
16 Consumer protection

Box 16.1 Key messages

- Reducing the risks of crime and problem gambling, and increasing the scope for informed consent by consumers, provides a strong basis for oversight of gambling by governments.
- Blanket bans on specific forms of gambling to protect consumers would not be viable or desirable, although more targeted action may be appropriate in the absence of effective harm minimisation.
- There should be better disclosure of the price of playing gaming machines and the likelihood of receiving high paying winning combinations.
- Relevant information should be provided to consumers about the nature of games, such as the fact that machine wins and losses are independent of past results.
- Consumers should be provided with records of their spending, where technology allows this.
- Problem gambling should be seen as a public health issue — governments should increase community awareness of the risks of gambling, including the wider development of material for school children.
- There are grounds for a special legislatively based code of conduct that ensures appropriate standards of advertising, promotion and marketing of gambling.
- There may be grounds for reducing the frequency of high frequency, low payoff lotteries, such as keno.
- There are grounds for restrictions on multiple withdrawals and on withdrawal amounts from ATMs in gambling venues, and potentially an outright ban.
- There is a case for mandatory rather than voluntary codes of conduct for responsible provision of gambling by venues.
- An easy-to-use self-exclusion procedure should apply in all gambling venues throughout Australia, and be widely publicised in venues.
- There are a wide range of possible changes to the design of poker machines which should be investigated to reduce their hazards for problem gambling, without overly affecting recreational gamblers.
- Probity regulations should employ appropriate risk-management, costs should be borne by the gambling industry, and a common framework applied across gambling types and venues.
- Regulations intending to lower the harms from gambling should be trialed, take a risk management approach and collect evidence on their effectiveness. The goal is not to eliminate all gambling problems, but to reduce risks in a cost effective manner.

16.1 Introduction

While gambling is pleasurable for many people, it poses some risks as well. As with other areas of consumption where there are adverse impacts on some consumers, or where people have imperfect information, these risks justify some consumer protection measures. These measures aim to reduce:

- *Consumer information problems.* Consumers may be poorly informed about the nature of the product they are buying, such as the role of skill compared with chance, and the actual odds of winning. Some may also make poor buying decisions because they find it hard to interpret the odds when these are known, have incorrectly founded concepts about gambling or engage in behaviours which have adverse outcomes on their welfare. These actions and ideas may be encouraged by misleading advertising, player inducements and the design of gambling products. With the exception of lottery products, consumers will also often find it hard to track time and money spent on gambling because of the unpredictable combination of wins and losses.
- *Problem gambling.* As shown in chapters 6 to 8, a small minority of gamblers experience severe problems with their gambling, to the cost of themselves, their families and society at large.
- *Probity risks.* Without some regulation there is potential for games to be rigged and for criminal activities related to gambling providers (and their suppliers), with risks to consumers and the community as a whole.

There are a range of approaches for dealing with products, such as alcohol, tobacco, drugs, motor vehicles and gambling, that cause significant social or consumer problems for some people. For gambling, these approaches can usefully be classified into a number of broad categories:

- bans on harmful forms of gambling;
- informational strategies, such as awareness raising, education, consumer information and changes to venue design and gambling technologies intended to ensure consumers can make choices with informed consent and to reduce the risk of some people becoming problem gamblers;
- controlling the gambling environment to reduce the harm for those who are already problem gamblers (such as exclusion policies and credit and expenditure limits);
- clarifying providers' duty of care and gamblers' self responsibilities — which then through potential legal redress, improves the incentives of gambling providers and players to choose less hazardous actions. Inevitably, since government may define others' responsibilities through legislation or be active

in devising regulatory measures, it is also important to clarify government's responsibilities. In this sense, responsibilities for 'safe' gambling rests with all three parties (figure 16.1);

- probity controls to reduce the risks of unfair games or criminal involvement; and
- providing direct help for those who are suffering the adverse consequences of problem gambling.

In practice, other than the first option, the remaining approaches, which we refer to as harm minimisation and prevention — are reinforcing, rather than competing forms of consumer protection. This chapter examines all of these approaches, with the exception of counselling services for problem gamblers, which are appraised in chapter 17.

Criteria for assessing consumer protection measures

The criteria for assessing alternative protection measures are important. At the broadest levels these are like other government policies (and the general design and process issues have been outlined in chapter 12). However, some of the key issues (outlined in figure 16.2) relevant for consumer protection are:

- enumerating and understanding the *level and nature of the risks* to be reduced (who is affected, with what consequence, for how long?);
- examining *causality*, or at least clarifying the research and evaluation issues related to causality which have to be tested after a measure is introduced. For example, some machines have bill acceptors, which apparently significantly increase the turnover on the machines concerned. If bill acceptors were the cause of the higher turnover rates, then removing them would lower turnover. However, it may be that people who want to spend a lot choose machines with bill acceptors because it is more convenient. In the absence of the acceptors, the big-spending gamblers may still spend the same amount;
- using *evidence* as the basis for retaining or discarding consumer protection measures. In many cases, it will be difficult to provide strong evidence that a measure works (is cost effective, helps all the groups targeted etc) prior to its trial, though there should be strong a priori grounds for believing it will work. Accordingly, the emphasis of the evidence-based approach is necessarily after a measure has been trialed. On the other hand, the more costly the measure, the better the evidence required before its trial;

Figure 16.1 The targets of gambling harm minimisation and prevention

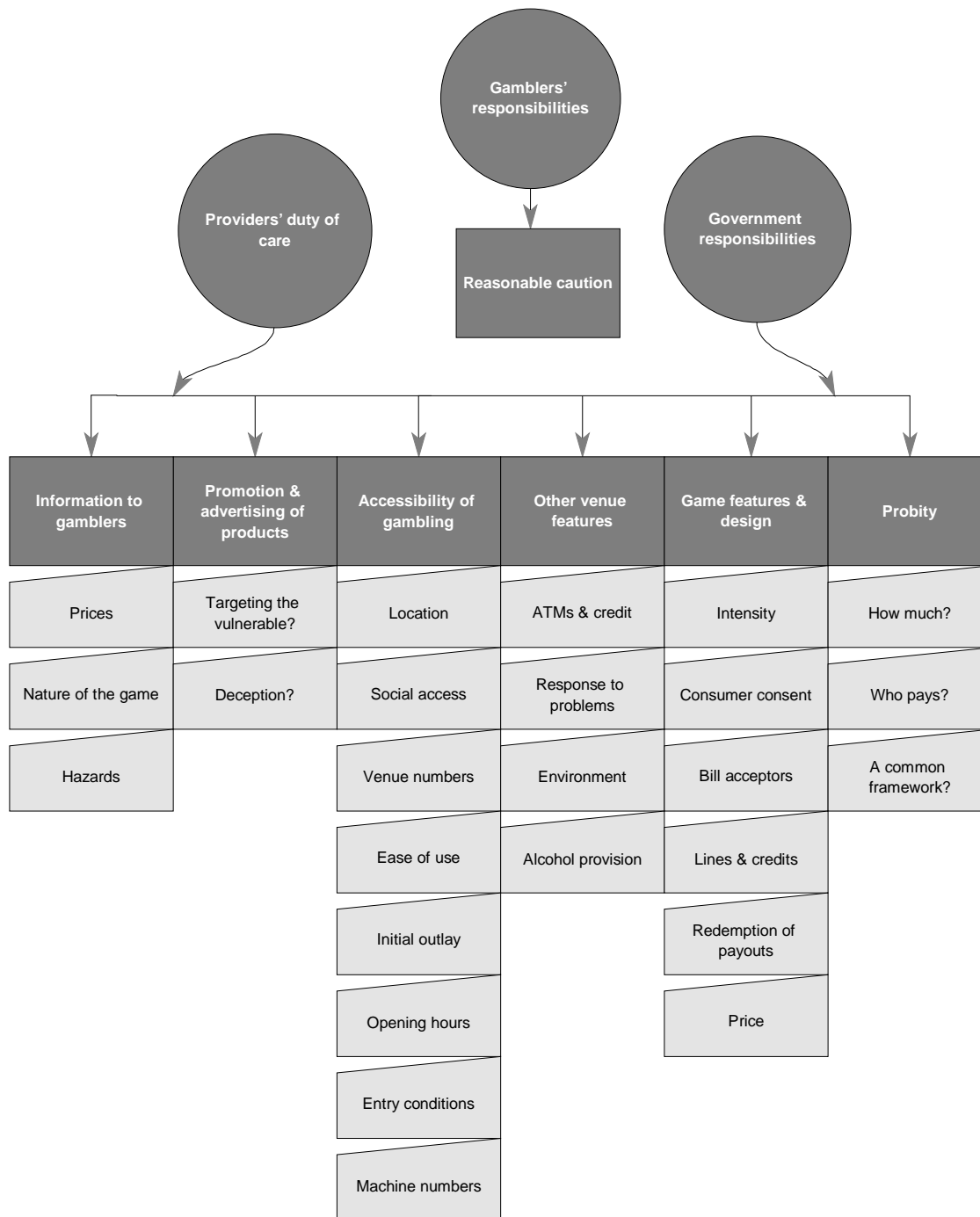
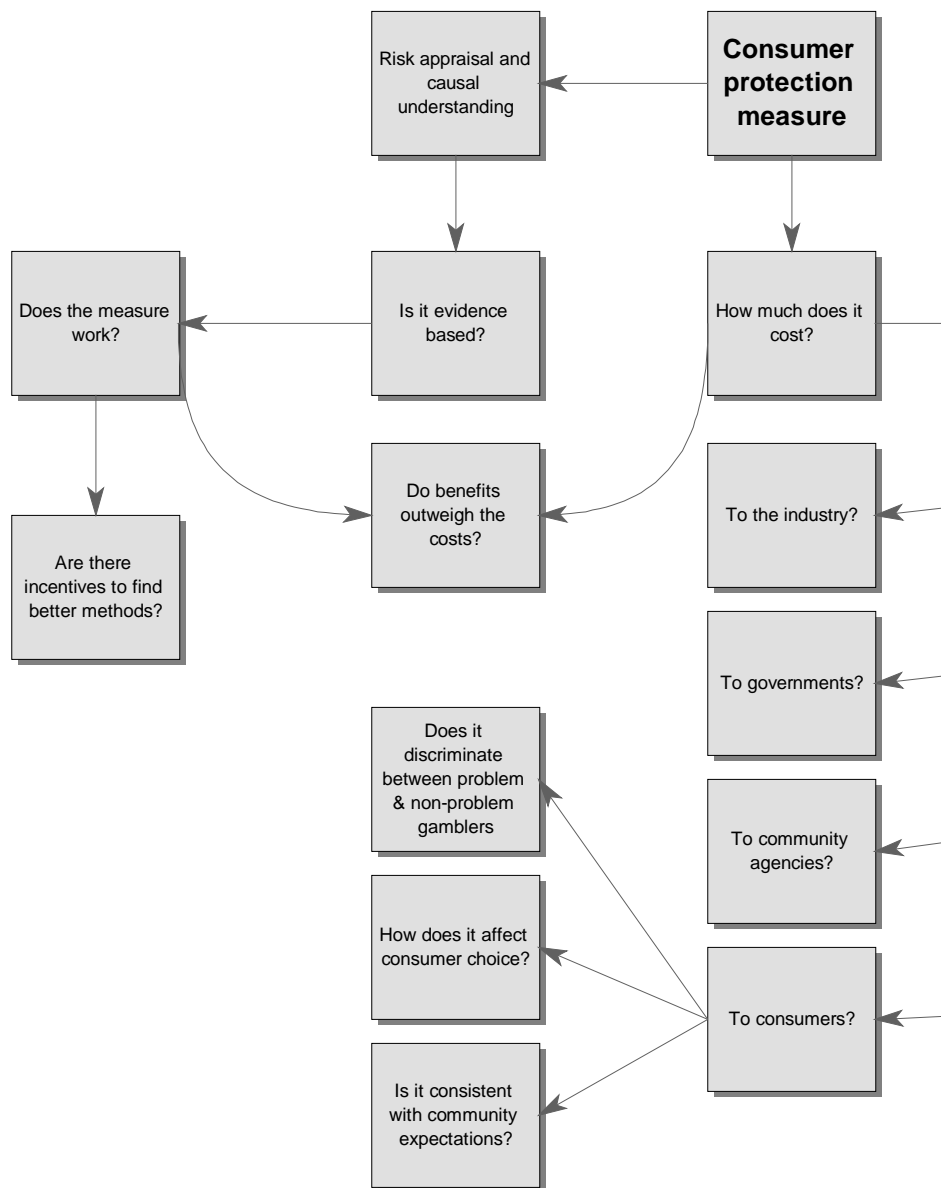


Figure 16.2 Criteria for assessment of protection measures



- trying to provide *incentives* for stakeholders to develop better consumer protection measures, rather than simply using prescriptive regulations. For example, *if* it were technically feasible, it would be better to define an acceptable level of hazard and leave gambling industries and venues the scope to find the least cost way of achieving that standard;
- using measures which *discriminate efficiently*. Measures intended to reduce problem gambling should, for example, try to target behaviours which are largely exclusive to problem gamblers, so that recreational gamblers will not be much affected;

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- using measures which take account of the desirability of people's *freedom to choose*. Some protective measures, such as information provision or informed consent do not impinge on the freedom of the consumer. Other potential measures, such as limits on the intensity of play, changes in the payoff frequency and enforced breaks do restrain consumer choice. In some cases, limiting choice may be unavoidable, but where two measures share the same effectiveness, the one which constrains choice the least is preferred;
 - taking account of *community attitudes* to consumer protection measures. For example, if research showed that a certain group of people had a high risk of developing gambling problems, should they be excluded from playing? Should family members have control over the assets and budgets of a severe problem gambler? Should venue operators who fail to meet a consumer protection standard be prosecuted? The answers to these questions depend not only on the effectiveness of the measures themselves, but also on whether communities would be willing to countenance them; and
 - measures may be more effective in unison than by themselves.

16.2 A ban on gambling?

The most extreme measure would be to ban gambling, as has been done and is still done for particular gambling forms in some jurisdictions. A ban on gambling could, in principle, provide strong consumer protection from its hazards. It could involve bans on all gambling, or those forms which are regarded as most hazardous, such as poker machines or internet virtual casino gambling.

While most submissions to the inquiry supported some level of gambling, a number of submissions to the inquiry urged a ban on at least some forms of gambling:

Laws should be introduced to phase out poker machines in hotels over a five year period, but allow them to continue in clubs (Adelaide Crusade Centre, sub. 45, p. 5).

As evidence mounts that poker machine gambling in particular is damaging the Australian community and economy in that costs far outweigh benefits, the federal government must 'bite the bullet' and create incentives for state governments to phase out poker machines gradually, first from hotels and later from all venues (Festival of Light SA, sub. 107, p. 11).

Most forms of gambling in Australia have been illegal since European settlement. The principal exception is horse racing, typically limited to betting on race carnivals and, over time, more frequent weekend racing. Other forms of gambling have been illegal, but throughout the period a degree of underground gambling activity

persisted in the form of off-course or SP bookmakers, illegal casinos, and two-up games.

It is not clear that the previous ban on gambling in Australia resulted in costs and consequences anywhere as severe as those experienced in some other forms of prohibition, such as that of alcohol in the United States. There is anecdotal evidence of crime, corruption, loan sharking and problem gambling associated with underground gambling, prior to its legalisation in Australia, but, these appeared to be relatively minor problems for society.

It does not appear that recent liberalisation of gambling has been a response to prohibition in some way failing to address the problems presented by gambling. It is more likely to represent a change in the attitudes of the community and their governments towards the activity of gambling.

A blanket ban?

Any consideration of a ban on gambling must be viewed in the context of this shift in societal attitudes, and also acknowledge that a return to wide-ranging prohibition would be much harder to achieve and enforce than had gambling remained an illegal activity. A significant industry has been established to provide gambling services, and the majority gamble with little or no adverse effects. Complete prohibition of all forms of gambling would be costly for those who enjoy gambling, while only having benefits for those gambling forms that have large social consequences.

And now that demand for gambling is so high, complete prohibition could have adverse social consequences too:

- It may have the negative impact of driving the activity under ground, creating a criminal class out of people who are caught in illicit consumption, creating large potential profits for illegal suppliers and a web of corruption.
- If the activity were illegal, treatment would also be difficult. Information on problem gambling would also be poor, frustrating the development of appropriate care services.
- Illegality would also have the effect of denying consumers of gambling any protection from unfair and corrupt suppliers. And governments would not be able to raise revenues from the industry.
- It would not be practicable in the medium term, given contractual obligations between governments and gambling providers and the significant adjustment

costs which would be experienced by venues which had made large investments in gambling technologies.

- It fails to recognise freedom of choice, which communities value highly.

For these reasons, the Commission does not consider that the option of a blanket ban on gambling is a viable or desirable one.

A selective ban?

But what of prohibition of particular types of gambling? Prohibition of *particular* types of gambling, such as gaming machines, is more feasible, because it is unlikely that significant underground activity could emerge, given the nature of the technology. Moreover, particular bans have the advantage that they can target only those products which are most hazardous for consumers. Such bans have been put in place in some jurisdictions. For example, a majority of parishes in Louisiana decided by referendum to prohibit poker machines (chapter 15), while Western Australia has decided not to allow some of the types of gaming machines available in eastern states.

The prime disadvantage of outright bans on particular forms of gambling is that they significantly reduce consumer choice and deny most gamblers an activity they value because of risks to some. Whether a ban on a particular form of gambling is an appropriate consumer protection measure will depend on a complex range of factors:

- community attitudes to that form of gambling (which weigh up community values and norms as well as social and economic implications);
- the magnitude of the costs relative to the benefits of the gambling form. The case for a ban is strongest when the net losses to society from gambling are minimised with no legal provision of that gambling form, compared with some positive controlled amount. This formulation takes into account the possibility that bans may lead to socially costly illegal forms of gambling;
- the distribution of costs and benefits. For example, suppose that a certain gambling form produces small benefits for a large number of people, but very large costs for a minority. Suppose that the sum of the benefits less the costs is still positive. Typically, this situation would not suggest a ban, as the winners could compensate the losers and still be better off. But with problem gambling this compensation strategy is not feasible for two reasons. First, it is very hard to identify those who should be compensated and the appropriate compensation amount. This would involve huge transactions costs, and would also raise moral hazard issues as some people would feign problems to receive compensation or

engage in risk-taking behaviour. Second, compensation of a problem gambler raises its own difficulties if they then gamble away any compensation amount. The distribution of costs and benefits is, therefore, a more salient issue when deciding gambling policy than in many other cases;

- the degree to which problem gambling is a hazard that is largely random in its incidence among people. For example, if it were possible to predict with accuracy the types of people with high risks of developing problem gambling, then that might form a basis for alternative controlled forms of gambling. This is akin, for example, to drugs which are not prescribed to certain high risk groups, while being available for others. However, problem gambling risks are largely random, in that while there are risk factors, they explain little of the actual variation in the prevalence of problem gambling in a community;
- the extent to which people understand the risks they face. If people had a clear understanding of the personal risks faced, it could be left to them to decide whether to start gambling, notwithstanding its risks. However, most people do not believe that they are personally at risk, and even gamblers exhibiting many of the patterns of problem gambling often deny they have a problem. In this context, a ban is akin to a form of compulsory social insurance. People are usually willing to pay some amount to avoid catastrophes. In this sense, compelling people to give up the pleasures of the recreational use of a particular gambling type to avoid the risk of problem gambling is like forcing them to pay a premium to cover the costs of some risky event whose risk has been underestimated. Such compulsion, might, if warranted by evidence, be optimal;
- the extent to which it is possible to reduce risks in a legalised environment and to help problem gamblers effectively. A ban on a given hazardous gambling type is more appropriate if the hazards cannot be reduced in a more cost-effective manner. For example, notwithstanding their clear hazards, it is better to make cars, roads and drivers safer, rather than to ban cars; and
- the extent to which consumer preferences for the particular gambling form are stable (chapter 5). In conventional analysis, it is assumed that the pleasure any consumer derives from consuming a given quantity of a good does not change over time. However, it is *possible* that for some goods, such as gambling, this is not true, and that after a ban consumers change their preferences. If for example, after a period, consumers no longer missed (valued) a banned form of gambling, then this implies that there would only be a transitory stream of costs associated with reduced consumer surplus. This cost might then be offset by the permanent stream of social benefits from reduced problem gambling, and may tip the balance in favour of a ban in some cases. However, the Commission is not aware of any persuasive evidence on this issue.

While acknowledging that, in theory, a ban on a given form of gambling might sometimes be warranted, the Commission does not consider that there is enough evidence to warrant banning any *existing* gambling form. Instead, a better policy course is to pursue a range of strategies to reduce the social risks associated with legalised gambling— which we now examine in the rest of the chapter.

This emphasis on harm minimisation rather than quantitative restrictions on gambling is seen as sufficient by some groups, but questioned by others:

The AHA welcomes the Commission’s finding and reinforces that the community wish to participate in gambling services and it should not be banned for the majority to assist the small minority who have problems associated with this form of entertainment... A range of strategies, such as the responsible service of gambling, gambling help support services, education campaigns and industry codes of practice are the most effective ways of reducing the social risks associated with gambling (AHA, sub. D231, pp. 61-62).

There is a great deal of research and analysis into areas and means of harm minimisation in the draft report, which is excellent for the purpose of minimising the harm gambling does to problem gamblers. However, this requires to be balanced with means of discouraging and restricting gambling activities and accessibility in the first place, which can be seen as a form of harm prevention (Interchurch Gambling Taskforce, sub. D230, p. 16).

Whether harm minimisation should be supplemented by quantitative restraints depends, in part, on whether effective harm minimisation strategies can be implemented. If they are not implemented, or cannot be made effective, then the grounds for restrictions on availability appear to be more soundly based. However, it should not be assumed that just *any* type of quantitative restriction necessarily reduces adverse social impacts (as emphasised in the last chapter). Some restrictions could have perverse outcomes. Moreover, in all this the goal of policy is *not* to eliminate the adverse social costs of problem gambling, but to achieve a balance between the modest benefits from gambling derived by the many and the large costs felt by the few.

16.3 Basic consumer information

Price information to players

Information on odds of winning are readily available in many cases, such as all wagering and most casino games. However, there are some major exceptions.

Lotteries

The most popular lottery games do not disclose the real price of the gamble. However, this is an inevitable aspect of the way these complex gambling forms are organised (box 16.2) — accumulating jackpots, varying prize pools and the possibility of multiple winners make it hard to know the true price. Even so, people reveal a strong preference for such lotteries to conventional lotteries, in which a winning ticket with a known prize and known number of contestants is drawn randomly. The absence of a posted price does not seem to present any problems for consumers.

Perhaps of greater concern is the possibility that gamblers do not readily understand the true likelihood that they will win, and that they tend to believe that the chances are greater than they really are. Golden Casket Lottery said that its research shows that lottery players are aware of the low chance of winning the top prize in a lottery when they purchase their ticket (sub. 145, p. 11). However, many people have relatively poor ability to understand the very low odds that occur in lotteries.¹ Any conceptual errors people may make will not be self-evident (and therefore self-corrected) because few people expect that they will win a big prize, even over a lifetime. Thus, a gambler could underestimate the true price of a lottery ticket by a factor of 100² and would not correct this misconception through experience. Advertising, which point out that ‘someone has to win’, may reinforce such conceptual errors.

The critical issue is how many consumers who were fully aware of the odds would still play as frequently. This is uncertain, but merely telling them the odds without providing an indication of what they mean is not likely to be successful.

The Commission considers that there are grounds for improving people’s understanding of the odds of winning lotteries — and simple ways of illustrating the odds could be displayed in venues selling tickets. There are also grounds for better treatment of applied probability in schools and for appropriate advertising practices, an issue examined later in this section.

¹ They also have misconceptions about the extent to which they can be lucky. Thus, about 50 per cent of Australians believe that ‘some numbers are especially lucky for some people’ (BIE 1995, p. 32). But only 30 per cent of Australians with tertiary degrees considered this true, whereas about 70 per cent of people with only some primary school agreed with the statement, suggesting an inverse relationship between conceptual failures relating to risk assessment and education (and innate ability).

² For example, by conceptualising the odds as 1 in 80 000 rather than a 1 in 8 million chance.

Box 16.2 What is the price of a lottery?

The 'price' of a lottery ticket is not the amount paid for the entry, but that cost less the expected value of the return. The expected value depends on:

- the odds of winning. When playing lottery games, such as Ozlotto and Tattslotto, people choose 6 numbers from 45, and win a first division prize if their choice matches 6 randomly selected numbers. The odds of any given ticket winning a first division prize is, therefore, roughly about one in 8 million (roughly equivalent to the chance that a person could throw 23 heads in a row in a game of two-up).³
- The value of the prize. This depends on the size of any jackpot carried over from a previous game, and the number of tickets sold, since this determines the size of the prize pool; and
- The chance of multiple winners of any prize, which increases with the number of entries.

While consumers are typically aware of jackpots, they can only guess how many other tickets have been bought for any given draw. Accordingly they cannot calculate either the expected value of the prize, nor the true price of the lottery with any certainty.

A further possible concern with lotteries is the extent to which suppliers tacitly support the apparent perception of some players that the past pattern of wins is pertinent to the future. For example, the Victorian Tattersalls and Queensland Golden Casket Lottery websites⁴ provide a list of the numbers of past winning numbers for interested people to load from their server — presumably because there is a demand for such data. Such information is only useful on the premise that it increases the odds of winning. It certainly cannot do this, since each new draw is completely independent.⁵ This is not likely to pose difficulties for lottery playing by

³ The odds are $p = \frac{x!(y-x)!}{y!}$ where x is the number of unique numbers selected by the gambler from a larger group of y numbers. In the case of Tattslotto and Ozlotto $x=6$ and $y=45$. Powerball requires gamblers to choose the correct 6 numbers by drawing 5 from 45 and 1 from 45, and therefore offers significantly lower odds of winning (about one in 55 million).

⁴ The Tattersalls website (at http://tatts.com/nav04/nav04_fs.htm accessed on 19 November 1999) provides downloadable past winning results from a host of lottery type games, for the punter to 'play around with'. The Golden Casket site lists Oz Lotto and Powerball historical results (at <http://www.goldencasket.com/index.html> accessed at 19 November 1999)

⁵ In fact, to the extent that people using such information were to process the numbers a similar way, it would suggest that they would select their numbers from a narrower set. This would increase the chances of a shared jackpot among this group were one of those numbers to win, actually reducing the expected payout from a strategy intended to increase it. It should be noted that one area of historical information that *does* have some relevance to lottery gamblers is the past choices (not outcomes) made by gamblers. There is evidence that people often choose birthdays, avoid the lower edges of the card and otherwise, as a group, select from the numbers in a non-random way. This explains why the number of shared jackpots on some wins is higher than

itself. There is very little evidence that lottery playing pose any significant risks for problem gambling, or that it is subject to chasing (chapter 6). And thinking that one can develop a ‘system’ may be a pleasurable past-time, even if its founded on error. However, the provision of what is essentially misleading information may establish pre-conceptions about the nature of gambling generally, which then carry over to forms where those misconceptions increase consumer risks (such as to gaming machines). **The Commission considers that lotteries should emphasise that past results have no bearing on future outcomes and not provide data or other advice that suggests otherwise.**

Poker machines

The price of playing poker machines, while subject to a regulatory maximum, is not disclosed on each machine. Many participants argued that players need better information on the chances of winning when playing gaming machines (sub. 104, p. 48; sub. 38, p. 3, sub. 105, p. 4 and sub. 17, p. 9). For example, Xenophon argued that:

Consumers of gambling products ought to know the odds ... (sub. 98, p. 5).

Similarly, the Victorian Auditor-General has also indicated concern about the degree to which consumers are properly informed and argued for a ‘Players’ Charter’ to complement the industry’s voluntary codes of practice and to indicate the range of information that ought to be provided to players on fairness grounds (VICAG 1998, pp. 67–8).

Lack of disclosure is potentially problematic to consumers. They may not know how to make choices between machines, when they are unaware of the alternative prices of playing. This problem is accentuated when otherwise identical machines have different prices. For example, the Aristocrat *Fast Fortune* gaming machine comes with alternative return rates for New South Wales of 87.70, 90.04, 92.33 and 94.99 per cent. Expressed this way, the rates seem close, but rates of return are misleading indicators of the price. The true ‘price’ of the poker machine is one *minus* the player return. The most expensive form of the game is therefore 146 per cent more expensive than the cheapest version. Put another way, a person playing a 20 cents *Fast Fortune* machine with 3 lines and 1 credit per button push, can expect to lose \$21.64 on the 94.99 per cent machine and \$53.14 a hour on the 87.7 per cent machine, though in all other respects the machines appear to be the same. It seems reasonable to disclose this significant price variation to the consumer, rather than to

would be anticipated than if punters selected numbers randomly Apparently, thousands of people in the UK choose the numbers 1,2,3,4,5 and 6 for the National Lottery, and if that combination ever comes up would win a very small jackpot prize because it was shared so widely.

force them to experiment to discover it themselves.⁶ The Victorian Auditor-General (VICAG 1998, 1999a) has also expressed concern about return variations on the same game.

The Australian Gaming Machine Manufacturers Association said player fairness is an important issue and that detailed information on returns to players can be made readily available. However, it queried whether price disclosure would make any difference, citing an experiment in the ACT:

When gaming machines were first introduced into the ACT, it was required that the player return be advertised on the front of the machines. For the first six months there was a landslide of complaints from individual players that they didn't get the advertised rate. Within twelve months the complaints had virtually ceased — presumably because the players stopped believing or stopped caring. In any event, it made no difference to the play rates — they mirrored results obtained on identical NSW machines with no such signage (sub. 50).

The AGMMA also considered that the use of average payout rates was highly likely to confuse players or create false expectations, because of the way gaming machines work (box 16.3).

They indicated that many players misunderstand the returns and expect every game to conform with the posted return rate, when this would only occur after millions of game plays. However, this statistical variability is precisely what makes it difficult for consumers to surmise the price they face over a long period — and provides a rationale for some disclosure, rather than non-disclosure.

But the persistent consumer misunderstandings about the returns that concern the AGMMA raises the question of what is meaningful for consumers. Disclosure of the player *returns* in percentage forms is probably not an adequate representation of the price for most consumers. But some indicator of the price should be made available to the consumer. Some alternatives are:

- Consumers are well acquainted with price discounts in retailing, and may understand these price signals better than the raw returns. Given that most jurisdictions have a statutory maximum price, it is possible to represent the price as the percentage discount on the maximum price (of 87 per cent). Thus a machine with a 92 per cent return could be called a '38 per cent cheaper' machine.
- A simple value-for-money rating system based on icons could be used.

⁶ This, would in any case will take a considerable time to do. Statistical variability in the payouts, the fact that gamblers switch from machine to machine and differences in styles of play from occasion to occasion will make it hard, if not impossible, for average consumers to accurately detect price differences between machines (appendix U).

All other things being equal, easily assimilable price information should allow consumers to seek out cheaper machines and may provide competitive pressure for some venues to lower prices on some of their machines.

Box 16.3 Player returns

The Australian Gaming Machine Manufacturers Association (AGMMA) observed that information on returns to players can be made readily available in fine detail, but questioned how best to present that information in a useful way:

For gaming machines, all jurisdictions have minimum player return requirements (some even have a maximum). In practice, clubs, hotels and casinos operate machines well in excess of the statutory minima. In Victoria, for example, electronic gaming machines must be 'set' to return at least 87% of all moneys staked by way of prizes. In practice, the average 'setting' is 90%.

Whether publishing this ratio on each machine will increase player wisdom, or in any way modify behaviour is doubted.

... However interesting the measure may be, it is not seen as a useful start point for establishing useful criteria for fairness.

For gaming machines, the player return 'setting' is of very little pragmatic value to individual players. There is, of course, no obvious reason why players should be denied ready access to the knowledge, but there are a number of things worth noting:

- Except by some colossal fluke, no single player will experience the average during a play session.
- Statistically, half the playing population will get less, and half will do better than the average.
- It takes millions of games for a machine to closely tend to its 'setting'.

Two examples may help to illustrate the imprecision involved here. The games "Lion Dance" and "Double Pay" have been approved for use in New South Wales. Respectively, their player return 'settings' are 90.63% and 89.39%. Applying the rules of statistical expectation to both for a play sample of 2,000 games each, players will experience returns, which will range as follows:

- Lion Dance: 39% to 142%
- Double Pay: 55% to 124%

For an individual player, the return ratio is a very imprecise measure.

For either game to tend within plus or minus 1% of the expected average would require a sample of about 5 million games. For a single player to have any guarantee of experiencing this would require that the game be played non-stop for 12 hours per day for two and a half years. Additionally, the hapless player would have to be prepared to lose \$50,000 for the privilege of the experience.

... to our common knowledge, there has never been any attempt to keep [the odds of achieving each advertised prize] secret. What is elusive is trying to find some practical use for the information.

Source: AGMMA (sub. 50).

The AGMMA in its response to the draft report (sub. D257, pp. 8-9) also indicated that disclosure of the price could be misleading because of other facets of the distribution of the payoff. In particular, on some machines it is possible to have a higher probability of breaking even or better (from a given number of lines played) with a *lower* rather than a higher returning machine. This occurs because some machines tend to have more frequent smaller payoffs, and others provide a greater weight to bigger payoffs. A way of illustrating this possibility is to consider two lotteries:

- in one the overall return rate is 50 per cent and the chance of winning on any ticket is one in ten. This would result from a lottery in which the prize is \$5, the tickets cost \$1, and one in every 10 tickets is a winner; and
- in contrast, another lottery could offer a return of 95 per cent, and yet the chance of winning on any given ticket could be one in thousand. This would result from a lottery in which the prize is \$950, the tickets cost \$1, and one in every 1 000 tickets is a winner.

The AGMMA concluded that:

Using ‘price’ as defined by the Commission is far too brittle to be useful and/or fair to players. It falters on the volatility property present in all gaming machines per force of the relationship between prize values and the respective frequencies (or infrequencies) of their occurrence (sub. D257, p. 9).

The Commission agrees that gaming machines are complex devices with varying payoff distributions (appendix U). Even so, it is:

- not certain how typical it is that machines with lower player returns provide players with a greater likelihood of a net win from a session of play. It is most marked for the apparently hypothetical game provided by AGMMA (box 16.4), but scarcely a material factor in any of the other examples given;
- apparent that over a reasonable period of time — say a month and certainly a year — the determinant of the financial outcome of playing a gaming machine is almost exclusively its player return. The standard deviation as a share of the mean player losses becomes much smaller after a large number of trials (appendix U).
- not clear that volatility in returns implies that the price is irrelevant. Price is just one piece of information. Consumers make choices all the time by making tradeoffs between goods with different prices. A higher priced good is not always worse than a lower priced one, if it has other characteristics that make it more attractive. Accordingly, a more expensive game with more exciting game features, better graphics or sound, or a more appealing payoff distribution may be preferred to a cheaper game. If gaming machine venues wish to emphasise

some special feature of a game that justifies its higher price, they can do so. In the absence of price notification, the consumer is bereft of the ability to decide whether any apparent quality tradeoff is worth it or not.

Quite apart from the issue of the overall price of playing the machines, consumers may also be interested in the nature of the distribution of payoffs. Tabcorp said that payout tables are on all of its poker machines:

My understanding is that they in fact do use the payout tables, and that gives them an indication of how the machine pays out ... customers are able to determine that, and they manage their spend according to how they want to play the game and what they can actually afford to spend (transcript).

Nevertheless, existing payout tables provide very little real guidance to players, since all they do is indicate that certain combinations will pay out a certain multiple of the credits gambled at each button push. They do not tell the player the probability of the combination occurring. For example, 5 rhinos will pay out 5000 times the amount bet in the game *Black Rhinos*, which can be a considerable sum (up to \$5450 with scatter wins if playing maximum credits on a 10 cent machine). However, the probability of getting 5 rhinos is about one in 10 million from one button push when playing one line on the machine. Payout tables without the corresponding odds provide very little useful information to players.

The Commission considers that there are grounds for simple indications of the odds of winning any given payout on a machine to inform consumers more accurately about their true chances. Representing these as mathematical odds may be informative for many people, but may do little for some consumers who find odds hard to interpret. But there are other, more colourful, ways of representing the odds that may be understandable for these consumers. For example, in the case of *Black Rhinos*, consumers could be told that, if they bet one line per button push, in order to have just a *fifty per cent probability* of getting 5 rhinos (the big prize option on *Black Rhinos*):

- it would take them 6.7 million button presses; or
- at ordinary rates of playing, it will take them 188 years of playing or 391 days of absolutely continuous play (24 hours a day); or
- it would cost them nearly \$330 000.⁷

⁷ The Commission's calculations for *Black Rhino* were criticised by a number of major producers or their representatives (subs. D234, D289, D233, and D217). They indicated that the Commission did not understand the laws of probability or how random number generators work, and had contradicted the notion of independence in gaming machines. In fact, the Commission's calculations for *Black Rhino* **rely** on the assumption of random numbers and independence (appendix U), so that our results do not contradict these central features of gaming machines.

Of course, lower payouts have much higher odds and normal players can expect to win these frequently during the course of play. The bulk of the returns from gaming machines are made up of relatively *frequent* small prize payouts, and in the case of *Black Rhino* (and a range of other modern games) ‘scatter’ prizes are a dominant source of the machine return to the player. For example, information provided by Aristocrat Leisure Industries suggested that 45.17 percentage points of the 87.84 per cent average return on Black Rhino came from such scatters.

However, players are often still hopeful of large wins, which can make up for past losses, and yet routine play will not inform them of the odds of these rare events. That being said, the prospect of a large win, even if it is remote, can be pleasurable and entertaining, but it seems reasonable to know how much this ‘dream’ is likely to cost.

Another possible measure of the effective price of playing poker machines is the amount of time that can be bought by a certain style of poker machine play. Xenophon argued:

Consumers ... ought to know how long it will take to lose a particular amount of money assuming average pay out rates (sub. 98, p. 5).

It would be easy to calculate the average *expected* duration of any given style of play and reveal it in real time on the poker machine screen (appendix U). However, Tabcorp noted that their customers already had a good idea of the time they can buy on the machines:

What we find is that our customers are in fact buying time, and particularly the regular players have a very good idea of how much time they can get for their money (transcript).

The average spent on Tabcorp gaming machines was about \$29 per hour in 1998 (Annual Report).

Players *are* likely to be aware that they can buy a longer time by playing less intensively, but it is not clear that they can determine with any precision how long on average they will be able to play. The AGMMA (box 16.3) has emphasised that player returns are volatile and this also implies volatile game lengths. The Commission’s calculations also suggest that players could expect very significant deviations from the average duration (appendix U).

Aristocrat Leisure Industries — the manufacturers of the machine concerned — have confirmed our calculations. Since there appear to be widespread misunderstandings about how gaming machines actually work, the Commission has set out the details in appendix U.

While the expected duration is a summary measure of the cost of playing a poker machine, its distribution is highly skewed for normal playing styles (appendix U). As well, it does not appear to offer advantages over other forms of information about costs, such as the average hourly loss rate. These suggest that notification of expected player duration may have few incremental benefits if price is already disclosed.

In summary, reflecting their complex character, notification of the cost of playing gaming machines involves some challenges. In its response to the draft report, the AGMMA, while questioning whether consumers would really act on prices, (sub. D257, p. 6) nevertheless acknowledged that:

The notions of ‘return to player’ and its obverse the ‘venue return’ or ‘price’ are generally not available in the public forum. This is a deficiency from the consumers’ viewpoint and it ought to be rectified. There is no reason why such information should be withheld from players of gaming machines. It is disclosed in fine detail to regulatory agencies as part of the approval procedures.... As a first step in trying to address sufficiency and utility, AGMMA proposes the publication, for each game and each variety of each game, of an ‘odds card’ in a format similar to that shown for the hypothetical game [box 16.4].

Aristocrat, Australia’s leading gaming machine manufacturer also noted:

Aristocrat is ready to explore development of signage on machines to allow consumers to make more informed gaming choices and regards this as an area where we can make a contribution to responsible gaming (sub. D266).

The Commission considers this a useful step in the direction proposed in its draft report. In theory it could be available in other forms. In particular, machines already have versatile displays which provide graphics and information to players. Accordingly, the implementation of further information, such as this, to players would involve no radical re-design of the machines (and therefore pose low compliance burdens). As well, incorporating the information as a screen *option*, which would only be invoked when the consumer was interested in the information, would not adversely affect the appearance of the machine and avoid the risk that too much complex information is presented in too little a space.

Box 16.4 Informing players: one option suggested by the AGMMA

Game name: **Hypothetical game**

ODDS TABLES

	Chance of prize happening on a single play line
Prize value	1 chance in:
>=500	10,198
200 to 499	2,669
100 to 199	1,458
50 to 99	450
20 to 49	246
10 to 19	106
5 to 9	53
<5	10

Prize type by symbol combination	Chance of combination happening on a single play line
	1 chance in:
5 kind	4,784
4 kind	490
3 kind	45
2 kind	9

Overall chances on a single pay line

Chance of ANY prize 13%

Chance of NO prize 87%

The long term average player return for this game as approved by the regulatory authority is 90.31%.

Caution

All values shown are averages. It is likely that significant variations to these will happened during any session of play.

If You Bet With Real Dollars, Use Real Sense

Source: AGMMA (sub. D257, p. 7).

The Commission favours, in principle, the availability of better information, about the price of playing poker machines, including:

- **a simple system of informing consumers about *loss* rates on machines; and**
- **an indication of the *likelihood* of key payouts on the payout tables displayed on the machines.**

But notification of machine *returns* (which is one minus the loss rate) is a misleading indicator of the machine price and should not be implemented. Since poker machines are effectively computers with an in-built colour monitor, more sophisticated electronic posting of the price and likelihoods should be possible for new poker machines, while hand out cards or signs could be used on older machines.

However, prior to providing such information to consumers, the Commission considers that trials with consumers would need to be conducted to assess:

- the exact form in which information should be provided;
- the usefulness of complementary information pamphlets to consumers that help explain how poker machines work, including information on how to interpret any posted ‘prices’;
- the extent to which consumer behaviour changes as a result of this information.

It should be emphasised that the prime objective of better information is simply to empower consumers, not to deal with problem gambling. However better information about the price of gambling, — accompanied by clear explanations of how poker machines work — might reduce the cognitive errors that sometimes appear to underlie problem gambling.

The AHA (sub. D231, p. 62) indicated that they were not opposed to displaying odds for poker machines, but they considered that *all* gambling forms should be treated equitably in their requirement to notify prices. The Commission agrees with this principle, but notes that the prices of most other forms are generally given transparently by the game (such as roulette) or as part of the process of making the bet (eg wagering). However, some casino card games, lotteries and scratch cards do not routinely indicate the odds.

The regulation of payout ratios

Governments routinely set minimum payouts for gambling, enforced by close supervision and reporting arrangements. For example, gaming machines are typically required to return a minimum of 85-87 per cent to players (table 16.1).

Table 16.1 **Gambling returns to players^a**

<i>Category</i>	<i>Expected returns to player</i>
Gaming machines	85-87% of turnover
Casino	Depend on game rules
Club Keno	Generally 82.5%
Sports betting	As per agreed bets at fixed odds
TABs	Not less than 80% of the amount invested from any one totalisator and an average of not less than 84% of investments on all totalisators in any year.
Bookmakers	Agreed bets at fixed odds
Lotteries	Around 60% ^a
Soccer pools	Around 50% ^a

^a Of course while these are the expected returns to players, the modal outcome in these gambling forms is necessarily zero, as only a few gamblers win.

Minimum payout ratios are intended to reduce the opportunity for exploitation of gamblers by monopoly providers and may also have a role of ensuring that consumers without a strong understanding of the odds are not manipulated. Even without price notification on a gambling form, they guarantee a certain maximum price. Payout ratios are inextricably tied up with taxation and revenue distribution requirements. For example, they are a way of limiting the extent to which licence fees payable by operators can be passed on to gamblers.

Typically, floors on prices do not differ markedly between the states and territories, and do not appear to be binding — the observed odds are better than the statutory minima. In this sense, they do not have any obvious adverse impacts, while serving a useful signalling device to consumers about the worst odds they may face.

The Commission considers that there are grounds for statutory minimum payout ratios. However, there are no apparent grounds for statutory maximums, as, for example, applied by Queensland for poker machines.

Understanding the nature of the game

Not only do consumers appear to misunderstand the odds, but there is evidence of misconceptions about how some games work (table 16.2). As one counsellor noted:

... it's quite common for me to hear in our counselling rooms people having erroneous thinking around how the machines actually work and what they do, examples of that being people actually going to venues at particular times of the day, expecting that they would be full at that time because the lunchtime crowd had finished, or perhaps altering their play patterns from high to low betting on lines and credits, thinking that that would actually confuse the machine in some way or make it think that another player was on it, so that wins would come out. It's actually quite common, beliefs like that that come out, so again I think that more information about how the machines actually

work needs to get out there by community education or signs in venues, that people need to be informed about that (Kaldis, transcript).

Table 16.2 Beliefs about gambling^a

<i>Belief</i>	<i>Agreeing</i>
	%
The chances of winning a substantial amount of money at the casino are quite high	15.5
I think I'll win a good prize in Tattsлото (over \$10 000) one day	16.6
One day I'm going to strike it lucky at gambling	13.7
Sometimes I think I might have the power to 'will' my numbers to come up in gambling games	8.4
To win at gambling you have to think positively	19.0
If I concentrated hard enough I might be able to influence whether I win when I play the pokies	6.9
I'm more likely to win at lotto/gambling if I use my 'lucky numbers'	10.0
You can win at the pokies if you adopt the right system	10.1
You can 'beat the system' at the casino if you know how	11.1

^a Based on a survey of gambling attitudes among 1017 Victorian young people.

Source: Moore and Ohtsuka (in press).

Psychologists and psychiatrists working with problem gamblers often apply cognitive therapy, which provides tools for gamblers to think more critically about gambling — the success of these tools in a reasonable proportion of cases suggests that cognitive misconceptions do play a significant role in perpetuating problem gambling.⁸ Blaszczynski (1998), for example, notes the prevalence of false beliefs about control over poker machines and gambling generally:

Often, people playing the slot machines will touch the side of the machine, press the button a certain way or hold some item as a lucky charm. People believe that acting this way increases their chances of winning... Chance plays a central role in gambling. However, many gamblers hold a strong conviction that they can influence the outcome of chance events through their own skilful play (pp. 161-6).

Moore and Ohtsuka (in press) document erroneous beliefs about power over gambling outcomes — which seem to affect between one in five to one in ten people (table 16.2).

The Nova Scotia Video Lottery Terminals survey (Focal Research 1998) also found evidence of misconceptions by gamblers about the likelihood that they can win on gaming machines — misconceptions which were accentuated among problem players (table 16.3). While the prevalence of mistaken views was much lower among non-problem players, they still accounted for a significant minority of players.

⁸ Also see National Research Council (1999, p. 240ff) and Barrett (forthcoming).

Table 16.3 Belief systems about gaming machines

Video lottery terminals in Nova Scotia

	<i>Problem players</i>	<i>Frequent players</i>	<i>Infrequent players</i>
	%	%	%
I sometimes play VL games with the hope of paying off bills	45	4	3
I usually feel I'm going to win when I start playing VL games	50	21	18
I generally feel that over time VL will pay off for me	25	9	8
After a string or series of losses playing VL games, I feel I am more likely to win	23	8	5
I play a particular machine to improve luck	39	19	9
A system is very important when playing	32	20	10
A system is not all important when playing	18	40	60

Source: Focal Research (1998, p. 3-25 and 3-59).

People often do not understand that each game played on a gaming machine⁹ (and other gambling forms) is independent of results from past games. A machine which has not paid out for some time, has no higher chance of paying out in the future — there is no necessity that an individual machine actually return the expected rate in any given period. There is therefore no strategic value in waiting for a big win on a machine on which a gambler has posted a large cumulative loss. Many gamblers aim to make up for past losses by continuing gambling — this seemingly irrational behaviour extends far wider than problem gamblers, and may be underpinned by misconceptions about the role of luck and non-independence.

Some of these ill-founded beliefs may be reinforced by:

- jackpot and accumulator machines which must pay off a jackpot over some pre-defined expenditure interval;
- near misses (as when the right number of high paying combination of icons appear on a poker machine but not on the right lines); and
- familiarity with the machine (Blaszczynski 1998, pp. 166-8). He finds that the more familiar are gamblers with a poker machine the more likely they are to believe they have control over outcomes, such as 'knowing the spin of the reel'.

Cognitive therapy is one strategy for helping problem gamblers with an extremely skewed understanding of gambling. It may be that other information about the nature of gambling — and particularly the continuous games of luck, such as roulette and poker machines — may serve to reduce conceptual errors frequently

⁹ With the exception of accumulator machines and linked jackpot machines.

made by non-problem gamblers. Such information may in turn act as a preventative measure for problem gambling.

Information about how such games work and the most frequent misunderstandings about them could feature in easy-to-read information made available to patrons of gambling venues. They could also feature in school curriculums where appropriate, as discussed later. In clubs where people have to be members to play, this information could be provided at the time of membership or renewal. Widespread implementation should be preceded by objective and independent assessment using consumer trials.

A number of industry participants agreed with the provision of information to consumers. For example, the AGMMA (sub. D257, p. 16) indicated that it was in the process of preparing a booklet relating to gaming machine odds to provide to patrons of gambling venues.

Information about how much has been spent

Gamblers of all kinds appear systematically to underestimate their losses and overestimate their wins. Gerstein et al. (1999, p. 32), in reporting the results of the most recent US national survey of gambling, found massive and systematic biases in people's perceptions of winning while gambling, calling it a 'collective hallucination'. They suggested:

... a more general finding from these data is that gamblers, whether or not they are classifiable as problem or pathological, seem accustomed to a high level of fantasy about the economics of the games they play (Gerstein et al. 1999, p. 30).

The Australian Household Expenditure Survey for 1993-94 finds extremely large expenditure biases, with the reported expenditure being only 23.7 per cent of the actual figure. A series of major surveys commissioned by the VCGA reveal a more complex picture. Victorians initially overestimated their spending and then, in more recent years, significantly underestimated their spending (table 16.4).¹⁰

As Blaszczyński points out, there are many ambiguities about the term 'spending' and 'outlay', so that respondents misunderstand survey questions posed by researchers. The Commission attempted to reduce these problems in the *National Gambling Survey* by careful wording of expenditure questions. This appeared to

¹⁰ A recent extremely careful Nova Scotian survey of gaming machine gambling (called video lottery machines in Canada) found that perceived monthly expenditure was around 40 per cent below that derived by taking account of the frequency of gambles and the average per session spend — an underestimate which was as big for non-problem players as problem ones (Focal Research 1998, p. 3.42).

have generated somewhat less biased indicators¹¹, with the projected expenditure level on gambling being about 70 per cent of that estimated by the Tasmanian Gaming Commission.

Table 16.4 Biases in Victorian perceptions of gambling expenditure, 1992–1998^a

<i>Year</i>	<i>Perceived weekly outlay by Victorian gamblers</i>	<i>Gambling participation rate</i>	<i>Proportion lost from outlay</i>	<i>Derived weekly expenditure per adult Victorian</i>	<i>Actual amount lost per week by adult Victorians</i>	<i>Bias</i>
	\$	%	%	\$	\$	%
1992	21	75	79	12.4	5.23	138
1994	18	83	78	11.7	8.64	35
1995	18	77	77	10.7	12.05	-11
1996	18	87	81	12.7	14.35	-12
1997	16	86	80	11.0	15.36	-28
1998	17	76	81	10.5	17.55	-40

^a The survey respondents were asked to provide outlay estimates, and then an indication of the proportion of outlay that was won back. These two data items provide an estimate of the expenditure per Victorian gambler. To then derive an estimate of the spending per Victorian adult, this figure is multiplied by the gambling participation rate. The bias is calculated as the percentage difference between the derived and actual expenditure figures.

Source: Calculations by the Commission based on data presented on pages 40, 56 and 64 in Roy Morgan Research (1999).

It appears that consumers may well have difficulty recalling their expenditure on gambling. Tracking expenditure by gamblers is much more difficult than other forms of entertainment expenditure because of the volatile patterns of wins and losses, the fact that wins are more easily recalled than losses, other problems of biased evaluation by gamblers (Blaszczynski 1998, pp. 167–8) and the lack of records in many cases.

Such biased evaluation may be problematic because it makes it difficult for people to know when they may have exceeded what they think is a sensible budget for gambling. This is clearly more important the bigger is the amount spent on gambling as a share of people's total disposable income. Evidence from the Commission's *National Gambling Survey* suggests that gambling is a high share of many people's budgets.

This provides grounds for more information provision to consumers by gambling providers about their past spending. Australian internet gambling providers are set

¹¹ Even here, however, the wording changes were only moderately successful in eliciting accurate answers in some cases (appendix P has the detailed estimates).

to provide much more detailed information to gamblers than traditional forms of gambling. Many consumers use membership cards at venues when playing poker machines.¹² The cards are used by venues to pay loyalty bonuses and encourage people to play more. Since the cards already contain some information about the history of spending by players, they could be enhanced to collect overall spending information. Similarly, gamblers with TAB phone accounts could reasonably expect account records to be provided as a record of transactions.

The Commission considers that where loyalty or other cards are used in gaming machines, consumers should be provided with a written periodic record of their spending (as in bank account records). Such records should also be provided to TAB phone betting and internet gambling account holders. They could also be sent game information with such accounts.

Information on the risks of problem gambling

Many gambling venues have now adopted codes of practice which require notices which encourage responsible gambling and which provide referral advice for people who develop problems. Some signs warn of potential problems with gambling. Some venues provide pamphlets which outline some of the characteristic symptoms of problem gambling. However, with some exceptions, signage is discreet and the slogans subtle rather than direct and hard hitting — unlike slogans and advertising used in other public health campaigns (box 16.5), and unlike the slogans used to promote gambling.

As noted by Anglicare SA:

Images highlight fun, wealth, excitement and a general good time. Images such as looking at bills that cannot be paid, the faces of children not receiving Christmas presents or staring at the medicine for razor blades or tranquillisers would not make for attractive merchandising of gambling products (sub. 104, p. 44).

The New Zealand Racing Industry Board, has, however, recently developed awareness material that is far more in line with other public health campaigns, and may be of interest to Australian operators and regulators (figure 16.3). They argued that:

¹² The Commission's *Survey of Clients of Counselling Agencies* revealed that about 49 per cent of the clients whose problems were due to gaming machines had such loyalty cards. The Commission's *National Gambling Survey* suggested that about 21 per cent of recreational poker machine players claim to have such cards and 47 per cent of (mostly non-help-seeking) problem gamblers. Of those who have the cards, 80 per cent of non-problem players and 91 per cent of problem gamblers make at least some use of cards when playing the machines.

...strongly worded messages are necessary if we are going to make a difference amongst those persons who may need specialist information or who may need encouragement to refer for professional counselling... they have been pre-tested and focus tested with customers and problem gamblers (Alexander, 1999, p. 6).

Box 16.5 Gambling and other public health slogans

Used in gambling venues

Have fun, but play it safe (Tattersall's)

Bet with your head, not above it (Star City Casino)

Gambling can be addictive (Canberra Club)

A Victorian responsible gambling ad pictured a group of quirky people having fun with gambling, ending with the slogan 'If it's no longer fun, walk away'

If you play with real dollars, play with real sense (awarded best slogan, American Gaming Association, US, www.americangaming.org) and advocated by the AGMMA (sub. D189).

You bet your life? When you can't face your wife and kids. When you're in debt. When gambling and heavy drinking always mix. When life feels boring if you're not gambling. When its really hard to stop. It helps to talk... (New Zealand Racing Industry Board 1999)

Other public health areas

Speed Kills

If you drink and drive you're a bloody idiot

Hot water burns like fire (Queensland scalds prevention campaign)

The Australian National Tobacco TV ad campaign (www.quitnow.info.au) shows pictures of a smoke-damaged aorta oozing yellow fluids, blackened lungs and other repugnant imagery.

A Road Safety Campaign TV ad show a weeping man who has run over a child while drunk.

Not used in gambling venues but suggested to the Commission

If you think you can win, you're a loser (suggestion by participant).

If you think you can win, don't come in (suggestion by gambler on talk-back radio).

Gambling is addictive and may cause misery, depression, your marriage to break up or even death (sub. C38, p. 1).

Figure 16.3 Awareness pamphlet used by the New Zealand Racing Industry Board^a



^a Approved for publication by the New Zealand Racing Industry Board and the New Zealand TAB.

Data source: New Zealand Racing Industry Board.

The Commission saw little evidence that consumers were being provided with clear indications of the hazards of gambling (as they are, for example, with driving) or the fact that problem gambling can affect anyone who gambles. And while pamphlets may have a useful role to play, there is little evidence about whether existing posters or pamphlets have actually changed risky behaviour by patrons.

The notion, put forward by ACIL on behalf of major gambling providers (sub. 155, p. 71), that problem gamblers have ‘deep-seated personality disorders’, would tend to discourage ordinary people from thinking they could be at risk of developing problems. As noted in chapter 6, there is in fact little evidence that problem gambling stems from personality disorders. Rather, it is a complex phenomena with a variety of causal factors, which can affect anyone. As noted by the Adelaide Central Mission:

Among the community members struck down by this silent epidemic that we are aware of at the Adelaide central Mission are accountants, solicitors, doctors, psychologists, insurance brokers, bankers, self-employed business people, footballers, media

personalities, political figures, social workers, students, retirees, unemployed people and the list goes on (sub. 108, p. 13).

There are strong grounds for increasing community awareness of the hazards of gambling (rather than just its obvious pleasures), as has been done for alcohol consumption (eg *Drink Smart*¹³), drugs (eg *Live the Future*¹⁴), driving (eg the *Fatigue* campaign¹⁵) and tobacco (eg the *Quit for Life* mass media anti-smoking campaign¹⁶).

In tackling community awareness, an initial issue is one of perception by governments about the nature of the problem. **The Commission views problem gambling — in all its dimensions — as a public or community health issue, similar to that of alcohol.** This is because problematic consumption lies on a continuum from mild to severe, with over-consumption of gambling producing significant costs and risks for both those who engage in excessive consumption, but also the community more generally:

Consumption of gambling should be reflected within a public health construct delineating a continuum of social and enjoyable participation through to harmful and hazardous use. Parallels are drawn to international charters on alcohol and addictive substances underpinning government health policy responses (Committee on Problem Gambling Management (New Zealand), sub. 92, p. 1).

...problem gambling is an issue of concern not only for the person with a gambling problem and for their family, but also for medical practitioners, the gambling industry, the community and governments. Problem gambling as a public health issue is likely to affect an increasing percentage of the Australian population...Governments should develop and implement legislation to reduce problem gambling. Such legislation should include a public health approach to the development of policy and the regulation of the industry (AMA, sub. D224, pp. 2-3).

Moreover, as in other public health areas, there is significant scope for prevention of problems by intervening in the market to reduce hazards (Hawks 1997). In this public health context, there is clearly a role for government in information provision.

¹³ A Queensland program to reduce alcohol over-consumption risks (<http://www.health.qld.gov.au/atods/projects/drink1.htm>).

¹⁴ *Live the Future* was a collaborative project between the AMA Charitable Foundation, the State Library of NSW and the NSW Health Department. The Project aimed to increase community access to current and accurate information about drug and alcohol use (<http://www.health.nsw.gov.au/public-health/hpdp/livefuture.html>).

¹⁵ Motor Accidents Authority (NSW) (<http://www.maa.nsw.gov.au/reports/1998/directions/-strat2.htm>).

¹⁶ Evaluation details are available from University of Sydney (<http://www.health.su.oz.au/research/hpromo.htm>).

The Commission considers that there is a need for governments to provide clear information to the public about:

- **what is problem gambling;**
- **the fact that people of all ages, sexes and backgrounds make up the group of problem gamblers;**
- **its signs (such as chasing losses and loss of control) and self-assessment¹⁷;**
- **some of the risk factors (such as depression or stress);**
- **its consequences (poverty, job loss, relationship breakdown, depression and suicide); and**
- **advice on where help may be obtained (and indicating that this is a free service).**

Given the involvement in gambling by all ethnic and cultural groups, it is also clearly important that information be designed to take account of cultural and language differences among gamblers.

Measures such as these should raise awareness generally about the risks of problem gambling and encourage more responsible gambling by people who are at risk. As noted by the Interchurch Gambling Taskforce:

A warning can at least start to penetrate the consciousness in the way it already has done with smokers and drink drivers (sub. 55, p. 4).

It may also empower friends or relatives of people at risk to provide early informal help (in the same way that one of the ways of tackling drink driving is to empower friends to share the responsibility for the safe conduct of the drinker).

The advantage of information provision is that it is a relatively cheap measure for promoting informed consent by consumers, and may, with other measures, assist in changing cultural attitudes about the risks of gambling. It is not likely to deter existing severe problem gamblers, but it may help others who are lower down in the problem gambling continuum.

Any guides or health promotion should be independently authored, clear and objective, and provide consumers with tools which help them to obtain further advice if they need it, as well as possible strategies for reducing risks.

¹⁷ The Mental Health Foundation of Australia, for example, is currently developing an interactive online education and promotion campaign for responsible gambling. Kiosks will be available in gaming venues and will provide interactive means of self-assessment of at-risk behaviours (sub. 51, p. 11).

Effective information dissemination requires visibility. **Such information should be made available at gambling venues in ways that are just as visible as signs promoting gambling. They should be positioned on any nearby ATMs in venues, on gaming machines, at the cashier's and at points where people may be seeking help with other public health problems** (such as community and health centres, public libraries, the internet, and general practitioners). They could also involve mass media where evidence suggested this was likely to be effective. Again, any measures would need to be piloted and assessed for effectiveness.

Star City Casino (sub. 217, p. 19) agreed with signs, but suggested there may be a 'visibility threshold', given the large number of gambling awareness signs already provided in Star City. However, in its visits to a wide number of venues, the Commission found an uneven adherence to even modest visibility in many venues — principally those outside casinos. A short survey of six metropolitan hotels undertaken by the Interchurch Gambling Taskforce found that only two displayed signs about problem gambling risks visible to the surveyors. In the ACT, all venues are required to place warning signs on the machines, but at least one venue has placed these at knee height.

Public health promotion is now a developed discipline, and the forms and modes of information that are likely to be successful depends on experience in that field. **The Commission considers that jurisdictions developing appropriate health promotion in this area consult existing experts in the public health area about the best way of informing people about gambling risks in a way that is most likely to reduce the hazards of gambling.**

Another related issue is who should be *responsible* for public health awareness in the gambling area. Other areas of public health are now often characterised by strong cooperation between the states and territories, as exemplified in the National Public Health Partnership.¹⁸ The Commonwealth Department of Health Aged Care also fund a Public Health Education and Research Program (PHERP), which in turn funds Australian institutions to strengthen education and research in public health. It seems sensible that the scarce resources for developing effective public health awareness materials on gambling risks be combined nationally, rather than spread across the different jurisdictions in different campaigns. As well as using existing public health institutions, **there is a need for a national body which undertakes independent research into gambling problems and into effective public health measures to counter risks.** This issue is re-examined in chapter 22.

¹⁸ Dept. of Human Services (Vic) (<http://hna.ffh.vic.gov.au/nphp/home.htm>).

Early information about the risks of, and approaches to problem gambling may also have a role in reducing the hazards of gambling. As the social problems from gambling have become more noticeable, some Australian governments are developing educational material to provide children with skills intended to manage these risks:

- the University of Melbourne is developing gambling education guidelines for primary and secondary schools in Victoria (Jones 1998); and
- the Queensland Government aims to introduce gambling issues into the school curriculum later in 1999 (box 16.6).

The notion of school-based material was supported by a number of participants (for example, sub. 112; sub. 104, p. 52; sub. 94, p. 2 and sub. 51, p. 11). These classroom resources may allow children to become more critical consumers of gambling at a later age, and may also warn them of the risks associated with adolescent (illegal) gambling, which is widespread.

One potential drawback of educational material is that it could incidentally promote gambling among children. Indeed, in Victoria, curriculum materials were developed in 1995 for year 10 and 11 students by the Victoria Racing Club, although the materials were never actually used in classrooms (Jones 1998). As well, even if educational materials raise an awareness of risk, they may not (as in the case of teenage smoking) alter risky behaviour, which suggests longitudinal research into the long term effectiveness of these educational approaches.

Box 16.6 Curriculum development in responsible gambling in Queensland

The Queensland Responsible Gambling Advisory Committee and the Queensland School Curriculum Council developed materials for Queensland schools on responsible gambling, to be implemented across Queensland State schools in the second semester of 1999.

The materials comprise two modules:

- Gambling with health: building communication skills. This explores the nature of gambling, different attitudes to gambling, the possible consequences of gambling, and strategies students might develop to deal with problems. It also examines the sensitive issue of parental gambling, its impacts on families and methods of dealing with possible conflicts that may emerge.
- Gambling: minimising health risks. Students develop, test and implement a poster which addresses gambling related issues.

Source: Department of Families Youth and Community Care, Queensland (1998).

16.4 Advertising and promotion of gambling products

Advertising, promotion and marketing expenditures by gambling providers are high (table 16.5) and have increased significantly in the last few years.

Some jurisdictions restrict the promotion by venues of their gambling activity. For example, in the Northern Territory, poker machines must be advertised as *part* of the attraction of the venue, and not be singled out for individual promotion. But, overall, advertising and promotion is weakly controlled. As ACIL acknowledges on behalf of the industry (sub. 155, pp. 152–4) existing regulations are not very stringent.

Table 16.5 **Expenditure on advertising, promotion and marketing by Australian gambling providers^a**

<i>Type of expenditure</i>	<i>Casinos</i>	<i>Lotteries and other gambling</i>	<i>Total</i>
	\$m	\$m	\$m
<i>1994-95</i>			
Advertising	26.0	46.9	72.9
Marketing promotion and sponsorship	63.9	42.0	105.9
Total	89.9	88.9	178.8
<i>1995-96</i>			
Advertising	38.2	..	..
Marketing promotion and sponsorship	68.0	..	..
Total	106.2	..	..
<i>1996-97</i>			
Advertising	41.0	..	..
Marketing promotion and sponsorship	88.6	..	..
Total	129.6	..	..

^a The most recent edition of Cat. 8684.0 suggests that in 1997–98 combined advertising, marketing, promotion and sponsorship expenses were \$458.8 million for casinos, \$88.1 million for lotteries and \$26.6 million for gambling not elsewhere included. The figure for casinos is considerably at odds with past data.

Source: ABS (various years, Cat. nos. 8684.0 and 8683.0).

Typically, existing rules about advertising of any good or service are intended to ensure that material is acceptable to the community and does not prejudice the interests of consumers. The question is whether gambling is sufficiently different from other goods to warrant special treatment. Many participants considered that advertising of gambling reinforces people's false beliefs about gambling, or promotes and legitimises an activity which has significant social costs (box 16.7). Some other goods are accorded special status. The advertising of alcohol is restricted, while it is banned altogether for tobacco.

Box 16.7 **Gambling advertising: views of participants**

More generally, it is clear that advertising undertaken by the providers of gambling services seeks to encourage and promote the irresponsible attitude characteristic of heavy gamblers. The slogan used by Queensland PubTAB 'How do you expect to get rich if you just drink and watch TV?' is a striking, but not atypical example (Quiggin, sub. 149).

Currently, governments and the main industry players appear to be primarily concerned with attracting people to play at gambling venues by advertising them as a form of glamorous, safe and fun entertainment (Public Interest Advocacy Centre, sub. 174, p. 1).

In South Australia, at least, there has been an aggressive expansion of advertising ... for all forms of gambling in the past four years, particularly involving the TAB, the Lotteries Commission and the Adelaide Casino. The advertising invariably does not provide details of the odds of winning nor the potential harm from the risks involved (Xenophon, sub. 98, p. 5).

Anglicare SA believes that the gaming industry does not conduct its venues in a way which ensures that patrons are making a truly informed consent when they play. Advertisements are presented in a way which depict an unrealistic image of gambling outcomes, and this is reinforced by the actual gambling environments where time and effect are blurred and control of the experience is predominantly in the hands of the industry (sub. 110, p. 4).

Compounding all this, State and local governments who receive revenue from legalised gambling often are its promoters, both to bring gambling in and to sustain it. Governments get hooked. While States receive revenue from alcohol and tobacco sales, no government unit — to my knowledge — promotes alcohol and tobacco...But gambling is different. Billboards are erected in poor areas to promote the Illinois Lottery. 'This could be your ticket out' one proclaimed ... (United States Senator Paul Simon 1995, p. 11).

... government has an important role to play in setting limits on the promotion and advertising of gambling. For example, television advertising needs to be confined to adult viewing hours. Legislation should be enacted for all advertising to carry a warning of the negative effects of gambling (Salvation Army, sub. 35).

Far from being curbed, advertising of gambling in Australia is commonplace ... the slogan 'Everybody wins!' encourages people to disregard the odds and to disregard the cost of purchase ... Nearly everyone loses ... In Australia, the gambling industry can mislead gamblers in this way with apparently little or no control by the government authorities (Walker 1998b, pp. 27-8).

Essentially all advertising for gaming is misleading because it only shows people winning. That is not the experience of most people in gaming (Wendy Silver, Former chair of the WA Lotteries Commission, transcript).

Some overseas countries, such as the United Kingdom and the United States, have relatively tight controls on gambling advertising. The latter has a federal ban on promoting gambling on television and radio arguing that this provides some protection to compulsive gamblers. But the ban has many exceptions. It does not cover advertisements for casinos on Indian reservations, state-run lotteries or gambling sponsored by non-profit promoters working for charities. And thirty-

seven states plus the District of Columbia sponsor and advertise lotteries,¹⁹ while two-thirds of the states are home to Indian-owned casinos. Moreover, the US Supreme Court has recently ruled that the federal ban is unconstitutional (AGMMA, sub. D257, p. 17).

The question of whether harsher restrictions are appropriate in Australia depends on the extent to which any positive social benefits are outweighed by loss of information to consumers. ACIL (sub. 155, p. 154), on behalf of major gambling providers, argued that advertising can:

- provide valuable information to consumers about what different venues or products offer;
- inform consumers about the prices of goods on offer;
- establish brand names which people trust. This in turn may have advantages because the gambling providers will wish to protect their reputation, for example, through responsible gambling practices in their venues; and
- be used as a way of promoting responsible gambling.

In fact, current advertising does not appear to achieve most of these objectives.

Valuable information?

Very little rich information about gambling products is provided by existing advertising. Advertising tends instead to suggest that the product is exciting (as in promotion of casinos). This message is consistent with the idea that gambling is entertainment. But as noted by Walker (1998, p. 27) advertising which suggests the excitement 'never stops', ignores the fact that:

... for most of the time, poker machine players look bored; the excitement accompanies a big payout. For most of the players, the payouts will be temporary gains only and the lasting impression will be sour not sweet. To be places of excitement that never stop and fun all day long, the payouts must be frequent and the players must be winners. But the big payouts are rare; the majority will lose, and the suggestion that it is otherwise is false.

Or advertising may exaggerate the opportunity for winning (as in promotion of lotteries and poker machines). For example, the Commission has calculated that the odds of winning overall on poker machines for a regular gambler over a year are

¹⁹ The Congressional Commission examining gambling in the United States has indicated the possibility of codes of conduct for advertising of State lotteries (www.mediaweek.com/daily/March/aw/aw031999-62.asp (accessed on 25 May 1999)).

effectively zero.²⁰ Regular playing of poker machines may be very entertaining, but it is not a winning strategy, and arguably should not be presented as one.

Information about the odds?

Very little mass media gambling advertising provides information on the odds (or what they mean) to consumers. Of course, the fact that gambling advertising provides little information about prices in the current environment may partly reflect the pervasive influence of exclusivity arrangements in some gambling forms.²¹

Establish reputations?

This may be true for the promotion by a casino, TAB or lottery which are large multi-million dollar businesses, but it is not clear that brands are established for the multitude of small businesses, such as hotels and small clubs, which promote poker machines.

Does advertising promote responsible gambling?

In fact, very little advertising appears to promote risk-reducing consumption of gambling. In any case, any restrictions on advertising could obviously exempt advertising that was genuinely aiming to ensure more responsible gambling.

*What **does** advertising do?*

It seems likely that one of the major roles of advertising is to increase demand for gambling and to alter people's preferences so that they see gambling as an exciting activity. ACIL denied that advertising increases demand, but rather affects the distribution of sales between competitors. However, many gambling products are supplied by an exclusive supplier (casinos and lotteries) in a given jurisdiction, and have low degrees of substitution with other gambling forms. In this context, if advertising and marketing did not increase demand it is hard to understand why these businesses would make these expenditures. In any case, the notion that advertising and promotion may influence demand and preferences is not necessarily

²⁰ A simulation of a poker machine revealed that if ten thousand people gambled for 104 sessions a year, playing three lines per button push and stopping after one hour of gambling in each session, none would be expected to be ahead in that year.

²¹ On the other hand, the market for poker machines is very competitive and yet little price information is provided by competing venues.

a problem. Arguably most preferences are constructed by a myriad of social processes, of which advertising is just one source. If someone feels better off as a result of preferences influenced by advertising, they still feel better off.

It would be of more concern if advertising and promotion were to mislead consumers. Existing codes of advertising allow firms to exaggerate so long as the exaggeration is so self-evident that it is unlikely to mislead,²² but otherwise have provision for controlling misleading or deceptive advertising. The Commission is not aware of successful cases against major gambling providers in respect of their advertising, but this may reflect the difficulty in substantiating what constitutes deception. For example, most people may know that the chance of winning a lottery is remote — even if they do not understand how remote it really is — and wish to engage in the pleasant fantasy that winning is a genuine possibility. Advertisements which indicate that a particular form of lottery makes some people into millionaires is truthful, but may well be misinterpreted by people in a way that suggests the odds are better than they are. The advertising is not deceptive, but the information may well be misinterpreted by many. **The Commission considers that there are grounds for tighter controls on gambling advertising, where it is felt that the information provided by a gambling supplier would have the effect of reinforcing inherently false beliefs about the odds of winning or about the way gambling technologies work.**

Some providers have already agreed to a voluntary code of conduct, such as the Australian Lottery Industry Code of Practice,²³ which includes a commitment not to give a false impression of winning a prize and notification of odds to players. However, some participants were sceptical of such voluntary codes, and indicated the need for an industry-wide code. For example, Relationships Australia (SA) (sub. 118) recommended a legislatively prescribed code of practice for all gambling forms, which among other aspects, would clearly disclose the odds of winning.

The Commission is of the view that, notwithstanding existing general consumer protection measures, there are grounds for legislatively based codes specific to gambling. These should ensure that gambling advertising and promotion (across all modes of gambling) does not:

- give the impression that gambling is a reasonable strategy for financial betterment;
- target disadvantaged groups in a way that is calculated to increase their participation because of their desperate financial circumstances;

²² Each state has legal provisions dealing with advertising standards — generally derived from the Commonwealth Trade Practices Act (<http://www.consumer.qld.gov.au/gbguide/advertising.htm>).

²³ NSW Lotteries, *1997–98 Annual Report*, p. 5.

-
- lead to a false understanding of how gambling technology works (such as implying that skill matters to a game which is purely driven by luck;
 - encourage people to gamble in a way that is irresponsible, such as drinking and gambling, staying for long periods in a venue in order to be able to be eligible for an attendance prize or other inducements (sub. 46, pp. 13, 15; sub. 97; sub. 98; ACT transcript, p. 692 and box 16.8), or manipulating people to play repetitively (for example, ‘remember to put your entry in because your numbers may come up’); or
 - target *high risk* groups of gamblers, for example, through complimentaries or individual promotions.

Box 16.8 Inducements

F was a patron of a Sydney hotel. Over the course of 18 months he lost \$300 000 gambling on the hotel's poker machines. One factor in his gambling was the provision of free alcoholic beverages by the hotel while he was gambling on the machines, which impaired his judgment (sub. 46, p. 15).

After a while the club would always give me free drinks ... I would begin by betting \$20, then double it to \$40, then \$80 and so on. The more I drank, the more I bet, and as the drinks were free, I simply kept on drinking. I would bet as much as \$5 000 on a single Keno game (sub. 46, p. 15).

There are also grounds, given its public health nature, for all gambling advertising to incorporate a risk warning about the product (using an appropriate slogan).

Moreover, the grounds for stricter controls on gambling advertising appear to be stronger than on other goods because consumers may have persistent misperceptions even after regular consumption of the good. If a hamburger business describes their product falsely as ‘tasty’ it can fool at best a given consumer just once. However, a false view of odds can persist because of the probabilistic nature of the games played. A lottery player with a misunderstanding of the odds might never be able to correct this misunderstanding through personal experience.

The stricter control of gambling promotion and advertising would accord with the special treatment provided to alcohol and tobacco products where social harms from excessive consumption are also prominent. Any provisions should be administered by the appropriate gambling regulator in each jurisdiction, but there should be an attempt to establish a consensus about appropriate advertising and promotional standards.

16.5 Controlling the gambling environment

Measures which try to increase the flows of useful information to consumers, as above, would represent ‘light-handed’ interventions by government. These take as given the nature of the gambling environment, and provide consumers with some tools for safer consumption. There are, on the other hand, a range of stronger interventions which are either in existence, or have been proposed, to deal with gambling risks:

- attempts to control accessibility through venue and global caps are key features of the current regulatory environment, and were analysed in chapter 15. But other features of accessibility, such as opening hours, frequency of gambling events, and entry conditions are typically not subject to government control (as they are in a number of other international jurisdictions);
- the environment of venues could be subject to greater control, through restricting access to credit, mandating staff training in awareness of problem gambling, ensuring access to natural light and clocks, restrictions on the serving of alcohol to gamblers, and stricter policing of access to minors; and
- gambling forms could be subject to design modifications, such as changes in the payouts, the duration between button pushes on gaming machines, the frequency of races, and enforced breaks.

Generally, gambling providers were antagonistic to the notion of further interventions aimed at controlling the gambling environment to make it safer, whereas those who deal with problem gamblers and their families wished to have far stronger controls.

ACIL, representing some key members of the industry, warned that measures aimed at helping problem gamblers or reducing risks could lead to perverse offsetting responses by problem gamblers:

For example, we note that in 1995/96, Victoria allocated \$2.5 million over three years from the Community Support fund in support of a community education strategy which included a media component said to be accessible to all Victorians. This... could be interpreted as an invitation to at-risk gamblers to throw caution to the wind and to the spouses and friends of at-risk gamblers to wait for outside counsellors to do what they themselves would otherwise have done. ... Another displacement possibility is that discouraging or barring allegedly problem gamblers from gambling could cause them to substitute some other risky activity which is more expensive and more damaging (sub. 155, p. 98).

These particular examples may be far-fetched, but the conceptual point that measures intended to help problem gamblers might inadvertently worsen the

problem is a key insight that needs to be considered when looking at harm minimisation.

A possible alternative to prescriptive measures which try to minimise harm is the clear identification of responsibilities by patrons and gambling providers. In theory, clarifying legal responsibilities can create the incentives for appropriate care, while allowing creativity an innovation in the methods by which that care is achieved. Accordingly, section 16.6 examines whether a duty of care (either defined under common law or more clearly specified by statute) is likely to be enough to protect consumers. Then in sections 16.7 to 16.9, the pros and cons of more prescriptive measures are assessed.

Should harm minimisation measures be applied to non-gaming venues?

Participants in the inquiry mainly directed their comments on harm minimisation at gaming machines and casino games. This reflects the rapid change in the accessibility of these forms of gambling and the fact that they are now collectively the prime source of gambling problems (chapter 6 and 17). But traditional forms of gambling that are also associated with problem gambling, particularly wagering, should not be neglected. As noted by the Australian Hotels Association:

Wagering is a very accessible form of gambling. The introduction of pay TV in people's homes has meant that wagering is more visible and easily accessed. Additionally, a continuous service is offered through wagering networks... Responsible gambling brochures, self-exclusion information and promotion of gambling help lines displayed and promoted in both physical wagering outlets and through the TV and radio (specific wagering channels) may be a way of ensuring a greater awareness among wagering problem gamblers of the services available (sub. D231, p. 68).

The Commission considers that there are strong grounds, where it is cost effective and technically feasible, for harm minimisation measures also to apply to all forms of gambling that are significant sources of problems, including wagering.

The Commission also notes that the harm minimisation measures used need to take account of the context in which gambling takes place. Thus, signs are useful in physical venues, but risk warnings and help screens are appropriate for internet and TV gambling technologies.

16.6 Do venues have the right incentives to protect their patrons?

Do they have standard commercial incentives to look after their customers?

ACIL, in its submission on behalf of major gambling providers, considered that venues already had good commercial incentives to protect their customers, in the sense that poor product quality, customer service or safety loses long run custom:

Indeed we would venture that the private sector providers' commercial incentives align almost precisely with those of the interests of their customers and offer the community the greatest safeguard against problem gambling of all...Client care remains a frontier of intense competition amongst rival firms in the gambling industry and this is a plus for consumers (sub. 155, pp. 104–5).

This argument has some flaws because venues have mixed incentives. Would it pay for a gambling venue to minimise the risks of problem gambling or to turn away at-risk gamblers?:

- Problem gamblers can be a very good source of revenue to a venue because their playing intensity is so great (chapter 7), and yet, unlike people who have excessively consumed alcohol, they are rarely highly visible or disturb other patrons (Anglicare SA, sub. 110, p. 4).
- The other view put by some gambling providers was that problem gamblers tended to spend a large amount over a short period, but then gave up gambling after 'treatment', so that it was more profitable for venues to encourage lifetime responsible gambling. If true, this might provide a commercial incentive for venues to control problem gambling. However, as shown in chapters 6 and 7, problem gambling tends to be enduring, many severe problem gamblers spend more in a year than many recreational gamblers do in a lifetime, and in any case, many problem gamblers aim to control, rather than give up their gambling after receiving counselling help.²⁴

The Commission considers that it is far from clear that venues have strong commercial incentives to avoid problem gambling. As McMillen has noted:

In many respects, the profit objectives of industry are in fundamental conflict with aspects of social policy. Ultimately, only governments have the capacity, authority and

²⁴ The Commission's *Survey of Clients of Counselling Agencies* suggested that 28.2 per cent of problem gamblers wished to control rather than stop their gambling. A further 8.6 per cent were undecided.

responsibility to develop informed policies which give paramount importance to agreed notions of the public interest (1996b, p. 68).

These points suggest that many gambling venues are unlikely to voluntarily take active measures to reduce risks or to withdraw gambling services from patrons whose pattern of consumption appears excessive.

Ethical incentives?

Venue operators, like other people in the community, are not only driven by commercial imperatives. From an ethical perspective, it appears likely that most venue proprietors would not want problem gamblers on their premises or to create an environment that is risky to their patrons. Deakin Human Services et al. (DHS 1997) found proprietors and venue staff had genuine concerns for their customers:

We know this one man was spending too much so we put a limit on him. We won't give him any extra cash. He can only play with what he comes in with in his pockets (p. 95).

We chat to the people so they don't press the button too quickly (p. 174).

I think our venue has done a lot of good for the community, but gaming in general, well it's caused a lot of problems for families. And that might not necessarily mean that they may have a huge gambling problem, but the extra things they may have given their families may now be going to venues like ours. At least at our venue we give it back. I guess there are problems that have always been with society, and I guess we're helping to take people's money away, and that's sad, but would it go somewhere else? (p. 175).

We had one lady who collapsed because she'd been on the machines for 8 hours without getting up and having a drink or something to eat. We had to call an ambulance and now when she's in we keep an eye on her and offer her coffee (p. 217).

Our age group is 45 to 50s plus because we're that type of atmosphere...some people are lonely and depressed and we provide a real social outlet for them. Some people sit on our machines all day and enjoy the tea and coffee and the service (p. 261).

On the other hand, from a commercial perspective they find it expedient not to think too closely about highly profitable customers who might be exhibiting the signs of problem gambling. Indeed, during a visit to a New South Wales club the Commission was told that following the installation of gaming machines in a nearby hotel they had lost a very good patron who spent thousands. When asked whether this person may have been a problem gambler, the proprietor said that he had not considered this issue, but admitted he might have been. The incentives not to identify or constrain problem gambling may arguably be greater in Victoria, where venues are required to achieve minimum rates of return in order to retain their machines.

Overall, it appears unlikely that the genuine ethical concerns that proprietors and venue staff may have over facets of problem gambling are likely to encourage systematic harm minimisation practices, especially given that each operator rationalises that any action taken alone may simply prompt the problem gambler to move on to another venue.

Can a duty of care create the right incentives for harm reduction?

The common law duty of care

The threat of legal action (under common law) by problem gamblers against venues which fail to ensure a sufficiently safe environment for gambling provides, in theory, incentives for venues to act responsibly. In general terms, under the common law a gambling venue has a duty of care to avoid foreseeable harm. If it provides inducements to gamble, serves alcohol to a gambler who has already consumed too much, or provides cash advances to gamble, then that might constitute a breach (Stoljar 1999). To be found negligent, the venue would have to fail to act in the way that a reasonable person would. The court could then award damages upon proof of adverse impacts.

Unlike prescriptive regulations the common law duty of care allows venues:

- to act flexibly to the risks that are peculiar to its clientele and nature. A small sporting club with a single poker machine that is infrequently used will appropriately invest much less into a program of harm minimisation than a casino.
- to balance the costs of harm reduction measures against their benefits. Prescriptive measures, on the other hand, could be introduced with costs considerably in excess of the benefits;
- to decide how to effectively implement a program of harm reduction. Prescriptive measures may be followed mechanistically, and miss important details that contribute to effectiveness; and
- to seek innovative or lower cost solutions to harm reduction.

On the other hand, legal redress may be an inadequate and expensive way of creating incentives for harm minimisation if it is hard to prove causal connections, there are malicious claims that succeed because of imperfections in legal processes or if there is an insufficient number of legal precedents. It is clear, for example, that legal approaches to problems related to tobacco consumption have considerably lagged strong evidence on its adverse health impacts.

As well, while monetary damages awarded to a problem gambler provide disincentives to irresponsible venues, they may not be easy to enumerate or appropriate for the problem gambler:

If we can establish breach of duty of care, then the thorny question of compensation remains. What compensation should a court award to a problem gambler who got drunk on free drinks and lost all his money? All his money back again? How do we prove how much he lost? The gambling provider didn't keep any records and neither did the gambler. Even if we can prove how much he lost and get it all back to the gambler, we may simply be enabling him to go and gamble it all again. We can't force him to pay his bills or use the money to support his family (Wesley Community Legal service, sub. D215, p. 4).

There have been a number of legal cases regarding problem gambling (box 16.9). However, the Commission does not consider that litigation will, in the near future, provide a sufficient basis for a non-regulated approach to harm minimisation. On the other hand, better specification of a duty of care (outside its more narrow common law basis) may remedy some of the deficiencies of a litigation based system — and is examined next.

Specifying a duty of care and voluntary versus mandatory codes of practice

The common law duty of care is relatively narrow and vague. One elaboration of the principle of creating legal incentives for care by gambling providers is to specify in statute a duty of care by gambling providers that they take all reasonable and practical steps to protect their customers from gambling problems (IC 1998 pp. 133ff). The difference between this and the common law duty of care is that it specifies that venues have some responsibilities to reduce the potential risks relating to problem gambling, whereas under the common law the presumption that they have any responsibility in this area would itself be under contest.

Such a statutorily defined duty of care may create incentives for a gambling provider to:

- train staff about problem gambling and its detection;
- provide signage about risks of problem gambling;
- referral to problem gambling services;
- care to avoid inducement or serving excessive amounts of alcohol to gambling patrons; and
- other harm minimisation measures (including location of ATMs, buying 'safe' machines and appropriate advertising).

Box 16.9 Legal cases against venues

Xenophon said that:

There is yet to have been a prosecution in terms of provision of credit, when I know from direct contact with people who have been given credit and from gambling counsellors, that in recent years since the introduction of gaming machines, the provision of credit — which carries a 2-year gaol term — is something that has been quite widespread, and I think that there are some real evidentiary difficulties and structural difficulties in the legislation in terms of enforcing that ...

... what you really need to put a rocket under the industry is to have a couple of prosecutions where publicans lose their licence for providing credit, given the public policy criteria behind it, [and] that this exacerbates problem gambling (transcript, p. 744).

Star City said that:

A number of test cases are currently before the courts involving people taking action against gaming operators after sustaining significant losses. These cases pose a significant risk to the gaming industry. Clearly, any operator who acts irresponsibly by illegally providing credit to a patron should be liable to civil action. However, Star City believes that gaming operators who abide by the law should not be held responsible for losses or bankruptcies sustained by players. This could open the door for action by anyone who overspends or over-commits themselves in the purchase of any goods and services. Gaming operators rarely know about the financial affairs of their customers so it is unrealistic to expect them to intervene and prevent people from betting. They do, however, have a responsibility to assist those who are known to have a gambling problem (sub. 33, p. 20).

In some cases, credit card companies have been sued for recovery of amounts lost by gamblers who have used cash advances from credit cards for gambling. For example, in 1998 a problem gambler sought damages from a credit card company and a New South Wales hotel for provision of credit for gambling (information provided by Wesley Community Legal Service).

Wesley Community Legal Service, in responding to the draft report said:

We are representing a number of problem gamblers in common-law type cases against gambling institutions ... It would be true to say that while these cases are useful from the point of view of testing the effectiveness of the law, they are an inefficient way of assisting problem gamblers. We would prefer to see the establishment of a fair but firm regulatory regime that picks up and prosecutes the few gambling providers who fail to meet the minimum criteria. Ideally, such a regime would be established cooperatively between government, industry and consumer representatives (sub. D215, p. 4).

The Public Interest Advocacy Centre noted:

... we want to highlight the fact that it's a very difficult, complex and expensive process and we don't necessarily see litigation as the answer ... It seems unlikely that litigation is going to be the route through which clear law is going to be established that addresses ...the... standards that have to be set in relation to service provision in the industry. Given the current rate, it would take an awfully long time before there are sufficient cases determined by the courts for the courts to ...consider how to balance the rights and responsibilities of both the clubs and the patrons ... we would see that another mechanism which would actually address consumers' losses or consumers' problems would be effective ... So that if there are enforceable codes, enforceable standards... then there is perhaps a general push for better standards throughout the industry ... (transcript, p. 1477).

The theoretical advantage of specifying a duty of care is that, other than describing some obligations, it does not need to specify the means by which any given venue deals with its clients. Any industry code of practice could be varied over time, and venues could find for themselves cost effective mechanisms to achieve reasonable and practical standards of care. Standards would vary according to the nature of the gambling environment. It is also possible that insurance markets might develop to deal with compensation risks faced by venues. Insurers would tend to monitor patron risks when determining premiums for individual venues. Insurers may also develop their own measures for reducing risks.

A typical feature of this type of regulatory system is that providers develop *voluntary* codes of practice for patron care — and in this sense it follows the self-regulatory model. Different providers develop different codes, and as they learn more about the risks their clients face and the costs of measures to abate those risks, they have incentives to develop better codes. The statutory duty of care may also make explicit references to such industry codes of practice, which, if observed by a venue, are sufficient to protect a venue from prosecution or litigation.

Reflecting a mix of public relations²⁵, ethical and (common law) legal concerns, many gambling providers have already developed codes of practice — and these would likely be improved were venue obligations of care to be further specified. Existing codes emphasise appropriate advertising, signage and pamphlets about the risks of problem gambling and the availability of help services, the training of staff to deal with upset patrons who openly exhibit their distress about gambling, and the responsible serving of alcohol to gambling patrons. Of these measures, *BetSafe*, an initiative of a number of large New South Wales clubs, represents the most thorough and coherent approach of its kind (box 16.10). But other venues have also developed comprehensive manuals and protocols for dealing with problem gamblers. Victorian hotels, for example, have a range of procedures in place:

There are all embracing Codes of Practice, an Independent Complaint Resolution Process — which includes final adjudication by an independent person appointed by either the Law or Arbitrators Institutes and support both a strict advertising code and a Self-Exclusion Program. These initiatives are meaningful, effective and have the full support and input from ...all sections of the industry. They have been in operation since February 1997... Under the codes, information about gaming, risks of problem gambling, problem gambling counselling facilities and self-exclusion arrangements are promoted in all venues. Our advertising code of ethics addresses responsible advertising and, under our code, ATMs are not permitted in gaming rooms and credit may not be extended (Australian Hotels Association, Victoria, sub. D237, p. 6).

²⁵ For example, the Victorian Gaming Machine Industry Code of Practice incorporates an accord between industry partners to ‘enhance the public image of the gaming machine industry’.

Venues in other jurisdictions have undertaken similar measures, though with difference in the detail (for example, South Australian clubs and hotels have instituted Guidelines for the Responsible provision of Gaming Machine Services).

Such voluntary codes of conduct for responsible gambling may play an important role in reducing the hazards of gambling in the venues which implement them seriously.

Box 16.10 *BetSafe*

BetSafe is a responsible service of gambling program put in place by a group of 11 New South Wales Registered Clubs. The initiative includes:

- developing brochures and signs promoting responsible serving of gambling and alcohol and information pamphlets on problem gambling and drinking
- developing a comprehensive policies and procedures manual, so that staff know what to do in order to reduce patron risks;
- third party complaints procedure;
- setting exclusion policies, including self-exclusion;
- comprehensive training of all staff twice yearly in dealing with problem gamblers;
- counselling of staff (a high risk group) for alcohol and gambling problems;
- guidelines for appropriate advertising and promotion of gambling; and
- a 24 hour counselling service available to club patrons.

In the first 9 months of operation, the *BetSafe* program:

- delivered training on responsible service of gambling to 1 045 staff. The program evaluated aspects of staff's ability to deal with problem gambling. For example, on a Likert scale from 1 to 10, prior to training staff had a rating of 6.5, 5.5, 7, and 5 respectively for knowledge of problem gambling, knowledge of the self-exclusion procedure, knowledge of problem gambler characteristics and ability to offer assistance. After training the scores were never under 9.
- conducted 216 counselling sessions for *BetSafe* Club patrons; and
- arranged 31 self-exclusions.

Source: Information provided by *BetSafe*.

There is some evidence that current venue practices assist problem gamblers:

- 19.8 per cent of problem gamblers who seek help for their problems found about help services from signs at a gambling venue;
- 13.6 per cent found out about these services from venue pamphlets, although

-
- only 1.5 per cent of problem gamblers who sought help turned to venue staff for any assistance.²⁶

There is also some evidence that the counselling services offered as part of these programs reaches a significant number of those who are ready to receive it. For example, *BetSafe*, covers around 400 000 patrons. Supposing that 0.5 per cent²⁷ of these were experiencing very *severe* problems relating to their gambling, then this represents 2 000 patrons, of which 216 (or about 11 per cent) have so far been assisted by the program. Since some others may have sought help elsewhere, the program, has the potential over a number of years, and with growing consumer recognition (sub. D250), to help a significant proportion of those who are willing to be helped. On the other hand, what a program like this cannot do so readily is to prevent people from developing the problems, and to cater for those with problems which are not yet severe. But other harm minimisation measures, in concert, may have this effect.

Not all industry representatives considered the *BetSafe* program appropriate. The Australian Hotels Association (Victoria) was concerned about its cost compared with the code of practice in place in Victoria. More particularly, they were concerned about the legal implications of defining venue responsibilities this way:

...we believe that the *BetSafe* program is dangerously interventionist, and places our venue and staff at a risk of duty of care well beyond that which would reasonably be expected (sub. D237, p. 4).

On the other hand, it could also be argued that as case law and heightened court awareness develops in this area, those venues that do not establish relatively formal measures to protect their customers are more legally exposed than those who apply less formal processes.

Some participants have criticised existing codes of practice. As noted by the Public Interest Advocacy Centre (sub. 174, p. 5):

... whilst mainstream gambling outlets may be happy to set and meet reasonable standards, the quality of a voluntary code is set by the more reluctant members of the industry. The result is a product of the lowest common denominator. The gambling sector is characterised by an enormous range in the size, professionalism and ethical commitment of the service providers... It is not an industry where all providers have a commitment to developing best practice. Nor are all providers amenable to positive influence from industry associations. It is therefore unsuited to voluntary regulation... Those who are the source of the problems would not comply with a

²⁶ These estimates are from the Commission's *Survey of Clients of Counselling Agencies*.

²⁷ And since this is a poker machine gambling group, not just a random slice of the adult population, it would be expected to be greater than this.

voluntary code. If a mandatory code were to be introduced, it would not only increase the protection available to people who choose to gamble, but also improve the image and public perception of the industry.

A particular concern is that venues which do not act responsibly by not deterring problem gambling may grow relative to those who do, simply because of the large expenditure share accounted for by problem gamblers. For example, the *BetSafe* Group of Clubs (sub. 250) that ‘having a non-*BetSafe* irresponsible venue down the road is a problem for consumer protection’.

McMillen and Toms (1999) assessed the Responsible Gambling Trial Program for New South Wales Registered Clubs. They found it had clearly had beneficial impacts on harm minimisation. However, they found differential acceptance and implementation of the principles:

A small number (mainly large clubs which implemented a range of core and optimal strategies) could be seen to be acting with ‘enlightened self-interest’. A minority of clubs can be categorised as ‘good corporate citizens’. The majority of clubs implemented a limited number of suggested program strategies and can be considered to achieve minimum compliance. A small number of clubs (2) in the trial did not achieve acceptable minimum standards of compliance ... Self-exclusion was supported in principle by most but rarely implemented (p. vi).

So, it appears that codes of practice, while useful, have been differentially implemented. The Australian Institute for Gambling Research (AIGR), drawing on the above evaluation and analysis of existing responsible gambling programs in Australia and overseas, concludes that:

Self-regulation is not adequate for an effective responsible gambling policy (sub. D216, p. 14).

In theory, if voluntary codes were *accompanied by a statutory duty of care of venues to patrons in relation to their gambling*, those venues which did not adhere to, or develop reasonable practices would be vulnerable to prosecution. This might place pressure on venues to lift their performance.

But the question arises as to whether, by itself, introducing a statutory duty of care — and then leaving the detailed approach to patron care as part of a self-regulatory model — would be sufficient. In some industries this approach appears to work well. For example, railway services in Canada allow for self-regulation of safety (Bickerdyke and Lattimore 1997, p. 50), and this appears to have worked because safety breaches are transparent, fault is relatively easy to determine and the large companies concerned are mindful of the impacts of safety breaches on their exposure to legal risks and loss of reputation. Establishing a duty of care could, in theory, internalise gambling costs, but only if it is relatively easy and cheap to

verify fault. However, in a gambling context, enforcement of a duty of care may be difficult:

- venues may argue that the gambler had developed problems or spent money in other gambling venues;
- they may point to a suite of (in fact, token) harm minimisation measures whose genuine effectiveness is hard to monitor ex post by courts or regulators;
- they may point to the difficulty in determining who is a problem gambler and therefore question the reasonableness of any active measures by venues to control problem gamblers; and
- some venues will argue, as has ACIL in its submission on behalf of major gambling providers, that any given instance of patron harm represents a pre-existing personality disorder, which is not determined by the environment of the venue but by the psychological make-up of the gambler.

On these grounds, it appears that there is a case for more prescriptive and mandatory regulations rather than voluntary codes of practices (whether embraced as part of a statutory duty of care or not), as proposed by some counselling agencies (eg Lifeline Canberra, sub. 96).

The next three sections explore some of the possible prescriptive elements that might be included in a regulatory approach to harm minimisation, and which are, in part, already featuring in New South Wales legislation (box 16.11).

16.7 Controlling accessibility

Opening hours

A recent trend in most jurisdictions has been an expansion in the opening hours of a number of gambling establishments. It has become more common for gambling establishments to open 24 hours a day each day of the week.²⁸

²⁸ But hotels and clubs in South Australia must have a mandatory 6 hour break each day, and in any event gaming cannot take place outside the hours the venue is allowed to supply liquor.

Box 16.11 New South Wales legislation on responsible gambling

The New South Wales Government has put forward a package of measures to address problem gambling in New South Wales. The three key regulatory elements of the package are:

1. the *Gambling Legislation Amendment (Responsible Gambling) Act 1999*.
2. subordinate regulations:
 - *Liquor Amendment (Responsible Gambling) Regulation 1999*;
 - *Registered Clubs Amendment (Responsible Gambling) Regulation 1999*; and
 - *Casino Control Amendment (Responsible Gambling) Regulation 1999*.
3. a review of gaming machine technical standards.

The first of these, the *Gambling Legislation Amendment (Responsible Gambling) Act 1999*, was passed by the New South Wales Parliament in October 1999 and received assent on 2 November 1999.

The main purposes of the Act are to further provide for the responsible conduct of gambling and to minimise the harm associated with the misuse and abuse of gambling activities.

Among other measures, the Act:

- provides that the responsible conduct of gambling at licensed premises and clubs are objectives of the laws governing these venues;
- provides for the approval of poker machines and amusement devices that are operated by cards instead of cash and enables the making of regulations with respect to the use of such cards;
- enables the making of regulations imposing further controls over the provision of credit for gambling, and advertising, promotions, signs and notices associated with gambling;
- further restricts minors from organising or participating in gambling activities;
- promotes arrangements by which people who misuse and abuse gambling activities can exclude themselves from hotels or registered clubs;
- allows court ordered participation in gambling counselling for people who breach an order excluding them from the casino; and
- enables a court to require corrective advertising to be published, or training in the responsible conduct of gambling activities to be undertaken, as a penalty for breach of regulations dealing with advertising relating to gambling activities.

Source: NSW Department of Racing and Gaming, Sydney, pers. comm., 25 November 1999.

Increased opening hours are likely to lead to longer duration of play and greater expenditure by problem gamblers. This is because it removes a possible control mechanism for excessive gambling for people with incipient or current problems,

who might otherwise have timed their gambling just prior to a venue closing.²⁹ Some participants suggested shorter opening hours (for example, sub. 94, p. 2). In some other countries, accessibility to gambling is considerably tighter than in Australia.

Even so, restrictions on opening time would probably have few significant positive social effects, unless made draconian by current standards. Most problem gamblers do not gamble every day of the week, nor for extremely long hours. Controlling hours of opening — say to 6 days a week for 18 hours a day — would probably lead to some minor re-arrangement of the scheduling of gambling, without significant cuts in expenditure or total time played. Problem gamblers are more likely to still play, even at a marginally more inconvenient time, because they are unresponsive to price (either in a dollar form or as an intangible cost). Recreational gamblers, on the other hand, would have their recreational options circumscribed.

What would be the effects of quantity restrictions on other forms of gambling?

Poker machines, as a relatively new mass form of gambling, are subject to sometimes complex capping arrangements, while other mature gambling forms are not. This probably reflects a desire by governments and communities to temper adverse social impacts by a somewhat cautious process of liberalisation.

However, while there appears to be less concern about longer established forms of gambling, like lotteries and racing, these gambling forms have also been transformed technologically:

- races are much more frequent (sub. 104, p. 6). In the past, race meetings were relatively infrequent — mainly on a Saturday. Races are now run on a daily basis. In New South Wales, 3 146 race meetings were held in 1996-97 (DGR 1998a, p. 113). People can now also bet on races held throughout Australia (and even overseas) via the phone or internet; and
- there are more lottery products, such as scratchies, and more frequent draws.

The changing nature of these mature products suggests that governments and communities should use a common framework across gambling modes for assessing and reducing the social risks of gambling, of which quantity restrictions are just one *possible* tool. Thus, while none are currently in place, there are a number of options for introducing quantity constraints akin to those applying to poker machines.

²⁹ Data from the Nova Scotia survey of problem gamblers suggest that venue closure was a reason why gamblers stopped gambling, when they might otherwise have continued.

The basis for restrictions on conventional lottery outlets appear slight as this form of gambling has few serious adverse social impacts. However, there may be grounds for controlling the accessibility of high frequency, low payoff lotteries or similar games, such as Keno. This is because an increased frequency of playing, combined with any shift in the payout distribution away from a few large prizes to many smaller ones, may initiate some of the sequences of problem gambling — such as chasing losses. Notably, in the UK the Government has moved to restrict the frequency of on-line lottery draws to no more than one a day.³⁰

Alongside poker machines, wagering represents the biggest source of problem gambling (chapter 6). Yet wagering is subject to few controls intended to remedy these risks, nor are the panoply of possible control mechanisms for poker machines technically possible for racing. This raises the question of whether any controls on the accessibility of racing may be effective in reducing problem gambling?

While TAB outlets could be capped, this would probably have almost no impact since punters can make a phone bet. However, restrictions on the number of races might have a bigger effect and have been advocated by some leading racing figures. For example, leading trainer, Bart Cummings, is quoted as saying:

There seems to be a competition going on to see who can run the most race meetings to bet on. The industry will self-destruct the way it's heading. The whole of Australia is becoming like Las Vegas ... Here gambling is king. It's a sad state of affairs. (*Daily Telegraph*, 3 June 1999, p. 66).

The impacts of restrictions on the frequency of races would have different effects to those applying to poker machines:

- since one person experiencing and betting on a race does not deny anyone else that experience³¹, there would be no increase in the price of betting or congestion effects;
- the quality of races would tend to rise, because the racing industry could choose from the same pool of talent for a more limited set of races;
- it would tend to re-emphasise the importance of skill in making bets — punters would tend to pay closer attention to the 'form' since they would have the time to do so;
- reducing the frequency of races, would provide a natural break for those with, or developing, gambling problems to change their mind about chasing losses. It

³⁰ The measure was proposed 'to discourage socially damaging excesses and to protect the vulnerable' (Home Office 1998b, p. 2).

³¹ That is, races are non-rivalrous in consumption.

would also increase the ‘window’ of time in which they have to control their impulse to gamble.

On the other hand, such a measure may have some undesirable side-effects or could be circumscribed by many punters:

- it would have adverse impacts on some punters who enjoyed more regular playing;
- it would generate some short term adjustment costs for the racing industry which is geared to the current arrangements;
- it is possible that race betting would migrate overseas with international phone or internet betting. For similar reasons, any proposal to limit the number of races would probably require interstate cooperation; and
- some punters may switch to other sports events, which by their diverse nature and different purposes, could not have their frequency controlled.

These disadvantages, combined with the likelihood that sports betting will at some point overtake racing as a wagering form, suggest that stringent controls on racing frequency are probably not an attractive option for harm minimisation.

Under age gambling

Most state and territory governments regulate the age at which people can legally gamble, thus limiting the accessibility of minors to gambling. The restrictions — which are not contested by the gambling industry — are presumably intended to reduce the social impacts of gambling, and presuppose some level of hazard associated with playing, such as a reduced ability to make responsible judgments and a heightened risk of problem gambling for the young. It does appear that young people are more vulnerable to problem gambling than older ones (Shaffer et al. 1997), so that the bar on access to minors probably has a significant positive impact in reducing problem gambling among this group.

Even so, as indicated in chapter 6, many minors do in fact gamble, and overseas research suggest that notwithstanding its illegality, a significant share experience problems associated with their gambling. Some counselling agencies report that problem gamblers often had their first experience of gambling well below the minimum age at which gambling becomes legal. Griffiths (1998) in the UK has suggested that parents often act as proxies for their children when purchasing gambling products (eg lotteries and wagering). And informal gambling, which is outside the control of any gambling supplier is also a common feature of youth gambling. Moore and Ohtsuka (1997) found that Australian minors tended to play

gambling forms that are hard to detect, such as bingo, pool, card or similar games for money, rather than wagering, table games or gaming machines in gambling venues. A 1996 study from the University of Western Sydney (Jones 1998) found that about 60 per cent of teenagers from Western Sydney gambled at least sometimes. Gora (1998) summarising Australian research, indicates that betting on the outcomes of video arcade games is the most common form of teenage gambling, followed by pool and snooker games and scratch cards.

Some submissions noted violations of the law by gambling venues relating to minors:

Festival of Light has received several reports of minors aged 13-15 buying scratch lottery tickets or gambling on poker machines in hotels, without being asked for proof of age....current lottery and gaming laws and regulations relating to protection of minors are inadequate. Even the adequate sections are neither widely known (even by government officials), nor policed (sub. 107, pp. 3-4).

It is clearly important that existing statutes regarding gambling by minors in gambling venues be policed effectively by venues (including newsagents selling scratch lottery tickets), with appropriate penalties for non-compliance. Regulatory agencies should adopt a risk-management approach, targeting venues where complaints about access by minors have been lodged. However, it appears that most youth gambling takes place in contexts where legal sanctions would be ineffective or unwarranted (such as at home). It is not clear that extensions to legislation to widen the scope for detecting and abating gambling by minors is necessary or would be effective. On the other hand, youth gambling entails some risks, and its illegality may reduce their willingness to seek help for gambling problems that develop — which reinforces the case for raising awareness in children about gambling risks and for promotion of help services (chapter 17).

Other aspects of accessibility

As noted in chapter 8, accessibility also includes the ease of use of the gambling technology, its social accessibility, the initial outlay required and any entry conditions. None of these aspects of accessibility look promising as mechanisms for alleviating risk, without occasioning other substantial social costs:

- the high degree of social accessibility of clubs and hotels for new groups of gamblers — particularly women — is one of the advantages of poker machines. These venues represent safe and pleasant environments for people who may otherwise have had relatively poor community facilities at their disposal (Carter 1998). The high degree of social accessibility, does, however increase the stakes for appropriate reduction in the hazards of poker machines for those who use them;

-
- the initial outlay when playing poker machines can be very small. It seems highly likely that the rapid growth of smaller denomination machines in the late 1980s was a major factor underlying the growth of demand for poker machines. Such machines have enormous flexibility, so that a gambler can play at very different levels of intensity, and by varying their playing style, can shorten or lengthen a session of gambling. Any significant increase in the minimum denomination would probably lead to a reduction in gambling by many recreational gamblers, with uncertain effects on current problem gamblers; and
 - Australian gambling venues have very light entry conditions. Clubs notionally have the strongest entry requirements, with some minimum dress standards and the requirement to be a member. However, joining fees are extremely modest and represent no real barrier to entry. People may enter at any time and gamble immediately in all venues. No pre-arrangement for gambling or delayed entry after membership is required in Australian casinos, as occurs in some European casinos. It is unlikely that community norms would favour the introduction of significantly tougher entry standards, such as pre-arrangement of a gambling visit or higher dress standards. In particular, even while such a measure might have some effectiveness in controlling problem gambling, it would be difficult for multipurpose venues, like clubs and hotels, to implement the policy for gambling, without having to do so for other amenities, such as serving alcohol or food.

16.8 Controlling the venue environment

Participants in the inquiry suggested a number of changes to the design of venues to reduce problem gambling (box 16.12) though the benefits of these were questioned by the industry. These measures were mainly intended for gaming machine venues, which are the prime source of problem gambling.

Anglicare (SA) summed up their concern about the way gambling environments deny consumers informed consent when gambling:

Many of the subliminal cues presented to, or denied by, the gambling environment, are conducive to facilitating excess rather than restraint. We find it disturbing that many of the environmental conditions that subtly manipulate players are allowed to exist without sanction. ...Specifically, we are referring to environmentally induced conditions which contribute to dissociating the person from the reality of the time and money spent, altering the states of mood or level of arousal and facilitating the opportunity to chase losses (sub. 104, pp. 44–5).

Concerns about the gambling venue centre on:

- aspects of the venue design, such as lighting and clocks;

-
- access by patrons to credit and automatic teller machines; and
 - venue policies for problem gamblers, such as responsible service of gambling and self-exclusion policies.

Box 16.12 Changes to gambling venues suggested by stakeholders

The following matters need to be addressed: strategic positioning of clocks in venues in range of patrons' vision; venues to have access to natural lighting; EFTPOS receipts to state the balance of funds remaining in the account after a transaction; all gaming venues to have signs on display, indicating the contact telephone number of Break Even gambling rehabilitation services (Anglicare SA, sub. 104, p. 48).

Gaming venues should have windows and where these already exist, venues should not be required to take these out for the purpose of gaming (Springvale Legal Service, sub. 17, p. 10).

A gambling environment code [should] be developed including ...mandating the use of standard office lighting in any gambling venue, mandating the use of clearly visible, large and accurate clocks in any gambling venue ... (Adelaide Central Mission 1998, p. 28).

Design of the venue: clocks and lighting

In particular, a recurrent claim by care agencies was that the absence of clocks and natural lighting contribute to excessive play by detaching people from the outside world or creating a timeless environment (sub. 98, p. 6).

ACIL dismissed the notion that clocks were needed:

It is foolish to say that consumers are deprived of the means of keeping track of the time they spend gambling — nearly everybody these days wears a wristwatch (sub. 155, p. 81).

The Commission agrees that wall-mounted clocks would probably do little to ameliorate problem gambling, while a provision for natural lighting would be potentially very costly for many existing gambling venues, with unknown efficacy. On the other hand, problem gamblers appear to be often unaware of the passing of time (regardless of whether they are wearing a watch or not) so that re-design of the way poker machines and gamblers interact may be advantageous. That issue is taken up in section 16.9.

Access to credit, ATMs and cheque cashing

All jurisdictions prohibit the provision of credit by the venue to poker machine and casino gamblers, and ensuring this requirement is met is a feature of industry codes

of conduct (including the Draft Model Code for interactive home gambling). For example, under the Victorian *Licensed Venue Operators Code of Practice*, venue operators have agreed:

6. To prohibit any form of credit being available for gaming machine play by patrons (p. 10).

The *Crown Limited Code of Practice* says:

10. ... Crown does not generally operate cheque cashing facilities for patrons visiting the casino.
- 11 ... Automatic Teller Machines are not permitted within the licensed gaming envelope.
- 12 ... Crown will not extend any form of credit to any of its patrons who reside in Australia.
- 13 ... EFTPOS machines for cash transactions are not permitted within the licensed gaming envelope.

In New South Wales the codes of responsible gaming prepared by the registered Clubs Association and Star City also require ATMs to be away from the gaming floor, in another area such as reception. The best practice guidelines issued by the Department of Gaming and Racing also suggest this, as a way of giving the problem gambler:

... more time to ponder the implications of increasing her/his expenditure (IPART 1998, p. 55).

But notwithstanding these codes of practice, several participants, such as Wesley Gambling Counselling Services (sub. 26), BetSafe (sub. 172), Adelaide Central Mission (sub. 108), the Public Interest Advocacy Group (sub. 174) and Xenophon (sub. 98), claimed that credit has been made available to gamblers at a number of venues. They argued for greater efforts in enforcement of the prohibition on credit. Adelaide Central Mission argued that enforcement was a problem:

Through our service delivery, we are aware of numerous breaches of the credit provisions of the code. Existing provisions lose their teeth if there is neither resources nor commitment to ensure their enforcement. We are not aware of any successful prosecutions of code breaches.

... credit legislation should be vigorously enforced and ... serious consideration should be given to removing licenses for repeated offences ... (sub. 108, pp. 19–20).

IPART noted suggestions of lack of enforcement in New South Wales, and considered that it may be caused by a ‘lack of clarity’ in the drafting of the relevant legislation. It recommended review of the Registered Clubs Act and Liquor Act:

... to ensure that the provision of credit by gaming providers for the purposes of gambling is clearly and unambiguously prohibited (recommendation 5.5).

With respect to enforcement of this and other requirements of the gambling laws, Xenophon suggested changing current law to implement:

... a reverse onus of proof approach ... placing a greater degree of emphasis on venues acting pro-actively in the provision of gambling products. Further, a system of expiation notices for a number of offences, including minors being on premises should be implemented which will enable a greater degree of tracking of compliance [with] existing laws (sub. 98, p. 8).

He also argued for a credit prohibition to be extended to all gambling codes, expressing concern about the South Australian TAB's introduction of a telephone betting credit card.

But customers can, of course, obtain access to their own funds (and credit from any linked credit card account) from the ATMs that are commonly placed within venues for the convenience of customers. Several gambling counsellors expressed concern that their availability in or near gambling venues contributed to the problems of some of their clients. Xenophon said that this was a 'recurring theme' in his discussions with gambling counsellors and problem gamblers. In his view:

EFTPOS and ATM facilities should be removed from gambling venues, or at the very least their access be restricted for the payment of food and drink only (sub. 98, p. 8).

Adelaide Central Mission said that:

In the gambling industry the introduction of another form of credit facility or mode of transferring cash just adds to the risk of harm for problem gamblers (sub. 108, p. 22).

But others have noted that unduly restricting ATMs could cause inconvenience³² to patrons and others. For example, the Club Managers Association Australia and Leagues Club Association of New South Wales said that the Mathoura Bowling Club operates the only EFTPOS terminal in Mathoura, a New South Wales town of some 800 people (sub. 41).

A critical issue is the extent to which ATMs are used by problem gamblers relative to others, how much money is withdrawn, and the number of repeat transactions by a given customer. The Commission approached a major bank on the issue of repeat usage, but they did not collect this information. They were, however, able to indicate the relative importance of ATMs in pubs and club sites relative to those in other locations (table 16.6). They indicated that they had sited ATMs only in pubs and clubs with gaming. The average usage of ATMs in such gaming locations was

³² The concept of consumer inconvenience should not be taken lightly. However, it is also well to bear in mind that at the time that compulsory safety belt introduction was being mooted, many people argued that they were very inconvenient, caused 'emotional discomfort', 'gave no real protection' and only 25 per cent of people reported always wearing them (Freedman et al. 1971).

less than in ATMs in other locations. Such ATMs accounted for around 14 per cent of total cash withdrawals from their offsite network.

Table 16.6 The use of ATMs in pubs and clubs versus other locations

A major Australian bank

<i>Location of ATM</i>	<i>Share of offsite network</i>	<i>Share of withdrawals</i>
	%	%
Shopping centres	46.7	56.1
Pubs and clubs ^a	24.2	14.0
Other	12.1	11.3
Tourist	9.7	13.7
Petrol station	5.6	4.0
Hospital	1.7	0.9

^a The average number of cash withdrawals per day was around 75 per ATM in club/pub ATMs.

Source: Information provided by a major Australian bank to the Commission.

The Commission assessed the degree to which problem gamblers tend to use ATMs relative to recreational gamblers (table 16.7). The large bulk of recreational players never used an ATM at a venue when playing the poker machines, while the large bulk of problem gamblers did so, with one in five problem gamblers *always* doing so.

Table 16.7 How often do you withdraw money from an ATM at a venue when you play the poker machines?

	<i>Never</i>	<i>Rarely</i>	<i>Some-times</i>	<i>Often</i>	<i>Always</i>	<i>Can't say</i>	<i>Total</i>
	%	%	%	%	%	%	%
Non-problem players	78.2	11.8	5.0	1.4	3.2	0.4	100.0
Problem gamblers (SOG 5+)	34.6	12.4	15.1	16.5	21.3	0.0	100.0
Problem gamblers (SOGS 10+)	18.2	7.0	16.1	34.8	23.9	0.0	100.0

Source: PC National Gambling Survey.

A number of measures could be considered for restricting access to funds in gambling venues:

- restrictions on the nature of ATMs in gambling venues. They could, for example, have lower daily maximum withdrawals, exclude credit withdrawals, allow only one withdrawal per customer per day and have clearly posted warnings to consumers about problem gambling.
- an outright ban. This would inconvenience people who wish to gain access to funds for food or other services at a gambling venue, but these costs may not be large, once people anticipate that gambling venues do not offer fund withdrawal

services. It may also have adverse security impacts of customers if they are forced to use an ATM on the street, rather than inside the venue. But, against this, restricted access to funds is likely to temper problem gambling behaviour because it allows a problem gambler an easier way of setting and keeping to a budget, and allows them time to re-consider if they leave a venue to obtain more funds from a more remote ATM. The grounds for such a ban would be stronger if no other harm minimisation measures were undertaken.

Cheque-cashing is similar to ATMs in that it provides gamblers with convenient, instantaneous and repeated access to potentially large sums of money at a venue. It is subject to the same concerns as ATMs. **The Commission considers that, in principle, cheques should not be cashed in gambling venues.** This should also apply to cheque cashing for non-gambling items in such venues, such as food or alcohol. This is because it would be too easy to circumscribe the intention of the regulation to restrict access to gambling funds if patrons were able to secure cash for other goods and services.

However, a number of exceptions may be considered to this general rule. First, hotels sometimes act as de facto banks in rural Australia:

Hotels often provide a financial service to people, particularly in regional and rural areas wishing to access cash and credit facilities after hours. In some regional areas hotels cash thousands of cheques a year because there are no financial institutions in the area... For many people living and working on isolated properties, hotels serve as their local bank. (Australian Hotels Association, sub. D231, p. 70).

This suggests that cheque cashing should be permitted in rural hotels or clubs where the venue acts as a de facto bank, so long as each venue with cheque clearing facilities is registered with the regulatory authority and maintains appropriate records of transactions.

Second, there are also grounds for exempting casinos from this requirement, but only for high-rollers and where this facility has been pre-arranged.

Withholding alcohol from gamblers?

It is sometimes argued that gambler's judgement is impaired by alcohol, and that gambling should therefore take place in an alcohol-free environment. This presupposes that alcohol consumption increases the adverse outcomes associated with problem gambling.

The evidence is unclear. The Nova Scotian study of VLT players found that problem gamblers more often reported having played VL machines when they had too much to drink (35 per cent of problem players compared with 23 per cent of

non-problem frequent players). However, the study also showed that as a group problem players tended to drink overall rather less than other players. And in response to losing on the machines, problem players were much more likely to drink *less* than other players (24 per cent compared with 5 per cent for frequent non-problem players).

Tabcorp (sub. D286, p. 2) also provided survey data that suggests that regular gamblers were much less likely to have used the bar facilities of a hotel venue during their visit than occasional or infrequent gamblers.

It appears likely that excessive consumption of alcohol would have some impacts on gambling judgement, but that normal amounts of consumption have few adverse effects. For example, Breslin et al. (1999) examined the impact of moderate levels of alcohol consumption on betting behaviour, and found no evidence that it affected betting choices. However, the setting was experimental and so might not carry over to gambling venues.

Barring alcohol from gambling venues would have significant adverse impacts on recreational gamblers, since its consumption is a key feature of visits by many to such venues. For example, in a venue survey it was found that about one quarter of gaming machine players used the bar facilities, and most of these rated their experience at the bar as either very enjoyable or quite enjoyable (sub. D286, p. 6). There are, however, grounds for trying to prevent excessive alcohol consumption and existing codes for the responsible service of alcohol in licensed premises already aim to do this. There may also be grounds for limiting or proscribing free alcoholic inducements for gamblers.

Venue policies for problem gamblers

Identification and active help by venues

In the case of alcohol, it is illegal to sell alcohol to someone who is intoxicated. This raises the question of whether venue staff could also withdraw gambling services from a gambler experiencing problems, as advocated by a number of inquiry participants (eg sub. 112). There are certain indicators of gambling behaviour that may help identification. The cashing of cheques, asking for credit, the duration and frequency of gambling sessions, and behavioural signs (like swearing at or hitting a poker machine) are all potential indicators of problem gambling. Evidence from surveys, such as the Commission's *National Gambling Survey* and the Nova Scotia survey, suggest that a few combined factors (regular gambling, high expenditures, style of play) provide indicators of risk.

In the draft report, the Commission floated the idea of the development of a regulated requirement for withdrawing gambling from a person whose behaviour clearly suggests excessive gambling, such as persons who have played for periods of time that are considered excessive (for example, over 8 hours of continuous play), who shows visible distress about their gambling, or who attempt to get credit or a cheque cleared to gamble further from venue staff.

But there are some major drawbacks to this approach.

First, even if a small set of traits are good indicators of at-risk patrons, they will not be perfect. Venue staff who are questioning the level of involvement of an apparently at-risk gambler will inevitably wrongly categorise some people, risking giving considerable offence. During the course of the inquiry, gambling establishments have reported that their ability to identify problem gamblers is poor. In its submissions, Star City casino reported that measures for identifying problem gamblers would need more detailed and intrusive information gathering across a broad spectrum of customers than currently exists, including frequency of gambling (of all types), amounts gambled, financial and personal situation of the individual, effects on family and other relationships, psychological screening and other factors (sub. 33, p. 18 and sub. D217, p. 21). And even though existing provisions for responsible service of alcohol are based on subjective judgements by venue staff, arguably the level of subjective judgement required to identify a problem gambler are of a different and substantially greater order.³³

Secondly, and as a result of the difficulty in identifying problem gamblers, to require intervention would place the venue at risk of vexatious and opportunistic litigation by patrons who lose money gambling and then claim that the venue failed to intervene when there were apparent (and non-verifiable) signs of a ‘problem’.

Thirdly, even successful identification of a problem patron and withdrawal of gambling services may achieve little if the patron can go to another nearby venue, or if staff are not appropriately trained to provide help (such as a referral for counselling) to the gambler. Against this, however, it may jar such people into the

³³ In determining whether a person is intoxicated venue staff use a whole range of ambiguous signals, such as: is the patron boisterous, showing decreased alertness, changing their type of drink, or bad tempered? (from a pamphlet from New South Wales clubs about the responsible serving of alcohol). It might be supposed that if venues serving alcohol are able to use such ambiguous signals in an intelligent way to reduce over-consumption of alcohol, then they could also use similar processes for identifying and dealing with ‘over consumption’ of gambling. Tully (1994), for example, has developed an approach for venues wishing to implement responsible service of gambling. But, there is a point where it may be too much to ask a venue staff member to exercise judgement in an area where even experts disagree as to the appropriate diagnosis (Star City Casino, sub. D217, p. 21).

realisation that their behaviour is now appearing problematic to others, which may hasten assistance.

While it would clearly be appropriate for venues to take action when a patron is showing obvious signs of distress with their gambling, the Commission, on balance, does not consider that venues should be required by statute to withdraw gambling from patrons exhibiting behaviours that may be associated with problem gambling. This of course would not negate the use of common law remedies were a venue to act in a way that was patently unreasonable.

Self exclusion

Many gambling providers operate self exclusion policies. Identification of gambling problems in these cases is undertaken by the gambler rather than by the venue. They typically sign an undertaking not to gamble in that venue and can, if subsequently detected, be removed from the venue during the exclusion period, and charged with an offence. An exception is the Northern Territory, where no statute exists for facilitating these arrangements. Instead, there a venue may be legally liable if a self-excludee manages to escape detection and gamble. This has led to a convoluted legal process in arranging self-exclusions, rather than the more simple procedures used in States like New South Wales.

The Commission considers that self-exclusion should take the form of a simple contract written by the problem gambler with the gambling provider, with the gambler, not the venue, being liable for violation of the contract. However, a venue should make reasonable attempts to enforce the exclusion contract (eg by making staff aware of self-excludees). This approach (which is already employed in some jurisdictions, such as in New South Wales) could be applied across all Australian jurisdictions. As a matter of course, any gambler who signs such a contract should be referred for counselling (as exists, for example, in Star City Casino's and the *BetSafe* Group of Clubs' approach).

The penalty imposed on a gambler in breach of a self-exclusion order should take the form of a non-financial penalty, such as a community based order (unlike, for example, arrangements in Victoria, where up to a \$2000 fine is imposed). This recognises that problem gamblers' difficulties are principally financial in nature and that monetary penalties may create incentives for more gambling (to make up the loss) or impose hardship on the families of the problem gamblers (sub. 17, p. 6).

Also, the Commission considers there are grounds for mandatory signs in any gambling venue that indicate that any patron may self-exclude, and accompanying pamphlets that explain how self-exclusion works.

Some participants indicated that not all venues took self-exclusion approaches by problem gambler seriously.

It is disturbing to note the experiences clients disclose about their unsuccessful attempts to self-bar prior to contact with our service. Responses included being told: “Don’t be silly, see you tomorrow” (Anglicare SA, sub. 104, p. 25).

Arguably, it should be mandatory for any venue to act on an attempt by a patron to self-exclude. Failure to do so should be seen as a failure to responsibly provide gambling services.

Self-exclusions are probably most effective for table games at casinos³⁴. They may be of significant value in other gambling venues too, even if they cannot be completely enforced, simply by requiring the gambler to recognise their problem.

These clients are usually pursuing abstinence goals, rarely visiting other venues without considerable effort (Anglican Community Services, sub. 104, p. 25).

Whilst it may be seen as of limited usefulness when the problem gambler can just go to another venue, experience has shown that such a contract is a major step in a problem gambler’s treatment and that they are much less likely to relapse if such a commitment is made in writing (BetSafe Group of Clubs, sub. D250).

The Victorian codes also provide for support of a unique Self Exclusion Program which to date has seen over 850 deeds taken out by over 600 people. 250 people have entered a second deed. The deeds may be entered for a period of between six months and two years ...there is no cost to the patron attached to the program. This is a program that works. This prevents problem gamblers from gambling. We were advised by problem gambling counsellors that it was necessary for the problem gambler to voluntarily seek the self-exclusion program after receiving a program of assistance from the counsellor, because this would result in a very therapeutic outcome for the problem gambler. However, we also promote the program through our venues and to date a little over half of all deeds have come about from non-gaming counsellor referrals (Australian Hotels Association, Victoria, sub. D237, p. 5).

The principal drawback of existing self-exclusion arrangements is that a gambler who periodically loses control may circumvent the measures by going to other venues where a self-exclusion contract is not in place. Some codes for self-exclusion partly overcomes this by circulating photographs of the excludee to all relevant venues and committing the person to self-exclusion from this group of venues simultaneously. There may be value in adopting these arrangements in all jurisdictions.

³⁴ Springvale Legal Service (sub. 17, p. 5) suggested that there were some doubts over the effectiveness of exclusion orders, even for casinos, citing the case of one gambler who was charged with 13 breaches of the Casino exclusion orders in Victoria.

It may be that other, less readily circumvented technologies for self-exclusion may make this an even more effective measure for limiting the harms from problem gambling (see pre-commitment in section 16.9). The internet is already using some of these approaches (chapter 18). Existing approaches in physical venues may be weakened if there is a substantial increase in the number of self-excludees, as this will make it more difficult to monitor whether they try to gain entry to the premises. But overall self-exclusion is a useful adjunct to responsible gambling policies.

16.9 Controlling game features and design

Evidence from population surveys and problem gambling services suggest that gaming machines are the prime source of risk for consumers. This risk arises from their continuous nature, the ability to progressively increase the bet size per gamble, the relative absence of moderating social factors, and the structure of the payouts.

Many consumers, however, report reasonable levels of satisfaction with playing the machines. The question is whether changes could be made to the machines in such a way to reduce hazards, without significantly diminishing recreational gamblers' entertainment.

Participants in this inquiry advocated many possible changes to gambling technologies to address problem gambling and increase consumers' informed consent (box 16.13). The Commission also posed a series of possible harm minimisation strategies to problem gamblers receiving counselling assistance (table 16.8).

Problem gamblers were, in general, in favour of almost any measure which would increase their control over gambling and/or reduce accessibility. However, a majority were opposed to the idea of reducing the odds of winning as a deterrent to play, while measures such as removing linked jackpots, and not serving alcohol to people while they were gambling received more equivocal endorsement than other measures.

The Netherlands recently developed a series of proposals for controlling problem gambling on poker machines — the Nijpels model. This included automatic payout of winnings above 200 credits, a win bank, enforced breaks, more stringent betting limits, longer elapsed time between button presses, changes in lighting and sounds on the machines, and no bill acceptors.

While some of the proposals put forward in the Nijpels proposal appear unworkable in their current form in an Australian context, the Commission strongly endorses the idea that the way people and poker machines interact should be subject to scrutiny

to see if there are prospects for harm minimisation. We considered a number of options for control, which have some a priori or evidential support.

Box 16.13 Machine design changes?

These initiatives could include ... modifying EGMs to insert digital time reminders and electronic voice challenges to 'continuous' gamblers...The United Kingdom 'Mandrake' software technology ought to be added to all gaming machines to scan the faces of players and refuse access to those who have been excluded from venues (Springvale Legal Service, sub. 17, p. 6, 8).

Electronic gambling machines [should] be so designed or modified so...that a delay of at least 4 seconds be incorporated between the end of one betting cycle to the commencement of the next; that the machine releases a pay out into the coin tray when the total credits exceed \$10; that multiple bet machines be limited to three times the single bet value of the machine; that the machine automatically shuts down for 5 minutes after a jackpot exceeding \$50, that there be no light and sound shows associated with any win on the machine; that the highest monetary coin or note accepted by machines be restricted to \$1 (Adelaide Central Mission 1998 p. 29).

Reports from overseas indicate that Australian-designed poker machines are more addictive than their US counterparts...a change in design to make them less addictive in the meantime would be desirable (Festival of Light SA, sub. 107, p. 11).

Many clients of our Foundation's mental health practitioners report that the introduction of note acceptance facilities on some electronic gaming machines have significantly increased their ability to gamble more money in shorter periods of time. Such technology removes the requirement for gamblers to break their gambling session to obtain change to continue gambling, thus removing opportunities to reflect on the gambling activity and the amounts which are being gambled. Similarly, the provision of roaming change vendors on some larger venues is a process which many problem gambling clients criticise as contributing to their gambling difficulties... (Mental Health Foundation of Australia sub. 51, p. 10).

It is recommended that...the credit display be converted to a recording of dollar display; digital clock displays be inserted in the top right corner of screens, Return to Player rate (RTPR) to be displayed on machines; "Health/Wealth" warning be displayed on all machines; machines be positioned to allow a minimum of two people to comfortably be able to sit in front of a machine, with accompanying seating provided; and in particular the pace of gaming cycle be extended to 6 seconds, machines to automatically shutdown for 20 seconds after wins 250 times the original bet; and machines to release payout into coin tray after wins of 100 times the original bet (Anglicare SA, sub. 104, p. 51).

Table 16.8 Attitudes of problem gamblers to the effectiveness of harm minimisation measures^a

	<i>Would not work</i>	<i>Would work a bit</i>	<i>Would work well</i>	<i>Total</i>
	%	%	%	%
The education system should teach children about the risks of gambling and how to understand odds	12.2	42.7	45.0	100.0
Information about the odds of winning in any particular gamble should be clearly displayed (eg on a poker machine)	20.3	36.5	43.1	100.0
Venues should put up signs warning customers of the risks of gambling	24.0	34.5	41.4	100.0
TV and radio advertising campaigns should be used to make people aware of the risks of problem gambling	8.7	36.9	54.5	100.0
Promotion of gambling should be banned	19.7	29.2	51.2	100.0
Technology should be developed allowing gamblers to self-exclude from gambling, if they wish to	14.3	35.2	50.5	100.0
Counselling services should be advertised on national TV and radio	3.9	27.2	68.9	100.0
Automatic teller machines should not be located right next to where people gamble	7.9	17.6	74.5	100.0
Technologies should be developed allowing gamblers to set limits on their gambling, if they wish to	17.2	27.7	54.7	100.0
Winnings over a certain amount should be paid by cheque (eg over \$200)	17.6	27.7	54.7	100.0
The odds of winning should be reduced to make gambling less attractive	55.6	24.8	19.6	100.0
Technologies should be developed allowing gamblers to track their gambling spending over time	20.5	43.8	35.6	100.0
Gambling venues should not be open 24 hours a day	16.3	27.0	56.7	100.0
Alcohol should not be served to people while they are gambling	35.5	32.4	32.1	100.0
Venues should have windows and clocks so that people know how much time they have gambled	22.0	33.9	44.0	100.0
Poker machines should only be able to take coins and not notes	19.7	34.2	46.1	100.0
Poker machines should have enforced breaks in play so players can think about whether they want to continue gambling	23.3	37.0	39.6	100.0
Poker machines should be far less accessible in local communities	6.0	27.2	66.8	100.0
Poker machines should remind the gambler how long they have been playing, and ask them if they want to continue	19.9	40.3	39.8	100.0
The number of lines and credits playable on poker machines should be reduced	22.2	32.2	45.6	100.0
Poker machines should not have linked jackpots	35.3	30.9	33.8	100.0

^a Based on between 384 and 394 responses from problem gamblers.

Source: PC Survey of Clients of Counselling Agencies.

Mechanisms for providing information and control to gamblers

Dickerson (1998) has emphasised responsible gambling as a continuing process of making informed decisions. Informed decisions would be characterised by:

- good information;
- a set of genuine choices; and
- the opportunity for balanced consideration of the pros and cons of alternative behaviours. Given the potential for significant financial losses, gambling decisions should not be made under conditions of strong emotion or personal crisis. For example, a gambler who has lost extensively, and is desperate to recover their losses, is not in a position to exercise rational judgment.

The underlying principle of machine design under this approach is *informed consent*. **The Commission strongly endorses the idea that machine design should aim to maximise such informed consent and player control.**

Some changes that are consistent with the notion of informed consent include:

- notification of the dollar value of bets, rather than credits, so that consumers are aware of the real units being gambled (sub. 104, p. 48); and
- where it is possible to identify the player (for example, through their use of loyalty or other cards), on-going notification of the amount lost in a gambling session at a venue.

The Nova Scotia survey of gaming machine players has shown that factors external to the player — such as running out of cash, an appointment or the venue closing — are the most effective at stopping a gambling session for a problem gambler. The Commission's *Survey of Clients of Counselling Agencies* also suggests that cash constraints, rather than planned decisions by gamblers, tended to end gambling sessions (table 16.9). Dickerson (1998) has floated the option of incorporating some of these control features into the machine. For example, player's perceptions of elapsed time are sometimes very poor — thus limiting the extent to which they are making informed choices. Dickerson notes that the poker machine (which is effectively a computer, and so able to be programmed a multiplicity of ways) could sporadically query the gambler: 'Please estimate how long you have been playing?' Continued play would be contingent on whether a sufficiently accurate answer was provided. While such a measure may, in-principle, have a useful impact on correcting time misperceptions by a gambler, to be operational it requires that the machine knows when a new player commences playing. Moreover, any problem gambler can move to another machine even if they have been stopped temporarily from playing on one machine.

Table 16.9 Reasons why gambling sessions ended for problem gamblers^a

	<i>Always</i>	<i>Often</i>	<i>Some- times</i>	<i>Rarely</i>	<i>Never</i>	<i>Total</i>
	%	%	%	%	%	%
Ran out of money	37.9	43.6	11.0	3.3	4.1	100.0
Spent budgeted amount of money	19.2	20.1	20.9	15.5	24.3	100.0
Spent planned amount of time playing	9.8	11.3	17.5	25.2	36.2	100.0
Lost interest in gambling or got bored	1.2	3.2	18.3	27.2	50.1	100.0
The venue closed or there were no more immediate gambling opportunities (eg last race)	6.0	12.6	27.8	17.8	35.8	100.0
To eat or drink	0.0	3.5	23.5	25.9	47.1	100.0
Friends or family left	2.7	1.8	17.5	17.2	60.7	100.0

^a Based on between 331 and 390 responses from problem gamblers, depending on the item.

Source: Survey of the clients of problem counselling agencies, 1999.

However, there may be grounds for a machine to periodically query — through pop-up text on the visual display unit — whether the patron would like to continue playing. Even if players were to move around the machines in the venue, these periodic queries would serve to invite them to *reflect* about whether they really wish to continue playing or not. So long as these queries were not too frequent, then they would not have an adverse effect on the pleasure of recreational playing.

This suggests another key element in the control of gambling problems — the possibility for genuine pre-commitment.

Pre-commitment strategies

In all sorts of contexts, people use pre-commitment strategies when they believe that they will make future impulsive decisions, which are not in their best interests. The essential ingredient of genuine pre-commitment is that a decision once made acts like a contract and cannot be reversed. There are a number of possible pre-commitment strategies that might work for problem gamblers.

Noting that many of the difficulties stemming from problem gambling relate to its financial costs, it may be possible for a problem gambler to voluntarily pre-commit (at a time of lucidity) the bulk of their earnings to other essential expenditures (such as rent, petrol, food and clothing). This would mean that the amount of discretionary income available for gambling would be far smaller. Even if this were all spent, the gambler would still be able to avoid the worst financial effects of problem gambling. Financial pre-commitment could work, for example, through a contract with a bank, which would then have the first claim on a gambler's wages to direct them to accounts with suppliers of goods and services designated by the gambler (for example, a supermarket). The gambler would specify a period over

which such a contract would hold, and would not be able to re-negotiate the contract within that period, except in circumstances which they had pre-determined. The advantage of such a measure is that it has no impact on recreational gamblers, and has only to be implemented for problem gamblers.

However, it does have a number of disadvantages:

- it is likely to be only used by people who acknowledge that they have severe problems, and does not address issues of gambling control, misperceptions and informed consent for gamblers whose problems lie further down the problem gambling continuum or who are not confronting their problem; and
- it might have to extend to assets and irregular income as well as regular income, else problem gamblers might sell or borrow on assets;

Such a measure would involve costs for the banks concerned, and these should, in principle, be met by funds from the gambling industries or the gamblers involved. However, it may be worthwhile for the government to finance a trial of financial pre-commitment strategies to gauge their effectiveness and costs.

On the other side of the coin, there may be scope for pre-commitment on aspects of gambling, including spending, information, and playing style. Interestingly, one form of gambling already incorporates a host of measures which allow pre-commitment and informed consent — the internet.

One of the large potential advantages of internet-based gambling is that it can provide relevant and effective player-initiated controls. Gamblers can set budget limits, self-exclude and look at their past history of gambling winnings and losses by episode. The internet allows this because it combines a computer-based technology with a unique identifier for each gambler. These safety features are part of the regulatory environment for internet-based games. As a matter of consistency, it would seem desirable for other forms of gambling to match the internet in these aspects of player sovereignty. The question arises of whether this is technically feasible.

One possible avenue is in the future. Australia, like other advanced economies, is moving away from cash as the basis for transactions. It can be expected that traditional forms of gambling, such as gaming machines and casinos, will want to take advantage of the lower costs of cashless transactions that are already being exploited by internet gambling (for example, no need to empty hoppers, less security risks and the advantage of automatic record keeping). A key gaming executive has noted:

Cashless gaming makes very sound business sense. It's not a matter of when... it's only a matter of when they will adopt it rather than if they will adopt it. It's a very logical

progression... [the machines] need a lot less maintenance, but also there ... are no transactions with money movement. So ... all the security aspects will completely disappear (reported on ABC National Radio 1 September 1999).

Casino International (1999c, pp. 26ff) notes some of the advantages of cashless gaming machines using a credit card system:

... would place customer convenience at the top of the list of advantages for the cashless player. Players could move from game to game without worrying about having the right change... Players ... will have the added advantage of financial security.

This move would, in the absence of controls, represent a dangerous shift for problem gamblers, as it would turn each poker machine into an ATM. However, as described in box 16.14, it is possible that, with appropriate controls, the emergence of such cashless transactions in gambling may provide a vehicle for better pre-commitment and informed consent by consumers.

It is reported that a card system is being considered in Missouri, with the intent of increasing consumer protection:

Other coinless concepts include metal tokens, which have been used for years in Missouri where there are legal limits on how much any player is allowed to gamble. Players would pay for a certain amount of tokens on entering the casino and would then be prevented from purchasing any more. Moves are now being made by the Missouri Gaming Commission to redevelop this system using electronically purchased credits, which would allow players to press a single button to wager their credits on slot machines and still control the limit on what they are allowed to gamble (*Casino International*, 1999c).

One gaming technology provider, Global Gaming Services, considered that these sorts of technologies would provide a strong basis for harm minimisation:

Just as a driver's license is needed because drivers can cause harm to themselves and others, so might a gambling license be required. Requiring such a license could provide the opportunity for player education, research statistics, cashless (less crime and overhead gambling) and another source of income for government (license fees). This concept could be taken one step further to not permit a machine to operate unless a player has their "license" inserted. In most states and territories at least one wide area monitoring system links legal poker machines, and would provide a means to facilitate this. Of course there are in reality potential privacy implications, civil rights and infrastructure costs. Nevertheless it may provide a means of sustaining venue profitability, and minimise the occurrences, or assist with the detection of, problem gamblers (sub. D189, p. 2).

Box 16.14 Implications of a cashless society

It is possible that in the future the trend away from money to a cashless society may facilitate such pre-commitment mechanisms. In a cashless society, gambling will require a player to use a financial card either directly when gambling (for example, by inserting it into a gaming machine) or using it to buy 'chips' or tokens. These cards would include a magnetic strip for recording players' identification and for recording gamblers' preferences about the way they wished to gamble. For example, a player could:

- decide to self-exclude for any period of time. How wide such a self-exclusion would be depends on the extent to which venues and machines were linked to a central computer. If the card was like an ATM/EFTPOS card, then self-exclusion would be possible across all gambling jurisdictions in Australia, making it much easier to have a genuine pre-commitment to stop gambling *if* that was what the gambler wanted.³⁵ Alternatively, if the information on the card was exclusive to the venue (as in loyalty cards) then it would only allow the weaker form of self-exclusion from a given venue.;
- set a budget for a given time period, or even for that day's play. Once the pre-commitment had been made, the player could not subsequently amend their decision within the set time period;
- set a style of play (number of lines or credits per line);
- set the duration of play; and
- determine how and which winnings should be paid into their accounts.

Problem gamblers would not be able to readily cheat on any pre-commitment they had made. For example, if they 'lost' their card, any new card issued would still have the conditions of any pre-commitment made recorded on it, because a central computer would, like any bank card, have a record of the client. Nor is it likely that people would lend problem gamblers their cards (with their PINs) as that would leave them open to financial losses. In any case, if the problem gambler won on someone else's card the money would be credited to that person's account, not the problem gambler's.

Such technologies, by allowing pre-commitment, would enable consumers to make choices under conditions when they are in control. The measure is consistent with and indeed facilitates consumer choice. Consumers would be free to pre-commit to the sort of gambling experience they believe is appropriate, but they would not be obliged to take any particular approach. The measure does not raise any significant privacy issues because the consumer would be in charge of what is recorded and would have exclusive access to the information. There would be few costs to recreational gamblers. They would not have to apply for a special card, as ordinary banking swipe cards could be used when gambling. Nor would recreational gamblers be required to set limits — rather they would just be given the *option* of doing so.

That said, the measure would probably involve some costs. Any financial intermediary issuing cards would have to include the facility for recording the gambler's preferences on the card. However, the evolution of smart cards, rapid telecommunications and cheaper computing suggests that the marginal costs of additional information would be small.

³⁵ Note most states are heading towards central monitoring of machines, so that the marginal costs of the measure should be modest.

Others also supported the use of such card systems (sub. D260, sub. D259 and sub. D249). For example, Break Even Services in Victoria (sub. D249) drew attention to the possible beneficial role of smart cards:

The Victorian Break Even network is in favour of the introduction of smart cards linked to enhanced technology for all gambling consumers, particularly those who participate in more continuous forms of gambling such as EGMs. It is our contention that all players should be required to consciously choose to participate in gambling activities through a smart card and be able to receive a number of harm minimisation and consumer protection measures by this means... It is our belief that the obligation to obtain a personal smart card in order to gamble will not prove a disincentive for non-problem consumers. It is principally a one off requirement in line with procedures consumers are required to undergo across a range of activities and services in order to gain access to them.

If gambling providers were to move to technologies which are cashless in nature (such as putting a bank card directly into a gaming machine) then a system for informed consent along the lines described in box 16.14 would need to be a mandatory feature.

Since a ‘cashless’ society is some years off, is there anything that could be done now along the lines described by box 16.14? It is possible that cards could be *required* for using certain gambling forms, such as gaming machines. Such cards need not be used as a payment mechanism, but rather could be like the myriad of other cards that are now routinely used to provide identification in transactions (from Medicare cards, library cards and even video cards). To be feasible in the current environment, such a card system would have to be cheap to acquire and to use. One option may be to make minor alterations to existing bank swipe cards so that they stored players’ preferences for gambling. In this instance, cash would still be used to play the machines. Indeed, the only purpose of the card would be to identify the gambler and to automatically credit large prizes to the player’s account — it would **not** be used as a debit or credit card for the purpose of gambling. Such a card system is consistent with their already widespread use as loyalty cards. However, it is likely that such a system would be expensive (in the short term) to use in states where there are already many machines (given the need for machine modifications). On the other hand, such a system may be useful in a State like Western Australia, were they to decide to partly liberalise access to gaming machines.

There may be other ways in which consumers could currently have more control over the games they play. Some have already been developed in other international jurisdictions. For example:

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- two Canadian companies have developed a bracelet for compulsive gamblers that emits a high pitched sound whenever the wearer approaches a gaming machine (Gambling Magazine, 1999); and
 - face recognition ID systems are being marketed to Casino Security departments — principally to identify criminals (Levine 1999). But these could also be used to help excludées to honour self-exclusion deeds.

Whether either of these sorts of technologies are practical, acceptable or cost effective is unknown. But they underline that just as technology can make gaming machines more entertaining, technology used with the same creativity may be able to significantly reduce problem gambling:

Most forms of venue gambling are technology based....Unless the technology and the companies that supply this technology are a major consideration, I would question the effectiveness of any strategy for responsible gambling (Global Gaming Systems, sub. D189, p. 2).

Bill acceptors

Most modern gaming machines include bill acceptors (though these are barred in South Australia). These allow gamblers to insert notes up to \$100 denomination to play the machines. The Commission has been given advice that, unsurprisingly, machines with acceptors tend to have higher levels of turnover than those which do not. As well, the Commission's *National Gambling Survey* suggests that problem gamblers are much more likely to use bill acceptors when these are incorporated into machines than other gamblers, with about 62 per cent of problem gamblers (on a SOGS 5+ basis) using this feature 'often' or 'always' compared with 22 per cent of non-problem gamblers (table 16.10). Problem gamblers' apparently higher use of bill acceptors may largely be testimony to their higher spending levels. However, it may also reflect the way that convenience and an absence of human contacts and pauses in play can allow gambling to continue unimpeded for those with problems.

There may be gains from requiring patrons to obtain change to play the machines from a cashier or other venue staff, rather than a cash machine or by using a note in a machine bill acceptor. This may make problematic play (repeated visits to get cash) more visible and may act as a social control on problem gamblers, while also allowing venues to gauge better whether they are acting responsibly in providing gambling services (for example, by analogy, could a hotel which allowed drinkers to self-serve alcohol in any quantity from a machine satisfactorily exercise responsible service of alcohol?). As Relationships Australia Queensland reported about problem gamblers:

One group commented “When I had to go back and forth to the cashier, then I’d think ‘Oh, she’ll think I’m a compulsive gambler’, and that would make me think about whether to go back to her again. With the note acceptors, I didn’t worry about that, nothing got in the road of gambling.” Group members observed that trips to the cashier were always an opportunity to consider leaving the gambling venue, but with machines equipped with note acceptors, they could have less distractions to their gambling, and thus less opportunities to consider stopping a session (sub. 73, p. 8).

Table 16.10 If the machine you usually use has a bill acceptor, how often do you insert notes when playing the machine?^a

	<i>Never</i>	<i>Rarely</i>	<i>Some- times</i>	<i>Often</i>	<i>Always</i>	<i>Can't say</i>	<i>Total</i>
	%	%	%	%	%	%	%
Non-problem players	31.2	13.4	31.7	13.2	10.1	0.5	100.0
Problem gamblers (SOG 5+)	8.6	12.6	16.5	28.6	33.7	0.0	100.0
Problem gamblers (SOG 10+)	5.1	6.5	11.5	51.4	25.5	0.0	100.0

^a For those people who play on machines which have bill acceptors.

Source: PC National Gambling Survey.

The AGMMA (sub. D257, p. 140) argued that the higher turnover in machines with bill acceptors stemmed from the fact that machines with bill acceptors are newer and therefore offer more novel features, which in turn attracts patronage. They also point out that the rate of return on newer machines tends to be higher and thus turnover would be greater for the same level of expenditure. They also argue that the reason problem gamblers use machines with bill acceptors more often than other machines may simply be revealing a preference for newer machines.³⁶ In effect, the AGMMA argue that factors other than bill acceptors play a role in increasing turnover.

Bill acceptors do represent a source of convenience for the customer, and probably a cost saving for the venue (that in turn may be passed on as lower prices). However, it is hard to argue that it presents anything other than a minor convenience. In this instance, the precautionary principle holds: don’t do something that might be hazardous if its benefits are very small.

For this reason, and until evidence that they do *not* present risks is substantiated, **the Commission considers that there are grounds that bill acceptors not be included in the design of poker machines, with any cash dispensers being located outside the gaming area.** However, where current machines have

³⁶ However, the data presented in the table relates to how often problem gamblers use bill acceptors when they are incorporated in a machine, not whether they use machines with bill acceptors.

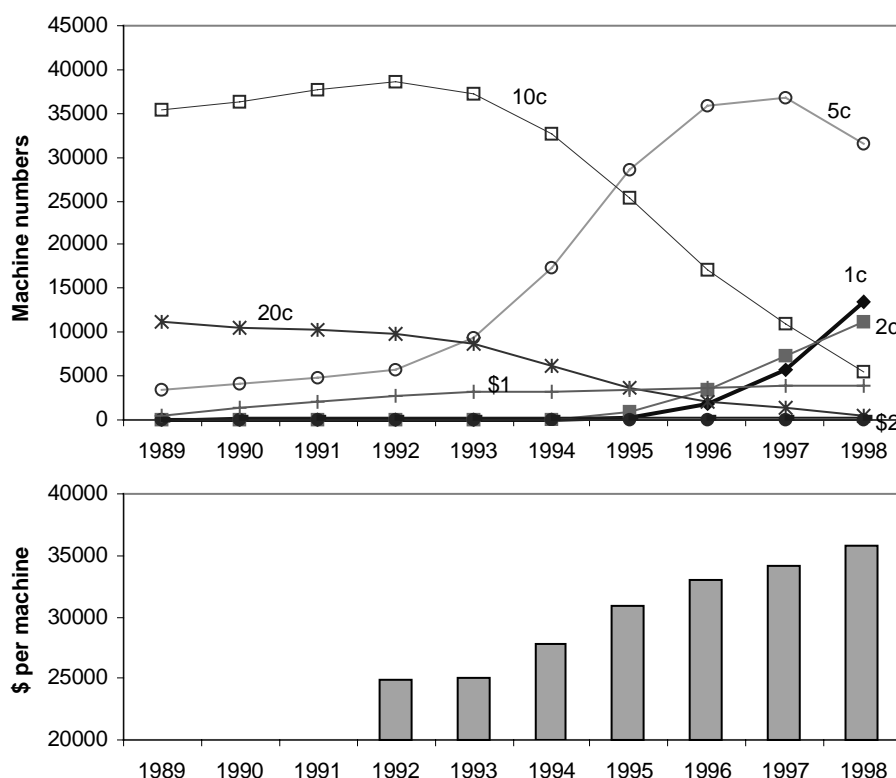
acceptors they should not be modified, because this would involve considerable costs, but be replaced over time.

Limitations on the rate of loss

Denomination and intensity controls?

Existing games allow gamblers an enormous choice over the intensity of gambling. As noted in chapter 15 and appendix U, some new models of 2 cent machine can allow players to choose anywhere between 2 cents to \$10 of turnover per button push. It seems likely that in the presence of such versatile low denomination machines, the higher denomination machines will, in a continuation of the trend established over the last decade (AGMMA, sub. D257, p. 15 and figure 16.4), decline even further in importance.

Figure 16.4 **Machine denominations in New South Wales clubs and gaming profits^a**



^a The data for club profit from gaming machines was not available for 1989 to 1991. Data relate to New South Wales clubs only.

Data source: NSW Department of Gaming and Racing, *Gaming Analysis 1997-98*, February 1999.

There is some evidence that problem gamblers tend to play the highest denomination machines to a significantly greater extent than non-problem players (table 16.11), but most usually play 1, 2 and 5 cent machines. Consequently, the principal issue is not one of the denomination of the machine, by itself, but the overall intensity of play that is possible.

Table 16.11 Denominations of machine played by problem gamblers

<i>Machine denomination</i>	<i>Non-problem gamblers</i>	<i>Problem gamblers (SOGS 5+)</i>	<i>Problem gamblers (SOGS 10+)</i>
	%	%	
1 cent machine	17.6	21.3	29.5
2 cent machine	7.4	7.5	6.3
5 cents machine	36.0	46.1	24.3
10 cents machine	19.6	4.7	3.0
20 cents machine	11.5	6.7	3.4
50 cents	3.0	0.0	0.0
\$1 machine	5.1	11.3	33.5
\$2 or more	0.1	1.8	0.0
Can't say	2.1	0.8	0.0

Source: PC National Gambling Survey.

Problem gamblers have a higher tendency to play more than one line at each button push than recreational gamblers, and a much higher likelihood of betting more than one credit per line (table 16.12). Where gamblers do play more than one line or credit per line, problem gamblers choose greater lines and credits. This suggests that a possible pathway to problem gambling is that people start with relatively low lines and credits, and then progressively increase playing intensity. This is consistent with the psychological conditioning model, in which people are rewarded (through frequent small prizes) for increased intensity of play.

Table 16.12 Playing intensity: lines and credits per button push

	<i>Non-problem gamblers</i>	<i>Problem gamblers (SOGS 5+)</i>	<i>Problem gamblers (SOGS 10+)</i>
Share betting more than one line per push (%)	82.3	93.4	76.9 ^a
Share betting more than one credit per line (%)	35.7	65.6	77.6
Of those playing more than one line (average lines)	6.1	8.9	9.2
Of those playing more than one credit (average credits)	4.1	5.9	6.4

^a Note that severe problem gamblers often tend to play one dollar machines, and may therefore more often tend to select just one line when doing so.

Source: PC National Gambling Survey.

There are a number of ways of reducing high intensity playing:

- restrictions on the maximum number of lines and credits per line would reduce intensity and short-circuit the conditioning of machines for players to gamble more; or/and
- tighter restrictions on the maximum amount that can be bet with a single button push, which would reduce the cost of playing per hour. Currently, a \$10 maximum bet exists for gaming machines in pubs and clubs in New South Wales, South Australia, Tasmania, and the ACT and a \$5 maximum applies for Queensland and the Northern Territory.

Given that the time available for many problem gamblers is limited (by jobs and other pre-commitments), overall expenditure of problem gamblers would probably fall by making gambling per hour cheaper, while fewer people would be likely to progress to problem levels of play. Measures to constrain lines and credits have precedence — for example, they were a feature of the early regulatory environment in Tasmania. Other than the pre-commitment measures discussed previously, changes to the intensity of play are the most likely to reduce player losses — and some of the attendant problems of excessive gambling.

On the other hand, such controls on intensity are relatively ‘heavy-handed’. High intensity play is enjoyable and some recreational gamblers would derive less pleasure from gambling on machines that reduced that option. How much any given control would affect such recreational gamblers depends on the relative spending patterns of recreational versus problem gamblers. The Commission’s *National Gambling Survey* suggests that problem gamblers stake around \$1.62 per button push compared with 57 cents for non-problem gamblers.³⁷ This suggests possible scope for reducing play intensity without overly affecting many recreational gamblers. However, any measure to reduce intensity should use a large dataset of gambling sessions by problem and non-problem gamblers to set the appropriate level of controls on denominations, credits and total amount bet per button press.

It should be emphasised that just because there are now mainly one or two cent machines does not imply that the machines involve lesser levels of intensity. To the contrary, with their multi-line multi-credit characteristics, supposedly ‘low’ denomination machines can involve player stakes per button push in excess of some apparently ‘high’ denomination machines. As shown in appendix U, the implied hourly expected losses of low denomination machines are around \$700 to \$1000 at maximum playing intensity. It is also notable that even though the mix of machines

³⁷ This is based on the SOGS 5+ rating of problem gamblers. If the SOGS 10+ rating is used, the difference in playing intensity is accentuated, with non-problem gamblers staking 57 cents per button push and problem gamblers \$3.22.

has shifted to lower denomination machines, the average venue profit per machine (or player losses) has increased.

Making play cheaper for problem gamblers?

While preoccupation with gambling and the time spent on it can be problematic features of excessive gambling, the largest problems stem from the high levels of expenditure incurred. The amount spent is likely to be very significantly affected by the price of gambling. Under current prices, a player's losses will, over a year of regular play, be very close to 10 per cent of player turnover. Indeed, because problem gamblers tend to re-stake their winnings and often play for longer periods, their expected return on *initial* stakes will be close to zero (appendix U). In theory a better pricing system for a problem gambler is a price of zero — that is, where the expected losses are zero. The gambler may, of course, still lose when they play, but over a long period (noting that nearly all problem gamblers play regularly) the sequence of wins and losses would tend to break even.

Of course, it is not possible for all poker machine players to play the machines at a zero price, since there are costs associated with providing the machine and a need by State governments for revenue. This suggests two possibilities:

- there could be a two part pricing strategy. Players could be charged an upfront cost to use the machine for a certain period of time, and the expected loss rate would be zero. This is entirely consistent with the viewpoint that the machines provide entertainment to patrons, and is more akin to the charging strategy for video arcade games and other entertainment forms; and
- if cards were required for gambling (as in box 16.14) then these could record a player's annual poker machine expenditure. When the level was below a certain threshold, say \$2500, they would receive the standard odds. Once their expenditure exceeded that threshold, the *expected* price would again be zero (so that the poker machine would read the card and use a different set of virtual reels for these players). This has the advantage that venues would have disincentives to have many players spending above the threshold amount and might put in place more effective measures to cut problematic play (since the venues would make a loss on any gambling above the threshold).³⁸

³⁸ Such a measure would need tight security on above-threshold cards, since every gambler would prefer those odds, and might seek to borrow or steal the cards. However, if the cards used were bank cards, people would not want to borrow or steal them since any winnings would be paid into the account of the card owner (cards would also be protected by PINs or other security measures), while owners would not want to lend them since this would potentially enable the borrower to withdraw money from their bank accounts (from a nearby ATM, for example).

The potential advantage of these possible options is that they limit the financial exposure of problem gamblers, thus limiting the harm from problem gambling.

Linked jackpots and accelerators

Some machines are linked together and pay out a jackpot at some point in a spending interval, such as paying out \$1000 between \$20 000 and \$30 000. Other non-linked machines — the accelerators — play out a jackpot over a similar spending interval. As the total spend rises over the interval and if the prize has not yet been paid out, players face stronger incentives to prolong playing. Incentives for prolonged playing may well represent a hazard for gamblers — and may accentuate problematic behaviour such as chasing losses. Moreover, as noted previously, many poker machine players believe that the payouts of poker machines are non-independent, so that a ‘full’ machine must pay out soon. While this view is erroneous for most machines, it does apply to linked machines. They may, therefore, fortify misconceptions about the way poker machines generally work.

The AGMMA (sub. D257, p. 19) argued that there should not be any ban on linked jackpots or accelerators, arguing that they:

- provide enhanced entertainment;
- provide a significant source of the future growth of the industry (and with associated employment gains and increased revenues for gaming venues);
- represent the technical cutting edge of gaming technology, so that controls would place Australian manufacturers behind overseas jurisdictions;
- are part of the commercial decision making of companies. They claimed that any ban would represent a gross interference with commercial matters (eg TAB attracted many shareholders with its monopoly on linked progressive jackpots which are yet to be implemented).

The Commission agrees that such jackpots are likely to increase player entertainment and that any ban would appear to involve some implementation costs and transfers from shareholders of gaming providers. However, the employment and economic growth arguments are not compelling (chapter 5).

On the other hand, there appears to be some evidence that problem gamblers find linked jackpot machines a greater attractant than non-problem gamblers, with about 30 per cent of gaming machine playing problem gamblers specifically seeking out such machines, compared with about 3 per cent of non-problem gamblers (table 16.13). This does not, however, necessarily mean that in the absence of jackpot machines, visits or money spent by problem gamblers would be any less.

Table 16.13 Do you specifically go to venues with linked jackpots so you can play electronic gaming machines with linked jackpots?^a

Data for Victoria 1997

<i>Gambler category</i>	<i>All the time</i>	<i>Some-times</i>	<i>Every now and then</i>	<i>Never</i>	<i>Don't know what they are</i>	<i>Not applicable</i>	<i>Total</i>
	%	%	%	%	%	%	%
Non-problem gamblers	1.1	1.6	2.6	36.5	1.9	56.4	100.0
Problem gamblers	8.8	22.8	7.9	28.4	0.0	32.1	100.0
All gamblers	1.2	1.9	2.7	36.3	1.9	56.0	100.0

^a Based on analysis of the unit record data provided by the VCGA.

Source: VCGA 1997, Fifth Community Gambling Patterns Survey.

Currently there appears insufficient evidence that jackpots do exacerbate risks. In this case, a ban appears premature, given their possible consumer benefits. However, as these new technologies expand in significance, future research on problem gambling should investigate whether they are a major source of problems. Then, if appropriate, it may be necessary to regulate or even ban such features. The approach of gaming regulators should in this case, as with other evolving technologies, be to adopt appropriate risk management techniques and to constantly monitor the technologies for their consumer risks. If the evidence is favourable or the risks appear to be low relative to the benefits, then new gaming technologies could be given conditional permission, which is subsequently removed, with proper process, if harmful effects come to light. The approach, while not as precautionary as that applying to pharmaceutical products, could follow a similar template.

Enforced breaks

The Nijpels proposal introduced enforced breaks by requiring a waiting period of 15 seconds after any payout, and requiring frequent payouts. The notion that problem players may gamble for prolonged sessions is confirmed by the Commission's data, so that, in principle, enforced breaks may allow gamblers to pause before automatically playing on. The Break Even Secretariat (sub. D198) argued that the breaks in play are important 'not just for problem gamblers but for recreational gamblers' problematic episodes'.

However:

- the Dutch system was based on the automatic payout of winnings above 200 credits. With a reasonable intensity of playing, Australian gamblers could expect to win a payout of 200 credits relatively frequently — with amounts that were quite modest (typically \$2, \$4 or \$10), since most Australian machines are now

1, 2 and 5 cent machines.³⁹ Such frequent payouts and delays would be a source of player irritation. It would seem more sensible to have automatic payouts only when the value is above some reasonable amount, say \$100.⁴⁰

- many gamblers switch between machines while playing in a given (prolonged) session. Casual observation also suggests that they often like to take out winnings through the cash dispenser and then re-insert them into the machine (perhaps because of the enjoyment of hearing the cash payout). In this sense, gamblers already take breaks in play, but not ones which genuinely invite them to make a choice about continuing playing.⁴¹

Another aspect of machine design which may interrupt continuous gambling sessions is to consider the removal of call buttons on the machines which provide a drink service to patrons. As noted previously, a periodic query about the desire to continue playing may also be effective at establishing conscious consent.

The form of prize payouts

Problem gamblers are much more likely to continue gambling with a large prize (and much more likely to win one, since they play more). The consequence of continued gambling with prize money is that this inevitably results in player losses, because a player will accumulate losses and bet away wins. One way of thwarting this process is to pay out larger prizes by cheque (say prizes over \$250).⁴² Most gamblers would not find this inconvenient, since most do not win these amounts in any given year (table 16.14).

³⁹ For example, in New South Wales in June 1998, 20.1 per cent of machines were 1 cent machines, 16.9 per cent were 2 cent machines and 47.7 per cent were 5 cent machines. The remaining 15 per cent of machines were largely 10 cent and \$1 machines.

⁴⁰ Anglicare SA (sub. 104, p. 48) advocated an automatic shutdown of 20 seconds after a win of 250 times the original bet. Since most gamblers play 5 cent machines with around 3 to 5 credits per line, this would apply to prizes of between \$37.50 to \$62.50. Payoffs of 250 times the amount bet (note *not* of 250 credits) are relatively rare, and so would be workable.

⁴¹ Arguably an enforced break is more likely to work if at the time of any significant payout, the machine explicitly raises the question of whether a player wishes to continue gambling. Thus a screen message would appear asking the player if they would like to have a rest from play. If the player was using a loyalty or some other card in the machine that allowed the machine to determine how long the gambler had been playing, it would also be possible for the machine to query whether the player would like to continue gambling after a certain lapsed time (for example, 1 hour).

⁴² Springvale Legal Service (sub. 17, p. 10) suggested that ‘gamblers who have a “large win” (over \$1000) be required to participate in a “cooling off” period before collecting these winnings and be given a cheque of credit redeemable at a bank or place other than a gaming venue.’

Table 16.14 'Big' prizes won playing gaming machines

<i>Wins per year of \$250 or more</i>	<i>Non-problem gamblers</i>	<i>Problem gamblers (SOGS 5+)</i>
0	85.2	40.8
1-3	11.2	31.1
4-6	2.5	17.0
7 or more	1.1	11.1

Source: PC National Gambling Survey.

Time elapsed between games

The Nijpels model proposed a longer lapse of time between button pushes, and a number of submissions to this inquiry also suggested longer time lapses between button pushes.⁴³ There is evidence that continuous forms of gambling, like gaming machines, pose higher risks for problem gambling than non-continuous forms. However, small differences in the gaming cycle do not significantly address the continuous nature of gaming machines (but may impact on the cost of playing per hour).

The Commission understands that the average time elapsed between button pushes observed in gaming machine venues in Australia is actually greater than that mandated by the Nijpels proposal. Of course, it would be possible to slow the machines further by having longer time lapses than those in the Nijpels proposal. But the button push rate is also a factor integral to the entertainment value of the machines. At some point, longer pauses are likely to decrease the desire of a problem gambler to gamble excessively, but it would probably also deter recreational gamblers.⁴⁴

The Commission does not consider that there is strong evidence in favour of changing button push duration.

Lights and sounds

Some participants have commented on the 'addictive' quality of the lights and music on the machines:

Even the music and bells are cleverly researched. Australia's largest gaming machine manufacturer, Aristocrat, which controls the Adelaide market, has 40 people including

⁴³ For example, sub. 104 (p. 51) suggested a gaming cycle of 6 seconds.

⁴⁴ Tabcorp (sub. D232, p. 16) considered that a longer button push duration would be detrimental to consumers (they also appeared to be under the impression that the Commission had advocated increased times between button presses in its draft report, which was not the case).

psychologists working full time on game design. Sweethearts 2, one of the new generation Aristocrat machines, is smothered in cupids and pink hearts and is obviously pitched at women (Festival of Light, sub. 107, p. 8).

Musical sounds give the impression and reassurance that they are actually winning something, tells other people in the venue that they are winning something...with many machines being played at the same venue at the same time at least one machine is bound to be paying something and making a noise so that it appears that someone is always winning (sub. D259, p. 2).

The Nijpels model required static lighting when the machines were not being played and sound limitations on payouts. However, lighting, graphics and sound effects are contributors to the entertainment value of the machine. Their modification may reduce the attractiveness of the machines to recreational players who enjoy these features.

The Commission is not aware of persuasive evidence which suggest lighting and sounds seriously enhance the ability of the machine to condition player behaviour. This may need further research.

The issue of evidence and implementation

There can be no certainty about how successful particular harm minimisation strategies would be in reducing harm for problem gamblers. ACIL (sub. 155, p. 97) asserted that harm minimisation might, perversely, increase overall harm or at least not reduce it, because of counteracting behaviours by gamblers. This underlines the importance of testing and implementation strategies:

- One approach would be to test measures in experimental settings, but it is unclear whether they would adequately reflect real-world behaviour by problem gamblers.
- Micro databases on the playing experiences of problem and recreational gamblers could be analysed to predict the outcome of harm minimisation measures. Such databases would follow a representative sample of gamblers, made-up of groups of identified problem gamblers and recreational gamblers, through all their playing decisions — time spent per machine, number of machines played in a session, the pattern of lines and credits played during any session, the use of bill acceptors, and the tendency to use wins for future gambles. The University Of Western Sydney has developed some databases of this kind.
- Established results from psychological and sociological studies of problem gambling could be used to predict how problem gamblers might respond.

-
- Existing or past problem gamblers could be asked how they think they might respond to the proposed measures. What people think they might do and what they actually do, can of course, be very different. Nevertheless, this strategy may still provide some useful insights about what could work best (table 16.8). The Racing Industry Board of New Zealand, for example, pre-tested its problem gambling awareness signage with problem gamblers (Alexander 1999). The AHA (NSW) disputed the worth of asking existing problem gamblers about the value of harm minimisation options, arguing that: ‘this is akin to asking the inmates how to run the asylum’ (sub. D283, p. 17).
 - Trials could be held in locations where it would be hard for the problem gambler to subvert the harm minimisation strategies by going to an uncontrolled venue nearby.
 - Trials could be confined to the more expensive and risky measures, whereas others could be introduced more broadly.

In floating options for harm minimisation (summarised in table 16.15), the Commission has made use of survey evidence, our understanding of the psychological and sociological aspects of problem gambling, and the viewpoints of problem gamblers or those experienced in helping them. These perspectives are balanced against the need to ensure that gambling remains entertaining for the bulk of gamblers who experience no problems.

The difficulty in gathering evidence on the likely effectiveness of all aspects of harm minimisation strategies prior to their at least partial implementation, suggests that the effectiveness of any introduced measures will have to be subject to detailed evaluation. An evaluation strategy should be a key facet of any implementation, since it will be important to establish good control data prior to any trial.

It is also important to note the role of evidence in deciding whether to implement a harm minimisation strategy. Some might argue that there has to be strong evidence about the likely effectiveness of a measure before it is introduced. Others might argue that there is *prima facie* evidence that certain aspects of gambling are hazardous and that conclusive evidence about appropriate ways of dealing with these harms is not required before some action is taken. Governments tend, for example, to ban or limit exposure to *potentially* dangerous drugs. In this instance, the onus of proof is on demonstrating the product’s safety, before it can be regarded as a normal good, rather than the onus of proof being to demonstrate that it is hazardous prior to measures seeking to control its availability. Arguably this precautionary approach is appropriate for some aspects of gambling too. The approach reflects the concern that consumption of certain products might have small benefits for many, but very large adverse consequences for some.

Table 16.15 Options for harm minimisation and prevention^a

	<i>Relevant modes^b</i>	<i>Aids consumer consent?</i>	<i>Impacts on recreational gamblers</i>	<i>Possible benefits for problem gamblers</i>	<i>Overall rating</i>
A ban on gambling	A	×	×	✓	×
Information on the odds of losing	G,L	✓	✓	✓	✓
Odds on payout tables on gaming machines	G	✓	✓	✓	✓
Information on the nature of games	A	✓	✓	✓	✓
Regulation of payout ratios	A	?	✓	✓	✓
A record of transactions	G,R	✓	✓	✓	✓
Awareness of the risks of problems	A	✓	✓	✓	✓
Restrictions on advertising	A	?	✓	✓	✓
Risk warnings on advertising	A	✓	✓	✓	✓
Opening hour restrictions	A	×	×	?	×
Quantity restrictions	A	×	×	?	?
Limiting social accessibility	A	×	×	?	×
Increasing the initial outlay	A	×	×	?	×
More stringent entry conditions	A	×	×	?	×
Limiting access to ATMs and credit	A	?	×	✓	✓
Simple system of self-exclusion	A	✓	✓	✓	✓
Player controls (eg card systems)	G, R, C	✓	✓	✓	✓
No bill acceptors	G	?	×	✓	✓
Limits on the rate of loss	G,R,C	×	×	✓	?
No linked jackpots	G	×	×	✓	?
Enforced breaks	G	✓	×	?	?
Cheque payouts for wins > \$250	G,C	×	×	✓	?
Longer times between button pushes	G	×	×	?	×
Less lights and sounds	G	×	×	?	×

^a A tick denotes a likely positive or at least benign effects, a cross an adverse effect and a ? an uncertain or mixed effect. The overall rating provides an initial judgement about the priority for assessment of regulatory options, with ticked items having the highest priority for policy evaluation. Options for harm minimisation of internet gambling are separately considered in chapter 18. ^b A denotes all gambling forms, G denotes gaming, R denotes racing, L denotes lotteries and C denotes casino table games.

16.10 Bankruptcy and problem gamblers

It appears that most problem gamblers do not go bankrupt. However, under section 271 of the Bankruptcy Act it is possible that a problem gambler who is declared bankrupt as a result of gambling could face prosecution. For this reason official data on gambling-related bankruptcies (appendix R and chapter 7) probably understate its true significance.

There is some argument for prosecution to deter reckless action by problem gamblers, but it appears unlikely that the existing provisions provide much deterrence since they are relatively obscure to gamblers until they are close to

bankruptcy. And in any case the authorities can usually apply other sanctions for clearly fraudulent behaviour associated with gambling.

These probably weak benefits of section 271 have to be offset against its possible costs. Section 271 treats people with a gambling dependency in a way that is quite unlike other dependencies, and may deter them from taking an action (filing for bankruptcy) that may substantially reduce their access to finance. As noted by the Wesley Community Legal Service (sub. D215, p. 2) bankruptcy also provides an opportunity for the problem gambler to re-evaluate their gambling, and probably represents a favourable time for counselling intervention. The arguments and data relating to gambling and bankruptcy are set out more fully in appendix R.

There may be value in the Commonwealth reviewing the merits of section 271. It could also give consideration to whether there were grounds for requiring mandatory attendance by a problem-gambling bankrupt to appropriate counselling.

16.11 Probity

So far this chapter has been concerned with consumer consent and issues of harm minimisation associated with problem gambling. There is, however, another source of risk to consumers and society generally from gambling — probity issues. The importance of ensuring probity is a common theme across all gambling modes, in view of the large amounts of cash at stake and the concern to allay public fears of the involvement of criminal elements. Wildman (1998, p. 291) recounts the following story in the US, which captures one of the public concerns about probity :

Several years ago, one casino manager told me, “A couple of regular customers came in with \$60 000 wrapped in neat bundles to be put into the cage for safekeeping in their name. We noticed that the money was slightly burned at the edges and pointed it out. “Oh”, one of them said, “that’s nothing, the torch was too hot.” “We took the money anyhow”, the casino manager told me. “Las Vegas is a place for fun. We don’t run detective agencies in the casinos.”

Moreover, gambling poses particular obstacles to good consumer knowledge about the quality of the services they buy because of the probabilistic nature of payouts. No consumer could independently confirm whether a particular poker machine genuinely offered the stated odds, or that prizes were appropriately drawn in a lottery. Nor could punters be sure that the horses actually running in a race were the horses reputedly running in the race (the Fine Cotton affair being a classic, if rare, case), drugged or held back without the involvement of race stewards. Mair (sub. D182, p. 3) also raises concern about the prevalence of ‘inappropriately asymmetrical information’ or insider trading, in racing gambling, and measures to

reduce its incidence. In all these cases, there is a strong basis for provisions to ensure that the gambling events are fair. As noted in chapter 13, the procedures for probity in the different gambling modes this are similar in their general approach, while varying in their details.

The key issues arising are:

- how far should probity be guaranteed and tested?
- what is the real versus the apparent level of probity?
- who should pay for ensuring probity?
- should different venues be assessed using a common framework, or should there be differential treatment? and
- should there be mutual recognition of probity controls?

How far should probity go?

It appears that early on in the introduction of new gambling technologies, jurisdictions were particularly conservative in wishing to avoid risks:

- For example, ensuring the probity of gaming machine operations was a major reason for the Queensland Government's earlier practice of purchasing machines and renting them to venues.
- Similarly, Victoria's Auditor-General (VICAG 1998, p. 53) noted that, in the lead-up to the establishment of the industry in that State, the VCGA's investigation was comprehensive. The Auditor-General supported the move to revised procedures and risk-based principles of probity checking as the VCGA's knowledge and experience accumulated.

This conservative attitude may be appropriate while a jurisdiction is learning about the nature and levels of probity risks, although it does suggest that jurisdictions that are new to a particular gambling form could also learn about more streamlined probity processes from states with greater experience.

Ultimately, the idea that gambling should be utterly free of crime or incidents of unfair play is untenable. It is inevitable even in the best system of probity checking that isolated instances of departure from probity will occur. This reflects the fact that probity checking can be extremely costly, so that risk management is critical to an effective strategy.

Consistent with this approach would be a strategy involving:

- a greater focus of probity checks on large gambling oriented venues, such as casinos and large clubs, where there are economies of scale in probity checking and large numbers of potentially affected consumers;
- checking of key staff, rather than necessarily all staff;
- checks on suppliers of gambling equipment, such as poker machines or tables, but not of food suppliers and other non-gambling related suppliers; and
- the development of a risk profile of venues, so as to target the appropriate venues with spot checks and audits of machines or other staff, rather than complete testing; and
- the use of automated systems for checking, as in the case of poker machines in most jurisdictions (but not yet in New South Wales).

It is not clear that all aspects of probity checking need be the responsibility of a regulator. Many businesses that deal with large amounts of cash, such as banks and insurance companies, have internal control measures for dealing with employee or consumer fraud (which typically generate costs for the business, rather than for consumers). It is possible that such probity risks be left to the gambling businesses themselves, without a need for additional oversight by government. This would allow gambling providers to decide what they considered to be prudent and cost effective measures of control to avoid losses to the business owners. Of course, it is still important to have regulatory oversight where probity concerns relate to protection of consumers or to criminal ownership or direction of a gambling business.

Probity: real or apparent?

There are a whole range of measures intended to achieve probity, but measures which may look adequate on paper may not actually function well in practice. For example, anti-laundering measures in casinos apply to transactions over a threshold. This invites the question of whether criminals may simply increase the frequency of small transactions just below the threshold level.

One possible way of gauging whether probity regimes are working as intended is for Australian jurisdictions to share consistently collected information on departures from probity in each jurisdiction over time to see if there are weaknesses in their approaches. Informal meetings of gaming ministers and officials already occur and may adequately meet this need.

Who should bear the costs?

Probity regulation generates costs. Arguably these costs should be borne by the industry itself, with venue charges reflecting the marginal costs of any probity checks.

User charging is the approach taken in some jurisdictions. It means that higher costs will be borne by those parts of the industry for whom the costs of assuring customers of the integrity of their operations is higher. This is an appropriate outcome, provided that the industry has a say in the development of probity requirements. The industry itself has a direct interest in maintaining probity for its own commercial and reputation reasons. This suggests there are benefits in meshing commercial and public probity requirements where practicable.

A common framework?

Differences in approach need to be based on differences of circumstances. The greater focus on casinos in some jurisdictions seems excessive, in view of the scale and variety of gaming activities of some of the big clubs. IPART's inquiry found that regulations were 'fragmented and inconsistent' and not adequately enforced in hotels and clubs in New South Wales (IPART 1998, p. iii).

Some participants argued that there were unjustifiable differences in approach to different types of venues, and in particular, that the different requirements placed on casinos and clubs (some of which are larger than some casinos) did not reflect the relative risks and probity issues involved.

Some casinos are subject to very intense 24-hour scrutiny by government authorities and police forces, to the point where Star City (box 16.15) argued:

The current regulatory structures for the gaming industry are totally inconsistent and haphazard. Some sections of the industry are put under intense scrutiny in almost every area of their operations – others operate under minimal scrutiny ...

The intense scrutiny accorded to the casino is out of all proportion given the relative scale of the problems it generates, the transparency of its operations and its size ... (sub. 33).

Box 16.15 Star City on casino regulation

Star City said that:

Only a small number of staff in hotels and clubs must be licensed and there are no checks made on suppliers (other than gaming equipment suppliers) to these industries. Government inspectors operate 24 hours a day at Star City - random inspections are conducted at hotels and clubs reflecting the staff numbers respectively devoted to two tasks.

Controls on Star City also extend to suppliers of large quantities of goods to casinos (including food, printing, consultancies and any other service valued at more than \$200 000). No such requirement applies to other gaming operators.

In the case of its employees, Star City said:

More than 2000 staff have been required to undergo the strictest probity checks so they can be licensed to work in the casino. These are no ordinary probity checks. Staff are required to produce financial documents dating back five years and be prepared to explain any particular transaction of interest to regulatory authorities. Criminal and credit records are checked and all applicants are palm printed and fingerprinted. Investigations can even be made with international law enforcement agencies like Interpol before a licence is issued. In some cases the licensing process can take up to six months (p. 27).

Moreover, some checks are revisited. Star City said:

The NSW casino legislation even requires a very detailed investigation every three years into the conduct of the casino licence. The investigation covers all aspects of compliance by the operator and its employees. The Casino Control Authority must determine whether it is in the public interest for the casino licence to remain in force — and whether it should be held by Star City. No other gaming body is subjected to such an onerous regulation.

Star City said it has its own regulatory body, the CCA, as well as a division of the Department of Gaming and Racing. About 100 people from various State and federal agencies are involved, even though:

... the casino ... generates only 14 per cent of the State's gaming revenue and operates only two per cent of NSW's slot machines. Yet there is no similar dedicated gaming regulator for the registered clubs which control around 75 per cent of gaming machines or the hotels which operate 23 per cent of machines nor for the TAB, Lotto or Racing (sub. 33).

Burswood casino also said that casinos are subject to significant regulatory requirements:

As a result ... the degree of security involved ... is significantly higher than that applying to many other business activities. Burswood would support any moves to streamline gambling regulation to ensure it operates as efficiently as possible [without] any diminution of the intent of gambling regulation (sub. 113, p. 23).

Some support for these views comes from chapter 6, which notes that there is insufficient evidence to conclude that casinos are a particularly significant source of crime or problem gambling.

Chapter 14 noted that many large clubs are not significantly different from casinos in terms of their gambling activities. The New South Wales IPART inquiry (1998) recommended the immediate licensing of all gaming managers with, in addition, the eventual licensing of all gaming related employees in clubs and hotels (by, say, 2001):

Gaming venue employees with cash handling, machine maintenance and or ticket issue duties hold positions of responsibility. Currently each venue (except Star City) performs its own (if any) suitability checks on potential gaming employees. Patrons, government and employers need assurance that gaming employees operate fair and honestly.

But IPART argued for a gradual transition towards this objective:

This would commence with gaming managers and progress eventually to cover all cash handling staff. [The proposed gaming commission] would need to conduct a risk assessment of the level of licensing appropriate for each type of gaming venue and staff numbers within each venue (IPART, p. 37).

IPART's proposal was supported by the hotel industry, which:

... would like to see the licensing of managers and shift supervisors and all other employees who work in a separate gaming room (AHA submission to IPART, August 1998, p. 22, cited in IPART, p. 37).

Differences in treatment by governments partly reflect historical factors, any licence fee and exclusivity arrangements to which governments have committed themselves, and some earlier uncertainties about the 'imported' casino culture which, at least in the early years in the United States, was linked to organised crime. And whereas clubs are community-based operations, with local operators and members, casinos can be owned or operated by international interests, perhaps making probity checking more difficult and increasing the political difficulty of granting licences.

Overall, however, there are few grounds for the marked differences in the treatment of identical types of gambling across different venues types. There is a basis, therefore, for a common set of probity requirements, at least within a jurisdiction, for gambling venues providing the same types of gambling services, and a move away from separate treatment of gaming machines in casinos, clubs and hotels.

On the other hand, different forms of gambling will require different approaches for at least some aspects of probity. For example, machine gaming, with central monitoring outside of the venue, involves different challenges to table based casino gaming, where there is much more scope for staff and customers to cheat. Even here there are grounds for a common approach to some aspects of probity checking (eg relating to checks on criminal ownership or management of the gambling business).

The *emphasis* of probity checking should be cost effective mechanisms for reducing risks to consumers and the community, regardless of the venue or gambling type.

Mutual recognition?

Jurisdictions may duplicate probity or gambling technology standards checks on a gambling business which sells into more than one State. 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 full 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 1998, p. 42).

Similarly, Tabcorp said:

One thing we would like to see, if it can occur at some stage in the future, is that if we had common probity across states - because each executive who works in this industry finds that if you move to another state you have got to go through the horrors of a large paper trail — if you can meet the probity requirements in Victoria, why can't you immediately or automatically have probity in Queensland, New South Wales, South Australia or somewhere else? (transcript, p. 1034).

Unless there are good grounds for different levels of probity or standards testing in each jurisdiction (eg for the checks on the computer chips and algorithms of gaming machines) there should be a mechanism which allows a business to meet just one requirement in order to sell in others. Mutual recognition is a process which allows this, but gambling has been made explicitly exempt. In fact, mutual recognition is probably not an ideal mechanism for dealing with divergent and duplicated standards in this area. This is because if gambling were not exempt from mutuality then all features of the regulation of gambling would be covered — and that might be inappropriate. For example, South Australia would be unable to bar bill acceptors or Western Australia genuine poker machines. However, it should be possible to reach inter-jurisdictional agreements on some common aspects of probity approaches, such as employee licences.