
Total	112 788	60 908	10 788	184 526^d

^a For most jurisdictions, data relates to end-September or later; but numbers are subject to frequent change.

^b Not all are 'poker' machines (includes video draw poker machines). ^c All electronic video games, not poker machines. ^d Total for Tasmania includes 42 machines operated by Admirals Casino Pty Ltd on the *Spirit of Tasmania*. ^e 'Draw card' and 'draw and hold' machines only.

Gaming machines and the club industry

In several jurisdictions, gaming machines were introduced explicitly to assist the club industry. New South Wales provides one example. Queensland's 1996 White Paper on the regulation of gaming machines noted that:

Gaming machines were introduced into Queensland in February 1992, principally as a means of addressing the deteriorating financial position of the club industry and its consequent inability to provide facilities and services to its members (Queensland Government 1996, p. 1).

In its response to the draft report, the Queensland Government concurred with the Commission's finding of a significant connection between greater accessibility of gaming machines and greater prevalence of problem gambling, and is examining this issue in its gaming review. It remains of the view that gaming machines are essentially 'for the benefit of local communities and non-profit organisations':

... gaming machines should not be permitted in well frequented community places, such as shopping centres ... the multi-purpose nature of these centres makes them unsuitable for gaming venues (sub. D275, p. 7).

Moreover, the Government said that it has prevented:

... attempts by some elements to pursue entrepreneurial schemes that would have allowed gaming machine profits to be shared by a third party (sub. D275, p. 7).

Clubs are non-profit organisations, generally mutual associations. Their income cannot be distributed to members but is reinvested in club facilities or spent on community purposes. They are not subject to company taxes on much of their income, and pay gambling taxes at a lower rate than hotels (chapter 21).

One consequence is that most clubs with gaming machines have become much larger and generate much larger employment, turnover and profit than those without gambling facilities. On average in 1997-98, clubs with gaming machines had gross income of \$2.3 million and employed 25 persons while those without gaming machines had gross income of \$323 000 and employed six persons (ABS 1999a, p. 18).

In New South Wales, where clubs have 74 per cent of the state's gaming machines (table 13.2), a small number of 'super clubs' has developed. For example, the Penrith Panthers club has nearly 1200 gaming machines (compared to 1500 at Star City), and the top 200 clubs hold over half of all gaming machines in New South Wales. For some clubs, gaming machine revenue accounts for over three-quarters of total revenue.

Table 13.2 Gaming machines in New South Wales^a

	<i>Clubs</i>	<i>Hotels</i>	<i>Star City casino</i>
No. of venues with gaming machines	1 433	1 827	1
Total gaming machines operating	74 206	23 966 ^b	1 500
(percentage in each category)	74%	24%	2%
Maximum no. of gaming machines per venue	unlimited	30	1 500
Average no. of gaming machines per venue	52	13	1 500

^a As at October 1999.

^b Includes draw card and other older technology gaming machines.

Gaming machines and hotels

Governments have subsequently been faced with pressures to take account of the varying interests of casinos, clubs and hotels, each of which have been treated differently. For example, in Queensland:

Strong argument was raised at the time by hotels, who believed the introduction of gaming machines into clubs would have a significant adverse effect on their operations. Consequently, hotel sites were provided with access to gaming machines, but under less favourable terms and conditions ... (Queensland Government 1996, p. 1).

In New South Wales, hotels have only had access to the same types of machines as clubs since April 1997. (Before then, they were limited to five 'approved amusement devices' — later increased to ten.) From that date, hotels were permitted to operate up to 15 poker machines. And in 1998 they were able to seek the right to operate up to 15 more, when the government sold 2300 permits on a tender basis (sub. 68, pp. 7-8).

Of those jurisdictions in which gaming machines are permitted in clubs and hotels, the same technology of gaming machine is now generally permitted in both. But differences continue to operate in the ACT, where hotels and taverns are restricted to older 'draw card' or 'draw and hold' machines. This puts them at a competitive disadvantage to ACT clubs, which are free to choose the preferred and newer technology gaming machines. The Australian Hotels Association said that the 'B class' machines allowed in hotels:

... are no longer thought as 'entertaining' by the general public ... Turnover ... continues to decline and the provision of gambling services now, in many cases, is an unfeasible option for hotels (sub. 119, p. 46).

The Association said that this highlighted:

... the need for establishments to be able to update their systems according to customer expectations ... Gaming machines are updated and improved by providers to ensure an entertaining product ... It is essential to continually update and improve gaming machines to remain competitive with other forms of entertainment ... (sub. 119, p. 46).

The Allen Consulting Group (1998) argued that, while the intention was to limit gambling in hotels and taverns, the original limits were being eroded by technological change.

Gaming machines in casinos

The number of gaming machines (and tables) permitted in casinos is a matter which state governments decide in the context of licensing agreements, and decisions are generally taken in the context of views about the number of gaming machines which should be permitted in the community at large. In some cases, the casino gaming machine numbers are capped; in others, government approval is required before an increase can occur.

There are about 10 800 gaming machines in Australia's casinos (table 13.1). This represents about 6 per cent of Australia's gaming machines. Revenues from gaming machines in casinos accounted for about 24 per cent of total casino income in 1996-97.

Arrangements for machine gaming in Western Australia are quite different to those in other jurisdictions: that state's gaming machines are confined to Burswood casino, and the type of gaming machine is restricted to electronic video game machines which emulate casino games ('pokies' are not permitted). (Tasmania also had restricted its gaming machines to casinos until 1997.)

In contrast, Casino Canberra has never been permitted to operate gaming machines, even though ACT clubs have had virtually unlimited access to gaming machines for some years (box 13.3).

Box 13.3 Casino Canberra and gaming machines

The *Casino Control Act 1988*, which allowed the establishment of a casino in Canberra, expressly prohibits the casino from operating gaming machines. This restriction was examined in the recent National Competition Policy review of ACT gambling legislation, commissioned by the ACT Government. The review report argued that allowing the casino to install gaming machines could only have a marginal effect on problem gambling: there were then already almost 4900 gaming machines in 75 clubs. It also saw little to suggest that such a change would damage the licensed clubs. Moreover:

Once the community has made the decision to allow a casino it appears illogical to deny a dedicated gambling venue access to a form of gambling that is available in other venues (which are not primarily gambling venues) (Allen Consulting Group 1998, p. 50).

That report is now before the ACT Government.

In the meantime, Casino Canberra has obtained approval from the Commissioner for Land and Planning for a change to its Crown lease to permit a club to be an 'approved purpose' for the leased premises. (The Licensed Clubs Association unsuccessfully appealed against this decision.) Subsequently, a club applied for a gaming machine licence in respect of an area currently occupied by the casino. However, this application was refused by the Commissioner for ACT Revenue, and a subsequent appeal by the club to the AAT was dismissed.

Source: Allen Consulting Group (1998) and ACT Revenue Office.

Restrictions on the supply and use of gaming machines

Caps on gaming machine numbers

As noted, all jurisdictions impose restrictions of one kind or another on gaming machines and on gaming machine numbers, whether by a maximum allowable in particular types of venues, a cap on the number permitted to operate in a region or in total, or both (tables 13.3 and 13.4).

Caps are generally put in place because of concerns about the possible adverse social impacts of gaming machine gambling, particularly in the context of a rapid increase in their numbers, and in the number of venues with gaming machines. Such concerns lay behind South Australia's decision to limit each venue to a maximum of 40 gaming machines (originally intended to be 100). And while Victoria's 1993

casino legislation allowed for a maximum of 45 000 gaming machines in the state until 2005, a Ministerial Direction has limited the total number allowable in clubs and hotels to 27 500. (The casino already has its maximum of 2500 machines.)¹

Table 13.3 Machine gaming in clubs and hotels: some parameters

	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>
Minimum payouts?	85%	87%	85% (max 92%)		85%	85%	85%	88-92% (depends on game)
Gaming machines to be in a designated gaming area?	✓	✓ ^a	✓		✓	✓	✓	✓ ^b
Note acceptors permitted?	✓	✓	✓		c	x^d	✓	x
ATMs prohibited from gaming area?	x	✓	x		✓	✓	✓	e
Credit by venue prohibited?	✓	✓	✓		✓	✓	✓	✓
Maximum bets?	\$10	x	\$5		\$10	\$10	\$10	\$5
Linked jackpots in venues?	✓	✓	✓		x	x	✓	✓ ^f
Wide area jackpots?	x^g	✓	✓		x	x	✓	x
24-hour monitoring?	x^g	✓	✓		✓	✓	x	✓

^a Except for five gaming machines per venue with a \$2 bet limit which are allowed outside the restricted gaming area. ^b Not strictly, but machines need to be in an area under constant supervision. ^c While not prohibited, none operate at present. However, two applications have been received by the Liquor and Gaming Commissioner, who directed that they be advertised for public comment. One manufacturer subsequently withdrew. ^d But their future use is under consideration. ^e Not prohibited, but the Commissioner prefers ATMs not to be in or near the gaming area. Cash limit of \$200 per day, and no access to funds from credit accounts. ^f Jackpots are permitted, although none are operating. ^g But moving towards this — see discussion of monitoring arrangements in text.

Regulation of gaming machine type and manufacture

National standards covering some aspects of gaming machine design and operation are in force in most jurisdictions (although there are no agreed Australia-wide standards for monitoring systems or communications protocols). The Australian Gaming Machine Manufacturers' Association said that, while much useful progress has been made:

Unfortunately, NSW does not subscribe to the 'standard', having opted some years ago to impose its own singular approach. In this respect, it stands entirely apart from all other jurisdictions ... The result has been that NSW has become isolated from the mainstream of the national approach and the costs of development and maintenance of technology requirements is significantly higher than it might otherwise be. The sheer

¹ The Victorian Government has said that it intends to cap gaming machine numbers at these levels and to introduce a cap on machine numbers in regional Victoria.

size of the NSW gaming machine market exacerbates those ‘lost costs’, which in the nature of commerce are recovered nationally rather than jurisdictionally (sub. 50, p. 7).

In its view, the further development of national standards would benefit its manufacturer members by reducing or eliminating technology differences between jurisdictions such that equipment able to be licensed in one could then be licensed in any other. This would reduce development costs, but regulators should also benefit were regulatory regimes to have shared standards for gaming machine design and function.

In a submission on the draft report, the Association emphasised that progress towards national standards is being made. It noted that a National Standards Working Party comprising Australian and New Zealand regulators was established in 1994, and since then has been working to achieve national standards (sub. D257, p. 29). Moreover:

Whilst standards differ between States, the standards are very similar and manufacturers of machines understand that different jurisdictions have different requirements ... These requirements are policed very strictly ... These standards and the high quality of regulation are recognised by overseas jurisdictions (sub. D257, pp. 28–9).

Table 13.4 Global and per venue caps on gaming machines

	<i>Global cap?</i>	<i>Casino cap?</i>	<i>Global cap on clubs and hotels?</i>	<i>Cap on individual clubs?</i>	<i>Cap on individual hotels?</i>
New South Wales	-	1 500	-	unlimited	30
Victoria	30 000 ^a	2 500	27 500 ^a	105	105
Queensland	-	b	-	280 ^c	35 ^c
Western Australia	-	b	no gaming machines permitted		
South Australia	-	b	-	40	40
Tasmania	-	-	-	25 ^d	15 ^d
ACT	5 200 ^e	no gaming machines permitted	5 200	unlimited ^e	13 ^f
Northern Territory	-	-	target of 680 (indicative maximum)	45 ^g	6

^a While the *Casino (Management Agreement) Act 1993* sets a limit of 45 000 gaming machines throughout Victoria until 2005, a Ministerial Direction limits the number in clubs and hotels to 27 500, and a further 2500 are permitted in the casino. ^b No formal limit, but any increase requires government approval. ^c From 1 July 1999. Scheduled to phase up to a maximum of 300 per club and 45 per hotel from 1 July 2001. ^d Until 30 June 2000. Scheduled to phase up to a maximum of 40 per club and 30 per hotel from 1 July 2002. ^e Subject to global cap on clubs and hotels. But new licensees may still be granted gaming machine licences even if that were to take the total number of gaming machines above 5200. ^f ‘Draw card’ and ‘draw and hold’ machines only. ^g Not limited by legislation, but set by Gaming Commissioner.

Aristocrat said that the development of software to meet the varying standards of Australian jurisdictions effectively doubles the time required to develop a game:

In Australia there are currently 10 different sets of regulatory guidelines to comply with ... it would require an additional 60–90 person weeks to rollout the game [‘Penguin Pays’] to all jurisdictions — about the same time required to develop the original base game from concept to software (sub. 111, p. 39).

Aristocrat sought the establishment of a single national regulatory standard or extension of mutual recognition to cover gaming machine standards.

The National Standards Commission, a Commonwealth authority with responsibility for coordinating the national measurement system, saw a national system of certification for gaming machines as a priority to facilitate both national and international trade in gaming machines. It has been conducting temperature and electromagnetic immunity testing on gaming machines for commercial test houses for some time, and said that:

... requirements for the approval of trade measurement instruments, viz. consistency of operation and lack of susceptibility to fraud, are similar to the requirements for gaming machines ... In this regard, quite a number of our partner laboratories in Europe are actively involved in the approval and certification of gaming machines (sub. 100, p. 1).

Mutual recognition issues

Gaming machines are one of only a few permanent exemptions for goods under the Commonwealth’s *Mutual Recognition Act 1992* and corresponding state legislation, along with firearms and other prohibited or offensive weapons, fireworks and pornographic material (mutual regulation is briefly summarised in box 13.4).

Moreover, the *Intergovernmental Agreement on Mutual Recognition* does not impact on ‘the manner of the sale of goods in the second state’. Hence sellers of goods still need to observe differing requirements relating to the sale of goods in different jurisdictions. This means that laws which license producers of gaming machines are not affected by mutual recognition. Hence, removal of the permanent exemption for gaming machines might have little effect.

For such reasons, while the variable regulation of the gaming machine industry across jurisdictions has an anticompetitive impact, removing the exemption would not affect this ‘because of the existence of restrictions which do not fall under the mutual recognition scheme’ (Committee on Regulatory Reform Review Group 1998, p. 48). Moreover:

The States and Territories prefer to maintain the existing comprehensive regulatory regime, through maintaining the exemption to gaming machines in the Act (p. 48).

Mutual recognition also has implications for interjurisdictional recognition of registered occupations. It is based on the premise that education and training processes for occupations are broadly equivalent in Australia. It does not interfere with the regulation of rules governing entry into licensed occupations, and has led to the development of national competency standards for many occupations. Occupations are considered ‘equivalent’ if the activities authorised to be carried out under registration are substantially the same.

Mutual recognition operates for internet gambling: the Western Australian Government said that under the national Regulatory Control Model for New Forms of Interactive Home Gambling, prepared under the auspices of the Australian Ministers for Racing and Gaming:

Participation is voluntary and once a service is licensed in one Australian jurisdiction, there is mutual recognition in all other participating jurisdictions (sub. 76, p. 63).

Box 13.4 Mutual recognition

The *Intergovernmental Agreement on Mutual Recognition* was intended to create a national market for goods and services. It was a response to the difficulties which business and industry were experiencing in operating in the various regulatory environments of different jurisdictions.

Premiers and Chief Ministers signed the agreement at the Special Premiers’ Conference in May 1992, and each jurisdiction (including the Commonwealth) subsequently implemented its own mutual recognition legislation based on the Commonwealth’s *Mutual Recognition Act 1992*. These variously came into effect between 1992 and 1995.

The effect of mutual recognition legislation is that:

- goods which are legally saleable in one jurisdiction may be sold elsewhere in Australia, regardless of differences in the standards applying in the different jurisdictions; and
- for registered occupations (those for which individuals require some form of legislation-based registration, certification, licensing, approval, admission or authorisation in order to legally practise), people who work in one jurisdiction can practise an equivalent occupation in other jurisdictions.

The Agreement calls for Heads of Government to monitor the Agreement. A review is currently underway by the Commonwealth–State Committee on Regulatory Reform.

Source: ORR (1997).

Ownership of gaming machines by venues or operators

Casinos are free to own or lease the gaming machines they operate. In some jurisdictions, clubs and hotels also have this freedom. But in others, the venues are required to lease gaming machines from another party. Broadly:

- in New South Wales, Queensland and the ACT, venues buy (or lease) gaming machines from approved manufacturers or financiers;
- in South Australia, venues buy gaming machines from the State Supply Board;
- in the Northern Territory, all gaming machines are owned by the government (this was also the arrangement in Queensland until 1997);
- Victorian venues contract with one of two gaming machine licence holders — Tabcorp and Tattersall's — who own and maintain the machines and retain one-third of each machine's net takings, rather than a lease rental or service fee; and
- in Tasmania, gaming machines are leased from the Federal Group of companies (the licensee of the two casinos); they have exclusive rights to supply gaming machines to clubs and hotels until 2009.

Queensland has recently undergone major changes with respect to the ownership of gaming machines. When it first permitted clubs to operate gaming machines, it purchased the machines and rented them to venues, in order to ensure probity and integrity by distancing the machine manufacturers from the venues (sub. 128, p. 9). In 1996, after four years of gaming machine operation, the Government consulted widely and prepared a White Paper on regulatory arrangements. As a consequence, the Government decided to allow venues to buy their own gaming machines, with monitoring of their activity being contracted to licensed monitoring operators, supervised by QOGR.

Victoria has arrangements for the ownership and operation of gaming machines outside of the casino which differ from those operating in all other jurisdictions. All gaming machines in clubs and hotels (about 27 100 in total) are owned, operated and maintained by the two operators, which have the right to place machines in venues, subject to:

- a 50/50 sharing of the market between the two operators;
- a 50/50 split between clubs and hotels;
- a maximum of 100 gaming machines per venue in restricted gaming areas plus up to 5 with a bet limit of \$2 in non-restricted areas; and
- a minimum of 20 per cent of gaming machines to be outside of Melbourne.

In effect, the two operators place gaming machines in venues (and in numbers) according to their assessment of likely profitability. About 20 per cent of clubs and 26 per cent of hotels in Victoria have gaming machines. (In contrast, in New South Wales about 94 per cent of clubs and 90 per cent of hotels have gaming machines.)

Requirements to monitor gaming machines and verify revenue

Measures have been put in place in all jurisdictions to allow regulators to monitor the integrity of the machine and the games operated, and to provide greater certainty that the correct amounts of gaming tax are being paid.

There are differences between jurisdictions with respect to the monitoring of gaming machines. Central 24-hour electronic monitoring of gaming machines is common but not universal. This is usually undertaken by the government regulator or by an agent (in some cases, the provider), supervised by the regulator.

For example, in Queensland, gaming machines are monitored online by eight licensed monitoring operators,² while in South Australia a private operator owned by the clubs and hotels carries out this function. New South Wales has not implemented central monitoring, but TAB Ltd has been licensed to implement a statewide computer monitoring system for all gaming machines (box 13.5).

But while TAB Ltd is the sole operator of the New South Wales gaming machine monitoring system, and has an exclusive licence to run a linked jackpot system for gaming machines in the state, it may also participate in gaming machine gaming. IPART (1998) recommended that the government investigate the adequacy of TAB Ltd's procedures for ringfencing its monitoring activities from its other gaming activities. It also noted that, in jurisdictions with multiple monitors, some of the monitors (such as Tabcorp and Tattersall's) also provide gaming.

Probity arrangements

All jurisdictions see the need to ensure the probity of gaming operations as crucial to protect the consumer, underpin the growth of an industry free from criminal influence, and to ensure that taxation is being paid correctly. Tattersall's noted:

Because of the very large turnover generated by EGMs, there is a strong incentive to tamper with the machines themselves and/or with the reporting systems upon which revenue collections rely. All states have detailed systems of regulation intended to

² Not all licences are active because of recent takeover activity (for example, TAB Queensland has taken over Golden Gaming).

combat fraudulent practices by EGM manufacturers, maintenance contractors, gaming machine operators and venue operators (sub. 156, p. 43).

To this end, the VCGA's objectives include:

... ensuring that gaming, wagering and approved betting competitions are conducted honestly and that the management and operation of the casino, the two gaming operators ... and the licensed gaming venues remain free from criminal influence and exploitation (sub. 60, p. 1).

Box 13.5 Monitoring of gaming machines^a

New South Wales:	X-standard gaming machines in clubs and hotels to be connected to a central monitoring system (operated by TAB Ltd) by 2001
Victoria:	online monitoring by the two operators, Tattersall's and Tabcorp and verified by the VCGA
Queensland:	online monitoring by 8 licensed monitoring operators: ^b <ul style="list-style-type: none">• Queensland Entertainment Services• Jupiters Machine Gaming• Tabcorp• Tattersall's• AWA Gaming Systems• Golden Gaming• TAB Queensland• LTH Consulting and Marketing (venues decide which operator to contract with for monitoring and related services)
Western Australia:	online reporting to Office of Racing, Gaming and Liquor
South Australia:	online central monitoring by the Independent Gaming Corporation (jointly operated by the clubs and hotels)
Tasmania:	online central monitoring by the operator, the Federal Group
ACT:	venues submit monthly returns to government
Northern Territory:	central monitoring by government for clubs and hotels

^a In each jurisdiction where monitoring is online, the activities of the monitors are in turn supervised by the regulating authority. ^b Not all licences are currently active because of takeovers.
Source: submissions and regulators.

Similarly, the Queensland Government said that:

The two major policy objectives leading to legalisation of specific types of gambling are to suppress illegal gambling by offering a legal equivalent and to ensure the probity of the persons and the integrity of the systems involved in gambling ... (sub. 128, p. 6).

There are two broad aspects to the work of regulators: licensing and ensuring compliance. This covers:

The licensing of suitable organisations and persons to conduct gaming operations using approved equipment under certain conditions ...

... ensuring the gaming operations and related activities are conducted according to the relevant legislative provisions and that action is taken when there is reason to believe that there are breaches of the legislation (sub. 128, p. 18).

To achieve this, probity checking is pursued through:

- approving and monitoring the equipment used in gaming and internal controls and operating procedures; and
- the screening of licensees, operators, managers and staff who provide gaming services.

Licensing equipment

This involves checking the functioning of gaming machines, and in particular, of the electronics which control game play and payouts.

Different jurisdictions use different approaches. For example, New South Wales is introducing a system whereby some gaming machines will be approved prior to their evaluation, while Queensland has its own testing laboratory. In South Australia, manufacturers submit machines and games to the Liquor and Gaming Commissioner who engages private testing laboratories to certify compliance with standards. And in Victoria it is the responsibility of the two operators.

Nevertheless, the objective of each jurisdiction is the same: to provide greater surety to customers and to government that the games operate as claimed, and that advertised payouts are achieved.

Licensing people

Again, the approach is broadly common across jurisdictions. As the Victorian Auditor-General noted:

It is common international practice in the regulation of gambling industries that a structured framework is in place for the licensing of participants in the management and operation of the industry. This approach is principally aimed at excluding undesirable elements from the industry as the means of minimising criminal influence and exploitation, protecting patrons from fraudulent activities by operators and their employees, and safeguarding government revenue (VICAG 1998, p. 39).

There are good public policy reasons for scrutiny of those who operate or work in these industries, whether licensees, associates, manager, employees, contractors and suppliers. (These matters are assessed in chapter 16.)

To this end, Victoria requires licensing and approval for:

- the gaming operators;
- venue operators;
- manufacturers and suppliers of machines and components;
- gaming machine technicians;
- specified categories of employees of both the gaming and venue operators.

The VCGA said that:

In Victoria you must hold a valid licence if you are performing certain duties in gaming venues, the casino, approved bingo centres or if you are servicing or maintaining electronic gaming machines. There are four types of employee licences which when issued are valid for three years:

- Special Employees licence for people undertaking certain duties in gaming venues
- Casino Special Employees licence for people undertaking certain duties in the casino
- Technician's licence for people who service and maintain electronic gaming machines and associated equipment
- Bingo Employee's licence for people undertaking certain duties in approved Bingo Centres (*Licences and Permits* at www.gambling.vcga.vic.gov.au).

Probity checking is part of this process. This is carried out in conjunction with the police, and involves fingerprinting, examination of criminal records and scrutiny of criminal intelligence to identify actual or potential connections with known criminals. Other jurisdictions follow a similar procedure, although there are differences in the detail.

And for most jurisdictions, the general approach is much the same, irrespective of the venue. But in New South Wales, there are significant differences in the probity checking arrangements between the casino and the hotels and clubs. Broadly, while a wide range of gaming-related casino employees are subject to checking (see Star City's comments in chapter 16), similar employees in clubs are not. Club Secretary/Managers are required to be licensed, and poker machine technicians, but not staff with gaming responsibilities.

That said, it is a matter of judgment as to how high to set probity standards for personnel. For example, in Queensland, special licences apply for persons categorised as 'key employees' or 'key persons' engaged in gaming in any venue:

The applicants for key employee and key person licences are investigated similarly to individual licences but an additional determination must be made as to whether the person is suitable to perform the duties of a key employee or key person ... a higher level of financial stability and technical training may be required (sub. 128, p. 19).

And criticisms may be made of procedures. For example, in 1998 the Victorian Auditor-General suggested changes to the VCGA's methodology for, among other things, the process of investigating associates of licence applicants (VICAG 1998, p. 45).

Advertising

Gambling providers are subject to Commonwealth, state or territory laws prohibit false, misleading or deceptive advertising,³ to the specific restrictions contained in their own legislation, and to the requirements of their industry's code of conduct.

Nevertheless, several participants argued that current advertising of gambling services can mislead consumers. Mr Don Beggs, who described himself as a compulsive gambler, observed that:

Authorities advertise gambling in a very colourful, positive light, and very little is said about the downside of gambling (sub. 15, p. 3).

The Hon Nick Xenophon said that:

Advertising that depicts a person winning as a result of gambling, or misrepresents or suggests that the chance of winning as a result of gambling is greater than the actual chance of winning ought not be allowed. Any other advertisement should carry appropriate warnings and a contact number for a 24 hour gambling help hotline (sub. 98, p. 5).

The Australian Christian Coalition also argued that:

... the advertisements used by the gambling industry often border on misrepresentations ... Every day people are encouraged to gamble through print, electronic and point-of-sale media by wildly unrealistic claims ... (sub. D247, p. 1).

On the other hand, industry interests claim to advertise responsibly. Star City argued that current regulations work effectively — they prevent gambling commercials from being shown in unsuitable times but enable operators to promote their product to those over the age of 18:

NSW regulations prohibit gaming operators from advertising during dedicated children's viewing hours ... There are separate provisions in the Casino Control Act

³ For example, the Commonwealth's Trade Practices Act and the fair trading laws of the states and territories.

1992 (NSW) and Regulations with criteria for advertising by the casino. All marketing and promotional campaigns are aimed at people over the age of 18 ... Parents are not encouraged to bring children to the complex in any advertising or promotional material.

In South Australia, the hotels and clubs have established a *Gaming Machines Advertising and Promotion Code of Practice*, which imposes voluntary self-regulation on advertising and on the conduct of promotions in venues. Similarly, in Victoria, the gaming machine industry has a specific code of ethics for advertising (box 13.6). An attachment to the code specifies that:

Except in news, current affairs and sporting programs, a commercial relating to betting or gambling must not be broadcast in 'G' classification periods Monday to Friday, nor on weekends between 6:00am and 8:30am, and 4:00pm and 7:30pm.

(However, the code specifies that 'betting or gambling' does not include 'Government lotteries, lotto, keno or contests'.)

Box 13.6 Victorian Gaming Machine Industry Advertising Code of Ethics

The code, signed by Tabcorp, Tattersall's, the Licensed Clubs Association, Crown and the Australian Hotels and Hospitality Association, requires that:

- 1 Advertising shall not be false or misleading and deceptive, particularly with respect to winning.
- 2 Advertisements should be in good taste, not offend prevailing community standards and not focus on minors.
- 3 In all instances, the target audience will be people of 18 years and over and media selection and placement will reflect this ...
- 4 Advertisements must comply with the laws of the Commonwealth of Australia and the State of Victoria.
- 5 The conformity of an advertisement with the Code will be assessed in terms of its probable impact ... upon a reasonable person within the class of those to whom the advertisement is directed and taking into account its probable impact on [others].
- 6 The advertising of gaming should not be associated with excessive consumption of alcohol.

Source: Victorian Gaming Machine Industry Codes of Practice Secretariat (1998), pp. 4–5, 18.

More generally, the Australian Casino Association said:

Advertising is an important avenue for consumers to identify products and their attributes and suppliers of those products, assisting them to make more informed choices. Advertising is more likely to have an impact on the distribution of gambling (and other products) rather than increasing aggregate gambling (this should not be confused with regulatory changes, such as new casino licences, which allow more

gambling services to be provided). Advertising also allows suppliers to establish brand characteristics and this could help promote responsible gambling (sub. 124, p. 22).

In a submission on the draft report, Aristocrat Leisure Industries argued that:

... further controls on advertising of gambling venues and products are unwarranted. Gambling, which the Commission acknowledges 98% of adult Australians enjoy free of any adverse effects, does not fall into the same category as alcohol and tobacco products in terms of social harm and therefore merit special restrictions on promotion (sub. D266, p. 4).

The Australian Gaming Manufacturers Association supported controls on advertising which is false, misleading or deceptive, and endorsed the approach taken in this respect by New South Wales (as incorporated into its *Gambling Legislation Amendment (Responsible Gambling) Act 1999*). But it emphasised that:

All advertising depicts products positively — it is both unfair and an inappropriate intrusion of government into freedom of speech as it applies to advertising to ban advertisements which are not false, misleading or deceptive (sub. D257, pp. 16–17).

But the Queensland Government, also responding to the draft report, took the view that:

... stricter controls of gambling promotion would accord with the special treatment provided to alcohol and tobacco products where social harms from excessive consumption are also prominent.

The Queensland Government believes a more detailed investigation and analysis of advertising is required ... For example:

- an analysis of current advertising including an investigation of whether there is sufficient focus on responsible gambling or if advertising is orientated towards promoting the interests of gambling providers at the expense of problem gambling; and
- an investigation of whether different types of gambling advertising have different effects on individuals (eg. TV and magazine) (sub. D275, p. 19).

This issue is important for a number of reasons. It is first and foremost a question of consumer protection. And a particular concern is its effect in an environment in which some players become problem gamblers (chapter 16).

13.3 Casino gaming

Close regulation of casino operations is undertaken in all jurisdictions. Casino operators are generally subject to specific agreements with state and territory governments covering such matters as the type of operation, the number and type of gaming tables (and game rules, prizes, house take etc), the number and type of

gaming machines permitted, the design and layout of the venue, surveillance procedures and arrangements for internal and external auditing and revenue verification. Probity checks on operators and staff are routine, and processes for obtaining a licence tend to be extensive and lengthy, subject to considerable political scrutiny and debate.

Governments say they have enacted extensive regulation because of:

- concerns about potential for links between casinos and organised crime;
- a belief that a large casino development may facilitate economic development and generate tourism;
- the taxation potential of limiting casino numbers (special licence fees and taxes apply); and
- concerns about adverse social impacts of gambling (which may or may not be specific to casinos).

Table 13.5 A snapshot of Australia's casinos

<i>State / Territory</i>	<i>Casino</i>	<i>Location</i>	<i>Opened</i>	<i>No of gaming machines</i>	<i>No of gaming tables</i>
New South Wales	Star City	Sydney	1995	1500	210
Victoria	Crown Casino	Melbourne	1994	2500	330
Queensland	Conrad Treasury Casino	Brisbane	1995	1187	95
	Reef Hotel and Casino	Cairns	1996	540	45
	Sheraton Townsville Hotel and Casino	Townsville	1986	248	23
	Hotel Conrad and Jupiters Casino	Gold Coast	1985	1163	88
Western Australia	Burswood Resort Casino	Perth	1985	1180 ^a	120
South Australia	Adelaide Casino	Adelaide	1986	763	71
Tasmania	Wrest Point Casino	Hobart	1973	659	18
	Country Club Casino	Launceston	1982	440	12
Australian Capital Territory	Casino Canberra	Canberra	1992	nil	39
Northern Territory	MGM Grand	Darwin	1979	403	26
	Lasseters Casino	Alice Springs	1982	205	21
(Commonwealth Island Territory)	Christmas Island Resort Casino	Christmas Island	1993	suspended operations in April 1998	

^a All electronic video games, not poker machines.

Source: Australian Casino Association (sub. 124), submissions and regulators.

However, the industry argues that it is over-regulated. Star City said:

Gambling is already a heavily regulated activity with a high degree of very costly intervention both in the activities of businesses that provide such services and the protection of the customers involved ... there is a massive list of costly existing regulations on this industry (sub. D217, pp. 1, 3).

Similarly, the Australian Casino Association said that:

... it is generally agreed that the industry is the most stringently regulated of all the gambling industries and arguably is one of the most (if not the most) heavily regulated of all industries in Australia. The commission or premium player market within the casino industry is the most heavily regulated of all (and the one most exposed to international competition) ... (sub. D234, p. 16).

The Commission, in its *Issues Paper* (September 1998, p. 11) sought information about the compliance burdens of existing regulations, but received little specific information on this matter. The Australian Casino Association referred to the 'heavy handed' regulation of casinos, and while each jurisdiction was different, it judged that compliance costs:

... can run into millions of dollars per year for some casinos (sub. D234, p. 17).

But the Association said that the costs of complying with government regulations were difficult to assess because, for example, a negotiated licence fee might cover both the costs of government gaming inspectors and payment for certain exclusivity rights.

This raises the more general point that some regulatory requirements directly benefit the activity being regulated by, for example, providing consumers with assurance that it has been subject to probity and other checks. (Indeed, the perceived commercial benefits of being licensed in a well-regulated jurisdiction such as Australia is most clearly seen in the emerging internet gambling area, where some operators seek out such regimes, notwithstanding the higher cost of operating there.) And some activities required by regulation may have been needed to be undertaken (to a greater or lesser degree) by reputable operators for commercial reasons. Thus, particular care is needed in measuring compliance costs and in determining which involve an impost on the operator.

That said, it remains important to review regulation to remove that which is unnecessary and minimise the administrative and compliance cost of that which is needed. NCP reviews are an important means to this end.

Casinos are subject to a range of gambling taxes, and may be required to contribute to community funds (chapter 19).

‘Exclusivity’ rights

In each jurisdiction, casinos have (or, for a time, held) exclusive rights to operate in a particular geographical area, and four states and the ACT have permitted only one casino licence to be issued in their jurisdictions. Governments commonly specify that a new casino may not be established in proximity to the licensed casino for a set period (box 13.7).

Arguments commonly employed to justify some form of exclusive licensing mirror those for close regulation of casinos generally. For example, Burswood casino argued that there are three main reasons for exclusivity:

- economic development is facilitated through the development of the resulting international standard entertainment facilities (in Burswood’s case, involving urban renewal) and the subsequent contribution to tourism, employment and economic activity;
- regulation is made easier to implement and enforce; and
- monitoring and containing social impacts can be made more effective through, for example, better targeting of problem gambling services and more effective arrangements for barring individuals (sub. 113, p. 21–2 and 30).

The Western Australian Government said that a number of restrictions exist in its casino legislation which:

... are not related to gaming in casinos per se, but to the specific issue of securing a viable casino operation (sub. 76, p. 19).

It added that:

... the then Government agreed to the developers being granted exclusive rights to casino gaming in Western Australia for a period of 15 years. The casino has the exclusive rights to certain games except the games of poker with cards and two-up. The game of two-up may be played outside a radius of 200 kilometres from the casino. After the 15 years exclusivity period the ... State shall not grant another casino licence within a radius of 100 kilometres of Perth unless it is in a hotel and casino of comparable size and standard to the Burswood casino. Outside of the 100 kilometres a hotel and casino need only to be built to international standards (sub. 76, p. 23).

The Queensland Government also noted that:

Given the large up-front capital requirements to build casinos and the large ongoing costs, the Government granted defined geographic exclusivity arrangements for limited period to the licensees ... to allow the casino operators sufficient time to develop commercially viable casino operations (sub. 128, p. 8).

Box 13.7 All jurisdictions give exclusive rights for casinos

New South Wales:

- **Star City** has exclusive rights (NSW-wide) until 2007

Victoria:

- **Crown** has exclusive rights in Victoria until November 1999, and within a 150 km radius of Melbourne until November 2005 (and no venue within 100km may have over 105 gaming machines before 2005)

Queensland:

- **Sheraton Townsville** has exclusivity over a radius of 400km (excluding Cairns) until 2001, **Treasury** (Brisbane) has 60km until 2005, and the **Reef** casino (Cairns) has 120km until 2006. The exclusivity enjoyed by Gold Coast casino **Jupiters** expired in 1995

Western Australia:

- **Burswood** has exclusive rights which expire in 2000, after which another licence may only be granted within 100k of Perth for a hotel/casino 'of comparable size and standard' to Burswood

South Australia:

- **Adelaide** casino does not have a specified period of exclusivity, but the government has said it does not intend to grant another licence

Tasmania:

- **Wrest Point** and **Launceston** are operated by members of the Federal Group of companies, which have exclusive licences to operate casinos, keno and gaming machines in Tasmania until 2009

ACT:

- **Canberra** casino has exclusivity until 2012 (and at 20 years, this was the longest period provided to an Australian casino)

Northern Territory:

- **MGM Grand** (Darwin) is exclusive until 2005, **Lasseters** (Alice Springs) until 2003

Source: submissions and regulators.

In part as a consequence of these exclusivity arrangements, casinos may be marketed as a special 'destination venue' for tourists and locals alike.

Probity arrangements

Ensuring compliance with the regulatory framework involves regulators in ongoing audits and inspections, review and approval of internal control systems, gaming

rules and operational policies and procedures to ensure game integrity, and investigations of probity.

Part of this includes licensing of gaming operators and certain key personnel such as directors of casinos, and managers with gaming responsibilities.

Again, approaches differ among jurisdictions and for casinos, clubs and hotels. Requirements are typically more rigorous and detailed for casinos. For example, while other forms of gambling require the operator or the venue to hold a licence, many employees of casinos need to be licensed, either with ‘key’ licences (for those with discretionary management powers) or ‘operational’ licences (for dealers). For example, in the case of Queensland, QOGR said that:

Employees at a casino involved in management or gaming operations positions are licensed as either Key Employees or Casino Employees. Key Employees are management positions in any area of the casino’s operations. Licensed Casino Employee positions within a casino include games dealing and first level supervision, cash and accounting, administration, security, surveillance or internal audit operations activities (www.qogr.qld.gov.au/casinos.shtml).

The Queensland Government said that its probity investigations are primarily undertaken to establish the suitability of a person to hold a licence to participate in gaming operations. These include:

- Casino Operators and Casino Licensees;
- Gaming Machine Manufacturers and Suppliers;
- Licensed Monitoring Operators;
- Interactive Gambling Operators;
- Keno Licensee; and
- Lottery Licensee.

If required, investigations may also be conducted into printers and suppliers of gaming products such as lottery tickets (sub. 128, pp. 26–7).

Some detail of the processes involved is contained in box 13.8.

The Allen Report on ACT gambling noted that the application process for casino employees differs considerably across jurisdictions, and suggested that more uniformity would facilitate probity checks and reduce delays in assessing applications. In its view, a preferred approach would be to apply mutual recognition to this process, as this would permit casino employee licences issued in another state or territory to be accepted in the ACT (Allen Consulting Group 1998, p. 42).

Casinos undertake a wide range of surveillance activities, particularly for table gaming — which is more vulnerable to cheating and other forms of criminal

behaviour, because of the relatively high stakes involved and the interaction between players and dealers. (Gaming machines require a different approach as they tend to be electronically monitored.) Cameras are situated above tables and there are security staff on the gaming floor, together with external monitors such as resident casino and gaming authority staff and in some cases, police officers.

Box 13.8 Queensland's probity investigation processes

The Queensland Government said that, for operators, licensees and suppliers:

Probity investigations are conducted on either a proactive or reactive basis. The majority of investigations are reactive, arising from suspected involvement of a gaming participant in an untoward practice. Proactive investigations are based on either a 12 month or 5 year plan, where certain venues throughout the State are targeted for inspection with a view to establishing specific breaches of legislation. These inspections are performed without prior appointment.

When conducting a probity investigation or monitoring continued probity of the gaming participant the following matters, at a minimum, are considered:

- the applicant's character or business reputation, which may include individual referee, police, credit and company checks and investigation into either similar or other businesses conducted;
- the applicant's current financial position and financial background, such as the availability of finance, the ability to satisfy financial obligations, the financial backing of the parent company and financial management practices;
- if the applicant is not an individual, whether the applicant has, or has arranged, a satisfactory ownership, trust or corporate structure. This may include investigating the place of business, corporate structure, major shareholder details ... and voting rights ... ;
- whether the applicant has, or is able to obtain, appropriate resources and appropriate services, such as computer systems, experienced employees and contracts with suppliers;
- whether the applicant has the appropriate business ability to conduct the business. Consideration is given to previous experience in conducting a similar business and the suitability of internal controls in place; and
- if the applicant has a business association with another entity, then the entity's character or business reputation, current financial position and financial background is taken into consideration.

With regard to the *Casino Control Act 1982* there are more complex probity concerns involved with the Foundation Agreements which control the ownership structure associated with each casino. In the event of a request to restructure a Founder, an investigation into the proposed new ownership structure is conducted and the Minister is advised of any probity concerns. A casino Founder can not be released from its obligations under the Foundation Agreement without the prior approval in writing of the Minister.

Source: sub. 128, pp. 26–7.

Onsite regulators attend or supervise such activities as the count of moneys cleared from tables and gaming machines, and help conduct audit programs. In some (such

as Crown), police have a permanent presence, while others, such as Star City, rely on internal security, calling police as needed.

Probity is also pursued by internal rules and procedures. For example, there is a widespread prohibition on casino employees gambling in their place of employment. In some cases, this is legislated — as in New South Wales, where the Casino Control Act prohibits licensed employees of Star City from gambling at that casino. In other cases, this requirement is adopted as an internal policy. For example, the BetSafe group of clubs (a coalition of ten of the largest 30 clubs in New South Wales) said it is implementing a similar policy (sub. 172).

An important issue for public policy concerns the appropriate level of probity checking needed for casinos and other gambling venues. Star City argued that:

The casino licence in NSW was issued only after more than a decade of investigations and wrangling amid fears of infiltration by organised crime. In this sense we were captive of US history and obsolescent ideas and attitudes. Although NSW had a long history of gaming, it was the last state to approve a legal casino (sub. 33, p. 27).

These matters are returned to in chapter 16.

Information on odds and win rates

The rules of casino games, as regulated by state and territory governments, provide for a small advantage to casinos. The Australian Casino Association advised that:

In the long run the ‘price’ gamblers pay for casino services is the theoretical win resulting from the house advantage on the various games on offer (sub. 124, p. 3).

While casinos can and do lose to gamblers in particular plays, the probabilities underlying each game’s rules means that, over time, the casino can expect to generate a gain equal to the house advantage provided for in the rules (box 13.9). The Association said:

While there is scope for skill to be a factor in some card games for example, there are limits to this. In the long term the theoretical yield from games is constant although it can, and does, vary in the short term depending on the number of winners and losers at any one time (sub. 124, p. 3).

Similar considerations apply to gaming machines. But how well these matters are understood is not clear. There are two aspects to consider. The first concerns the quality and amount of information provided to gamblers: how comprehensive it is, in what form it is best provided and so on. The second concerns how gamblers interpret that information.

Box 13.9 **The price of casino gambling**

The Australian Casino Association said that:

Under the rules applying in Australia, the approximate theoretical yields or house advantages for some popular casino games are:

- Roulette 2.7 per cent;
- Sic Bo 7.5 - 8.5 per cent;
- Baccarat 1.2 - 1.25 per cent;
- Money Wheel 7.7 per cent; and
- Blackjack 1 - 2.5 per cent,

... the house advantage on each game (of the same type and rules) is similar to prevailing advantages in other countries. The critical point is that the long run house advantage on table games cannot be changed by casinos unless the games are dishonest (certainly not the case in Australia). This means that new costs (taxes, regulations and so on) must ultimately be borne by the house. In this respect, casinos are like export industries such as coal where Australian producers are 'price takers'.

Source: sub. 124, p. 3.

For example, while professional or regular recreational gamblers may have a thorough understanding of game rules and associated probabilities of winning, some participants suggested that many players do not adequately understand their chances of winning at particular games, notwithstanding pay tables and the like. This is particularly true of problem gamblers, who often have wildly unrealistic expectations about their chances of winning. This is reflected in behaviours such as 'chasing losses' and beliefs that a gaming machine is 'about to pay out', reflecting gamblers' conviction that they can predict or control matters which are in fact neither predictable nor controllable (chapter 6).

These and other consumer information questions are taken up in chapter 16.

Money laundering

Monitoring is also used to detect and deter money laundering. Part of the role of the Australian Transaction Reports and Analysis Centre (AUSTRAC), the Commonwealth's anti-money-laundering agency, is to collect financial transaction information on industry groups that deal in large amounts of cash (a characteristic that can make an industry particularly attractive to money launderers and those who wish to avoid Australia's taxation laws). Included in this category are casinos, TABs and bookmakers.

Some of the requirements AUSTRAC places on these entities are listed in box 13.10. Information is shared with AUSTRAC's partner agencies, which include police, customs authorities and the Australian Taxation Office.

Box 13.10 The role of the Australian Transaction Reports and Analysis Centre

AUSTRAC noted that:

Australia's gambling industry is vulnerable to money launderers and tax evaders. However, ... compliance with the [*Financial Transaction Reports Act 1988*] and relevant State and Territory legislation can provide an effective means of detecting and deterring such activity.

To this end, state and territory gambling regulators have implemented various strategies to ensure that regulations are upheld. These include maintaining detailed records of betting transactions, 24 hour on-site surveillance and ensuring that winnings cheques are only paid to legitimate 'winners'. Entities are also required to report:

- significant cash transactions - ... of \$10,000 or more;
- suspicious transactions - ... where there are reasonable grounds to suspect that the information about the transaction may assist investigation of breaches of Commonwealth and State and Territory laws; and
- international funds transfer instructions – those instructions an organisation makes and receives to transfer value into and out of Australia on behalf of its customers.

Cash dealers are also required to verify the identity of signatories to any accounts which may be opened and operated with them. Withdrawals cannot be made from accounts where the signatory has not been adequately identified.

AUSTRAC added that:

... should a cash dealer (including a casino) suspect it is being used to facilitate money laundering or tax evasion, the cash dealer must provide a suspect transaction report to AUSTRAC. Casinos have lodged a substantial number of suspect transaction reports and these have proved useful.

There is also evidence to indicate that criminals sometimes use their illicit funds, in a "recreational" sense, during the course of gambling sprees at casinos. This would not generally be seen as a vulnerability at casinos in terms of the potential for money laundering, however it may constitute a money laundering offence in terms of the Proceeds of Crime Act or corresponding State or Territory legislation.

Source: sub. 43.

Broadly, AUSTRAC considers that current procedures are working effectively:

Australia's gambling industry is vulnerable to money launderers and tax evaders. However, it can also be concluded that compliance with the FTR Act and relevant State and Territory legislation can provide an effective means of detecting and deterring such activity (sub. 43, p. 5).

The Australian Casino Association said that several investigations have laid to rest 'the misguided contention' that money laundering was possible in corporate casinos in the regulated Australian environment:

The 1991 report by the National Crime Authority, *Taken to the Cleaners: Money Laundering in Australia*; concluded that "there is no evidence of money laundering in casinos", while the 1993 Senate Standing Committee on Legal and Constitutional Affairs report, *Checking the Cash*, said obvious ways of laundering money through casinos had been eliminated, largely due to the Financial Transaction Reports Act (www.aca.asn.com.au).

13.4 Racing and sports betting

Racing

The principal form of wagering in Australia is totalisator wagering on thoroughbred, harness and greyhound racing. Other codes, such as quarterhorse and Arabian, are not permitted to operate races upon which wagering may take place.⁴ To a very limited extent, sports betting is starting to undermine this arrangement.

Broadly:

- state- and territory-based TABs conduct off-course and on-course totalisator wagering;
- racing clubs may operate on-course totalisators (although this is generally undertaken by TABs); and
- bookmakers take fixed odds wagers on racing, on-course and by telephone.

TAB and racing club monopolies and exclusivity arrangements

TABs (whether publicly or privately owned) dominate wagering on racing within their jurisdictions. They account for about 94 per cent of total wagering across Australia.

While competing on-course bookmakers are permitted and licensed, and racing clubs are entitled to operate their own on-course totalisators, legal off-course betting is limited to the TAB and telephone betting to bookmakers:

⁴ This is not a legislative restriction, but arises from the way the industry is structured (and in particular, the control provided to the controlling bodies over their respective codes). The benefits and costs of these arrangements for Victoria are discussed in CIE (1998).

- The (recently privatised) TAB Ltd in New South Wales has an exclusive 15-year licence to run off-course wagering (box 13.11).
- Victoria's privatised Tabcorp has the exclusive right to operate totalisator betting on races in Victoria for 18 years. Competition is limited to that offered by bookmakers on-course and to telephone betting.
- Other jurisdictions have government-owned TABs which enjoy exclusivity in off-course wagering. For example, in Queensland, the TAB has exclusive rights to conduct on and off-course totalisator and fixed odds wagering on any activity held at any race meeting on any racecourse worldwide. (The Queensland Government expects to privatise its TAB in the near future.)

The relationships between totalisator and fixed odds betting, and the various providers licensed to operate in those areas, can be understood by looking at arrangements in Victoria (table 13.6).

Table 13.6 Wagering services and providers, Victoria^a

<i>Betting products</i>	<i>Parimutuel (totalisator) wagering</i>		<i>Fixed odds wagering</i>	
	<i>On-course</i>	<i>Off-course</i>	<i>On-course</i>	<i>Off-course</i>
Victorian racing	Tabcorp option for race clubs ^b	Tabcorp ^c interstate TABs	Tabcorp Victorian bookmakers	Tabcorp ^c interstate and international bookmakers illegal betting
Sports betting	Tabcorp ^c	Tabcorp ^c	Tabcorp Victorian sports bookmakers	Tabcorp ^c interstate and international operators illegal betting
Interstate racing	Tabcorp ^c	Tabcorp ^c interstate TABs	Tabcorp Victorian and interstate bookmakers	Tabcorp interstate and international bookmakers illegal betting

^a.While only Tabcorp and Victorian bookmakers can lawfully conduct betting *in* Victoria, this table also identifies alternative operators used by some Victorian punters. ^b Not utilised to date. ^c Exclusive in Victoria.

Source: Based on CIE (1998), p. 11.

As with lotteries, the monopoly providers in each jurisdiction may combine betting pools to increase the attractiveness of their betting products. For example ACTTAB said that, while its 'double' and 'treble' pools are based on local pools only, it combines with SuperTAB partners:

-
- for win or place bets: with Victoria, South Australia, Western Australia and Tasmania; and
 - for trifecta or quinella bets: with Victoria and Tasmania.

Box 13.11 The TAB in New South Wales

The NSW Government established the Totalisator Agency Board in 1964 to provide an off-course wagering service. It is now the largest wagering organisation in Australia.

It has a distribution network which includes 1480 outlets throughout New South Wales and about 110 000 telephone account holders.

In April 1998, TAB purchased Sky Channel, which is the principal means by which racing is telecast into wagering outlets, clubs and hotels throughout Australia. (Sky Channel has exclusive commercial rights to televise the major race meetings of the three codes of racing.) TAB is planning to develop a domestic pay TV racing service to allow home-based wagering. It believes that the majority of its customers prefer to wager on races which are televised (and, indeed, the introduction of Sky Channel into TAB outlets led to a significant increase in turnover).

The TAB was privatised in 1998. TAB Ltd has exclusive rights to operate off-course totalisators on thoroughbred, harness and greyhound racing and on authorised sporting events until 2013. (It can also operate on-course totalisators for these events, but currently has no substantial on-course totalisator.)

It conducts wagering on race meeting in Australia, and on selected events in other countries. Major international races such as the Japan Cup, Dubai Cup and Hong Kong Cup are also covered. About 42 per cent of its turnover comes from racing in New South Wales.

TAB Ltd is also licensed to offer fixed odds wagering on authorised sports events. (It has no plans to introduce fixed odds wagering on racing.) Fixed odds wagering represents less than one per cent of its forecast 1999 revenues.

Source: TAB Ltd (1998).

In its view:

SuperTAB allow ACTTAB customers access to some of the largest betting pools in Australia (acttab.com.au/action/about.html).

Similarly, Tasmania's TAB said that:

A TAB with a turnover of some \$220 million would have little chance of survival unless it is allied with one of either TABCORP or TAB Ltd. Accordingly, the TAB has negotiated membership of the SuperTAB pool [controlled by Tabcorp] for ten years (Annual Report 1998, p. 6).

A range of restrictions surround this industry

Underpinning current arrangements are longstanding laws which provide sole rights to 'Principal Race Clubs' (and corresponding bodies for the trotting and greyhound industries) to run race meetings at which gambling is allowed. Allied to these are agreements or joint venture arrangements between the racing industry and TABs. Typically these cover revenue sharing arrangements, the minimum number of local race meetings to be covered by the TAB and so on. Other controls concern the activities of bookmakers and the licensing of others such as trainers and jockeys.

Some of the restrictions which apply in New South Wales are summarised in a recent issues paper prepared for an NCP review of betting and racing legislation (box 13.12).

Bookmakers

Fixed odds betting is principally the province of bookmakers, who are generally permitted to take bets (either physically or by telephone) only while at a racecourse during race meetings. There are restrictions on their telephone betting arrangements (for example, they may only accept bets of \$200 or more for metropolitan thoroughbred races). Unlike TABs, they may extend credit to customers.

Several reports on the New South Wales industry in the late 1980s noted that betting with bookmakers had continued to stagnate, and the customer base had shifted strongly away from recreational gamblers towards professional and would-be professional gamblers (reported in ACIL 1992). More recent data has shown a continuing decline in the amounts spent with bookmakers, from a peak of \$166 million in 1988-89 to \$83 million in 1997-98.⁵ There are about 1100 bookmakers in Australia.

Probity arrangements

Bookmakers are subject to industry licensing and probity checking arrangements. For example, in New South Wales, bookmakers must be licensed by the relevant controlling body before they may field on any of the three codes of racing. Controlling bodies may make rules in relation to the operation of bookmakers. And bookmakers are subject to scrutiny by the Bookmakers Revision Committee for probity and financial competence (DGR 1999a, p. 17).

⁵ Measured in 1997-98 dollars, expenditure with bookmakers ran at over \$300 million each year during the 1970s declining to \$83 million last financial year.

Box 13.12 **Racing and betting: some restrictions operating in NSW**

The issues paper for the current NCP review of racing and betting lists the following restrictions which operate in New South Wales. (They are broadly comparable to those in other jurisdictions.):

- only non-proprietary associations may conduct racing on which betting is prohibited
- a racing club must be registered by the controlling body responsible for that type of racing:

This clearly restricts the entry of new clubs and the ability of racing clubs to conduct race meetings as they desire (for example - on a date of their choosing) and consequently affects their potential earnings (p. 21)
- only thoroughbred, harness and greyhound racing is permitted for betting purposes:

In other parts of the world other animals (eg afghans, whippets, quarter horses, arabians, camels) are officially raced (p. 21).
- the controlling bodies are authorised to make rules of racing and betting (including provision for the licensing of racing participants)

The net effect is that alternative 'codes' of racing may not obtain the necessary licences, club registrations, permits or other official status to be able to conduct race meetings in conjunction with lawful betting (p. 21)
- trainers of animals and jockeys and harness drivers are required to be licensed⁶
- there is a general prohibition against advertising of the availability of bookmaker or TAB services from another jurisdiction
- persons are prohibited from providing, by way of the internet etc, access to gambling operations other than those provided by TAB Ltd or authorised NSW bookmakers (and 'access to information' includes internet banner headline advertising and hypertext links)
- bookmakers must be licensed by the relevant controlling body
- they are subject to scrutiny by the Bookmakers Revisions Committee for probity and financial competence
- they may only operate at a licensed racecourse and when a lawful race meeting is in progress
- telephone betting is subject to the use of a specified closed mobile telephone system
- a minimum telephone bet level applies.

Source: DGR (1999a), pp.15–18, 21.

⁶ The thoroughbred racing board is reportedly considering rule changes which would restrict jockeys from gambling on sports and at casinos.

This approach is common across jurisdictions. For example, in the ACT:

... applicants must submit to a character check by the Australian Federal Police and identify all convictions, particularly those relating to illegal betting offences (www.act.gov.au/government/taxation/rac1.html).

A common approach is to require bookmakers to use a closed mobile phone system for telephone betting operated by the controlling club. For example, the Victorian Racing Club operates a system on behalf of the racing industry in that state. This permits monitoring and resolution of disputes over bets placed by telephone.

Both TABs and bookmakers also have obligations under AUSTRAC's reporting requirements, because of the large amounts of cash involved (box 13.10).

Information for the punter

In general, racing information is readily available (and reasonably well understood). This reflects the nature of the betting system, and perhaps its long history, together with the fact that race results are objectively verifiable. Customers can obtain information from a wide variety of media, including:

- Sky channel
- free to air radio (such as 2KY in New South Wales)
- AUSTEXT, which provides information via television with teletext decoders
- TABTEXT information though Sky Channel
- Newspaper form guides, race results and other information
- TAB internet sites
- electronic form guides from third party operators.

For sports betting, some of the same media (and outlets) provide this information.

The availability of information on assistance for problem gamblers appears to be less readily available, at least in some venues, than for gambling in casinos or clubs and hotels (chapter 16).

There are some differences between the information available to on-course punters and to those who bet off-course through the TAB. For example, the prices being offered at a racecourse by the bookmakers cannot be made available to those not at the racecourse. One participant, Mr Peter Mair, argued that this results in an 'insider' group with better information than the 'outsiders' who bet off-course (box 13.13). In his view:

A very useful start towards a fairer racing game would be the broadcast, off-course, of the on-course betting market fluctuations. It is manifestly unfair that the majority of racing gamblers should be required to place their bets in ignorance of betting developments on course (sub. 3, p. 4).

Box 13.13 On-course and off-course information: one punter's view

Mr Peter Mair argued that the industry fails to deliver fairness to those off-course who use TAB facilities. He said that punters are partly encouraged to attend racecourses:

... because the operators of the racing venues inform you that if you do attend you'll have access to better information in the way of fluctuations in the betting market that if you're off course ...

One result, he argued, is that those with better information can benefit from a TAB pool which has been contributed to by many off-course bettors without access to information available at the track (and this is compounded by TAB coverage of many regional races). Moreover:

if one attends the races these days you can observe people in front of the TV monitors that are keeping the on-course patrons informed of betting fluctuations. There are people there with mobile phones that are calling the fluctuations and sending them off course, not to 2KY but to a select group of people that they are serving (transcript, p. 261).

He added that, while such an arrangement benefited the bookmakers and the owners and operators of racecourses, it was unfair that:

...of the 3 or 4 hundred thousand people that might have a bet of a Saturday, when only 10 to 15 thousand actually attend the races, there's a ... vast majority ... that are betting on this product that are kept somewhat in the dark about what's happening.

Mr Mair made other suggestions as to how to improve the flow of information to off-course punters on such matters as the condition of racing tracks.

Source: sub. 3 and transcript, p. 261.

Advertising

State legislation commonly bans TABs from advertising for business in other states in traditional media. The New South Wales Department of Gaming and Racing said that:

Although it is lawful to bet with a licensed betting operator from any jurisdiction, in NSW – like most jurisdictions – there is a general prohibition against advertising – by print and traditional broadcast media – the availability of bookmaker or totalisator services from another jurisdiction ...

Similarly, a new provision has been enacted which prohibits a person from providing by way of the Internet, subscription TV or other on-line communications system:

- access to gambling operations other than those provided by TAB Ltd or authorised NSW licensed bookmakers, and

-
- access to information related to such non-NSW licensed gambling operations (includes Internet banner headline advertising and hypertext links) (DGR 1999a, p. 16).

ACIL said:

The intention has been to protect the exclusive franchise agreements which each state's TAB has had with its racing industry to run races on which totalisator bets are placed. [But notwithstanding this] interstate TABs have some local telephone account customers and there is a tacit agreement between the state racing industries that interstate races should be made available to local punters to place wagers on.

Nevertheless, ACIL argues that the advertising restriction has:

... succeeded in providing the local TABs with some security against the poaching of clients by interstate counterparts and has provided support for the substantial payments which TABs make each year to their local racing industries for the use of their races as wagering opportunities (sub. 155, p. 154).

But it notes that the commercial support which the ban on traditional media advertising has provided is now being threatened by internet gambling and sports betting agencies who have no commercial arrangements with the racing industry.

Sports betting

Sports betting involves wagering on all types of local, national or international sporting events — whether on-course, off-course, in person, by telephone or by the internet.

Sports betting has been legalised during the last decade, and is now offered in all jurisdictions by a few sports bookmakers and most TABs (sports betting in the ACT is described in box 13.14). As yet it represents only a small proportion of total spending on gambling, accounting for about \$24.5 million in 1997-98 (or 0.2 per cent of the \$11 billion spent on gambling). For example, the Queensland TAB accepts sports wagering through FootyTAB, but the level of wagering (\$2.5 million) is only 0.18 per cent of its turnover (sub. 128, p. 12).

Nevertheless, sports betting is expected to grow rapidly. A report released by the Australian Racing Board in May 1999 argued that:

... the sports betting market will experience dramatic growth via the increasing use of the Internet technology ... sport by its very nature is extremely global ... The sports betting market in Australia is in its development stage and already we have seen the enormous turnover figures that such spectacles as the Soccer World Cup and Rugby Union World Cup can achieve (ARB 1999, cited in OWP 1999, p. 50).

McMillen argued that the advent of interactive digital television will facilitate this rapid growth:

The capacity for this medium to develop and promote interactive sportsbetting will result in a rapid expansion of this form of gambling ... If legalised ... interactive television sportsbetting will become as popular as gambling machines are now (sub. D274, p. 8).

Online gambling is discussed in chapter 18.

Box 13.14 Sports betting in the ACT

Sports betting commenced in the ACT in 1995. There are now four licensed sports betting agencies, all operating out of a betting auditorium at Canberra Racecourse.

The *Bookmakers Act 1985* provides for the regulation and control of sports betting. Bookmakers who hold a 'standing licence' are eligible to apply for a sports betting licence. There are legislated suitability requirements and selection criteria.

Racing bookmakers:

- may only field at race meetings;
- require a permit to field from a racing club (as the individual club must be willing to permit the bookmaker to field at its race meetings);
- require separate licences for each racing code;
- may only take telephone bets on race days; and
- are subject to minimum telephone bet limits (eg \$200 for metropolitan races).

However, sports bookmakers may:

- operate up to 24 hours per day;
- accept bets in person, by telephone, fax or internet; and
- take bets on 32 approved (domestic and international) sports and events, including thoroughbred, harness and greyhound racing, the Olympic games, Commonwealth Games, Academy Awards and elections.

Sports bookmakers are required to pay part of the costs of the National Bookmakers Pricing Service if they benefit from this in the normal course of business.

In addition to the sports bookmakers, a limited number of licensed racing bookmakers are permitted to field on racing events only.

Source: www.act.gov.au/government/taxation/rac1.html

Victoria's Tabcorp said that during the second half of 1998 its sports betting revenues increased by 25 per cent over the corresponding period in 1997. This was partly attributed to:

... high levels of betting on World Cup Soccer and AFL Football. An additional 16 new National Sportsbet outlets were opened during the reporting period and ... [t]he number of sportsbetting outlets is expected to increase to approximately 70 over the next 12 months (*1999 Half Yearly report* at www.tabcorp.com.au).

TABs aside, sports betting agencies have generally been established by bookmakers. (Indeed, some engage in both racing and sports bookmaking.) They come under the same legislation and regulatory processes as racing bookmakers, and are required to meet essentially the same probity and prudential requirements. As the New South Wales Department of Gaming and Racing noted:

The introduction of sports betting in NSW has been aligned with the racing industry and the sports betting format has utilised existing licensing procedures imposed by the three racing controlling bodies (DGR 1997, p. 22).

Table 13.7 Sports bookmakers

	<i>Allowed since</i>	<i>Location restrictions</i>	<i>Times of operation</i>
New South Wales	1997	Racecourses and auditorium	24 hours, 7 days a week
Victoria	1989	Approved racecourses (Flemington auditorium): Other racecourses or authorised race or sports meetings:	24 hours, 7 days a week 3 hours before advertised starting time of 1st race until 3 hours after actual starting time of last race
Queensland	1992	Racecourses	During race meetings
Western Australia		Racecourses	From a racecourse at any time
South Australia	1994	Racecourses, auditoriums and registered premises (a range of sporting grounds)	Race meetings: 30 minutes before first race to 30 minutes after last race Auditorium: All racedays except when a metropolitan thoroughbred race meeting is being held
Tasmania	1995	On-course and approved off-course venues	24 hours, 7 days a week
Australian Capital Territory	1994	Racecourse, auditorium and approved sporting venues	24 hours, 7 days a week
Northern Territory	1992	Racecourses and approved sporting venues	24 hours, 7 days a week

For such reasons, most sporting bookmakers are ‘natural persons’ (and this is a requirement in some jurisdictions such as Victoria). However, in the Northern Territory and the ACT, corporations are permitted. Centrebet is one well-known example.

In Victoria, the *Racing Act 1958* makes it lawful for a registered bookmaker to conduct betting on any sporting activity approved by the Minister. However, the power to authorise bookmakers to bet on specific classes of betting is exercised by the Bookmakers' Clerks Registration Committee. And the governing bodies of the three racing codes may require that bookmakers obtain a club licence.

Reflecting this history, most jurisdictions require sports betting agencies to operate from betting auditoriums at racecourses, even if their main business is in non-racing sports betting. (One exception is Tasmania, where the only approved licensee operates principally from Wrest Point Casino.) Similarly, in the ACT, each of the four licensed sports betting agencies operates out of offices located at Canberra racecourse. Two conduct wagering on sports and racing, while two offer sports betting only. The latter two also offer services on the internet (box 13.14).

The scope of sports betting can be very wide, depending on which sports or other events are approved for betting purposes by the relevant Minister. For example, New South Wales allows betting on 19 different sports and, in Queensland, a sports wagering licence:

... allows the licensee to conduct totalisator and fixed odds wagering on any sporting activity which is not a racing event and it also permits wagering on other activities approved by the Minister eg betting on the "best actor award" at the Oscars (www.qogr.qld.gov.au).

Some jurisdictions, including the ACT, also allow betting on the outcome of elections.

Probity checking

Sports bookmakers are subject to much the same probity processes as racing bookmakers (described earlier).

As the regulatory regime for sports betting evolves, other issues will emerge. For example, jockeys are not able to lay bets on races in which they participate. The principle behind this restriction may have implications for sport betting, where, for example, football players or cricketers may choose to bet upon matches in which they are playing. This raises questions about the development of probity arrangements underpinning betting on games, and the incentives which are created for game fixing.

Advertising

As noted earlier, there are restrictions operating in all jurisdictions. However, most sports betting is undertaken by telephone (and more recently, via the internet). In such circumstances, jurisdiction becomes largely irrelevant. For example, most of Centrebet's Australian clients live outside of the Northern Territory.

13.5 Lotteries

Although making decisions and determining fates by the casting of lots has a long record in human history ... the use of lotteries for material gain is of more recent origin ... The first recorded public lottery in the West was held during the reign of Augustus Caesar for municipal repairs in Rome. The first recorded lottery to distribute prize money was held in 1466 in Bruges, in what is now Belgium, for the announced purpose of providing assistance to the poor (NGISC 1998, p. 1).

Lotteries have long been used as a source of public (and private) finance. For example, a lottery in Elizabethan England raised funds to repair harbours and undertake other public works, and lotteries were frequently used in colonial America to help pave streets, construct wharves and even build churches. In the 18th century, lotteries were used to finance construction of buildings at Harvard and Yale Universities.

In Australia, lotteries have their genesis in the sweepstakes operated in the nineteenth century (and Tattersall's dates from this time — box 13.15). Lotteries were typically established and promoted as a way to finance worthy causes, while providing entertainment and a chance of a substantial win for ticket buyers. Schools, hospitals and (most famously) the Sydney Opera House have received funding from lottery revenues. The Royal Women's Hospital at Herston in Queensland was built and equipped entirely from funds raised by the Golden Casket Lottery (sub. 145, p. 3), which was established in 1916. Golden Casket:

... was conceived by the ... Queensland Patriotic Fund [to] raise funds for the victims of WWI. 'Anzac Cottages' were built for widows and children and the long road to recovery for ex-servicemen began (sub. 145, p. 3).

NSW Lotteries, which has provided lottery games since 1931, said:

The first State Lottery was introduced at the height of the Great Depression to help alleviate the critical funding situation in the State's hospitals. Initial opposition by church groups and the Opposition of the day was withdrawn when the churches were unable to raise money by voluntary fundraising (sub. 152, p. 2).

Lotteries continue to provide a source of funds for many charitable organisations such as the Endeavour Foundation, the RSL, Mater Hospital and the Multiple

Sclerosis Society. BoysTown Family Care said that much of its funding comes from the lotteries which it has operated since 1961. It emphasised the need to understand charitable lotteries as a different sector of the market to commercial lotteries, with different social, economic and welfare impacts (sub. D254, p. 3). It also noted that surveys showed ‘for charity’ as a significant reason for some to engage in gambling.

Box 13.15 Tattersall's

The Tattersall's Sporting Club was established in Sydney in 1858 and was one of many conducting sweepstakes. In 1878 the licence was acquired by George Adams. The first public sweep took place on the running of the Sydney Cup in 1881.

Following the banning of sweepstakes in New South Wales in 1891, George Adams moved the Tattersall's Sweeps to Brisbane. Facing prohibition there also in 1895 he was invited to Tasmania to conduct a lottery to dispose of the property holdings of the failed Bank of Van Dieman's Land. He did so by organising a lottery of 100,000 tickets at £1 each, with 225 prizes of real estate. This was so successful that Tattersall's became the official state lottery of Tasmania in 1897 and Tattersall's Sweeps became a major business enterprise.

Until 1954, Tattersall's conducted its Sweeps from Tasmania, even though most of its tickets were sold elsewhere (for example, in the 1950s, 88 per cent of its sales were from outside Tasmania). Tattersall's moved to Melbourne in 1954 to avert the establishment of a state lottery in its biggest market.

Tattersall's now operates in four states and territories, and heads the Australian Lotto Bloc, which offers Lotto, Powerball and other games on a national basis. It also operates all lottery games in Western Samoa, Fiji, Nauru, the Northern Mariana Islands, Vanuatu and the Cook Islands.

Source: sub. 156 and www.tattersalls.com.au/about.html

According to the Western Australian Government, lotteries occupy a particular niche in the gambling market, and are perceived by players as:

- not being a form of gambling, or at least as a ‘hard’ or serious form of gambling (such as TAB or casino);
- a normal part of life;
- contributing to the support of worthwhile causes;
- having the image of the games being fair and the prize money being distributed fairly; and
- not encouraging forms of ‘hard’ gambling (sub. 76, p. 13).

Australia-wide, lotteries currently account for about 11 per cent of total spending on gambling, about half of the proportion at the beginning of the 1990s. Lotto accounts

for nearly 70 per cent of this, followed by instant lotteries (17 per cent) (sub. 158, p. 21).

Ownership, exclusive rights and jurisdictional issues

Exclusive marketing rights reflect the history of lotteries as one of the oldest, government-sanctioned forms of gambling, and a continuing substantial and reliable source of government revenue. The question of exclusivity is therefore intertwined with that of taxation (chapter 19).

Around the world, many lotteries are operated by governments to raise revenues (and, indeed, many see this as their main function). Of the major providers in Australia, only Tattersall's is privately owned. Britain's National Lottery is another example of a private lottery, but even in the United States, lotteries are generally state-owned. (And in New South Wales, since the privatisation of the TAB, NSW Lotteries is the only major gambling provider which is fully government-owned.)

In Australia, as elsewhere, most jurisdictions restrict the operation of lotteries to a single provider (table 13.8). The governments of New South Wales, Queensland, Western Australia and South Australia have their own (exclusive) lotteries, whereas Tattersall's, a private operator, is licensed as the sole provider of lotteries in Victoria and Tasmania.

Only two jurisdictions allow more than one lottery to operate within their territory. The Northern Territory has licensed Tattersall's as well as the Australian Lottery Company (which conducts a mail order lottery business for the sale of *The Territorian* lottery), and both Tattersall's and NSW Lotteries are permitted to operate in the ACT.

Governments also prohibit the advertising of 'foreign' lotteries, that is, those not licensed to operate in that jurisdiction. This is a common approach internationally: lotteries are generally government-owned, exclusive to their jurisdiction and do not compete in other jurisdictions unless invited to do so.

Pooling arrangements

While lotteries are all state- or territory-based, they have entered into commercial arrangements which involve joint operations with lotteries in other jurisdictions (box 13.16). The Australian Lotto Bloc was formed in 1981, combining the prize pools of Lotto games in all jurisdictions other than New South Wales. Other national blocs were formed in subsequent years.

Table 13.8 Australia's lotteries: ownership and exclusivity

<i>State / Territory</i>	<i>Licensee</i>	<i>Ownership</i>	<i>Exclusive until</i>
New South Wales	NSW Lotteries	government	July 2007
Victoria	Tattersall's	corporatised 1997	
Queensland	Golden Casket Lottery Corporation	private trust	June 2004
		government	June 2002
		corporatised 1997	
Western Australia	Lotteries Commission of WA	government	^a
South Australia	Lotteries Commission of SA	government	^a
Tasmania	Tattersall's	private (Vic)	-
Australian Capital Territory	NSW Lotteries	government (NSW)	-
	Tattersall's	private (Vic)	-
Northern Territory	Tattersall's	private (Vic)	-
	The Australian Lottery Company	private (privatised 1995)	

^a Exclusive, but no end date specified.

Source: submissions.

The four national blocs are listed in box 13.16. Three comprise all states and territories, while the Australian Lotto Bloc includes all jurisdictions other than New South Wales).

The Western Australian Government said:

The purpose of the establishment of these arrangements is to create a sufficient prize pool to be attractive to players (sub. 76, p. 7).

Box 13.16 National lottery bloc partnerships

<i>Saturday Lotto</i>	Australian Lotto Bloc	Qld, WA, SA and Tattersall's (Vic, Tas, ACT & NT)
<i>Oz Lotto</i>	National Lotto Bloc	NSW, Qld, WA, SA and Tattersall's (Vic, Tas, ACT & NT)
<i>Powerball</i>	Powerball Lotto Bloc	NSW, Qld, WA, SA and Tattersall's (Vic, Tas, ACT & NT)
<i>Soccer Pools</i>	Soccer Pools Bloc	NSW, Qld, WA, SA and Tattersall's (Vic, Tas, ACT & NT)

Source: submissions

All but two of the Lotteries Commission of WA's games are administered by the blocs:

The voluntary cooperation between the States in managing the existing Lotto and Soccer Pools products as well as in researching and developing new games has been an essential factor in the success of Lotteries in Australia (sub. 25, p. 10).

Lotto accounts for 78 per cent of WA Lottery Commission revenues. (For the whole of Australia, it averages 70 per cent of total lottery spending.) Western Australia, which has no poker machines, has the highest per capita sales of Lotto in the world.

Consumer and information issues

Probity arrangements

There are arrangements for establishing the probity of lottery operations in all jurisdictions. These cover approval processes for the games, the testing of the machines used, overseeing of draws and licensing of staff. For example, Golden Casket said that it is subject to:

... strict tests of probity, licensing of key staff and associates, approved control measures, individual game approvals and rigorous testing of all activities. While there is a significant cost in both time and money to meet all of these strict regulatory standards, Golden Casket believes proper and consistent regulation is essential to maintain industry integrity and public confidence (sub. 145, p. 4).

In addition, lotteries are subject to an industry code of conduct. The Western Australian Government said:

The members of the Lotto Blocs have developed a national code of conduct to apply to all members. All members signed the code in June, 1998. The voluntary code covers the following areas:

- a Lotteries Industry Accord which covers the objective of the code, responsible lotteries management, player information, handling of complaints and review of the code;
- a Lotteries Industry Advertising Code of Ethics;
- a Lotteries Operators Code of Practice; and
- a Lottery Retailers Code of Practice (sub. 76, p. 8).

NSW Lotteries advised that the code provides guidelines for responsible sale and promotion of products; for the referral of customers to appropriate community agencies if play should become a problem; requirements that advertising should not give a false impression of the chances of winning, and that odds and other game information be readily available to customers (sub. 152, p. 9).

Advertising and information to players

Several lottery providers said that advertising was crucial for lotteries to maintain market share in the face of increasing competition for the gambling dollar. Golden Casket Lottery argued against restricting advertising, providing high standards are maintained. It said that:

... lottery advertising follows the mass market approach used by consumer goods companies ... [it] is very careful to be socially responsible and to maintain the highest standards in its advertising by:

- realistically portraying the dream of winning the lottery;
- not overstating or misleading players with regard to their chances of winning;
- not offending prevailing community standards or targeting specific groups (eg. low income or the unemployed) ;
- targeting only those of lottery playing age; and
- complying with the code of ethics adopted by the Australian Association of National Advertisers.

The Australian lottery industry has incorporated strict advertising standards in the Australian Lotteries Industry Code of Practice ... Golden Casket is also subject to external regulation of its advertising through ... the Lotteries Act. The Corporation's regulator, QOGR, can issue Golden Casket with a direction about advertising if they believe an advertisement is not based on fact; is materially false, misleading or deceptive; or is indecent or offensive (sub. 145, p. 10).

Similarly, the Western Australian Government said that:

There is a clear relationship between the extent of advertising and sales results. The Lotteries Commission believes it has achieved a reasonable balance in advertising which achieves revenue targets without inappropriately promoting gambling (sub. 76, p. 14).

NSW Lotteries said that lottery advertising is 'a very disciplined process' which meets the code of the Australian Association of National Advertisers (which is incorporated into the lotteries industry code of practice). Moreover:

All major campaigns are ... evaluated through focus groups and extensively pre-tested with consumers prior to launch ... to ensure that advertisements meet community standards and expectations ... (sub. 152, p. 10).

Complaints procedures provide for review by the chief executive officer and the NSW Lotteries Board.

But some participants complained about unrealistic advertising, and particularly slogans such as ‘everyone can win’. In their view, this plays on people’s ignorance (chapter 16).

Keno

Keno is a numbers game, essentially an electronic form of bingo, where 20 numbers are drawn from 80. In some cases it is operated in a manner akin to lotto, with a daily or weekly draw. But in another form, generally limited to clubs, hotels, TABs and casinos, a game is drawn every three minutes almost every day of the year.

Indeed, in Queensland, keno was originally one of the games restricted to casinos. But in 1996 Queensland joined the majority of other states by allowing keno into clubs, hotels and TABs. Jupiters has the licence to operate keno throughout Queensland. The Queensland Office of Gaming Regulation monitors the operation of the game and of the licensee.

The licence to conduct Club Keno in New South Wales is held jointly by Clubkeno Holdings Pty Ltd and Club Gaming Systems Pty Ltd. The licence, which was first granted in 1991 and reissued in February 1995, expires on 1 July 2007. These activities are monitored by the Department of Gaming and Racing. In Victoria, Tattersall’s and Tabcorp have licences for Club Keno. And MGM-Grand introduced keno into hotels and clubs in the Northern Territory in 1996.

In South Australia, keno is run by the Lotteries Commission, and the continuous version may be played in newsagencies and other lottery outlets.

13.6 ‘Minor’ gaming

In addition to the major gambling forms just discussed, there is a wide range of relatively minor gaming activities (box 13.18 lists some examples). Together, they account for less than \$200 million of the \$11 billion spent on gambling in Australia. Nonetheless, they are important as a source of funds for many charitable and non-profit organisations. They include such activities as:

- bingo;
- raffles;
- lucky envelopes;
- fundraising nights; and
- trade promotions.

They are generally undertaken by ‘eligible organisations’, broadly defined as non-profit community or charitable organisations. For example, Queensland’s proposed new legislation refers to:

... associations formed for charitable, religious, educational, patriotic, sporting and community purposes, parents and citizens associations and political parties (www.qogr.qld.gov.au).

In Queensland, the most common form of gambling in this category is the minor ‘art union’, which covers most raffles operated by schools and community organisations. They have always provided a major source of income for Queensland’s non-profit associations (charities, community-based projects and sporting groups). And they continue to be important. The Queensland Government noted that:

For well over 50 years a large portion of legalised gambling in Queensland was through the public’s participation in minor gaming activities, generically labelled art unions, such as raffles, bingo and lucky envelopes. These activities have always provided a major source of income for non-profit associations so that they could fulfil their charters in providing support for charitable purposes, community based projects and sporting activities (QOGR 1998, p. 1).

Minor gaming is subject to certain restrictions (such as the need to keep records), and may or may not require a permit, depending on the size of prizes and the nature of operation. The permit process facilitates checking of the processes for undertaking the activity and may include requiring that mechanisms be independently certified for randomness.

Jurisdictions have a broadly common approach to the regulation of minor gambling. They differ in some of the detail. But broadly:

- subject to a range of conditions including that the game is fair and not conducted for commercial gain, many ‘social’ gambling activities such as bets between friends or private card games may be undertaken without permits. Western Australia’s *Gaming Commission Act 1987*, for example, explicitly legalises ‘social’ gambling. Governments generally take the view that social gambling is legal provided there is no bank or promoter, no accounts kept, no benefit to the house and no net income being generated;
- organised fundraising activities such as raffles with prizes under a certain threshold levels are generally legal without permits; nevertheless, certain conditions have to be met, such as that they are undertaken on a non-profit basis; and the threshold levels vary; and
- larger events such as major art unions generally require permits and undergo probity and integrity checking processes.

However, there are some differences in requirements between jurisdictions. For example, in the case of a recent television quiz show offering large prizes:

- New South Wales saw it as a trade promotion, but not one that required a permit;
- South Australia deemed it to be a game of skill (which does not require a permit), rather than a trade promotion or lottery; and
- Victoria gave more weight to the lottery nature of selection of contestants (who were chosen at random after registering by telephone), and saw it as a trade promotion requiring a permit.

Regulators are looking at such differences between jurisdictions in the context of Gaming Ministers' meetings:

... to determine the feasibility of each State and Territory having similar legislative requirements and conditions for running these lotteries. [the different approaches] impose significant compliance costs ... as the ... organiser strives to meet each jurisdiction's special requirements (DGR 1998a, p. 25).

Several participants pointed to the scope for trade promotions to inculcate children into a gambling culture. For example, Wesley Community Legal Service said:

If you go to your local shop the number of competitions to get you to buy particular products is enormous. There's no other society in the world that is so underpinned by gambling as our society and so children are applying to win prizes in a competition off a breakfast cereal packet or off a chip packet or off a soft drink bottle, they're everywhere ... That's what gets us into a gambling frame of mind (transcript, pp. 202–3).

Indeed, a recent trade promotion involving scratch tickets offering major cash prizes in packets of potato chips attracted some public controversy because of the likelihood that children might comprise an important part of that market. 'Scratch and reveal' tickets are commonly used in trade promotions (and often for products commonly consumed by children), and there are generally no restrictions on children participating. However, a variety of age limits applies to other forms of 'minor' gaming (some carry age restrictions of 16, 17 or 18 years, while others — raffles, for example — impose none).

These matters were the subject of some recent public submissions to reviews in New South Wales and Queensland. The New South Wales Minister for Gaming has subsequently announced a wider review of current age restrictions across a range of lottery and art union gambling activities, including trade promotions, and will shortly issue a discussion paper asking for public comment:

... this area warrants closer examination to ensure that existing controls and restrictions are reasonably consistent, give due regard to the general welfare of minors, and

continue to meet general community expectations (NSW Minister for Gaming, Hansard, Legislative Assembly, 15 September 1999, p. 503).

More broadly, Victoria is undertaking a review of its regulations covering minor gaming, including trade promotions bingo, raffles and lucky envelopes. And Queensland is streamlining its regulation of art unions following a process of public review (box 13.17).

Box 13.17 Regulation of minor gaming: Queensland

The Art Unions Act distinguishes between **exempt art unions** which do not require a licence or permit, and **non-exempt art unions** which do.

Exempt art unions include non-profit sweeps, small private raffles, and social bingo where the gross proceeds do not exceed \$500, and trade promotion art unions. Non-exempt art unions include major and minor art unions, major and minor bingo, lucky envelopes and calcutta sweeps:

- A minor art union comprises such activities as a raffle, chocolate wheel, silver circle, meat tray, 'chook raffle', punchboard, spinning wheel or football double, where the gross proceeds do not exceed \$5 000.
- A major art union is one where the gross proceeds are expected to exceed \$5 000.
- Minor bingo is where the total value of ticket sales for each session is no more than \$1 000.
- Major bingo is where the gross proceeds for each session is more than \$1,000 but does not exceed \$6 000. A highroller session is a major bingo session where the gross proceeds for each session can go up to \$12 000.
- Lucky envelopes are games of chance where numbers are randomly exposed from envelopes, break open panels, pull-tab sections, lucky number draws or similar devices. They may only be sold by an eligible association which holds a Lucky Envelope Sellers Licence.
- A calcutta is a form of sweep where the contestants in a sporting event (often horses) are auctioned off. The sweep is generally centred on an auction after which the winner is determined by the result of the sporting event. Calcutta sweeps may be conducted on official horse races in the racing calendar or other recognised sporting events.

There are general conditions which apply to all non-exempt art unions such as advertisements, tickets, order of drawing prizes, and prohibited prizes. Each type of non-exempt art union also has special conditions.

And because of some confusion as to the definition of the term 'art union', the term 'charitable gaming' will be used when describing gaming activities conducted for the purposes of charitable fundraising.

Source: QOGR (1998) and www.qogr.qld.gov.au/QOGR7.shtml.

Broadly, the proposed regulatory environment would raise the threshold at which different levels of regulation are imposed on fundraising activities. It is intended to create three categories depending on the amount of gross proceeds of each game drawn. And only charitable gaming with gross proceeds of \$20 000 or more per draw would be required to obtain a licence.

In some other jurisdictions a process of review and change is also occurring. In part, these changes are occurring because a number of eligible non-profit associations have argued that there has been a decline in their ability to raise funds through charitable gambling.

Box 13.18 Minor gaming: some examples

Bingo is an important social activity for many. Perth's Bingo Centre, for example operates six days per week and conducts bingo on behalf of six organisations, four of which are affiliated with the Australian Institute for the Blind. Patron attendance averages 6000 per week and the centre can hold 2100 patrons per session (sub. 76, p. 36). And **Club Bingo** is a common activity in registered clubs in, for example, New South Wales where clubs may conduct this activity without having to apply for a permit (NSW Dept of Gaming and Racing 1998, p. 33).

Similarly, in New South Wales, **promotional raffles** may also be conducted by registered clubs without the need to apply for a permit. But conditions apply to their operation. (Raffles are covered under **art unions** in Queensland — box 13.17.)

The regulation of **two-up** is something of an historical oddity, permitted only in certain locations (such as Kalgoorlie and Broken Hill) and in some places only on Anzac Day. (The authorisation to conduct the game in Broken Hill was issued to the City Council for seven years from March 1993).

Trade promotions (or **trade competitions**) — essentially private lotteries — are permitted in all jurisdictions for the purposes of promoting a product. In New south Wales they are described as:

... a free-entry lottery or game of chance conducted for promoting the sale of goods or services ... sometimes called a sweepstake, contest or giveaway (*Trade Competitions*, Community Gaming Fact Sheet, Department of Gaming And Racing, p. 1).

Customers do not pay to take part, other than by the purchase of a product at normal market prices or by way of a letter or telephone call. Typical examples are telephone competitions using a 1900 number, coupon competitions and members' badge draws.

As noted in the body of the chapter, jurisdictions are not uniform in the rules they apply (for example, in respect of competition entry by telephone — generally limited to 50 cents per call) and in their mechanisms for regulating this activity. (New South Wales, for example, has a blanket approval system.)