

AHA NSW

AUSTRALIAN
HOTELS
ASSOCIATION
(NSW)

**SUBMISSION
TO THE
PRODUCTIVITY COMMISSION
DRAFT REPORT
HEARING**

**SYDNEY
16 SEPTEMBER 1999**

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EXECUTIVE SUMMARY

For many years the Productivity Commission and its predecessor bodies have been required to follow the terms of reference for inquiries established by the Federal Government.

In the Gambling Industries Inquiry the Commission has not limited its Draft Report to the information report required by Government. This departure from a well established practice has created an unbalanced Draft Report which has a number of adverse consequences for both the Government and the Gambling Industries.

Firstly, the Draft Report provides a series of conclusions and policy recommendations that were not asked for or debated. In essence, the Commission has improperly formed conclusions and publicised those conclusions without allowing what has become due process. If the industry participants had been advised that the Commission intended to reach conclusions and make recommendations then the industry would have responded very differently in its evidence and round table discussions. A fact-finding report has become a Star Chamber.

Secondly, the Draft Report contains a great number of comments, assertions and statistics that are simply wrong or untrue or misleading or irrelevant. Again this would have been regrettable but not decisively destructive in a Draft Information Report. However the Commission has employed those comments, assertions and statistics to reach conclusions that are not consistent with the truth about the industry and its contribution to the Australian economy.

AHA (NSW) argues that the specific major areas where the Commission is wrong include:

- The Commission's arrogant dismissal of the economic benefits of the industry for Australia. The employment of hundreds of thousands of young men and women, revenue of \$11 billion, taxes of \$4 billion and employment generation for other industries such as the building industry are summarily dismissed as "largely illusory"

AHA (NSW) contends that this is patent, outdated, theoretical nonsense.

- The Commission says that resources used in the Gambling Industry are not stamped "for use in the Gambling Industry".

AHA (NSW) says that most of the resources are so stamped and would not flow seamlessly to other uses in the absence or contraction of the gambling industries.

- The Commission says that there are 330,000 problem gamblers in Australia and this proportion of the population is twice as high as the rest of the world.

AHA (NSW) says that the Commission's survey is fundamentally flawed, its assumptions are wrong and its expression of the numbers and survey results is political rather than statistical. The Australian Bureau of Statistics has stated in its submission that *"any survey of gambling activity and its impact on individuals and family well being would need to be the subject of considerable research and investigation"*.

Further, the number of 330,000 is, incredibly, derived from 81 people identified as problem gamblers in the Commission's flawed survey

- The Commission says that “when gambling is over, the chance disappears and there may be little to look back on as a pleasant or enjoyable way of passing the time”.

AHA (NSW) says that this is a jaundiced narrow-minded dismissal of a pleasure that most Australians enjoy for much of their lives. This attitude has no place in a truly objective report on the gambling industries.

- The Commission says that the net consumer benefit ranges from \$150 million to \$5.2 billion.

AHA (NSW) says this calculation is completely meaningless and expresses an academic philosophy that does not capture the real contribution of the industries.

- The Commission says that the mutuality principle may not be inequitable for hotels and tax changes may not be appropriate.

AHA (NSW) says that this attitude ignores obvious changes over time in the industry that have made a mockery of the mutuality concept and cost the community hundreds of millions of dollars in tax and created a competitive advantage for the clubs based entirely on a concession delivered by the Australian taxpayer through the Federal Government. Taxation measures such as safe harbours are used in many other industries and attack schemes which minimise taxation, but leave genuine arrangements untaxed.

The Commission argues for a whole series of policy prescriptions without proper supporting evidence which, if adopted, would substantially contract the gambling industries and create additional, administrative costs of hundreds of millions of dollars per annum. The measures proposed by the Commission constitute potentially the highest level of Government intrusion in Australian industry including tobacco and alcohol. They are a direct assault on the rights of the 99 per cent of Australians who enjoy gambling and are not harmed by their recreational pursuit of gambling.

OVERVIEW OF THE REPORT

The AHA (NSW) commends the Commission for the comprehensiveness of its fact finding and analysis. Approximately ten months have elapsed between the Treasurer's request for a public Inquiry and the completion of the Draft Report. During this period the Commission completed a major national survey and other surveys, undertook numerous round tables and received and reviewed 179 submissions.

This Inquiry is to a large extent, a pioneering effort. As the Commission notes in its Summary it was asked to conduct:

“Australia's first independent national inquiry into:

- the economic and social impacts of the gambling industries; and
- the effects of the different regulating structures that surround these industries.”

The Inquiry required a broad and independent canvass of many relevant issues in a very complex industry that has grown rapidly and changed substantially in the past few years. The AHA (NSW) believes that the terms of reference for the Inquiry were of crucial importance.

As the Commission notes:

“The Commission was not asked to make formal policy recommendations but rather to provide an information report which can serve to enhance public understanding of the issues and assist government decision-making”.

The AHA (NSW) contends that the Draft Report is a wonderful effort at data gathering and collation in respect of the Industries. However, we believe that the Commission has substantially exceeded its terms of reference which it has itself clearly understood and interpreted correctly. The Draft Report contains a large number of conclusions, assertions and generalisations from the particular which do not do justice to the mammoth fact-finding exercise that has been undertaken.

The Commission would recognise that its Draft Report has already resulted in significant, simplistic media debate and political reactions that have already shifted Government policy in New South Wales. The deferment of the introduction of the relatively minor gaming product of Keno in NSW is a direct consequence of the Draft Report's conclusions. Other examples of political reactions include the Prime Minister's comments and political opposition to a specific Hotel licence application that quotes the Draft Report's "findings" as its rationale. There is a free-fall in present policy for the industry that has been created by the Draft Report's publication and media reporting of it. The request for an information report was, in our view, designed to ensure that the Government made the policy not the Commission and the media.

The issue of problem gambling is fragile and sensitive. The AHA (NSW) acknowledges the tragedy and cost incurred by some Australians as a consequence of their gambling problems or the problems of a close family member. We do not consider that it is correct to conclude, at this stage, that there are 330,000 problem gamblers. The use of a large number has great political power (as has been demonstrated). The question is whether it is more important to deal with the nature

and range of the problem and possible solutions than to postulate a single number that is based upon a particular definition based upon an arbitrarily chosen South Oaks Gambling Screen (SOGS) score.

Essentially, the AHA (NSW) believes that the Commission has exceeded its terms of reference in the Draft Report. The data it has gathered divides generally into a third of the submissions being received from Industry participants, Governments and advisers and two thirds of the submissions being from Social Counselling Agencies and related help organisations. Effectively the submissions on the industry relate, on the Commission's number, to 97.7 per cent of consumers in the market whilst the social issues deal with 2.3 per cent of consumers, and probably less.

This comment should not be used to reflect a view that the industry is uncaring. The plain point is that, in an information report, the Commission must be seen to present a balanced and distanced perspective of the data. As the Commission notes, it is an independent body and throughout its brief history and throughout the eighty-year history of its predecessor organisations (the Industry Commission, the Industries Assistance Commissions and the Tariff Board) it has been jealous of its independence. The tragedy of problem gambling should not result in the Commission being captured by a particular interest group within the industry, no matter how desirable the goals of that group may be.

In particular, this Draft Report represents a major shift in the Commission's long term philosophy. It has argued consistently for twenty years that all industries are the same and that no industry has demonstrated that it deserves special assistance. This Report presents a counter view arguing, in effect, that the negative externality of problem gambling warrants government intrusion in the market place. In particular, the Commission's conclusions on accessibility (which flow from a sensible analysis of the facts) demonstrates the problem in moving from an information report on the question to a value judgement regarding the solution.

The AHA (NSW) wishes to respond to the Draft Report in both general and particular terms. Accordingly our submission is structured to provide a general response to the following issues:

Issues Paper

1. Industry Data in the Draft Report
2. Costs and Benefits
3. Problem Gambling
4. Taxation and Mutuality
5. Regulation and Consumer Protection
6. Technology

Specific comments on the data and analysis provided in the Draft Report is given in an Appendix to some issue papers.

In summary, the AHA (NSW) reiterates its admiration for the vastness of the effort by the Commission that is reflected in the Draft Report. However, the AHA (NSW) does not accept the Commission's views in respect of either the economic or social impact of the gambling industries in Australia. More importantly, the Commission was not asked by the Treasurer to express such views and it has already intruded in the gambling market by doing so. This Inquiry is not a lynching or a show trial. The very considerable effort and expense being expended in the Inquiry warrants strict adherence to the principles of objectivity and fairness. The policy development responsibility lies with the Federal and State Governments. The Federal Government will ask the Commission to help develop that policy if it wishes to do so.

We ask the Commission that its Final Report meets its own objective of:

“an information report than can serve to enhance:

- Public understanding
and assist
- Government decision making”.

We ask for no more and no less.

1. INDUSTRY AND SURVEY DATA IN THE DRAFT REPORT

AHA (NSW)'s General Comments

The AHA (NSW) congratulates the Commission on its strategic approach to the data-gathering task created by the Inquiry. The Commission has had no specific involvement in the industry in the past and has not, therefore, had the benefit of previous reports or methodological approaches.

The basic tests for the data are whether it is true; whether it covers all of the major issues; whether it is contemporary and finally, whether it has been collated correctly and analysed without bias.

The Draft Report provides a great deal of data on the size of the industry, taxes paid and gambling consumption. The AHA (NSW) does not dispute the statistics in regard to gambling supply, taxes and employment.

However, it would appear the statistics quoted by the Commission in regard to Australia's share of the worlds gaming machines are wrong.

We would like to refer the Commission to a letter the Association received from AGMMA (Australian Gaming Machine Manufacturers Association) that details the fact that Australia has less than 4 per cent of the worlds total electronic gaming machines (see Attachment 1 to this Issue Paper).

How did the Commission get this simple fact wrong in such a major report?

We do dispute the statistics in relation to consumption and expenditure by problem gamblers. Also, we disagree with the Draft Report's presentation of these statistics as "Key Findings" at Page XII of the Report. The Commission was not asked to express its Key Findings and should not, in any case, have reached such conclusions as a consequence of a National Survey that was fundamentally tainted by the period in which it was undertaken and its other shortcomings.

The Commission acknowledges that the results of the survey were influenced by the fact that it was undertaken at Easter and in the two weeks of school holidays following Easter. The result was a large proportion of unanswered calls for the Survey company.

Those unanswered calls may have significantly influenced the ultimate characteristics of population of the survey. For example, younger people with families and single adults may have been away from home on the Easter break or the holidays.

This is only supposition. Yet it is a supposition of the Commission, that 75 per cent of Australians believe that gambling does more harm than good and 92 per cent do not want to see an increase in gaming machines. It would be apparent to the Commission that the selection of a biased sample would result in skewed results that should not be represented unequivocally as key findings and extrapolated to conclusions about national attitudes.

The problem of statistical analysis in the report extends beyond the Commission's preoccupation with the quantification of problem gambling and its costs.

Another "key finding" on the data is that the net benefits created for the economy by the industry range from as low as \$150 million to as high as \$5.2 billion annually.

With respect, this is not a key finding or even a reasonable approximation of reality. The range is so broad that the Commission's conclusion should have been (had it been asked to reach a conclusion) that it didn't know from the data available what the nett position was. In its Annual Budget the Government would be ridiculed if it postulated a surplus of somewhere between effectively nothing and five billion dollars.

In summary, the AHA (NSW) considers that the Draft Report attempts to quantify the unquantifiable. This is an error that results from the Commission exceeding its brief. The industry data is excellent, the survey data is poor, and the Commission's analysis of the data is uncalled for and reflects value judgements that the Commission is not competent to make.

AGMMA

THE AUSTRALIAN GAMING MACHINE MANUFACTURERS ASSOCIATION

A.C.N. 060 130 770

12 August 1999

The Australian Gaming Machine Manufacturers Association (AGMMA) wishes to address two misleading statements in the Productivity Commission's draft report on Australian Gambling Industries.

The statement made by the Productivity Commission that Australia has 21% of the world's gaming machines is incorrect and requires amendment.

It is this inaccurate statement that has provoked a strong response from the Prime Minister and high profile political figures to the detriment of the gaming industry.

In reaching its conclusion, the Commission has ignored 2 major factors:

- 1) The existence of 6.6 million electronic gaming machines throughout the world; Japan alone has over 4.6 million electronic gaming machines and there are in excess of 2 million electronic gaming machines including mechanical reel spinning machines, draw poker, video lottery terminals, bingo, and keno in the rest of the world.
- 2) The existence of hundreds of thousands of gaming machines operating in unregulated markets throughout the world.

This means based on the additional 4.6 million in Japan only, Australia has less than 4% of the electronic gaming machines in the world, not the supposed 21% suggested by the Commission. In fact, the available information on world electronic gaming machines numbers suggests that Australia is likely to have around 2.5% of the world's electronic gaming machines (over 88% less than the 21% figure in the draft report).

In an attempt to prevent further unnecessary reactionary comments from the media, Federal and State Governments and the community, AGMMA is urging the Commission to consider these facts when amending its final report.

The publishing of such inaccurate statistics by the Commission is damaging for the entire gaming industry and will directly affect clubs, hotels, casinos and many community sponsored activities supported by gaming revenue.

AGMMA

THE AUSTRALIAN GAMING MACHINE MANUFACTURERS ASSOCIATION

A.C.N. 060 130 770

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Secondly, the Commission's reference to "Online gambling offers significant potential benefits to some customers and scope for commercial returns" should be of concern to all industry stakeholders.

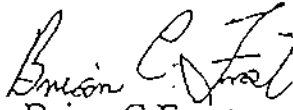
AGMMA believes that Online gambling cannot possibly be regarded more favourably than traditional gaming.

With the gaming industry contributing billions of dollars to the community per year via gambling taxes and levies, AGMMA believes the Productivity Commission has a responsibility to the industry to conduct its research accurately and in a manner which presents the public with the real facts.

AGMMA will continue to review and respond to the Productivity Commission's findings to ensure the industry's concerns are addressed.

We look forward to your support of AGMMA's call for these points to be clarified and addressed in the Commission's final report.

Yours sincerely


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SPECIFIC COMMENTS ON INDUSTRY DATA IN THE DRAFT REPORT

These comments relate to Chapters 2, 3, 4 and the Summary of the Draft Report.

Draft Report Statement

Together, Australia's gambling businesses generated \$1.5 billion in profit (before tax) in 1997-98, or an average of \$217,000 per business (2.11).

AHA (NSW) Response

A simple average profitability measurement is not appropriate given the spectrum of gambling venues from Crown Casino to a small country hotel.

Draft Report Comment

Gambling businesses are characterised by a high proportion of part time, casual and female employment (2.13).

AHA (NSW) Response

This factual observation is at odds with the Commission's conclusion that in the absence of the gambling industries, employees would simply be employed by other industries. It would be extremely unlikely that another industry would exhibit the same or similar demand for part time and casual employees, mostly women.

Further, this statement by the Commission does not take into account the changing nature and growing number of major career paths being created throughout the gambling industries in Australia.

A new industry with great expertise is being created. Part time and casual employment is only a portion of the industry's employment opportunities.

Draft Report Statement

Total expenditure on gambling – that is, the amount lost – amounted to over \$11 billion in 1997-98, from a turnover of some \$80 billion. This is more than double what it was a decade ago in real terms, and treble that of 15 years ago (XVIII Summary).

AHA (NSW) Comment

In isolation this figure may be used to suggest a major shift in gambling behaviour. It would be reasonable to place the numbers within the context of the actual proportion of household expenditure involved and the growth of discretionary and leisure expenditure over the same periods. Finally, the growth figures are not discounted for the earlier revenue figures of illegal gambling activities that have been eliminated almost totally by the liberalisation of the gambling industry. A good example of the latter is the total destruction of the SP bookmaking market with the introduction of State TABs. The Kinsella Royal Commission found there were 6,000 SP operators in NSW in 1962 with a total turnover of 275 million pounds or \$8½ billion in 1999 dollars. Source: Drug Traffic: Narcotics and Organised Crime in Australia. Alfred W. McCoy 1980 Harper & Row Page 180

Draft Report Statement

But just 10 per cent of gamblers accounted for around 80 per cent of total gambling expenditure in 1997-98 (XXI).

AHA (NSW) Response

If total expenditure is \$11.3 billion then 80 per cent is \$9 billion. Ten per cent of 12 million gamblers is 1.2 million. The Commission is suggesting an average spend for 1 in 10 Australians of \$7,500 per annum. The AHA (NSW) believes that the Commission has no factual foundation for this assertion. Further if this figure was true the Commission is suggesting that hundreds of thousands of Australians spend between $\frac{1}{4}$ and $\frac{1}{3}$ of the nett income on gambling. Considering the cost of living including rental and mortgage payments this is a totally unsustainable assertion. We note the evidence of the Australian Bureau of Statistics in which it was stated that:

“It may be possible for the ABS to design and develop a household survey specifically focussed on gambling activity and its impact on individual and family well-being that may overcome some of the problems associated with the Household Expenditure Survey. However, the precise extent to which they could be overcome would be problematic and would need to be the subject of **considerable research and investigation**” (Paragraph 21) *[our emphasis]*.

This prudent response from Australia’s most experienced and expert national survey conductor (e.g. the Commonwealth Census) has been lost in the Draft Report’s use of its national survey which has obviously been conceived and executed in haste to fit the timetable of the Inquiry rather than the needs and probity of the survey.

2. COSTS AND BENEFITS

AHA (NSW)'s General Comments

The Draft Report deals with Benefits at Part B, Chapter 5 and Costs at Part B, Chapter 10. Our response follows:

Benefits

The Commission's approach involves measuring particular benefits from gambling (the consumer surplus), examining the broader benefits for consumers and the economy as a whole and reviewing a number of models and studies which have used models of the Australian economy to arrive at their conclusion on consumer surplus.

The AHA (NSW) agrees with the Commission's view that gambling is best characterised as a form of entertainment (5.2). We disagree with the perception that gambling can be clearly differentiated from investment as:

“Investments even risky ones, can realistically be expected to offer a positive rate of return”.

This may follow from the law of large numbers if people invest in a large number of projects. The fact is that many investors in Tasminex, Poseidon and other shares lost their total savings and never invested again. It is gratuitous to enunciate essential differences in Box 5.2 when the difference may not exist for a number of people.

The proclivity for bias is again identified in Box 3 under the heading of "Why People Gamble". The heading would be better expressed as "Why People of Vietnamese Origin Gamble" because it is totally reflective of a submission from the Australian Vietnamese Women's Welfare Association. The particular subject matter is gambling at Crown Casino by gamblers of Vietnamese origin.

As stated in our Overview it is wrong to argue from the particular to the general. These comments have little relevance for Australian gamblers in general who have no memory of the uncertainty of civil war (or impact from their parents' memories) or experience of Crown Casino's ambience in particular. Similarly, comments from Anglicare about whether people have "joy and pleasure on their face in a pokies venue" are obviously biased and an individual's experience or perception. This should not be translated into a general heading about gambling satisfaction and some unfounded conclusions (at 5.5) that "these responses highlight the ambivalent status of gambling" and that "when gambling is over, the chance disappears and there may be little to look back on as a pleasant or enjoyable way of passing the time".

The Commission is making a social judgement regarding the type of activities that people should enjoy. The potential consequence of this type of specious view is that Governments base policy on what a Commission feels is appropriate recreational activity.

This sort of righteous prescriptive comment lacks objectivity and is not founded in objective and general data and observations.

A great many people obviously enjoy gambling and do regard it as an enjoyable pastime. For example, the history of racing extends over thousands of years and a day at the races is obviously viewed and remembered by many people as an enjoyable day. Many retired people enjoy a club or hotel outing, including an investment in the "pokies" as their major social activity.

The AHA (NSW) does not intend to participate in the debate over which consumer surplus measurement is accurate (ie. the Commission or ACIL). The estimates rely on the assumptions on price elasticity where the literature provides estimates which range from highly elastic to inelastic. Given the range, our view is that the elasticity concept employed is explaining nothing about the behaviour of gamblers when prices change.

It follows that if elasticity cannot be measured within a meaningful range then consumer surplus cannot be measured. The Commission has no warrant to assume that the demand of problem gamblers is more price inelastic than the demand of conventional gamblers and to actually allocate values to those comparative elasticities.

Similarly, the Commission assumes that the tourism benefit from gambling is \$536.5 million based on an estimate of 25 per cent of casino revenue. Don't tourists go into clubs or hotels or buy lottery products?

In general, the AHA (NSW) rejects the benefit calculation made by the Commission. It is unduly focussed on consumer surplus and uses extremely broad elasticity ranges to reach its conclusion. More importantly, it is generally dismissive of the resource employment provided by the gambling industries. Our belief is that the Commission has reached conclusions which it ought not to have reached as a simple consequence of its commitment to the theory of full employment of resources.

The enthusiasm for consumer surplus measurement based on highly suspect elasticities is in contrast to the Commission's indifference to measurement of the economic benefits created by the industry. The AHA (NSW) acknowledges that some resources would flow to other industries but it is simply not good enough to use expressions like "highly illusory" and "there are a few wrinkles to this story but they are relatively minor and tend to disappear over time". Our view is that the taxation opportunity cost is of itself immense.

The AHA (NSW) would like to see an analysis of the industries that have turnover at about the \$11 billion level and the amount of taxes that they pay compared to the gambling industries.

Similarly, it is not good enough to dismiss labour, land and capital losses as minor. Australia is emerging from a period when unemployment, particularly youth and regional unemployment, was perhaps the key issue for the government. Many would argue that it is still the predominant issue but has been cloaked by the Olympics investment and a great deal of pump-priming of the economy through the sale of Telstra, other major assets and the demutualisation of the AMP. The Draft Report does not provide anything other than trite theoretical assertions on resource usage.

There is no prima facie evidence that capital would flow to other industries in Australia. There is no measurement of the possible losses or consideration of alternative uses for major fixed capital investments. Once again, the Commission ought not to engage in such a dialogue that has little to do with information completed in this Inquiry, but as it has decided to do so it must present a balanced scorecard of the economic cost and benefits to the economy.

Specifically, the Commission's arguments on full employment of resources would, if taken to their conclusion, mean that no individual industry creates an economic benefit for the Australian economy. The sum of all industry's economic value would be nil which is absurd.

Hoteliers invest in hotels not in chocolate factories or advertising agencies. At the margin there would be some disinterested investors who are simply looking for the best return. The vast majority of hoteliers are in the business because it is their work as well as their investment. Their skills and experience would not be transferable to other industries.

Finally, the facts of history contradict the Commission's viewpoint. In the early 1990's it is estimated that between 400 - 500 hotels in NSW were under administrative arrangements with their banks. The resources hadn't shifted, they were under utilised but were still in the same place.

Obviously, in long business cycles there will be periods of greater and lesser profitability and participants will stay in an industry waiting for better times rather than lose their intangibles investment (i.e. their knowledge of the industry) and have to pay for capital movement, adjustment costs and imperfect resource mobility.

**SPECIFIC COMMENTS ON COSTS AND BENEFITS IN
THE DRAFT REPORT**

Draft Report Statement

The benefits that consumers gain from the consumption of any good or service is commonly measured within an economic framework as 'consumer surplus' – a measure of their preparedness to pay over and above the cost of purchasing the product (5.6).

AHA (NSW) Response

While there may be contexts in which consideration of consumer surplus may be useful, the concept has little, in our view nothing, to contribute to an economic evaluation of the gambling industry.

To put our position clearly, consumer surplus is of no practical use because it is little more than a non-measurable, hypothetical notion: a useless, academic parlour game.

The concept is useless for two main reasons: first, because the variables required for its quantification remain themselves quite unquantified or imprecise and, second, because, although the Commission neglected to do so, the measure is required, despite Mishan's contrary view, to be netted of consumer surplus foregone in other consumer expenditure forms displaced by gambling expenditure.

The net result is that the many numbers, presented in the report with spurious precision, are no more than figments of the imagination.

Our reasons in support of this contention are:

Quantification

According to the report (p5.6) the estimate of consumer surplus is based upon actual expenditure (the level of current consumption), and elasticity of demand, and (p5.8) adjustments to be made in relation to expenditure accounted for by problem gamblers.

In Box 5.6 (p5.9) the estimated elasticities of demand for gambling range from -0.5 to -1.5 (from inelastic to highly elastic) while Table C1 presents estimates of elasticities for different forms of gambling, ranging from -0.2 to -3.05 : from even more inelastic to even more highly elastic.

Given the non-substitutability of the different forms of gambling (pD.1), it must be questioned how valid any measure of price elasticity for "all gambling" can be. Valid or invalid, the width of the range of estimated elasticities plainly demonstrates that the Commission simply does not know the value of that elasticity, if such a unique thing exists, which it does not.

As the Commission acknowledges, elasticity varies over the price range and, as well as that, short-term elasticity differs from long-term elasticity. Arc elasticity will differ for almost every arc and for every time span.

It is similarly clear that even less is known about income elasticity. The results of the only three studies set out in Table C2 range from 0.3 to 1.2 and these relate to three separate gambling demand forms: horse racing in the USA, Las Vegas gambling, and gambling. The Commission presents no justification for selecting the value of 0.7 for income elasticity, nor could it.

Estimates of gambling expenditure are themselves imprecise although not intolerably so, provided the results derived from the data are not presented with false precision. Time series and growth calculations of gambling expenditure are less reliable because of apparent differences in methodology over time. The ABS has heavily qualified its household expenditure estimate of gambling expenditure and it would be hazardous to compare estimates based on proportional household expenditure with later tabulations of outlay. While, as stated above, estimates of gambling expenditure are less imprecise, that imprecision compounds the already extreme imprecision in elasticity estimates.

Finally, the adjustment for the negative consumer surplus of problem gamblers themselves dubiously defined and dubiously counted amounts to a dubious adjustment to a dubious estimate.

In short, the whole edifice of consumer surplus estimates as a measure of benefit amounts to nonsense.

Draft Report Statement

In Box 5.6, the Commission presents three dot-point examples of the effect of price elasticity where prices double (5.9).

AHA (NSW) Response

The first and third examples are wrong; the first slightly but significantly, the third substantially. Our workings are attached:

Case 1: price doubles, $\eta = -0.5$

Say $p_1 = 100$
 $p_2 = 200$
 $q_1 = 1000$

$$\begin{aligned}\text{Now } \eta &= \frac{\Delta q}{\Delta p} \cdot \frac{p_1 + p_2}{q_1 + q_2} \\ &= \frac{q_1 - q_2}{100} \cdot \frac{300}{q_1 + q_2} \\ 0.5 &= \frac{1000 - q_2}{100} \cdot \frac{300}{1000 + q_2} \\ &= \frac{(1000 - q_2)3}{1000 + q_2} \\ 500 + \frac{q_2}{2} &= 3000 - 3q_2 \\ \frac{q_2}{2} &= 2500 - 3q_2 \\ q_2 &= 5000 - 6q_2 \\ 0 &= 5000 - 7q_2 \\ \therefore 7q_2 &= 5000 \\ q_2 &= \frac{5000}{7} = 714 \text{ (71.4\%)}\end{aligned}$$

The Report said 75%

The report is out by 5 per cent

Case 2: (price doubles), $\eta = -1$

Now $p_1 = 100$
 $p_2 = 200$
 $q_1 = 1000$

$$\eta = -1$$

Now $\Delta q = 1000 - q_2$

And $\eta = -\frac{\Delta q}{\Delta p} \cdot \frac{p_1 + p_2}{q_1 + p_2}$

i.e. $-1 = -\frac{1000 - q_2}{100} \cdot \frac{300}{1000 + q_2}$

$$\therefore 1 = \frac{(1000 - q_2) \cdot 3}{1000 + q_2}$$

so that $1000 + q_2 = 3000 - 3q_2$

$$0 = 2000 - 4q_2$$

and $4q_2 = 2000$

and $q_2 = 500$

$$= \frac{1}{2}p_1$$

The Report is correct

Case 3: $\eta = -2$, price doubles

Say $p_1 = 100$
 $p_2 = 200$
 $q_1 = 1000$

Now $\Delta q = q_1 - q_2$
 $= 1000 - q_2$

And $\eta = \frac{\Delta q}{\Delta p} \cdot \frac{p_1 + p_2}{q_1 + q_2}$

So $-2 = -\frac{1000 - q_2}{100} \cdot \frac{300}{1000 + q_2}$

i.e. $2 = \frac{(1000 - q_2) \cdot 3}{1000 + q_2}$

$\therefore 2000 + 2q_2 = 3000 - 3q_2$

$\therefore 0 = 1000 - 5q_2$

$\therefore 5q_2 = 1000$

and $q_2 = 200$ (down by four fifths)

Report said down by three quarters (i.e. to 250)

Report is out by 25 per cent

Draft Report Statement

Only if the growth of an industry stimulates otherwise idle resources are such multiplier gains real.

and

Employees in new firms tend to be displaced from other employment options (4.15).

AHA (NSW) Response

Both statements are true but that truth does not imply that no industry provides multiplier real gains to the economy.

The assumption of full employment has no place in modern economic analysis, particularly in Australia.

Elsewhere, comment is made on the statement in the Report (p4.14) "If the gambling industry were not there, most of the resources would generally be employed elsewhere". On this reasoning, no industry would have any value to the economy.

In relation to the multiplied effects discussed in the heading above, in situations of less than full employment there are idle resources and if the gambling industry can employ some of them then the benefits of that employment is real and is multiplied. If the time taken to re-employ people "displaced from other employment options" is shortened as the result of a higher level of activity, the benefit of the additional employment thus generated is also multiplied. If an industry continues to employ resources during contractions: employment which would otherwise not exist, then the value of that employment too is multiplied.

If the Commission is going to selectively withhold recognition of the economic contribution of particular industries, it bodes ill for the value of its economic advice.

Draft Report Statement

The total cost of gambling related bankruptcies is estimated to be \$1.5 to \$12.8 million each year (J.11)

AHA (NSW) Response

The above statement is not an estimate but simply an admission that the Commission has no idea what is the cost of gambling-related bankruptcies.

Draft Report Statement

The total cost of lost productivity as a result of problem gambling is estimated to be \$18 to \$129 million each year (J.13).

AHA (NSW) Response

The response to this estimate is the same as to the estimate of the cost of bankruptcies: it is meaningless.

Draft Report Statement

With an estimated 5377 people changing jobs as a result of their gambling in a year, job search by the employee represents a total cost of \$13 million (J.15).

AHA (NSW) Response

The number 5377 is a spuriously accurate estimate based on a small and tainted sample and in turn multiplied by a number of quite uncertain value. The result (\$13 million) is simply a guess. The statements on bankruptcy, productivity losses and job changes from problem gambling made by the Commission are unworthy of an independent, major advisory body as all three statements are fundamentally guesswork and do not add to the quality of the report or the debate.

Draft Report Statement

The Commission estimates that problem gambling imposes an annual cost of some \$1.1 billion to \$5.2 billion (J.29).

AHA (NSW) Response

Elsewhere in its Draft Report, the Commission netted out of benefits those benefits which would allegedly have accrued to other expenditure besides gambling.

The question of whether \$11 billion in expenditure would be cost free if made on other things than gambling is not even addressed by the Commission. Surely, some of the expenditure (on other things) would have been on fatty foods, sugar, salty foods and other things which carry costs.

According to the Commission's breakdown of gambling forms (pp 3.3 – 3.4), 52 per cent of gambling is on gaming machines outside casinos. These are located in clubs and hotels. For those who gamble when they go to such places, the redirected expenditure must have a chance of being spent on alcohol and tobacco products. The Commission's list of alternative expenditure forms for problem gamblers (p7.47, discussed below) would have most gamblers spending more on alcohol, tobacco and petrol, as well as on other goods. It is quite possible that the social costs (whatever they are) associated with the alternative expenditure are as great as the costs (whatever they are) of gambling.

The Commission's inconsistency in dealing with alternative benefits and alternative costs completely invalidates its analysis, already quantitatively invalid.

Most importantly, an estimated range from about \$1 billion to about \$5 billion as the cost of problem gambling indicates strongly that the Commission has no idea what the actual cost is. At the upper level (\$5 billion) on the Commission's estimates, the 330,000 problem gamblers in Australia would be spending \$15,000 per annum or more than half of their nett average income. Clearly, this is not true and the range of the estimates really invalidates the estimate. The AHA (NSW) contends that if the results of their actual calculations are so broad and unlikely to relate to fact then they should not be presented at all as they add nothing of value to the analysis other than a "ceiling" number which can be used to sensationalise the issue.

Draft Report Statement

The Commission's National Gambling Survey revealed rather different displacement effects among problem gamblers – effects that intensified as the gambling problem increased in severity (Table 7.19) (7.47).

AHA (NSW) Response

The footnote to Table 7.19 ascribes the table to the Commission's National Survey. The relevant question in the survey (Question N3, p. F44) asks the respondent (all gamblers) to ascribe "it" (the money) to alternative ends but does not appear to provide for more than one simultaneous alternative use or, if positive answers are given to more than one of uses 1 to 14 and 97 to 99, to apportion 'it' among the alternatives.

Since over time disposable income will be likely to be spent or saved in accordance with the consumer's consumption and saving pattern at the relevant income level, Question N3 appears to be ill-conceived. The columns of percentages in Table 7.19 sum, from left to right, to 142.2, 114.9, 74.1, and 173.7.

Obviously some, but apparently not many, respondents must have nominated more than one alternative. Presumably, some non-problem non-regular gamblers don't see themselves as giving up anything. All that can be drawn from the responses to the question is that 'some' of the money spent on gambling would have been directed to the ends listed. We already knew that.

Draft Report Statement

According to the Commissions survey data (XXI).

AHA (NSW) Response

It is the AHA (NSW)'s firm belief that in its Draft Report the Commission has repeatedly arrived at estimates which cannot validly be made on the basis of its survey and has presented its results with a degree of precision which is simply not legitimate, and in words, the effect of which is misleading.

Sample Size

According to Table F2, there were 3498 completed interviews. The results of this sampling was applied to 14,122,546 people, using arbitrary definitions, questionably chosen. For example, the statement (p6.29): "There are 329,000 problem gamblers in Australia using the SOGS 5 + threshold *[emphasis added]*", while dramatic, depends for validity on the appropriateness of the 5+ threshold.

We submit that the 5+ threshold is simply inappropriate but even the 10+ measure would seem to be doubtful if it includes ten per cent of identified respondents who have not experienced a harmful impact. About half of 5+ qualifiers report no significant harmful impact. How can they be problem gamblers?

Whatever the rights and wrongs of arbitrary definitions, what is clear is that the definitional problem creates significant scope for error.

On the sample size and the population, the 329,000 "problem gamblers" thus defined, would reflect about 81 observed respondents of the 3,498 interviewees. Of these, it appears that 40 did not report any significant adverse effects. The alleged 46,000 gamblers recording 10+ on the SOGS appears to reflect 11 or so respondents.

On that narrow base, the bald statement "nearly 46,000, or over 90 per cent, report a significant harmful impact" simply cannot legitimately be made; only 11 people reported anything. The number 46,000 is an extrapolated estimate of the number likely to have experienced a harmful impact.

Such a presentation, which matches in its form many others throughout the report, particularly those around it on page 6.29, does not reflect credit upon the Commission but it offers a dramatic, emphatic argument for interested parties or vested interests less concerned with its invalidity than with its impact.

In summary, the 329,000 problem gamblers number seized upon by the media as reflecting in excessive gambling level in Australia is not a real number. It is a mathematical extrapolation resulting from Commission assumptions to extend the survey to the total population. The survey response on the Commission's problem gambling threshold assumption was actually 81 respondents. If the level is changed to 10+ on the SOGS questionnaire only 11 people responded positively.

It is statistically perilous (and, in our view irresponsible) to use the survey to declare a number of problem gamblers in Australia that is at odds totally with all of the previous research undertaken.

3. PROBLEM GAMBLING

The AHA (NSW) acknowledges the Productivity Commission's concern over the prevalence of problem gambling in Australia and understands the significant impacts this has on a small proportion of the population and their families particularly with regard to interpersonal problems and financial difficulties. There is no doubt that the issue of problem gambling needs to be addressed sensitively and responsibly.

Presently in NSW the State Government has introduced before industry a draft Gambling Legislation Amendment (Responsible Gambling) Bill 1999. The AHA (NSW) supports the Bill's primary objectives namely, gambling harm minimisation, that is harm associated with gambling activities of problem gamblers, and the fostering of responsible conduct of gambling activities. The AHA (NSW) sees this as an area, like Responsible Service of Alcohol before it, that needs industry wide acceptance on the notion of promoting responsible gambling.

The AHA (NSW) has been compiling a comprehensive Responsible Gaming package for some six months to present to the NSW Government and we hope a number of our initiatives already undertaken to address the issue of responsible gambling may well be able to be incorporated into the Government's Responsible Gambling Bill. These will include our Patron Care course for the training of venue staff, a Code of Conduct to be signed by each licensee, a self-exclusion programme and a new commitment on gaming signage.

Incidence of Problem Gambling

The area the AHA (NSW) does question in the report by the Productivity Commission is the figure presented on the number of problem gamblers nationwide. The figure arrived at is 2.3% of the Australian adult population, (that is 330,000 people), classified as problem gamblers is extraordinary as this figure is well above, if not double, other figures presented in previous studies in Australia and overseas into this phenomenon of problem gambling.

The issue of problem gambling should neither be diminished nor inflated. However, the Commissions so called "findings" are not based on fact but rather on assumptions. This cause of action by the Commission in distorting the facts is unacceptable and irresponsible behaviour by the Commission.

An extract from the Australian Medicine magazine, June 1999, in an article titled "Problem gambling: you can bet your health on it" identified a significantly lower percentage of problem gamblers "approximately 0.5% of the adult population are said to have a severe gambling problem while a further 0.6% are described as 'at risk' for gambling problems". This arrives at a total figure of 1.1% of potential problem gamblers.

The AHA (NSW) in its submission to the Inquiry referred the Commission to a recent study undertaken in NSW titled "*An examination of the socio-economic effects of gambling on individuals, families and the community, including research into the costs of problem gambling in NSW - 1997 Study 2 Update*". This report found the prevalence of problem gambling of "at risk" regular gamblers to be 1.3% of the adult population in NSW.

In a study undertaken by Dickerson et al, (1996) 'Estimating the Extent and Degree of Gambling Related Problems in the Australian Population: A National Survey' it was stated "problem gamblers, defined in terms of a range of personal and interpersonal gambling-related cost, comprised 1.6% (+or- 0.34%) of the Australian population.

In a study commissioned for the Australian Capital Territory for the National Competition Policy Review in 1998 it was stated the "Estimate of problem gambling range from 0.25 per cent to seven per cent of the adult community. The best estimate is said to be about one per cent.

In the United States the recently released National Gambling Impact Study Commission Report addresses the goal of providing reliable, solid numbers on the incidence of problem and pathological gambling in the national population. The figures arrived at in the report estimated that 1.5% of the adult population to be 'lifetime' pathological gamblers, in addition 0.9% of all adults in the United States meet the necessary criteria to be categorised as 'past year' pathological gamblers.

A further study from the United States, from the Harvard Medical School Division on Addictions, utilised 120 different studies in order to draw more reliable conclusions than could have been obtained from any single study. Using the classification system they developed, the researchers found that approximately 1.29% of the adult general population could be classified as having pathological problems incident to gambling. The study comments on the fact that gaming activities have expanded much more rapidly than the rate of problem or disordered gambling.

It should also be noted that the USA does have a very different cultural and restrictive outlook on gambling than Australia.

The AHA (NSW) would like to emphasise the point that numerous studies performed in Australia and overseas have reiterated the 1% mark with regard to problem gambling however, the 2.3% figure the Commission has arrived at is suddenly cast in stone without question.

Accuracy of the Productivity Commission's National Gambling Survey

The National Gambling Survey has created ground-*shaking* news, but not necessarily a ground-*breaking* result, with its finding of 2.3 per cent of the population having a gambling problem compared to levels of about 1 per cent in other studies done in other countries.

In its draft report, the Productivity Commission has given a heavy endorsement of the survey, but the Australian Hotels Association (NSW) raises several questions about the conduct and findings of the survey.

SOGS Test

The *National Gambling Survey* was based upon a national telephone survey covering all States and Territories and both metropolitan and country areas within those regions. The instrument used by the Commission in its survey to measure problem gambling was the South Oaks Gambling Screen (SOGS) test.

Whilst this test has been used widely in Australia and the US to identify problem gamblers it has still attracted its fair share of criticism, as identified in the study performed for the Victorian Casino and Gaming Authority (VCGA) in 1997. The VCGA acknowledged that the SOGS test may well not be the ideal model to use to

assess the situation of problem gambling by its statement of "One major concern about the use of the SOGS is that it is not sensitive to the unique ways in which different contexts can determine whether a player's gambling has harmful impacts or not. Nor will it accurately assess such issues in culturally diverse contexts."

It is also important to understand that the SOGS test was designed in the United States and it could be interpreted to be culturally bias towards American attitudes and behaviour towards gambling participation.

The twenty question test with a person classified as a problem gambler once they reply yes five times or more (SOGS 5+) is actually quite an easy figure for people to obtain. With questions such as "Do you feel guilty after gambling?" and "Did you ever gamble more than you intended to?"

Dickerson et al, reported that for the study for the VCGA they questioned the use of the low score of the SOGS 5+ and modified this for their use, "a modified cut-off score of the SOGS of ten or more identified a small group of respondents whose expenditure levels and other reported gambling related problems provided a more convincing picture of a 'problem gambler'. Hence the use of this scoring method reduced the proportion of the population scoring as problem gamblers to about 1%, a slightly greater, more conservative reduction than that based on the predicted false positive alone". The report stated that this modified SOGS cut-off was seen as more relevant to Australian circumstances.

Sample Size

The area which the AHA (NSW) sees of greatest concern with the *National Gambling Survey* was the small sample size used for this important national survey. Some 10,525 people nationwide were screened but only 3498 were interviewed and of these,

only 1225 completed the SOGS question. The AHA (NSW) cannot accept that this survey is an accurate and precise assessment of the prevalence of problem gambling in Australia and disputes the conclusion of reaching a figure as high as 2.3% as the proportion of problem gamblers in the adult population.

The total of 1225 interviewees completing the SOGS question represents less than one hundredth of one per cent of Australia's adult population (14.126 million according to p.F19, or 14.123 million in Table 6.5)

It is unclear from Appendix F to the Draft Report how many actual observations give rise to the Commission's estimates set out on page 6.29.

The Draft Report states (p.F19) that respondents were weighted by area, age group, gender and household size, **with the weights summing to the total number of adults in the Australian population**(emphasis added). This would seem to indicate that the observations were not weighted to overcome bias introduced by interviewing all regular gamblers but only 50 per cent of non-gamblers and 25 per cent of non-regular gamblers. What is clear is that only 1225 respondents completed the SOGS question.

The results of the survey are being extrapolated by the Commission and the media to concrete, specific numbers on a national basis. The AHA (NSW) questions the validity of the sample which forms the only actual foundation of the project.

In the report's appendix, the Commission outlined the survey approach and stated the importance of obtaining a large sample size for accuracy, "Because problem gambler prevalence rates in general population surveys are typically very small (only around 1-2 per cent), this means that a relatively large sample size is needed for a reasonable number of problem gamblers to be identified in the survey". The AHA (NSW) certainly feels that this 'relatively large sample size' was nowhere near reached by the *National Gambling Survey*.

In the absence of larger and larger samples to test for rarer and rarer attributes, the confidence intervals of the estimated proportion of occurrences in the population will "blow out" as the proportion of observations in the sample reduces.

The confidence which can be reposed in the Commission's estimate of problem gamblers scoring 10+ etc. is minimal. The estimate of 5+ scorers is more reliable but, one must question the definition of these as problem gamblers.

If the Commission's estimate of SOGS 5+ adults in Australia (329,000) is an unweighted extrapolation of the proportional occurrence in 3498 interviews, it must have been extrapolated from only 81 observations. Similarly, 165,000 5+ scorers recording significant problems could have come from only 41 observations, SOGS 10+ scorers from 12 observations, and SOGS 10+ recording problems from 11 observations. These would simply not be enough. If the Commission treated 8351 as its sample size, or 10525 (somehow) the observations on SOGS 10+ scorers must still have been too few.

Survey Timing

Furthermore, the Commission readily acknowledges that the survey was undertaken at "not the preferred time".

"The National Gambling Survey commenced on 30 March 1999 and was completed by 27 April 1999 - a fieldwork phase of four weeks. This period (unfortunately) took in Easter and two weeks of school holidays. While this timing was not ideal, it was necessitated by the need to meet reporting commitments." (F.17)

The question of the hotel industry is how did that situation occur and why was it allowed to occur?

The AHA (NSW) assumes the researchers were given adequate notice and preparation time (there is certainly no comment otherwise in the report) and further assumes that sufficient funding was made available by the Commonwealth Government (and again there was no comment otherwise in the report).

There has been some suggestion that the survey was moved to the school holiday/Easter period to suit the practical needs of getting the survey completed. On such a major research project as the Gambling Survey, there would have been a large number of researchers needed, and it is understood that teachers sometimes work as researchers on such projects to get additional income.

Obviously, those part-time researchers who are full-time teachers would find it optimal to do research work in school holidays or at Easter. Given that no other detailed explanation is provided in the report, and also noting that nothing is revealed on the individuals who actually did the field research, the AHA (NSW) has reason to give some credence to this suggestion.

In any case, the survey was not undertaken at the ideal time.

What the researchers have also not revealed is what was intended to be the ideal time and further, what differences that ideal time could have had to the results of the research.

The AHA (NSW) feels that if this was the case the *National Gambling Survey* should be undertaken again so as to get an optimum sample size and it be performed during a 'preferred time' hence, not the school holidays.

Reliability of Sample

The AHA (NSW) notes that on the impact of gambling on divorce and separation rates, the Productivity Commission has itself been uncertain with the survey results. The trends of the research, based as they are on such a small sample of people, have magnified to the figure of 43,000 divorces and separations caused by gambling in Australia in the past 12 months.

The Productivity Commission report states: *"this estimate seems high when compared to a total of 51,000 divorces each year from all causes in Australia (J.24)"*

Thus noting that things do not add up, the Commission then immediately goes on to say that it *"will seek additional information preparing the final report to verify the reliability of this estimate (J.24)"*.

Yet the Commission does not seem to place the same importance on verifying the reliability of the survey's estimate of the number of problem gamblers, nor of the impact of problem gambling on depression rates and violence.

It seems the Commission desires to take some of the National Gambling Surveys findings as gospel, while other findings are suspect, even though **all** findings come from the same sample interviewed by the same researchers.

Surely the survey must stand on its own feet in terms of being completely valid in all aspects, or not be valid at all.

And if the Commission is not sure if the figures are right for impact of problem gambling on marriages, then how can the NSW hotel industry be sure that the figures are right for other areas of impact?

Income Relative to Gambling Expenditure

Another fault in the survey admitted to by the Commission was the survey not relating gambling expenditure *relative* to an individual's income. The Commission admits that *"while expenditure on gambling activities relative to income is a preferable indicator of whether gambling might be perceived as being 'excessive' or contributing to financial problems for an individual however, a more complex filter was not feasible given the question sequence of the survey"* (F9)!

Therefore, a cut-off value of annual gross expenditure across all gambling activities of \$4,000 per year was set. The effect of this figure upon individuals can vary greatly depending on their income. Obviously \$4,000 to someone with an annual income of \$30,000 will mean more than \$4,000 to someone with an annual income in excess of \$100,000.

It would seem essential that expenditure on gambling be made relative to an individual's income to gain a far more accurate assessment of whether an individual's gambling activities can be perceived as being excessive. This fact is supported by comments made by Blaszczyński, Walker, Sagris and Dickerson (1997) where they noted that the "Level of expenditure and time spent are in themselves inadequate criteria because they are relative to each person's available leisure time and disposable income, factors which are found to vary enormously across socio-economic classes".

Problem Gambling Continuum

The Commission devised a model known as the Problem Gambling Continuum (Figure 6.1). This identifies the phenomenon by its degrees of severity from Level 1 to Level 3. Level 1 are the majority of people in the population with no problems, Level 2 is the minority of the population with moderate problems with gambling and Level 3 is a small group of the population with severe problems.

From this model the Commission determines that the number of crimes associated with gambling is 5,200 costing the Australian people \$10.4 million.

However, incredibly this figure is inflated dramatically because 0.25 per cent of Level 1 comprising 98 per cent of the population with no association with problem gambling, are deemed to have engaged in a crime related to gambling. The logic of that completely escapes the AHA (NSW) and therefore the cost of problem gambling on this table should only be about 60 per cent of the Commissions inflated figure.

Could the Commission please explain why 0.25 per cent of 98 per cent of the population (a large number of people) would be involved in a crime related to gambling when under the Commission's own model these people have incurred no harm from gambling?

STATISTICAL ESTIMATES

The confidence interval for the estimate of the proportion (p) of a population having a particular attribute is $P \pm Z_c \sqrt{p(1-p)/N}$

As can be seen from the above expression, the value of $Z_c \sqrt{p(1-p)/N}$ is negatively related to N (the sample size), since N is a denominator in the expression.

The requisite sample size (N) for a given confidence interval at an arbitrarily chosen level of confidence can readily be calculated.

At the 95 per cent level of confidence, the value of Z_c is 1.96.

If, for example, one required to calculate the sample size which would afford the same level of confidence (95 per cent) that the proportion of Australia's adult population *who score 10+ on the SOGS and who report having experienced significant problems* (0.32 per cent) had a confidence interval proportionally similar to the estimate of the relative occurrence of SOGS 5+ scores, one would proceed as set out below.

The Commission's estimate of the percentage of SOGS 5+ scores at the 95 per cent level of confidence was 2.33 per cent plus or minus 0.5 per cent, and 0.5 per cent represents 21.5 per cent of the estimate itself.

A proportionally similar estimate of 10+ scorers who had experienced problems would be 0.32 per cent, plus or minus 21.5 per cent of that estimate, which is plus or minus 0.07 per cent.

This would translate to an estimate of 45528 persons plus or minus 9769 (using rounded numbers).

Now $Z_c = 1.96$ and $p(1-p) = .00319$

Then

$$P \pm Z_c \sqrt{p(1-p)/N}$$

$$.0032 \pm Z_c \sqrt{p(1-p)/N} = .0032 \pm .0007$$

$$\therefore .0007 = 1.96 \sqrt{.00319/N}$$

$$\frac{.0007}{1.96} = \frac{\sqrt{.00319}}{\sqrt{N}}$$

$$.000357 = .0565 / \sqrt{N}$$

$$\sqrt{N} = \frac{.0565}{.000357}$$

$$= 158.26$$

$$N = 25047$$

$$\text{Say } 25,000$$

That is, it would have taken a sample of 25,000 (not 3498) to yield a confidence interval for *10+ scorers who had problems* similarly proportioned to the confidence interval for *5+ scorers*.

In the absence of larger and larger samples to test for the proportional occurrence of rarer and rarer attributes at (proportionally) similar confidence intervals, i.e. with a fixed sample size, the confidence intervals will “blow-out” as the proportion of observations in the sample reduces.

In the Commission’s survey, it observed (it appears) some 81 people who scored SOGS 5+. This is a reasonably useful number in a sample of 3498. Even so, all that could be inferred from it is that at the 95 per cent level of confidence the number of 5+ scorers in the adult population lies between 258 thousand and 400 thousand. To say that “there are 329,000 problem gamblers in Australia” (p6.29) is simply not legitimate.

As the numbers of particular types reduces, the statements become almost outlandish. The Statement: “nearly 46,000 Report (problems)” should only have extended to: “between 19 thousand and 72 thousand are estimated to score SOGS 10+ and to have experienced significant problems”.

The AHA (NSW) is presently putting together a comprehensive spreadsheet that will cover various estimates and the ranges carried by the appropriate confidence intervals (the AHA (NSW) hopes to present this to the Commission at the public hearings on September 16, 1999).

**SPECIFIC COMMENTS ON PROBLEM GAMBLING IN
THE DRAFT REPORT**

This Appendix relates to Chapters 6, 7, 8, 9 and 10 of the Draft Report.

Draft Report Statement

The Commission considers that there are only two potentially sound rationales for risk measures, namely:

- *To reduce the incidence (new cases) of problem gambling and abate the adverse impacts on existing problem gamblers (by cutting their spending or decreasing recidivism rates by limiting the accessibility and visibility of gambling opportunities); and....”(14.2, 14.3):*

AHA (NSW) Response

The above statement appears to accept the existence of some useful inverse relationship between accessibility and visibility on the one hand and the cutting of expenditure and decreased recidivism by problem gamblers on the other. The strength of this relationship is unknown. Even where gambling has been prohibited it has flourished and problem gamblers have had their problems. The question of how much enjoyment has to be taken away from the many for a doubtful quantum of help for the few is again ignored.

Draft Report Statement

About 240,000 adults or 1.7 per cent of the adult population say they have experienced significant harms as a result of gambling in the past year (6.1).

AHA (NSW) Response

This is a very misleading statement. A quarter of a million adult Australians have not said what the Commission states they have said. Some small part of only 1225 regular gamblers interviewed in the survey said so.. It is crucially important that the Commission use appropriate statistical expressions when describing the results and extrapolations from the results of its surveys.

Draft Report Statement

Even among these gamblers (SOGS 5+ group) there is a sub-group that report that they derive considerable pleasure from gambling.... However they account for only 7 per cent of the SOGS 5+ group and so make a negligible difference to any calculated prevalence rate (6.25).

Around 15 per cent of people in the SOGS 5+ group denied having any problem (Table 6.4) (6.25).

AHA (NSW) Response

The Commission's estimate of the number of SOGS 5+ gamblers was based upon an exceedingly small number of observations. When small percentages of those very few observations are discussed, no conclusions can validly be drawn.

The Commission's assumptions are crucial to its estimate of 330,000 problem gamblers yet empirically, some of the proportion surveyed are disputing the Commission's conclusion and being disregarded by it. It should be noted that the HARM estimate results in 1.7 per cent being the number of problem gamblers not 2.3 per cent.

Draft Report Statement

In this instance, it is clearly appropriate to use lower SOGS scores to determine the number of Australians whose gambling behaviour entails significant risks so long as the purpose of this prevalence rate is made clear (namely not to estimate resources for direct help services) (6.35).

AHA (NSW) Response

Does this mean that a high estimate of the number of problem gamblers is useful to attract the attention of policy makers but shouldn't be used to grant funds because it is an exaggeration?

Draft Report Statement

In contrast a SOGS score of 5 or more will substantially overestimate the prevalence of gamblers needing help services (6.36).

AHA (NSW) Response

Does this mean that the 330,000 problem gamblers estimate is a substantial overestimation?

Draft Report Statement

The Commission considers that while problem gambling may sometimes be precipitated by outside events, problem gambling will tend to exacerbate any pre-existing problems. Moreover, the Commission accepts that many of the harms experienced by problem gamblers can be traced to gambling and not other life events or personality features of the gambler (7.9).

AHA (NSW) Response

The first statement of this conclusion is a statement of the obvious – problem gambling will increase the gambler's other problems. The second sentence is almost dangerous socio – babble for which the Commission has no warrant at all. How does it know whether life events or personality traits are more or less responsible for harms to the problem gambler? This chapter delves into an area of sociological and psychological review that results in the tabulation of "suicide thoughts" and "emotional responses" and ultimately gambling related suicides. This is an immensely sensitive area of analysis that is not part of the Commission's usual area of research.

Draft Report Statement

Of the 50,000 problem gamblers based on the SOGS 10+ score, nearly 46000 – or over 90 per cent, report a significant harmful impact.

AHA (NSW) Response

Aside from the fact that 50,000 problem gamblers did not report anything, the estimated number itself is quite unreliable.

It is unclear upon how many observations the Commission's estimate is based. Fifty thousand is about a third of one per cent of Australia's adult population. The number of observations upon which the estimate was based can only have been exceedingly small as only 1225 regular gamblers were interviewed. The estimate must be unreliable.

Draft Report Statement

All respondents classified as regular gamblers were interviewed; 1 in 2 respondents classified as non-gamblers were interviewed; and 1 in 4 respondents classified as non-regular gamblers were interviewed (PF.6) and These completed interviews comprised: 1225 "regular" gamblers, 1290 non-regular gamblers and 983 non-gamblers. (PF.19)

AHA (NSW) Response

On the above basis, there must have been 5160 non-regular gamblers (1290×4) and 1966 non-gamblers (982×2) who were available to be interviewed but, added to the 1225 regular gamblers interviewed, these sum to only 8351. The discrepancy with the 10525 who completed the screener is 2174 and is not explained by refusals or terminations. What is the explanation?

4. TAXATION AND MUTUALITY

4.1 Taxation

The section on the Taxation of Gambling (Section 18) provides a mixture of valuable reporting observations and dubious prescriptions regarding such issues as the appropriation of "excess profits" by gambling operators, the use of taxes to manage problem gambling and the absence of any strong or unambiguous evidence to reduce taxes on gambling. The AHA (NSW) welcomes the reporting observations but says, again, that the major recommendations made as key findings were not required by the Commission's terms of reference.

The AHA (NSW) notes that the Commission has identified gaming machine growth in hotels, clubs and casinos as moving from 20 to 47 per cent of total State and Territory revenue from gambling in the period from 1987-88 to 1997-98. During this time revenue rose from \$2 billion to \$3.8 billion.

The AHA (NSW) wishes to take issue with the Commission's comparison of gambling taxes vis-a-vis alcohol, tobacco and petrol. Whilst it is true that alcohol is on what could be regarded as an equal footing with gambling the same cannot be said for tobacco and petrol. Petrol taxes relate very substantially to the costs incurred by government to maintain Australia's road system. Any comparison of tax rates should consider not only the nett percentage of tax paid to revenue but the functions and assets contributed by government in order to create and sustain a market that results in major taxation revenue.

Equally, tobacco consumption has created costs to government and to the community that involves all consumers. All long-term smokers are problem smokers.

Even if the AHA (NSW) accepted the Commission's calculation that 2.3 per cent of Australians are problem gamblers it would be inequitable to impose punitive tax rates on 97.7 per cent of the gambling population as a means of discouraging what was concluded to be an inappropriate activity. We would strongly contest any suggestion that problem gambling should be put into the same negative social consequence class as smoking.

In respect of the remaining argument (efficiency grounds) the AHA (NSW) notes that the Commission and the modellers have concluded that there are no grounds for reducing taxes on efficiency grounds. We would expect that if that is an outcome of the demand elasticity of gambling then there are, equally, no grounds for increasing taxes.

The AHA (NSW) considers that the Commission has adduced no evidence regarding its conclusion that there is an element of windfall gain or excess profit in gambling. The fact that significant levels of investment are required to establish a casino or buy gaming machine licences is not indicative of excess profits. Capital investments of billions of dollars in the mining industry and the car industry do not indicate the presence of excess profits. As ACIL notes, government licensing taxes and competition in the market place will ensure that economic rents are practically non-existent.

Finally, the AHA (NSW) agrees with the Commission's analysis regarding the regressive nature of gambling taxes but observes that revenue authorities have traditionally been disinclined to lower taxes.

4.2 Mutuality

The AHA (NSW) believes that all save one of the purposes identified by the Commission as being the elements of the very important role of clubs in the community. These roles are also performed by hotels. That single exception is the mechanism of pooling resources for a common purpose.

We say that this role has been substantially overtaken in the majority of major clubs in NSW. Such clubs have established major commercial operations and do not engage even a reasonable proportion of their membership (let alone a majority) in any form of communal effort or purpose.

The concept of a contribution to a mutual enterprise has obviously been overtaken over time. Clubs commonly offer membership for ten or twenty dollars per annum with free meals as an offset for membership. This can hardly be viewed as a real contribution to a mutual fund. In other circumstances the Taxation Commissioner would have deemed that the mutuality process was a sham. The AHA (NSW) contends that most club income is genuine income that results from the club's gaming and other activities and not from the funds subscription of members.

Super clubs are rapidly expanding their memberships by the simple business process of acquisitions of clubs even if they are many kilometres away.

The AHA (NSW)'s original submission dealt specifically and correctly with the taxation inequities and consequential market distortions that arose from the significant taxation treatment differentials between hotels and clubs.

The AHA (NSW) wishes to respond specifically to the Commission's invitation at Page 20.27 of its Draft Report concerning the difference between our estimates and the estimates of the clubs regarding their annual level of community contribution to establish social sporting and cultural infrastructures. Our detailed response is provided in the attachment to this Issue Paper.

The AHA (NSW) disagrees with the Commission's theoretical assertion that as capital is mobile, over time, if rates of return on hotel assets are not equal to the return on assets of an equivalent risk class then capital will move to the superior return. Frankly speaking, this sort of analysis does a disservice to the Commission's role as a pragmatic and commercial adviser to government.

Hotel owners do not have perfect knowledge of the market, perfect mobility for asset movement or the skills to manage new assets in an unfamiliar market. Some may have, but the vast majority are small business owners who do not possess knife-edge economic decision making-skills. Their capital is certainly not footloose capital seeking the highest possible return.

It is patronising and academic to make the observation that the Commission has made in full knowledge of the existence of imperfect markets (Draft Report page 20-29 refers). It seems more sensible to us to address a long-standing, major inequity in taxation treatment that dates back to the 18th Century than to lecture hotel owners on the mobility of their capital if they are unsatisfied with their relative returns.

All hotel owners are not mere investors. They are hotel owners with skills and experience dating back through, in many cases, generations.

Hotel owners and many employees in the hotel industry know no other employment or investment. Our industry is an old, solid part of the economy that has experienced both growth and decline.

The first prerequisite of investment is knowledge and most hotel owners know nothing more than their own industry. They are not aware of investment alternatives but they understand the peaks and troughs of the hotel industry. Instead of resource mobility the Commission should be looking at resource utilisation. During downturns, capital is lost, employees are underutilised and the return on land is underutilised relative to its opportunity cost. We do not accept that investments simply shift seamlessly to other employment.

The AHA (NSW) endorses the suggestion that higher tax on gambling in clubs will reduce the market distortion that presently exists between clubs and hotels. We do not agree with the Commission's view that, whilst taxing measures between hotels and clubs are unequal they may not be inequitable to hotel owners. In fact we find this view almost incomprehensible. Hotels and clubs compete directly in the same markets for gambling, alcohol consumption and entertainment.

The mutuality principle has created a major taxation "free kick" for clubs, which is worth many millions of dollars a year to the clubs. Those dollars are then a major source of investment capital transferred to them from the Australian community and used to generate further tax-benefited income.

**SPECIFIC COMMENTS ON TAXATION AND MUTUALITY IN
THE DRAFT REPORT**

Draft Report Statement

“Community clubs pay much lower taxes State taxes are generally lower than for hotels or casinos, and no Commonwealth income tax is paid on ‘mutual’ income, which can include proceeds from gambling ... this has been a major source of contention, with hotels and retailers arguing that the lack of competitive neutrality is hurting them and leading to excessive growth of clubs.” (LIX Summary)

AHA (NSW Response

This organisation welcomes the acknowledgment by the Commission that hotels are *arguing* for fairer competition in regard to club taxation under mutuality, but the AHA (NSW) also stresses that in addition to hotel industry comment, there is also a great deal of direct evidence of club misuse of mutuality open to the Commission in clear public view.

Penrith Panthers in Western Sydney, for example, was originally established to serve the people of Penrith and district; so its mutuality claim was founded on that basis.

In all the years since its founding, and through all the rocketing growth in its gambling sector, Penrith Panthers has not made a name change synonymous with its economic acceleration: so it appears the club's mutuality claim in 1999 still remains that of its first day.

So how does mutuality work, then for Penrith? At the time the Productivity Commission began its work, this club had 1200 machines, (Penrith Local Government Area has 48,000 people, according to the Penrith Visitors Centre Office): which equates to 40 local people for every gaming machine at Penrith Panthers.

That level of gambling activity per local member resident is far higher than the national or State average.

In reality, Penrith Panthers clientele comes from a far, far wider geographic area than the Penrith Local Government Area. In other words, it is publicly known that the club is permanently operating beyond its mutuality intent.

The club itself is providing further evidence of this right now, with its push into Bathurst, 160km away, where it is taking over the Bathurst Leagues Club.

This takeover and another happening at Hawkesbury Sporting Club (40km from Penrith) will push Penrith Panthers past the 1500-machine mark, exceeding even Star City Casino.

By moving into other regions, Penrith Panthers is capturing the mutuality membership bases of fellow registered clubs. For example, in the Central Western Daily newspaper of August 10, the manager of Bathurst RSL said: *"If Panthers wanted, they could take over this town. They have the buying power to undercut anybody else ... wouldn't it be better to keep Penrith out of Bathurst and keep the money and jobs."*

Draft Report Statement

Clubs are a considerable source of employment, full time as well as part time. Total employment by Australian clubs as at 30 June 1998 was 67,272. Around 59543 or 88.5 per cent of those worked in clubs with gambling facilities (20.13).

AHA (NSW) Response

The observation of the extent of employment offered by clubs is at odds with the Commission's view that any such employment benefit is illusory anyway. It is difficult to suggest that clubs offer an economic benefit through employment that is not offered by hotels with our 120,000 employees.

Draft Report Statement

In New South Wales, Queensland and the ACT, the commencement of rapid growth in club facilities and expansion in clubs services appears to have coincided with the introduction of gaming machines (20.15).

AHA (NSW) Response

This assertion is only partially correct for New South Wales. Gaming machines have been a substantial part of social life in the clubs for the past forty years. The super clubs of the present day are a phenomenon of the past fifteen years.

Draft Report Statement

But when mutuality is combined with a highly profitable and growing activity - such as gambling – this implies substantial surpluses are available for investment or subsidisation of other goods (20.20).

AHA (NSW) Response

The Australian Tax Office could use its “safe harbour” provisions in such circumstances. In clubs where there are close to zero surpluses the strategy of the collective membership is to set membership fees at about the level of the club’s expenditure per annum divided by the number of members having regard to different categories of membership. The mutuality principle seems to have been tortured beyond what is a sensible and acceptable taxation approach to a point where membership fees obviously are irrelevant to the total costs of running a club and its associated investments.

Draft Report Statement

In summary, the Commission considers that the exemption of club mutual income from tax, combined with the inability to distribute surpluses to members, has the potential to result in excessive capital allocation in club facilities and other investments.

AHA (NSW) response

We find this comment surprisingly mild given the Commission’s commitment to neutral resource allocation. The fact that clubs are able to pay substantially less taxes than other goods and services suppliers in the Australian economy constitutes a major

distortion which should, in theory, attract labour, capital and land to the clubs industry and away from competing goods and services providers. This is obviously not restricted to gambling. Suppliers of food stuffs, restaurants, hairdressers, butchers tourist operators, cinemas and a range of other businesses are experiencing very great pressure as a consequence of the Government induced tax advantage provided to the club industry.

Draft Report Statement

The Council of Community Clubs of Australia and New Zealand said the value of community support provided in 1996-7 by the New South Wales club industry alone was around \$155 million (sub. 63)... However the AHA disputes the extent of community contribution made by clubs, claiming it was more like \$57 million (sub. P.2). The Commission seeks view from the club and hotel industry on why these estimates are so disparate, and which is a more accurate measure (20.27).

AHA (NSW) Response

In 1996 the clubs claimed that their total annual level of community support was actually \$700 million per annum. This figure included \$417 million in compulsory gaming taxes and \$221 million in in-house grants and support, often for capital improvements. Only \$57.5 million was actually in external grants and this is the figure we employed in our original submission.

The AHA (NSW) is aware that appropriate definitions can deliver any number that may be sought. However the inclusion of gaming taxes (whilst they do ultimately benefit the community) is hardly within scope of a definition of direct community support.

The AHA (NSW)'s number of \$57 million is based on the Registered Clubs survey undertaken for the Registered Clubs Association by KPMG (March 1996). The average community grant by 111 clubs was \$8,858 for the December 1995 quarter. Multiplied by four to annualise the figure the average donation is \$35,432. Using the Department of Gaming and Racing number of clubs in NSW at that time (1471) the grand total of donations was \$52.1 million.

Even if we employ the clubs' own submission figure of \$155 million, it is worth noting that in 1999 the clubs will generate gross profit of \$2.6 billion from \$26 billion of gaming turnover. Taxes will take about 21 per cent or about \$546 million. Adding the two figures together (\$700 million) leaves an amount of \$1.9 billion for the clubs to be spent, if the mutuality principle is genuine, on the community, wages, internal club mutual projects and refurbishments. Obviously this massive sum will not be entirely consumed on these activities, and as evidence clearly shows substantial cross-subsidisation of other products and services are used by the clubs to destroy other businesses in the market place.

Draft Report Statement

The AHA (sub. 137) also raised a separate equity issue concerning providers of capital. It said the application of the mutuality principle to club poker machine surpluses is inequitable as it results in some gaming establishments (clubs) being favoured over others (hotels) and a competitive advantage for clubs. It is certainly true that the mutuality principle does not treat hotels and clubs equally, but this does not necessarily mean that hotel owners are treated inequitably. To suggest this is to suppose that the rates of return on capital in hotels are permanently reduced by the advantages afforded clubs by mutuality. But capital is mobile. Over time, rates of return on hotel assets should be around the level that could be achieved on any other asset of an equivalent risk class. If it were not so, then hotel owners would

not find it profitable to invest in hotel assets compared to higher performing assets elsewhere. Of course, some owners would face capital losses at the time that clubs were afforded preferential status – but that occurred a long time ago – and is less likely to apply to existing owners of hotels (20.29).

AHA (NSW) Response

We believe that the Commission's statement represents a totally unrealistic appreciation of the issues. All sorts of market imperfections (imperfect knowledge, imperfect access etc) prevent capital from being totally mobile. Our hotel owners cannot be put into a box of "capital users". In many cases generations of families have owned and operated the same hotel. It is almost unbelievable that the argument should be put that if the Government taxes one group of people at a much higher tax rate than other people engaged in the same activity then it is not acting inequitably. The fact that capital providers can go elsewhere doesn't remove the inequity created by the Government.

Equally, why are butchers, motels, hairdressers and others treated inequitably through the "generation of inequitable capital losses" and "undermining the profitability" whilst hotel owners are not (20.29, Last Paragraph).

In essence, hoteliers provide identical goods, (gambling, alcohol, entertainment) to those provided by clubs. Clubs enjoy substantially lower tax levels. It is difficult to accept the Commission's conclusion that hotel owners may not be treated inequitably from a tax standpoint as a consequence of the mutuality principle.

Draft Report Statement

In particular, one suggested 'reform' – the taxation of all club income as corporate income – would be unlikely to be at all effective at realising the objectives of fairness or efficiency (20.30).

AHA (NSW) Response

The AHA (NSW) has been critical throughout our submission in regard to the Commission's willingness to reach conclusions in an information report. In respect of many issues the Commission has at least had the benefit of receiving expert advice regardless of whether it should have considered its competence to assess such advice, eliminate conflict and reach conclusions.

To our knowledge, the Commission has not received submissions from the ATO or other experts in relation to particular taxation remedies for the problem of manipulation of the mutuality principle. It is certain than an "all clubs" solution would not be part of any sophisticated remedy proposed by either the ATO or taxation experts. Clearly, the mutuality view of the excess of receipts over expenditure as savings has a long and well-tested legal history including in the High Court. No one wants to challenge that.

Equally, clearly, the mutuality principle has been exploited to reduce taxes and the ATO would closely consider the tax minimisation purpose of present arrangements. A Taxation Ruling which embraces the \$10 membership super club arrangements would obviously be a positive step. It is not productive to dismiss possible taxation solutions by referring to a single, extreme outcome and then dismiss the whole concept on the basis of that ludicrous outcome.

5. REGULATION AND CONSUMER PROTECTION

5.1 Regulation

With respect, the Commission's analysis in Chapter 14 in access demonstrates an impractical grasp of the market for gambling, the wants of gamblers and their behaviour. Frankly, our view is that the economic analysis presented fails the reality test. What the Commission postulates does not occur in the reality of the market place.

In short, Chapter 14 should be "dust binned" as it has been written with no understanding and has no relevance to the gambling industry.

Chapter 14 of the Draft Report relates specifically to the regulation of access to gaming machines. The Commission considers that there are only two potentially "sound" rationales for such measures. These are:

- to reduce the incidence of problem gambling and abate the adverse impacts on existing problem gamblers; and
- to be in accordance with the social norms of communities.

At 14.12 in regard to the first point, the Commission notes that:

"However it seems likely that (without payment rate controls) global caps on poker machines would, perversely, have adverse effects on existing problem gamblers and"

"It may also lead gamblers at risk of developing problems to "cross the threshold."

The Commission concluded that where machine numbers are high (e.g. Victoria and NSW) caps would be of little value in reducing community gambling.

The Commission's "overall verdict" on the concept of a venue cap was that:

- venue caps can meet some community expectations in jurisdictions where the cap is at low levels; and
- larger venues may actually exert improved control over problem gambling by spreading the fixed costs of a harm minimisation programme across many customers.

The one major valuable point made by the Commission is that venues should be capped but the Commission does not recognise the reason for this. The Star City Casino came into being after ten years of negotiations and tendering processes and paid \$370 million to the State Government for a casino licence. We are now reaching the point where some clubs in the suburbs may be larger in EGM terms as the Star City Casino. It would be immoral for the State Government to take the licence money from Star City Casino and then allow several dozen defacto casinos to emerge in the suburbs of Sydney.

A Government decision to protect the community interest by refusing to allow large casino's to develop in the suburbs is perfectly acceptable. This is probably one of the few sustainable reasons for venue capping but is passed by in the chapter report without proper recognition in favour of an array of academic theories that have no relevance to reality and the gambling industry at large.

Finally, the AHA (NSW) disagrees with the view that large venues can construct harm minimisation programmes that are superior to the programmes of smaller venues.

There is no evidence for this assertion. Arguably, problem gamblers are subject to less monitoring and supervision in very large facilities where they are completely unknown. Larger venues exert less rather than more individual control.

Chapter 21 of the Draft Report continues the Commission's analysis of regulatory processes and addresses the multi-national infrastructure of gambling. Box 21.2 and Table 21.1 provides a comprehensive list of the legislation and responsible State Departments and Authorities.

The Commission states at 21.2 that it observed:

- conflicts of objectives
- fragmented responsibilities
- lack of due process and transparency of procedures
- patchy consultation processes; and
- inadequate data collection and research

The AHA (NSW) agrees with this statement but makes the point that it would apply with at least equal force to the federal bureaucracy. In any very large industry there will be examples of the problems identified. The task is to work towards a model regulatory framework which addresses the problems.

The balance of Chapter 21 provides a blue print for gambling regulation which embraces the issues of policy development, control, enforcement, adjudication and program administration. Each of these aspects is discussed in the Draft Report and that is proper. The AHA (NSW) disagrees that the Commission should express its views. The Commission could certainly have canvassed the views of participants in the Inquiry and used its overall perspective to develop particular bodies of industry response. We are not criticising the Commission's views per se. We are being critical of an attitude in the Draft Report which regards expressions of the Commission's views as an integral part of this Inquiry.

Whilst a model regulatory framework may be very desirable, based on a federal initiative, it is not appropriate for such an agenda to be set by the Commission in a Draft Information Report. A number of State regulatory stakeholders would have quite possibly varied their submissions considerably if they had understood that the Commission would pre-empt a debate that was properly a debate between State and Federal governments. Having said this, the AHA (NSW) does not consider it appropriate to further debate the Commission's views on the regulatory model.

The AHA (NSW)'s response on the issue of capping and control is that the discussion in the Draft Report is focused single-mindedly on problem gambling as if this is the only issue of relevance for regulation. Clearly, in a market that is characterised by many suppliers and consumers the controls mooted by the Commission would have a range of impacts on individual hotels and clubs that would be ad hoc and fortuitous. The level of intrusion in the market place that would result from such measures could only be equalled by that applying in the tobacco industry and there, at least, the control measures apply equally to all participants.

Additionally, no mention has been made of the flow-on effects of such controls. The winners and losers in the gaming control measures would have their wins and losses exaggerated by a gain or reduction in alcohol and food sales.

In summary without any competence or indepth knowledge of the gambling industry the Commission has suggested an array of regulatory changes that would range across all sectors of a major Australian Industry and across a number of different jurisdictions and regulatory environments. This would impose a major new cost on the industry.

5.2 Consumer Protection

Chapter 15 of the Draft Report canvasses a wide range of consumer protection issues and provides, again the following prescriptions and views from the Commission:

- *The Commission does not consider that the option of a blanket ban on gambling is a viable or desirable one (15.7).*
- *The Commission does not consider that there is enough evidence to warrant banning any existing gambling form (though there may be gains from reducing the scale of some gambling forms) (15.9).*
- *The Commission considers there are grounds for statutory minimum payout ratios (15.19).*
- *Information about how such gains work and the most frequent misunderstanding about them could be included in school curriculums and also easy to read information made available to patrons of gambling venues (15.21)*
- *The Commission considers that where loyalty cards are used, consumers should be provided with a periodic record of their spending (15.23).*
- *The Commission views problem gambling - in all its dimensions - as a public or community health issue similar to that of alcohol (15.25).*
- *The Commission considers that there is a need for Governments to provide clear information to the public about what is problem gambling and the fact that all gamblers are potentially vulnerable (15.25).*

- *Such information should be made available at gambling venues in ways that are just as visible as signs promoting gambling (15.26).*
- *There is a need for a national body which undertakes independent research into gambling problems (15.27).*
- *The Commission considers that there are grounds for tighter controls on gambling advertising (15.33).*
- *The Commission considers that, notwithstanding general consumer protection measures, there are grounds for legislatively based codes specific to gambling (15.33).*
- *The Commission considers that cheques should not be cashed in gambling venues (15.50).*
- *The Commission considers that there may be grounds for withdrawing gambling from a person whose behaviour suggests excessive gambling (15.53).*
- *The Commission considers that self-exclusions should take the form of a simple contract written by the problem gambler with the gambling provider (15.54).*
- *The Commission considers there are grounds for mandatory signs in the gambling venue that indicate that any patron may self-exclude and, accompanying pamphlets explaining how self-exclusion works (15.54).*
- *The Commission strongly endorses the idea that the machine design should aim to maximise informed consent (15.58).*

- *The Commission finds good reasons for bill acceptors not being included in the designs of poker machines (15.62).*

When the Commission's views are linked together in this way it becomes apparent just how significantly beyond its terms of reference it has travelled. Collectively, these views if accepted, would create a level of government intrusion into the gambling industries that is far, far in excess of the present level of intrusion into the Tobacco Industry. Again, what industry competence or experience does the Commission have to make such recommendations? Industry has not been consulted and no public, appropriate debate has occurred.

The Commission also makes a totally unsubstantiated parallel to alcohol consumption. Has it collected submissions and data on problem drinking and considered the two sets of data and submissions together?

This section is a wish-list of views that has no place in the Draft Report. Consumer protection in the gambling industries is extremely important but the Commission's list of pamphlets, printing, advertising, placards, contracts, accounting records, coin rather than bill acceptors, machine re-design, specific legislative codes, refusal to accept cheques, checking on behaviour "suggesting" excessive gambling etc is an obvious nightmare of administration put forward without any regard to the cost or process of implementation.

Finally, the key messages of Chapter 15 contain an internal contradiction and a gratuitous swipe at Keno. The Commission states at Dot Point Two:

"Bans on specific forms of gambling to protect consumers are not warranted."

but then proposes a partial ban at Dot Point Eight saying:

“There may be grounds for reducing the frequency of high frequency, low pay-off lotteries such as Keno.”

Again, no evidence is produced to support this assertion by the Commission.

In conclusion, The Consumer Protection Chapter is the longest chapter in the Report and reflects the worst prescriptive excesses of the Commission in this Inquiry. Some of the measures suggested may be of value but their totality involves proposals for a level of Government intrusion in the industry and the market that is, to use an Australian expression: “totally over the top”.

**SPECIFIC COMMENTS ON REGULATION AND CONSUMER PROTECTION
IN THE DRAFT REPORT**

Draft Report Statement

In the Commission's view, the key consideration is the effect which these arrangements have on problem gambling, and in particular, on the accessibility of gambling, and the implementation and effectiveness of harm minimisation practices. (13.24)

AHA (NSW) Response

There is no question that problem gambling is an important issue and that harm minimisation practices must be as effective as possible. In the view of the AHA (NSW), these issues have hijacked the Inquiry and report to an extent beyond their undeniable importance.

The AHA (NSW) fully agrees with the Commission's conclusions

“while some problem gamblers benefit from reduce access to table gaming which results from Casino exclusivity, there is little to suggest that these arrangements lead to good social outcomes overall.” and

“exclusivity is a very indirect way of tackling accessibility and harm minimisation.”

The issue which the AHA (NSW) would take with the above is that while true, it does not go far enough or deeply enough into the problem.

Even at the SOG 5+ level, only 1.2 per cent of respondents thus identified as problem gamblers reported a significant harmful impact. To restrict the rights of 98.8% of the population to protect the 1.2 per cent from themselves would be dubious at best, even if it worked. The second question is “would it work”?

Presumably, the compulsion to gamble is far stronger in problem gamblers than in people generally, so they would find a way to gamble even if access were restricted. Normal people would be less persistent. Sadly, restricting access for all as a measure to help the few problem gamblers would fail on three grounds – equity, efficiency and effectiveness. This conclusion may be unpalatable but it is inescapable. Clearly, what is required is a set of harm minimisation measures which actually work and which do so without restricting the rights of over 98 per cent of citizens.

Draft Report Statement

Quoting the Western Australian Government “The Lotteries Commission believes that it has achieved a reasonable balance in advertising which achieves revenue targets without inappropriately promoting gambling” (12.44).

AHA (NSW) Response

The above quotation exemplifies the ambivalence between the promotion of lotteries for revenue purposes and the advertising of gambling.

Australia needs a far clearer and unequivocal definition of its goals as far as taxed gambling is concerned. The Draft Report makes little contribution to that resolution.

Draft Report Statement

As noted, all jurisdictions impose restrictions of one kind or another on gaming machines and on gaming machine numbers ...(Tables 12.3 and 12.4) (12.8).

AHA (NSW) Response

The disparity between the arrangements in the different states and territories is highlighted by Tables 12.3 and 12.4.

The Commission's report is to the Federal Government which, on the face of it, is not the authority directly controlling gambling, even in the territories. The need for co-ordination of such control measures as might be jointly decided upon is quite evident. Otherwise useless distortions will be introduced or maintained and costs, as pointed out by the Commission, will be raised.

6. TECHNOLOGY

The AHA (NSW) agrees with the key messages of the Commission expressed in Box 17.1 except for:

- “It is not clear that liberalising Internet gambling would involve significant tax losses”. (17.1)

The Senate Select Committee on Information Technology has an Inquiry in place in relation to Online Gambling. The AHA (NSW) submits a copy of its evidence to that Inquiry for the Commission’s examination (see Attachment 3 to this Issue Paper).

We would dispute that the majority of Internet gambling providers are small companies “located mostly in the Caribbean”. As is the case with most Internet products, the pace of change is extremely rapid and Casinos in Lichtenstein, the Netherland Antilles, South America and Europe are established with bona fides provided by major global accounting firms. The growth of Centrebet and International Sports Services has been publicly documented. In regard to Box 17.4 we would suggest that the ABS Survey of February 1998 is already obsolete as a measure of consumer use of the Internet.

The AHA (NSW) has the view that technology and Internet gambling represents the ultimate threat to Australia’s gambling industries. In the absence of taxation, online offshore virtual casinos can provide substantially superior paybacks to gamblers that only a small percentage of consumers would ultimately resist. If an Australian Casino or hotel or club is constrained by taxation and employment costs to offer a minimum payout of 85 per cent and an offshore virtual casino with no taxes, no infrastructure and virtually no employment offers 95 per cent it is virtually offering payouts at a ratio of 3:1. This superior ratio must, in controlled market circumstances, destroy the local gambling industry.

The AHA (NSW) believes that there is potential for online gambling to exacerbate problem gambling. The convenience and privacy of a home computer will replace the need to make a positive decision to get cash and get to a gaming location. We disagree that problem gamblers will not find the opportunity of gambling on the Internet very attractive (17.16).

The Federal Government must not give in to the argument that we cannot regulate the Internet. Taxation from gambling, employment from gambling and income generation from gambling is too important to the Australian economy to surrender our national sovereignty on this issue. We doubt that Internet gambling can be prohibited (as the USA is proposing) but we believe it can be controlled.

Online gambling will reduce the value of some present public assets. The Daily Telegraph of August 12, 1999 contends that \$1 billion of betting turnover on racing, (including any sports betting) has left NSW for the Northern Territory, ACT and Vanuatu.

As with Internet purchases the problem facing the Australian Government is to establish policies and processes to regulate and control online gambling before the practice is fully entrenched and a major drain on the revenue. The AHA (NSW) agrees that nett taxation revenue may increase as a consequence of online gambling. However it is incumbent from the Australian and State Governments to continue to take a proportion of tax from that revenue which meets the taxation needs of the various governments and (in our view) more crucially, ensures that there is equity of taxation. As noted previously the hotels are already significantly disadvantaged by the taxation regime applying to clubs. It would be ironic if both venues were ultimately destroyed by online offshore gambling venues that give nothing at all to the Australian economy.

Finally, the AHA (NSW) heartily endorses the Commission's view that offshore online gambling should not be prohibited but can substantially be controlled. We do not want to inhibit competition in the market place but we do want to compete on an equal footing.

In respect of the Commission's request for feedback on technical measures. The AHA (NSW) notes that it has recommended to the Senate Committee that an expert panel should be convened to make recommendations to government about state-of-the-art controls and mechanisms that will assist in the management of Internet sourced gambling.

SPECIFIC COMMENTS ON TECHNOLOGY IN THE DRAFT REPORT

Draft Report Statement

The Commission's National Gambling Survey (Table 17.1) suggests that in 1998-99 around 86,000 Australians gambled on the Internet, which is still a negligible proportion of Australian adults (at 0.6 per cent) (17.8).

AHA (NSW) Response

The timing of the Commission's survey (including Easter and the school and university break) would have excluded many young adults in the 18-24 age group who are the heaviest users of online gambling. We do not accept that the Commission's comment has any particular numerical integrity. Internet gambling is likely to follow the profile of Internet product purchases with an exponential growth as consumers become comfortable with the medium and trust the gaming suppliers.

Draft Report Statement

For recreational gamblers, the Internet increases the accessibility of gambling products, and offers a greater choice of gambling services and suppliers, potentially at lower prices (17.10).

AHA (NSW) Response

The lower prices are a consequence of the removal of taxes, employment and capital investment. The virtual casinos have no self-generated competitive advantages or efficiencies. Their lower costs result from the Government's intrusion in the market to collect taxes from domestic gaming suppliers and from the domestic supplier's commitment to local employment and capital investment.

Draft Report Comment

However, as noted in Chapter 5, it is important not to count all the investments or employment in such a growing industry as if they were economic benefits, when they largely represent resources displaced from other uses (17.12).

AHA (NSW) Response

The AHA (NSW) would like the Commission to identify the uses from which the gambling industry resources have been displaced. The Draft Report has made a number of calculations relying upon questionable original source data. If it relies upon this assertion it should provide its source information. The resources are not, in the AHA (NSW)'s view, overwhelmingly displaced from other users. They represent capital that might otherwise have been employed overseas or consumed, they represent labor that would often not have been employed. If the Commission wishes to postulate that the resources used in the gambling industry are displaced from elsewhere then it should attempt to demonstrate its position.

Draft Report Comment

Gambling can be slotted into very small periods, increasing convenience, but also of impulsive gambling. As noted, by the Interchurch Gambling Task Force, an office worker, might for example, try to double his or her paycheck on a whim during an office break (17.14).

AHA (NSW) Response

It is important to ensure that the Final Report is factually based rather than anecdotally or speculative based. To our knowledge, all Internet casinos require the lodgement of gambling funds in advance.

Unless the gambler has lodged sufficient funds or has won a sufficient amount, it is impossible to gamble the weekly pay packet on a whim. This sort of observation as fact is, if it is not factually founded, actually irresponsible.

CONCLUSION

The AHA (NSW) has reached its position in regard to the Productivity Commission's Draft Report only after a great deal of soul searching and discussions. We have not lightly taken the decision to be critical of the Draft Report. In particular, the report's emphasis on problem gambling makes the position of any critic very difficult. Some quarters will view criticism of the report as a tainted response that is self-serving and irresponsible to the social impacts for problem gamblers and their families. The AHA (NSW) is very aware of the need to create solutions to the problem gambling phenomenon in our industry. It is very much in our self-interest to ensure that our consumers enjoy but are not adversely affected by our products (both gambling and alcohol).

The Draft Report must truthfully reflect the facts and circumstances of the industry and the market. It must not sacrifice a pragmatic, valuable information function to promote academic theories. The AHA (NSW) firmly believes that this first principal has not been recognised.

Indeed, the draft report is full of assumptions, distortions and falsehoods that are then detailed as "key findings".

The AHA (NSW)'s "key finding" is that the report is misleading, selectively based on a very questionable survey and in part is outright irresponsible.

The Draft Report also says that the economic benefits created by the industry are "highly illusory". With respect, this conclusion is wrong.

Seven years ago nearly a quarter of the hotels in New South Wales were operating under asset management arrangements with their bank. The resources of the industry were not fully utilised but they remained in the industry. There are a great many people in the hotel industry who sink or swim with the industry. Their experience, their expertise and their lives are closely bound to the hotel culture. They are certainly not footloose investors.

The industry employs 120,000 people in New South Wales alone, generates \$11 billion in revenue in Australia and pays nearly 4 billion dollars in gambling taxes.

The actual tax payment is much larger through excise, payroll tax, income tax, and company tax. It is wrong to say that these contributions to the Australian economy don't matter because they would have occurred anyway.

The second great wrong of the Draft Report is its reliance on a survey that was sculpted to fit the convenience of the Commission's timetable. At the end of all the analysis the single fact is that eighty one people stand as the foundation for extrapolation and assertions that result in the ultimate production of a number – 330,000 problem gamblers. If a different, credible base was used only eleven people would have been identifiable problem gamblers in the Commission's survey. The AHA (NSW) notes the submission by the Australian Bureau of Statistics – the independent survey authority in Australia - that “any survey of gambling activity and its impact on individual and family well being... would need to be the subject of considerable research and investigation”. Yet the Commission has whipped up a survey, dived in where the ABS feared to tread and used the number generated by their own assumptions and faulty survey to influence Government policy outcomes before the Report is even finalised.

The Productivity Commission's penchant for findings and conclusions is the third great wrong of the Draft Report. The Inquiry was publicised as and represented to industry and to State Governments as an information report. The Draft Report has effectively king hit the industry, to use the vernacular. There has been no opportunity provided to debate or present evidence regarding many of the conclusions and assertions of the Commission. The industry is now in the position of having to defend itself without being aware that it was actually on trial.

Finally, the AHA (NSW) finds it ironic, that an industry which is growing, which employs a great number of young men and women, which is internationally competitive, which uses high technology, which is dominated by Australian ownership, which pays taxes in Australia, and which is providing all sorts of externalities for other industries, should be the first target of the Productivity Commission's philosophical movement from free market economics to major government intrusion.

There is already a great deal of regulation and control of gambling industries. The AHA (NSW) would like to see Federal Government involvement to rationalise and coordinate the plethora of legislation and regulation. The AHA (NSW) would vigorously oppose the new raft of legislation, regulation and control being proposed by the Productivity Commission (especially in Chapter 15) of the Draft Report. It was not the Commission's charter to reach conclusions and make recommendations and it is wrong that it has done so.

--oooOooo--

AGMMA

THE AUSTRALIAN GAMING MACHINE MANUFACTURERS ASSOCIATION

A.C.N. 060 130 770

12 August 1999

The Australian Gaming Machine Manufacturers Association (AGMMA) wishes to address two misleading statements in the Productivity Commission's draft report on Australian Gambling Industries.

The statement made by the Productivity Commission that Australia has 21% of the world's gaming machines is incorrect and requires amendment.

It is this inaccurate statement that has provoked a strong response from the Prime Minister and high profile political figures to the detriment of the gaming industry.

In reaching its conclusion, the Commission has ignored 2 major factors:

- 1) The existence of 6.6 million electronic gaming machines throughout the world; Japan alone has over 4.6 million electronic gaming machines and there are in excess of 2 million electronic gaming machines including mechanical reel spinning machines, draw poker, video lottery terminals, bingo, and keno in the rest of the world.
- 2) The existence of hundreds of thousands of gaming machines operating in unregulated markets throughout the world.

This means based on the additional 4.6 million in Japan only, Australia has less than 4% of the electronic gaming machines in the world, not the supposed 21% suggested by the Commission. In fact, the available information on world electronic gaming machines numbers suggests that Australia is likely to have around 2.5% of the world's electronic gaming machines (over 88% less than the 21% figure in the draft report).

In an attempt to prevent further unnecessary reactionary comments from the media, Federal and State Governments and the community, AGMMA is urging the Commission to consider these facts when amending its final report.

The publishing of such inaccurate statistics by the Commission is damaging for the entire gaming industry and will directly affect clubs, hotels, casinos and many community sponsored activities supported by gaming revenue.

AGMMA

THE AUSTRALIAN GAMING MACHINE MANUFACTURERS ASSOCIATION

A.C.N. 060 130 770

- 2 -

Secondly, the Commission's reference to "Online gambling offers significant potential benefits to some customers and scope for commercial returns" should be of concern to all industry stakeholders.

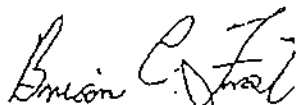
AGMMA believes that Online gambling cannot possibly be regarded more favourably than traditional gaming.

With the gaming industry contributing billions of dollars to the community per year via gambling taxes and levies, AGMMA believes the Productivity Commission has a responsibility to the industry to conduct its research accurately and in a manner which presents the public with the real facts.

AGMMA will continue to review and respond to the Productivity Commission's findings to ensure the industry's concerns are addressed.

We look forward to your support of AGMMA's call for these points to be clarified and addressed in the Commission's final report.

Yours sincerely



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STATISTICAL ESTIMATES

The confidence interval for the estimate of the proportion (p) of a population having a particular attribute is $P \pm Z_c \sqrt{p(1-p)/N}$

As can be seen from the above expression, the value of $Z_c \sqrt{p(1-p)/N}$ is negatively related to N (the sample size), since N is a denominator in the expression.

The requisite sample size (N) for a given confidence interval at an arbitrarily chosen level of confidence can readily be calculated.

At the 95 per cent level of confidence, the value of Z_c is 1.96.

If, for example, one required to calculate the sample size which would afford the same level of confidence (95 per cent) that the proportion of Australia's adult population *who score 10+ on the SOGS and who report having experienced significant problems* (0.32 per cent) had a confidence interval proportionally similar to the estimate of the relative occurrence of SOGS 5+ scores, one would proceed as set out below.

The Commission's estimate of the percentage of SOGS 5+ scores at the 95 per cent level of confidence was 2.33 per cent plus or minus 0.5 per cent, and 0.5 per cent represents 21.5 per cent of the estimate itself.

A proportionally similar estimate of 10+ scorers who had experienced problems would be 0.32 per cent, plus or minus 21.5 per cent of that estimate, which is plus or minus 0.07 per cent.

This would translate to an estimate of 45528 persons plus or minus 9769 (using rounded numbers).

Now $Z_c = 1.96$ and $p(1-p) = .00319$

Then

$$P \pm Z_c \sqrt{p(1-p)/N}$$

$$.0032 \pm Z_c \sqrt{p(1-p)/N} = .0032 \pm .0007$$

$$\therefore .0007 = 1.96 \sqrt{.00319/N}$$

$$\frac{.0007}{1.96} = \frac{\sqrt{.00319}}{\sqrt{N}}$$

$$.000357 = .0565 / \sqrt{N}$$

$$\sqrt{N} = \frac{.0565}{.000357}$$

$$= 158.26$$

$$N = 25047$$

$$\text{Say } 25,000$$

That is, it would have taken a sample of 25,000 (not 3498) to yield a confidence interval for *10+ scorers who had problems* similarly proportioned to the confidence interval for *5+ scorers*.

In the absence of larger and larger samples to test for the proportional occurrence of rarer and rarer attributes at (proportionally) similar confidence intervals, i.e. with a fixed sample size, the confidence intervals will “blow-out” as the proportion of observations in the sample reduces.

In the Commission’s survey, it observed (it appears) some 81 people who scored SOGS 5+. This is a reasonably useful number in a sample of 3498. Even so, all that could be inferred from it is that at the 95 per cent level of confidence the number of 5+ scorers in the adult population lies between 258 thousand and 400 thousand. To say that “there are 329,000 problem gamblers in Australia” (p6.29) is simply not legitimate.

As the numbers of particular types reduces, the statements become almost outlandish. The Statement: “nearly 46,000 Report (problems)” should only have extended to: “between 19 thousand and 72 thousand are estimated to score SOGS 10+ and to have experienced significant problems”.

The AHA (NSW) is presently putting together a comprehensive spreadsheet that will cover various estimates and the ranges carried by the appropriate confidence intervals (the AHA (NSW) hopes to present this to the Commission at the public hearings on September 16, 1999).

AHA

NSW

**AUSTRALIAN
HOTELS
ASSOCIATION
(NSW)**

SENATE INQUIRY

ONLINE GAMBLING

6 August 1999

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PRELIMINARY COMMENTS

In recent times, there has been a considerable amount of negative debate in the media concerning gambling in Australia. AHA (NSW) considers that it is essential to develop a viewpoint that integrates both economic and social policy. It is simplistic, ignorant and wrong to conclude that gambling is evil. For the vast majority of Australians, gambling is a form of entertainment that consumes part of their discretionary income. AHA (NSW) has promoted and developed the concept of gambling as part of the entertainment and services provided by hotels.

We are extremely conscious of problem gambling and are putting specific programs in place to address the problem.

On the other side of the coin are the benefits brought to the Australian community by our industry. AHA (NSW) members:

- employ about 120,000 people in 2000 hotels in New South Wales;
- will pay \$324 million in gaming tax in 1999-2000;
- pay \$150 million in excise;
- pay \$100 million in sales tax; and
- will spend \$1 billion on refurbishment and building renovations in the period 1995 to 2000 and employ 8000 people in the building industry.

On the basis that if NSW constitutes about 40 per cent of the hotel industry in Australia, approximately 300,000 people are employed by our industry. The hotel industry's taxes and contribution to other industries and to the Australian economy would run into billions of dollars.

Any major industry which supplies goods or services to a large proportion of the national population will create social costs for a small group of people in the community who cannot responsibly handle the product. Some Australians are killed and maimed by motor cars, ingest pharmaceuticals at unsafe or harmful levels, damage their health with diet regimes and refuse to participate in appropriate fitness and exercise programs. These consequences do not warrant regarding these industries, per se, as evil and that would be a totally inappropriate label to give to the gambling industry. There is a need for our leaders to be balanced and to express considered views that take account of both the costs and the benefits brought to Australia by the gambling industry.

ONLINE GAMBLING

Online gambling adds an extra policy dimension to the economic and social policy issues present in the gambling debate. That additional dimension is international trade and industry policy. In this submission, AHA (NSW) will address all four policy facets. We believe that the Senate Inquiry provides the opportunity for a clear-thinking and well-rounded exposition of all of the policy issues that will arise as online gambling grows in Australia. AHA (NSW) will also ask the Senate Inquiry to recommend a measured legislative approach that integrates economic, social, international trade, industry and tax policy. The issues of this Inquiry and for the industry generally at this time demand a prudent and long-term legislative approach that will eschew sensationalism. The hotel, club, racing, casino industry segment of the Australian economy is possibly the largest single industry contributor to Gross National Product, and to both Federal and State Taxes. There is a great need to ensure that the industry is properly regulated and managed, having full regard to all of the policy implications that regulation and management generate.

THE TERMS OF REFERENCE

AHA (NSW)'s submission to the Senate Inquiry uses the terms of reference of the Inquiry as the basic structure of our response.

THE NATURE, EXTENT AND IMPACT OF ONLINE GAMBLING IN AUSTRALIA

Online gambling is already freely available at an enormous number of sites on the Internet. Legislation has already been enacted in Victoria, Queensland, Tasmania, the ACT and the Northern Territory. Only NSW, Western Australia and the Federal Government have failed to canvass the issues in their legislature. AHA (NSW) believes that online gambling is now at the point that purchasing products from the Internet was at about two years ago. At that time many felt that Internet product sales would never get off the ground.

Once the issues of certainty of supply and security of credit information were resolved Internet product sales reached a critical mass and have begun to expand exponentially. AHA (NSW) contends that the same consumer pattern of behaviour will emerge from online gambling. There is a taxation leakage of payroll tax, company tax, sales tax (or GST), income tax and excise for Internet product imports. The same taxation leakage will occur with online gambling now that the GST Legislation is in place but it will be exacerbated by a major leakage in gaming tax presently paid to the States of Australia.

Online gambling will divert part of the present consumer market for gambling in hotels, clubs, casinos, racing and on lotteries. However, online gambling is also likely to create a new market.

Some people dislike being alone in hotels, clubs or casinos. They may dislike a smoky environment or feel ill at ease as a consequence of their lack of knowledge of various gambling forms. They may simply lack transport or prefer to be at home where they can complete a wager at their own leisure and not be concerned about drink/driving situations. Finally, in a sports betting context the combination of live televised international and national sporting events on cable and free-to-air television with online gambling will also divert both existing customers and new customers from the existing gambling infrastructure in Australia.

AHA (NSW) considers that the only facts presently known about the extent of online gambling in Australia relate to the interstate activities of Centrebet and International All Sports in the Northern Territory. Turnover for those companies in 1998-99, aggregated \$254 million. Centrebet's income grew by more than 50 per cent between 1997-98 and 1998-99 from \$70 million to \$124 million.

The Senate has the benefit of the availability of the Draft Report of the Productivity Commission. Under the heading "Policy for new Technologies" the Commission provides comments on the nature, extent and impact of online gambling. AHA (NSW) will be responding separately to that report and will provide a copy of its submission to the Senate as soon as it is available. It would be extremely useful if the Commission would release specific responses to its very extensive surveys on gambling that help the industry and the Government to get some specific idea of the nature and extent of online gambling. However, the issue was not comprehensively covered in the surveys.

Perhaps the best way to summarise the potential nature, extent and impact of online gambling is to say that every home and office with Internet facilities is a virtual casino. When probity and certainty issues are resolved by overseas gambling suppliers and the consumer has faith in that resolution their share of the Australian market demand will turn upon relative taxation regimes. If the imported virtual casino is not taxed by the Australian Government when the domestic suppliers are so taxed, then revenue and taxation losses will ultimately be immense.

Online gambling has the long run capability of destroying the local gambling industry if the wrong or no legislative approach is taken by the Federal Government. The Federal government's responsibility is border control. If imported alcohol or tobacco products were allowed to enter free of a very high duty that is equivalent to the excise on those products it would be obvious what the consumer response would be. Domestic gambling is an activity that is heavily taxed. If it has to compete with an untaxed substitute, Australia will eventually lose the market.

THE FEASIBILITY OF CONTROLLING ACCESS TO ONLINE GAMBLING, ESPECIALLY BY MINORS

The State Legislation passed to date and the debate in the Victorian Parliament is strongly of the view that online gambling access cannot be controlled. AHA (NSW) disagrees with this viewpoint. We note that the Federal Government has already passed legislation designed to filter pornographic sites on the Internet. Undoubtedly some people will be able to evade the filtering process.

Nevertheless the Government has made a comprehensive effort that will dissuade the vast majority of Internet users from participating in the pornography industry over the Internet.

There is a considerable degree of pessimism in both Government and non-Government circles in regard to the ability of any Government to regulate Online Gambling. AHA (NSW) recognises that, from a technological standpoint, it is practically impossible to intercept and control transactions between parties that do not want to be intercepted or controlled. Most of the Australian population is not affected by such a definition. The analogy that has been used is to compare Online Gambling to Prohibition. That is an invalid analogy. Prohibition made all consumption of alcohol illegal. Determined drinkers had to act illegally. Online Gambling from uncontrolled, untaxed overseas sites can be made illegal. If it is, then consumers could have a substantial and broadly based source of supply from legal, domestic online providers.

AHA (NSW) considers that this issue of taxation regulation and control is so important that the Senate should establish a working party (including industry representatives with technical backgrounds) with a deadline of three months to inquire into and report upon the techniques and legislative measures already established overseas to diminish demand for online gambling from unlicensed sites. We are not concerned about imports of gambling per se. All that we seek is that hackneyed phrase: a level playing field.

We believe that Government assistance to the Australian gambling industries should be confined to ensuring that imports are subject to the same regulatory constraints and taxation regimes as the domestic gambling industries.

SOME MECHANISMS FOR CONTROL

AHA (NSW) suggests that the Senate explore in more detail the following avenues for establishing a substantial level of control:

1. Federal licensing of all online gambling sites. The ATO would be empowered to act against illegal sites in the same way as it acts against persons or corporations committing major breaches of the Income Tax Assessment Act. Licensed sites and citizens in general would be encouraged to report the location of illegal sites on the web. Legal sites would be publicised extensively.
2. Australia could legislate to make credit card and other debts incurred in illegal online gambling at offshore casinos unenforceable. It is generally a part of contract law that a contract for the performance of an illegal service for the unlawful supply of goods is unenforceable. Credit providers could be prohibited from knowingly accepting such charges or providing financial facilities to offshore casinos.

3. There will already be a Federal taxation issue in relation to the Goods and Services Tax. That tax is imposed on gambling services and the responsibility for collection and penalty provisions for non-payment will devolve on the Australian Taxation Office. Offshore casinos are not exempted from the GST and it would be interesting to know what action the European Community taxation authorities takes in relation to their Value Added taxes.
4. The Kyl anti-gambling bill is before the US Senate. It bans all forms of gambling on the Internet with penalties of jail terms and fines for both individuals and corporations. We enclose some down-loads of articles and commentary in relation to that legislation (Attachment A). It would be interesting to understand the legislative and enforcement mechanisms that the US Senate perceives as the way to achieve compliance with its legislation.
5. Australia would make submissions to the World Trade Organisation for the establishment of a Convention or Protocol on Online Gambling. Its policy position could be clearly established and followed in the very large number of Double Taxation Treaties to which Australia is a party.

CONTROL OF DECEPTIVE AND MISLEADING CONDUCT

Attachment B provides the home page and web site details for Casino Australia. This site includes the Australian flag, a large koala, the Harbour Bridge and a number of other Australian icons.

The casino is located in the Netherland Antilles. This type of site is extremely misleading and appears to be in flagrant breach of the ACCC provision in regard to deception and misleading conduct. AHA (NSW) believes that where such actions occur there should be a commitment to take action in overseas courts to the extent that the existing domestic and international law permits. Again the Internet will generate (and probably is already generating) a lot of new illegal activities and offences against particular sovereign jurisdictions. We need to establish ways and means of punishing those offences and ensuring that the illegal operators or actions are stopped.

CONTROL OF MINORS

Control of online gambling by minors is, in the AHA's (NSW) view, something that is generally achievable to the success levels already achieved at licensed premises.

Lasseters requires the physical provision of a drivers licence, birth certificate or passport. The Government can and should establish legislation, which requires the provision of proof (eg; the 100 point's process for opening a bank account) that the gamblers are who they say they are and are over the age of eighteen. Of course there will be minors who forge false credit cards but this is a different problem.

Again, the weakness in this proposal is enforcement for offshore gambling. There can be no dual standard on such an important element of community protection. In summary, AHA (NSW) urges the Senate and, through it, the Australian Government to recognise its responsibility for border control of online gambling imports.

Those imports should be taxed, they should be regulated to have regard to the vulnerability's of problem gamblers and to the need to exclude underage gamblers.

There are means available to ensure that domestic online gambling operators create an acceptable community environment. Those measures must be extended to overseas online gambling providers.

THE ADEQUACY OF STATE AND TERRITORY REGULATIONS

AHA (NSW) notes that not all States have introduced and passed regulatory legislation. New South Wales has not passed legislation. The present situation at present is not satisfactory and requires direct leadership from the Federal Government. AHA (NSW) appreciates that the matter is clouded by the fact that the states and territories are directly collecting very substantial amounts of tax and have introduced their own regulatory processes for domestic online gambling.

However the prevailing attitude has been that overseas online gambling cannot be regulated or taxed. With respect, this viewpoint arises from an already obsolete view of the potential for online gambling imports and a completely mistaken view that it is sensible to heavily tax domestic online gambling providers but to allow imports to completely free-ride on the Australian Community. Senators may have particular views about the social value of gambling but there should be little disagreement that it is wrong to create a system which allows the progressive gutting of the Australian gambling industry by operators who pay no tax, employ no Australians, are not licensed and are subject to no probity checks conducted by Australian authorities.

State Governments are not the appropriate decision-makers or regulators of online gambling imports. They do not possess the culture or experience in border control. The existence of state regulation prior to Federal legislation reflects the anxiety of the states to ensure that they maintain control over the taxation process. AHA (NSW) believes that the Federal Government must now exert its influence over the industries and the market to establish appropriate legislation and regulation, particularly in regard to the treatment of offshore online gambling sites.

THE NEED FOR FEDERAL LEGISLATION

The AHA (NSW) has already made clear previously in this submission that we regard Federal legislation as imperative. Australia's economic, social, international trade and industries assistance policies are, fundamentally, the prerogative and responsibility of the Federal government. The gambling industries are presently in almost Pre-Federation legislative mode with the states and territories making different arrangements for various motives. State taxation revenue is, obviously, the overriding motive and the present legislation has already resulted in significant winners and losers. Market supply distortions already exist with the most obvious being significant online gambling site establishment in the Northern Territory.

Before providing our views and suggestions for policy formulation and subsequent legislation on online gambling we would like to propose what we consider should be a multi-party approach to the entire policy process.

• ECONOMIC POLICY

AHA (NSW) considers that the gambling industries of Australia are world class, internationally competitive industries that are generally providing a disproportionate amount of taxation revenue (compared to the amount paid by other industries). We employ a very large number of young Australians in all regions of Australia. The gambling industries are generally owned by Australians and the industries are characterised by the quantity of small businesses involved.

On the score of taxes, investment, employment, regional benefit, small business and, overall global competitiveness our industries should be regarded as an absolute asset to the economy. AHA (NSW) regards the Productivity Commission's comments that the benefit is largely "illusory" and that there is no long term contribution to GDP employment and investment as being totally out of touch with economic reality. If our industries provide no economic benefit to the Australian economy then no industry does.

- **SOCIAL POLICY**

The Productivity Commission has focussed on the social policy issues and dismissed any economic policy considerations. AHA (NSW) does not wish to articulate a similar lack of balance in the debate. Our particular views on access for minors are provided earlier in this submission. The general social issues provoked by gambling problems are a matter of grave concern for all of us.

Those issues will not be resolved by Federal government inertia. Social Welfare is a major area of responsibility for the Federal Government. AHA (NSW) considers that a programme of initiatives directed at problem gambling should be developed. The programme could be coordinated by the Federal Government in consultation with the States. Part of some State tax collections are already earmarked for this purpose. The programmes need to be rationalised to address a single set of initiatives and processes.

AHA (NSW) believes that it is very important to develop detailed and considered national programmes for problem gambling. We believe that the Senate should recommend the creation of an expert group that can provide a major programme for action and propose a budget to ensure that the programme is implemented, monitored and actioned by the relevant State Governments at the local level. The programme should have a direct and practical application. The Panel should incorporate social welfare experts, representatives of the gambling industries and **government representatives and should be chaired by a prominent Australian with appropriate qualifications.**

- **INTERNATIONAL TRADE AND INDUSTRY ASSISTANCE**

Both the Labor Party and the Coalition have treated the industry policy and international trade policy debate as settled with bi-partisan agreement on the established policy principles outlined below. That agreement is not the platform of the Australian Democrats. However it is certainly not the policy of the Democrats to permit unfair competition from imports based upon Government intrusion in an industry to create an advantage for imports.

The settled policy principles are:

- The Government will not provide assistance to Australian industries that are **inefficient and have no prospect of being internationally competitive.**

- Consumption taxes such as excise and the GST should apply on an equitable basis over both locally produced and imported products.
- Market forces should be allowed to operate except in circumstances of market failure where Government intrusion may be warranted.

These principles are applied to the Australian economy in general and have applied for the past twenty years.

There is no justification to create a specific and different set of principles for the gambling industries that result in a number of State policies which actually advantage importers.

The industry environment in which those principles operate is that:

- The gambling industries of Australia are achieving maximum scale economies.
- Competition in the market place is extensive and could be regarded as pure competition when the number of competitors and their size is taken into account.
- Australia has an international profile of honesty and certainty in regard to gambling.

- State government involvement in gambling regulation and taxation has established high levels of probity and ensured that the gambling industries are free of criminal influence.

If the Senate Committee accepts both the established policy infrastructure for industry assistance in the Australian economy and the world best practice performance of Australia's gambling industries then the question that remains is how can the Federal Government legislate and act to ensure that Government intrusion in the industry does not result in a detrimental outcome which erodes or even destroys the international competitive advantage that is presently possessed by the Australian gambling industries as a consequence of their initiatives and their efficiency.

Within this context the major policy scenarios concern:

- Offshore imports of online gambling
- Australian exports of online gambling

These scenarios are discussed below:

OFFSHORE IMPORTS OF ONLINE GAMBLING

The entire issue of Internet imports of services is a massive global headache. The provision of online services to the end consumer avoids the GST, income tax, company tax, and capital gains tax unless the receiving consumer is a good corporate or private citizen who accepts self-assessment and declares services for taxation purposes.

As already stated, if the domestic supplier of online gambling is heavily taxed and regulated and the cross-border supplier is not taxed and regulated then the issue is far beyond government revenue. The real issue is the survival of the domestic suppliers as they are unable to compete with import competition, regardless of their efficiency, scale economies, probity of service or reputation in the market place.

Although there may be a period of a few years during which consumers are dubious about the bona fides of offshore operators the successful long-term global casinos will quickly establish a means of demonstrating their probity, fairness and certainty of payment. The certification by Price Waterhouse Cooper is one such attempt (See Attachment C). Simply using appropriate global Casino brand names such as Circus Circus or Caesars Place would create consumer confidence.

Victoria's legislation seems illogical. The view of both sides of parliament was that cross-border imports of online gambling could not be prevented. Accordingly, the parliament voted to heavily regulate and tax domestic online providers but took no action against imports. The US attempts at legislation may not stamp out online gambling imports but they would certainly inhibit it. Most citizens do not knowingly break the law. As previously stated, the Prohibition example is invalid. People who wanted a drink during Prohibition had no legal alternative. The issue with online gambling is whether the consumer buys the freely available heavily taxed legal product or the untaxed illegal product. Creating criminal sanctions (even if they are extremely difficult to enforce) would deter most people. It should be noted that deliberate tax evasion (as opposed to avoidance) already has criminal penalties including jail sentences.

OFFSHORE EXPORTS OF ONLINE GAMBLING

The general economic principle followed by Australian Governments of all parties is that it is undesirable to tax exports or overseas consumption. This principle has been clearly enunciated in the GST debate, where one of the benefits of the GST is that it allowed the removal of sales tax embedded in exports. This meant that Australia improved its relative competitiveness against other countries employing value-added taxes.

Australia has a global competitive advantage in the gambling industry. The Australian sporting and gambling culture has resulted in large, transparent gambling infrastructures that are operated throughout our society rather than being centralised in casino enclosures. Gambling is not only a tourist activity in Australia but, more so, is an entertainment form engaged in by a large part of the population on a continuous basis.

Consequently, Australia has a reputation for probity, certainty and fairness that translates into a major global marketing advantage. Taxing online gambling exports on the basis of revenue would be analogous to payroll tax. It would create a specific cost disadvantage that would destroy the existing competitive advantage created by more than a hundred years of building Australia's gambling product.

An analogous export industry would be Australia's wine industry. The export of Australian wines has grown enormously in the past ten years. This growth is a result of the quality of our wine and the price point at which it enters overseas (particularly European) markets. If the Australian government imposed a 10 per cent GST and the 29 per cent Wine Equalisation Tax on our exports the export market would disappear. It is just as ludicrous to consider a 50 per cent tax on online gambling exports by Australian virtual casinos.

The state and Federal authorities will not miss out on taxation revenue. Profits earned by successful online gambling exporters will be subject to the full array of income and company taxes. From a taxation perspective, the AHA (NSW) believes that the Government will actually gain more in taxation revenue from company and personal income tax than it will gain from taxation at source which creates an international competitive disability and enormously diminishes ultimate aggregate export revenue.

REQUESTS AND SUPPORTING ARGUMENTS

AHA (NSW) believes that the economic, social, industries assistance and international trade policy issues evoked by this Inquiry are extremely important for the Australian people. The gambling industries, both directly through their own activities and indirectly through their capital investment and purchase of goods and services, are an extremely important contributor to the Australian economy.

The Productivity Commission's Draft Report believes that our contribution is largely "illusory" because the resources our industries consume would be applied in other industries if we contracted or disappeared. Our strong view is that this conclusion is wrong.

The commission bases this view on its entrenched theory concerning resource allocation in Australia. It states that:

"the resources available to Australia's economy – its people, capital and land are not stamped 'for use only by the gambling industries'. If these industries did not exist, most of the resources would be employed in other uses, creating similar levels of income and jobs to gambling itself."

This conclusion is not true. It totally ignores the demographics of the gambling industry and the age structure of its employees. Many hotels and clubs are in regional areas. If they didn't offer gambling associated employment the young people they employ would be unemployed. The same situation exists in the cities of Australia. Our resources of young people are substantially underemployed. The gambling industries and the associated hotels and clubs are major employers of young people in a service environment that is obviously dominated by young workers. If they were not employed in the gambling industry many would not be employed.

Capital is mobile but there is absolutely no reason why it must stay in Australia. A lot of the capital invested in the gambling industries is capital sourced from the owners of small businesses – the hotel owners. Most of them would struggle to reinvest seamlessly and quickly in other economic activities.

The Commission's error regarding the mobility of land usage is graphically demonstrated every time we drive past our deserted manufacturing centres. The Australian countryside is littered with forlorn, abandoned factories.

Finally, it would be very difficult to find another Australian industry that takes over \$11 billion in revenue, and pays, four billion in tax. The fact is there isn't another industry paying that much tax from that level of turnover.

The Commission concludes (again), from the economic modelling it undertook and analysed, that changes in the size of the industry would have little impact on Australia's GDP, consumption levels or labour market outcomes over the long term. With respect, as Keynes said, in the long run we are all dead. The short-term problem of getting work is what occupies most young people.

We would conclude that on the Commission's reasoning, there is no economic activity in Australia that would have a big impact on aggregate GDP, consumption and employment if it disappeared. In the full employment Economics of the Commission, the resource allocation theory takes care of that. Regardless of what industries we close down, the land, labour and capital just flows neatly off into some other activity.

Obviously, if our industry is allowed to contract as a consequence of untaxed online gambling imports then the Productivity Commission's conclusions will be put to the test. Only a few years ago the hotel industry in New South Wales was in a depressed State. When hotels closed the normal experience was that the land and the building sat empty for a long time. The young people that had been employed were often unemployed for a long time and the hotel owner's capital might just as likely be invested overseas as invested in Australia. The resources did not flow to other industries.

AHA (NSW) would ask the Representative Senators to express unanimously in their report the need for:

- A commitment by the Federal Government to establish some overarching legislation that creates a uniform policy on online gambling that has regard to all the policy issues involved.
- Recognition of the contribution of the industries to the Australian economy through work, investment and taxes.
- Recognition that inertia or unbalanced treatment of online gambling imports will result in taxation leakage and exacerbation of problem gambling.
- The establishment of an expert Panel to create a programme and estimate the necessary budget for a major national initiative designed to address the problem and possible solutions for problem gamblers. The budget should be funded from gambling taxes.
- The establishment of a Working Party is required to provide technical information and systems to monitor, control and regulate online gambling imports.

Gambling is a recreational pastime that has probably had its critics since Roman times. The social issues are important but they need to be balanced against the contribution made to the economy. AHA (NSW) believes that the Senate should use the existence of this Inquiry to establish some principles to govern online gambling activities. We think that online gambling is an important issue for the future of the Australian economy. We ask that the Senate not be distracted by one part of that issue (albeit an important part) but that it provide the foundations in principle for the necessary Federal legislation.

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