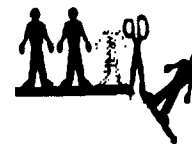


# WESLEY COMMUNITY LEGAL SERVICE

( AN ACTIVITY OF CREDIT LINE FINANCIAL COUNSELLING SERVICES )



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Our Ref: RB/Prodcom2

14 September 1999

Productivity Commission  
PO Box 80  
BELCONNEN ACT 2616

FAX. 6240-3311

Dear sir/madam,

## RE AUSTRALIA'S GAMBLING INDUSTRIES - DRAFT REPORT

Thank you for the opportunity to comment on this draft report. We have used your page numbering system in providing these comments:

### VOLUME 1 - REPORT

#### **THE IMPACTS OF PROBLEM GAMBLING**

##### *7.40 The financial effects of problem gambling*

We agree that it is important to consider the subjective circumstances of each problem gambler when considering spending patterns and their effects. Problem gamblers on low incomes such as pensioners, students and the unemployed may be gambling a high percentage of their income, or at least gambling money that would otherwise be used for essentials such as food, housing and clothing. However the actual amount gambled may be small compared to the gambling behaviour of high income, or asset rich gamblers. To measure the extent of the problem, it is better to consider the amount gambled as a percentage of the person's income, or the medium term effect on that person's assets.

##### *7.44 Are problem gamblers doomed to be penniless*

No problem gambler is doomed to be penniless. However, at the extreme end of the scale, some problem gamblers are so locked into the cycle of gambling that breaking out is virtually impossible. As a generalisation, the longer the person has been a problem gambler, the more tied they are to gambling.

It is our experience that many problem gamblers reach a crisis point where they perceive that they have hit "rock bottom" and at that point they make a commitment to change. The commitment to change can be sabotaged, for example where some well-meaning relative decides to "bail out" the gambler by paying her debts.

Bankruptcy generally provides relief from excessive indebtedness. Positive aspects of bankruptcy for a problem gambler include:

- Creditors stop demanding payment or harassing the bankrupt, which reduces personal and family stress levels;
- Legal debt recovery proceedings are stayed;

- Bankruptcy provides a public recognition of inability to pay debts, ending attempts by problem gamblers to borrow money to get a "bail out" from problems;
- Bankruptcy is registered on the bankrupt's Credit Reference Limited file for 7 years, which makes it difficult to borrow money to gamble;
- Most bankrupts are discharged at the end of 3 years (although some are discharged after 6 months) which enables them to make a fresh start in life;
- Bankrupts on good incomes (approx \$27,000) are required to make a contribution to creditors;

Negative aspects of bankruptcy for problem gamblers include:

- Fears of prosecution under s.271 Bankruptcy Act;
- Stigma attached to being labelled a bankrupt;
- Debts incurred by fraud are not extinguished by bankruptcy;
- Problem gambler may perceive bankruptcy as a "bail out" and continue gambling.

Because bankruptcy can either be a catalyst for assisting the problem gambler to break out of the cycle of problem gambling, or reinforcing the problem, we strongly urge any problem gambler considering bankruptcy to seek gambling counselling

#### 7.56 *Problem gambling and loan sharking*

Loan sharking is illegal, in that it is in breach of the consumer protection provisions of the Consumer Credit Code. For example, Section 22 of the Code provides a maximum fine of \$11,000 for imposing a monetary liability on a loan that is inconsistent with the Code.

In the draft report, Star City is quoted as saying "*Lending activity among patrons does take place. This practice is not illegal and occurs all over NSW. We discourage the practice where it appears to be taking the form of a regular business transaction...*" This is a surprising admission and requires some comment. Firstly, it is hard to imagine that lending between Star City patrons occurs as some sort of benevolent gesture between gamblers. Not many gamblers would be generous or foolish enough to lend money to another gambler. Secondly, if it is a loan for interest or some other return, then it is regulated by the Consumer Credit Code, and requires compliance with that legislation. Thirdly, it is hard to see why Star City would wish to discourage lending activities when they contribute to its overall revenue.

## 8 BROADER COMMUNITY IMPACTS

### 9.4 *Offences committed in gambling venues*

As stated above, loan sharking is a crime in that it could be prosecuted under the criminal provisions in the Consumer Credit Code such as section 22. However we agree that the violence associated with loan sharking is much more of a concern to problem gamblers.

### 9.20 *Changes in behavioural norms, social ethics and personal preferences*

Clearly the changed attitudes to gambling are reflected in the rapid rise in gambling on the one hand, and the corresponding rise in community concern about gambling on the other hand. The fact that the love of gambling permeates our society is illustrated by:

- The way that competitions of all sorts are used to promote consumer goods ("buy this product and enter a competition to win...");
- Popularity of competitions in the media (e.g. "Wheel of Fortune");
- Popularity of investment in the Stock Exchange (which at the risky end is arguably a form of gambling);

The debate over the merits or evils of gambling continues to rage, even in the submissions made to your enquiry. It is clearly a political issue, and one which has resulted in the ad hoc and piecemeal development of the gambling industry in this country. We would hope that on the one hand, churches and other critics would acknowledge that gambling is here to stay, and on the other hand, that industry proponents would stop making ridiculous denials of the harms brought by gambling and get on with addressing them.

#### 9.41 *Special impacts on country communities*

Whilst you have considered the position of country communities here and Aboriginal communities at Volume 2-E, you do not appear to have considered the impact on ethnic communities, particularly those communities who appear to be particularly vulnerable. Are you in a position to do this, or is there inadequate information, or is it politically inappropriate?

## 15. CONSUMER PROTECTION

### 15.10 *Price Information to players*

We would like to see a simple "information box" similar to that provided on food products to be provided to consumers showing:

- The chance of winning a major prize (say over \$5,000) with a standard bet of say, \$100; this would be a standard amount to enable comparisons across different types of gambling;
- With lottery tickets, keno etc, a disclosure of the odds of winning a major prize for that outlay, i.e. on the purchase of that \$5 scratchie ticket;
- With lottery tickets, poker machines etc, a disclosure of the odds of winning any prize, no matter how small;
- For poker machines, the amount of time that can be bought with a certain style of poker machine, as suggested by Xenophon at 15.15;
- Those casinos which do not already disclose odds, of winning should be required to provide them.

Even though many consumers do not understand the significance of odds, that does not excuse gambling providers from disclosing odds for the benefit of those who do. Odds of winning a major prize are more useful to consumers, because that is what they want. Generally, people are gambling for the hope of winning a major prize, not simply coming out ahead.

In fact, publishing the rate of return without additional information could encourage problem gamblers who are chasing losses. They fall into the "rate of return" fallacy and think that if they continue to gamble, they can win back what they have lost.

Where there are jackpots or other varying prizes available, the information box should be updated annually on the basis of previous average payout results, e.g. over a 12 month period.

The fact that odds are published will not result in a massive rush away from lotteries to the blackjack tables. The fact is that people buy lottery products for many reasons – convenience, privacy, low outlay etc, which more than compensate for a low return. Most people (other than problem gamblers) buy lottery tickets for a dream or a bit of fun rather than a serious expectation of winning. Publishing the odds of winning may help some of the dreamers and escapist avoid becoming problem gamblers.

### 15.19 *Understanding the nature of the game*

Putting a fence up at the top of a cliff is more effective than parking an ambulance at the bottom.

If we are to avoid repeating the mistakes of the past, then we need to pass on our wisdom to future generations of gamblers. For this reason we believe that providing information about gambling in schools should be a national priority. In particular, if students understand the nature of gaming machines, odds and rates of return, they will be empowered to make all sorts of investment decisions, not just gambling ones.

Educating our young will also help break the chain of problem gambling, where many young people follow the examples of adult family members who also have a gambling problem.

### *15.23 Information on the risks of problem gambling*

Information about the risks of gambling need to be targeted at the places where problem gamblers are to be found. Primarily these are gambling venues. Otherwise, specific media such as the newspaper form guide would target potential problem gamblers.

Information about services for family members should also be made available. Family members are much more likely to obtain this information from doctors, health and community services. Family members are often unaware that any support services exist for them.

### *15.36 The common law duty of care*

We are representing a number of problem gamblers in common law-type cases against gambling institutions. Some of these cases involve conduct by gambling providers over 2 years ago, when few gambling providers in NSW were aware of the meaning of the term "responsible gambling". We believe that many gambling providers in this State are now aware of the concept of responsible gambling, but are still waiting for the government or some higher power to tell them what to do.

It would be true to say that while these cases are useful from the point of view of testing the effectiveness of the law, they are an inefficient way of assisting problem gamblers. We would prefer to see the establishment of a fair but firm regulatory regime that picks up and prosecutes the few gambling providers who fail to meet the minimum criteria. Ideally, such a regime would be established co-operatively between government, industry and consumer representatives.

The NSW government has released an exposure draft of the *Gambling Legislation Amendment (Responsible Gambling) Bill 1999*, which you will have seen and attach a copy of our comments regarding this. Whilst the fate of the Bill is presently uncertain, it represents a major change of attitude on the part of government compared with the situation when the IPART enquiries took place.

One problem of a duty of care is the difficulty in definition. The law of negligence has been with us for over 60 years and continues to be defined by the courts in a multitude of cases.

Another problem is that currently, the duty of care relating to gambling is unacceptably low. In our litigation, we have gambling providers denying that there is anything wrong with providing such inducements as credit or free alcohol. Whether they are right or wrong is yet to be finally decided.

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

So we would prefer not to follow the path of defining a duty of care through the courts, and instead to set reasonable minimum standards by consultation. In that way a gambling provider would know what had to

be done to avoid legal liability and consumers would remain responsible for their own actions within a framework of reasonable safeguards. Strong parallels can be drawn with the tobacco and alcohol industries.

## **VOLUME 2 APPENDICES**

### ***H16 Are motives for offences always revealed to courts ?***

It is suggested by ACIL that problem gambling is suggested to the courts in Victoria as an attempt to attract leniency. This is certainly not the official position in NSW.

In N.S.W., particularly after the decision of Regina v Morna MOELSWORTH unreported CCA 12 March 1999 Spiegelman C.J, Abadee J & Adams J (dissenting) confirmed the view of the New South Wales Courts that "problem gamblers will not be afforded any special leniency, that a pathological gambling disorder which " falls short of a mental handicap which impairs the persons ability to evaluate and reason" will not be afforded any special consideration. Pathological gambling is not a "special circumstance" which will allow the Courts to impose a "non-custodial" sentence or reduce the minimum term.

Therefore, all New South Wales Courts are bound by this judgment which reflects very little insight or understanding by the Courts of problem gambling.

However, with that being said, the appears to be more flexibility in the Local Court for no-custodial sentences to be imposed. Usually the amount involved can be realistically re-paid.

The other cost, is in terms of superannuation which is sometimes obtained by defendants under hardship applications to compensate for the theft. It is difficult to put a longer-term figure on this because the community will at some stage have to pick up the "bill" in relation to pensions.

### ***J 10 How many gamblers have been made bankrupt by gambling?***

The word "makes" at line 4 of the quote from the writer should read "takes".

### ***J 11 What is the cost of bankruptcy proceedings?***

The third sentence on this page is incorrect. There is no fee for lodgment of a debtor's petition. There are fees for issuing bankruptcy notices and creditors petitions of \$300 and this may be where the figure came from.

The fees of \$4,000 referred to are the ITSA's fees taken out of the bankrupt's property or contributions. If no property or income are recovered from the estate, then the fee cannot be recovered.

So it is not clear to us why a cost of bankruptcy of \$4,000 is adopted rather than Dickerson's estimate of \$6,600. We understand that Dickerson referred to an amount of \$6,600 per bankruptcy rather than per court case. Debtor's petitions are no longer filed in the Federal Court but rather are filed directly with ITSA.

### ***J.11 Bad debts at bankruptcy***

It is not clear to us whether the Commission has considered that bad debts result in a tax deduction for lending institutions which have an affect on total income tax revenue.

The cost of debt collection is a major factor in the cost of lending. Whilst we concede that the cost of debt collection is passed onto other borrowers by way of higher interest and charges, that surely remains a cost to society.

Debt collection is a major industry in its own right, and the number of bad debts that result in bankruptcy is quite small. We would have assumed that there would be some statistics that would link gambling to bad debts to enable this loss to be quantified.

Yours faithfully,

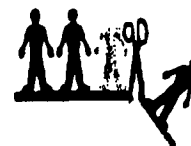


RICHARD BRADING  
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SOLICITORS

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Our Ref: RB

Your Ref:

10 August 1999

Manager, Policy  
Department of Gaming and Racing  
GPO Box 7060  
SYDNEY NSW 2001

Dear sir/madam,

## **GAMBLING LEGISLATION AMENDMENT (RESPONSIBLE GAMBLING) BILL 1999**

Thank you for the opportunity to comment on this Bill. We are delighted to see that the government has adopted of the recommendations of IPART and consumer advocates. We hope that industry will also support this legislation as a means of raising standards and reducing public criticism.

### **Harm Minimisation Object**

We agree that the purpose of the Bill should be both the promotion of responsible gambling by government and industry, as well as minimising the harm associated with problem gambling.

It is important that industry adopts responsibility for the responsible conduct of gambling. In so doing, industry must support sanctions against the irresponsible conduct of gambling.

Controls are important. However controls need to be practical, clear and simple and require a minimum amount of interpretation and enforcement to be effective.

We have seen some positive steps by industry such as the responsible gambling practices of Star City, the Registered Clubs Association pilot project and the Betsafe group of clubs, we have also seen some horrific practices at the other end of the spectrum. We believe that the government's role must be to convince the industry leaders that they have nothing to fear from appropriate regulation with sanctions. Instead they should see appropriate regulation as an effective protection from the rogue operators who bring the gambling industry into disrepute.

We would urge the government to set up an appropriate council comprising governmental, industry and consumer representatives to work on the regulations and overall responsible gambling strategies.

#### **• Terminology**

"Problem gambling" is the best term to use (rather than pathological gambling, compulsive gambling, or some other term). Although the expression "excessive gambling" is used in the overview, this label relates to the amount gambled (i.e. gambling to excess) and is prone to confusion with the notion of drinking to excess.

#### **• Families and others affected by problem gamblers**

Families of problem gamblers are mentioned in the legislation. It is not clear what protection the government intends to provide for families and others affected by problem gamblers.

The draft legislation refers to the protection of family members but does not provide any indication as to what if any rights will be made available to family members. Typically the gambler disposes of family income, which means that there is no money left for essential expenditure, such as food. Family members often ask what legal rights they have to protect family property. Apart from the limited rights under the Family Law Act, a family member has no rights.

If this legislation is to be effective in protecting the rights of family members, then it must provide a mechanism whereby those family members can prevent or limit the use of family funds for gambling. This is not an easy issue, but one which is vitally important.

In advocating for the protection of gamblers, we recognise that the gambling industry does not want to be placed in an impossible role. We have spoken to various gambling industry representatives who have indicated a willingness to participate in procedures to protect family members as long as they have protection from prosecution or other problems.

There will be times when it will be necessary to balance the competing interests of the gambler and the family member. It is possible that family members might try to stop a relative gambling for the wrong reasons. There are also issues of privacy involved. One possibility would be to empower a legal body such as the Local Court or Licensing Court exclude problem gamblers from gambling venues upon the application of family members. Both sides would be referred to mediation through the Community Justice Centre first. Any order made would be treated by gambling providers in the same way as voluntary self-exclusion arrangements.

We would urge the government to convene a meeting between representatives of industry, consumer and family representatives to see if a workable solution can be found to this problem.

### **Ground of Complaint**

We support the proposal to include irresponsible gambling behaviour as a ground of complaint.

### **Advertising**

This is an area that needs to be addressed. In particular, consumers are entitled to basic information such as the odds of winning a major prize.

Action is needed to stamp out misleading or deceptive advertising such as the slogan "Everyone's a Winner".

Guidelines need to be developed to promote gambling in a realistic manner. In particular, where winners of major prizes are portrayed in advertising, the advertiser should be required to publish a clear and simple warning such as "Only gamble what you can afford."

Gimmicky slogans such as "Bet with your head, not over it" or "Gamble for thrills, not to pay bills" are considered to be of no value.

### **Broader Penalty Options**

- **Corrective advertising**

We support this proposed amendment

- **Training as a form of penalty**

We do not support the proposal whereby a court is empowered to require a gambling operator to undertake a specified course of training to promote responsible practices. This provision turns training



into a form of punishment and something, by implication, that a gambling provider would not ordinarily undertake. All gambling providers should be required to undergo training as a prerequisite to obtain a licence to provide gambling.

We believe that a regime of fines is the appropriate form of penalty.

### **Inducements**

#### **• Alcohol**

There can be little doubt that the most harmful inducement is the free or subsidised provision of alcohol to gamblers. There is considerable medical evidence regarding the effect of alcohol on an individual's judgment, and there can be no doubt that individuals are likely to gamble more than they intend if they are influenced by alcohol. We now have a strict regime of sanctions to enforce the responsible service of alcohol generally. We have tough laws against driving a motor vehicle whilst intoxicated. We now need to have the same tough sanctions to prevent gambling whilst intoxicated. Prohibiting the free or subsidised supply of alcohol is essential.

The practice of taking alcoholic drinks to the gambler playing a poker machine should be stopped. Firstly it encourages the gambler to drink more, as "helpful" staff often ask if the gambler would like another drink brought over. Secondly, it reduces the breaks in play, so the gambler is less likely to realise that he/she has lost more or played longer than intended. Thirdly, it makes it difficult for the gambling venue staff to assess the physical appearance to ascertain whether the gambler is intoxicated or is affected by excessive gambling. Making the gambler walk to the bar to buy another drink will give the gambler the opportunity to think about whether he/she really wants to have another drink and/or continue gambling and the staff the opportunity to consider whether the responsible service provisions apply.

#### **• Other inducements**

We also need to draw the line on other inducements. In particular, the supply of free poker machine credits or gaming chips to get people hooked on gambling.

The supply of free meals should also be prohibited. Free meals are usually only provided to gambling patrons and discriminate against non-gambling patrons. We would not want to make too much of an issue of subsidised meals, as these are difficult to ascertain and prove. However, the regulations should state that subsidised meals will be available to all patrons, not just those who choose to gamble.

We believe that the provision of free meals pursuant to a loyalty scheme, such as the casino's Star Card is acceptable, because it is effectively a return on money gambled, rather than an inducement to get people started on gambling. However, we believe that free alcohol should not be provided in a loyalty scheme.

### **Counselling service Signage**

Placing signs with the G-Line number in strategic locations should be mandatory for all gambling institutions including race tracks and bingo halls.

All gaming machines should be required to display the odds of winning a major prize.

Newsagents and other sellers of lottery type products should be required to display the G-Line number and the odds of winning a major prize. We would like to see the G-Line number printed on entry forms for commercial lotteries/lotto//keno activities from time to time. It is possible that printing the G-Line number on every ticket would be counterproductive, if gamblers see it all the time.

### **Responsible Service of Gambling Training**

We strongly support the requirement for training of gambling staff. Staff training and certification is an essential component of any responsible gambling program. All staff who work in the gaming area should be properly trained and the holder of certification. This would ensure that they are able to identify irresponsible gambling behaviour and take the appropriate steps. Properly trained staff would receive training in:

- Identifying problem gamblers;
- Referring problem gamblers for assistance;
- Dealing with family members and other third parties;
- Credit and other controls;
- Restrictions and procedures regarding advertising and inducements;
- The relationship between alcohol and gambling;
- Self exclusion procedures;
- Crisis intervention;
- Disputes;
- Security and legal issues;

We note that some industry groups already offer training in some or all of these areas for their staff.

Gambling staff should also be subject to police record checks for fraud type convictions.

### **Player Information**

We support this proposal. In particular the provision of the odds of winning a major prize should be disclosed.

### **Industry Codes of Practice**

Codes of practice drafted by industry groups have proven to be generally confusing and ineffective in most industries and we do not believe they should have a place in this legislation.

Whilst Codes of practice have been effective in South Australia, Victoria and the ACT, these have all been developed and implemented by a motivated industry in the face of widespread public concern about the rapid spread of new forms of gambling.

In New South Wales we have a pro-active government agency. Some sections of the gambling industry has been very interested in responsible gambling, whilst other sections have been antagonistic towards the notion. We fear that allowing or encouraging a piecemeal approach with different industries (or parts of industries) coming up with their own "codes of practice" will cause confusion and bring this legislation into disrepute. For example, the Australian Hotels Association claim to have an industry code of practice. However, they have not made it public as they claim it is "commercial-in-confidence". Such a document can hardly have any value. Then there is the Thommo's group of pubs, who proudly proclaim that "Everyone's a Winner". They have their own "code of practice". How would the government deal with two or more codes of practice in the same industry?

The Star City Responsible Gaming Policy quoted in the IPART report is a good example of a deficient code of practice. Firstly it offers patrons one free counselling session. This is misleading as problem gamblers may be entitled to multiple free sessions through a CCBF funded agency. Secondly it says nothing about its self exclusion policy, other than saying a brochure is available. Thirdly, it states that "front line customer service staff" have received training to recognise people who may be affected by casino gambling, but does not say what if anything those staff are required to do. For example, they may be required to encourage problem gamblers to gamble more.

In short, codes of practice may be very nice for public relations people, but should have no place in legislation. We support the position of NCOSS as quoted in the IPART report.

- **Minimum standards are necessary**

The role of government must be to set and enforce minimum standards for the whole of industry. Government's role is not to promote a social conscience. We must recognise that gambling is a highly competitive industry, and many industry players will not be interested in "doing the right thing", but will want to push the rules to the limit.

In the July edition of *Liquor and Gaming*, is an article entitled "*Creating a Responsible Ambience for your gaming room.*" With apologies to the authors of the article, we would point out that it provides an excellent example of why minimum standards with sanctions are necessary. The article lists a number of factors identified by IPART with problem gambling, namely low level lighting, an escapist atmosphere, placing gaming areas close to lounge areas, illusionary or fanciful décor, lack of clocks. These things are commonly employed by gambling providers, as they are believed to boost gambling revenue. The article is critical of an architect for recommending these things and goes on to suggest that "*Venues and their advisers should look for ways to minimise rather than encourage gambling which can give rise to problems.*" The article fails to explain why they should. We consider that a rational gambling provider will utilise all of these ploys as a means to maximise revenue. After all, their competitors will.

### Age Restrictions

We support the proposed amendments.

### Provision of Credit

The prohibition of credit betting is an essential part of consumer protection. Clearly the existing prohibition of "cash advances" in s.9A(5A) *Registered Clubs Act* and s.20(4A) *Liquor Act* is too narrow. We are concerned that the gambling venues which have instituted responsible policies are at a commercial disadvantage by comparison with the rogue operators.

- **Credit Cards**

The amendments should specifically prohibit the use of "Credit" facilities on ATM and EFTPOS machines located within the gambling venues. Obtaining credit with the usual Visa or Mastercard is a common problem for gamblers and is a much more widespread problem than charge cards or cash advances. We urge the government to amend the legislation to require all ATM's and EFTPOS machines located within gambling premises to have their "Credit" function barred. Our enquiries with credit providers indicate that this would be technically very simple to achieve.

The draft legislation does not address the issue of interstate and offshore credit gambling. By prohibiting the use of credit cards with N.S.W. based providers, the government is giving an advantage to interstate and offshore gambling providers such as CentaBet and One Stop Betting Shop. Not only do these providers give credit, but they can also offer better odds due to lower rates of taxation. It is arguable that these civil debts are not enforceable in N.S.W. at common law but the question has not been tested for some time. It would be helpful if the draft legislation included a provision stating that where credit has been provided for gambling illegally by a NSW provider, or by an interstate or offshore provider, that debt is not enforceable in N.S.W.

- **Cheques**

The problem of cheques must also be addressed. We consider that the following limits would be practical:

1. Limit of cashing one cheque per person per day;

2. Prohibit cashing of wages cheques or "third party" cheques, i.e. only cheques made payable to the gambling venue may be accepted, not endorsed cheques;
3. The amount of the cheque must be completed at the time the cash is provided, or the first amount of cash is provided, where cash is taken in stages;
4. Ban the holding of cheques as "security";
5. Ban the return of cheques;
6. Payment of winnings by either cash, or the venue provider's cheque (which cannot be cashed at the premises);
7. Big wins (over \$1,000, except at the Casino) must be paid by cheque.

Consideration should be given to the special needs of gamblers who may have some form of mental illness, intellectual disability, clinical depression or some other disability but have a cheque account. These people are particularly prone to problem gambling. We have encountered a number of gamblers in the "special needs" category who have got into serious trouble (i.e. threatened or actual criminal charges) by drawing cheques to gambling providers without sufficient funds.

### **Cash Dispensing Facilities**

ATMs and EFTPOS facilities need to be strictly controlled. They need to be located away from gambling areas.

Limiting the use of these facilities to one cash or gambling withdrawal at a gambling venue a day will make it difficult for problem gamblers to make multiple withdrawals and "chase their losses". Obviously those who need to withdraw more money will still be able to access ATM's away from the gambling venue. Forcing problem gamblers to go outside the venue will give them an opportunity to "cool off" and limit the likelihood of further uncontrolled gambling.

It is interesting to note that ATMs and EFTPOS facilities at gambling venues do not have a facility for accepting deposits.

### **Advertising as to Purported Winning Schemes**

We support the proposed amendments.

### **Directions as to Responsible Gambling**

We support the proposed amendments.

### **Self-exclusion Programs**

Self-exclusion is widely acknowledged as a helpful part of rehabilitation for problem gamblers. However the proliferation of gambling venues in New South Wales means that a co-ordinated approach to self exclusion is required. Simple self-exclusion from a single venue is of little venue, when there are thousands of venues throughout the State.

We urge the government to investigate the development of a co-ordinated self exclusion program whereby problem gamblers could nominate to exclude themselves from all gambling venues in their suburb, town or throughout the State.

A local or regional self exclusion program would be simple to enforce by requiring all winners of substantial prizes to identify themselves. Self-excluded gamblers would forfeit their right to a prize. This would remove the need for the gambling venue to check everyone who came in. Problem gamblers would not want to gamble if they were prohibited from collecting prizes.

We are concerned that the proposal to include numerous and various "approved self-exclusion schemes" will result in a confusing and piecemeal situation where different providers have different rules. This will make enforcement virtually impossible.

- **Self-exclusion and legal liability of gambling providers**

Many gambling providers have expressed a reluctance to participate in exclusion schemes because of fears of incurring legal liability. Whilst we believe those fears are largely ill-founded there are some points that need to be made:

1. In one case, a problem gambler asked a Club to exclude her because of her gambling problem. The Club manager agreed, but let her return on a later date when she told him that she had seen a psychiatrist and been "cured" of her gambling addiction. As a result she gambled away her remaining savings. The Club in question had no written policies and procedures and the staff had received no training.
2. Another Club unilaterally banned a problem gambler upon the advice of a gambling counsellor. Prior to being banned, the gambler had acquired a number of tickets for a prize draw. It was a condition of the prize draw that participants be present at the Club to win a prize if their number was drawn. The Fair Trading Tribunal held that although the Club was entitled to ban the problem gambler for her own (and the Club's) protection, the gambler was entitled to compensation for the loss of the chance of winning a prize in the draw.
3. Apparently gambling providers have difficulty in obtaining insurance cover to protect them against possible claims for damages.

We believe that the government needs to support self-exclusion schemes by indemnifying gambling providers which may be held liable to compensate a problem gambler or family member. Such an indemnity would probably cost very little, as these claims are (and will remain) very rare.

### **Unlawful Re-entry to Casino – Counselling Options**

We would cautiously support this proposal. However, it must be recognised that many of the hard core of problem gamblers who break an exclusion order are not interested in controlling their addiction. Counselling should only be an alternative to other forms of penalty when there is clear evidence of a desire to stop gambling.

### **Anonymity of Prizewinners**

We support the proposals to provide anonymity to prizewinners. We are aware of cases where major prizewinners and their families have suffered harassment as a result of major prize wins. Prizewinners should have the option of whether or not to remain anonymous.

However, privacy should not be taken to extremes, as there may be valid reasons to disclose the identity of prizewinners to government agencies such as the Taxation Office, Insolvency Trustee Service of Australia, police etc.

### **Subordinate regulatory controls**

We support all of these proposals.

### **Proposed development of a "Responsible Gambling Awareness Week"**

We do not support this proposal. Firstly there are too many "Weeks" on the calendar already. Secondly, we cannot see that this would be acceptable to the industry, as it would be necessary to focus on the harm

caused by problem gambling, with the inevitable media interest. Thirdly, there would be a problem for consumer advocates in promoting gambling, even responsible gambling.

### **Other matters**

- **Tracking systems**

Many gambling providers now use "tracking systems" whereby gamblers identify themselves by placing a card in the machine, or quoting a number before placing a bet. The use of these tracking systems should provide a simple means of managing the amount gambled by a person. The person simply has to nominate a daily maximum loss which is programmed into the computer. When the person reaches the daily maximum loss, the machine or attendant notifies the person that they have reached their daily limit and must cease gambling for the day.

We believe that the government should consider the use of "tracking systems" as a tool in responsible gambling programs.

- **Educational programs**

We note that IPART and the Productivity Commission have both recommended education programs for the benefit of consumers. We would urge the government to develop an educational model for senior high school students to learn the principles of responsible gambling. As many young people commence gambling upon turning 18 (or before!) they need to be aware of the issues and risks at this time of their lives.

- **Proposed Gaming Commission**

Although we are encouraged by this draft legislation we would urge the government to implement the recommendations of IPART regarding the establishment of an independent Gambling Commission. We note that most industry and consumer groups support the establishment of an independent body. The present situation remains a potential conflict of interest on the part of the Department of Gaming and Racing. Because consumer protection issues have the potential to affect revenue, it is essential that the two areas of responsibility be separated.

### **Contact details**

For further information, please contact us on 9951-5544 (phone) or 9319-5492 (fax).

Yours faithfully,

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SOLICITORS

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