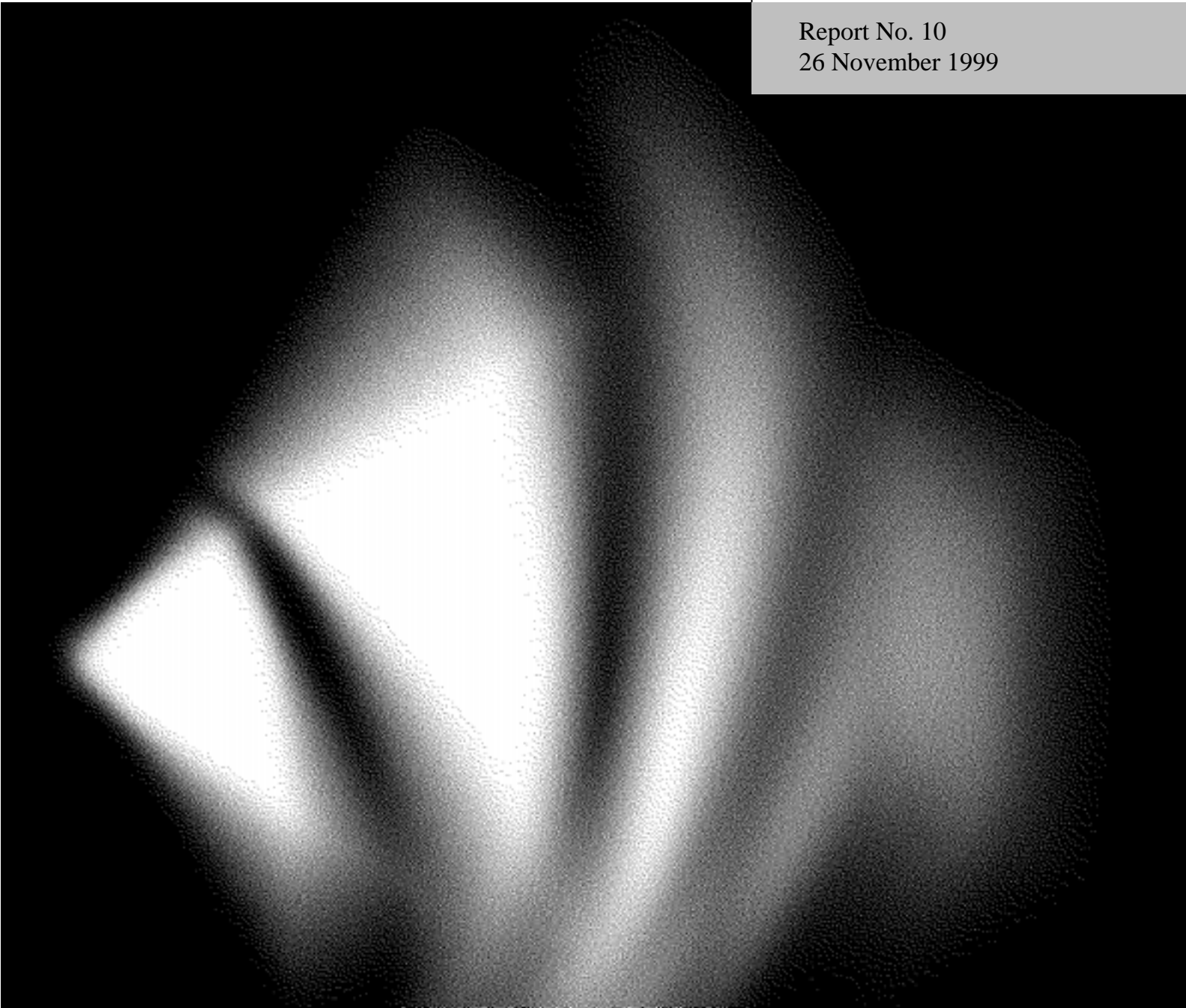




Australia's Gambling Industries

Inquiry Report
Volume 2: Report (Part D)

Report No. 10
26 November 1999



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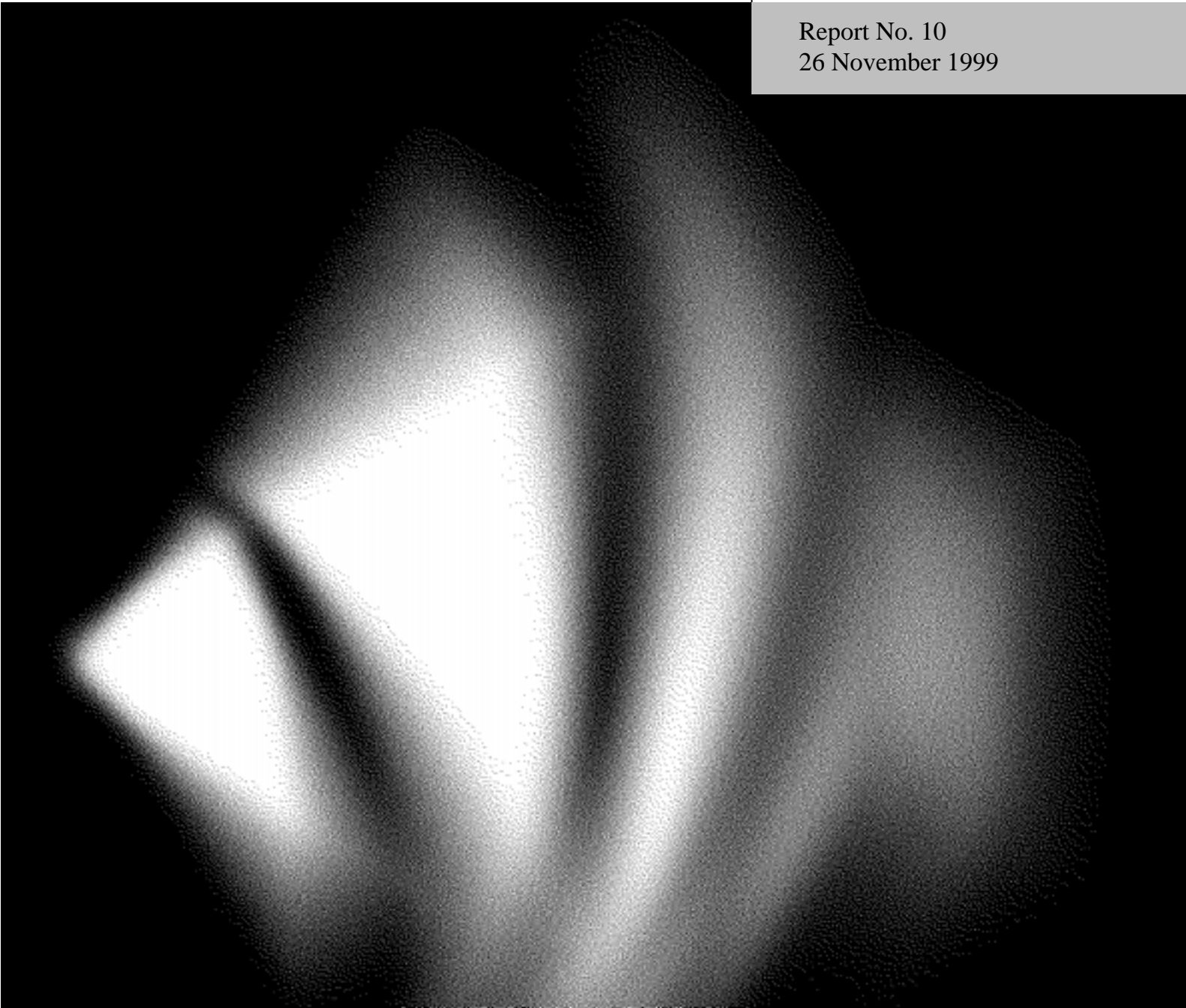
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12 Gambling policy: overview and assessment framework

Box 12.1 Key messages

- Transparent processes, careful attention to policy design and evidence-based choices among competing options are the keys to good policy.
- Governments have not always provided clear rationales for gambling policies.
- Some apparent objectives for, and outcomes of, policies do not have a strong *prima facie* basis — in particular, exclusivity arrangements, economic development, and measures which support particular groups or activities within the gambling industries.
- Policies often appear to have inconsistent objectives and variable application, illustrated by the use of strong probity controls in some gambling modes and their absence in others.
- The goal of revenue generation can have a distorting influence on policy. It is unlikely that the gambling regulatory environment would look like it does without the understandable imperative for states to meet their tax revenue needs.
- The two objectives providing the strongest rationale for special gambling policies are to ensure probity and to reduce adverse social impacts.
- The principle of consumer sovereignty and choice is important when devising gambling policy, but it does not mean that there is no role for government in trying to alleviate the harms from problem gambling.
- The overarching goal should be to maximise the welfare of the community as a whole. Measures which can reduce the social harms of gambling while maintaining the benefits find particular favour under this approach.

12.1 Introduction

The gambling policy environment is complex. It involves a highly elaborate and, at times, clashing set of arrangements for taxing and regulating the industry as well as for remedying its harmful side-effects.

This complexity reflects:

- the multiple jurisdictions and institutions involved in policymaking and administration;
- the variety of gambling modes, from racing (in all of its forms), casino table games, gaming machines, lotteries and more minor forms such as bingo, keno, and community gambling;
- apparent ambivalence in public attitudes to gambling;
- tensions between different policy goals of government; and
- the historical sequence of deregulation.

As the CIE observed:

To some extent the ‘heavy hand’ and the rich detail of regulation is a consequence of the relatively quick transition from illegal activity to legal activity. It is also shaped by the lingering perception that gambling is immoral. The large quantity of legislation can also be explained in part by the numerous moves by government in recent years to increase gambling opportunities. The current body of legislation reflects these seemingly contradictory motives to tightly control gambling, while simultaneously liberalising its availability (1997, p. 21).

Part D of this report contains a detailed examination of policies — current and potential — for regulating the gambling industry. In responding to the terms of reference and in line the requirements in the *Productivity Commission Act 1998*, the Commission’s primary aim is to identify any changes to present policy settings and institutional arrangements for gambling which could enhance the wellbeing of the community as a whole.

To this end, the Commission has used a broad framework which takes account of community wide costs and benefits. A key element of the framework is its clear delineation of the reasons individuals and markets left to their own devices may fail to maximise community wellbeing.

The preliminary steps in this approach were undertaken in part C — the assessment of the benefits and costs of gambling, including the delineation of social impacts from private impacts. The Commission found that, for certain modes in particular, the social costs are substantial. This in turn strongly suggests (but of itself does not prove) that governments need to make considerable changes to the way they regulate the industry.

Against this background, the subsequent steps involve:

- the evaluation of existing policies and institutional arrangements to determine the extent to which they adequately address either the underlying causes of the social impacts of gambling or the impacts themselves;
- where they do not, the design of alternatives to address these matters; and
- the selection of the option, or combination of options, assessed as having potential to yield the largest net benefits.

These steps are taken in the detailed analyses contained in subsequent chapters. However, the Commission has not been asked to make formal recommendations for reforms to the specific state and territory regulatory regimes applying to gambling. Hence, its approach has been to provide information and guidance for policymakers on the likely elements of a sound regulatory system for gambling or, at least, on areas where further investigation may be warranted. The Commission has explored a wide range of options for improved consumer protection and harm minimisation (chapter 16). Some of these could be implemented on the basis of existing evidence about their likely effectiveness and costs. But others require further evaluation and possible trials before implementation, a technical and empirical task that is beyond the scope of this inquiry.

Some requirements for good policy overarch the individual elements, just as some of the reasons for existing (poor) policies lay outside the gambling arena altogether.

To capture these broader issues and thereby provide a context for the detailed analyses which follow, in this chapter the Commission:

- sets out the generic policy-development processes and principles that have driven its findings and which should guide gambling policy generally; and
- provides an overview of the extent to which current approach to gambling regulation converges or diverges from these principles.

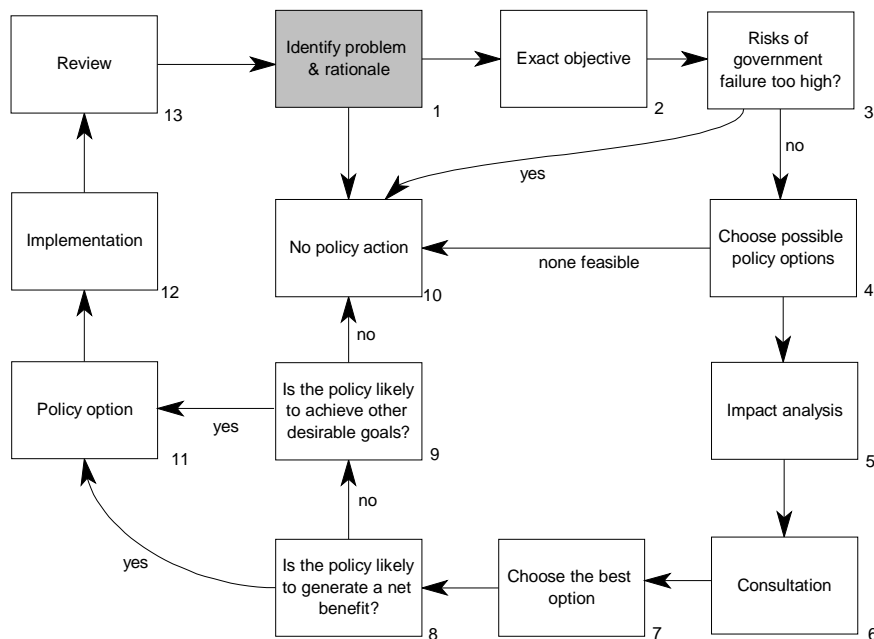
12.2 Policy processes

Because what *actually* happens in gambling policy often differs from what *should* happen, it is important to clarify how policy making should proceed, both as a way of assessing existing arrangements and as a tool for devising new approaches.

There are a number of general steps that assist good policy making (figure 12.1). These include:

- specifying clear objectives, considering alternative measures, and using transparent and consultative processes (box 12.2);
- and considering detailed design of any policy (table 12.1).

Figure 12.1 **13 steps to good policy**



Box 12.2 Some principles of good policy process

Identifying problems and clarifying objectives

- What is the problem that needs to be addressed and what is its risk?
- Why is government action needed to correct the problem?
- What are the objectives of government action?
- What are the risks and problems of government action?

Choosing an instrument

- What are the options for policy? (different types of regulation, including self-regulation; tax measures; financial assistance; and information provision)

Consultation

- Who are the main affected parties and what are their views? (eg industry's views about compliance costs of new regulations, community views about local changes with significant impacts).
- Are there appropriate *grievance* procedures for regulatory arrangements? (eg easily accessible, timely, fair systems).

Transparency and accountability

- Is the option clear, consistent, comprehensible and accessible to users? (eg granting licenses should be based on pre-agreed criteria and open to scrutiny).

Implementation and review

- How will the preferred option be implemented?
- How will the effectiveness of the option be assessed, including attempts to measure costs and benefits? How frequently?
- Is there a built-in provision to review or revoke the policy measure after it has been in place a certain time? For example, a regulation may become anachronistic with technological change (eg the influence of internet gambling on existing gambling modes) or altered community attitudes.
- Will any assessment of policies be independent from the policy maker or regulator?

Source: PC (1998) and ORR (1998).

Table 12.1 Impact and policy design issues

<i>Issue</i>	<i>Comments</i>
Design issues:	
Targeting	Does the policy target the problem effectively, and apply to the right groups? Does the policy apply too widely or narrowly?
Timeliness	Does the policy solve the problem in sufficient time?
Scale of resources	Does the policy apply the right scale of resources to the problem at hand?
Duration	Does the policy have the right duration?
Best-practice regulatory administration and delivery	Is it administratively efficient for government and for the client or target group? Is compliance and administration simple and low cost? Does the policy increase uncertainty? Do any paperwork requirements fit in with standard commercial practices, and with those required by any relevant regulations? Are the reporting requirements (in terms of frequency and detail) set appropriately? Is the administrative structure optimal for policy coordination, delivery and information provision? What systems are in place to ensure that the behaviour of policy administrators is fair and appropriate?
International obligations	Does it breach Australia's international obligations?
Enforcement	Is any regulatory enforcement regime appropriate (monitoring, fines, sanctions, education)? Is any penalty in proportion to the seriousness of the offence?
Flexibility	Is the policy likely to be effective as technology, markets, and community attitudes to gambling change? Is it likely to be effective for different sorts of gambling, venues or gamblers? Are any regulations flexible enough that a gambling provider has the freedom to search for lower cost ways of achieving the goals of the policy?
Cost recovery	Who should pay for the administrative and other costs of the policies (gambling providers, gamblers, taxpayers generally, a particular group of gamblers or providers, the source of any externality)?
Impacts:	
Who?	Who is affected by the problem which needs to be fixed, and who is affected by its proposed solutions?
On other policies?	How will any policy affect existing policies and regulatory institutions? Is it consistent with them?
On costs and benefits?	What are the costs and benefits of alternative options?
Distributional and social?	Who bears these costs and benefits? Does the policy unintentionally transfer significant resources from one group to another? How can these transfers be avoided or reduced? Is the policy 'unfair'? Does it conform with social norms?
Consumer and business impact tests?	Does the policy reduce competition and/or business innovation? Does it increase prices or reduce the quality of gambling? How much does it affect costs, quality or availability of inputs to the gambling industries? Does the policy require operational changes, including changes in personnel, or physical capital? Does it constrain business practices, for example, ability to attract overseas high rollers?

Sources: PC (1998), ORR (1998), Better Regulation Taskforce (1998), Ontario Red Tape Commission (1997).

In the chapters that make up part D, the Commission shows that some of the above principles have not been well observed in policy making for gambling.

Some of the elements which need particular attention for gambling policy are examined below.

12.3 Clear rationales?

Part C of the report outlined the key social impacts of gambling which might justify government involvement. Clarifying these rationales is important because, in their absence, gambling would be like many other entertainment and recreational industries, and there would be no grounds for what has been called the ‘complex regulatory web’ (sub. 155, p. 142).

Unfortunately, governments themselves send unclear signals about the underlying objectives for their gambling policies. This is because the objectives are often implicit rather than stated, are not always consistent, and the trade-offs among them are not specified. For example, governments have generally not revealed why there are variations in tax rates among gambling forms and venues, or why they themselves own some forms of gambling and not others.

The CIE (1998), in preparing a framework for Victoria’s NCP reviews of gaming legislation, argued that the stated objectives of governments provide only a partial understanding of the range of objectives which the regulations are intended to meet:

One reason for this is that nine different principal acts covering the industry have been enacted over the past 39 years and there are resulting inconsistencies, overlapping controls and gaps (CIE 1998, p. 20).

In this respect, Victoria is little different from other jurisdictions.

However, a number of objectives emerge as important (CIE 1998, p. xi; IPART 1998), as discussed below. The purpose of this discussion is not to detail *what* regulations and policies governments implement (which is in chapter 13). Rather it is to see *why* these are implemented, and whether such objectives have a *prima facie* rationale, as a basis for more detailed consideration in later chapters.

Generating government revenue

In no other group of industries today do policies appear to be driven so strongly by revenue needs — so much so that it is commonly observed that the states have become ‘addicted’ to gambling revenue. These revenue needs have contributed to the willingness by governments to liberalise formerly prohibited forms of gambling, such as gaming machines and casinos (for example, note the case of Queensland in box 12.3). Indeed, liberalisation displaced formerly illegal activity that gave governments no tax revenue, but occasioned liabilities (eg policing costs).

For example, the Western Australian Government said that:

... it seems certain that the revenue motive would have played a bigger role in the more recent rapid expansion of legalised gambling in most parts of Australia (in the last 10-20 years)... (sub. 76, p. 39).

Similarly, Tattersall's observed that:

... given gambling's effectiveness as a revenue raising device, governments have not long been able to maintain a policy of prohibition and non-involvement. The potential for revenue loss to other jurisdictions has also been a strong factor encouraging the spread of gambling services... (sub. 156, p. 56).

While revenue needs have contributed to liberalisation in the *availability* of gambling, they have also led to an overall regulatory and taxation regime that is far from liberal when compared with other entertainment products. Revenue needs have:

- encouraged monopoly practices that generate large economic rents, which are (partly) appropriated by governments through licence fees or specific gambling taxes; and
- led to high tax rates relative to other industries.

In some cases, the prominence of revenue generation in gambling policy is explicit. For example, lotteries have long been used to raise revenue for particular public purposes — these are sometimes seen as 'voluntary' taxes (the Opera House lottery being an obvious example). Western Australia and South Australia still depend on lottery revenues to fund specific activities. Queensland governments used the Golden Casket to fund their hospital system for many years, although the Government now simply directs funds to consolidated revenue (sub. 128, p. 12), as does New South Wales for its lottery.

In other cases, the revenue motive is more implicit in policy. For example, the persistence of monopoly (or 'exclusivity') arrangements in the gambling industries appears to be mainly driven by revenue considerations. Revenue collection, by itself, provides an unconvincing rationale for creating such exclusive rights. *If* it were accepted that governments should raise significant revenue from the gambling industries, then explicit taxes, through their greater transparency, accountability and flexibility, are preferred measures for collection (recognising that they may not *maximise* revenue from the industries in some cases).

However, even the goal of raising significant revenue from gambling may not be appropriate. That would depend on whether this was an efficient and equitable way of collecting tax revenue (compared to other sources) — an issue analysed in chapter 19.

**Box 12.3 Introducing gaming machines into Queensland:
some stated objectives**

According to the Queensland Government:

Gaming machines were introduced to:

- provide an avenue by which participating clubs could improve their financial position in order to provide enhanced recreational facilities and services for their members and patrons;
- provide additional employment opportunities in the States;
- provide direct funding to community groups, recreational and welfare programs;
- encourage the growth of tourism by the improvement of club facilities, services and entertainment;
- create extra revenue for the State; and
- meet the legitimate wish of those who are attracted to playing gaming machines by legalising access to such machines.

The Government added that gaming machines were legalised within a regulatory environment designed to ensure probity and integrity, and a range of policies was implemented to achieve this.

Source: sub. 128, p. 9 and Queensland Government (1996), p. 1.

The special weight given to revenue needs in governments' policies towards gambling reflects two factors.

First, the imperative for gambling revenue is driven by the imbalance in taxation powers between the Commonwealth and the states and territories. The Western Australian Government, for example, sees gambling taxes as a symptom of:

... the States' excessive reliance on Commonwealth grants (commonly known as Vertical Fiscal Imbalance ...) and substantial cuts in those grants; and very limited own source revenue raising options for the States (sub. 76, p. 39).

Second, governments' ability to tax is reinforced by the widespread perception that gambling is a 'questionable' pleasure. Ambivalent public attitudes allow governments to tax gambling with little adverse response. Governments can also mollify opposition to gambling itself, by taxing it heavily and channelling some of the revenues raised into socially worthwhile uses (chapter 20). It is politically much more difficult to oppose a measure if a significant proportion of the revenue raised is payable to a children's hospital.

Economic development and promoting tourism

Casinos, in particular, are promoted as agents for economic development and increased tourism. In Australia, every jurisdiction has adopted the policy of issuing casino licences only for hotel-casino complexes. And in many cases, the casino has involved large scale local redevelopments of partly derelict land: Jupiters, Crown, and Burswood are examples, while Adelaide and Brisbane both involved major renovation of heritage buildings.

The Queensland Government said that one of its objectives was to ensure:

... that the State benefits by the development and operation of hotel-casino complexes and associated community infrastructure. In particular ... casino licensees must have the financial resources to ensure the continuing viability of the hotel-casino complex (sub. 128, p. 8).

But while tourism and economic development are explicit objectives of some governments, the Commission found in chapter 5 that the wider economic development benefits of gambling are overplayed. It might have some relevance to destination gambling sites aiming to meet tourist needs, but most gambling does not fit this mould.

Special treatment for certain industries

Some gambling policies incorporate as a policy objective the favourable regulatory and tax treatment of particular groups, such as the racing and ‘club’ industries.

TABs commonly involve arrangements under which the racing industry receives funding from wagering revenues. For example, the joint venture between Tabcorp and VicRacing provides that the racing industry receive a share of all profits from Tabcorp’s gaming *and* wagering licences. The CIE (1997, p. 23), in its study of the Victorian regulatory framework, argued that ‘this is unlikely to have been negotiated in an unregulated market’.

In many jurisdictions, governments explicitly provide special advantages to clubs in the way they allocate gaming machine licences (chapter 13). Clubs also benefit to some extent from arrangements in jurisdictions such as Victoria and South Australia, where they are permitted the same maximum number of gaming machines as hotels, but where the greater demand is for hotel gambling. Clubs also benefit from advantageous taxation arrangements, partly as a matter of policy and partly in view of their mutual status (chapters 19 and 21).

In the absence of subsidiary rationales, the objective of tailoring regulatory and tax arrangements for segments of the gambling industries is unpersuasive. For example,

the Queensland Government introduced gaming machines to clubs (on a more favourable basis than hotels), in part, to

... provide an avenue by which participating clubs could improve their financial position in order to provide enhanced recreational facilities and services for their members and patrons (sub. 128, p. 9).

This begs the question of why gaming, among all possible services, should be chosen as the medium for the favourable treatment of clubs. Clubs would also improve their financial position from favourable treatment in providing cinemas, alcohol and other recreational and entertainment services, but most people would not see this as a proper basis for selective regulation.

It is possible that there are rationales for selective treatment, but that they are not articulated clearly by governments. This is problematic because it makes it difficult for policy evaluators to ask and test the right questions. Some *possible* rationales for selective treatment of different gambling forms could be that:

- clubs may represent less hazardous environments for gaming machine and TAB gambling than other venues (CIE 1997, p. 23);
- there may be other social advantages in favourable treatment of clubs — such as a more equitable distribution of resources in local communities;
- exclusivity may be a way of efficiently enhancing the pool size for parimutuel gambling modes (such as the TAB and lotteries); and
- in competitive wagering markets (where there are a number of gambling suppliers) no individual supplier has an incentive to pay anything towards the costs of the racing industry on whose outcomes they wager — the so-called ‘free-rider’ problem. In this case, it may be optimal for gambling suppliers to bind each other to pay a levy to the racing industry.

Whether in fact these provide a good basis for selective treatment is taken up in chapter 14.

Addressing the social costs of gambling

In practice, governments aim to limit the adverse social impacts of gambling through a range of policies, including preventative measures, harm minimisation and help services, and also through restrictions on the availability of gambling.

For example, the AHA (Victoria) indicated that the regulatory environment with respect to gaming machine licensing aims, in part, to address a number of social costs associated, or potentially associated, with gambling:

The rationale for licensing venue operators appears to be consumer protection, eliminating criminals and maintaining and protecting the government's revenue base. The rationale for linking the gaming licence to a liquor licence appears to be to restrict use of the product to those over 18 years of age, and to entrust the delivery of the product to a section of the community which is practiced in the responsible delivery of potentially harmful products (sub. 154, p. 9).

Gambling clearly does have severe social impacts for some people (chapters 6 to 9), so the objective of ameliorating or preventing these harms has a strong foundation.

Uncertainty about the social impacts of gambling have also led to a conservative attitude towards liberalisation of gambling. Governments have feared that some formerly illegal modes of gambling — gaming machines and casinos — might, when liberalised, have significant adverse effects on the community.

In reporting the reviews of gambling legislation undertaken thus far under the National Competition Policy agenda, the National Competition Council said that:

Traditionally, gambling has been far more regulated than most other industries, and free competition has not been an objective ... The approach of governments has reflected their views that there is significant community concern about the potential economic and social costs associated with a more competitive gambling market (NCC 1998b, p. 123).

Indeed, in explaining its approach to restricting gambling opportunities, the South Australian Government (sub. D284, pp. 1–3) emphasised that it sees gambling as a matter of social policy, not competition policy, (although it should be noted that there is not necessarily any conflict between the two, as social policy considerations are integral to the assessment of the merits of restrictions on competition under the National Competition Policy principles).

In the Commission's view, uncertainty justifies a cautious approach to liberalisation, but it does not justify protecting the interests of entrenched gambling providers (for example, by *long-term* exclusivity arrangements — chapters 13 and 14).

Whether the other instruments chosen to ameliorate the social harms of gambling work well or are applied consistently across jurisdictions and modes is, again, far from clear — an issue analysed in chapters 16 and 17.

Quality control and probity

One objective of governments is to implement regulations and oversight to ensure that games are 'fair' and that criminal provision of gambling — once the hallmark of parts of the industry — is avoided.

IPART observed that most developed countries regulate gaming primarily for social reasons and to deter crime:

The only product that exchanges hands in gaming is money. As a consequence, if gaming is not properly controlled, it is susceptible to criminal activity, fraud and dishonesty. Individuals can, and in some cases do, become addicted to gaming, with adverse effects for themselves, their families and society in general (IPART 1998, p. ii).

This is consistent with the views of the Western Australian Government, which said that the way in which it provides the public with access to gaming activities:

... has been influenced by the recognition that the gaming industry is an industry particularly attractive to unscrupulous operators and to organised crime. In an effort to protect the consumer from fraudulent activity, and to ensure that organised crime does not have an interest in operating or owning gaming activities, governments have determined that it is in the public interest to have a legislative regime requiring licensing and strict regulation of the gaming industry. These are long standing views which have been maintained by successive governments ... (sub. 76, p. 15).

Similarly, the Queensland Government said that its two major policy objectives are:

- to suppress illegal gambling by offering a legal equivalent; and
- to ensure the probity of the persons and the integrity of the systems involved in gambling by licensing the providers of the gambling product (sub. 128, p. 6).

The Queensland Government also noted that:

- the *Interactive Gambling (Player Protection) Act 1998* seeks to protect players by licensing providers, controlling advertising and marketing, ensuring privacy of personal information etc;
- its proposed new regulatory regime for art unions is heavily focused on ensuring probity;
- lotteries are run under stringent guidelines to ensure a high level of public confidence in the integrity of their operations; and
- the creation of the TAB was intended to stamp out illegal SP bookmakers and ensure that a significant proportion of the profits of offcourse wagering were returned to the racing industry (sub. 128, p. 12).

While probity appears to constitute a sound basis for government regulations, there are a number of subtleties:

- Probity is often in the interest of suppliers themselves. Good operators would, in the absence of regulation, still wish to signal their quality in this respect to consumers. For example, Star City Casino considered casino probity controls to be a reflection of residual concerns about casinos and organised crime, which

paid insufficient attention to the incentives which casinos have to operate as reputable businesses. Governments may, however, be more efficient at signalling and ensuring probity than individual operators.

- As noted in chapter 13, probity regulations apply extensively in some gambling modes (casinos and lotteries) but hardly at all in others (clubs). Probity regulations are rarely in place for non-gambling businesses.

The question of whether probity is an appropriate basis for special regulations in the gambling industries has to rest on evidence that the risks or consequences of lack of probity are likely to be noticeably higher without them (an issue which is examined further in chapter 16).

Summing up

Australian governments generally agree on the broad objectives of gambling policy. Foremost among these are the desires to maximise revenue, to minimise social impacts, to ensure product integrity and to deter criminal involvement.

However, not all of governments' objectives for gambling policies are clear, consistent, or have a persuasive economic or social rationale. Of governments' objectives, only two provide a strong *prima facie* basis for any special policies directed at the gambling industries — probity and ameliorating social harms. Four others have an uncertain basis, while the remaining four appear to have little rationale.

Nor do the objectives — when scrutinised closely — fit with the Competition Principles Agreement, the agreed framework for State and Territory reviews of regulatory arrangements. For example, when formulating the objectives of their gambling policies, jurisdictions have largely ignored their impacts on the efficient allocation of resources and, apart from probity, they appear to have often disregarded the interests of consumers (which goes beyond prices to consumer protection issues).

The view that implicit and explicit objectives set down by governments are flawed is echoed by others. The NCC, for example, expressed some doubts about some of the justifications provided for restrictions on competition (1998b, p. 124), taken up in chapter 14. ACIL, in a report commissioned by major providers from three States, was even more critical of both the objectives and sweeping nature of the regulatory and policy regime:

Regulation of gambling in Australia ... is an accretion resulting from historical attitudes and events (especially in periods in which gambling was illegal) that bear no relation to

either current reality or an overall and properly considered policy framework (sub. 155, p. 142).

In part it attributes this to ‘policy gridlock’ in all jurisdictions, noting that, notwithstanding National Competition Policy reviews:

... the various state and territory jurisdictions have found it difficult to undertake very searching reviews of their gambling laws (sub. 155, p. 143).

Some also argue that the mix of objectives is unbalanced, with the revenue objective dominating that of reducing the social costs of gambling:

- some fear that social costs may increase over time if a preoccupation with tax revenue deters governments from policies which may constrain gambling; and
- there is also concern that measures which seek to legitimise high taxes, like the earmarking of revenue for particular purposes, also serve to promote gambling.

12.4 Allowing for ‘government failure’

As noted, while there are a number of poor reasons given for government regulation of gambling, there remain some strong *prima facie* rationales for regulation of gambling and other government policies.

But these provide only a *contingent* basis for government policies in the gambling industries — they are not sufficient.

Policies intended to deal with one problem can create other problems and greater costs. For example, one strand of harm minimisation aims to reduce problem gambling by changing the designs of gambling technology and venues. For this to be worthwhile, the benefits from reducing problem gambling have to be greater than the costs for recreational gamblers. Some design changes will not pass this test.

Measures based on social norms and ethics pose questions about *whose* norms and ethics should apply, with risks of paternalism and excessive social control.

Similarly, it is possible that some measures aimed at curbing criminal problems associated with gambling (such as money laundering) may simply lead to criminal behaviour elsewhere, with little aggregate impact. And as IPART pointed out, there are limits to the extent to which governments can regulate gambling, because of the need to avoid increasing the appeal of illegal forms of gaming and providers of gaming in other states and countries (IPART 1998, p. ii).

The industry submission prepared by ACIL gave particular emphasis to the likelihood of such ‘government failure’, citing probable regulatory capture of public

officials, likely ‘lowest common denominator’ outcomes from government sponsored activities, populism and the distortions of raising taxes to fund government measures. It concluded that:

The key issue is that even if the market clearly fails in the provision of gambling services, this does not of itself justify the existence of public funding, regulatory and institutional arrangements to combat market failure. At the very least, the market failure must outweigh any government failure that may be reasonably expected to be associated with fixing it. This apparently straightforward point is often forgotten by proponents of government intervention and stands as an important reason why the current array of interventions, including tax policy, in Australia’s gambling industry deserves review (sub. 155, p. 5).

Governments’ failure to follow good regulatory process and design principles, compounded by and combined with revenue raising imperatives, may well have led to perverse regulatory outcomes in gambling.

12.5 Good process and design

There appears to be scope for process and policy design reforms that would reduce the risks of government failure. One of the key advantages of following something akin to Regulation Impact Statements (for regulations or other policies) is that they provide a framework for considering whether policy is susceptible to government failure.

Transparency, appropriate consultation and grievance procedures, combined with the explicit design of policy and the recurring independent assessment of the public benefit of policies, maximise the likelihood of an efficient and effective policy regime.

The right instruments and settings

In the gambling industries, a large range of instruments is used to achieve government objectives:

- taxes are levied or license fees exacted (at different rates for different gambling forms and venues);
- gambling venues are given exclusivity in some domains (casinos, lotteries, licensing of venues able to offer gambling);
- prices have regulated floors and sometimes ceilings;
- information is mandatorily collected and probity checked for some games and some venues;

-
- gambling technology is rationed (caps at various levels);
 - governments provide help services to people who come forward as problem gamblers or their family members;
 - there are a small range of preventative measures, such as the development of curriculum materials and awareness raising of some of the risks of problem gambling; and
 - harm minimisation strategies are developed, sometimes by the gambling industry on a self-regulatory basis and sometimes through legislative requirements (such as the ban on bill acceptors in South Australia).

The following chapters in part D assess the usefulness and justification of these instruments.

The internet and a range of other emerging technologies present some new challenges for policy (chapter 18). They raise the possibility that policy instruments that worked in other gambling modes will be ineffective in the new ones. It is also possible that if there is strong substitution between new and old gambling technologies, then it will undermine the effectiveness of policies used in the old modes. The story which unfolds from internet and interactive gambling may in this sense resemble that of banking in the early 1980s, where the protective web of regulations entangling the banks was unravelled by the vigorous growth of non-bank financial institutions.

A policy framework, whether it be for health, defence or gambling, should consist of a coherent set of arrangements which are coordinated to achieve their aims. However, policies for the gambling industries are fragmented, inconsistent, and even in conflict.

Policy inconsistencies can arise both because of poorly defined rationales for policy and because of the ad hoc way in which policies are developed (typically by different institutions) for the different modes of gambling. They often also reflect historical accident and the evolving nature of the industry. In many cases, only now are the gambling industries being seen as a coherent group of activities, which require a consistent set of policies and the need for, if not one, at least a coordinated group of institutional overseers (as demonstrated by the thrust of submissions to the New South Wales IPART inquiry). The Commission assesses in chapter 22 the procedural and governance arrangements which might provide better outcomes.

12.6 The policy goal: maximising net community benefits

The Commission's approach for examining policies, such as the regulatory and taxation arrangements which pervade the gambling industries, emphasises as its ultimate goal the notion of maximising overall community welfare or well-being. This encompasses those who benefit from, and those who are disadvantaged by, any policy measures. Where social and distributional issues are important, the Commission also considers the role that equity and social norms play in good policy making. In general though, given that weights for distributional considerations and values for achieving community norms can be incorporated with economic analysis, this goal can be broadly characterised as one of maximising net community benefits.

Chapter 11 indicated that, conceptually, one way to represent this objective in gambling policy is for government to set policy so as to achieve an optimal industry size. This size would be the level at which the marginal costs of gambling (comprising social and production costs) equal the marginal benefits to gamblers (box 11.4 in chapter 11).

One, unambitious, stance of government could be to take everything about the gambling environment as given (such as the design of gambling technologies, accessibility and monopoly provision), *except* the quantity of gambling allowed. Government would then simply try to maximise the social benefits of gambling by relaxing or tightening the quantity constraint.

However, such a stance would ignore all of the other possible policies and instruments discussed in the preceding sections. By re-designing these policies, it will often be possible to achieve higher net benefits by reducing social harms — and this, in turn, may allow the safer liberalisation of gambling.

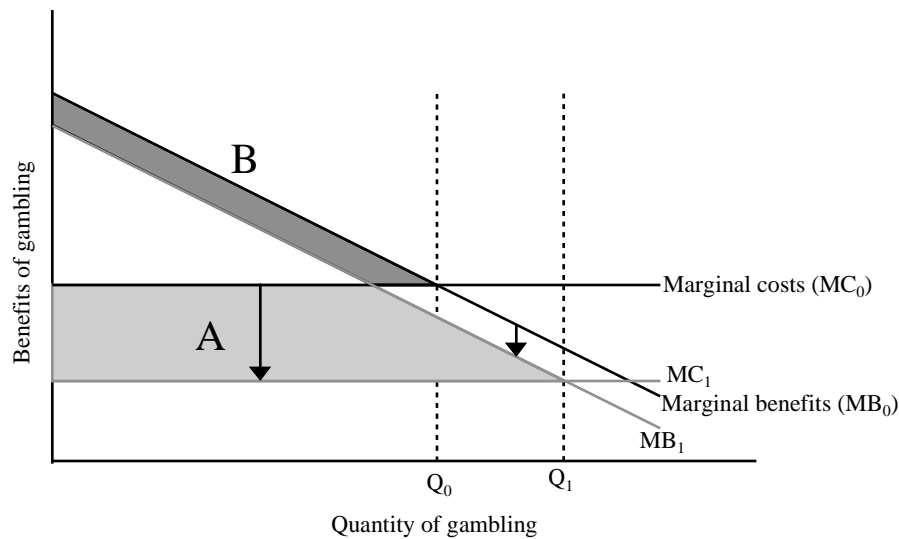
The principle is illustrated in box 12.4.

An analogy is motor vehicles. If cars were very unsafe, it might be reasonable for governments to limit their number. However, in the presence of the accident prevention and harm minimisation standards present today, there is no need to control vehicle numbers.

Box 12.4 Using policy to maximise benefits — some theory

The gambling industry produces both benefits and costs. These costs and benefits are likely to change as the industry grows or declines in size. The changes in costs and benefits associated with incremental changes in the size of the industry are referred to as *marginal* costs and benefits. While the graphical depiction of these marginal costs and benefits below is only hypothetical, they provide some useful policy insights.

Say that governments were to introduce some policies which improved prevention, harm minimisation and assistance, leading to less problem gambling — thus lowering the marginal social costs of gambling (from MC_0 to MC_1). Suppose that these also had some adverse impacts on the marginal benefits — pushing marginal benefits down from MB_0 to MB_1 (for example, because some recreational consumers found some of the measures decreased the convenience from playing). In the example given here, there is a clear net benefit from these measures (A, the gain, is bigger than B, the loss). Also, effective harm minimisation *increases* the optimal amount of gambling from Q_0 to Q_1 — so that policies which deal effectively with the adverse social consequences of gambling need not be counter to the interests of gambling suppliers.



Of course, the example in box 12.4 is an illustration only. Different movements in the marginal benefits and marginal costs will have other outcomes than shown in the example. However, the point is that government policy-making should take account of how it shifts the marginal benefits of gambling to consumers *and/or* the marginal costs of gambling (to problem gamblers and the community in general).

The role of consumer sovereignty

An overarching issue for the evaluation of gambling policies is how to determine which mix of gambling activities (and constraints on activities) actually maximises gamblers' net benefits. This can seem a perplexing task given the myriad of possible

activities and variations on activities that could be made available for gamblers, and the difficulty for the outside observer of determining which of these would bring the most net benefits for any one gambler, let alone for each gambler in the population.

A common benchmark is that people's revealed preferences are the best guide to these issues — the notion of 'consumer sovereignty':

One basic economic tenet is the 'consumer sovereignty' principle that individuals are generally best placed to assess for themselves the benefits that they receive and the costs that they incur from engaging in an activity. A corollary of this that, generally, an individual will only engage in an activity to the extent that the benefits of doing so outweigh any costs involved. Another is that the activities we observe can be safely assumed to represent the set which gives greatest possible satisfaction to those engaged in them, given the constraints of income, time available, information and so on (sub. 155, p. 2).

Hence, provided a judgment can be made that the production side of an industry is responsive to consumer demand, policymakers can normally sidestep the conundrum of having to value different activities by taking those observed in the market place to be the ones that maximise consumers' welfare.

In the case of gambling, the blanket application of this principle would imply an attenuated role for government. Some submissions to the inquiry took this viewpoint, arguing that gambling was a matter for the free choice of the consumer, and that regulations which restricted choice were, at best, paternalistic.

There is an important caveat in the above passage, however. It is the use of 'generally' in the phrase 'generally best placed'. Taken to its extreme, the concept of consumer sovereignty means that suicide, self-abuse, and heroin addiction all represent the desirable state of affairs for the person concerned. Of course, most consumption does not fall into these extremes, but for problem gambling this is exactly the issue. What generally holds for most goods may not hold for some gamblers.

In any case, the assumption that effective choice can only be restricted by policy is not always sound. Policies which allow informed consent typically widen, not narrow, consumer choice. For example, government requirements for information about product quality, cooling-off periods and measures to reduce supplier deception or entrapment, generally give consumers more power to make informed choices about what they buy.

And of course, the 'consumer sovereignty' principle is of no help where external benefits and costs are involved.

Overall, the Commission acknowledges that many policies that are consistent with the goal of maximising net (consumer) benefits will also be consistent with the principle of consumer sovereignty. The principle is also of value when devising gambling policy, particular for the large majority of (non-problem) gamblers.

However, that does not mean that there is no role for government in trying to alleviate the harmful social impacts of gambling, whether it be on gamblers themselves or on others. The notion of consumer sovereignty does not, therefore, short-circuit the policy assessment process laid out in figure 12.1.

The role of harm minimisation

The Commission has drawn on the principles of harm minimisation in developing several of its policy suggestions for gambling regulation. Harm minimisation strategies are a more ambitious, and a potentially more beneficial, way of dealing with the adverse social impacts of gambling than by simply imposing or tightening a constraint on the amount of gambling (box 12.4). They seek to meet the recreational demand for gambling, while reducing the social costs associated with each unit thereof.

It is important to recognise that the Commission's approach is more one of harm *minimisation* (or, perhaps more accurately, risk *optimisation*) than harm *prevention*. That is, the Commission does not favour measures which would reduce the social costs of gambling *no matter what the sacrifice to the private benefits*. Rather, its approach is to seek ways that, *as far as practical*, reduce the social costs of gambling without reducing the benefits.

This contrasts with the philosophy sometimes evident in public debate which, at the extreme, claims that any measure that reduces or eliminate a harm, no matter how costly the measure nor how small the harm, is justified: "One family destroyed is one too many", as one participant put it (City of Boorondara, trans. 1277).

While such claims are understandable and have obvious emotive appeal, they are also untenable in practice because they inevitably lead to the banning of anything that causes a harm, including things that entail substantial net benefits to the community. In the case of cars, for example, a philosophy of harm *elimination* would require their removal from the road.

Hence, in considering the role for harm minimisation strategies, the Commission has retained the flexibility to tradeoff the benefits of such measures with any costs they may impose on regular gamblers.

Characterising the Commission's approach

The Festival of Light interpreted the Commission's approach as involving a conflict between two mutually exclusive policy goals. It said:

...the draft report commits public policy to pursuing, simultaneously, two mutually exclusive agendas. On the one hand, a politically-correct, ultra-libertarian tendency to uphold the rights of individuals to engage in forms of pleasure seeking behaviour irrespective of their known destructive consequences is consistently upheld. On the other, a desire to establish a comprehensive social 'safety net' that protects individuals and society from the adverse consequences of such behaviour is simultaneously evident, in the form of 'minimising the harm' inflicted by problem gamblers. (sub. D213, p.3).

However, the Commission's approach is not based on absolute consumer sovereignty on the one hand, or absolute consumer safety on the other. Rather, the Commission's approach recognises that consumer choice and freedom involves some costs and benefits, as do varying regimes of consumer protection. The policy goal, difficult as it may be, is to find an approach that tries to achieve the overall best outcome.

Indeed, it should be noted that the approach developed in the following chapters involves a suite of measures, including:

- *consumer protection* measures for the benefit of all gamblers;
- proactive *harm minimisation* measures (such as voluntary self-exclusion measures) to reduce the extent of problems suffered by problem gamblers; and
- reactive *harm alleviation* measures (such as help services) for any problem gamblers, and their families and others affected by them, who suffer severe problems.

Hence, it is misleading to characterise the Commission's approach as being simply one of 'let the market rip but put a safety net in place to catch the losers'.

So in summary, the Commission has examined the merits of measures to address the pros and cons of gambling at a range of levels. In doing so, while recognising the importance of principles such as consumer sovereignty, harm minimisation and harm alleviation, it has not relied exclusively on any of these. Rather, it has been guided by the over-arching principle of maximising net community benefits. Any measure — whether it be interventionist or market-based — which can reduce the social costs of gambling while maintaining its benefits, will be particularly favoured under this approach.

13 Regulatory arrangements for major forms of gambling

Box 13.1 Key messages

Regulatory arrangements are characterised by:

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

13.1 Introduction

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

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

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

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

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

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

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

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

Box 13.2 Licensed gambling in Victoria

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

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

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

Source: submissions.

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

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

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

13.2 Electronic gaming machines

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

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

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

Venue restrictions

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

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

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

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

^a For most jurisdictions, data relates to end-September or later; but numbers are subject to frequent change. ^b Not all are 'poker' machines (includes video draw poker machines). ^c All electronic video games, not poker machines. ^d Total for Tasmania includes 42 machines operated by Admirals Casino Pty Ltd on the *Spirit of Tasmania*. ^e 'Draw card' and 'draw and hold' machines only.

Gaming machines and the club industry

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

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

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

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

Moreover, the Government said that it has prevented:

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

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

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

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

Table 13.2 **Gaming machines in New South Wales^a**

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

^a As at October 1999.

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

Gaming machines and hotels

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

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

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

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

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

The Association said that this highlighted:

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

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

Gaming machines in casinos

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

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

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

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

Box 13.3 Casino Canberra and gaming machines

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

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

That report is now before the ACT Government.

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

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

Restrictions on the supply and use of gaming machines

Caps on gaming machine numbers

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

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

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

Table 13.3 Machine gaming in clubs and hotels: some parameters

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

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

Regulation of gaming machine type and manufacture

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

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

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

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

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

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

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

Table 13.4 Global and per venue caps on gaming machines

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

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

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

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

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

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

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

Mutual recognition issues

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

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

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

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

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

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

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

Box 13.4 Mutual recognition

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

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

The effect of mutual recognition legislation is that:

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

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

Source: ORR (1997).

Ownership of gaming machines by venues or operators

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

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

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

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

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

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

Requirements to monitor gaming machines and verify revenue

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

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

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

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

Probity arrangements

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

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

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

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

To this end, the VCGA's objectives include:

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

Box 13.5 Monitoring of gaming machines^a

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

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

Source: submissions and regulators.

Similarly, the Queensland Government said that:

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

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

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

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

To achieve this, probity checking is pursued through:

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

Licensing equipment

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

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

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

Licensing people

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

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

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

To this end, Victoria requires licensing and approval for:

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

The VCGA said that:

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

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

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

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

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

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

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

Advertising

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

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

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

The Hon Nick Xenophon said that:

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

The Australian Christian Coalition also argued that:

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

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

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

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

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

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

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

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

Box 13.6 Victorian Gaming Machine Industry Advertising Code of Ethics

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

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

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

More generally, the Australian Casino Association said:

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

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

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

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

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

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

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

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

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

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

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

13.3 Casino gaming

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

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

Governments say they have enacted extensive regulation because of:

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

Table 13.5 A snapshot of Australia's casinos

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

^a All electronic video games, not poker machines.

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

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

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

Similarly, the Australian Casino Association said that:

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

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

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

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

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

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

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

‘Exclusivity’ rights

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

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

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

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

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

It added that:

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

The Queensland Government also noted that:

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

Box 13.7 All jurisdictions give exclusive rights for casinos

New South Wales:

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

Victoria:

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

Queensland:

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

Western Australia:

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

South Australia:

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

Tasmania:

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

ACT:

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

Northern Territory:

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

Source: submissions and regulators.

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

Probity arrangements

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

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

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

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

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

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

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

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

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

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

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

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

Box 13.8 Queensland's probity investigation processes

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

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

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

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

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

Source: sub. 128, pp. 26–7.

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

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

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

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

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

These matters are returned to in chapter 16.

Information on odds and win rates

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

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

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

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

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

Box 13.9 The price of casino gambling

The Australian Casino Association said that:

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

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

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

Source: sub. 124, p. 3.

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

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

Money laundering

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

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

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

AUSTRAC noted that:

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

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

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

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

AUSTRAC added that:

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

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

Source: sub. 43.

Broadly, AUSTRAC considers that current procedures are working effectively:

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

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

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

13.4 Racing and sports betting

Racing

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

Broadly:

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

TAB and racing club monopolies and exclusivity arrangements

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

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

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

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

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

Table 13.6 Wagering services and providers, Victoria^a

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

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

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

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

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

Box 13.11 The TAB in New South Wales

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

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

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

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

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

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

Source: TAB Ltd (1998).

In its view:

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

Similarly, Tasmania's TAB said that:

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

A range of restrictions surround this industry

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

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

Bookmakers

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

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

Probity arrangements

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

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

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

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

- only non-proprietary associations may conduct racing on which betting is prohibited
- a racing club must be registered by the controlling body responsible for that type of racing:
 - This clearly restricts the entry of new clubs and the ability of racing clubs to conduct race meetings as they desire (for example - on a date of their choosing) and consequently affects their potential earnings (p. 21)
- only thoroughbred, harness and greyhound racing is permitted for betting purposes:
 - In other parts of the world other animals (eg afghans, whippets, quarter horses, arabians, camels) are officially raced (p. 21).
- the controlling bodies are authorised to make rules of racing and betting (including provision for the licensing of racing participants)
 - The net effect is that alternative 'codes' of racing may not obtain the necessary licences, club registrations, permits or other official status to be able to conduct race meetings in conjunction with lawful betting (p. 21)
- trainers of animals and jockeys and harness drivers are required to be licensed⁶
- there is a general prohibition against advertising of the availability of bookmaker or TAB services from another jurisdiction
- persons are prohibited from providing, by way of the internet etc, access to gambling operations other than those provided by TAB Ltd or authorised NSW bookmakers (and 'access to information' includes internet banner headline advertising and hypertext links)
- bookmakers must be licensed by the relevant controlling body
- they are subject to scrutiny by the Bookmakers Revisions Committee for probity and financial competence
- they may only operate at a licensed racecourse and when a lawful race meeting is in progress
- telephone betting is subject to the use of a specified closed mobile telephone system
- a minimum telephone bet level applies.

Source: DGR (1999a), pp.15–18, 21.

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

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

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

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

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

Information for the punter

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Advertising

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

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

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

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

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

ACIL said:

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

Nevertheless, ACIL argues that the advertising restriction has:

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

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

Sports betting

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

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

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

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

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

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

Online gambling is discussed in chapter 18.

Box 13.14 Sports betting in the ACT

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

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

Racing bookmakers:

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

However, sports bookmakers may:

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

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

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

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

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

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

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

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

Table 13.7 Sports bookmakers

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

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

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

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

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

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

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

Probity checking

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

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

Advertising

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

13.5 Lotteries

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

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

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

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

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

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

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

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

Box 13.15 Tattersall’s

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

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

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

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

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

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

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

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

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

Ownership, exclusive rights and jurisdictional issues

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

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

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

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

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

Pooling arrangements

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

Table 13.8 Australia's lotteries: ownership and exclusivity

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

^a Exclusive, but no end date specified.

Source: submissions.

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

The Western Australian Government said:

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

Box 13.16 National lottery bloc partnerships

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

Source: submissions

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

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

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

Consumer and information issues

Probity arrangements

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

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

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

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

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

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

Advertising and information to players

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

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

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

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

Similarly, the Western Australian Government said that:

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

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

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

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

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

Keno

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

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

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

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

13.6 ‘Minor’ gaming

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Box 13.17 Regulation of minor gaming: Queensland

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

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

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

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

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

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

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

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

Box 13.18 Minor gaming: some examples

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

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

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

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

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

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

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

14 Are constraints on competition justified?

Box 14.1 Key messages

Exclusivity arrangements:

- Governments derive substantial revenue through licensing and taxation of gambling:
 - there is an interdependence between exclusivity arrangements and tax policy;
 - but providing exclusivity to maximise tax revenues is unlikely to be good policy.
- Exclusivity can disadvantage consumers by raising prices and restricting choice.
- There are some savings in regulation costs and probity checking of licensees and key staff.
- Exclusive licensing appears not to have been effective in reducing problem gambling:
 - restricting ownership or operating rights does not necessarily restrict accessibility, and with the exception of casino table games, has not done so; and
 - it is unlikely to assist in implementing harm minimisation practices.
- The provision of appropriate funding for the racing industry does not appear to require TAB exclusivity.
- The minimum telephone bet restriction which applies to bookmakers serves no useful purpose and could be removed immediately.

Restrictions on venue types:

- Current venue restrictions are arbitrary and reflect history and arrangements with particular interests, rather than strong policy rationales.
- It is not clear that linking alcohol and gambling licensing is good policy:
 - a broader, more rigorous, venue-based risk assessment approach may be preferable.
- There is little evidence that clubs provide a less risky environment for gamblers than hotels with respect to harm minimisation:
 - some limited progress has been made in both venue types, and there are benefits in strengthening harm minimisation programs in all venues.
- However, changing the rules now to allow hotels (or other venues) parity with clubs would greatly increase the total number and accessibility of gaming machines in most jurisdictions.
- The difference between casinos and some larger clubs has narrowed considerably, but major differences in regulatory requirements remain.

14.1 Introduction

Chapter 11 listed the various objectives of governments towards their gambling industries. While governments generally agree as to their broad objectives, not all have clear or persuasive rationales and some are mutually inconsistent. The result is a mixture of policies, many of which impinge on competition.

The gambling industries are characterised by many restrictions on competition. Foremost among these are:

- ‘exclusivity’ arrangements (exclusive licences for particular operators) which apply to major sectors of the industry; and
- restrictions which determine which types of venue may offer gambling services.

These arrangements variously restrict the ownership and provision of particular modes of gambling, the extent of their accessibility to consumers, or both. Exclusive licensing may or may not affect accessibility: for example, restrictions on casinos and lotteries directly limit the ownership of both forms of gambling, but the accessibility to lotteries is not constrained to the same extent as consumers’ access to casinos. Accessibility is affected by a range of considerations which are discussed in the next chapter.

Exclusivity arrangements are largely a legacy of history. But they have continued partly because they have advantages for governments, as well as being strongly defended by the beneficiaries. This chapter assesses the extent to which such arrangements also advance community welfare.

14.2 ‘Exclusivity’ arrangements

Governments generally outlaw arrangements which confer market power on particular groups, unless there are good public policy reasons for doing so. Exclusive or monopoly rights are generally opposed because they are inefficient in providing goods and services (and more broadly, their existence can conflict with social norms concerning monopoly privilege).

In his submission, Quiggin noted that economists have long condemned the practice of creating and selling ‘artificial monopolies’:

Analysis showed that a legal monopoly was equivalent, in economic terms, to the right to collect a tax. However, whereas most taxes were designed to achieve a balance between the objective of raising revenue and the desirability of minimising the burden of taxation, monopoly prices were set with the sole objective of maximising revenue.

He argued that:

- Artificial monopolies are undesirable *per se*
- The sale of monopolies creates contractual obligations which improperly bind the hands of future governments
- Corruption and misuse of monopoly power is encouraged and the possibility of redress ... is removed (sub. 149, p. 4).

Such arrangements continue to be a common feature of governments' approaches to almost all major forms of gambling. Lotteries, casinos and TABs are prime examples (and recent TAB privatisations have maintained exclusive rights for the new operators), as are exclusive rights to supply gaming machines, operate keno and so on.

Successive governments have used the Trade Practices Act and, more recently, the National Competition Policy to expose anti-competitive arrangements to scrutiny, both within the private and public sectors. Under the *Competition Principles Agreement* signed in 1995, all Australian governments have agreed to review any legislation which contains anti-competitive elements against the principle that:

legislation ... should not restrict competition unless it can be demonstrated that:

- (a) the benefits of the restriction to the community as a whole outweigh the costs; and
- (b) the objectives of the legislation can only be achieved by restricting competition (NCC 1998a, p. 321).

The South Australian Government observed that its gambling legislation is 'not designed to be pro-competitive':

In South Australia there is strong community concern regarding the social impact of gambling. The objective of most gambling legislation is to allay community concern, while also securing the positive economic benefits associated with gambling as a legitimate form of entertainment ... [to achieve] the right balance of consumer protection and consumer sovereignty (sub. D284, pp. 2–3).

It argued that this stance does *not* conflict with the requirements of the Competition Principles Agreement, under which social welfare and equity considerations, and the interests of consumers, may be taken into account when weighing up the benefits and costs of restrictions on competition. (A list of the matters which are required to be taken into account in NCP reviews — to the extent they are relevant to a particular inquiry — is contained in box 14.2.)

In accordance with this agreement, each jurisdiction is to review its gambling legislation. Reviews are expected to:

- clarify the objectives of such legislation;

-
- identify the nature of the restriction on competition;
 - analyse the likely effects of the restriction on competition and on the economy generally;
 - assess and balance the costs and benefits of the restriction; and
 - consider alternative means of achieving the objective of the regulation.

Some arrangements in the gambling industries have already been reviewed under NCP, and there have been some policy changes. Others are underway. But governments have deferred some reviews until the outcome of the Commission's inquiry.

Box 14.2 Competition Principles Agreement: the approach of governments to assessing proposals for reform

Without limiting the matters that may be taken into account, where this Agreement calls:

- (a) for the benefits of a particular policy or course of action to be balanced against the costs ...
- (b) for the merits or appropriateness of a particular policy or course of action to be determined; or
- (c) for an assessment of the most effective means of achieving a policy objective;

the following matters shall, where relevant, be taken into account:

- (d) government legislation and policies relating to ecologically sustainable development;
- (e) social welfare and equity considerations, including community service obligations;
- (f) government legislation and policies relating to matters such as occupational health and safety, industrial relations and access and equity;
- (g) economic and regional development, including employment and investment growth;
- (h) the interests of consumers generally or of a class of consumers;
- (i) the competitiveness of Australian businesses; and
- (j) the efficient allocation of resources.

Source: Competition Principles Agreement, subclause 1(3).

The role of this inquiry is not to assess specific pieces of gambling legislation. Rather, in keeping with the breadth of its terms of reference, the Commission has

attempted to contribute an overarching perspective on the key public benefit issues under consideration in all jurisdictions.

That said, some of the criteria in box 14.2 are less relevant to a review of the gambling industry than others. For example, issues with respect to ecologically sustainable development, occupational health and safety and industrial relations have not loomed large. On the other hand, provisions which are most directly relevant for this inquiry are those covering:

- social welfare and equity;
- economic and regional development;
- the interests of consumers;
- the competitiveness of Australian businesses; and
- the efficient allocation of resources.

Some of these have already been touched on in earlier chapters. But others, such as regional development, while possibly relevant to questions of exclusivity, have been raised only fleetingly in this inquiry.

Some broad impacts

Restricting the number of providers through exclusivity arrangements affects the type and quantity of gambling services provided. Limiting the numbers of casino, TAB, keno and lottery licences allows those with licences to vary the services they provide according to demand (although casinos are subject to maximum numbers of machines and tables they may operate). Such arrangements allow a lottery licensee, for example, to maintain large prize pools or larger jackpots, both of which are likely to increase player interest in the game.

Exclusivity arrangements clearly advantage the licence holders, to the extent that they are protected from competition in the same field. Nevertheless, competitive pressures can still come from other gambling forms and, more broadly, from other uses of discretionary spending. But the restriction on direct competition can allow licence holders to provide their services at higher prices than in a more competitive market. This generates what economists call ‘monopoly rent’ (or ‘super profit’). It is a return to the operator over and above that return which would induce a competitive provider to supply the existing level of service.

There is mixed evidence as to whether current exclusivity arrangements are ‘biting’; that is, having an effect on the price and quantity of gambling services. In some cases, they clearly are. For example:

- casino licences have been paid for with substantial licence fees, demonstrating the value expected to be derived from exclusivity (table 14.1). In Victoria, the imminent end of Crown’s exclusivity outside of a 150 kilometre radius from Melbourne has reportedly led to expressions of interest from several groups wishing to establish a second casino;
- in the case of gaming machines, New South Wales hotels which sought to operate more than 15 gaming machines were recently able to tender for that right, with average tender prices of about \$50 000 per machine being achieved — a clear indication of the ‘scarcity value’ of those rights. And the value to the two operators of gaming machines in Victoria is partly reflected in the value they paid for that right (for example, Tabcorp paid \$597 million for its gaming/wagering licences);
- similarly, the amounts paid by private operators for the rights to operate lotteries, keno, TABs and other services provide a measure of the value of exclusivity.

Table 14.1 Exclusivity licence fees for casinos: some examples^a

<i>Exclusive licence</i>	<i>Amount paid or payable</i>
Crown	\$200m in 1993-94 plus a further \$57.6m over 2 years. And from January 1996 a further \$100.8m was payable over three years in return for an increase in table numbers.
Star City	A once only lump sum payment of \$376m
Burswood	\$1.74m per year (indexed to the CPI)
Queensland’s four casinos	\$137 500 per quarter
Adelaide	\$5 000 per month
Tasmania	\$60 800 per month, indexed
Northern Territory	nil
ACT	upfront fee of \$19m and annual payments of \$540 000

^a Illustrative only: excludes other arrangements negotiated as part of exclusivity arrangements.

Source: Australian Casino Association (sub. 124, table 7); and ACIL (sub. 155, p. 148).

Notwithstanding this, the South Australian Government was not convinced that exclusive provision has any effect on prices because of, for example, government controls on payout levels, and competition from other forms of gambling:

This argument may carry some weight if each mode of gambling is considered in isolation. However, if the broader picture of the whole gambling industry is considered, consumers have a much greater choice ... Exclusivities apply within each narrow mode of gambling but these gambling providers compete with a range of gambling service providers (including each other) as well as more broadly in the entertainment industry

... there are significant cross-elasticities¹ between the different gambling markets (sub. D284, p. 12).

Minimum payout ratios, taxation policies and competition from alternatives help control any tendency to 'excess' profits. However, exclusive arrangements necessarily reduce competition from others who would prefer to offer the services protected by these arrangements, and the fact that some providers pay large sums for that exclusivity implies a judgment that this can be recovered from players. Indeed, this point is sometimes made in another way by current holders of the exclusive licences, who argue that, were government policy to change, resulting in a loss of some of the exclusivity period, some form of renegotiation of licence fee arrangements ought to be made.

That said, exclusive rights provide no guarantee of profitability. Indeed, in recent years some casinos have faced considerable financial difficulties. Some may well have overbid for such rights, or spent too much in construction, or derived less than expected benefits. While the casino industry enjoyed a profit margin and a return on assets greater than the average for all business in 1991-92, the ABS (1998b, 1999b) reported that profit margins were:

- 6.5 per cent in 1994-95;
- 8.9 per cent in 1995-96;
- 1.2 per cent in 1996-97; and
- minus 10.8 per cent in 1997-98 (the year that Christmas Island casino suspended operations).

The Australian Casino Association said that:

The return on assets in the casino industry has, in recent years, been consistently well below the 10 year bond rate (sub. 124, p. 6).

More recently, the fortunes of some casinos appear to have improved (recent takeover and share price activity providing some indication of this).

Taxation issues

The extent to which the licensed providers are able to keep any monopoly profit depends on the licensing and taxation arrangements. Ideally, governments should tax such activities at levels which appropriate any rents for the government (and thus the community).

¹ The information on this matter is limited (see appendix D) but, if anything, suggests that cross-elasticities have thus far been low.

Governments typically require operators to pay for their exclusive licences in the form of upfront and/or ongoing licence fees and gambling taxes. As suggested, a prospective operator can, in principle, be expected to offer as a licence fee an amount which takes account of the expected financial benefits over the licence period. In this way, governments can tax away much (if not all) of the financial benefits created by the monopoly. This is likely to be achieved most effectively under an open tendering process.

There are thus benefits to government revenue in setting up providers of some forms of gambling as quasi-monopolies. As the South Australian Government noted, the monopoly licence arrangement:

... could effectively be characterised as a mechanism for collecting tax revenue ... The gambling industry provides the government with a good source of a least cost revenue collection method (sub. D284, p. 8).

And there may be particular advantages to the government of the day in extracting licence fee revenues upfront, rather than opting for an equivalent stream of gambling taxes over time (which may benefit subsequent governments).

But this in itself does not constitute a sound public policy rationale. Governments could equally set up quasi-monopolies in the production of any good or service, and tax the monopoly rents so created. That they don't do so — or no longer do so — reflects the fact that monopolies reduce consumer welfare by restricting consumer choice and raising prices.

In view of the close link between taxation rates and exclusive licensing, one important issue concerns the implications of any change in taxation rates for policy towards exclusivity arrangements. For example, were tax rates to be reduced without altering exclusivity arrangements, more of the economic rents generated by those arrangements would be retained by the gambling operators. There is thus an interdependence between exclusivity arrangements and tax policy. (This matter is returned to in chapter 19.)

Effects on consumers

From the viewpoint of *recreational* gamblers, exclusive licensing reduces the benefits they would otherwise obtain. Licence holders pay large sums for the right to 'sell' gambling services and expect to recover that from customers. Consequently, services and facilities, convenience to players and the range of

differently-priced games on offer² could be expected to be less favourable than under more competitive supply arrangements. In the case of casinos, the NCC noted that there is:

... a reduced incentive for the casino operator to improve the games available to casino patrons or to offer additional services ... [and] the period during which casino operators are protected from competition could create customer loyalties to the incumbent operator which may work against potential entrants to the casino (and substitute products) market (NCC 1998b, p. 125).

Instead, much of the benefits of exclusivity accrue to governments and to the licence holder, rather than being competed away to the benefit of players. And where licences are allocated, rather than tendered for — as in the case of some government-owned TABs and lotteries — there is no way of knowing whether the incumbent is a low cost producer of gambling services.

One effect of geographical monopolies is a loss in amenity for those who prefer casinos to, for example, club or hotel gaming. While gamblers in Tasmania and in the Brisbane/Gold Coast and Cairns/Townsville regions of Queensland have a choice of two casinos a few hours' drive apart, most jurisdictions have only one. A South Australian gambler, for example, seeking an alternative to Adelaide casino would have to travel interstate (or forgo the experience), as state government rules prohibit the development of another casino in that state.

Analogous considerations apply in other areas. In the case of lotteries, for example, consumers cannot easily buy out-of-state lottery tickets. For TABs, this is less of an issue, as punters can bet by telephone. But punters cannot choose between competing (off-course) TABs in the same jurisdiction, and so any scope for the establishment of lower cost operators who might offer better odds or services is forgone. And TABs are further protected by restrictions on telephone betting to bookmakers (by, for example, minimum bet sizes) and on advertising of the services of interstate TABs. However, lotteries and TABs attempt to circumvent some of the disadvantages to themselves of exclusivity arrangements by pooling arrangements across jurisdictions.

Potential competitors are obviously limited in the products they are permitted to offer to consumers. This can affect both potential future competitors and current suppliers, who in other circumstances may have moved into fields now covered by an exclusive licence. One response is for such operators to invest in or acquire operators with existing licences, rather than to set up in competition. Tabcorp's purchase of Star City may be seen in this light.

² The price of popular casino table games, for example, ranges from 1 to 8.5 per cent — see box 13.9 in chapter 13.

While exclusivity arrangements disadvantage consumers as a group, it may be that limiting gambling opportunities in this way provides a degree of protection to problem gamblers by limiting the gambling opportunities they face. These issues are considered below and in chapter 15.

Impacts for specific forms of gambling

The effect of exclusive rights on the accessibility of casino gambling is apparent. But there are three other areas where exclusivity has some specific effects on industry structure; namely, on lotteries, gaming machines in some jurisdictions, and TAB funding of the racing industry. These are discussed in turn.

Lotteries

Allen Consulting noted that, while two lotteries have been permitted to operate in the ACT, in order to promote consumer choice:

Industry participants noted that if only one lottery were operating in the ACT, the administration costs would be reduced by approximately 2.5 per cent, thus increasing the taxation revenue (Allen Consulting Group 1998, p. 54).

But others have questioned the desirability of maintaining exclusive licences. For example, Tattersall's argued that it should be free to compete in other jurisdictions. It sees significant economies of scale and scope in the provision of lotteries, on both the demand side (in respect of the size of the prize pool) and in terms of operating costs. And while the pooling of prizes across state boundaries has allowed the achievement of some economies of scale:

Lack of competition between lottery providers means that costs are high in some jurisdictions (sub. 156, p. vi).

Tattersall's claimed to have the lowest ratio of expenses to turnover (3.86 per cent) of any operator in Australia. It said it achieves lower costs because of its private trust structure and the incentives provided to staff. It estimated that, if all providers had achieved the same level of costs as itself, total costs Australia-wide would have been some \$150 million less than observed.

Had there been effective competition between service providers across state boundaries, this saving would have been available to governments as higher revenues, or to bettors as a higher maximum prize or expected return (sub. 156, p. vi).

Tattersall's saw the removal of regulatory barriers between states and territories as essential, in part to prepare for expected future competition from large scale foreign lotteries, such as Camelot in the United Kingdom and G-Tech in the United States:

This would allow the emergence of strong national organisations, capable of meeting future international competition (sub. 156, p. 57).

The price and product benefits to consumers from more competitive lottery arrangements do not appear to have been addressed in any jurisdiction. There are still five major providers, each protected in their own jurisdiction from competition by other lottery providers, and seeking to service what is becoming a national lottery market. The scope for other providers to enter the market with different lottery products is precluded by current arrangements.

The restrictions on interstate competition are often defended on taxation grounds (or because they are seen as a way of channelling funds to worthy causes — see chapter 18). But any alternative, non-exclusive arrangements which could be devised by governments would also be subject to taxation, as shown by ACT revenue sharing arrangements with NSW Lotteries and Tattersall's. Nevertheless, it is likely that current arrangements reflect a perception that government-owned lotteries are first and foremost fundraisers for governments.

Gaming machines

Several jurisdictions provide some form of exclusivity in the supply and operation of gaming machines. For example:

- the (exclusive) operator of Tasmania's two casinos, Federal Hotels, also has exclusive rights to operate gaming machines in that state's clubs and hotels until 2009;
- in the Northern Territory, all gaming machines in clubs and hotels are selected, owned and supplied by the government;
- in Western Australia, Burswood has all of that state's gaming machines, and has exclusive rights to operate games of a kind already approved for use inside the casino elsewhere in the state; and
- Victoria has a 'two operator' system for the supply of gaming machines to clubs and hotels (described in chapter 13).

The Victorian arrangement drew comments in a number of submissions. It clearly advantages the operators and the government (which benefits from licence fees), and there are advantages for the successful venues. The Licensed Clubs Association of Victoria (LCAV) said it provides 'a network control system that has the faith of the Government, public and venues'. It also acknowledged assistance by the operators to clubs which lacked sufficient management skills and understanding of gaming.

But the LCAV said that ‘the vast majority of club gaming venue operators’ in Victoria do not support current arrangements, as they cannot buy their own machines, have their income from gaming machines effectively dictated to them, and may lose the machines if returns are deemed insufficient by the operator. These views were echoed by the AHHA (Vic), which said that the two-operator system, together with capping arrangements, encourages the concentration of machines into as few venues as possible, and as few multi-venue operators as possible (sub. 154, p. 15). Some views from the clubs and hotels are contained in box 14.3.

Box 14.3 Victoria’s gaming machine duopoly: the views of the clubs and hotels

The Licensed Clubs Association of Victoria (LCAV) said that:

... The operators totally control the way in which gaming is conducted. Few variances can be negotiated with the operators who hold the power through promotional revenue. Significant variation of machine type is not an option on offer to gaming venues, yet this is a key managerial skill in interstate venues ... The current system denies clubs the right to manage their club’s services to meet the needs of the patrons and the club (sub. 90, p. 6).

The LCAV said that many clubs want to be offered the choice of purchasing or leasing gaming machines. This is seen as a ‘critical element of venue management’:

Having made a substantial investment in facilities, clubs have no security of tenure over the electronic gaming machines. Both Tattersall’s and Tabcorp may pull machines out of venues when their turnover is judged too slow and not commercially viable ... Individual clubs are worried as to what their club’s future is, as many have long term financial commitments based around gaming (sub. 90, p. 7).

Similarly, the AHHA (Vic) said:

The system offers no real tenure over machines by venue operators. It allows comparative measures of machine performance to dictate whether machines remain at a venue or not. The system denies the venue operator ... the discretion to limit or alter the supply of the product so as to minimise social costs (sub. 154, p. 15).

The AHA said:

... there is absolutely no net advantage to instigating or maintaining monopoly/duopoly type arrangements in any jurisdiction. Perhaps a better approach to that of granting exclusive rights is to allow licensees to purchase machines outright such as the case in South Australia and New South Wales. These arrangements go a long way towards dispelling the industry disquiet in certain states over access issues as it would allow hotels to operate on level playing fields with its direct competitors (sub. D231, p. 49).

A different concern was raised by a residential land developer and homebuilder in Victoria, Dennis Projects Pty Ltd. Many of its new projects are in greenfields sites on the urban fringe of Melbourne, and it noted the difficulty faced by a new hotel or club in obtaining gaming machines:

... as a result of the cap neither [Tabcorp nor Tattersall's] has any machines to supply new Hotels, hence a proposal for the construction of a Hotel on the urban fringe ... with all facilities ... lacks viability (sub. D245, p. 2).

Victoria's two-operator system was seen as adding to the uncertainty of investments by venues in gaming rooms and associated facilities, and is accompanied by pressure on them to promote and encourage use of gaming machines. Tabcorp reported that it had increased its average revenue per machine per day to \$190 during the second half of 1998, in part by making venues more attractive so that customers would want to stay longer.

It argued that, while commercial realities dictated the need to maximise the return to the operator, the pressure to move gaming machines from one venue to another according to the returns generated at each was more properly seen as a result of the caps which operate in Victoria:

... the restriction on the number of EGMs available to the Gaming Operators leaves them with no choice but to reallocate some or all of a Club's EGMs to another Club where EGM performance is likely to be significantly superior (sub. 173, p. 6).

These matters are discussed in chapter 15, which notes that such pressures would not arise in an environment without global caps, where venues (even if individually capped) were free to purchase gaming machines from manufacturers as they saw fit.

TABs

The exclusive rights which all jurisdictions provide to their TABs are supported by a raft of restrictions on the ability of others to compete with them. For example:

- there are restrictions on the activities of bookmakers, covering, for example, where and at what times they may take bets, their telephone betting activities, their ability to advertise and so on; and
- while punters are able to bet by telephone with TABs in other jurisdictions, the advertising of their services is prohibited.

Conversely, TABs are unable to compete for business or to establish agencies in other jurisdictions. In the main, their activities are restricted to totalisator betting on thoroughbred, harness and greyhound racing. And as ACIL noted:

... whereas the TABs all have exclusive rights to off-course totalisator wagering in their jurisdictions, they in turn depend for their racing events on board-registered non-proprietary racing clubs whose right to conduct (and timetable) race meeting where wagering occurs is also exclusive (sub. 155, p. 150).

It added that there are a number of groups (such as the quarterhorse³ and Arab horse associations) which would like to have TAB coverage for their events, but cannot under current arrangements in almost all jurisdictions. Similarly, proprietary racing is excluded by the requirement that no person may receive any ‘direct financial benefit’ from the ‘profits’ of a race meeting (CIE 1998, p. 24).

All of these restrictions clearly affect the options open to punters, in terms of *where*, *on what events* and *how* they may make bets, and the *prices* at which betting is made available.

To a lesser extent, they also limit the activities of the TABs. But current regulations, and the considerable convenience which TABs offer, have assisted them to capture most of the wagering dollar (about 94 per cent in 1997-98), notwithstanding that they charge a higher ‘price’ to the punter than on-course bookmakers (typically three times higher⁴ — see table 14.2).

Table 14.2 The ‘price’^a of a wager, 1997-98

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Aust
TAB	15.0	16.0	16.9	17.2	15.5	14.3	14.4	15.9	15.8
On-course bookmaker ^b	5.5	4.5	5.5	5.0	4.9	5.5	6.2	6.4	5.2
Other ^c	14.6	16.1	17.0	16.3	15.4	13.9	7.6	7.4	14.0
Total racing	13.7	14.5	15.5	14.7	14.4	13.7	11.7	9.2	14.2

^a Expenditure as a percentage of turnover. For example, on average, a dollar spent on a TAB wager in NSW will return 85 cents to punters. ^b Some figures assumed by Tasmanian Gaming Commission. ^c Includes on-course totalisator and sports betting (racing).

Source: Tasmanian Gaming Commission (1999).

But the environment in which TABs operate is changing. Betting on racing has declined in importance relative to other forms of gambling, and in particular, machine and casino gaming. (And, indeed, Tabcorp and TAB Ltd have diversified into gaming machines.) And future developments are likely to increase pressures on this industry. The Queensland Government noted that these were coming from:

... cable television operators, interactive gambling, satellite technology, the privatisation of interstate TABs and the international market place (sub. 128, p. 51).

The Tasmanian TAB also noted that the growth in communications technology:

³ In another study, the CIE (1998) noted that there are some 180 000 quarterhorses in Australia, with a national stud book, and licensing and registration system to register horses, trainers, jockeys, stable personnel etc.

⁴ The practice of ‘rounding down’ of payout rates to winners contributes to this price. Such a practice can be significant for large bets placed regularly.

... is bringing growing competition to areas previously protected by a statutory monopoly which was part of a national oligopoly of State TABs. No longer can it be assumed that the customer is committed to wager with the local TAB (TAB Tasmania 1998, p. 6).

The success of the TABs has, in turn, led to increased funding for the racing industry (and more racing). But ACIL noted that this support is threatened by sports bookmakers operating on the internet who have no financial links with the racing industry:

Ultimately the breakdown of the geographic boundaries to the flow of information could upset the distribution agreements between the TABs and their local racing boards, and it might even lead to legal actions by local racing boards intended to recover 'royalties' from interstate operators (sub. 155, pp. 154–5).

In response to these developments, TABs in several states are now offering totalisator or fixed odds sports betting (in some cases, with exclusive rights to do so), often also through the internet. But the totalisator product provides an almost guaranteed income for them and tax revenue for the government. Large scale involvement by TABs in fixed odds betting, were that to occur, would raise questions about the nature of the risk involved and the appropriateness of government agencies bearing that risk. (It would also focus further attention on the merits of maintaining this activity in the public sector — privatisation has already occurred in several jurisdictions and is planned in others.)

The restrictions on TABs and on racing and sports bookmakers are subject to review by regulators and meetings of racing Ministers and officials. NCP reports also play a role: for example, a recent review by Western Australia's Office of Racing, Gaming and Liquor has recommended continuing some restrictions on bookmakers but removing others (box 14.4). And an NCP review of New South Wales' racing and betting legislation is currently underway. The issues paper for that review said that there are a range of objectives for the 'anti-competitive restrictions' of New South Wales racing and betting legislation, namely:

- ensuring the integrity of racing and betting activities;
- prohibiting criminal activity;
- encouraging the sustainable economic development of the NSW racing industry;
- protecting Government and racing industry betting revenues; and
- protecting the economies of scale associated with NSW totalisator betting (DGR 1999a, p. 19).

Box 14.4 Restrictions on bookmakers: Western Australia's NCP review of betting legislation

The review argued that restrictions on *where bookmakers may operate* provides a net benefit to the community and should remain in place (ORGL 1999a, pp. 88–9). While they impose costs on bookmakers:

Restrictions on the locations of bookmakers activities [provide] substantial benefits through reduced costs of monitoring bookmaking activities and reducing adverse impacts in the community from off-course betting and access to credit betting. Despite the potentially substantial costs imposed on bookmakers from reduced business opportunities ... the restriction on locations at which bookmaking may occur provides a net public benefit.

The review concluded that restrictions on *times at which bookmakers may conduct betting* provide little if any public benefit, impose substantial costs on bookmakers and should be removed. These costs:

... could be reduced by relaxing the restrictions or leaving decisions on timing of the bookmaking activities up to racing clubs. [This] has occurred in other states ... Advantages include ... allowing establishment of a betting auditorium at a major racecourse ... The major problem created by the establishment of betting auditoriums - the transfer of patronage and betting turnover from one race course to another - has been overcome by negotiation of profit sharing arrangements between the clubs. Disadvantages ... would be reduction in taxation revenue arising from transfer of some betting turnover from the TAB to an on-course betting auditorium. This may, in turn result in diminution in the value of the TAB as a public asset ... (ORGL 1999a, p. 89).

The review considered that the restriction on *minimum levels of telephone bets with bookmakers* should be repealed. It noted that telephone betting was introduced in 1993 on a trial basis, with a minimum telephone bet limit set at \$250 (or a bet to win \$2 000):

This ... was a national standard at the time designed to protect turnover of state-owned TAB businesses.

Since 1995, most states ... have moved to reduce the minimum telephone betting levels. A minimum level as low as \$100 exists for race betting in a number of instances while no minimum level is common for sports betting. In Western Australia the minimum limit for race betting is currently \$200 or a bet to win \$2,000 ... Bookmakers operating in other states are able to provide telephone-betting services to punters in Western Australia, although it is considered unlikely that small punters betting less than the minimum limits would make use of the interstate services (ORGL 1999a, p. 101–2).

The review assessed that minimum telephone bet levels gave rise to a net public cost and should be repealed. It gave rise:

... to potentially substantial costs to punters, bookmakers and racing clubs, particularly in relation to betting services for small events and minor codes. Benefits may arise from protecting revenues to the government and racing clubs from TAB betting, and in reducing risks of problem gambling through credit betting, but these benefits are considered to be small. In total the restriction was assessed as giving rise to a net public cost ... (ORGL 1999a, p. 102).

Source: ORGL (1999a).

It said that anti-competitive restrictions likely to be canvassed during the review will include:

- *barriers to entry*, such as the exclusions on proprietary racing and forms of racing other than thoroughbred, harness and greyhound, and licensing arrangements for trainers, jockeys and harness drivers;
- *cross-border market protection*, such as restrictions on advertising by TABs or bookmakers not licensed in New South Wales; and
- *restrictions on licensed bookmakers*, who are limited in the events they may take bets on, the time and place of betting, minimum telephone bet sizes and advertising of their services. Procedures for licensing bookmakers and authorising them to conduct telephone, electronic or sports betting may also be reviewed (DGR 1999a, pp. 15–18).

Victoria's NCP review examined broadly similar issues matters (CIE 1998), and the issues paper for South Australia's current review has also raised these matters for public comment (Marsden Jacob Associates 1999).

Many current restrictions are designed with the interests of the current participants — governments, the TABs, the racing clubs and so on — in mind, and should be subject to broad public interest tests. And any policy changes would need to be evaluated in the context of the web of regulations which support current arrangements. But some changes could be made in isolation. **The minimum telephone bet restriction which applies to bookmakers but not TABs serves no useful purpose and could be removed immediately.** It appears to do no more than impose a competitive disadvantage on bookmakers in order to limit competition to TABs.

Some changes are occurring

Across many forms of gambling, there are some instances where exclusivity arrangements have expired and have not been renewed. For example, several casinos no longer have legally binding exclusive rights, although the political difficulties of obtaining a new casino licence may be significant in some, if not all, jurisdictions. And while newer forms of gambling, such as sports betting and internet gambling, are subject to licensing arrangements, they tend to be inherently more competitive.

Nevertheless, it remains the case that some forms of gambling are locked in to exclusive arrangements for some time to come (see box 13.7 in the previous

chapter), with no indication that this is likely to change in the near future. As a number of participants have noted, it would be expensive for governments to extricate themselves from these contractual agreements. The NCC noted, in the context of NCP reviews:

... because most monopoly licences include provision for compensation for early termination, the approach favoured by governments is to consider the need for less restrictive arrangements as exclusivity arrangements expire (NCC 1998b, p. 125).

And Quiggin highlighted a quandary for governments:

Retention of monopoly privileges may make the state liable for the loss of financial assistance grants under the Competition Principles Agreement, while removal of monopoly privileges may leave the government liable to pay compensation to monopolists or face legal action for breach of contract. In most cases, the costs of compensation for breach of contract will be greater than the value of the stream of monopoly profits that have been sold (sub. 149, p. 6).

Is exclusivity justified?

In 1998 the NCC reported on reviews of casino legislation undertaken under the NCP, noting that they highlighted common views of jurisdictions as to:

... the responsibility on governments to address community concern about the social impacts of gambling and the perceived attraction of casinos for organised crime ... allowing for multiple casinos would not reflect the strong support of ... constituencies for limits on the level of gambling.

... the contribution made by gambling to State and Territory revenue. Keeping in mind community views about the desirability of limits on the amount of gambling, the reviews found that financial returns to the community (licence fees and taxation) are maximised through a single licence arrangement ...

... the cost to the community of maintaining probity is minimised with a single licence because the cost of regulating one large venue is less than the cost of regulating many small venues (NCC 1998b, p. 123).

The NCC noted that, while it was not convinced about several of the justifications given, governments had judged it 'probable' that exclusive licensing arrangements in their jurisdictions had provided a net community benefit (NCC 1998b, p. 125).

As noted earlier, the Commission has looked at these issues in the broad against criteria that are consistent with those applicable to any NCP review.

Chapter 11 has shown that there is little to commend some of the justifications put forward to defend exclusivity arrangements. In particular, it argued that the need for revenue generation can have an unbalanced influence on policy in this area. But

chapter 11 also raised the possibility that particular equity, social or industry efficiency imperatives might justify exclusivity.

With those in mind, the rest of this section looks at exclusivity in the provision of certain gambling services and asks:

- Does it help control problem gambling through limiting accessibility?
- Does it facilitate harm minimisation processes?
- Does it reduce pressures to advertise?
- Is probity checking a justification for exclusive arrangements?
- Are there industry efficiency reasons of a kind which might justify exclusivity?
- Is regional development facilitated?

Does it help control problem gambling through reduced accessibility?

As shown in chapter 8, a key issue for problem gambling is *accessibility* to gambling opportunities. But the link between accessibility and exclusivity varies by mode of gambling.

For example, while lotteries are operated as local monopolies, and this restricts the type of lottery tickets which can be purchased, it does not restrict accessibility to lottery gambling, as tickets can be bought widely — for example, at newsagencies. In any case, there is little evidence to date of problem gambling relating to lotteries (although some fear this may arise as lottery draws become more frequent).

Similarly, while TABs are also local monopolies, bets can be placed at TAB agencies, many clubs and hotels, and by telephone and internet. So while TABs are exclusive licensed, accessibility is not unduly restricted. But unlike lotteries, TABs are a significant source of problem gambling (chapter 6). Controlling accessibility might imply controlling the (already very large) number of races upon which wagering can take place, and is not in itself an ownership issue (chapter 15).

For casinos, the situation is somewhat different. Casinos provide some games (such as keno and gaming machines) which are also provided by many other venues, and some, such as table games, which are exclusive to them and which distinguish casinos as gambling venues. This means that restricting casino numbers through exclusivity arrangements can only restrict accessibility to one form of gambling. (And it is no longer the dominant gambling activity in most casinos. To take an extreme example, in Tasmania's two casinos, gaming machines earn over \$21 million, whereas table gaming generates only \$1.3 million).

But as shown in chapter 6, gaming machines — the major source of problem gambling — are already widely available in nearly all jurisdictions. Limiting the number of casinos through exclusivity arrangements can have little effect on accessibility to this form of gambling (other than in Western Australia).

In Victoria, the duopoly's exclusive rights to own and operate gaming machines in clubs and hotels bring no obvious advantages with respect to access and problem gambling (Indeed, the combination of the duopoly and global caps may adversely affect problem gambling — explained in chapter 15.)

In sum, exclusivity arrangements, as implemented, have in most jurisdictions not reduced the accessibility drivers of problem gambling, other than for casino table games.

The South Australian Government said that:

The greatest benefits associated with exclusivity to table games at the Casino relate to harm minimisation and revenue generation. Harm minimisation is achieved through restricting access to table games (sub. D284, p. 13).

But it did not accept that this imposed a cost on gamblers who enjoy table gaming, in view of the wide range of substitutes for table gaming in the gambling industry and more broadly in the entertainment industry:

... the costs of restricted access to table games are more theoretical than real in that there are numerous suppliers of gaming machine and other gambling opportunities and the community displays no real desire for table gaming ... to be more widely available ... Given the widespread availability of other gambling opportunities in the State, the cost to consumers of exclusivity for the Casino would be trivial (sub. D284, pp. 10–11).

But it added that:

... supply restrictions can only be justified if they reduce the social costs of problem gambling by more than the adverse impact on recreational gamblers. This is true with regard to Casino gambling (p. 13).

Does it facilitate harm minimisation processes?

Harm minimisation programs have been established in some casinos, clubs and hotels as part of industry codes of conduct. Their effectiveness is discussed in chapter 16.

In some jurisdictions, codes of conduct have been established across all main provider groups, thereby facilitating the implementation of harm minimisation strategies in the venues covered. For example, Queensland's Responsible Gaming Advisory Committee's *Responsible Gambling Statement* and Victoria's Gaming

Machine Industry Code of Conduct have been put in place by the key sectors involved and bind them all to such requirements as advertising gambling help-line services. Given the variety of venues involved, this suggests that a key consideration is the commitment of the various components of the industry.

The Victorian duopoly has the advantage that the two operators may be able to police a self-regulation approach more effectively than under more dispersed ownership of gaming machines. But it is questionable whether self-regulation is the best approach to dealing with problem gambling (chapter 16).

Self exclusion orders may be easier to enforce for people with problems stemming from table games through casino exclusivity. But it has no such advantages with respect to problem gaming machine gamblers (other than in Western Australia).

The Commission sees no significant advantages for harm minimisation arising from exclusivity arrangements as such. A preferred approach is to focus efforts on improving the efficacy of harm minimisation programs in a range of venue types. This is the subject of chapter 16.

Does exclusivity reduce pressures to advertise?

Some participants have argued that moving away from the practice of providing exclusive licences may lead to more intense advertising of gambling, with adverse consequences for problem gambling, as competing providers sought to capture a greater share of the market for their services.

The extent to which this is likely to occur is difficult to judge. Some exclusive licence holders (such as casinos and lotteries) are heavy advertisers of gambling facilities and a larger number of providers might well mean more advertising in total. However, the Issues Paper for the South Australian NCP review of racing and wagering legislation argued that, while such concerns may have had force during earlier stages of gambling liberalisation:

The concern to avoid or minimise promotional effort has weakened as gambling has become more widespread and community acceptance of gambling increased. This concern appears to have been more relevant for the State lottery and the TAB in 1966 than it was for the introduction of the casino in 1983 (Marsden Jacob Associates 1999, p. 32).

But this is not a matter on which decisions about exclusive licences should hinge. Rather, they should be judged in terms of the totality of effects they have on the range and prices of gambling services, including any social impacts. And similarly, the Commission considers that a better approach is to examine advertising as a issue on its own terms. This is the approach taken in chapter 16.

Is probity checking a justification for exclusive arrangements?

It is likely that limiting the number of near-monopoly casinos, TABs and lotteries facilitates probity checking and regulation, because of the small number of venues or licensees involved. Having a single operator is likely to lower the cost and increase the effectiveness of probity checking of licensees and staff, and help keep monitoring and other regulatory costs to a minimum. Effectively this is an argument based on the benefits of achieving economies of scale and scope.

In respect of its casino, the South Australian Government said that:

... table games provide a significant opportunity for fraud and require intensive monitoring ... The provision of a single [casino] licence ensures probity of the highest standard at the lowest cost. Exclusivity enables much more stringent and effective probity checking than if South Australia had several casinos to monitor ... A single casino permits greater presence of casino inspectorate staff (sub. D284, p. 7).

The Western Australian Government said that there were a number of checking and monitoring benefits associated with its restriction on gaming machines:

- by restricting the conduct of gambling on gaming machines to licensed casinos, it is less costly and more feasible to maintain the integrity of this particular gaming product. Inspection, audit and surveillance can be conducted more effectively;
- the cost of the government monitoring of gaming machines is lower because of the smaller number of venues operating gaming machines (sub. 76, p. 30).

But these economies have to be set against inefficiencies which arise from having a single exclusive licence. As discussed earlier, these include reduced choice and convenience to players and the price effects of having an exclusive licence. It is the balance of such costs and benefits which is important. Governments do not argue that there should only be a single insurance company or bank because of the economies which would be involved in prudential checking or tax auditing — the offsetting benefits in such areas as price, choice and savings in time are indisputable.

As noted in chapter 16, **a better approach is to institute probity checking procedures which are appropriate to the mode of gambling and venue type, and to charge the licensee accordingly.** In this way, they become part of the cost structure of the industry and are reflected in operating arrangements and future decisions.

Are there industry efficiency reasons of a kind which might justify exclusivity?

Chapter 12 noted that there were two areas where industry efficiency arguments may provide a possible rationale for selective treatment. One concerns the lottery

industry, where exclusivity helps provide larger prizes. The other concerns the funding of the racing industry by TABs as part of their exclusivity agreements.

Lotteries

Providing an exclusive licence to a single lottery provider in a single jurisdiction (and preventing competition from other jurisdictions) allows it to provide bigger prize pools than otherwise. This is important because large prizes are the principal attraction of lotteries, providing benefits to consumers, in part because adding another player to a lotto pool increases the expected value of a bet (sub. 156, p. 39).

But within most jurisdictions, larger prizes are already being obtained by commercial arrangements under which the various operators pool their activities. Indeed, the major lottery products (Lotto, Powerball and the like) are now routinely provided through national blocs (chapter 13). In this way, some of the shortcomings of exclusive licensing are being overcome. This suggests that economies of scale cannot be a good argument for exclusive lottery licences (in the same way that they cannot be a good argument for a single exclusive licence for a bank or a retail shop).

Were exclusivity arrangements to be removed, one possibility might be the emergence of a small group of operators competing in several jurisdictions. Depending on the economies available, this might lead to an increase in the player returns from lotteries (currently low compared to other gambling products at 65 per cent for lotteries, 60 per cent for lotto and 62 per cent for instant lotteries). In such a case, some of the potential competitive gains identified by Tattersall's would accrue to consumers as lower prices.

But equally, differences in costs of production, together with consumer demand for large prizes, might see the emergence of major national lotteries, in place of the pooling arrangements now entered into as a response to limits on interstate competition. Such outcomes are best decided by consumers choosing the products they prefer. Depending on the number of competitors in the market, such an outcome may require monitoring on competition policy grounds. **But in the Commission's view, the capacity to provide larger lottery pools does not constitute an argument for government-enforced exclusivity.**

TAB funding of the racing industry

The conditions governing the exclusive licences for the TABs (whether government-owned or private) include the requirement that they contribute funds to the thoroughbred, harness and greyhound industries. For example, as part of the privatisation of the Queensland TAB, the government has negotiated revenue

sharing arrangements with the racing clubs for the next 15 years. And in Victoria, the now-private Tabcorp is required to share both gaming machine and wagering income with the Victorian racing industry. Across Australia, about \$400 million is paid by TABs to their racing industry.

This requirement reflects the fact that, unlike sports betting on football matches or car races, wagering is the major reason for horse racing to take place. If those providing wagering services were not to contribute to the racing industry, the industry itself would decline. As the Australian Racing Board noted:

The Australian Thoroughbred Racing Industry is a gambling industry in the sense that off-course and on-course wagering on racing outcomes is the major revenue source for the Industry (sub. 48, p. 1).

Without some form of policy response, ‘free riding’ might lead to the racing industry providing too few races:

The nature of racing events is such that it is difficult to exclude parties from utilising the primary product of the event - the outcome or result of a race. As such, it is possible that betting service providers could ‘free ride’ on the racing industry, taking bets on races without contributing to the costs of running them. Such a situation could lead to there being too few race meetings and a smaller racing industry (CIE 1998, p. 36).

Exclusively licensing a single TAB in each jurisdiction, heavily restricting the competition it faces, and requiring it to direct some of its revenues to the racing industry are the means by which this problem is currently addressed. But while it is a convenient and effective way of raising tax revenue and providing secure funding to the racing industry (and may have other benefits with respect to assuring punters of the integrity of the betting activity), it is a blunt instrument for overcoming such ‘market failure’.

But there can be no guarantee that current arrangements result in the ‘right’ amount of funding or lead to the running of the ‘right’ number of races, particularly in view of the many anti-competitive restrictions which apply. (Indeed, there are arguments that biasing wagering towards the TAB pooling arrangements has led to an excess of lower quality races — see subs. 3 and 14.)

Moreover, TAB monopolies in each jurisdiction are under threat from technological developments such as interactive home gambling and the increasing availability and popularity of sports betting (albeit from a small base). Alternative ways of achieving appropriate funding for the racing industry may need to be canvassed. For example, the advantages and disadvantages of some form of levy arrangement could be reviewed (box 14.5), although any such development would need some form of interjurisdictional agreement to work. However, it would have the advantage of

directly addressing the problem raised by ACIL and others of betting on racing being offered by some who do not contribute to the funding of those races.

But as noted earlier, any change in policy would first need to consider a wide range of related questions, such as the exclusive rights given to the racing clubs, licensing procedures for bookmakers, the limits on the codes covered and so on, as these restrictions serve a range of objectives.

However, the broad principles which should guide the approach of governments to the racing and betting industries ought to be essentially the same as for any other industry (chapter 12).

In short, there is a case for government intervention to overcome the particular market failures which affect the racing industry.

Interactive home gambling and the increasing availability and popularity of sports betting will increase the pressures on TAB monopolies in each jurisdiction. But TAB exclusivity and the restrictions which underpin it do not appear necessary to ensure an appropriate level of funding for the racing industry.

Any changes to the exclusivity arrangements for TABs would need to take into account the role of betting agencies which offer betting on racing but do not contribute to the funding of racing.

Facilitating regional development?

It is difficult to predict specific regional development spinoffs from the exclusivity of casinos, lotteries and so forth (or from removal of that exclusivity). However, the exclusivity of TABs does appear to have some benefits for regional and country areas. For example, the Western Australian Government noted that:

TAB distributions to the racing industry, particularly in country and regional areas, are important to the social fabric of the State. Weekend race meetings are extremely popular social events and play a major role in the social integration of farming communities. This has an additional flow on effect of maintaining community interest in horses (sub. 76, p. 36).

But that said, it is not clear what consequences for regional race meetings would follow in circumstances where TABs were not exclusive and racing for wagering purposes were not limited to the three current codes. Much would depend upon whether there continued to be demand for the same kinds (and standards) of races now run.

Box 14.5 Funding for the racing industry: what alternatives to TAB exclusivity?

A 'property rights' approach?

At one extreme might be a world in which the exclusive arrangements for TABs and many of the restrictions on bookmakers were removed, and each was free to take bets on a wide variety of sports and events. In time, their activities would evolve towards a preferred balance of totalisator and fixed odds bets on a wide range of sports and other activities. Specialisation might occur.

In such a world, 'free riding' could be solved by establishing legally enforceable rights to gambling on racing events and allowing *any* betting agency to negotiate fee arrangements with the holder of those rights (eg racing clubs). (Arrangements would subsequently develop for cross licensing, as with rights to televise sporting events.)

But a key question would concern who would control any such rights. Resolving this would require a review of the regulatory structures that underpin the racing industry. An indication of the difficulties involved comes from the Queensland Government, which noted that:

The issue of ownership of the racing product to broadcast through pay television has caused controversy within the ... racing community. The interrelationship between ownership of television rights to racing and income from racing has raised many questions for which there are currently no definitive answers in the current rapid technological developments (sub. 128, p. 51).

Such arrangements would need to be quarantined to those cases where the incentive to operate races came essentially from the wagering, with the likelihood that the game would be undermined in the absence of such a mechanism. This rationale would not apply to sporting events (such as football) undertaken for other reasons.

A levy approach?

Another approach would be to levy all wagering on racing, whether undertaken through TABs and racing or sports bookmakers, and pay a proportion to the racing industry.

The size of any such levy on gambling revenues could be determined by all industry members (including, for example bookmakers), with the role of government limited to seeing that the levy is agreed to and enforced. In this way, the industry as a whole could decide how much ought to be collected and how it might be used. And were such decisions to be made at the national level, this might help overcome some of the inefficiencies of the current state-focused arrangements.

Such a levy is already used in the United Kingdom explicitly to provide funding for the racing industry:

Bookmakers are required to pay a levy on their horserace betting turnover through the Horserace Betting Levy Board, which has a statutory duty to make funds available for the benefit of horseracing. The levy is in the form of a fixed fee per betting office plus a percentage [of turnover] ... Total payments therefore rise and fall in line with horserace betting expenditure (Field and Dunmore 1997, p. 1).

In the case of regional exclusivity for casinos, this can provide a boost to business activity and employment in the region concerned. Local businesses which help build and supply the casino benefit, and short- and long-term employment in some occupations in the area could rise. While some competitor businesses will be disadvantaged by the competition (and might lose employment), others gain, and business activity in the region as a whole is likely to be higher. However, the net effect on the region will depend upon the circumstances of the development and of the region concerned. And any such evaluation would need to ensure that all of the economic and social impacts were properly accounted for.

The South Australian Government noted that:

... there may be some benefits from a regional perspective if South Australia can preserve a stake in the national tourism market ... in a region with under utilised resources, such as high unemployment, a tourism/casino development could provide additional benefits to the economy. Attracting a major developer may also require an incentive structure that would enable them to offset their establishment costs and may therefore require an exclusivity period (sub. D284, pp. 6–7).

It added that, in the event that Adelaide Casino were to be sold by the Government as planned, its exclusive licence would assist in attracting new investors into South Australia to retain and develop the casino, as well as maximising sale proceeds (sub. D284, p. 8). Nevertheless, it acknowledged that:

... it may be a zero sum game nationally (sub. D284, p. 6).

Any large scale development will draw employment and other resources from elsewhere in economy (both within the same jurisdiction and outside). So what benefits one industry or region will in part be at the cost of others. While the effects in different parts of the economy will depend upon the markets for labour and other resources in the region and more widely, the net effects Australia-wide must necessarily be small.

For such reasons, it is not at all clear that regional development provides a sound rationale for exclusivity in gambling licensing, or that this approach would have any advantages over other policies which would also encourage regional development.

Summing up on exclusivity arrangements

Exclusivity arrangements impose costs on the community. And while revenue raising is used as a major rationale for these arrangements, it is not a strong justification. Other arguments put forward in favour of granting exclusive licences are also not compelling.

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.

While some problem gamblers benefit from the reduced 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.

14.3 Should gambling be restricted to particular venue types?

Current arrangements concerning the places where gambling is offered reflect history and ad hoc decisions of governments. But at their core are restrictions based on limiting gambling to adults, and the linking of gaming machine gambling to venues with liquor licences. A key restriction in each jurisdiction which has gaming machines sets different limits on the numbers of gaming machines for clubs and hotels.

Chapter 12 has shown that problem gambling provides a rationale for special gambling policies. But a key question concerns the criteria to guide decisions about future increases in the availability of different forms of gambling, particularly for those already shown to be more problematic.

A related question is the extent to which governments *can* restrict access, given the rise of interactive gambling, not only at home but through the increasing availability of internet cafes or internet terminals in shopping malls, airports and other public places.

Gambling and liquor licences

Gaming machines are generally restricted to premises which have certain types of liquor licences. Given the role of alcohol in adult recreation activities, this may seem unexceptional. It also provides clearly defined boundaries and premises, and facilitates the exclusion of under age gambling (although children may obtain entry into clubs even if not into gaming rooms, and exclusion of minors from gaming areas could easily be a feature of a gaming licence which was not linked to alcohol).

The Australian Hotels Association supported a linking of liquor and gaming licences as a sensible initiative to minimise minor access, noting that:

Establishments that provide liquor are only available to the adult population and the restriction of gambling services to hotels is an ideal way of limiting access to minors ... the hotel sector is well versed to effectively deal with the sensitive issues associated with both gambling and alcohol consumption [and it] provides an environment that is highly controlled (sub. D231, pp. 52–3).

The Queensland Government said that:

History has played some part in the continued use of liquor licensing as a basis for gaming venue approvals but no other method of assessment has been proposed which could successfully replace this system. The current regime is positive in the sense that it establishes an environment that is adult based (hence restricting minors) and requires a common nominated licensee who is responsible for the conduct on the premises (sub. D275, p. 14).

It added that:

... possession of a liquor licence is not the sole basis for the licensing of sites, but *one* of the criteria for applying for a licence (p. 14).

But there are some apparent anomalies. For one thing, other gambling venues are not so licensed: why exclude gaming machines from TAB agencies? And some liquor-licensed establishments cannot have gaming machines (for example, restaurants or grocery stores with liquor licences). One reason may be concern about the increase in accessibility to a problematic form of gambling. Or concern about increasing the ‘convenience’ nature of machine gambling. These questions of accessibility are discussed in the next chapter.

The Australian Hotels Association said:

... there is limited evidence to suggest that the provision of gambling and alcohol in the same establishment plays a significant role in a marked increase in irresponsible gambling practices and further research on these topics should be conducted before drawing policy recommendations (sub. D231, p. 47).

While clubs and hotels have broadly similar liquor and gaming licences, they are treated in very different ways in most jurisdictions. Foremost among these are the caps on numbers of gaming machines allowable per venue.

However, several participants noted that a person’s control over his or her gambling activities is necessarily reduced with alcohol consumption. A recent study for the Nova Scotia Department of Health provided support for this view: it found that people who play gaming machines while drinking tend to gamble for twice as long as those who do not drink. The Australian Hotels Association noted the Nova Scotia study but argued that there is insufficient evidence to suggest that problem gambling is more likely to occur if alcohol is involved. It said that studies should be based in Australia, as:

... there are significant differences throughout the world in public behaviour due to different cultures and environmental factors (sub. D231, p. 54).

Nevertheless, some counselling agencies and welfare groups expressed concern about the effect which alcohol can have on some people's gambling behaviour. And Nunkuwarrin Yunti of South Australia said that:

The enmeshment of alcohol and gambling opportunities under the same roof seems to be a trend far more common today than ever before. PUB/TABs are far more common than stand alone agencies in South Australia. Gaming machine licences are always linked to licensed premises, preventing the setting up of alcohol free venues. Any steps to minimise the opportunity to consume alcohol and gambling in the same venue is supported as a step to minimise associated harm (sub. 106, p. 6).

Given the evidence as to the high risks for some in the community from gambling, and that such risks can be exacerbated by alcohol, the provision of gambling in venues which serve alcohol might be thought problematic. While there are advantages to problem gamblers in reducing accessibility (chapter 8), it seems odd to limit such opportunities only to venues where drink is available.

In principle, applications for gaming licences ought to be judged against criteria based on assessment of the risk of harm, without direct reference to licensing for consumption of alcohol. This might, for example, cover such matters as venue location and layout, training of staff, harm minimisation programs and the like (some of which are already picked up in current licensing arrangements). In this way, both venues with alcohol licences and those without may be considered for gaming licences.

But much depends on the process by which such decisions are made (chapter 22). If the consequence is more outlets, that would lead to greater accessibility and therefore to greater problems. This matter (and the question of whether gaming machines might be located in other venues) is taken up in the discussion of gambling accessibility in chapter 15.

Venue type and problem gambling

Earlier chapters have indicated some of the areas in which there are significant differences in the approach of regulators to different types of gambling mode or venue. Clearly, for example, casinos are regulated to a much greater degree than clubs and hotels. But chapter 6 has shown that there is insufficient evidence to argue that casinos are a *particularly* serious source of problem gambling. In fact, with respect to gaming machines, the evidence points the other way: less problems appear to be attributable to casinos than to clubs and hotels. In large part this

reflects their small numbers, their location and role as a destination venue for many, and the small proportion of total expenditure on gaming machines that they represent.

It is a common perception among members of the public that clubs provide safer gambling environments than hotels. Many believe that clubs are more caring than other venues about their patrons (who are, in the main, members, rather than customers), and their non-commercial status means staff and management have less interest in generating profits. However, a contrary view was put by the AHHA (Vic), which said:

Professional managers are attracted to clubs. The profits from gaming are distributed via the management agreement, and the objective of ensuring community benefit can be thwarted (sub. 154, p. 11).

The perception that clubs are safer was a view reflected in the results of the Commission's own survey (chapter 15). However, that chapter also points out that such perceptions may well be ill-founded. Clubs, like other venues, have said that they generally do not actively intervene with players because of the difficulties of identifying problem gamblers, concern about giving offence, or possible potential for liability at law. Instead, they rely on passive measures such as signs and brochures.

A comparison of the proportion of gaming machine spending accounted for by problem gamblers in clubs and hotels suggests that a higher proportion is accounted for by clubs in New South Wales and by hotels in Victoria. It seems that, in a particular jurisdiction, problem gamblers dominate in the most popular form of venue in that jurisdiction. The Commission found no difference between clubs and hotels with respect to the incentive to intervene with problem gamblers.

Moreover, even if it could be shown that there was a lesser risk of harm in clubs generally, this may still not justify special treatment of clubs as a group. Individual clubs vary in many respects, including in the quality of their internal programs and their capacity to implement them effectively. The Commission has seen some that are clearly very good, others less so. The same applies to hotels. There is no completely safe environment. But gamblers will be safer in some clubs than others, and in some hotels than others (chapter 8).

A sound approach to policy is to determine what sorts of environments are not appropriate, and incorporate this into codes of conduct or regulation. This is discussed in chapter 16, which canvasses a range of matters concerning warnings for players, payout arrangements for prizes, machine design and other matters relevant to harm minimisation.

Big clubs —casinos by another name?

Some argue that there are no longer sufficient differences between casinos and the ‘super clubs’ which have emerged (in New South Wales, in particular) to justify significantly different treatment by regulators. Casinos offer a somewhat different experience to the local club or hotel, a difference which is reinforced by government fiat (and which adds value to the ‘brand name’). Both compete for discretionary income. But:

- big clubs, like casinos, provide lavish surroundings, hundreds of gaming machines in large gaming rooms and a full range of associated services such as bars, restaurants, world-class entertainment and so on;
- some clubs offer horseracing games and ‘virtual’ casino-like table games such as blackjack and roulette and at multi-terminal gaming machines;
- for many clubs, gaming revenue constitutes a higher proportion of their total income than is the case for casinos (which are all operated as hotel-casinos); and
- a few clubs in New South Wales have more gaming machines than the smaller casinos in other States (for example, only three of Australia’s 13 casinos have more gaming machines than the Penrith Panthers Club).

This perception was reinforced by some club officials, who acknowledged that they saw themselves as managing ‘casino-like’ operations.

Moreover, the distinctiveness of casinos in Australia has declined over time: some which commenced operations with only table gaming now derive a high proportion of their gaming revenues from gaming machines. While casinos account for about 6 per cent of Australia’s gaming machines, gaming machines account for a significant proportion of total casino revenue: for some, table gaming revenues dominate, but in other cases, a very high proportion of their income comes from gaming machines. This is consistent with experience in the United States, where casinos also derive a significant and increasing proportion of their profitability from gaming machines.

This adds weight to the argument for a common approach to regulation (and self-regulation), and as noted earlier, some jurisdictions and industry groups are already taking this course.

Summing up on gambling and venue type

Current venue restrictions are somewhat arbitrary. They reflect history and arrangements with particular interests, rather than strong policy rationales. In

particular, it is not clear that linking alcohol and gambling licensing is good policy. There may be merit in a broader venue-based risk assessment approach to gaming licences.

There is little evidence that clubs provide a less risky environment for gamblers than hotels with respect to harm minimisation. However, progress has been made in making some clubs and hotels safer. In the Commission's view, there are likely to be benefits in strengthening harm minimisation programs.

The difference between casinos and some larger clubs is becoming less clear, but major differences in regulatory requirements remain. And changing the rules now to allow hotels parity with clubs would greatly increase the total number and accessibility of gaming machines in most jurisdictions.

Underlying much of this discussion is the question of accessibility to gambling. That is the subject of the next chapter.

15 Regulating access

Box 15.1 Key messages

- The only justifiable policy rationale for regulating access to gambling is to limit social harms or to meet community norms. Other reasons — based on helping the ‘club’ industry or creating monopoly rents for taxation purposes — do not withstand scrutiny.
- The impact of caps on gaming machines depends on other aspects of the policy environment, such as who owns the machines and whether price controls are in place.
- Caps on gaming machine numbers are blunt instruments for reducing adverse social impacts associated with problem gambling or dealing with community concerns.
- Where the starting point is one of considerable accessibility to gaming machines — as in New South Wales and Victoria— then (binding) *state-wide* caps would not be likely to reduce problem gambling significantly, but would have adverse impacts on recreational gamblers.
- *Venue* caps can play a role in moderating the accessibility drivers of problem gambling and are preferable to state-wide caps for this purpose.
- It is likely that when gambling venues are widely dispersed throughout the community, they pose a bigger hazard for problem gambling than when they are concentrated in a few locations. This aspect of accessibility is largely ignored in current regulatory approaches.
 - Controls on where gambling venues may be located might be a better way of reducing hazards than restrictions on the *number* of gaming machines.
- An even better approach is to reduce the potential social hazards of gambling at their *source*, by re-designing aspects of gambling technologies, the environment of the venues, greater visibility of help services and stronger prevention programs (chapter 16).
- If governments do not significantly reduce the risks associated with gaming machines through effective harm minimisation strategies, there is a case for maintaining quantity restrictions where gaming machines are not yet available (as in Western Australia) or where existing venue caps are set at relatively low levels (as in Tasmania and South Australia).
- Either way, the Commission considers that uncertainties about the way in which caps may affect problem gambling, combined with community attitudes about the prevalence of gambling, suggest that any moves to lift the restrictions in place would need to proceed gradually to enable the impacts to be gauged.

15.1 Introduction

As noted in chapter 8, there are many dimensions to accessibility, but regulatory controls are focused narrowly on a mixture of:

- restricting the number of venues for casinos, often to just one or two in a state. In this area of regulation, the issue of accessibility and exclusivity overlap, in a way that does not apply to other gambling forms. Clearly a rule that establishes just one casino limits accessibility and at the same time establishes exclusivity. The issue of exclusive rights for casino operations has already been analysed in chapter 14 and is not revisited here;
- barring access to minors to all forms of gambling, and from entry to gambling areas of selected gambling venues (gaming machines and table games, but not TABs, racecourses or newsagents selling lottery tickets). This issue is taken up in chapter 16;
- restricting the opening hours of some venues, such as hotels and newsagents, which offer gambling products. However, these restrictions relate to general regulations applying to such venues, and do not take into account whether gambling is offered. The Commission notes that, perversely, retailers of many services face stringent (and probably inappropriate) shopping hour regulations, while opening hours for gambling venues, such as clubs and casinos, are typically unrestricted, despite their hazards.¹ The issue of whether opening hour restrictions should be considered for gambling venues is part of a broader question about designing a safe gambling environment — and is examined in chapter 16;
- controls on who can gamble on the internet (an issue which is considered as part of chapter 18);
- limiting gaming machines to licensed premises (which is examined in chapter 14);
- planning controls on the location of gaming machines in shopping centres;
- jurisdiction-wide caps on gaming machines; and
- caps on gaming machines per venue.

Regulations on access to *gaming machines* are reviewed in this chapter. Chapter 16 explores a number of questions about accessibility to other forms of gambling.

¹ But jurisdictions vary — for example, hotel and club gaming venues in South Australia are subject to a mandatory 6-hour break each day.

While there are many reasons that quantity restrictions may be employed — from protecting clubs to creating monopoly ‘rents’ — the Commission considers that there are only two potentially sound rationales for such 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
- to be in accordance with the social norms of communities. This raises contentious issues about how such norms would be determined and tensions between community values and individual freedom, an issue touched on in chapter 10. This chapter deals with this issue broadly, while chapter 22 explores the extent to which local communities should have a say about access.

It is also important to recognise more pragmatic aspects of caps on gaming machines. What might be the best policy prior to their introduction, may not be the best policy after widespread liberalisation has taken place. In Western Australia, where there are no genuine poker machines, the government can make decisions without considering the adjustment costs for the gambling industries. But in all other jurisdictions, even *if* it were decided that it was a mistake to have let the number of machines expand as they have, there would be significant costs to shareholders, operators and employees from any significant reduction, depending on its timing and extent.²

Community attitudes to accessibility

Concern over the social impacts of gaming machines have led to calls for restrictions on the number of machines in some jurisdictions. Very few Australians in any state or territory say that they would like to see an expansion in the number of gaming machines in their local community (table 15.1). Even in Western Australia where there are no poker machines (and no gaming machines in venues outside the casino), less than 7 per cent of people (based on the Commission’s *National Gambling Survey*) wanted an increase in machine numbers. A (small) majority of Australians wanted numbers to decrease, often by a large amount. Community attitudes to gaming machines were particularly negative in South Australia and Tasmania. For example, about 75 per cent of South Australians wanted to reduce the number of gaming machines in their local communities.

² One US state, Louisiana, held a referendum in 1996 on gambling operations already in place. Of its 64 parishes, 33 voted against video poker, which means that 45 per cent of the state’s 15 000 machines will have to be relocated or leave the state by 1999 (Sturges 1997).

Table 15.1 **Attitudes to gaming machine numbers by state, Australia, 1999**

	NSW	VIC	QLD	SA	WA	TAS	NT	ACT	All
	%	%	%	%	%	%	%	%	%
Clubs									
Large increase	0.6	0.2	0.1	0.0	1.8	0.0	1.4	0.0	0.5
Small increase	0.4	0.3	0.4	0.6	2.7	0.0	1.4	0.2	0.6
Same	51.4	52.6	55.3	43.7	59.7	47.8	53.6	51.3	52.5
Small decrease	13.9	12.5	10.4	7.0	5.7	8.2	10.4	17.5	11.4
Large decrease	26.5	26.0	24.9	43.3	17.1	37.1	24.2	23.3	26.7
Can't say	7.3	8.4	8.9	5.5	13.0	6.9	9.0	7.7	8.3
Hotels									
Large increase	0.6	0.4	0.1	0.0	1.6	0.0	1.4	0.0	0.5
Small increase	0.6	0.2	0.2	0.0	1.9	0.0	0.0	0.0	0.5
Same	42.1	43.3	53.8	26.4	60.1	39.0	56.9	50.8	45.2
Small decrease	17.2	17.6	10.6	12.5	5.6	13.2	7.2	18.7	14.4
Large decrease	31.0	31.3	25.5	57.4	17.4	42.2	25.3	22.0	31.0
Can't say	8.6	7.2	9.8	3.7	13.5	5.6	9.3	8.5	8.5
Casinos									
Large increase	0.7	0.2	0.1	0.0	1.0	0.0	0.9	0.0	0.4
Small increase	0.5	0.2	0.5	0.5	0.9	0.0	0.0	0.1	0.4
Same	64.3	63.4	66.9	64.3	69.6	71.0	72.4	62.7	65.3
Small decrease	6.1	7.5	5.7	3.5	3.4	4.4	3.7	11.1	5.9
Large decrease	16.6	18.9	15.7	22.8	13.4	19.1	14.0	12.8	17.2
Can't say	11.9	9.7	11.2	8.8	11.8	5.6	9.0	13.4	10.8
All venues									
Large increase	0.7	0.5	0.1	0.0	1.8	0.0	1.4	0.0	0.6
Small increase	1.2	0.6	0.5	0.6	4.4	0.0	1.4	0.2	1.1
Same	37.4	40.7	49.2	20.7	56.3	36.9	50.2	45.2	41.1
Small decrease	20.5	20.0	13.8	14.3	6.2	14.4	11.1	23.9	17.1
Large decrease	34.3	32.1	27.7	61.3	21.1	45.1	27.6	24.5	33.5
Can't say	5.9	6.1	8.7	3.2	10.3	3.6	8.3	6.2	6.6

Source: PC National Gambling Survey.

Australians were generally most concerned to reduce gaming machine numbers in hotels, followed by clubs and lastly casinos. Even in New South Wales, where clubs are the dominant venue for gaming machines (and are uncapped), more people wanted to cut back machine numbers in hotels than in clubs.

Of course, community attitudes by themselves are not strong grounds for caps, as people may be overly optimistic about the degree to which such measures are effective at achieving their objectives. Nevertheless, the attitudinal data point to widespread community concern about the number of gaming machines in Australia, and provide some qualitative information to decision makers about the community's weightings on costs versus benefits.

15.2 What are the impacts of state-wide gaming machine caps?

The current arrangements

Chapter 13 outlines the regulatory arrangements for the major forms of gambling in Australia, including the regulation of gaming machines. Table 15.2 summarises the situation relating to caps on gaming machine numbers in each jurisdiction in 1997-98.

Table 15.2 **Caps on gaming machines 1997-98**

	<i>Casino cap</i>	<i>Global cap on clubs and hotels</i>	<i>Cap on individual clubs</i>	<i>Cap on individual hotels</i>
New South Wales	1500	-	unlimited	30
Victoria	2500	27 500	105	105
Queensland	a	-	280	35
Western Australia	a	no gaming machines permitted		
South Australia	a	-	40	40
Tasmania	-	-	25	15
ACT	0	5 200	unlimited	13 ^{b}
Northern Territory	-	target of 680	45	6

Source: chapter 13

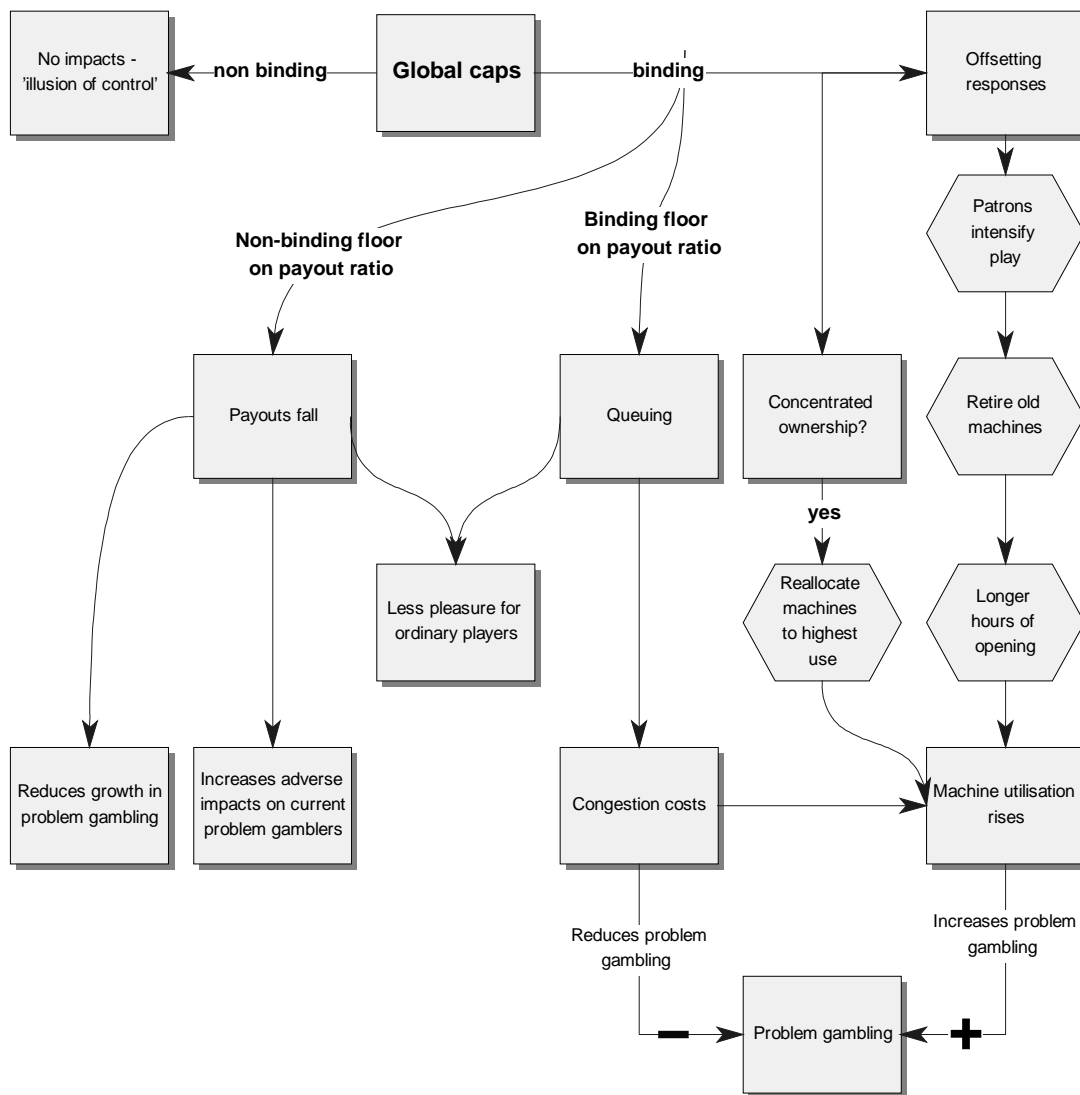
^{**a**} No formal limit, but any increase requires government approval. ^{**b**} 'Draw card' and 'draw and hold' machines only.

The impacts of such caps depend on:

- how tightly they are binding;
- other aspects of the regulatory environment (such as price controls and the extent to which the machines are centrally owned); and
- offsetting responses by consumers or venues, such as more intensive playing (figure 15.1).

The influence of these factors on the impact of state-wide caps are assessed in the following sections.

Figure 15.1 Impacts of global caps on gaming machines



Are caps binding?

Victoria has an aggregate limit currently in place, as does the ACT:

- The existing ACT cap is well above the actual number of gaming machines and so clearly is not binding.
- In Victoria, the number of gaming machines was significantly below the cap in 1996-7. It is probably just binding in 1999 (table 15.3). The extent to which the Victorian cap is binding will intensify as underlying demand rises with the growth of the population and per capita income.

Table 15.3 Are Victorian caps binding?

	<i>Required</i>	<i>Actual</i>	<i>Ratio of actual to required^a</i>
	Number	Number	%
Clubs	Maximum of 13 750	13 479	98.0
Hotels	Maximum of 13 750	13 632	99.1
Total clubs and hotels	Maximum of 27 500	27 111	98.6
Country	<i>Minimum of 5 500</i>	7 456	not relevant
Metropolitan	Maximum of 22 000	19 655	89.3

^a Quota limits are not met for any category. However, this should not be interpreted as implying that the cap does not bind, simply because venue changes, machine replacement and other factors will usually mean that actual machine numbers will be a little below the cap amount for most of the time. However, it is likely that the caps have only just started to bind because machine numbers were well below the cap amount until recently.

Source: Information provided by the VCGA. The data relate to 30 September 1999.

Offsetting responses by venues and patrons to quantity caps

The introduction of binding state-wide caps could be expected to elicit a number of responses by venues and customers.

Firstly, since machine quality varies, venues would prematurely retire less popular, less highly featured machines. This would lead to higher utilisation rates of machines, which would partly offset the intended effect of the cap.

Second, machine utilisation rates and hours of operation vary between venues. For example, the average annual turnover per machine in New South Wales clubs with less than ten machines is \$82 000, which is one seventh of that for clubs with over 300 machines (table 15.4). Similar patterns are apparent for other states.

Where decisions on the allocation of the machines is determined centrally so as to maximise revenue — as in Victoria — the introduction of a binding state cap would tend to lead to the reallocation of machines to venues with higher capacity utilisation. Both Tabcorp and Tattersall’s acknowledged that their practice of reallocating machines away from lower-performing venues is partly a commercial response to the cap on total gaming machine numbers permitted in the state.

Table 15.4 Gaming machine utilisation by venue size, 1997-98^a

New South Wales				Queensland				South Australia		
Club size category	Club TPM	Hotel size category	Hotel TPM	Club size category	Club ADT	Hotel size category	Hotel ADT	Size category	Club TPM	Hotel TPM
	\$'000		\$'000		\$		\$'000		\$'000	\$'000
1-10	82	1	32	1-20	229	1-10	331	1-10	106	130
11-20	154	2	59	21-50	393	>10	494	11-15	135	166
21-30	205	3	82	>50	721			16-20	134	192
31-40	238	4	79					21-25	277	262
41-50	261	5	83					26-30	142	240
51-60	290	6	102					31-35	190	236
61-70	325	7	96					36-40	242	403
71-80	297	8	108							
81-0	353	9	102							
91-100	376	10	174							
101-150	373	11-15	136							
151-200	427	16-20	175							
201-300	475	21-25	190							
>300	585	26-30	357							

^a TPM is turnover per machine per year, and is the best single measure of machine utilisation. Data on TPM were not available for Queensland by venue size, so average daily turnover (ADT) per gaming machine was used.

Source: NSW Gaming and Racing Department, *Gaming Analysis 1997-98*; Queensland Office of Gaming Regulation 1998, *Queensland Gaming Newsletter* 1(1); October and information from the South Australian Government.

This reallocation would tend to offset further the impact of the cap on aggregate spending, and might, by changing the nature of the venues, increase the risks of problem gambling. For example, in response to the threat of losing machines if they do not achieve sufficient revenue per machine, a venue proprietor may:

- extend the hours of opening of the venue (subject to any liquor licence restrictions); or
- be more reluctant to deter problem gamblers, who are highly profitable patrons (chapter 7).

Where the machines were owned by each venue, as in New South Wales, and machines were tradeable, in the presence of a binding cap, the same effect would also occur, but probably more gradually.

Finally, customers may make more intensive use of the limited number of gaming machines in place. For example, consumers will tend to shift to non-peak periods, so that overall utilisation rates increase. As well, consumers have a range of choices about the intensity of their gaming machine gambling (the total bet size per button push) relative to the duration of their playing. For example, a patron could sit at a

two cent machine and play one line and one credit per button push, losing only about \$1.40 an hour.³ Or the same patron could choose to use a 10 cent machine, playing 9 lines and 10 credits per button push, losing about \$650 an hour.⁴

After the introduction of a cap, waiting time or venue-imposed time limits would restrict the use of low intensity, long duration playing styles. That suggests that caps would tend to lead to a shift in customer orientation towards either greater use of lines or credits (and to a lesser extent, higher denomination machines) — so that a given percentage cut in machine numbers would lead to a less than proportionate decrease in expenditure (box 15.2).

Impacts on gamblers

Notwithstanding the partially compensating behaviours of consumers and venues, a binding cap creates scarcity of gaming machines. This would push up the cost of acquiring a machine as competing venues bid for a fixed number of machines. In turn, this creates a ‘rent’ for whoever held the rights to the scarce machines (box 15.3).

These rents would flow to the government, where it issues licences for machines and charges a licence fee.⁵ In this sense, there is a parallel between a cap and a tax on gaming machines.

But whether actual gaming machine prices can rise will depend on whether there is a binding restriction on the payout rate or not. All jurisdictions have statutory floors on the payout rates for gaming machines (chapter 13), though none of these are currently binding.

³ Based on the assumption that each button push takes about 5 seconds, so that turnover is about \$14.40 an hour. With an average rate of return of 90 per cent, this implies an *expected* spend of about \$1.40 an hour.

⁴ At each button press, the gambler is outlaying \$9, so that their turnover per hour is \$6 480 and their *expected* spending around \$650.

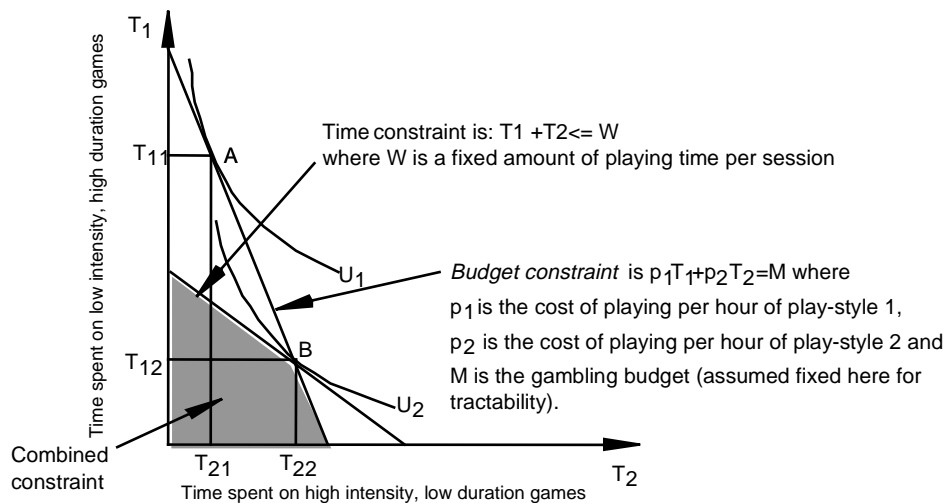
⁵ It is possible that the machine manufacturers and existing licensees might also obtain a share of the rent.

Box 15.2 How queuing may change people's style of playing

For many gamblers, playing on the machines is about purchasing entertainment time. But by varying the lines, credits or denominations of the machines, gamblers buy different types of experiences. Because modern gaming machines have such a diversity of choices for lines and credits, there is a continuum of playing styles. For example, the 2 cent Aristocrat *Dream Weaver* machine offers players a choice of up to 25 credits per line and up to 20 lines. For a fixed budget, say \$10, three strongly contrasting styles of play can be distinguished:

- *The long duration, low volatile style.* Playing on a two cent machine one line and credit at a time, will produce a very long duration game. The prospects of getting any large prize with this type of play is more remote, but many small prizes are likely. Outcomes are not very volatile, because the gambler is spreading risks over many repeated gambles over time.
- *The short duration, low volatile style.* Playing one credit per line and 20 lines per button push, will produce a much shorter duration game, but with more wins per minute than the previous style of play. Outcomes are not very volatile because the gambler is spreading risks over many lines.
- *The high volatile, short duration style.* Playing 25 credits per line and 1 line per button push also produces a much shorter duration game, but one with more volatile outcomes. In many cases, the gambler may not win at all (for a fixed budget), but if there is a win, it will be a significant amount relative to the gambler's budget.

The different playing styles can be seen as substitutes. Machine shortages create queuing, which has a number of possible impacts. First, in order to play, people have to spend time waiting. Given that people have constraints on the total amount of time they can spend gambling, this restricts the amount of time they can play. Second, a possible response by venues to queuing is some form of time rationing on machines, which would have the same effect. Consumers now faces two constraints when deciding how to allocate their budget between different styles of game — the usual budget constraint and the new time constraint. Any choice has to be within both constraints (the shaded area). The result is that time spent playing the more time consuming machine is likely to drop (from T_{11} to T_{12}), and time spent on the higher intensity machine increases (from T_{21} to T_{22}). Overall expenditure on gaming machines may not fall by much, though time spent playing has decreased (as has the recreational gambler's level of entertainment from U_1 to U_2).

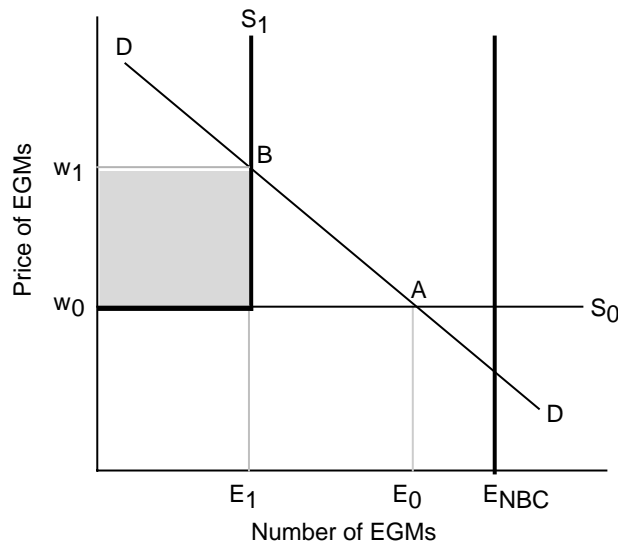


Box 15.3 What are the effects on machine prices/licence fees?

The figure below depicts the supply (S curves) and demand (D) for gaming machines. They can be used to illustrate the possible impacts of a global cap. Prior to the cap, venues purchase E_0 gaming machines to meet demand. If the cap is set at something like E_{NBC} it is *non-binding* — the existing level of machines is less than the cap, and the cap has no impact.⁶ Of course, over time demand would probably rise with income or increased population (an outward shift in the demand curve) and the cap would bind.

The impact of a *binding* cap set at E_1 is to raise the price paid for the machine, so that the owner of the selling rights (probably the government) would receive a transfer equal to the shaded area — with the price per machine rising to w_1 . The magnitude of the price increase depends on the extent to which the cap binds (the price of Victorian gaming machines appears to have risen — albeit only by 3 per cent — as the cap started to bind).⁷

If there is no binding floor to the odds on gaming machines, then the increased price of gaming machine licenses would be expected to be passed onto consumers as reduced odds (lower payout rates). Some recreational gamblers will no longer gamble as much as before, reducing the consumer surplus of gambling. If regulations on minimum odds are binding, then machine time is rationed by queuing. Machines would no longer be allocated to those people who value them most highly. Instead, there would be congestion and queuing to use machines. Abstracting from any positive effects on problem gambling, this would be more distorting than rationing by price.



⁶ In theory, it is possible in the Victorian case that the regional cap or the club/hotel quota may bind, even if the global quota does not.

⁷ Based on gaming machine numbers from the VCGA and revenue data from the Tasmanian Gaming Commission. Of course, this price rise may have reflected factors other than a gradually binding cap.

With no (binding) payout rate restrictions on gaming machines

To the extent that they are not already constrained by binding controls on the machine payout rates, gambling venues would tend to reduce the payout rates for gaming machines, reflecting the additional costs of providing gaming machines. Recreational gamblers would be adversely affected, simply because they face lower odds on playing the machines than before. Such players would cut back on time spent on the machines (or in some cases, never commence playing) and receive less pleasure from gambling than prior to the cap. The magnitude of this loss of ‘consumer surplus’ (chapter 5) would depend on how responsive such players are to increased prices.

While binding global caps would have adverse impacts on recreational gamblers (and, in the short run, on venue operators or gambling industry shareholders), that cost has to be weighed against any potential positive social benefits, such as reduced problem gambling.

If caps were quite restrictive they may reduce future problems by lowering the rate at which new problem gamblers are created. By limiting the number of machines and making them more expensive, fewer people would play, thus reducing exposure to the risk of problem gambling. For example, the Western Australian Government argued that there are a number of benefits associated with its restriction on gaming machines, including the banning of gaming machines:

... the social costs of problem gambling are reduced. Given that it appears that problem gambling is more likely to be associated with forms of gambling such as gaming machines, the restrictions assist in reducing the economic costs associated with problem gambling. Costs incurred in this sense include individuals incurring productivity losses; job change costs; legal system impacts (through gamblers turning to crime to support their problem); family and individual impacts, including divorce costs; bankruptcy costs and treatment costs (sub. 76, p. 30).

On the other hand, Victoria’s AHHA argued that the global caps in Victoria had no effect on problem gambling:

There is simply no evidence to suggest that a cap of 27,500 machines has any effect whatsoever on the incidence of problem gambling (sub. 154, p. 17).

The Association (sub. D237) and Clubs Victoria, decried the announcement by the (former) Victorian Government that it intended to ‘freeze’ gaming machine numbers across the state. (It also announced an intention to introduce regional caps.)

Any effects of the Victorian cap would likely be muted because it has only has just begun to bind. Its future effects, depending on how long it is maintained, may be more pronounced.

However, state-wide caps on gaming machines could, perversely, have adverse effects on *existing* problem gamblers. As the cap binds, player returns would be expected to slowly fall (possibly as far down as the floor to returns set by the government). As problem gamblers are likely to be less responsive to price changes than other gamblers, they would continue to play at much the same rate as before, albeit at a higher price. This implies that overall expenditure by existing problem gamblers might rise, even though machine numbers had fallen. (Or if playing to the limits of available funds, will run out sooner — putting more pressure on the need to obtain more money.)

For the same reasons, it may also lead gamblers at risk of developing problems to ‘cross the threshold’. Among such people would be those who have very inelastic demand and can just afford their gambling prior to the cap. They may experience some of the traits of a problem gambler, such as chasing losses, guilt and preoccupation, but they can just afford their current pattern of play, without major problems. The cap, by inflating prices, increases their expenditure past the point of affordability, triggering some of the more harmful aspects of problem gambling (relationship problems, possible crime, intensification of anxiety and so on).

Thus, whether caps are in the public interest depends on the trade-off between:

- the relative magnitudes of additional burdens placed on incipient and current problem gamblers and pleasure forgone by recreational gamblers; and
- the magnitude of the costs avoided by reducing the number of new problem gamblers.

The effectiveness of state-wide caps in controlling problem gambling would, in part, depend on the starting point in the community which is contemplating caps. Where the starting point is one of considerable accessibility to gaming machines — as in New South Wales and Victoria — then the current number of problem gamblers is already high relative to the future possible reduction of problem gamblers that could be achieved by any realistic cap. In this case, (binding) caps would not be likely to reduce problem gambling (but would have adverse impacts on recreational gamblers).

At the draft report hearing, Victoria’s AHHA argued:

... there is no evidence which shows a correlation between problem gambling and machine numbers once the numbers are such as to give a substantial cover throughout the state ... there is no correlation between a reasonable number of machines and more machines ... [it] does not solve problem gambling and does nothing to implement harm minimisation strategies (sub. D237, pp. 2–3).

Wesley Gambling Counselling Services argued that capping gaming machine numbers in New South Wales now would be ineffective in reducing problem gambling, because of the large number of gaming machines already available for up to 24 hours in numerous locations:

... there can be no suggestion that placing a cap on the number of poker machines will be of any assistance in controlling problem gambling. Such a cap would only inhibit access to machines at times of peak demand ... Instead it will be necessary to develop more sophisticated strategies to protect consumers and minimise the incidence of problem gambling (submission to IPART inquiry, August 1988, pp. 8-10, cited in IPART report).

However, where the starting point is one of low accessibility to gaming machines — as in Western Australia — then caps *may* provide significant benefits from reducing problem gambling.

With binding payout rate restrictions on gaming machines

As noted earlier, current payout rate restrictions are not binding. However, these price controls would bind if machine caps were significantly below levels determined by an open market. In this case, the payout rates would not be affected by the cap on gaming machines. Machines would no longer be allocated to those people who value them most highly. Instead, there would be congestion and queuing to use machines.

For example, there might be social (and possibly venue) pressure on individuals to use the machines for less time (to give others a ‘fair’ go).⁸ Customer congestion also implies that those who were patient and who valued their time less than others — for example, retirees — would be more likely to gain access to the machines. Problem gamblers are over-represented among the young and employed (chapter 6), which suggests that they would be under-represented in the group of people who are willing to wait.

Accordingly, machine caps combined with price caps, would be likely to reduce expenditure by current problem gamblers⁹, and by rationing use among others may

⁸ The Commission was told, for example, of fights breaking out between tourists over the use of the few machines in a remote hotel in the Northern Territory!

⁹ One rational response that might moderate this effect is if problem gamblers were to play on less occasions but for longer durations. On the other hand, problem gamblers report being uncomfortable with other people watching them play and prefer anonymous uncrowded facilities. Caps, by increasing crowding, would tend to increase the discomfort of problem gamblers and reduce their incentive for playing (Focal Research 1998, p. 60).

also reduce the future incidence of problem gambling. Against this, such caps would reduce the pleasure of playing for recreational gamblers.

As noted previously, a quantity cap, *without* a sufficiently high floor to player returns, somewhat resembles a tax on gaming machines (with similar regressive outcomes to those described in chapter 19). In contrast, if a binding payout restriction exists, then venues would be unwilling to spend much more on licenses for machines than they did prior to the quantity cap, since they cannot recover the additional costs from customers. Thus a combined payout and quantity cap would not earn governments as much license revenue — the revenue being transferred to consumers, avoiding any implicit regressive tax.

In conclusion, *combined* payout and quantity caps probably generate better outcomes with respect to problem gambling than caps on gaming machines with freely adjustable player returns. This is not the usual result. Quantity constraints with freely adjustable prices are usually more efficient because people with the highest use-value are allocated the scarce goods. However, in the gambling case, this is not a desirable end, because those with the highest use value are often problem gamblers. But no state-wide caps may be better still.

Industry development effects

It also argued that some capping regimes — such as Victoria’s — inhibit the development of the club and hotel industry. Victoria’s AHHA said:

If more venues could access the gaming market, then more venues would be up-grading facilities, refurbishing, employing more staff, making money ... More venues would present as viable, safe hospitality outlets which are the quintessential tourist attraction.

The present system of operator control and the cap encourages the concentration of machines into as few venues as possible, and as few multi-venue operators as possible. This is a simple matter of economies of scale. Large strategically placed venues can best exploit the restricted resource. Free bus trips are already in use to convey patrons to remote venues ... in Victoria only 253 out of 1800 general licensees have machines. Amongst those venues that do not have access to gaming, probably some 90 per cent would welcome the opportunity to install some machines (sub. 154, p. 16).

However, clubs or hotels are the conduits for services to people, not economic ends in themselves. Maintaining or removing the cap should be based on its overall impact on the community, which primarily involves balancing the opposing impacts of caps on recreational and problem gamblers.

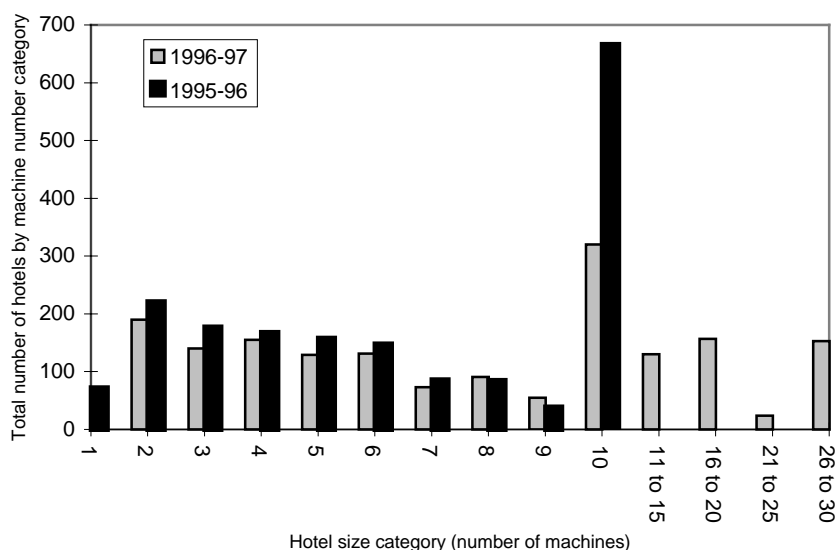
15.3 What are the impacts of *venue caps* on gaming machines?

Venue caps are a much more commonly employed form of rationing and are binding for some venues in most jurisdictions. Caps vary by the nature of the venue, with typically far more generous provision for clubs than hotels (table 15.2).

In any given region, if venue caps are binding on many venues *and* if the number of potential venues are limited (for example, by licensing and planning provisions), then this obviously restricts the number of gaming machines in that region. To some extent, any shortfall of machines in these areas would lead to greater demand (and supply) of machines by neighbouring unconstrained areas. But these substitution effects will be constrained by travel (and time) cost for consumers.

The relaxation in 1996-97 of the cap applying to hotels in New South Wales from 10 machines to 30 provides some evidence about the impact of venue caps. Many hotels were bunched at the point of the cap suggesting that the venue cap was strongly binding (figure 15.2).

Figure 15.2 **Distribution of hotels by hotel gambling size, NSW, 1995–1997**



Data source: NSW Gaming and Racing Department, *Gaming Analysis 1996-97*, March 1998.

Indeed, of the 1808 hotels operating gaming machines in 1996-97, 464 had more than 10 machines, suggesting that the venue cap affected about 25 per cent of hotels. Relaxation of the cap had a dramatic effect on the total number of machines in hotels (increasing from 11 688 to 17 675 — a 51 per cent increase). Venue caps,

therefore, can have a very marked impact on the total number of machines, although these data relate only to the hotel sub-market.

National data also suggest a similar pattern. The number of machines per capita is highest in New South Wales and the ACT, where there are no binding global caps¹⁰ and clubs — the major gaming machine providers — are not bound by venue caps either (table 15.5). In all other states, there are either venue caps for all providers or a global cap, and considerably lower numbers of gaming machines per person.¹¹

It is therefore possible that venue caps can effectively act to limit the total number of machines in a state.

Table 15.5 Gaming machines around Australia

	<i>Gaming machines outside casinos 1999</i>	<i>Adults June 1998</i>	<i>No of gaming machines per 1000 people</i>	<i>Real expenditure on gaming machines (outside casinos) 1997-98</i>	<i>Expenditure per machine</i>
	<i>No.</i>	<i>'000</i>	<i>No.</i>	<i>\$m</i>	<i>\$</i>
NSW	98 172	4 762	20.6	2 989	30 447
VIC	27 111	3 520	7.7	1 711	63 111
QLD	29 256	2 557	11.4	601	25 334
WA	Gaming machines not permitted outside of the casino				
SA	12 149	1 131	10.7	395	32 513
TAS	1 393	348	3.9	24	17 765
ACT	5 013	229	21.9	127	25 334
NT	644	131	4.9	20	31 056

Source: Data on gaming machines is from chapter 13, the adult population from Econdata and the spending data from the Tasmanian Gaming Commission.

But in doing so, venue caps are likely to produce some inefficiencies and offsetting responses. To the extent that a venue located in a high demand area is unable to meet that demand because of a cap, then either:

- that gambling provider may try to raise the price of gambling (reduce the odds), a cost which would be borne by consumers. However, as noted before, they will be somewhat constrained by the statutory maximum price on gaming machines. Moreover, unlike most products, where the price is a feature quite separate from the good, the price of playing on a gaming machine is a machine design feature, generated by the frequency of icons on the separate virtual reels in the machine.

¹⁰ The ACT has an aggregate cap, but it is not binding.

¹¹ On the other hand, this may also reflect the fact that gaming machines have been liberalised for longer in New South Wales and the Australian Capital Territory than in other jurisdictions.

Thus a gambling venue can only choose from a small suite of prices.¹² This suggests that while individual venues have some scope to increase prices to cope with excess demand they cannot fine tune prices to achieve that end; or

- gaming machine consumers have to bear queuing costs, additional travel and time costs to alternative venues; if such costs are high enough, they will forgo playing.

For example, Star City said that at times of peak attendance within casinos, limits on the number of gaming machines (and gaming tables) restricted the choices available to gamblers:

[the] inevitable consequence is queuing, customer frustration and unsatisfied demand, especially at those times ... when the working population seek to play (sub. 33).

ACIL said that both Star City and Crown:

... report that consumer demand for EGMs is much higher than the limit the regulations impose. In the US industry, where such restrictions do not exist, the ratio of EGMs to table games is thus consumer driven and is much higher, at about 25 EGMs to every table game (sub. 155, p. 151).

Of course, casinos offer a different atmosphere from most other gambling venues, so that ready substitutes are not available. For clubs and hotels, the degree of substitutability will depend on the patterns of use of the gamblers concerned. If the prime motivation of the patron is gaming machine gambling, then many clubs and hotels offer similar gambling environments, and even with venue caps, there are other venues typically within easy reach. These 'footloose' gamblers can avoid congestion by shifting to less used venues. However, substitution possibilities for those gamblers who visit a venue for its particular ambience or for its other functions are much more limited, and these gamblers will bear the residual congestion costs.

The consequence of caps is that any venue in which the cap binds will tend to have higher machine utilisation rates than venues where the cap does not bind. For example, hotels in Victoria tend to be more attractive to gaming machine players than clubs, but the total number of gaming machines must be shared equally between clubs and hotels (each limited to 105 gaming machines). As a result, gaming machines in hotels are more intensely used, generating about 50 per cent more turnover than those in clubs. Where the state-wide cap for hotel machines has been reached, one outcome has been a tendency for some hotels to be converted to clubs in order to offer gaming machines.

¹² For example, venues using the Aristocrat Diamond Touch gaming machine choose between player returns of 87.79, 90.03 or 92.12 per cent, depending on the reel configuration.

Other than generating queuing and/or price rises in some venues — to the detriment of consumers — venue caps may also lower productivity. Some venues are more efficient and entrepreneurial than others, and are able to provide gambling services at lower costs than others, yet can only do so up to the threshold determined by the venue cap.

There may also be economies of scale in the provision of gambling services, which are forgone above the cap limit.¹³ Certainly, there is some evidence that player returns are higher in larger venues, though this is disputed (chapter 21).¹⁴ This translates to significant annual savings in expenditure for heavy gamblers.

The social impacts of venue caps

Clearly venue caps have adverse impacts on recreational gamblers and on the efficiency of venues. To be justified, these adverse impacts would need to be offset by social gains.

Venue caps received little endorsement from participants in the inquiry. For example, the Club Managers Association and the Leagues Club Association (of New South Wales) argued against venue caps. They said that venue caps would not have any impact on problem gambling:

Problem gambling can occur at a venue operating 1,000 gaming machines or at a venue operating 5 gaming machines ... There is no statistical evidence that the incidence of problem gambling is higher in NSW than in other States, despite varying numbers of gaming machines per capita. Calls by other groups for the capping of poker machines in clubs is often motivated by their commercial interests or religious beliefs and not based on proven research (sub. 41).

Notwithstanding this scepticism about the benefits of venue caps, the Commission considered the two major ways in which such caps could have social impacts:

- the average size of venues is clearly smaller under venue caps, which may reduce risk factors and better accord with social norms; and

¹³ For example, construction costs per square metre of floor area tend to decline the bigger the overall area. Thus, the costs of building space per gaming machine should be lower in venues with more machines. As well, a larger venue can support less popular machines that would not have sufficient patronage in a smaller venue. Larger venues, can by their location and advertising, probably also increase machine utilisation rates.

¹⁴ The presumption being that the price variations within the club or hotel sector primarily reflect differing cost conditions. If anything, the price variations might understate the economies available for clubs from scale because the tax regime favours small clubs substantially.

-
- caps bind on some venues — producing congestion or price increases — with potentially positive or negative effects on problem gamblers respectively (as in the previous discussion of state-wide caps).

Do smaller venues mean smaller risks of problem gambling?

As the primary effect of a venue cap is to reduce the average size of gambling venues, the underlying hypothesis is that smaller gambling venues may present smaller hazards for problem gambling than larger venues. This could arise in a number of ways.

Marginalisation of gambling?

A venue with a small number of machines would (if they also had a wider range of non-gambling activities) place gambling in a different, more marginal context, which may discourage extended play. In contrast, where a venue is dominated by a large number of machines, the signal is that it is the norm to gamble without participating in other social or entertainment activities. This may have some slight impacts on the number of new problem gamblers, by subtly altering people's perceptions of what constitutes socially acceptable behaviour. But it is unlikely to be either a strong effect, or to ameliorate problems for existing problem gamblers. Furthermore:

- since many caps are set at high levels, they will not have the effect of marginalising gaming machine playing.¹⁵ Of course, more severe caps could be introduced — but these would impose substantial transitional costs on existing venues unless they were phased in slowly;
- the number of venues offering gambling is another dimension of normalisation, and this number would tend to be higher in the presence of venue caps.

Are small venues less anonymous?

Problem gamblers may desire a degree of anonymity while playing — which may affect their preferences for differently sized venues. There is evidence that problem gamblers tend to feel uncomfortable with people watching them play (Focal Research 1998, p. 3.60), and to choose playing times which are less congested (p. 3.48). Whether these behavioural patterns would make a problem gambler prefer a small or large venue is hard to say:

¹⁵ South Australia, with a maximum cap of 40, and Tasmania with a maximum cap of 25 machines, are exceptions.

- a person playing one machine in a bank of five placed near the bar of a hotel, would be conspicuous to non-gamblers in that venue. However, in some cases the machines are required to be housed in a separate room, thus *increasing* the anonymity, despite the small size of the venue;
- problem gamblers can always travel to venues outside their own communities, where the probability of being seen by someone they know is remote;¹⁶and
- while gamblers may feel more anonymous in large venues, there is a lot of movement through the banks of gaming machines at these venues, including by venue staff, which means that problem players may have many people viewing their playing, to their discomfort.

In any case, the empirical evidence suggests that while problem gamblers may conceal the extent of their gambling from their family, they nevertheless typically choose a venue close to their home. For example, the Nova Scotia survey of gaming machine players found that problem gamblers had more regular locations close to home. They speculated:

Having a regular location makes it easier to play longer, as a player will more likely feel comfortable in their regular/familiar place. They are familiar with the staff, the staff know them and their habits, they know the other players, and the location is conveniently close to home (Focal Research 1998, p. 3.31)

Victorian survey data analysed by the Commission also found that problem gamblers tended to play at nearby locations where seemingly the odds of being recognised are greater (table 15.6).

Table 15.6 How far do problem gamblers travel to play?

<i>Player category</i>	<i>Distance travelled to venue to use gaming machines on last occasion played</i>					
	<i><5</i>	<i>5 to 10</i>	<i>10 to 15</i>	<i>15 to 20</i>	<i>Over 20</i>	<i>Total</i>
	%	%	%	%	%	%
Recreational gamblers	60	17	7	4	12	100
Problem gamblers	71	13	0	8	8	100

Source: Data from Market Solutions and Dickerson (1997).

The attraction of anonymity to problem gamblers may therefore be overstated and its policy relevance modest. Even if it were established that problem gamblers preferred larger venues because of their anonymity or some other factor, it would

¹⁶ The Nova Scotia survey of VLT players found that problem gamblers were willing to shift locations, and were much more likely to play at more than one location in a given day. Thus 44 per cent of problem gamblers went to more than one location compared with 19 per cent of other regular players (Focal Research 1998, p. 3.49).

have to be demonstrated that this preference was so significant that in the absence of big venues, problem gamblers would change their behaviour. That appears unlikely.

In fact, there is some evidence that problem gamblers do *not* have a marked preference for large venues. For example, the share of problem gamblers among people who gamble on gaming machines at casinos is about the same as that for people who gamble at clubs or hotels (table 15.7), and there is a roughly equal chance that a problem gambler will be encountered playing the machines at a casino as at a club.

Table 15.7 **Problem gambling on gaming machines by venue type, Australia, 1999^a**

	<i>Clubs</i>	<i>Hotels</i>	<i>Casinos</i>
	%	%	%
Share of gaming machine patrons who are:			
problem gamblers (SOGS \geq 5)	5.1	6.4	6.4
severe problem gamblers (SOGS \geq 10)	0.8	1.3	1.1
Probability^b of encountering a gaming machine patron who is:			
a problem gambler (SOGS \geq 5)	30.8	23.7	23.8
a severe problem gambler (SOGS \geq 10)	12.6	9.0	12.5

^a Problem gamblers may have their prime problem originating from a gambling mode other than gaming machines. It is assumed that all non-regular gaming machine players are not problem gamblers.

^b This probability is calculated by dividing the total amount of hours spent by problem gamblers playing on gaming machines in a venue by total hours spent by all gaming machine players in that venue.

Source: PC National Gambling Survey.

Could problem gamblers be more easily identified in small venues?

The few staff in a venue with a small number of machines are more likely to know their regulars, and in principle may be better able to identify problem gamblers. However,

- the extent to which staff at small venues acts on this information is not clear. No venue or organisation representing venues, suggested that their staff would approach suspected problem gamblers in order to help them, so unless this were to change a better ability to identify problem gamblers is superfluous; and
- staff in venues with many machines, such as casinos or the large clubs participating in the Betsafe program in New South Wales, receive considerable training to make them better able to assist a problem gambler who asks for help. Smaller venues will generally be unable to match these efforts, as the costs will loom larger for them.

Are losses per person lower in smaller venues?

Prices tend to be higher in smaller venues, which for a *given* amount of machine turnover implies greater losses. However, there is evidence that player losses are lower per adult in areas where a fixed number of machines are distributed among many smaller venues, rather than concentrated in a fewer bigger ones (box 15.4). This would tend to reduce the adverse social impacts of a given number of machines.

Box 15.4 Regional differences in player losses per adult

In order to look at the impacts that venue and machine numbers have on machine gaming revenue, the Commission analysed Queensland data for 1998 on player losses per adult across 30 regions. Expressed technically, it was found that:

$$\log(\text{LOSS}) = -1.38 + 1.518 \log(\text{MACHINES}) - 0.369 \log(\text{CLUBS}) - 0.112 \log(\text{HOTELS})$$

(5.4) (27.4) (6.0) (2.4)

where the figures in parentheses are White's heteroscedasticity corrected t-statistics, $R^2 = 0.939$, $N=30$, $SE= 0.112$,

LOSS stands for player losses per adult in each area; MACHINES is the number of gaming machines per 10 000 adults; CLUBS is the number of club venues with gaming machines per 10 000 adults; and HOTELS is the number of hotels with gaming machines per 10 000 adults.

Findings

The model explains most of the regional variation in losses per adult. The negative coefficient on venue numbers is not the result of correlation between machine numbers and venues — venue numbers explain only 22 per cent of the variation in machine numbers per adult between regions. Adding venue numbers to the model provides significant additional explanatory power to the model.

The model suggests that holding the number of venues constant, a proportionate increase in machine numbers (ie an increase in the average size of venues) tends to increase player losses per adult by an even greater proportionate amount — a 10 per cent increase in the average size of venues increases player losses by about 15 per cent. On the other hand, an increase in the number of venues for a fixed number of machines (ie a reduction in the size of the average venue) decreases player losses per capita. This effect is more pronounced in the Queensland context for clubs than hotels.

The model suggests that an increase in venue numbers, by itself, need not raise player losses per adult in an area. However, the model should not be used to predict the outcomes of a policy induced change in the distribution of firm sizes because it is probable that some unobserved demand conditions (which then determine venue and machine numbers) are the key factors underlying losses per adult.

On the other hand, it cannot be assumed that *forcing* the average size of venues down through regulation would actually reduce player losses per capita by anything like the amount predicted by the model in box 15.4. That is because it is likely that areas that have bigger venues have different demand characteristics to areas with a smaller average venues. It may be that these different demand characteristics, rather

than their different venue types, are the essential determinant of different levels of player loss.¹⁷

Are the technologies and gambling environments different in small venues?

Another factor which may make smaller venues less hazardous for problem gambling is that their small scale alters the gambling environment. For example, their smaller scale will make it less economic to install gaming machines, to offer a large variety of machines, or to run large scale gambling promotions.¹⁸ However, these factors provide a poor justification for a venue cap per se. If they constitute significant environmental risk factors then they should be addressed directly.

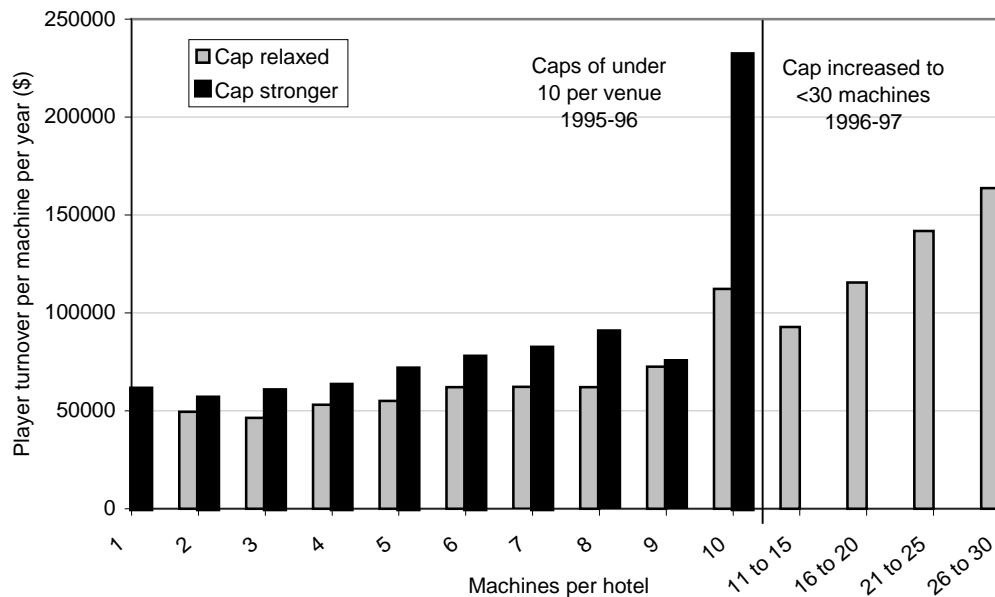
Other scale effects may also have social effects:

- Possibly reflecting higher unit costs, gaming machine payout rates in smaller venues appear to be lower than in larger ones (chapter 21). As argued throughout this chapter, lower payout rates are probably harmful for existing and incipient problem gamblers, but may be beneficial in marginally reducing the long run incidence of problem gambling by reducing exposure; and
- Machine utilisation rates are much lower in smaller venues than larger ones (figure 15.3). For example, in 1997-8, New South Wales hotels with 26 to 30 machines had a turnover per machine eleven times bigger than hotels with just one machine. From this, it might *seem* that tighter venue caps, by forcing venues to be smaller, would lower utilisation rates and make the gambling environment less risky. But this ignores the likely response by those venues that would be constrained by a tighter cap. While there is no information on what might happen to machine utilisation rates if venue caps were to be tightened, there is evidence of what has happened as a cap has been lifted. It appears that machine utilisation rates are very high in those venues that have machines installed up to the point of the cap, and that rates drop off if these venues are allowed to install new machines. Overall, the average turnover per machine in the more extreme capping regime is nearly 40 per cent higher than that in the more relaxed capping regime. As a result, while there were 34 per cent less machines under the more stringent cap on hotels, aggregate gaming machine turnover was only 2.5 per cent less.

¹⁷ Some evidence for New South Wales, where venue caps on hotels have been relaxed, suggests that this is the case.

¹⁸ Though joint advertising could overcome this scale effect — as in franchised businesses.

Figure 15.3 **Turnover per machine per year, gaming devices in hotels**
NSW 1995-96 (low caps) and 1996-97 (higher caps)^a



^a One factor that may partly confound results here is that hotels have a large number of 'approved amusement devices' as well as the more recently introduced gaming machines, and that the distribution of these two types of machines by the size of the venue will have changed as the cap was relaxed.

Data source: NSW Department of Gaming and Racing, *NSW Gaming Analysis 1996-97*.

Community acceptability?

Finally, a sixth possible argument for venue caps rests on community expectations about the nature of the gambling environment that they find acceptable. Where venue caps have been set at lower thresholds, such as Tasmania (25) and South Australia (40) they may act:

- to prevent the development of large casino-like gambling establishments in the suburbs; and
- as brakes on the pace of change in gambling — a goal which communities have clearly expressed (table 15.1) — because venue caps can limit aggregate machine numbers.

Effectively venue caps may act to institutionalise gradualism, while providing for differences in community attitudes to gambling. Where a community wished to have a rapid (slow) expansion of gambling opportunities in their area, they can adopt more (less) liberal licensing requirements for new venues. And by gradually increasing (decreasing) cap thresholds, communities can loosen (tighten) the degree of control they exercise over the gambling environment.

Whether in fact such de facto controls on venue numbers have desirable social outcomes is contested. For example, Victoria's AHHA suggested that restrictions on venue numbers, however exercised, would prove ineffective in controlling problem gambling, citing the case of alcohol:

The evidence in respect of alcohol contradicts the proposition that increasing numbers of outlets results in an increase in problematic use of the product. In Victoria over the period to 1987 to 1997 the number of liquor licences in Victoria increased from 5212 to 8240. Over the same period the consumption of alcohol in Victoria decreased by approximately 13%. There has not been any significant increase in the short or long term ill-effects of alcohol over this period of expansion in outlet numbers (sub. 154, p. 17).

It should be recognised, however, that the alcohol and gambling markets are quite different. Alcohol is a mature product with a relatively stable market. Consumption changes are more likely to be influenced by such things as lifestyle changes, health concerns and the introduction of random breath testing, than by changes in an already extensive accessibility.

In some jurisdictions, caps are set at high thresholds. Limiting a single venue to 270 (Queensland) or 105 (Victoria) machines still results in large gambling establishments, and provides little real control over the nature of the gambling environment that communities face.

Thus, while venue caps may meet *some* community expectations for control over their local gambling environments, they do so in only a few jurisdictions. Even when cap thresholds are low, venue caps provide weak controls over either the community impacts of gambling or problem gambling hazards.

The overall verdict

Accordingly, arguments for small venues on the basis of avoiding normalisation, anonymity, better identification of problem gamblers and incidental risk factors appear to be weak. On the other hand, in jurisdictions where they are still set at relatively low levels, venue caps can meet some community expectations about controlling the rapidly changing gambling environment.

Against this, there are some arguments which suggest that *larger* venues can exert improved control over problem gambling. Large venues may be able to spread the fixed costs of a large scale harm minimisation program across their many customers. For example the Betsafe harm minimisation program in New South Wales involved about \$1 million to develop a coherent program of protocols and staff training among large clubs, which would be more difficult to manage with small venues. As

well, there are economies of scale associated with monitoring larger venues for compliance with statutory or voluntary codes of conduct.

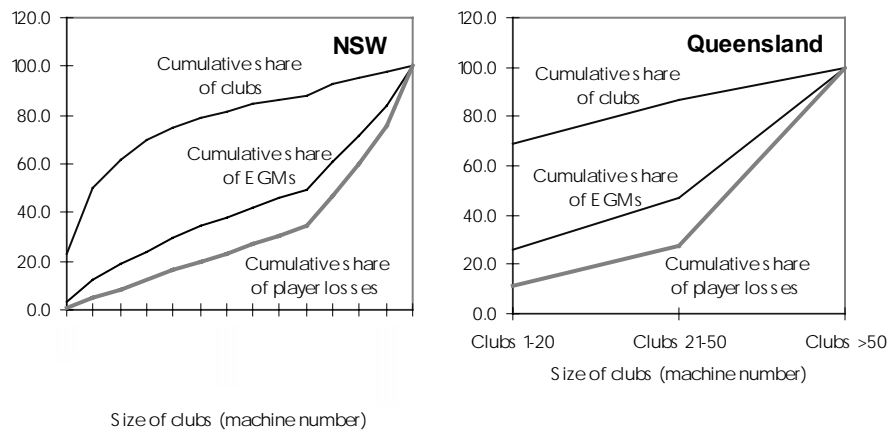
Do binding caps on some venues have worthwhile social impacts?

For those venues where the cap is binding the story is similar to that of global caps described in section 15.2. Any cap-induced price increases probably have adverse impacts on problem gambling, while cap-induced queuing probably has some modest benefits. However, there are number of important twists to the story.

First, binding venue caps are fickle control mechanisms for problem gambling. At best, they may work for those problem gamblers who frequent busy venues where the cap binds, but they miss all those who go to smaller venues. Smaller venues can still comprise a significant share of overall expenditure and, therefore, probably, of problem gamblers. For example, in Queensland, clubs with less than 50 machines account for 86.7 per cent of clubs with gaming machines, 46.7 per cent of the machines and 27.5 per cent of player losses (figure 15.4).

Second, to the extent that problem gamblers are in the ‘footloose’ group described above, then they may avoid the congestion (which might have moderated their gambling) of busy venues where the caps bind. However, the smaller venues to which they migrate will tend to have higher prices (if economies of scale are important), exacerbating their problems. Given that problem gamblers tend to gamble in more than one venue (Focal Research 1998), to go to a venue to gamble rather than for other reasons and to choose uncongested periods to play, it seems likely that they will be footloose, rather than habituated to a single gambling venue.

Figure 15.4 Concentration of activity in bigger venues, 1997-98



Data source: NSW Department of Gaming and Racing 1999, *New South Wales Gaming Analysis 1997-98*, February; and Queensland Office of Gaming Regulation 1998, *Queensland Gaming Newsletter*, 1(1), March.

15.4 Other access approaches

Regional gaming machine quotas

In the Northern Territory¹⁹ and Victoria²⁰, a form of regional rationing is employed.

In Victoria, this requirement appears to be driven by a desire to increase access by non-metropolitan people to gaming machines. In the absence of regional caps, it was thought that the operation of the duopoly and the global caps would reduce the incentive to place gaming machines in some country venues if metropolitan areas generated higher profits per machine. Victoria's AHHA noted that:

It was anticipated that, without this rule, nearly all machines would be placed in the city and suburbs. Machines in metropolitan Melbourne [generate higher net machine revenue] than machines in country venues (sub. 154, p. 10).

In fact, the cap on metropolitan gaming machines does not appear to be binding (being about 10 per cent below the threshold). Demand for machines in country areas exceeds the minimum by 37 per cent (table 15.3).

Some participants argued for other types of regional caps on the grounds that gaming machines tend to be located in poorer areas and that this leads to a disproportionate concentration of social problems in some areas. For example, the Interchurch Gambling Taskforce said that, because of the regressive effects of the current high levels of gaming machines in lower socioeconomic areas of Melbourne and Victoria:

... any expansion [in machine numbers] should be subject to regional caps. These caps should specify which areas have reached what a community regards as its saturation point. Guidelines as to the appropriate saturation point could profitably be discussed in a community consultation (sub. 55, p. 4).

At this micro level, regional caps amount to constraints on the location of venues with gaming machines. Since convenience of access does appear to be an important aspect in the choice of a venue for problem gamblers (Focal Research 1998 and chapter 8), limiting the average proximity of venues might reduce the prevalence of problem gambling. It would be important, however, to ensure that the scarcity of

¹⁹ A target of 500 gaming machines is 'earmarked' for the north of the Territory and 160 for the south.

²⁰ In Victoria, at least 20 per cent of gaming machines are to be located outside of the Melbourne statistical division. However, the Victorian Government has said that it intends to introduce regional caps on gaming machine numbers.

machines in a high demand poor area did not result in higher prices — or the arrangements might be akin to an additional tax burden on the poor.

While local rationing might have some beneficial impacts on problem gambling, it would also impose costs on recreational gamblers through congestion or greater travel time and costs to venues.

Destination venues?

An alternative way of controlling access is to have a few large venues as destination gambling sites. Access to casino table games is controlled in this way, as most states have a single venue where these games can be played. Isolating access to a few venues is an extreme form of licensing restriction, but it need not require any cap on machine numbers. By cutting the visibility and easy accessibility of gaming machines, it would be likely to reduce the incidence of problem gambling more effectively than state-wide or venue-based caps. It might also have relatively small adverse impacts on the pleasure of recreational gamblers:

- they would, on average, have to travel further to go to a gambling venue, and there might be some congestion costs associated with a few very busy sites. These costs would reduce demand.
- on the other hand, just as with cream buns, cups of coffee, or other consumption goods, the pleasure obtained from consumption falls as more is consumed. So while consumers may gamble less, the gambling they give up may be regarded as ‘marginal’ in value. The implication is that if the demand for gambling fell by 30 per cent, considerably less than 30 per cent of the consumer benefits of gambling would be lost.

Access restrictions of this kind also raises questions about its impact on competition. Competition may still be effective with a limited number of providers, or it may be necessary to have price controls to ensure consumers do not face higher prices.

There is, however, one substantial practical hurdle to the implementation of destination gambling for gaming machines — all jurisdictions bar Western Australia have liberalised access of the machines to many thousands of venues. Winding back that accessibility would involve large transitional costs, and any changes would have to be phased in over a very long period. Nevertheless, the concept might have application in Western Australia were they to allow the introduction of ‘genuine’ gaming machines.

15.5 Would other measures perform better?

Quantity constraints on gaming machines appear either to face implementation problems or lack effectiveness as measures for ameliorating problem gambling, and may sometimes intensify problems for current problem gamblers. They do, however, provide a control on the unchecked expansion of gaming machines.

In many ways, restrictions on machine numbers are akin to placing restrictions on the number of cars on the road because of safety concerns. This is not the approach taken for cars. Instead, governments have improved car safety through a range of measures, each of which could have a parallel for gaming machines:

- introducing *design measures* to lower hazards (such as safety belts in cars);
- increasing *awareness of safety issues* (which in turn has encouraged manufacturers to sell safety features as attractive elements of their products);
- improving the *safety of the environment* in which the machines are operated (better roads, signs, clearer traffic rules, prohibition of certain hazardous behaviours, like drink driving);
- *educating consumers* so that they are more likely to make sensible decisions; and
- *improving the care facilities* for those affected by an accident.

Some possible preventative and harm minimisation measures for problem gambling are discussed in chapter 16. If governments put them in place, gaming machine caps would probably be superfluous.

On the other hand, if governments do not significantly reduce the risks associated with gaming machines through effective harm minimisation strategies, there is a case for maintaining quantity restrictions where gaming machines are not yet available (as in Western Australia) or where existing venue caps are set at relatively low levels (as in Tasmania and South Australia).

And if governments maintain state-wide caps in jurisdictions in which accessibility to gaming machines is already very high, then player returns will tend to fall as demand rises for the limited machines in place. Such binding caps would need to be accompanied by a higher floor on player returns than is currently in place to limit the adverse impacts on problem gamblers.

Either way, the Commission considers that uncertainties about the way in which caps may affect problem gambling, combined with community attitudes about the prevalence of gambling, suggest that any moves to lift or tighten the restrictions in place should proceed gradually, so that their social and economic impacts can be gauged.

16 Consumer protection

Box 16.1 Key messages

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

16.1 Introduction

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

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

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

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

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

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

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

Criteria for assessing consumer protection measures

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

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

Figure 16.1 The targets of gambling harm minimisation and prevention

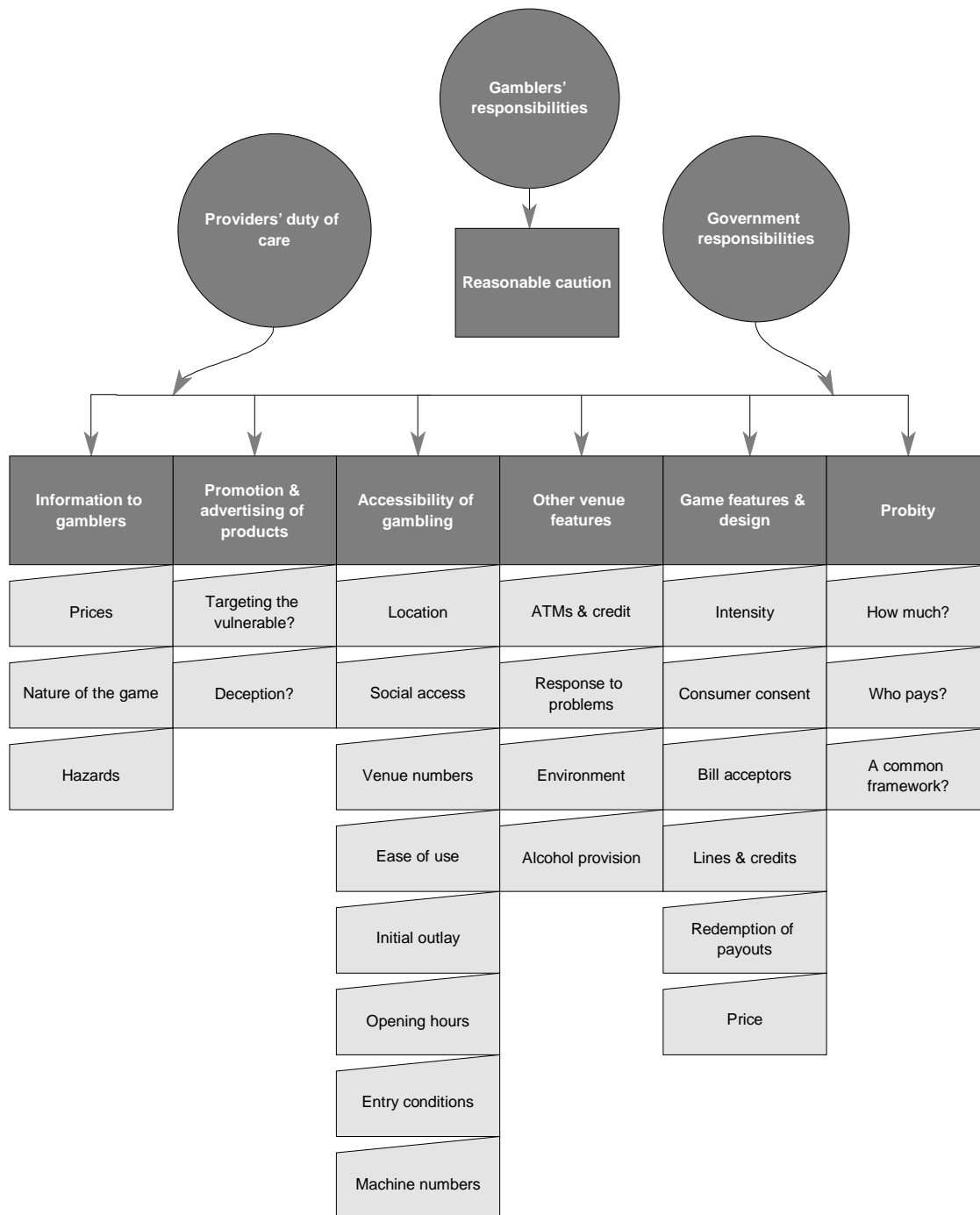
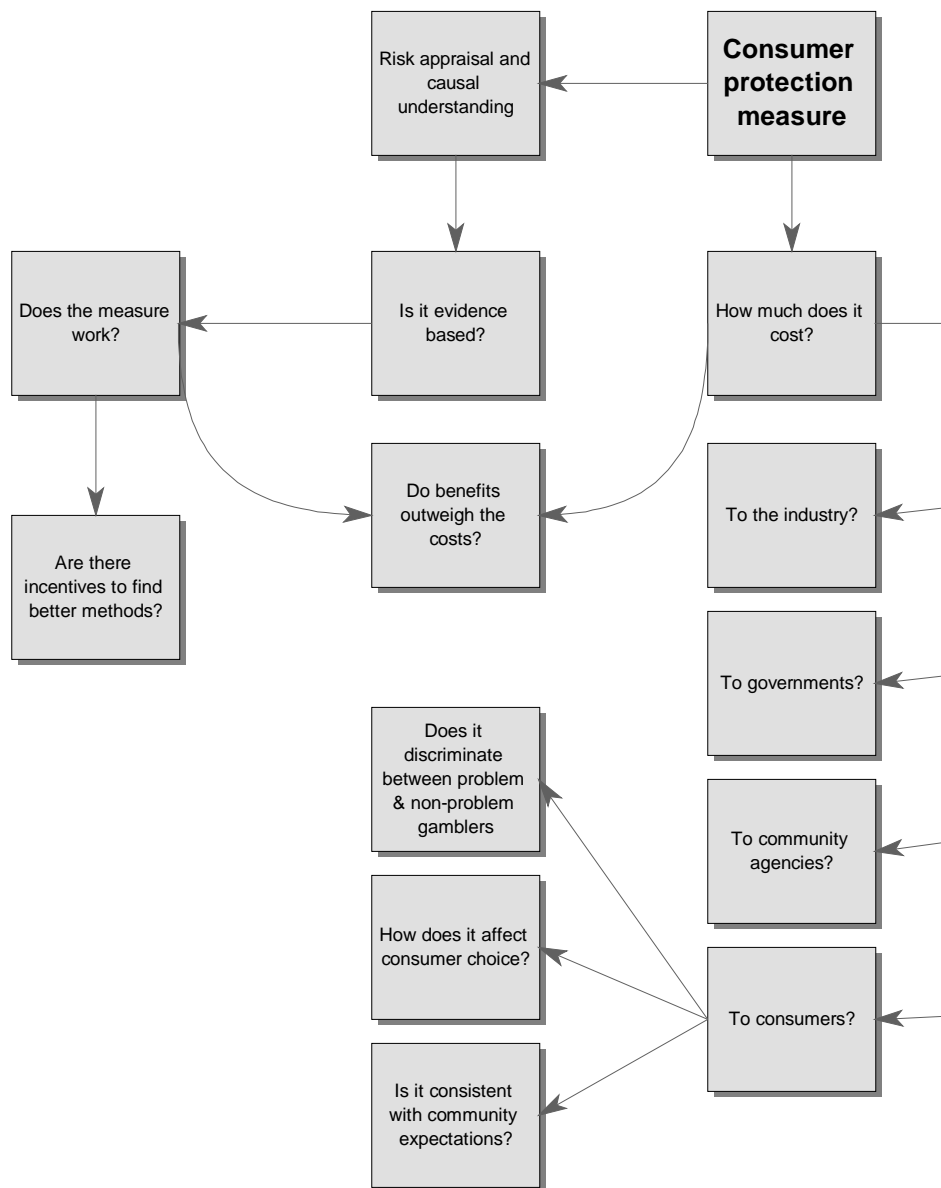


Figure 16.2 Criteria for assessment of protection measures



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

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

16.2 A ban on gambling?

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

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

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

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

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

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

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

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

A blanket ban?

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

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

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

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

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

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

A selective ban?

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

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

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

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

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

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

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

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

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

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

16.3 Basic consumer information

Price information to players

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

Lotteries

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

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

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

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

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

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

Box 16.2 What is the price of a lottery?

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

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

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

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

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

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

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

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

Poker machines

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Box 16.3 Player returns

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

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

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

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

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

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

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

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

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

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

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

Source: AGMMA (sub. 50).

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

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

The AGMMA concluded that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Box 16.4 Informing players: one option suggested by the AGMMA

Game name: **Hypothetical game**

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

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

Overall chances on a single pay line

Chance of ANY prize 13%

Chance of NO prize 87%

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

Caution

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

If You Bet With Real Dollars, Use Real Sense

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

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

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

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

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

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

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

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

The regulation of payout ratios

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

Table 16.1 Gambling returns to players^a

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

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

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

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

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

Understanding the nature of the game

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

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

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

Table 16.2 Beliefs about gambling^a

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

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

Source: Moore and Ohtsuka (in press).

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

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

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

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

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

Table 16.3 Belief systems about gaming machines

Video lottery terminals in Nova Scotia

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

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

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

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

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

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

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

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

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

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

Information about how much has been spent

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Information on the risks of problem gambling

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

As noted by Anglicare SA:

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

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

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

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

Box 16.5 Gambling and other public health slogans

Used in gambling venues

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

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

Gambling can be addictive (Canberra Club)

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

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

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

Other public health areas

Speed Kills

If you drink and drive you're a bloody idiot

Hot water burns like fire (Queensland scalds prevention campaign)

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

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

Not used in gambling venues but suggested to the Commission

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

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

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

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



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

Data source: New Zealand Racing Industry Board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Box 16.6 Curriculum development in responsible gambling in Queensland

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

The materials comprise two modules:

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

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

16.4 Advertising and promotion of gambling products

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

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

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

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

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

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

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

Box 16.7 Gambling advertising: views of participants

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

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

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

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

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

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

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

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

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

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

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

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

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

Valuable information?

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

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

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

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

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

Information about the odds?

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

Establish reputations?

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

Does advertising promote responsible gambling?

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

*What **does** advertising do?*

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

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

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

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

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

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

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

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

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

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

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

Box 16.8 Inducements

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

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

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

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

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

16.5 Controlling the gambling environment

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Ethical incentives?

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

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

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

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

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

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

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

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

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

The common law duty of care

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

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

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

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

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

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

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

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

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

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

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

Box 16.9 Legal cases against venues

Xenophon said that:

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

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

Star City said that:

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

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

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

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

The Public Interest Advocacy Centre noted:

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

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

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

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

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

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

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

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

Box 16.10 *BetSafe*

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

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

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

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

Source: Information provided by *BetSafe*.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16.7 Controlling accessibility

Opening hours

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

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

Box 16.11 **New South Wales legislation on responsible gambling**

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

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

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

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

Among other measures, the Act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Under age gambling

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

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

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

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

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

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

Other aspects of accessibility

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

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

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

16.8 Controlling the venue environment

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

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

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

Concerns about the gambling venue centre on:

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

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

Box 16.12 Changes to gambling venues suggested by stakeholders

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

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

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

Design of the venue: clocks and lighting

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

ACIL dismissed the notion that clocks were needed:

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

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

Access to credit, ATMs and cheque cashing

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

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

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

The *Crown Limited Code of Practice* says:

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

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

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

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

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

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

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

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

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

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

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

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

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

Adelaide Central Mission said that:

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

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

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

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

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

Table 16.6 The use of ATMs in pubs and clubs versus other locations
A major Australian bank

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

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

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

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

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

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

Source: PC National Gambling Survey.

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

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

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

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

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

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

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

Second, there are also grounds for exempting casinos from this requirement, but only for high-rollers and where this facility has been pre-arranged.

Withholding alcohol from gamblers?

It is sometimes argued that gambler's judgement is impaired by alcohol, and that gambling should therefore take place in an alcohol-free environment. This presupposes that alcohol consumption increases the adverse outcomes associated with problem gambling.

The evidence is unclear. The Nova Scotian study of VLT players found that problem gamblers more often reported having played VL machines when they had too much to drink (35 per cent of problem players compared with 23 per cent of

non-problem frequent players). However, the study also showed that as a group problem players tended to drink overall rather less than other players. And in response to losing on the machines, problem players were much more likely to drink *less* than other players (24 per cent compared with 5 per cent for frequent non-problem players).

Tabcorp (sub. D286, p. 2) also provided survey data that suggests that regular gamblers were much less likely to have used the bar facilities of a hotel venue during their visit than occasional or infrequent gamblers.

It appears likely that excessive consumption of alcohol would have some impacts on gambling judgement, but that normal amounts of consumption have few adverse effects. For example, Breslin et al. (1999) examined the impact of moderate levels of alcohol consumption on betting behaviour, and found no evidence that it affected betting choices. However, the setting was experimental and so might not carry over to gambling venues.

Barring alcohol from gambling venues would have significant adverse impacts on recreational gamblers, since its consumption is a key feature of visits by many to such venues. For example, in a venue survey it was found that about one quarter of gaming machine players used the bar facilities, and most of these rated their experience at the bar as either very enjoyable or quite enjoyable (sub. D286, p. 6). There are, however, grounds for trying to prevent excessive alcohol consumption and existing codes for the responsible service of alcohol in licensed premises already aim to do this. There may also be grounds for limiting or proscribing free alcoholic inducements for gamblers.

Venue policies for problem gamblers

Identification and active help by venues

In the case of alcohol, it is illegal to sell alcohol to someone who is intoxicated. This raises the question of whether venue staff could also withdraw gambling services from a gambler experiencing problems, as advocated by a number of inquiry participants (eg sub. 112). There are certain indicators of gambling behaviour that may help identification. The cashing of cheques, asking for credit, the duration and frequency of gambling sessions, and behavioural signs (like swearing at or hitting a poker machine) are all potential indicators of problem gambling. Evidence from surveys, such as the Commission's *National Gambling Survey* and the Nova Scotia survey, suggest that a few combined factors (regular gambling, high expenditures, style of play) provide indicators of risk.

In the draft report, the Commission floated the idea of the development of a regulated requirement for withdrawing gambling from a person whose behaviour clearly suggests excessive gambling, such as persons who have played for periods of time that are considered excessive (for example, over 8 hours of continuous play), who shows visible distress about their gambling, or who attempt to get credit or a cheque cleared to gamble further from venue staff.

But there are some major drawbacks to this approach.

First, even if a small set of traits are good indicators of at-risk patrons, they will not be perfect. Venue staff who are questioning the level of involvement of an apparently at-risk gambler will inevitably wrongly categorise some people, risking giving considerable offence. During the course of the inquiry, gambling establishments have reported that their ability to identify problem gamblers is poor. In its submissions, Star City casino reported that measures for identifying problem gamblers would need more detailed and intrusive information gathering across a broad spectrum of customers than currently exists, including frequency of gambling (of all types), amounts gambled, financial and personal situation of the individual, effects on family and other relationships, psychological screening and other factors (sub. 33, p. 18 and sub. D217, p. 21). And even though existing provisions for responsible service of alcohol are based on subjective judgements by venue staff, arguably the level of subjective judgement required to identify a problem gambler are of a different and substantially greater order.³³

Secondly, and as a result of the difficulty in identifying problem gamblers, to require intervention would place the venue at risk of vexatious and opportunistic litigation by patrons who lose money gambling and then claim that the venue failed to intervene when there were apparent (and non-verifiable) signs of a ‘problem’.

Thirdly, even successful identification of a problem patron and withdrawal of gambling services may achieve little if the patron can go to another nearby venue, or if staff are not appropriately trained to provide help (such as a referral for counselling) to the gambler. Against this, however, it may jar such people into the

³³ In determining whether a person is intoxicated venue staff use a whole range of ambiguous signals, such as: is the patron boisterous, showing decreased alertness, changing their type of drink, or bad tempered? (from a pamphlet from New South Wales clubs about the responsible serving of alcohol). It might be supposed that if venues serving alcohol are able to use such ambiguous signals in an intelligent way to reduce over-consumption of alcohol, then they could also use similar processes for identifying and dealing with ‘over consumption’ of gambling. Tully (1994), for example, has developed an approach for venues wishing to implement responsible service of gambling. But, there is a point where it may be too much to ask a venue staff member to exercise judgement in an area where even experts disagree as to the appropriate diagnosis (Star City Casino, sub. D217, p. 21).

realisation that their behaviour is now appearing problematic to others, which may hasten assistance.

While it would clearly be appropriate for venues to take action when a patron is showing obvious signs of distress with their gambling, the Commission, on balance, does not consider that venues should be required by statute to withdraw gambling from patrons exhibiting behaviours that may be associated with problem gambling. This of course would not negate the use of common law remedies were a venue to act in a way that was patently unreasonable.

Self exclusion

Many gambling providers operate self exclusion policies. Identification of gambling problems in these cases is undertaken by the gambler rather than by the venue. They typically sign an undertaking not to gamble in that venue and can, if subsequently detected, be removed from the venue during the exclusion period, and charged with an offence. An exception is the Northern Territory, where no statute exists for facilitating these arrangements. Instead, there a venue may be legally liable if a self-excludee manages to escape detection and gamble. This has led to a convoluted legal process in arranging self-exclusions, rather than the more simple procedures used in States like New South Wales.

The Commission considers that self-exclusion should take the form of a simple contract written by the problem gambler with the gambling provider, with the gambler, not the venue, being liable for violation of the contract. However, a venue should make reasonable attempts to enforce the exclusion contract (eg by making staff aware of self-excludees). This approach (which is already employed in some jurisdictions, such as in New South Wales) could be applied across all Australian jurisdictions. As a matter of course, any gambler who signs such a contract should be referred for counselling (as exists, for example, in Star City Casino's and the *BetSafe* Group of Clubs' approach).

The penalty imposed on a gambler in breach of a self-exclusion order should take the form of a non-financial penalty, such as a community based order (unlike, for example, arrangements in Victoria, where up to a \$2000 fine is imposed). This recognises that problem gamblers' difficulties are principally financial in nature and that monetary penalties may create incentives for more gambling (to make up the loss) or impose hardship on the families of the problem gamblers (sub. 17, p. 6).

Also, the Commission considers there are grounds for mandatory signs in any gambling venue that indicate that any patron may self-exclude, and accompanying pamphlets that explain how self-exclusion works.

Some participants indicated that not all venues took self-exclusion approaches by problem gambler seriously.

It is disturbing to note the experiences clients disclose about their unsuccessful attempts to self-bar prior to contact with our service. Responses included being told: “Don’t be silly, see you tomorrow” (Anglicare SA, sub. 104, p. 25).

Arguably, it should be mandatory for any venue to act on an attempt by a patron to self-exclude. Failure to do so should be seen as a failure to responsibly provide gambling services.

Self-exclusions are probably most effective for table games at casinos³⁴. They may be of significant value in other gambling venues too, even if they cannot be completely enforced, simply by requiring the gambler to recognise their problem.

These clients are usually pursuing abstinence goals, rarely visiting other venues without considerable effort (Anglican Community Services, sub. 104, p. 25).

Whilst it may be seen as of limited usefulness when the problem gambler can just go to another venue, experience has shown that such a contract is a major step in a problem gambler’s treatment and that they are much less likely to relapse if such a commitment is made in writing (BetSafe Group of Clubs, sub. D250).

The Victorian codes also provide for support of a unique Self Exclusion Program which to date has seen over 850 deeds taken out by over 600 people. 250 people have entered a second deed. The deeds may be entered for a period of between six months and two years ...there is no cost to the patron attached to the program. This is a program that works. This prevents problem gamblers from gambling. We were advised by problem gambling counsellors that it was necessary for the problem gambler to voluntarily seek the self-exclusion program after receiving a program of assistance from the counsellor, because this would result in a very therapeutic outcome for the problem gambler. However, we also promote the program through our venues and to date a little over half of all deeds have come about from non-gaming counsellor referrals (Australian Hotels Association, Victoria, sub. D237, p. 5).

The principal drawback of existing self-exclusion arrangements is that a gambler who periodically loses control may circumvent the measures by going to other venues where a self-exclusion contract is not in place. Some codes for self-exclusion partly overcomes this by circulating photographs of the excludee to all relevant venues and committing the person to self-exclusion from this group of venues simultaneously. There may be value in adopting these arrangements in all jurisdictions.

³⁴ Springvale Legal Service (sub. 17, p. 5) suggested that there were some doubts over the effectiveness of exclusion orders, even for casinos, citing the case of one gambler who was charged with 13 breaches of the Casino exclusion orders in Victoria.

It may be that other, less readily circumvented technologies for self-exclusion may make this an even more effective measure for limiting the harms from problem gambling (see pre-commitment in section 16.9). The internet is already using some of these approaches (chapter 18). Existing approaches in physical venues may be weakened if there is a substantial increase in the number of self-excludees, as this will make it more difficult to monitor whether they try to gain entry to the premises. But overall self-exclusion is a useful adjunct to responsible gambling policies.

16.9 Controlling game features and design

Evidence from population surveys and problem gambling services suggest that gaming machines are the prime source of risk for consumers. This risk arises from their continuous nature, the ability to progressively increase the bet size per gamble, the relative absence of moderating social factors, and the structure of the payouts.

Many consumers, however, report reasonable levels of satisfaction with playing the machines. The question is whether changes could be made to the machines in such a way to reduce hazards, without significantly diminishing recreational gamblers' entertainment.

Participants in this inquiry advocated many possible changes to gambling technologies to address problem gambling and increase consumers' informed consent (box 16.13). The Commission also posed a series of possible harm minimisation strategies to problem gamblers receiving counselling assistance (table 16.8).

Problem gamblers were, in general, in favour of almost any measure which would increase their control over gambling and/or reduce accessibility. However, a majority were opposed to the idea of reducing the odds of winning as a deterrent to play, while measures such as removing linked jackpots, and not serving alcohol to people while they were gambling received more equivocal endorsement than other measures.

The Netherlands recently developed a series of proposals for controlling problem gambling on poker machines — the Nijpels model. This included automatic payout of winnings above 200 credits, a win bank, enforced breaks, more stringent betting limits, longer elapsed time between button presses, changes in lighting and sounds on the machines, and no bill acceptors.

While some of the proposals put forward in the Nijpels proposal appear unworkable in their current form in an Australian context, the Commission strongly endorses the idea that the way people and poker machines interact should be subject to scrutiny

to see if there are prospects for harm minimisation. We considered a number of options for control, which have some a priori or evidential support.

Box 16.13 Machine design changes?

These initiatives could include ... modifying EGMs to insert digital time reminders and electronic voice challenges to 'continuous' gamblers...The United Kingdom 'Mandrake' software technology ought to be added to all gaming machines to scan the faces of players and refuse access to those who have been excluded from venues (Springvale Legal Service, sub. 17, p. 6, 8).

Electronic gambling machines [should] be so designed or modified so...that a delay of at least 4 seconds be incorporated between the end of one betting cycle to the commencement of the next; that the machine releases a pay out into the coin tray when the total credits exceed \$10; that multiple bet machines be limited to three times the single bet value of the machine; that the machine automatically shuts down for 5 minutes after a jackpot exceeding \$50, that there be no light and sound shows associated with any win on the machine; that the highest monetary coin or note accepted by machines be restricted to \$1 (Adelaide Central Mission 1998 p. 29).

Reports from overseas indicate that Australian-designed poker machines are more addictive than their US counterparts...a change in design to make them less addictive in the meantime would be desirable (Festival of Light SA, sub. 107, p. 11).

Many clients of our Foundation's mental health practitioners report that the introduction of note acceptance facilities on some electronic gaming machines have significantly increased their ability to gamble more money in shorter periods of time. Such technology removes the requirement for gamblers to break their gambling session to obtain change to continue gambling, thus removing opportunities to reflect on the gambling activity and the amounts which are being gambled. Similarly, the provision of roaming change vendors on some larger venues is a process which many problem gambling clients criticise as contributing to their gambling difficulties... (Mental Health Foundation of Australia sub. 51, p. 10).

It is recommended that...the credit display be converted to a recording of dollar display; digital clock displays be inserted in the top right corner of screens, Return to Player rate (RTPR) to be displayed on machines; "Health/Wealth" warning be displayed on all machines; machines be positioned to allow a minimum of two people to comfortably be able to sit in front of a machine, with accompanying seating provided; and in particular the pace of gaming cycle be extended to 6 seconds, machines to automatically shutdown for 20 seconds after wins 250 times the original bet; and machines to release payout into coin tray after wins of 100 times the original bet (Anglicare SA, sub. 104, p. 51).

Table 16.8 Attitudes of problem gamblers to the effectiveness of harm minimisation measures^a

	<i>Would not work</i>	<i>Would work a bit</i>	<i>Would work well</i>	<i>Total</i>
	%	%	%	%
The education system should teach children about the risks of gambling and how to understand odds	12.2	42.7	45.0	100.0
Information about the odds of winning in any particular gamble should be clearly displayed (eg on a poker machine)	20.3	36.5	43.1	100.0
Venues should put up signs warning customers of the risks of gambling	24.0	34.5	41.4	100.0
TV and radio advertising campaigns should be used to make people aware of the risks of problem gambling	8.7	36.9	54.5	100.0
Promotion of gambling should be banned	19.7	29.2	51.2	100.0
Technology should be developed allowing gamblers to self-exclude from gambling, if they wish to	14.3	35.2	50.5	100.0
Counselling services should be advertised on national TV and radio	3.9	27.2	68.9	100.0
Automatic teller machines should not be located right next to where people gamble	7.9	17.6	74.5	100.0
Technologies should be developed allowing gamblers to set limits on their gambling, if they wish to	17.2	27.7	54.7	100.0
Winnings over a certain amount should be paid by cheque (eg over \$200)	17.6	27.7	54.7	100.0
The odds of winning should be reduced to make gambling less attractive	55.6	24.8	19.6	100.0
Technologies should be developed allowing gamblers to track their gambling spending over time	20.5	43.8	35.6	100.0
Gambling venues should not be open 24 hours a day	16.3	27.0	56.7	100.0
Alcohol should not be served to people while they are gambling	35.5	32.4	32.1	100.0
Venues should have windows and clocks so that people know how much time they have gambled	22.0	33.9	44.0	100.0
Poker machines should only be able to take coins and not notes	19.7	34.2	46.1	100.0
Poker machines should have enforced breaks in play so players can think about whether they want to continue gambling	23.3	37.0	39.6	100.0
Poker machines should be far less accessible in local communities	6.0	27.2	66.8	100.0
Poker machines should remind the gambler how long they have been playing, and ask them if they want to continue	19.9	40.3	39.8	100.0
The number of lines and credits playable on poker machines should be reduced	22.2	32.2	45.6	100.0
Poker machines should not have linked jackpots	35.3	30.9	33.8	100.0

^a Based on between 384 and 394 responses from problem gamblers.

Source: PC Survey of Clients of Counselling Agencies.

Mechanisms for providing information and control to gamblers

Dickerson (1998) has emphasised responsible gambling as a continuing process of making informed decisions. Informed decisions would be characterised by:

- good information;
- a set of genuine choices; and
- the opportunity for balanced consideration of the pros and cons of alternative behaviours. Given the potential for significant financial losses, gambling decisions should not be made under conditions of strong emotion or personal crisis. For example, a gambler who has lost extensively, and is desperate to recover their losses, is not in a position to exercise rational judgment.

The underlying principle of machine design under this approach is *informed consent*. **The Commission strongly endorses the idea that machine design should aim to maximise such informed consent and player control.**

Some changes that are consistent with the notion of informed consent include:

- notification of the dollar value of bets, rather than credits, so that consumers are aware of the real units being gambled (sub. 104, p. 48); and
- where it is possible to identify the player (for example, through their use of loyalty or other cards), on-going notification of the amount lost in a gambling session at a venue.

The Nova Scotia survey of gaming machine players has shown that factors external to the player — such as running out of cash, an appointment or the venue closing — are the most effective at stopping a gambling session for a problem gambler. The Commission's *Survey of Clients of Counselling Agencies* also suggests that cash constraints, rather than planned decisions by gamblers, tended to end gambling sessions (table 16.9). Dickerson (1998) has floated the option of incorporating some of these control features into the machine. For example, player's perceptions of elapsed time are sometimes very poor — thus limiting the extent to which they are making informed choices. Dickerson notes that the poker machine (which is effectively a computer, and so able to be programmed a multiplicity of ways) could sporadically query the gambler: 'Please estimate how long you have been playing?' Continued play would be contingent on whether a sufficiently accurate answer was provided. While such a measure may, in-principle, have a useful impact on correcting time misperceptions by a gambler, to be operational it requires that the machine knows when a new player commences playing. Moreover, any problem gambler can move to another machine even if they have been stopped temporarily from playing on one machine.

Table 16.9 Reasons why gambling sessions ended for problem gamblers^a

	<i>Always</i>	<i>Often</i>	<i>Some- times</i>	<i>Rarely</i>	<i>Never</i>	<i>Total</i>
	%	%	%	%	%	%
Ran out of money	37.9	43.6	11.0	3.3	4.1	100.0
Spent budgeted amount of money	19.2	20.1	20.9	15.5	24.3	100.0
Spent planned amount of time playing	9.8	11.3	17.5	25.2	36.2	100.0
Lost interest in gambling or got bored	1.2	3.2	18.3	27.2	50.1	100.0
The venue closed or there were no more immediate gambling opportunities (eg last race)	6.0	12.6	27.8	17.8	35.8	100.0
To eat or drink	0.0	3.5	23.5	25.9	47.1	100.0
Friends or family left	2.7	1.8	17.5	17.2	60.7	100.0

^a Based on between 331 and 390 responses from problem gamblers, depending on the item.

Source: Survey of the clients of problem counselling agencies, 1999.

However, there may be grounds for a machine to periodically query — through pop-up text on the visual display unit — whether the patron would like to continue playing. Even if players were to move around the machines in the venue, these periodic queries would serve to invite them to *reflect* about whether they really wish to continue playing or not. So long as these queries were not too frequent, then they would not have an adverse effect on the pleasure of recreational playing.

This suggests another key element in the control of gambling problems — the possibility for genuine pre-commitment.

Pre-commitment strategies

In all sorts of contexts, people use pre-commitment strategies when they believe that they will make future impulsive decisions, which are not in their best interests. The essential ingredient of genuine pre-commitment is that a decision once made acts like a contract and cannot be reversed. There are a number of possible pre-commitment strategies that might work for problem gamblers.

Noting that many of the difficulties stemming from problem gambling relate to its financial costs, it may be possible for a problem gambler to voluntarily pre-commit (at a time of lucidity) the bulk of their earnings to other essential expenditures (such as rent, petrol, food and clothing). This would mean that the amount of discretionary income available for gambling would be far smaller. Even if this were all spent, the gambler would still be able to avoid the worst financial effects of problem gambling. Financial pre-commitment could work, for example, through a contract with a bank, which would then have the first claim on a gambler's wages to direct them to accounts with suppliers of goods and services designated by the gambler (for example, a supermarket). The gambler would specify a period over

which such a contract would hold, and would not be able to re-negotiate the contract within that period, except in circumstances which they had pre-determined. The advantage of such a measure is that it has no impact on recreational gamblers, and has only to be implemented for problem gamblers.

However, it does have a number of disadvantages:

- it is likely to be only used by people who acknowledge that they have severe problems, and does not address issues of gambling control, misperceptions and informed consent for gamblers whose problems lie further down the problem gambling continuum or who are not confronting their problem; and
- it might have to extend to assets and irregular income as well as regular income, else problem gamblers might sell or borrow on assets;

Such a measure would involve costs for the banks concerned, and these should, in principle, be met by funds from the gambling industries or the gamblers involved. However, it may be worthwhile for the government to finance a trial of financial pre-commitment strategies to gauge their effectiveness and costs.

On the other side of the coin, there may be scope for pre-commitment on aspects of gambling, including spending, information, and playing style. Interestingly, one form of gambling already incorporates a host of measures which allow pre-commitment and informed consent — the internet.

One of the large potential advantages of internet-based gambling is that it can provide relevant and effective player-initiated controls. Gamblers can set budget limits, self-exclude and look at their past history of gambling winnings and losses by episode. The internet allows this because it combines a computer-based technology with a unique identifier for each gambler. These safety features are part of the regulatory environment for internet-based games. As a matter of consistency, it would seem desirable for other forms of gambling to match the internet in these aspects of player sovereignty. The question arises of whether this is technically feasible.

One possible avenue is in the future. Australia, like other advanced economies, is moving away from cash as the basis for transactions. It can be expected that traditional forms of gambling, such as gaming machines and casinos, will want to take advantage of the lower costs of cashless transactions that are already being exploited by internet gambling (for example, no need to empty hoppers, less security risks and the advantage of automatic record keeping). A key gaming executive has noted:

Cashless gaming makes very sound business sense. It's not a matter of when... it's only a matter of when they will adopt it rather than if they will adopt it. It's a very logical

progression... [the machines] need a lot less maintenance, but also there ... are no transactions with money movement. So ... all the security aspects will completely disappear (reported on ABC National Radio 1 September 1999).

Casino International (1999c, pp. 26ff) notes some of the advantages of cashless gaming machines using a credit card system:

... would place customer convenience at the top of the list of advantages for the cashless player. Players could move from game to game without worrying about having the right change... Players ... will have the added advantage of financial security.

This move would, in the absence of controls, represent a dangerous shift for problem gamblers, as it would turn each poker machine into an ATM. However, as described in box 16.14, it is possible that, with appropriate controls, the emergence of such cashless transactions in gambling may provide a vehicle for better pre-commitment and informed consent by consumers.

It is reported that a card system is being considered in Missouri, with the intent of increasing consumer protection:

Other coinless concepts include metal tokens, which have been used for years in Missouri where there are legal limits on how much any player is allowed to gamble. Players would pay for a certain amount of tokens on entering the casino and would then be prevented from purchasing any more. Moves are now being made by the Missouri Gaming Commission to redevelop this system using electronically purchased credits, which would allow players to press a single button to wager their credits on slot machines and still control the limit on what they are allowed to gamble (*Casino International*, 1999c).

One gaming technology provider, Global Gaming Services, considered that these sorts of technologies would provide a strong basis for harm minimisation:

Just as a driver's license is needed because drivers can cause harm to themselves and others, so might a gambling license be required. Requiring such a license could provide the opportunity for player education, research statistics, cashless (less crime and overhead gambling) and another source of income for government (license fees). This concept could be taken one step further to not permit a machine to operate unless a player has their "license" inserted. In most states and territories at least one wide area monitoring system links legal poker machines, and would provide a means to facilitate this. Of course there are in reality potential privacy implications, civil rights and infrastructure costs. Nevertheless it may provide a means of sustaining venue profitability, and minimise the occurrences, or assist with the detection of, problem gamblers (sub. D189, p. 2).

Box 16.14 Implications of a cashless society

It is possible that in the future the trend away from money to a cashless society may facilitate such pre-commitment mechanisms. In a cashless society, gambling will require a player to use a financial card either directly when gambling (for example, by inserting it into a gaming machine) or using it to buy 'chips' or tokens. These cards would include a magnetic strip for recording players' identification and for recording gamblers' preferences about the way they wished to gamble. For example, a player could:

- decide to self-exclude for any period of time. How wide such a self-exclusion would be depends on the extent to which venues and machines were linked to a central computer. If the card was like an ATM/EFTPOS card, then self-exclusion would be possible across all gambling jurisdictions in Australia, making it much easier to have a genuine pre-commitment to stop gambling *if* that was what the gambler wanted.³⁵ Alternatively, if the information on the card was exclusive to the venue (as in loyalty cards) then it would only allow the weaker form of self-exclusion from a given venue.;
- set a budget for a given time period, or even for that day's play. Once the pre-commitment had been made, the player could not subsequently amend their decision within the set time period;
- set a style of play (number of lines or credits per line);
- set the duration of play; and
- determine how and which winnings should be paid into their accounts.

Problem gamblers would not be able to readily cheat on any pre-commitment they had made. For example, if they 'lost' their card, any new card issued would still have the conditions of any pre-commitment made recorded on it, because a central computer would, like any bank card, have a record of the client. Nor is it likely that people would lend problem gamblers their cards (with their PINs) as that would leave them open to financial losses. In any case, if the problem gambler won on someone else's card the money would be credited to that person's account, not the problem gambler's.

Such technologies, by allowing pre-commitment, would enable consumers to make choices under conditions when they are in control. The measure is consistent with and indeed facilitates consumer choice. Consumers would be free to pre-commit to the sort of gambling experience they believe is appropriate, but they would not be obliged to take any particular approach. The measure does not raise any significant privacy issues because the consumer would be in charge of what is recorded and would have exclusive access to the information. There would be few costs to recreational gamblers. They would not have to apply for a special card, as ordinary banking swipe cards could be used when gambling. Nor would recreational gamblers be required to set limits — rather they would just be given the *option* of doing so.

That said, the measure would probably involve some costs. Any financial intermediary issuing cards would have to include the facility for recording the gambler's preferences on the card. However, the evolution of smart cards, rapid telecommunications and cheaper computing suggests that the marginal costs of additional information would be small.

³⁵ Note most states are heading towards central monitoring of machines, so that the marginal costs of the measure should be modest.

Others also supported the use of such card systems (sub. D260, sub. D259 and sub. D249). For example, Break Even Services in Victoria (sub. D249) drew attention to the possible beneficial role of smart cards:

The Victorian Break Even network is in favour of the introduction of smart cards linked to enhanced technology for all gambling consumers, particularly those who participate in more continuous forms of gambling such as EGMs. It is our contention that all players should be required to consciously choose to participate in gambling activities through a smart card and be able to receive a number of harm minimisation and consumer protection measures by this means... It is our belief that the obligation to obtain a personal smart card in order to gamble will not prove a disincentive for non-problem consumers. It is principally a one off requirement in line with procedures consumers are required to undergo across a range of activities and services in order to gain access to them.

If gambling providers were to move to technologies which are cashless in nature (such as putting a bank card directly into a gaming machine) then a system for informed consent along the lines described in box 16.14 would need to be a mandatory feature.

Since a ‘cashless’ society is some years off, is there anything that could be done now along the lines described by box 16.14? It is possible that cards could be *required* for using certain gambling forms, such as gaming machines. Such cards need not be used as a payment mechanism, but rather could be like the myriad of other cards that are now routinely used to provide identification in transactions (from Medicare cards, library cards and even video cards). To be feasible in the current environment, such a card system would have to be cheap to acquire and to use. One option may be to make minor alterations to existing bank swipe cards so that they stored players’ preferences for gambling. In this instance, cash would still be used to play the machines. Indeed, the only purpose of the card would be to identify the gambler and to automatically credit large prizes to the player’s account — it would **not** be used as a debit or credit card for the purpose of gambling. Such a card system is consistent with their already widespread use as loyalty cards. However, it is likely that such a system would be expensive (in the short term) to use in states where there are already many machines (given the need for machine modifications). On the other hand, such a system may be useful in a State like Western Australia, were they to decide to partly liberalise access to gaming machines.

There may be other ways in which consumers could currently have more control over the games they play. Some have already been developed in other international jurisdictions. For example:

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- two Canadian companies have developed a bracelet for compulsive gamblers that emits a high pitched sound whenever the wearer approaches a gaming machine (Gambling Magazine, 1999); and
 - face recognition ID systems are being marketed to Casino Security departments — principally to identify criminals (Levine 1999). But these could also be used to help excludees to honour self-exclusion deeds.

Whether either of these sorts of technologies are practical, acceptable or cost effective is unknown. But they underline that just as technology can make gaming machines more entertaining, technology used with the same creativity may be able to significantly reduce problem gambling:

Most forms of venue gambling are technology based....Unless the technology and the companies that supply this technology are a major consideration, I would question the effectiveness of any strategy for responsible gambling (Global Gaming Systems, sub. D189, p. 2).

Bill acceptors

Most modern gaming machines include bill acceptors (though these are barred in South Australia). These allow gamblers to insert notes up to \$100 denomination to play the machines. The Commission has been given advice that, unsurprisingly, machines with acceptors tend to have higher levels of turnover than those which do not. As well, the Commission's *National Gambling Survey* suggests that problem gamblers are much more likely to use bill acceptors when these are incorporated into machines than other gamblers, with about 62 per cent of problem gamblers (on a SOGS 5+ basis) using this feature 'often' or 'always' compared with 22 per cent of non-problem gamblers (table 16.10). Problem gamblers' apparently higher use of bill acceptors may largely be testimony to their higher spending levels. However, it may also reflect the way that convenience and an absence of human contacts and pauses in play can allow gambling to continue unimpeded for those with problems.

There may be gains from requiring patrons to obtain change to play the machines from a cashier or other venue staff, rather than a cash machine or by using a note in a machine bill acceptor. This may make problematic play (repeated visits to get cash) more visible and may act as a social control on problem gamblers, while also allowing venues to gauge better whether they are acting responsibly in providing gambling services (for example, by analogy, could a hotel which allowed drinkers to self-serve alcohol in any quantity from a machine satisfactorily exercise responsible service of alcohol?). As Relationships Australia Queensland reported about problem gamblers:

One group commented “When I had to go back and forth to the cashier, then I’d think ‘Oh, she’ll think I’m a compulsive gambler’, and that would make me think about whether to go back to her again. With the note acceptors, I didn’t worry about that, nothing got in the road of gambling.” Group members observed that trips to the cashier were always an opportunity to consider leaving the gambling venue, but with machines equipped with note acceptors, they could have less distractions to their gambling, and thus less opportunities to consider stopping a session (sub. 73, p. 8).

Table 16.10 If the machine you usually use has a bill acceptor, how often do you insert notes when playing the machine?^a

	<i>Never</i>	<i>Rarely</i>	<i>Some-times</i>	<i>Often</i>	<i>Always</i>	<i>Can't say</i>	<i>Total</i>
	%	%	%	%	%	%	%
Non-problem players	31.2	13.4	31.7	13.2	10.1	0.5	100.0
Problem gamblers (SOG 5+)	8.6	12.6	16.5	28.6	33.7	0.0	100.0
Problem gamblers (SOG 10+)	5.1	6.5	11.5	51.4	25.5	0.0	100.0

^a For those people who play on machines which have bill acceptors.

Source: PC National Gambling Survey.

The AGMMA (sub. D257, p. 140) argued that the higher turnover in machines with bill acceptors stemmed from the fact that machines with bill acceptors are newer and therefore offer more novel features, which in turn attracts patronage. They also point out that the rate of return on newer machines tends to be higher and thus turnover would be greater for the same level of expenditure. They also argue that the reason problem gamblers use machines with bill acceptors more often than other machines may simply be revealing a preference for newer machines.³⁶ In effect, the AGMMA argue that factors other than bill acceptors play a role in increasing turnover.

Bill acceptors do represent a source of convenience for the customer, and probably a cost saving for the venue (that in turn may be passed on as lower prices). However, it is hard to argue that it presents anything other than a minor convenience. In this instance, the precautionary principle holds: don’t do something that might be hazardous if its benefits are very small.

For this reason, and until evidence that they do *not* present risks is substantiated, **the Commission considers that there are grounds that bill acceptors not be included in the design of poker machines, with any cash dispensers being located outside the gaming area.** However, where current machines have

³⁶ However, the data presented in the table relates to how often problem gamblers use bill acceptors when they are incorporated in a machine, not whether they use machines with bill acceptors.

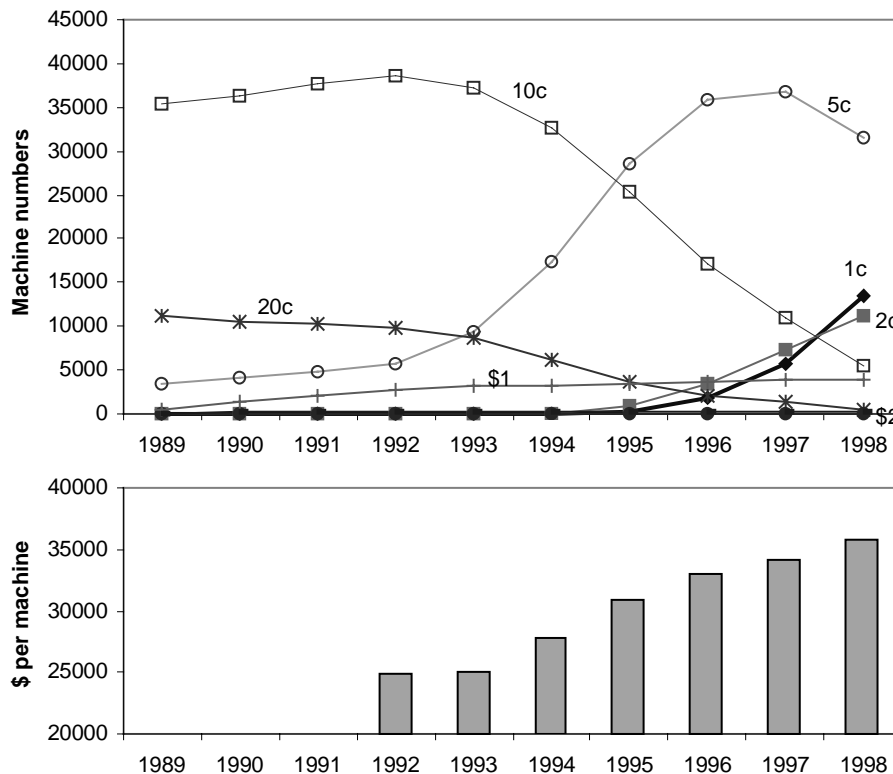
acceptors they should not be modified, because this would involve considerable costs, but be replaced over time.

Limitations on the rate of loss

Denomination and intensity controls?

Existing games allow gamblers an enormous choice over the intensity of gambling. As noted in chapter 15 and appendix U, some new models of 2 cent machine can allow players to choose anywhere between 2 cents to \$10 of turnover per button push. It seems likely that in the presence of such versatile low denomination machines, the higher denomination machines will, in a continuation of the trend established over the last decade (AGMMA, sub. D257, p. 15 and figure 16.4), decline even further in importance.

Figure 16.4 **Machine denominations in New South Wales clubs and gaming profits^a**



^a The data for club profit from gaming machines was not available for 1989 to 1991. Data relate to New South Wales clubs only.

Data source: NSW Department of Gaming and Racing, *Gaming Analysis 1997-98*, February 1999.

There is some evidence that problem gamblers tend to play the highest denomination machines to a significantly greater extent than non-problem players (table 16.11), but most usually play 1, 2 and 5 cent machines. Consequently, the principal issue is not one of the denomination of the machine, by itself, but the overall intensity of play that is possible.

Table 16.11 Denominations of machine played by problem gamblers

<i>Machine denomination</i>	<i>Non-problem gamblers</i>	<i>Problem gamblers (SOGS 5+)</i>	<i>Problem gamblers (SOGS 10+)</i>
	%	%	
1 cent machine	17.6	21.3	29.5
2 cent machine	7.4	7.5	6.3
5 cents machine	36.0	46.1	24.3
10 cents machine	19.6	4.7	3.0
20 cents machine	11.5	6.7	3.4
50 cents	3.0	0.0	0.0
\$1 machine	5.1	11.3	33.5
\$2 or more	0.1	1.8	0.0
Can't say	2.1	0.8	0.0

Source: PC National Gambling Survey.

Problem gamblers have a higher tendency to play more than one line at each button push than recreational gamblers, and a much higher likelihood of betting more than one credit per line (table 16.12). Where gamblers do play more than one line or credit per line, problem gamblers choose greater lines and credits. This suggests that a possible pathway to problem gambling is that people start with relatively low lines and credits, and then progressively increase playing intensity. This is consistent with the psychological conditioning model, in which people are rewarded (through frequent small prizes) for increased intensity of play.

Table 16.12 Playing intensity: lines and credits per button push

	<i>Non-problem gamblers</i>	<i>Problem gamblers (SOGS 5+)</i>	<i>Problem gamblers (SOGS 10+)</i>
Share betting more than one line per push (%)	82.3	93.4	76.9 ^a
Share betting more than one credit per line (%)	35.7	65.6	77.6
Of those playing more than one line (average lines)	6.1	8.9	9.2
Of those playing more than one credit (average credits)	4.1	5.9	6.4

^a Note that severe problem gamblers often tend to play one dollar machines, and may therefore more often tend to select just one line when doing so.

Source: PC National Gambling Survey.

There are a number of ways of reducing high intensity playing:

- restrictions on the maximum number of lines and credits per line would reduce intensity and short-circuit the conditioning of machines for players to gamble more; or/and
- tighter restrictions on the maximum amount that can be bet with a single button push, which would reduce the cost of playing per hour. Currently, a \$10 maximum bet exists for gaming machines in pubs and clubs in New South Wales, South Australia, Tasmania, and the ACT and a \$5 maximum applies for Queensland and the Northern Territory.

Given that the time available for many problem gamblers is limited (by jobs and other pre-commitments), overall expenditure of problem gamblers would probably fall by making gambling per hour cheaper, while fewer people would be likely to progress to problem levels of play. Measures to constrain lines and credits have precedence — for example, they were a feature of the early regulatory environment in Tasmania. Other than the pre-commitment measures discussed previously, changes to the intensity of play are the most likely to reduce player losses — and some of the attendant problems of excessive gambling.

On the other hand, such controls on intensity are relatively ‘heavy-handed’. High intensity play is enjoyable and some recreational gamblers would derive less pleasure from gambling on machines that reduced that option. How much any given control would affect such recreational gamblers depends on the relative spending patterns of recreational versus problem gamblers. The Commission’s *National Gambling Survey* suggests that problem gamblers stake around \$1.62 per button push compared with 57 cents for non-problem gamblers.³⁷ This suggests possible scope for reducing play intensity without overly affecting many recreational gamblers. However, any measure to reduce intensity should use a large dataset of gambling sessions by problem and non-problem gamblers to set the appropriate level of controls on denominations, credits and total amount bet per button press.

It should be emphasised that just because there are now mainly one or two cent machines does not imply that the machines involve lesser levels of intensity. To the contrary, with their multi-line multi-credit characteristics, supposedly ‘low’ denomination machines can involve player stakes per button push in excess of some apparently ‘high’ denomination machines. As shown in appendix U, the implied hourly expected losses of low denomination machines are around \$700 to \$1000 at maximum playing intensity. It is also notable that even though the mix of machines

³⁷ This is based on the SOGS 5+ rating of problem gamblers. If the SOGS 10+ rating is used, the difference in playing intensity is accentuated, with non-problem gamblers staking 57 cents per button push and problem gamblers \$3.22.

has shifted to lower denomination machines, the average venue profit per machine (or player losses) has increased.

Making play cheaper for problem gamblers?

While preoccupation with gambling and the time spent on it can be problematic features of excessive gambling, the largest problems stem from the high levels of expenditure incurred. The amount spent is likely to be very significantly affected by the price of gambling. Under current prices, a player's losses will, over a year of regular play, be very close to 10 per cent of player turnover. Indeed, because problem gamblers tend to re-stake their winnings and often play for longer periods, their expected return on *initial* stakes will be close to zero (appendix U). In theory a better pricing system for a problem gambler is a price of zero — that is, where the expected losses are zero. The gambler may, of course, still lose when they play, but over a long period (noting that nearly all problem gamblers play regularly) the sequence of wins and losses would tend to break even.

Of course, it is not possible for all poker machine players to play the machines at a zero price, since there are costs associated with providing the machine and a need by State governments for revenue. This suggests two possibilities:

- there could be a two part pricing strategy. Players could be charged an upfront cost to use the machine for a certain period of time, and the expected loss rate would be zero. This is entirely consistent with the viewpoint that the machines provide entertainment to patrons, and is more akin to the charging strategy for video arcade games and other entertainment forms; and
- if cards were required for gambling (as in box 16.14) then these could record a player's annual poker machine expenditure. When the level was below a certain threshold, say \$2500, they would receive the standard odds. Once their expenditure exceeded that threshold, the *expected* price would again be zero (so that the poker machine would read the card and use a different set of virtual reels for these players). This has the advantage that venues would have disincentives to have many players spending above the threshold amount and might put in place more effective measures to cut problematic play (since the venues would make a loss on any gambling above the threshold).³⁸

³⁸ Such a measure would need tight security on above-threshold cards, since every gambler would prefer those odds, and might seek to borrow or steal the cards. However, if the cards used were bank cards, people would not want to borrow or steal them since any winnings would be paid into the account of the card owner (cards would also be protected by PINs or other security measures), while owners would not want to lend them since this would potentially enable the borrower to withdraw money from their bank accounts (from a nearby ATM, for example).

The potential advantage of these possible options is that they limit the financial exposure of problem gamblers, thus limiting the harm from problem gambling.

Linked jackpots and accelerators

Some machines are linked together and pay out a jackpot at some point in a spending interval, such as paying out \$1000 between \$20 000 and \$30 000. Other non-linked machines — the accelerators — play out a jackpot over a similar spending interval. As the total spend rises over the interval and if the prize has not yet been paid out, players face stronger incentives to prolong playing. Incentives for prolonged playing may well represent a hazard for gamblers — and may accentuate problematic behaviour such as chasing losses. Moreover, as noted previously, many poker machine players believe that the payouts of poker machines are non-independent, so that a ‘full’ machine must pay out soon. While this view is erroneous for most machines, it does apply to linked machines. They may, therefore, fortify misconceptions about the way poker machines generally work.

The AGMMA (sub. D257, p. 19) argued that there should not be any ban on linked jackpots or accelerators, arguing that they:

- provide enhanced entertainment;
- provide a significant source of the future growth of the industry (and with associated employment gains and increased revenues for gaming venues);
- represent the technical cutting edge of gaming technology, so that controls would place Australian manufacturers behind overseas jurisdictions;
- are part of the commercial decision making of companies. They claimed that any ban would represent a gross interference with commercial matters (eg TAB attracted many shareholders with its monopoly on linked progressive jackpots which are yet to be implemented).

The Commission agrees that such jackpots are likely to increase player entertainment and that any ban would appear to involve some implementation costs and transfers from shareholders of gaming providers. However, the employment and economic growth arguments are not compelling (chapter 5).

On the other hand, there appears to be some evidence that problem gamblers find linked jackpot machines a greater attractant than non-problem gamblers, with about 30 per cent of gaming machine playing problem gamblers specifically seeking out such machines, compared with about 3 per cent of non-problem gamblers (table 16.13). This does not, however, necessarily mean that in the absence of jackpot machines, visits or money spent by problem gamblers would be any less.

Table 16.13 Do you specifically go to venues with linked jackpots so you can play electronic gaming machines with linked jackpots?^a

Data for Victoria 1997

<i>Gambler category</i>	<i>All the time</i>	<i>Some-times</i>	<i>Every now and then</i>	<i>Never</i>	<i>Don't know what they are</i>	<i>Not applic-able</i>	<i>Total</i>
	%	%	%	%	%	%	%
Non-problem gamblers	1.1	1.6	2.6	36.5	1.9	56.4	100.0
Problem gamblers	8.8	22.8	7.9	28.4	0.0	32.1	100.0
All gamblers	1.2	1.9	2.7	36.3	1.9	56.0	100.0

^a Based on analysis of the unit record data provided by the VCGA.

Source: VCGA 1997, Fifth Community Gambling Patterns Survey.

Currently there appears insufficient evidence that jackpots do exacerbate risks. In this case, a ban appears premature, given their possible consumer benefits. However, as these new technologies expand in significance, future research on problem gambling should investigate whether they are a major source of problems. Then, if appropriate, it may be necessary to regulate or even ban such features. The approach of gaming regulators should in this case, as with other evolving technologies, be to adopt appropriate risk management techniques and to constantly monitor the technologies for their consumer risks. If the evidence is favourable or the risks appear to be low relative to the benefits, then new gaming technologies could be given conditional permission, which is subsequently removed, with proper process, if harmful effects come to light. The approach, while not as precautionary as that applying to pharmaceutical products, could follow a similar template.

Enforced breaks

The Nijpels proposal introduced enforced breaks by requiring a waiting period of 15 seconds after any payout, and requiring frequent payouts. The notion that problem players may gamble for prolonged sessions is confirmed by the Commission's data, so that, in principle, enforced breaks may allow gamblers to pause before automatically playing on. The Break Even Secretariat (sub. D198) argued that the breaks in play are important 'not just for problem gamblers but for recreational gamblers' problematic episodes'.

However:

- the Dutch system was based on the automatic payout of winnings above 200 credits. With a reasonable intensity of playing, Australian gamblers could expect to win a payout of 200 credits relatively frequently — with amounts that were quite modest (typically \$2, \$4 or \$10), since most Australian machines are now

1, 2 and 5 cent machines.³⁹ Such frequent payouts and delays would be a source of player irritation. It would seem more sensible to have automatic payouts only when the value is above some reasonable amount, say \$100.⁴⁰

- many gamblers switch between machines while playing in a given (prolonged) session. Casual observation also suggests that they often like to take out winnings through the cash dispenser and then re-insert them into the machine (perhaps because of the enjoyment of hearing the cash payout). In this sense, gamblers already take breaks in play, but not ones which genuinely invite them to make a choice about continuing playing.⁴¹

Another aspect of machine design which may interrupt continuous gambling sessions is to consider the removal of call buttons on the machines which provide a drink service to patrons. As noted previously, a periodic query about the desire to continue playing may also be effective at establishing conscious consent.

The form of prize payouts

Problem gamblers are much more likely to continue gambling with a large prize (and much more likely to win one, since they play more). The consequence of continued gambling with prize money is that this inevitably results in player losses, because a player will accumulate losses and bet away wins. One way of thwarting this process is to pay out larger prizes by cheque (say prizes over \$250).⁴² Most gamblers would not find this inconvenient, since most do not win these amounts in any given year (table 16.14).

³⁹ For example, in New South Wales in June 1998, 20.1 per cent of machines were 1 cent machines, 16.9 per cent were 2 cent machines and 47.7 per cent were 5 cent machines. The remaining 15 per cent of machines were largely 10 cent and \$1 machines.

⁴⁰ Anglicare SA (sub. 104, p. 48) advocated an automatic shutdown of 20 seconds after a win of 250 times the original bet. Since most gamblers play 5 cent machines with around 3 to 5 credits per line, this would apply to prizes of between \$37.50 to \$62.50. Payoffs of 250 times the amount bet (note *not* of 250 credits) are relatively rare, and so would be workable.

⁴¹ Arguably an enforced break is more likely to work if at the time of any significant payout, the machine explicitly raises the question of whether a player wishes to continue gambling. Thus a screen message would appear asking the player if they would like to have a rest from play. If the player was using a loyalty or some other card in the machine that allowed the machine to determine how long the gambler had been playing, it would also be possible for the machine to query whether the player would like to continue gambling after a certain lapsed time (for example, 1 hour).

⁴² Springvale Legal Service (sub. 17, p. 10) suggested that ‘gamblers who have a “large win” (over \$1000) be required to participate in a “cooling off” period before collecting these winnings and be given a cheque of credit redeemable at a bank or place other than a gaming venue.’

Table 16.14 'Big' prizes won playing gaming machines

<i>Wins per year of \$250 or more</i>	<i>Non-problem gamblers</i>	<i>Problem gamblers (SOGS 5+)</i>
0	85.2	40.8
1-3	11.2	31.1
4-6	2.5	17.0
7 or more	1.1	11.1

Source: PC National Gambling Survey.

Time elapsed between games

The Nijpels model proposed a longer lapse of time between button pushes, and a number of submissions to this inquiry also suggested longer time lapses between button pushes.⁴³ There is evidence that continuous forms of gambling, like gaming machines, pose higher risks for problem gambling than non-continuous forms. However, small differences in the gaming cycle do not significantly address the continuous nature of gaming machines (but may impact on the cost of playing per hour).

The Commission understands that the average time elapsed between button pushes observed in gaming machine venues in Australia is actually greater than that mandated by the Nijpels proposal. Of course, it would be possible to slow the machines further by having longer time lapses than those in the Nijpels proposal. But the button push rate is also a factor integral to the entertainment value of the machines. At some point, longer pauses are likely to decrease the desire of a problem gambler to gamble excessively, but it would probably also deter recreational gamblers.⁴⁴

The Commission does not consider that there is strong evidence in favour of changing button push duration.

Lights and sounds

Some participants have commented on the 'addictive' quality of the lights and music on the machines:

Even the music and bells are cleverly researched. Australia's largest gaming machine manufacturer, Aristocrat, which controls the Adelaide market, has 40 people including

⁴³ For example, sub. 104 (p. 51) suggested a gaming cycle of 6 seconds.

⁴⁴ Tabcorp (sub. D232, p. 16) considered that a longer button push duration would be detrimental to consumers (they also appeared to be under the impression that the Commission had advocated increased times between button presses in its draft report, which was not the case).

psychologists working full time on game design. Sweethearts 2, one of the new generation Aristocrat machines, is smothered in cupids and pink hearts and is obviously pitched at women (Festival of Light, sub. 107, p. 8).

Musical sounds give the impression and reassurance that they are actually winning something, tells other people in the venue that they are winning something...with many machines being played at the same venue at the same time at least one machine is bound to be paying something and making a noise so that it appears that someone is always winning (sub. D259, p. 2).

The Nijpels model required static lighting when the machines were not being played and sound limitations on payouts. However, lighting, graphics and sound effects are contributors to the entertainment value of the machine. Their modification may reduce the attractiveness of the machines to recreational players who enjoy these features.

The Commission is not aware of persuasive evidence which suggest lighting and sounds seriously enhance the ability of the machine to condition player behaviour. This may need further research.

The issue of evidence and implementation

There can be no certainty about how successful particular harm minimisation strategies would be in reducing harm for problem gamblers. ACIL (sub. 155, p. 97) asserted that harm minimisation might, perversely, increase overall harm or at least not reduce it, because of counteracting behaviours by gamblers. This underlines the importance of testing and implementation strategies:

- One approach would be to test measures in experimental settings, but it is unclear whether they would adequately reflect real-world behaviour by problem gamblers.
- Micro databases on the playing experiences of problem and recreational gamblers could be analysed to predict the outcome of harm minimisation measures. Such databases would follow a representative sample of gamblers, made-up of groups of identified problem gamblers and recreational gamblers, through all their playing decisions — time spent per machine, number of machines played in a session, the pattern of lines and credits played during any session, the use of bill acceptors, and the tendency to use wins for future gambles. The University Of Western Sydney has developed some databases of this kind.
- Established results from psychological and sociological studies of problem gambling could be used to predict how problem gamblers might respond.

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- Existing or past problem gamblers could be asked how they think they might respond to the proposed measures. What people think they might do and what they actually do, can of course, be very different. Nevertheless, this strategy may still provide some useful insights about what could work best (table 16.8). The Racing Industry Board of New Zealand, for example, pre-tested its problem gambling awareness signage with problem gamblers (Alexander 1999). The AHA (NSW) disputed the worth of asking existing problem gamblers about the value of harm minimisation options, arguing that: ‘this is akin to asking the inmates how to run the asylum’ (sub. D283, p. 17).
 - Trials could be held in locations where it would be hard for the problem gambler to subvert the harm minimisation strategies by going to an uncontrolled venue nearby.
 - Trials could be confined to the more expensive and risky measures, whereas others could be introduced more broadly.

In floating options for harm minimisation (summarised in table 16.15), the Commission has made use of survey evidence, our understanding of the psychological and sociological aspects of problem gambling, and the viewpoints of problem gamblers or those experienced in helping them. These perspectives are balanced against the need to ensure that gambling remains entertaining for the bulk of gamblers who experience no problems.

The difficulty in gathering evidence on the likely effectiveness of all aspects of harm minimisation strategies prior to their at least partial implementation, suggests that the effectiveness of any introduced measures will have to be subject to detailed evaluation. An evaluation strategy should be a key facet of any implementation, since it will be important to establish good control data prior to any trial.

It is also important to note the role of evidence in deciding whether to implement a harm minimisation strategy. Some might argue that there has to be strong evidence about the likely effectiveness of a measure before it is introduced. Others might argue that there is *prima facie* evidence that certain aspects of gambling are hazardous and that conclusive evidence about appropriate ways of dealing with these harms is not required before some action is taken. Governments tend, for example, to ban or limit exposure to *potentially* dangerous drugs. In this instance, the onus of proof is on demonstrating the product’s safety, before it can be regarded as a normal good, rather than the onus of proof being to demonstrate that it is hazardous prior to measures seeking to control its availability. Arguably this precautionary approach is appropriate for some aspects of gambling too. The approach reflects the concern that consumption of certain products might have small benefits for many, but very large adverse consequences for some.

Table 16.15 Options for harm minimisation and prevention^a

	<i>Relevant modes^b</i>	<i>Aids consumer consent?</i>	<i>Impacts on recreational gamblers</i>	<i>Possible benefits for problem gamblers</i>	<i>Overall rating</i>
A ban on gambling	A	x	x	✓	x
Information on the odds of losing	G,L	✓	✓	✓	✓
Odds on payout tables on gaming machines	G	✓	✓	✓	✓
Information on the nature of games	A	✓	✓	✓	✓
Regulation of payout ratios	A	?	✓	✓	✓
A record of transactions	G,R	✓	✓	✓	✓
Awareness of the risks of problems	A	✓	✓	✓	✓
Restrictions on advertising	A	?	✓	✓	✓
Risk warnings on advertising	A	✓	✓	✓	✓
Opening hour restrictions	A	x	x	?	x
Quantity restrictions	A	x	x	?	?
Limiting social accessibility	A	x	x	?	x
Increasing the initial outlay	A	x	x	?	x
More stringent entry conditions	A	x	x	?	x
Limiting access to ATMs and credit	A	?	x	✓	✓
Simple system of self-exclusion	A	✓	✓	✓	✓
Player controls (eg card systems)	G, R, C	✓	✓	✓	✓
No bill acceptors	G	?	x	✓	✓
Limits on the rate of loss	G,R,C	x	x	✓	?
No linked jackpots	G	x	x	✓	?
Enforced breaks	G	✓	x	?	?
Cheque payouts for wins > \$250	G,C	x	x	✓	?
Longer times between button pushes	G	x	x	?	x
Less lights and sounds	G	x	x	?	x

^a A tick denotes a likely positive or at least benign effects, a cross an adverse effect and a ? an uncertain or mixed effect. The overall rating provides an initial judgement about the priority for assessment of regulatory options, with ticked items having the highest priority for policy evaluation. Options for harm minimisation of internet gambling are separately considered in chapter 18. ^b A denotes all gambling forms, G denotes gaming, R denotes racing, L denotes lotteries and C denotes casino table games.

16.10 Bankruptcy and problem gamblers

It appears that most problem gamblers do not go bankrupt. However, under section 271 of the Bankruptcy Act it is possible that a problem gambler who is declared bankrupt as a result of gambling could face prosecution. For this reason official data on gambling-related bankruptcies (appendix R and chapter 7) probably understate its true significance.

There is some argument for prosecution to deter reckless action by problem gamblers, but it appears unlikely that the existing provisions provide much deterrence since they are relatively obscure to gamblers until they are close to

bankruptcy. And in any case the authorities can usually apply other sanctions for clearly fraudulent behaviour associated with gambling.

These probably weak benefits of section 271 have to be offset against its possible costs. Section 271 treats people with a gambling dependency in a way that is quite unlike other dependencies, and may deter them from taking an action (filing for bankruptcy) that may substantially reduce their access to finance. As noted by the Wesley Community Legal Service (sub. D215, p. 2) bankruptcy also provides an opportunity for the problem gambler to re-evaluate their gambling, and probably represents a favourable time for counselling intervention. The arguments and data relating to gambling and bankruptcy are set out more fully in appendix R.

There may be value in the Commonwealth reviewing the merits of section 271. It could also give consideration to whether there were grounds for requiring mandatory attendance by a problem-gambling bankrupt to appropriate counselling.

16.11 Probity

So far this chapter has been concerned with consumer consent and issues of harm minimisation associated with problem gambling. There is, however, another source of risk to consumers and society generally from gambling — probity issues. The importance of ensuring probity is a common theme across all gambling modes, in view of the large amounts of cash at stake and the concern to allay public fears of the involvement of criminal elements. Wildman (1998, p. 291) recounts the following story in the US, which captures one of the public concerns about probity :

Several years ago, one casino manager told me, “A couple of regular customers came in with \$60 000 wrapped in neat bundles to be put into the cage for safekeeping in their name. We noticed that the money was slightly burned at the edges and pointed it out. “Oh”, one of them said, “that’s nothing, the torch was too hot.” “We took the money anyhow”, the casino manager told me. “Las Vegas is a place for fun. We don’t run detective agencies in the casinos.”

Moreover, gambling poses particular obstacles to good consumer knowledge about the quality of the services they buy because of the probabilistic nature of payouts. No consumer could independently confirm whether a particular poker machine genuinely offered the stated odds, or that prizes were appropriately drawn in a lottery. Nor could punters be sure that the horses actually running in a race were the horses reputedly running in the race (the Fine Cotton affair being a classic, if rare, case), drugged or held back without the involvement of race stewards. Mair (sub. D182, p. 3) also raises concern about the prevalence of ‘inappropriately asymmetrical information’ or insider trading, in racing gambling, and measures to

reduce its incidence. In all these cases, there is a strong basis for provisions to ensure that the gambling events are fair. As noted in chapter 13, the procedures for probity in the different gambling modes this are similar in their general approach, while varying in their details.

The key issues arising are:

- how far should probity be guaranteed and tested?
- what is the real versus the apparent level of probity?
- who should pay for ensuring probity?
- should different venues be assessed using a common framework, or should there be differential treatment? and
- should there be mutual recognition of probity controls?

How far should probity go?

It appears that early on in the introduction of new gambling technologies, jurisdictions were particularly conservative in wishing to avoid risks:

- For example, ensuring the probity of gaming machine operations was a major reason for the Queensland Government's earlier practice of purchasing machines and renting them to venues.
- Similarly, Victoria's Auditor-General (VICAG 1998, p. 53) noted that, in the lead-up to the establishment of the industry in that State, the VCGA's investigation was comprehensive. The Auditor-General supported the move to revised procedures and risk-based principles of probity checking as the VCGA's knowledge and experience accumulated.

This conservative attitude may be appropriate while a jurisdiction is learning about the nature and levels of probity risks, although it does suggest that jurisdictions that are new to a particular gambling form could also learn about more streamlined probity processes from states with greater experience.

Ultimately, the idea that gambling should be utterly free of crime or incidents of unfair play is untenable. It is inevitable even in the best system of probity checking that isolated instances of departure from probity will occur. This reflects the fact that probity checking can be extremely costly, so that risk management is critical to an effective strategy.

Consistent with this approach would be a strategy involving:

- a greater focus of probity checks on large gambling oriented venues, such as casinos and large clubs, where there are economies of scale in probity checking and large numbers of potentially affected consumers;
- checking of key staff, rather than necessarily all staff;
- checks on suppliers of gambling equipment, such as poker machines or tables, but not of food suppliers and other non-gambling related suppliers; and
- the development of a risk profile of venues, so as to target the appropriate venues with spot checks and audits of machines or other staff, rather than complete testing; and
- the use of automated systems for checking, as in the case of poker machines in most jurisdictions (but not yet in New South Wales).

It is not clear that all aspects of probity checking need be the responsibility of a regulator. Many businesses that deal with large amounts of cash, such as banks and insurance companies, have internal control measures for dealing with employee or consumer fraud (which typically generate costs for the business, rather than for consumers). It is possible that such probity risks be left to the gambling businesses themselves, without a need for additional oversight by government. This would allow gambling providers to decide what they considered to be prudent and cost effective measures of control to avoid losses to the business owners. Of course, it is still important to have regulatory oversight where probity concerns relate to protection of consumers or to criminal ownership or direction of a gambling business.

Probity: real or apparent?

There are a whole range of measures intended to achieve probity, but measures which may look adequate on paper may not actually function well in practice. For example, anti-laundering measures in casinos apply to transactions over a threshold. This invites the question of whether criminals may simply increase the frequency of small transactions just below the threshold level.

One possible way of gauging whether probity regimes are working as intended is for Australian jurisdictions to share consistently collected information on departures from probity in each jurisdiction over time to see if there are weaknesses in their approaches. Informal meetings of gaming ministers and officials already occur and may adequately meet this need.

Who should bear the costs?

Probity regulation generates costs. Arguably these costs should be borne by the industry itself, with venue charges reflecting the marginal costs of any probity checks.

User charging is the approach taken in some jurisdictions. It means that higher costs will be borne by those parts of the industry for whom the costs of assuring customers of the integrity of their operations is higher. This is an appropriate outcome, provided that the industry has a say in the development of probity requirements. The industry itself has a direct interest in maintaining probity for its own commercial and reputation reasons. This suggests there are benefits in meshing commercial and public probity requirements where practicable.

A common framework?

Differences in approach need to be based on differences of circumstances. The greater focus on casinos in some jurisdictions seems excessive, in view of the scale and variety of gaming activities of some of the big clubs. IPART's inquiry found that regulations were 'fragmented and inconsistent' and not adequately enforced in hotels and clubs in New South Wales (IPART 1998, p. iii).

Some participants argued that there were unjustifiable differences in approach to different types of venues, and in particular, that the different requirements placed on casinos and clubs (some of which are larger than some casinos) did not reflect the relative risks and probity issues involved.

Some casinos are subject to very intense 24-hour scrutiny by government authorities and police forces, to the point where Star City (box 16.15) argued:

The current regulatory structures for the gaming industry are totally inconsistent and haphazard. Some sections of the industry are put under intense scrutiny in almost every area of their operations – others operate under minimal scrutiny ...

The intense scrutiny accorded to the casino is out of all proportion given the relative scale of the problems it generates, the transparency of its operations and its size ... (sub. 33).

Box 16.15 Star City on casino regulation

Star City said that:

Only a small number of staff in hotels and clubs must be licensed and there are no checks made on suppliers (other than gaming equipment suppliers) to these industries. Government inspectors operate 24 hours a day at Star City - random inspections are conducted at hotels and clubs reflecting the staff numbers respectively devoted to two tasks.

Controls on Star City also extend to suppliers of large quantities of goods to casinos (including food, printing, consultancies and any other service valued at more than \$200 000). No such requirement applies to other gaming operators.

In the case of its employees, Star City said:

More than 2000 staff have been required to undergo the strictest probity checks so they can be licensed to work in the casino. These are no ordinary probity checks. Staff are required to produce financial documents dating back five years and be prepared to explain any particular transaction of interest to regulatory authorities. Criminal and credit records are checked and all applicants are palm printed and fingerprinted. Investigations can even be made with international law enforcement agencies like Interpol before a licence is issued. In some cases the licensing process can take up to six months (p. 27).

Moreover, some checks are revisited. Star City said:

The NSW casino legislation even requires a very detailed investigation every three years into the conduct of the casino licence. The investigation covers all aspects of compliance by the operator and its employees. The Casino Control Authority must determine whether it is in the public interest for the casino licence to remain in force — and whether it should be held by Star City. No other gaming body is subjected to such an onerous regulation.

Star City said it has its own regulatory body, the CCA, as well as a division of the Department of Gaming and Racing. About 100 people from various State and federal agencies are involved, even though:

... the casino ... generates only 14 per cent of the State's gaming revenue and operates only two per cent of NSW's slot machines. Yet there is no similar dedicated gaming regulator for the registered clubs which control around 75 per cent of gaming machines or the hotels which operate 23 per cent of machines nor for the TAB, Lotto or Racing (sub. 33).

Burswood casino also said that casinos are subject to significant regulatory requirements:

As a result ... the degree of security involved ... is significantly higher than that applying to many other business activities. Burswood would support any moves to streamline gambling regulation to ensure it operates as efficiently as possible [without] any diminution of the intent of gambling regulation (sub. 113, p. 23).

Some support for these views comes from chapter 6, which notes that there is insufficient evidence to conclude that casinos are a particularly significant source of crime or problem gambling.

Chapter 14 noted that many large clubs are not significantly different from casinos in terms of their gambling activities. The New South Wales IPART inquiry (1998) recommended the immediate licensing of all gaming managers with, in addition, the eventual licensing of all gaming related employees in clubs and hotels (by, say, 2001):

Gaming venue employees with cash handling, machine maintenance and or ticket issue duties hold positions of responsibility. Currently each venue (except Star City) performs its own (if any) suitability checks on potential gaming employees. Patrons, government and employers need assurance that gaming employees operate fair and honestly.

But IPART argued for a gradual transition towards this objective:

This would commence with gaming managers and progress eventually to cover all cash handling staff. [The proposed gaming commission] would need to conduct a risk assessment of the level of licensing appropriate for each type of gaming venue and staff numbers within each venue (IPART, p. 37).

IPART's proposal was supported by the hotel industry, which:

... would like to see the licensing of managers and shift supervisors and all other employees who work in a separate gaming room (AHA submission to IPART, August 1998, p. 22, cited in IPART, p. 37).

Differences in treatment by governments partly reflect historical factors, any licence fee and exclusivity arrangements to which governments have committed themselves, and some earlier uncertainties about the 'imported' casino culture which, at least in the early years in the United States, was linked to organised crime. And whereas clubs are community-based operations, with local operators and members, casinos can be owned or operated by international interests, perhaps making probity checking more difficult and increasing the political difficulty of granting licences.

Overall, however, there are few grounds for the marked differences in the treatment of identical types of gambling across different venues types. There is a basis, therefore, for a common set of probity requirements, at least within a jurisdiction, for gambling venues providing the same types of gambling services, and a move away from separate treatment of gaming machines in casinos, clubs and hotels.

On the other hand, different forms of gambling will require different approaches for at least some aspects of probity. For example, machine gaming, with central monitoring outside of the venue, involves different challenges to table based casino gaming, where there is much more scope for staff and customers to cheat. Even here there are grounds for a common approach to some aspects of probity checking (eg relating to checks on criminal ownership or management of the gambling business).

The *emphasis* of probity checking should be cost effective mechanisms for reducing risks to consumers and the community, regardless of the venue or gambling type.

Mutual recognition?

Jurisdictions may duplicate probity or gambling technology standards checks on a gambling business which sells into more than one State. The Allen report on ACT gambling noted that the application process for casino employees differs considerably across jurisdictions, and suggested that more uniformity would facilitate probity checks and reduce delays in assessing applications. In its view, a preferred approach would be to apply full mutual recognition to this process, as this would permit casino employee licences issued in another State or Territory to be accepted in the ACT (Allen Consulting 1998, p. 42).

Similarly, Tabcorp said:

One thing we would like to see, if it can occur at some stage in the future, is that if we had common probity across states - because each executive who works in this industry finds that if you move to another state you have got to go through the horrors of a large paper trail — if you can meet the probity requirements in Victoria, why can't you immediately or automatically have probity in Queensland, New South Wales, South Australia or somewhere else? (transcript, p. 1034).

Unless there are good grounds for different levels of probity or standards testing in each jurisdiction (eg for the checks on the computer chips and algorithms of gaming machines) there should be a mechanism which allows a business to meet just one requirement in order to sell in others. Mutual recognition is a process which allows this, but gambling has been made explicitly exempt. In fact, mutual recognition is probably not an ideal mechanism for dealing with divergent and duplicated standards in this area. This is because if gambling were not exempt from mutuality then all features of the regulation of gambling would be covered — and that might be inappropriate. For example, South Australia would be unable to bar bill acceptors or Western Australia genuine poker machines. However, it should be possible to reach inter-jurisdictional agreements on some common aspects of probity approaches, such as employee licences.

17 Help for people affected by problem gambling

Box 17.1 Key messages

- All jurisdictions have problem gambling strategies in place, including the funding of problem gambling counselling and support agencies, although some strategies are more comprehensive than others.
- There are differences among jurisdictions in how the problem gambling strategies are funded. Main areas of difference are:
 - while most jurisdictions impose compulsory levies to fund problem gambling services, in Western Australia and South Australia funding is derived from voluntary contributions; and
 - in most jurisdictions, funding is derived from only one or a couple of gambling codes rather than the gambling industry as a whole.
- Funding sources of problem gambling services should be broadened to include all gambling activities that contribute to the need for counselling/treatment services.
- There would be advantages in having rolling triennial funding arrangements for problem gambling agencies in jurisdictions where annual funding rounds currently apply, especially where processes are in place to evaluate the effectiveness of counselling/treatment services.
- It is difficult to put a precise figure on the number of problem gamblers (and those affected by problem gambling) who are currently attending problem gambling counselling agencies — the number is likely to be well above 12 000. But such a figure does not capture all clients seeking help for gambling-related problems because:
 - it excludes those who seek help from group support organisations such as Gamblers Anonymous; and
 - it excludes problem gamblers who seek help from generic service agencies.
- Results from the Commission's *National Gambling Survey* indicate that the likelihood a problem gambler will seek help varies with the degree of severity of gambling problems.
- Areas requiring attention in terms of effective service delivery by problem gambling counselling agencies relate to:
 - approaches used to assess the severity of gambling problems of clients;
 - assessment of client outcomes after counselling/treatment;
 - the effectiveness of counselling techniques used; and
 - whether the needs of particular client groups are being met.

17.1 Introduction

Most state and territory governments have responded to problem gambling in a variety of ways, such as funding community education programs, telephone gambling helplines, professional counselling and treatment services to help those experiencing problems, and research into the social and economic impacts of gambling.

To provide an up-to-date snapshot of available problem gambling services, the Commission conducted a *Survey of Counselling Services* during the course of the inquiry. The survey focused on the main government funded organisations that provide services for problem gamblers and ‘significant others’ affected by problem gambling. Details of the survey methodology are presented in appendix L.

In section 17.2, a brief overview is presented of the range of information and help services that are available for problem gamblers and those affected by problem gambling. The problem gambling strategies currently in place in the various states and territories are outlined in section 17.3, and the funding arrangements are examined in section 17.4. The more important problem gambling help services are then described, in particular the 24-hour problem gambling telephone services such as G-line (section 17.5) and agencies providing problem gambling counselling and treatment (section 17.6). In considering the operation of these agencies, information is given on how many people affected by problem gambling are attending, and the types of counselling and treatment provided.

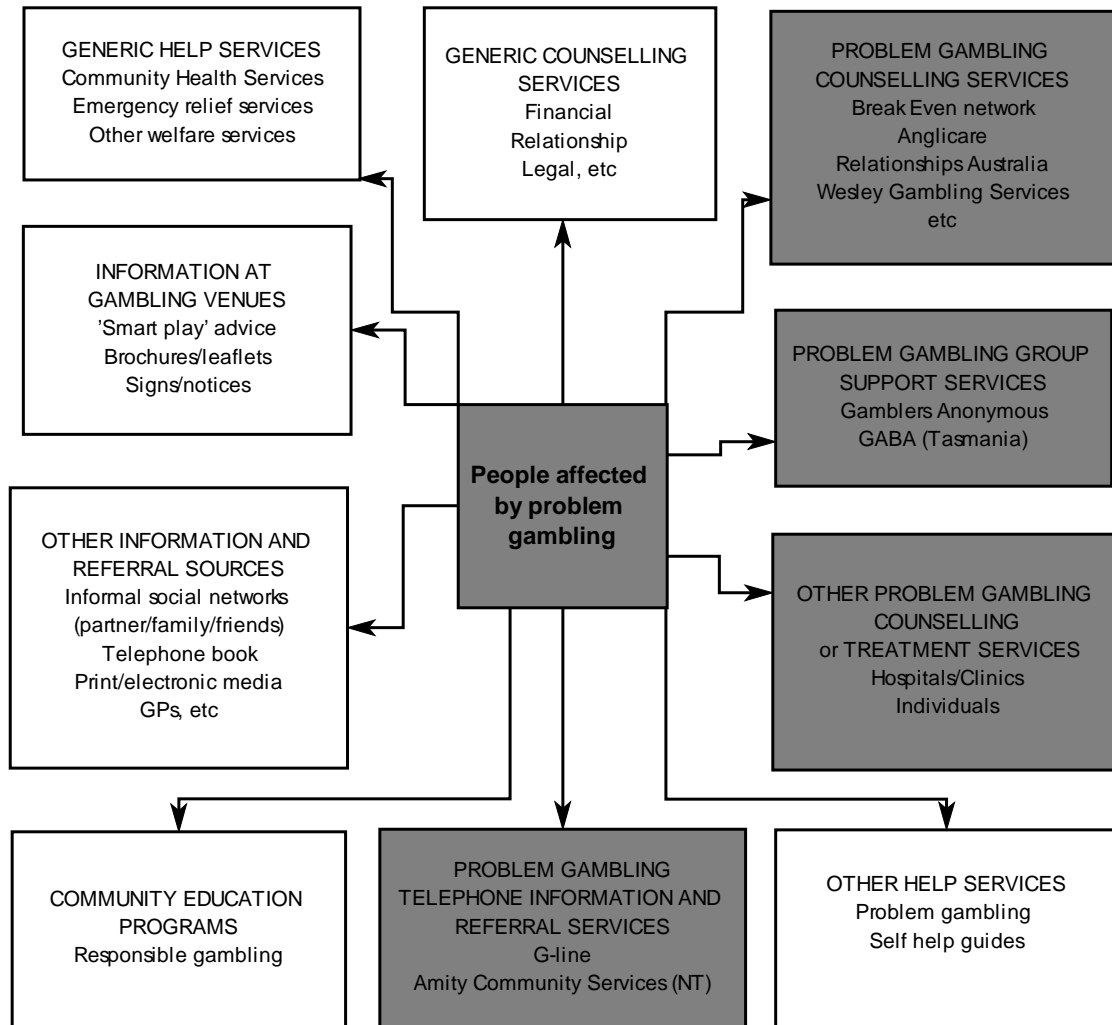
The chapter concludes with an examination of how successful the help services have been in meeting the needs of problem gamblers, and reports the views of the Commission and participants on the effectiveness of current strategies.

17.2 An overview of problem gambling help services

An indication of the main avenues by which those affected by problem gambling can obtain help is given in figure 17.1. The primary responsibility for the provision of help services for problem gamblers rests with state and territory governments. The decision to fund problem gambling services reflects a recognition by governments that the liberalisation of access to gambling has resulted in more people needing help for gambling related problems. As a response to this need, two common elements in most jurisdictions are the funding of direct help via:

- a network of problem gambling counselling and support services — in all states except New South Wales, a geographically-based network has been established under the banner of ‘Break Even’ to provide free counselling to gamblers, their families and friends; and
- a 24-hour telephone helpline to provide immediate counselling and support.

Figure 17.1 **Avenues for problem gamblers to access help services**



The ways in which a problem gambler (or those affected by problem gambling) might seek help will be influenced by the information and referral sources available. For many problem gamblers, their own informal social networks (including partners and family/friends) are the most important source of information about help services. Another important first point of contact might be a 24-hour problem gambling telephone helpline such as G-line.

General practitioners (GPs) can also play a role in assessing problem gamblers and their family members and referring them to appropriate counselling services. Patients may go to their GP to treat the adverse physical and psychological symptoms associated with gambling-related anxiety and depression. Indirect health effects may arise from inadequate nutrition, poor hygiene, and poor living conditions associated with gambling-related financial difficulties (AMA, sub. D204, p. 1).

But there are other sources of referral to gambling help services — for example, information might be obtained from a brochure or notice at a gambling venue, or problem gamblers themselves may self refer to a counselling agency.

The provision of problem gambling help services is carried out by a large number of quite varied and distinct organisations, including welfare, religious and other community groups, private individuals, and public and private hospitals and clinics. These service providers can be grouped into four broad categories (box 17.2). While some of these groups are restricted in the sorts of services they provide, others have a much wider focus.

Box 17.2 Main providers of problem gambling help services

Counselling agencies — largely comprise a wide variety of community organisations, such as welfare and church groups who provide a range of counselling services to problem gamblers.

Group support agencies — include organisations like Gamblers Anonymous. Gamblers Anonymous has grown out of alcoholics anonymous which believes that the only solution to alcoholic addiction is complete abstinence. Gamblers Anonymous has adopted a similar view to problem gambling.

Individuals — include people who either have a strong interest in the issue of problem gambling, know someone (friend or family) who has been affected by gambling, or they themselves were problem gamblers.

Clinics and hospitals — can range from professional individuals working in hospitals providing a service to problem gamblers to larger private clinics employing a number of professional staff.

But people adversely affected by problem gambling also access a broader range of community and counselling help services that are not gambling specific, such as:

- generic counselling services (financial, relationship, legal, etc);
- community health services (due to the incidence of physiological problems associated with problem gambling); and

-
- emergency relief and other welfare services (to provide food, clothing and other support for those deprived through problem gambling).

However, the problem gambling specific help agencies depicted by the shaded boxes in figure 17.1 are the focus of this chapter.

17.3 Government responses to problem gambling

In this section, features of the problem gambling strategies pursued by the state and territory governments are outlined. The funding arrangements for these strategies are described in section 17.4.

Origins of key elements of problem gambling strategies

The key elements of the state and territory problem gambling strategies are summarised in box 17.3. There are similarities in the structure of services developed across jurisdictions in Australia because those that have developed their strategies more recently have borrowed from the experiences and approaches developed earlier by other states as well as overseas countries. Some of the characteristics of services also reflect other similar services that already exist in areas like drugs, alcohol, relationships, etc.

The Break Even network concept of problem gambling counselling agencies originated in the ‘resource centre’ model developed in 1992 by the Queensland Department of Family and Community Services. The approach involved a range of strategies to help people affected by problem gambling, including (see Boreham et al. 1995):

- *direct services* for problem gamblers and their families — such as the provision of information and advice, and financial, addiction and family counselling;
- *prevention, education and community awareness* — involving networking with a wide range of other agencies and professionals in the community, and informing the community on gambling issues and prevention/harm reduction strategies; and
- *proactive strategies* — involving the active support and participation of key stakeholders in the gaming and wagering industry.

A 24-hour toll free problem gambling telephone helpline was first introduced in Victoria in 1994, and other states have gradually followed since that time. As Boreham et al. (1995) have noted:

an appropriately advertised toll-free one number for enquiries/crises concerning problem gambling is an essential component in the provision of services for problem gamblers and their families (p. 28).

Box 17.3 Key elements of problem gambling strategies

New South Wales

- currently 39 problem gambling counselling, treatment and rehabilitation services for problem gamblers and their families receive funding from the Casino Community Benefit Fund.
- a 24-hour telephone counselling and referral service (G-line).
- promoting industry and community awareness of problem gambling and associated activities through education campaigns.
- funding research into the social and economic impact of gambling on individuals, families and the general community.

Victoria

- a problem gambling counselling services network, Break Even, in operation since 1995 — with 18 agencies throughout the state currently receiving funding from the Community Support Fund.
- a 24-hour telephone counselling and referral service (G-line).
- a community education and media campaign.
- establishment of a Problem Gambling Reference Group — comprising membership from a range of key organisations including the gaming industry, counselling services, key community groups and government representatives, to provide advice to the Department of Human Services.
- a problem gambling research program.

Queensland

- a problem gambling services network, Break Even, in operation since 1993, at six locations.
- a 24-hour telephone counselling and referral service — since September 1998 on a pilot basis (the Gambling Help-Line project).
- an advisory Committee (the Responsible Gambling Advisory Committee) comprising all major stakeholders — to provide advice on strategies to monitor, prevent and respond effectively to problem gambling.
- community education and problem gambling research.

Western Australia

- a problem gambling support service, Break Even, in operation since 1995.
- a telephone counselling and referral service (G-line).
- publicising the availability of problem gambling services.

Source: DGR 1999e; sub. 76; VCGA (sub. 60); Department of Human Services (Victoria) 1998.

Box 17.3 Key elements of problem gambling strategies (cont'd)**South Australia**

- a problem gambling services network, Break Even, in operation since 1995 — with 12 agencies currently receiving funding from the Gamblers Rehabilitation Fund.
- a 24-hour telephone counselling and referral service (G-line) — introduced in early 1999.
- an information framework to enable monitoring of the results achieved by clients of the services.
- a statewide community education campaign.
- commissioning of relevant research.
- training and development of Break Even staff.

Tasmania

- a problem gambling service, Break Even, in operation since August 1997 — with 3 organisations currently operating 8 services in 5 locations.
- a 24-hour telephone counselling and referral service (G-line).
- a long-term community education strategy focusing on promoting responsible gambling through preventative programs.
- ongoing research and evaluation to ensure effective service delivery and accountability.

Australian Capital Territory

- little if any strategy other than two part-time counsellors operating at Lifeline Canberra (Gambling and Financial Counselling Service).

Northern Territory

- a problem gambling service provided by Amity Community Services, including counselling and operating a toll-free crisis telephone number.
- research into the impact of gambling on individuals and families.
- a community education program.

Source: Elliot Stanford & Associates 1998; Eckhardt 1998; sub. 128; McMillen and Togni 1997; Alder 1998.

Other elements in the problem gambling strategies of most jurisdictions include:

- a community education strategy; and
- a problem gambling research program.

Problem gambling strategies by jurisdiction

Queensland

A key element in the strategy to address problem gambling in Queensland is the network of six regional counselling services operated by Relationships Australia, Centacare and Lifeline under the Break Even banner. Five of the services have been operating since 1993 (Brisbane, the Gold Coast, Townsville, Toowoomba and Rockhampton) while a sixth service was established in Cairns in 1996, following the opening of the Cairns Casino.

The Queensland Government stressed in its submission the advantages of having a regional network of problem gambling services. First, because of the *regional* spread, agencies can respond to local needs in their area. And second, because each agency is also part of a statewide *network*, this enables consistent levels of service to be provided across the state, as well as information to be shared more easily among agencies, and statewide programs to be better coordinated (sub. 128, pp. 30-1).

Victoria

In February 1994, the then Department of Health and Community Services proposed that regionally-based problem gambling counselling services be established in Victoria, as part of a Problem Gambling Services Strategy. The proposal was a response to the rapid increase in access to legalised gambling in that state. After the proposal was approved later that year, Victoria followed Queensland in adopting the name of Break Even for the problem gambling services network.

A range of other problem gambling services have been funded in addition to the Break Even counselling services, including (Department of Human Services 1998):

- community education and gaming liaison officers — who operate in each region and the Central Business District ;
- innovative services for people from non English speaking background communities;
- financial counselling services — to support the work of existing problem gambling counselling services;
- training and skills development — for problem gambling and financial counsellors and Community Education and Gaming Liaison officers; and
- parenting services — to meet the needs of people who seek Help for people affected by problem gambling who also require help with related difficulties which impact on their families.

Victoria pioneered the establishment of a 24-hour problem gambling helpline (G-line) which was in operation for a year before the establishment of the Break Even network. Another feature of the Victorian strategy is an extensive program of problem gambling research — the Victorian Casino and Gaming Authority funding research into the social impacts of gambling, and the Department of Human Services funding research into service delivery for problem gamblers (see VCGA, sub. 60).

New South Wales

In New South Wales, there are currently 39 problem gambling counselling and treatment services funded by the Casino Community Benefit Fund (CCBF). The Fund was established under the *Casino Control Act 1992*, and has funded counselling and treatment services, public education and awareness, and research into problem gambling since its inception in September 1995.

New South Wales differs from the other states in that the service agencies are not integrated into an overarching network along the lines of the Break Even model adopted elsewhere. As Prosser, Hing et al. (1997) stated:

In NSW many of the [problem gambling] services are available as discrete units but are not integrated under the Break Even name or organisational structure. Thus the NSW population have no publicly recognisable symbol or common element to associate with problem gambling services (p. 24).

Yet it has also been suggested that there may be some advantages in the New South Wales approach of not adopting a unifying label. As Michael Walker commented:

Since it is not known which assumptions about the causes of problem gambling are correct and which treatment methods are the more effective, a heterogeneous collection of agencies is appropriate. Also, the NSW system avoids the poor treatment record of a single agency contaminating perceptions of the whole range of agencies (sub. D287, p. 1).

South Australia

Responses to problem gambling in South Australia date from around August 1994, when funding was announced by the then Premier “to initiate programs to deal with gambling addiction and to help their families”. Such funding had been foreshadowed by the legislation introducing gaming machines in that state (the *SA Gaming Machines Act 1992*).

A range of problem gambling intervention and prevention services are funded by the SA Gamblers Rehabilitation Fund (GRF). In August 1995, the counselling agencies

funded by the GRF formed a network under the Break Even banner. The role of the network is to (see Elliot Stanford & Associates 1998, p. 16):

- contribute to adequacy and quality of services to gamblers and their significant others;
- provide information to stakeholders and advocate on gambling related issues and services;
- build co-operation and co-ordination between service providers; and
- raise community awareness of gambling related issues and their implications for individuals and the community.

Tasmania

A problem gambling strategy in Tasmania took effect in April 1997, when the government approved funding for three organisations to provide services for problem gamblers under the Break Even banner:

- Anglicare Tasmania (with counselling services in Hobart, Burnie and Devonport);
- Relationships Australia (with counselling services in Hobart and Launceston); and
- Gambling and Betting Addiction Inc. (GABA) (with group support meetings in Hobart, Launceston and Ulverstone).

The approach of the strategy was to provide problem gamblers with choice in two areas (Eckhardt 1998):

- *nature of help services* — a multiple service approach, which recognises the value of professional counselling as well as group support for helping problem gamblers and their families; and
- *number of organisations* — having more than a single provider of problem gambling help services.

However, Tascoss noted that one component of the problem gambling strategy — the community education program — operates only in Northern Tasmania, and has had limited broad impact within the community (sub. 114, p. 3).

Western Australia

The provision of problem gambling services in Western Australia dates from 1994, with the formation of the Problem Gambling Support Services Committee,

consisting of industry and government representatives. A major initiative of the Committee was that funding should be provided for a service to assist problem gamblers and their families. The successful applicant in the tender process was Centrecare Family and Marriage Service, which established a counselling service for problem gamblers under the name of Break Even in November 1995 (sub. 76).

Since its inception, the Problem Gambling Support Services Committee has continued to develop its role. As well as funding the 24-hour telephone help service (G-line) since August 1997, its recent initiatives include (sub. 76):

- negotiating an additional grant with Centrecare to provide more widespread publicity about the provision of gambling services; and
- undertaking research into problem gambling in ethnic communities.

Australian Capital Territory

In the ACT, the only response in place for dealing with problem gambling is a Gambling and Financial Counselling Service (GAFCS) operating in Lifeline Canberra (sub. 96). But current funding only allows for the employment of one part-time gambling counsellor and one part-time financial counsellor (sub. 103). As Lifeline Canberra stated:

There is a need for an overall government strategy which incorporates research, education, prevention and counselling services. Both Victoria and Tasmania appear to have models which could be incorporated in the ACT (sub. 103, p. 3).

Lifeline Canberra identified a number of gaps in problem gambling service delivery in the ACT, such as (sub. 103, p. 3):

- current funding allows for the employment of only 1.4 counsellors (to service a total population of over 300 000);
- because of these resource constraints, any advertising to increase awareness of the service could not meet any resultant increase in demand;
- no regional counselling services are provided (in the surrounding regions of the ACT, particularly Queanbeyan);
- no funds are specifically allocated to community education, prevention or media campaigns; and
- no resources are available to adequately evaluate service effectiveness.

Clearly the ACT lacks most of the key elements of the problem gambling strategies of other jurisdictions.

Northern Territory

In 1994, the decision was made to extend the availability of poker machines in the Northern Territory to clubs and hotels. Because it was recognised that community gaming machines may contribute to problem gambling, in early 1995 a Select Committee made recommendations in relation to (Alder 1998):

- *rehabilitation funding* — establishing a Community Benefit Levy for problem gambling related services and community organisations;
- *community education* — relating to gambling and sensible family budgeting; and
- *research* — initiating a base line research study of the impact of gambling on individuals and families, as the basis for designing a rehabilitation services network.

The Northern Territory relies on general community service agencies to provide problem gambling support services. The main agency is Amity Community Services, which has received some funding for gambling counselling, operation of a toll-free telephone helpline, and a community gambling awareness program — which included pamphlets at all gaming venues, a self-help manual for gamblers with problems, and posters advertising their services (McMillen and Togni 1997).

17.4 Funding of services for problem gamblers

In this section, the funding sources for problem gambling support services in the states and territories are described, and the levels of funding reported. The earmarking of gambling taxes in a broader context is discussed in chapter 20.

In addition to the government funded and approved services, there are also other providers of help to problem gamblers who do not receive government funding. Notable among these is Gamblers Anonymous, whose charter does not allow fund seeking.

Funding sources

The funding sources for the problem gambling strategies followed in the various jurisdictions are reported in table 17.1. It is clear that there are differences in a number of respects, including:

- the parts of the gambling industry that provide funding specifically for problem gambling services; and

- whether funds are derived from statutory levies or contributed on a voluntary basis.

In most jurisdictions, levies are imposed on sections of the gambling industry which contribute to one or more community support programs. However, in many cases only a small proportion of the funds raised from the gambling industry are typically used to support help services for problem gamblers, and the parts of the gambling industry that make contributions to funding these services can be quite narrowly based.

Table 17.1 Funding sources of problem gambling services, by jurisdiction

<i>State/Territory</i>	<i>Fund</i>	<i>Funding source</i>
NSW	Casino Community Benefit Fund	Part of the tax paid by the Sydney Casino operator (equivalent to 2 per cent of the gross annual gaming revenue)
Victoria	Community Support Fund	Derived from 8.33 per cent of the net cash balance from gaming machines in hotels
Queensland	Charities & Rehabilitation Benefit Fund	Derived from a percentage of gaming machine and keno revenue collected by the Queensland Office of Gaming Regulation
WA	Fund managed by Lotteries Commission on behalf of Problem Gambling Support Committee	Voluntary contributions from Burswood Resort Casino, WA Totalisator Agency Board and Lotteries Commission of WA
SA	Gamblers Rehabilitation Fund	Voluntary contributions by the Australian Hotels Association and Licensed Clubs Association
Tasmania	Community Support Levy	Derived from a levy on gross profits on gaming machines in hotels (a rate of 4 per cent) and clubs (a rate of 2 per cent)
ACT	Community Services Grants Program	Derived from a percentage of gambling revenue
NT	Community Benefit Fund	Derived from a levy of 25 per cent of gross profit on gaming machines in hotels

Sources: DGR 1999e; VCGA (sub. 60); Queensland Government (sub. 128, p. 48); sub. 76; Elliot Stanford & Associates 1998; Eckhardt 1998; sub. 96; Alder 1998.

In Queensland, legislation provides for a proportion of the revenue from casinos, gaming machines in licensed clubs and hotels, keno and other forms of gambling to be allocated to a number of special funds (sub. 128, pp. 45-48): Casino Community Benefits Funds (CCBFs), the Gaming Machine Community Benefit Fund, the Sport & Recreation Benefit Fund, and the Charities & Rehabilitation Benefit Fund — in relation to the last of these, contributions are made from gaming machine and keno revenue, and funds are used for charitable, rehabilitative or social benefit purposes.

In aggregate, these special funds benefited by \$92 million in 1997-98, with the Charities & Rehabilitation Benefit Fund (CRBF) alone amounting to \$26.4 million (sub. 128, p. 45). However, only a very small portion of the CRBF is allocated to assist problem gambling services. For example, in 1998-99 around \$1.56 million was allocated to recurrently funded problem gambling services (sub. D275, p. 24).

In Victoria, a percentage of the net cash balance from gaming machines in hotels contributes to the Community Support Fund (VCGA, sub. 60). The *Gaming Machine Control Act* 1991 requires that funds from the Community Support Fund must be used for (sub. 60, p. 1):

- research by the Victorian Casino and Gaming Authority into the social and economic impacts of gambling; and
- payment for or towards the provision of projects of benefit to the community, such as projects assisting problem gamblers, drug rehabilitation centres and projects of lasting significance which demonstrate substantial community benefit (such as those relating to youth, sport, recreation, tourism and the arts).

In New South Wales, the principal source of funding for counselling and treatment services for problem gamblers and their families, promoting public education and awareness, and supporting research into problem gambling is the Casino Community Benefit Fund. The Sydney casino operator pays a specified amount of tax (based on casino gross gaming revenue) to the New South Wales Government's consolidated revenue, and an amount calculated at 2 per cent of the casino's gross gaming revenue is separately hypothecated to the CCBF. But as IPART (1998) noted, other sources of funding for services and research include individual gaming operators, the Department of Community Services, NSW Health, universities and welfare groups (1998, p. 61).

In Tasmania, the Community Support Levy (CSL) is derived as a percentage of gross profits on gaming machines in hotels and clubs — but no contributions to the CSL are made from the profits on gaming machines located within the casino complexes. Funding in the Northern Territory is also very narrowly based — the Community Benefit Fund (CBF) is derived from a levy on gross profits on gaming machines in hotels only.

In Western Australia, problem gambling services are funded on an entirely voluntary basis by Burswood Resort Casino, the TAB and the Lotteries Commission. Each member of the industry provides their contribution to the Lotteries Commission, which then administers the grants program to G-line and Centrecare, and payment of the costs of research projects. As the Western Australia government commented:

The voluntary agreement by the gaming industry in Western Australia to contribute to problem gambling support services appears to be unique in Australia (sub. 76, p. 33).

But South Australia also has a voluntary funding approach. The Gamblers Rehabilitation Fund (GRF) was established by the South Australian Government in August 1994, shortly after gaming machines were introduced to clubs and hotels. An amount of \$1.5 million per annum is contributed voluntarily to the GRF by the Australian Hotels Association and the Licensed Clubs Association through the Independent Gaming Corporation (Elliot Stanford & Associates 1998, p. 7).

However, Anglicare (SA) expressed some concern that the voluntary funding arrangements in SA might not ensure that funding was adequate, and suggested that:

in line with other Australian States, the formula for contributing to the [GRF] be based on turnover, and be set at between 2 and 5 per cent (sub. 104, p. 17).

Further views of participants and the Commission on funding arrangements are presented in the concluding section of this chapter.

Funding levels

Information on funding levels for problem gambling strategies by jurisdiction are reported in table 17.2.

In New South Wales, funding of problem gambling services in 1997-98 amounted to around \$4.8 million, of which \$3.7 million was allocated to problem gambling counselling services (sub. 163). In total, \$13 million has been expended or committed since the inception of the CCBF in September 1995 on counselling and treatment services, public education/awareness and research in relation to problem gambling (CCBF 1999).

In Victoria, over the period since 1993 up to end-June 1999 a total of \$39.4 million has been committed from the Community Support Fund for the development of a comprehensive problem gambling strategy. Of this amount, \$30.4 million has been allocated to problem gambling and related services, \$1.5 million to the research program, and \$7.5 million to the community education campaign (Department of Human Services Victoria 1998). A further \$21 million has been allocated for the three-year period to end-June 2002.

In Queensland, an amount of \$1.556 was allocated in 1998-99 to recurrently funded problem gambling services, including funding of the Break Even network, piloting of the Gambling Help Line, and funding for the Secretariat for the Responsible

Gambling Advisory Committee, which is comprised of industry, problem gambler service provider and government representatives (sub. D275, p. 24).

Table 17.2 Funding levels of problem gambling services, by jurisdiction

<i>State/Territory</i>	<i>Period</i>	<i>\$'000</i>	<i>Comments</i>
NSW	1997-98	4 781	Expenditure on problem gambling counselling, research and programs
Victoria	1993-94–1995-96	4 134	Triennial funding for the Problem Gambling Services Strategy
	1996-97–1998-99	35 300	Second round of triennial funding
	1999-2000–2001-02	21 000	Allocation for third round of triennial funding
Queensland	1998-99	1 556	Allocation to recurrently funded problem gambling services
WA	1998-99	113	
SA	1997-98	1 337	Total expenditure of \$5.722 million since the inception of the GRF in August 1994.
	1998-99	1 747	
Tasmania	1997-98	303	\$1.125 million allocated to problem gambling programs during period July 1997–April 1999.
	July 1998–April 1999	304	
ACT	1998-99	107	Funding to Lifeline ACT for the Gambling and Financial Counselling Service
	1999-2000	127	
NT		See text	

Sources: CCBF Trustees 1999; Commonwealth Department of Health and Aged Care (sub. 163, table 3); Jackson et al. 1997; Department of Families, Youth and Community Care (Queensland) 1999; Queensland Government (sub. D275, p. 24); Eckhardt 1999; ORGL 1999b; Department of Human Services (SA)1999; Department of Education and Community Services (ACT)1999; sub. D275.

In Western Australia, the Problem Gambling Support Services Committee has approved a budget of \$113 000 for the provision of counselling services by Centrecare in 1999-2000, an amount similar to that approved in 1998-99 (ORGL 1999b).

In South Australia, the expenditure from the Gamblers Rehabilitation Fund in 1998-99 includes an allocation of \$1.164 million for Break Even service agencies and specialist services, and \$0.463 million for training, media and other services (Department of Human Services SA 1999).

In the Northern Territory, payments from the Community Benefit Fund were suspended in July 1997, pending the Gaming Machine Industry Review, which was completed in December 1998 (Alder 1998). However, that Review reports that the levy on hotels is still producing over \$125,000 per month, and the balance of the fund is over \$2 million.

On the situation in the ACT, Lifeline Canberra commented that the funding they receive:

... is considerably less than that which is received by gambling counselling services in other States. The number of citizens of the ACT attending the Gambling and Financial Counselling Service ... is consistent with that of other gambling counselling services although funding in the ACT is lower and availability of the service is less (sub. 96, p. 3).

Up-to-date or annual information on problem gambling funding is lacking for some jurisdictions. With that proviso, the total annual funding of problem gambling programs (including problem gambling counselling services, research into problem gambling, and other services such as G-line) is currently perhaps around \$20 million. However, this understates somewhat the overall level of problem gambling support because people with gambling related problems access a wider range of help services than those which are gambling specific. As the Queensland Department of Families, Youth and Community Care (1999) pointed out:

a wide range of funded and unfunded community based services and a number of government departments provide support, including counselling/health services, to people adversely affected by gambling in Queensland. These may be generic services which are not gambling specific, for example, a community health service or an emergency relief service.

Differences in levels of funding of problem gambling services across jurisdictions largely reflect differences in the number of clients attending problem gambling services (refer section 17.6). Comments on whether levels of funding are adequate and appropriate are reported in section 17.7.

17.5 Problem gambling telephone helpline services

Telephone help services for problem gamblers and people affected by problem gambling operate in all states and the Northern Territory. The current arrangements in the various jurisdictions are as follows:

Victoria, Tasmania, Western Australia and South Australia — a 24-hour telephone crisis counselling and referral service called G-line is operated by the Addiction Research Institute (ARI), an independent not-for-profit organisation supported by funding from both government and non-government sectors.

New South Wales — a G-line service was established in New South Wales in August 1997, operated by the ARI. From 1 August 1999 the New South Wales Government engaged a New South Wales-based company (High Performance Healthcare) to operate the 24-hour helpline, following a tender process. The new

operator conducts the service under the name ‘G-line (NSW)’ and uses the same telephone number as before — 1800 633 635.

Queensland — the Queensland Government has developed its own telephone help service model, the Gambling Help-Line pilot project, to meet the particular needs of the Queensland context. An independent evaluation of the pilot project has recently been completed, and the service will continue to operate in the pilot areas while a statewide model of operation is developed. The Gambling Help-Line is expected to be implemented across Queensland in early 2000 (sub. D275, p. 10).

Northern Territory — a telephone help service similar to G-line is operated by Amity Community Services.

The G-line service model

The G-line service was established first in Victoria, and became operational from October 1994. Since that time, a G-line service has been introduced in all states except Queensland (table 17.3).

Table 17.3 **G-line: commencement dates and funding support, by state**

<i>State</i>	<i>Date commenced</i>	<i>Funding body/source</i>
Victoria	October 1994	Department of Human Services (Community Support Fund)
Tasmania	October 1996	Tasmanian Gaming Commission (Community Support Levy)
New South Wales	August 1997	Department of Gaming and Racing (Casino Community Benefit Fund)
Western Australia	August 1997	Burswood Resort (Management) Ltd, Totalisator Agency Board and Lotteries Commission of WA
South Australia	End 1998/early 1999	Department of Family and Community Services

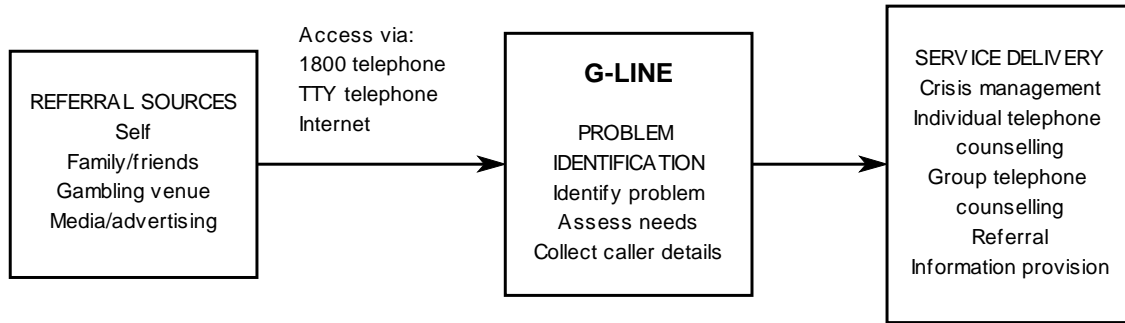
Source: Addiction Research Institute (sub. 37, attachment 2); <http://www.g-line.org.au>.

The key elements of the G-line service model — problem identification, provision of direct services, and referral — are depicted in figure 17.2. Other details on G-line are set out in box 17.4. G-line acts as a first point of contact for people affected by problem gambling to access a range of services, such as (sub. 37):

- *direct* services — including crisis counselling support, individual telephone counselling and group telephone counselling; and

- *indirect* services — including referral to services that provide problem gambling, relationship, financial and legal counselling; and provision of information.

Figure 17.2 **The G-line service model**



Source: Addiction Research Institute (sub. 37).

Box 17.4 **G-line at a glance**

Management	Addiction Research Institute (ARI).
Client group	People affected by problem gambling
Service provided	Individual and group telephone counselling, information and referral. The service is confidential and free of charge to callers.
Access	Clients can access the G-line call centre 24 hours a day, 7 days per week via a toll free 1800 telephone number. A TTY 1800 number is also available for the hearing impaired. An internet website (www.g-line.org.au) is accessible in 13 languages.
Coverage	Services delivered on a statewide basis in Victoria, Tasmania, South Australia and Western Australia.
Counselling staff	Professionally qualified telephone counsellors with specialist skills in problem gambling counselling and crisis management.
Funding	Funding for G-line services is received from state governments under contracts to provide those services for each state.

Source: Addiction Research Institute (sub. 37).

Group telephone counselling for problem gamblers is a program operated by the ARI which involves three to five clients participating in six, semi-structured, one-hour tele-counselling sessions per week. A G-line psychologist acts as the group's facilitator, and clients are required to make a commitment to participate in all sessions.

How do clients hear about G-line?

The main ways in which callers obtain the telephone number for G-line are reported in table 17.4. The information relates to Victoria, which has operated the G-line service for the longest period of time. The relative importance of the different referral sources has varied over time, with the most important *current* sources being the telephone book or directory assistance, notices at gambling venues, and brochures or pamphlets.

Table 17.4 **Main referral sources to G-line: Victoria**
per cent

<i>Referral source</i>	<i>Dec-98</i>	<i>Sep-98</i>	<i>Jun-98</i>	<i>Mar-98</i>	<i>Dec-97</i>	<i>Sep-97</i>	<i>Jun-97</i>
Family/friends, etc	6	10	8	6	6	6	11
Phone book, directory	30	32	29	20	18	13	38
Brochure/pamphlet/poster	20	24	25	8	6	7	17
Media (Paper/TV/radio)	7	7	12	45	56	63	14
Venue notice	28	19	15	11	9	8	12
Other	9	8	11	11	6	4	8
All	100	100	100	100	100	100	100

Source: Information supplied by Addiction Research Institute.

But the media was overwhelmingly the main referral source from the September quarter 1997 to the March quarter 1998. A publicity campaign for G-line during that period resulted in between one-half and two-thirds of callers listing the newspaper, television or radio (and especially television advertising) as the primary source of referral. It is clear then that media publicity can play a vital role in raising people's awareness of the availability of the G-line telephone help service.

How many clients are contacting G-line?

In some states, G-line has been operating for only a relatively short period of time (South Australia) or only on a pilot basis (Queensland). In relation to New South Wales, the Trustees of the CCBF declined to release G-line data to the Commission other than as an unidentifiable component of national G-line data. In respect of Western Australia, some concerns about the reliability of the G-line data were expressed to the Commission by the WA Lotteries Commission.

For these reasons, only limited information on the number of callers is available for reporting here — for Victoria and Tasmania (table 17.5). The trends in the number of calls to G-line in Victoria illustrate the importance of the ongoing need to keep

potential clients fully informed of the availability of the service by publicity and awareness campaigns.

Table 17.5 Number of calls to G-line, by period and state^a

<i>Half-year ending</i>	<i>Victoria</i>	<i>Tasmania</i>
December 1996	4 077	n.a.
June 1997	4 274	27
December 1997	7 169	82
June 1998	6 354	67
December 1998	5 028	66 ^b

^a The information relates to 'genuine' calls only. Because of the anonymity afforded callers, it is not possible to distinguish between those who contacted G-line once and those who made contact more than once, unless this was disclosed during the counselling process. Hence, the information refers to calls rather than callers.

^b Relates to September quarter 1998 only

Source: Addiction Research Institute; Eckhardt 1998.

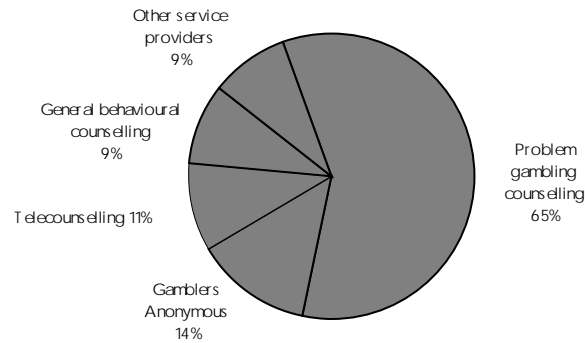
In Victoria, the number of calls to G-line increased steadily from the inception of the service in October 1994. In each of the first three quarters of 1995, total calls almost doubled, to reach around 700 in the September quarter 1995. A publicity campaign to increase awareness of the service later that year saw the number of calls increase from an average of 6-8 calls per day to 40-60 per day (Boreham et al. 1995, p. 28).

More recently, in the twelve month period to June 1997, 8351 calls were made. However, in the following twelve month period to June 1998, the number of calls jumped to 13 523. This period coincided with a major television and radio publicity campaign from July 1997 to February 1998. Since the June 1998 quarter, calls have declined somewhat with the number in the six-month period to December 1998 reaching 5028.

Where does G-line refer clients?

The current referral pattern for clients who contacted G-line in Victoria in the December quarter 1998 is depicted in figure 17.3. Around two-thirds of callers were referred to a problem gambling counselling agency, while around 15 per cent were advised to contact Gamblers Anonymous.

Figure 17.3 Referrals by G-line to help services, Victorian clients



Source: Information supplied by Addiction Research Institute.

17.6 Problem gambling counselling services

In this section, several aspects of problem gambling help services are examined, such as:

- how do people affected by problem gambling find out about counselling services?;
- how many people are attending problem gambling counselling services?;
- what types of gambling related problems do clients experience?;
- what types of counselling/treatment do clients receive?; and
- what are the outcomes of the counselling/treatment?

Some of the findings reported are drawn from the Commission's *Survey of Counselling Services*. Details on key characteristics of clients of these agencies, drawn from the Commission's *Survey of Clients of Counselling Agencies*, are reported in chapter 7.

How do clients find out about problem gambling counselling agencies?

The main referral and information sources for clients attending problem gambling counselling agencies are reported in table 17.6 for a selection of jurisdictions. In Victoria, the most important referral source is the telephone counselling service G-line, which accounted for 37 per cent of all referrals among new clients in 1997-98. In New South Wales and Tasmania, where G-line had been operating for a shorter period, the proportion of referrals from that source was only around 20 per cent.

Table 17.6 Referral and information sources for clients of problem gambling counselling agencies

<i>Referral/information source</i>	<i>Vic</i> ^a	<i>NSW</i> ^b	<i>Tas</i> ^c	<i>WA</i> ^d	<i>SA</i> ^e	<i>PC survey</i> ^f
Self-initiated	29	10	8	35	-	30
Family/friends	13	19	11	10	41	22
G-line	37	21	22	5	n.a.	21
Another agency/service	7	20	35	9	16	18
Brochure/advertising/media	8	11	9	10	10	-
Other therapist/counsellor medical /health service	6	6	-	4	4	-
Ministry of Justice/legal/parole	5	4	-	11	-	-
Telephone book	-	- ^g	6	17	12	-
Other/not known	4	9	9	-	17	9

^a Based on problem gambler client registration data for 18 Break Even agencies, 1997-98. These percentages sum to more than 100 because some clients reported more than one referral source. ^b Based on a survey of 45 problem gambling counselling agencies, August 1998. ^c Based on registration data for 102 clients of Break Even agencies, July 1997 to September 1998. ^d Based on registration data for 123 clients. ^e Based on client registration data for Break Even agencies, November 1996 to March/May 1998. ^f Results from *Survey of Counselling Services*, referral sources reported by 79 agencies, weighted by the number of problem gamblers attending each agency. ^g Included in the advertising category.

Sources: Jackson et al. 1999b; Walker 1998a; Eckhardt 1998; ORGL 1999b; Elliot Stanford & Associates 1998; PC *Survey of Counselling Services*.

In seeking to explain why the share of referrals from G-line in New South Wales might not have been higher, Walker (1998a) concluded that:

... the most likely explanation is that the G-line service has not been advertised sufficiently widely. Although signage and brochures present the 1800 number for G-line, it may well be the case that large numbers of problem gamblers simply do not realise that help is a telephone call away and that there is likely to be a counsellor nearby who is easily accessible (p. 16).

In the one state reported in the table which had no G-line service at the time of the data collection (South Australia), family and friends were the most important referral source. That source is also relatively important in the other states.

In Tasmania, the large proportion of referrals from other agencies is largely accounted for by referrals from the group support organisation GABA, which was responsible for referring 19 per cent of the clients attending the two problem gambling counselling agencies (Relationships Australia and Anglicare).

Self referrals are relatively high in Victoria and Western Australia, whereas in the other states they take a much a lower ranking. Jackson et al. (1999b) have commented on the Victorian self referrals as follows:

This concept of self-referral is a difficult one. While clients may be urged by others to seek help for their gambling associated problems, unless an actual referral is made, the client is regarded as self-referred. ... Conversely, if a client self-refers to an agency, and that agency subsequently advises that Break Even is a more suitable agency to deal with the client's problem, then a referral from another health or welfare service is recorded, even though the client initiated the original contact (p. 39).

Self-referral might also be something of a catch-all category where a counsellor is not sure of the source of referral. With these provisos, results from the Commission's *Survey of Counselling Services* suggest that referrals initiated by problem gamblers themselves are the most common source of referral. Family/friends and G-line were also important referral sources, with Other agencies of slightly lesser importance overall. The relative importance of telephone help services as a referral source differed across jurisdictions. For example, the proportion of referrals in Victoria, Tasmania and New South Wales from G-line were 54 per cent, 23 per cent and 15 per cent respectively, whereas in the other states in which it has been introduced more recently, G-line accounted for less than 10 per cent of referrals.

How many clients are attending problem gambling counselling agencies?

The available information on the number of clients attending problem gambling counselling agencies is presented in table 17.7. Because the introduction of Break Even services is only relatively recent in some states, time series information is very limited. Similarly, the available information on clients is not always comparable — sometimes referring only to new clients rather than all clients, and combining problem gamblers with those *affected* by problem gambling.

The information for New South Wales on the number of problem gamblers receiving counselling or treatment is available from surveys commissioned by the CCBF and conducted by Walker (1997, 1998a). The surveys sought to obtain a complete coverage of clients attending all agencies providing services for problem gamblers, and included not only counselling and treatment services funded by Government sources, but other services as well. Among the findings were that:

- 310 problem gamblers were counselled during a one week period in September 1998, compared with 154 during a comparable week in 1997; and
- approximately 2377 problem gamblers received counselling during the twelve-month period to September 1998, compared with 1972 for the same period in 1997.

The annual figures suggest an increase of 20 per cent in the number of problem gamblers being counselled and treated by agencies in New South Wales between 1997 and 1998.

Table 17.7 Number of clients attending problem gambling agencies

<i>State/Territory</i>	<i>Period</i>	<i>Source</i>	<i>Number of clients</i>
NSW	1997	Survey of service agencies	1 972 problem gamblers
	1998	Survey of service agencies	2 377 problem gamblers
	Sept 1997 (1 week)	Survey of service agencies	154 problem gamblers
	Sept 1998 (1 week)	Survey of service agencies	310 problem gamblers
Victoria	1995-96	18 Break Even agencies	1 324 new clients
	1996-97	18 Break Even agencies	1 817 new clients ^a
	1997-98	18 Break Even agencies	3 149 new clients ^b 4 024 clients in total
Queensland	Sept 1998 to April 1999	3 Break Even services	384 new clients ^c
SA	1997-98	Break Even agencies	749 clients ^d
WA	1997-98	Centrecare services	160 clients ^e
Tasmania	1997-98	Break Even agencies	143 new clients ^f
	July 1998 to April 1999	Break Even agencies	241 new clients ^f
ACT	1997-98	Lifeline ACT (Gambling and Financial Counselling Service)	314 gambling counselling sessions; 109 financial counselling sessions

^a Around 84 per cent were people who had problems with their own gambling behaviour. ^b Around 80 per cent were people who had problems with their own gambling behaviour. ^c Clients attending Break Even services in Brisbane, Gold Coast and Townsville for the 8-month period. These three agencies account for around 60 per cent of Break Even services funding in Queensland. Assuming service delivery is proportional to funding, and scaling up client attendances to a 12-month period gives an annual estimate of around 960 new clients. ^d 70 per cent were gamblers. There is some uncertainty attached to the SA figures. Elliot Stanford & Associates (1998) report a total of 4807 Break Even clients during the period November 1996 to March/May 1998. However, such a figure seems extremely high, relative to numbers attending in Victoria and NSW. The quoted figure of 749 clients is sourced from Department of Human Services 1999. The number of clients seen by the Break Even network in 1996-97 was 1645, of which 68 per cent were gamblers. Again, these figures appear to go against trends because in other States the number of clients has been increasing in recent years. ^e 83 per cent were gamblers. ^f Includes problem gamblers and those affected by problem gambling.

Source: Jackson et al. 1997, 1999b; Walker 1998a; Eckhardt 1999; ORGL 1999b; Department of Families, Youth and Community Care (Queensland) 1999; Department of Human Services (SA) 1999; Department of Education and Community Services (ACT) 1999.

The number of new clients presenting to the 18 Break Even problem gambling counselling services in Victoria increased from 1324 in 1995-96 to 1817 in 1996-97 (an increase of 37 per cent) and to 3149 in 1997-98 (a further increase of 73 per cent) (Jackson et al. 1997, 1999b). The overall number of clients attending counselling sessions in 1997-98 was 4024, which included new clients receiving counselling for the first time and clients who first presented prior to 1 July 1997 but who also obtained counselling in 1997-98. Around 80 per cent of the new clients

were problem gamblers themselves, with the remaining 20 per cent being partners and others affected by someone else's problem gambling behaviour.

Other jurisdictions have also recorded substantial increases in the number of clients attending problem gambling agencies. For example, if the available information for Tasmania for the period from July 1998 to April 1999 is scaled up to an annual basis, the increase over attendances in 1997-98 represents a doubling.

Information on client numbers attending Break Even services in Queensland is limited for a number of reasons. Although Break Even agencies collected some data prior to September 1998, use of the data base was inconsistent and as a result the statistics do not accurately reflect service delivery during the past few years (Department of Families, Youth and Community Care 1999). However, since September 1998 some limited but consistent statistical recording of clients has occurred and for that reason, only information for the period September 1998 to April 1999 is reported in table 17.7.

In South Australia, clients of Break Even services are allocated an encrypted identifier where possible, so that those who return at a later date or who attend more than one service can be identified. But of the 1645 clients in 1996-97, 30 per cent had an encrypted identifier while of the 749 clients in 1997-98, 55 per cent had an encrypted identifier. From these it is possible to identify repeat clients, but a limitation is, of course, that not all clients have an identifier.

The data in table 17.7 are consistent with a significant increase in the number of clients attending problem gambling counselling services in recent years. However, it is difficult to estimate the *total* number of clients that are *currently* attending problem gambling counselling agencies because of:

- differences in time periods and types of clients in the available data; and
- the information on clients of counselling agencies for all states except New South Wales includes only those attending services funded by Government sources. Hence in jurisdictions where there are also services providing help for problem gamblers that do not receive government funding, the reported figures will understate the *overall* number of problem gamblers receiving treatment.

In an effort to assemble the most up-to-date information, the Commission conducted its own *Survey of Counselling Services*. Findings are reported in table 17.8 on the number of clients (problem gamblers and those affected by problem gambling) receiving counselling or other help in the 12 month period prior to the survey. The agencies are classified into those which specialise in providing services for people experiencing gambling problems, and non-specialist agencies which provide help; and by jurisdiction.

The 53 specialist problem gambling counselling agencies which responded reported helping around 7 886 gamblers in the 12 months prior to the survey and a further 1 563 clients affected by someone else’s gambling were also helped. Combined with around 2 157 helped by the non-specialist agencies surveyed, overall the respondent agencies reported counselling or helping around 11 600 problem gambler clients and other clients affected by someone else’s problem gambling.

Table 17.8 People seeking problem gambling counselling or help
Number in 12 months period prior to survey

<i>Agency/jurisdiction</i>	<i>Agencies</i>	<i>Gamblers</i>	<i>Others</i>	<i>Total</i>
Specialist problem gambling	53	7 886	1 563	9 449
Non-specialist	26	1 720	437	2 157
NSW	21	3 448	484	3 932
Victoria	23	2 441	441	2 882
Queensland	8	969	306	1 275
Western Australia	5	180	32	212
South Australia	15	1 952	581	2 533
Tasmania, ACT, NT	7	616	156	772
Total	79	9 606	2 000	11 606

Source: PC Survey of Counselling Services.

Looking at the number of problem gambling clients by jurisdiction, differences arise between the survey findings (table 17.8) and the information in table 17.7 because of factors such as:

- *survey nonresponse* — not all agencies that were approached to participate in the Commission’s survey agreed to do so, and not all who agreed to participate actually responded. For example, of 126 agencies included in the sample frame, 106 agreed to participate while completed returns were received from 82 (refer appendix L).
- *differences in coverage* — identifying all the agencies which provide counselling and help services for people with gambling problems in all of the various jurisdictions is a difficult task, and while the Commission’s survey aimed to be as comprehensive as possible, inevitably coverage was less than complete. But the coverage of agencies in table 17.7 (apart from New South Wales) is also incomplete in that the reported data focus on agencies that receive government funding. Examples of differences in coverage include the following:
 - While 23 Victorian organisations providing problem gambling services responded to the Commission’s survey, only 9 of these were common to the group of 18 Break Even services analysed in table 17.7. Hence, the Commission’s survey includes data on 14 organisations which provide

problem gambling services but which are not covered in the Break Even statistics in table 17.7.

- Similarly, the Commission’s survey included 16 of the 45 agencies included in the Walker (1998a) survey for New South Wales, but also 6 agencies that were not in the Walker survey.
- *differences in time periods.* The Commission’s survey data relates to the 12 month period prior to when most agencies completed the survey (around mid 1999). This is more recent than most of the data in table 17.7.

The information in *both* tables 17.7 and 17.8 understates the likely number of people affected by problem gambling because:

- *some group support organisations are excluded* — for example:
 - Walker (1998a) reports that attendances at Gamblers Anonymous meetings in New South Wales are around 550 in any given week; and
 - GABA in Tasmania reported overall attendances of 1740 at their weekly meetings from April 1997 to end-August 1998 (Eckhardt 1998).
- *many non-specialist help services are excluded* — not all problem gamblers seek help from agencies which specialise in the provision of problem gambling services. Some may seek help from generic community service, financial or relationship counselling agencies (other than those included in the Commission’s survey).

On the last point, Professor Jan McMillen commented that:

The work we’ve [the Australian Institute for Gambling Research] done suggests that we’re really just seeing the tip of the iceberg in the designated gambling agencies. A lot of people are going to other support agencies for help, agencies that aren’t getting funded to provide gambling assistance and don’t have the time or resources to collect data and I think it’s putting great pressure on those agencies (transcript, p. 1495).

Women’s Health West (sub. 176) reviewed a range of information on clients of generic support services in Victoria, and while it is not possible to quantify the proportion of financial counselling caseloads which have gambling-related financial problems — because such information is typically not collected by these agencies — the following assessment seems apt:

... the caseload of the local Break Even service [is] a considerable underestimate of the workload imposed on community agencies by clients with gambling-related issues (sub. 176, p. 15).

The *Survey of Counselling Services* also provides an indication of the extent to which the number of clients presenting for counselling has *changed* in the last 12

months. Agencies were requested to provide information on their caseload of clients with gambling problems at the time of the survey and 12 months earlier. For the 64 agencies which reported information at both points in time (or who had commenced providing problem gambling services only in the previous 12 months), their overall caseload at the time of the survey was 2059 clients, compared with 1542 clients at the same time 12 months ago. Hence, the caseload of problem gamblers reported by respondents increased by around one-third in the space of a year.

In summary, it is difficult to know precisely how many clients are seeking help for problems related to gambling behaviour, because neither the information presented in table 17.7 nor that from the Commission's survey in table 17.8 is complete in its coverage. Because the findings from the Commission's survey are the most up-to-date, the number of problem gamblers (new and ongoing clients) and those affected by someone else's problem gambling behaviour who attended problem gambling counselling agencies in the past year is likely to be *well in excess* of 12 000.

There is a need for a National Minimum Data set to be collected on clients of problem gambling counselling agencies, using an identical set of definitions across all jurisdictions and an approach that would allow repeat clients to be identified as well as clients who attend more than one counselling service. The suggested approach would be not unlike that currently in place in relation to hospital admissions.

Problem gamblers who *do* and *don't* seek help

There has been some comment in the literature about apparent inconsistencies between the number of people estimated to be experiencing problems from gambling as suggested by the prevalence estimates (chapter 6) and the number of people who seek help for gambling related problems. The discrepancies are often used to suggest that the prevalence estimates overstate the extent of problem gambling. But as Thomas et al. (1998) have commented:

There is ... the possibility that the 'low' numbers of clients presenting to problem gambling services may be due to low service uptake. In other words, there may well be large numbers of people with problems who do not present to services for a variety of reasons (p. 13).

Some of the reasons why people experiencing gambling problems might not seek help include:

- a limited knowledge of the availability of services;
- poor location of services;
- hours of operation might not be convenient;

-
- problems might not be considered serious enough;
 - preference for other more informal assistance;
 - cultural and/or gender factors; and
 - the stigma associated with gambling problems.

Anglicare (SA) mentioned that some problem gamblers are deterred from seeking help because of feelings of shame and embarrassment:

Many people, because of the shame and stigma associated with gambling problems, carry the burden in isolation, lacking the confidence or strength to disclose the problem to established social networks. ... Attending [a counselling] service for some people is embarrassing and avoided at all costs (sub. 104, p. 21).

Break Even-Eastern Problem Gambling Service commented that:

Because there is so much stigma attached to problem gambling, many people are reluctant to seek help. Some ethnic groups do not seek assistance because culturally it is inappropriate to do so. To some cultures the concept of counselling is unknown (sub. 40, p. 8).

Jesuit Social Services referred to the under-use of gambling support services among the Vietnamese community as follows:

The reluctance of gamblers and their families to seek outside help has been attributed to reasons such as the lack of community knowledge about services, the unfamiliarity with the concept and benefits of counselling, denial, shame, and lack of time or priority for focus on personal and psychological issues. Other communities such as the Arabic community share similar reasons for not attending formal support services (sub. D201, p. 1).

The gamblers who *do* seek help are usually motivated by some crisis involving one or more of the following triggers (Eckhardt 1998, p. 16):

- generally reaching ‘rock bottom’ or a crisis point and having nowhere else to turn;
- in a situation of major financial difficulty, family breakdown, job loss and/or criminal charges;
- a high level of sheer desperation and panic;
- contemplating suicide.

As Banyule Community Health Service noted:

In our observation, many clients do not present until the problem is at crisis point and this has often occurred after a long period of gambling activity. In financial terms this crisis may be reached when savings are exhausted, credit is refused, bankruptcy filed, or criminal charges are pending (sub. 146, p. 2).

There is very limited information available on the proportion of problem gamblers who seek help. A study by Volberg (1997) estimated that only about 3 per cent of current pathological gamblers obtain professional treatment in a given year (not including participation in self help groups like Gamblers Anonymous). Volberg found that public clinics in the US state of Oregon had around 600 patients and/or affected family members per year, compared with an estimated prevalence of around 20 000 pathological gamblers.

To shed light on what the proportion of people with gambling problems who seek help might be, the Commission's *National Gambling Survey* sought information on whether (regular) gamblers in the last 12 months had:

- wanted help for problems related to their gambling;
- tried to get help for these problems; and
- received problem gambling counselling/support.

Around 0.8 per cent of adults reported they had wanted help, slightly less than half of these indicated they had tried to get help (0.32 per cent) and two-thirds of those who tried to get help reported they had received counselling for problems related to their gambling (table 17.9).

Table 17.9 Help seeking by Australian gamblers

<i>Nature of help seeking behaviour</i>	<i>Share of adult population (%)</i>	<i>Number of adults ('000)</i>
Wanted help for problems related to gambling	0.78	111
Tried to get help for problems related to gambling	0.32	45
Received counselling/support for gambling problems	0.20	28

Source: PC National Gambling Survey.

The scores obtained on the SOGS for the help-wanting and help-seeking groups of respondents is of interest.

- 97 per cent of those wanting help had a SOGS score of 5+, of which:
 - 26 per cent had a SOGS score of 10+ (severe problems); and
 - 71 per cent had a SOGS score of 5-9 (less severe problems).
- *all* of those who had sought help had a SOGS score of 5+, of which:
 - 34 per cent had a SOGS score of 10+; and
 - 66 per cent had a SOGS score of 5-9.

Furthermore, looking at the two categories of problem gamblers (figure 17.4):

- of those with a SOGS score of 10+, 63 per cent said they wanted help, 32 per cent had tried to get help and 23 per cent had received counselling/support; and
- of those with a SOGS score of 5-9, 32 per cent said they wanted help, 12 per cent had tried to get help and 7 per cent had received counselling.

Hence, the survey results suggest that perhaps 1 in 5 gamblers with severe problems obtain counselling whereas around 1 in 14 with less severe problems receive help.

Figure 17.4 **Help seeking behaviour by severity of gambling problems**

	WANTED HELP	TRIED TO GET HELP	RECEIVED COUNSELLING
SOGS 10+ (46,790)	63% (29,350)	32 % (15,040)	23% (10,590)
SOGS 5-9 (245,940)	32% (78,630)	12 % (29,750)	7 % (17,880)

Source: PC National Gambling Survey.

Respondents who indicated that they had tried to get help in the last 12 months for problems related to their gambling were asked:

- how they found out about services available to help people with gambling problems;
- who they first turned to for help for their gambling problems; and
- whether they had received counselling for problems related to their gambling.

Because the prevalence rate for problem gambling help seeking is small (0.32 per cent of the adult population) the number of help seekers identified in the survey was only 19. With the proviso that qualifications may attach to the representativeness of these respondents, some results are reported in table 17.10.

The most common ways in which respondents found out about help services for problem gambling were from signs and pamphlets (32 per cent) and the telephone directory (37 per cent). Also, respondents were most likely to turn firstly to their spouse/partner or family/friends for help in relation to their gambling (in 37 per cent of cases) while someone outside their immediate personal network (such as a GP or social worker or religious worker) was consulted in 26 per cent of cases. In respect of the organisations from which respondents obtained help:

- seven respondents reported attending Gamblers Anonymous (GA) — two of whom only attended GA, while five also received counselling from Lifeline or a Break Even agency; and
- eleven respondents reported having received counselling from an agency such as Lifeline, Break Even, a welfare or church organisation (for example, Salvation Army, Wesley, Anglicare) or a community health centre.

Table 17.10 Aspects of problem gambling help seeking behaviour^a

Respondents who tried to get help in the last 12 months

<i>How did you find out about help services?</i>	<i>%</i>	<i>Who did you first turn to for help?</i>	<i>%</i>	<i>Where have you received counselling?</i>	<i>%</i>
Signs at a gambling venue	11	Spouse or partner	16	Gamblers Anonymous only	11
Pamphlets at gambling venue	16	Family or friends	21	GA and counselling agency	26
Signs or pamphlets elsewhere	5	GP (general practitioner)	5	Break Even or other agency	32
Telephone directory	37	Church or religious worker	11	Can't say	32
Radio and TV advertising	16	G-line or other referral service	11		
Newspaper	11	Social worker	11		
Health professional	16	Gamblers Anonymous	16		
Financial adviser	11	Someone else	21		
Word of mouth	11	Can't say/refused	11		
Asked someone for help	11				
Didn't/couldn't find out	11				
Other	11				
Can't say	5				

^a Percentages may sum to more than 100 because some respondents found out about help services from more than one source, and turned to more than one person/group for help.

Source: PC National Gambling Survey.

But six respondents were unable to say where they had received counselling — of these, four had turned to someone for help while the remaining two either refused or were unable to say who they first turned to for help. So it is likely that while this group of respondents sought help in a broad sense, they may well not have obtained counselling or treatment.

On this assumption, the prevalence rate for people receiving counselling/support for problems related to their gambling is 0.20 per cent (table 17.9) — which scaled up to the population gives an estimate of around 28 000. The 95 per cent confidence interval around this estimate ranges from around 10 500 to 46 500. How do these results from the *National Gambling Survey* compare with the likely *actual* number of people seeking counselling for problem gambling — comprising problem gamblers and those affected by problem gambling?

The conclusion is that the *National Gambling Survey* findings are broadly consistent with the available data. It was noted above that the help organisations in the

Commission's *Survey of Counselling Agencies* reported seeing around 12 000 clients in the last 12 months, but that this number is likely to be a substantial underestimate of the total number of people seeking help for problem gambling because coverage of the survey was not complete, and it did not include people who attended Gamblers Anonymous meetings or who received help from generic counselling and help agencies. While the actual number is therefore difficult to estimate, it is likely to lie somewhere in the vicinity (on the lower side) of the *National Gambling Survey* mean estimate.

Star City casino was critical of findings such as these, suggesting the need for a "reality check" and pointing to:

The massive discrepancies between the [number of] persons attending counselling agencies (as problem gamblers or persons affected) and the Commission's ... estimate of gamblers with severe problems ...(sub. D217, p. 23).

But the fact that many problem gamblers do not access help services is consistent with help seeking behaviour in other health and social problem areas. For example, the ABS *National Survey of Mental Health and Wellbeing of Adults* (ABS 1998d) found that only around 12 per cent of people with substance use disorders used available health services.

What problems are experienced by clients of counselling agencies?

To illustrate the variety of problems experienced by problem gamblers who seek help from counselling agencies, some information from clients of Victorian problem gambling agencies is reported in table 17.11.

Table 17.11 **Presenting problems of clients — Victorian problem gambling counselling services**

Per cent

<i>Nature of problem</i>	1996-97 ^a	1997-98 ^b
Gambling behaviour	87	89
Financial issues	77	57
Employment/work	51	24
Interpersonal/relationship	67	49
Legal issues	29	10
Family issues	66	39
Leisure use issues	74	44
Intrapersonal	80	56
Physical symptoms	44	13

^a Relates to 1452 clients of 18 Break Even problem gambling counselling services. ^b Relates to 2456 new clients of 18 Break Even problem gambling counselling services.

Source: Jackson et al. 1997, 1999b.

The most common problems experienced by clients relate to their gambling behaviour, financial issues and intrapersonal problems (such as anxiety, mood swings, etc). Jackson et al. (1999b) note that while most problem gamblers who attend counselling present with more than one problem, the proportion reporting multiple problems has declined over the years — for example, 81 per cent of clients in 1995-96 reported 4 or more problems compared with 56 per cent in 1997-98. This suggests that problem gamblers are now seeking help earlier in their gambling careers.

Because of the wide range of problems that problem gamblers experience, counselling agencies need to have a range of skills to meet the needs of clients or, where those services are not available in-house, can refer a client to a suitable agency. Accordingly, the Commission's *Survey of Counselling Services* sought information on the types of services provided by agencies (table 17.12).

Table 17.12 Services for people experiencing problems with their gambling
per cent of agencies

<i>Service provided</i>	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Other^a</i>	<i>Total</i>
Counselling for gambling dependence	95	100	100	67	93	86	94
Counselling for other co-morbidities	59	57	13	50	13	57	44
Legal advice	23	17	0	0	7	14	14
Financial counselling	50	65	75	17	87	43	60
Family counselling	82	91	63	67	73	71	79
Relationship counselling	77	87	100	67	87	71	83
Referral to other agencies/professionals	86	100	88	67	87	71	88
Emergency help	18	35	0	17	47	0	25
Other services	9	30	50	33	20	14	23

^a Tasmania, ACT and NT.

Source: PC Survey of Counselling Services.

While, understandably, counselling for gambling dependence is the most common service provided, relationship and family counselling are also relatively important. Acting as a referral source to other agencies was the second most frequent service provided — presumably to other types of counselling, such as legal advice, which is much less generally available.

What types of gambling are the main source of problems?

There is a consistent pattern in Australia in relation to the forms of gambling that lead to or are associated with problem gambling (table 17.13). While gaming machines are overwhelmingly the form of gambling favoured by clients who seek

help for gambling problems, betting on horse racing and casino gaming are also sources of problems for some participants. A very small proportion of clients of counselling agencies report playing lottery games as the source of their problems.

Table 17.13 **Gambling activities favoured by clients of help services** ^a
per cent

<i>Gambling activity</i>	<i>Vic</i> ^b	<i>Vic</i> ^c	<i>NSW</i> ^d	<i>SA</i> ^e	<i>Tas</i> ^f	<i>PC survey</i> ^g
Gaming machines	81	72	79	68	72	71
Racing/TAB	20	16	12	16	15	12
Casino games	6	5	6	6	3	7
Lotteries	3	4	2	3	1	2
Other/combo	-	8	1	-	8	8

^a Some percentages may sum to more than 100 because the question asked of clients did not in all cases require a unique response. ^b Relates to Break Even clients, 1996-97 — gambling activity on the most recent day of gambling. The entry for casinos refers to 'card games' and 'numbers'. ^c Relates to Break Even clients, 1997-98. ^d Relates to 310 clients seeking help in a one week period in September 1998 from a survey of 45 agencies providing counselling and treatment services for problem gamblers. Refers to the main form of gambling leading to problems for the client. ^e Relates to 986 clients of the Break Even agencies during the period November 1996 to March/May 1998. Refers to the type of gambling causing problems for clients. ^f Relates to 93 clients attending Relationships Australia and Anglicare in the period July 1997 to September 1998, whose preferred form of gambling was recorded. ^g Main source of gambling problems for clients of counselling agencies, weighted by number of clients.

Sources: Jackson et al. 1997; Walker 1998a; Eckhardt 1998; Elliot Stanford & Associates 1998; PC Survey of Counselling Services.

The Commission's *Survey of Counselling Services* revealed some appreciable differences in sources of gambling problems by jurisdiction. For example:

- gaming machines are overwhelmingly the main source of problems in all jurisdictions except Western Australia, where access to video card and keno machines is restricted to the casino;
- race betting and casino games are relatively important sources of problems in Western Australia (each causing problems for around 30 per cent of problem gamblers) and in Queensland (each accounting for problems in around 15 per cent of cases); and
- while lottery games attract the highest participation rates among gamblers Australia-wide, they are typically not associated with problematic behaviour. However, in Western Australia they account for gambling problems in around 9 per cent of cases, and in Queensland 4 per cent.

How are problem gambling clients assessed in terms of treatment needs?

The Society of St Vincent de Paul pointed out that formal assessments of problem gambling clients can serve a variety of purposes, such as (sub. D218, pp. 1-2):

- assisting in treatment planning and delivery;
- providing a baseline measure which can be used to assess progress and measure the effectiveness of counselling; and
- providing an input to research — by translating psychological states into data.

It is important to consider the ways in which counselling agencies assess the severity of gambling problems as a preliminary to providing clients with the most appropriate treatment.

An advantage of having a statewide network of problem gambling counselling agencies (such as Break Even) is that consistent approaches to assessing clients can be used by agencies. In Victoria, for example, at the first contact with a Break Even counselling agency, a client assessment form is completed which records details of the type and frequency of gambling behaviours, and the adverse effects of these behaviours including an assessment based on the DSM-IV (*Diagnostic and Statistical Manual of Mental Disorders*, fourth edition).

But as Banyule Community Health Services in Victoria noted:

Break Even is required to assess clients in accordance with the DSM-IV. Some counsellors consider this inappropriate to the range of behaviours presenting and prefer the South Oaks Gambling Screen. ... The recent development of a 'G-map' by the Break Even team at Maroondah Community Health Centre may be deemed a more relevant tool for assessment (sub. 146, p. 2).

The Break Even agencies in South Australia collect an even wider range of data on clients, including the South Oaks Gambling Screen, the Marks Parkin General Health questionnaire, the Index of Family Relations and the Work and Social Adjustment Scale. However, the information is collected only from clients who consent to provide the information — and only around one-third of problem gamblers who attend give their consent (Elliot Stanford & Associates 1998, p. 20). This is a serious weakness, and limits the extent to which the effectiveness of any problem gambling intervention can be gauged.

To gain an indication in a more general context of how problem gambling clients are assessed when they present for counselling, the Commission's *Survey of Counselling Services* sought information on the diagnostic tools used by counsellors to assess problem gambling severity and other client characteristics (table 17.14).

Table 17.14 Frequency of use of diagnostic tools for assessing problem gambling clients, Australia
per cent of agencies

<i>Assessment tools</i>	<i>Never</i>	<i>Rarely</i>	<i>Some-times</i>	<i>Often</i>	<i>Always</i>	<i>Don't Know</i>	<i>Total</i>
South Oaks Gambling Screen (SOGS)	35	8	18	18	17	4	100
DSM-IV criteria	21	14	16	12	35	3	100
G-Map assessment guide	68	10	14	4	0	4	100
Addiction Severity Index	79	13	3	1	0	4	100
Gamblers Anonymous 20 questions	55	20	17	4	3	3	100
Taylor-Johnson temperament analysis	91	3	3	0	0	4	100
Relationship questionnaire	61	5	17	8	6	3	100
Other formal diagnostics	45	3	18	20	13	1	100

Source: PC Survey of Counselling Services.

Across the 78 problem gambling counselling agencies which provided information, the use of one or more of the available diagnostic tools was generally not commonplace. The SOGS was never or only rarely used in 44 per cent of agencies, and the DSM-IV never or only rarely used in 36 per cent of agencies. At the other end of the scale, the DSM-IV was always used in around 35 per cent of agencies, and the SOGS always used in around 17 per cent of agencies.

The frequency of use of diagnostic tools by agencies in the various jurisdictions are reported in table 17.15. On the basis of findings from the September 1998 survey of New South Wales agencies, Walker described practices by problem gambling service providers as generally being “far from satisfactory” and “not reaching the standards set in Victoria or New Zealand”:

The majority of counsellors and therapists have no formal assessment of the problems caused by gambling or the severity of the gambling problem itself. The DSM-IV assessment criteria are not widely used and a full assessment of co-morbidity is made by only three treatment professionals. With only one exception, structured interviews are not used in assessment. The G-map assessment guide is not used. The addiction severity index is not used. The South Oaks Gambling Screen is not widely used (1998, p. 17).

However, both the Commission’s *Survey of Counselling Services* and Walker’s more recent 1999 survey of New South Wales agencies suggest that the situation has changed. In the Commission’s survey, 55 per cent of agencies in New South Wales reported using either the SOGS or DSM-IV ‘often or always’, with their use being even more common among agencies in Queensland, South Australia and Victoria. Walker’s 1999 survey undertaken around six months later than the Commission’s survey reveals even more widespread use of these tools among New South Wales agencies, with around 90 per cent using a recognised assessment. According to

Walker, this change in procedure has probably occurred because of training schemes initiated in New South Wales in the last two years, a demand by the CCBF that assessment be included, and also possibly the stark findings from the 1998 report (sub. D287).

Table 17.15 Frequency of use of diagnostic tools, by jurisdiction
per cent of agencies using often or always

<i>Assessment tools</i>	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Other^a</i>	<i>Total</i>
South Oaks Gambling Screen (SOGS)	45	5	0	0	88	43	35
DSM-IV criteria	45	73	100	0	8	29	46
Either SOGS or DSM-IV or both	55	73	100	0	88	43	67

^a Tasmania, ACT and NT.

Source: PC Survey of Counselling Services.

The Society of St Vincent de Paul pointed out that appropriate counselling and treatment depends on more than just using preliminary formal assessment tools like the DSM-IV or SOGS — rather, assessment should be an ongoing part of the counselling process:

... it needs to be pointed out that counsellors are making assessments, judgements, and evaluations of the client continuously as part of the counselling program. ... We should recognise formal assessment for what it is. It is simply a systematic and replicable way of observing or asking questions of the client, which often enables the client's responses to be compared to a normative group or groups. Whether such quantification and comparison assists the therapeutic process is open to debate (sub. D218, p. 1).

The Society of St Vincent de Paul also indicated that the need and scope for formal assessment will differ depending upon the particular needs of the client and that different situations call for a variety of assessment/counselling approaches (sub. D218, pp. 1-2). In particular, the Society stressed:

- the importance of relationship building in the therapeutic process — sometimes it may be best simply to accept the client's opinion as to the degree of his or her problem, rather than searching for an objective measure of the client's distress, especially in crisis situations or where time is limited; and
- the appropriateness of brief interventions and single-session therapy with some clients — for clients who only attend one session of counselling, a treatment such as motivational interviewing would be appropriate, whereas subjecting the client to a full assessment of co-morbidity would be counterproductive.

In summary, around two-thirds of the counselling agencies at the time of the Commission's survey were often or always using at least one of the two most widely

recognised problem gambling diagnostic tools. But because of the different types of clients who present for counselling, the use of less structured and formal assessments by some agencies can still be consistent with meeting the counselling and treatment needs of particular clients.

What types of counselling and treatment are used by problem gambling agencies?

There is a wide range of counselling and treatment services available to assist people affected by problem gambling. Such services can differ in relation to the form of help, the types of problems being addressed, and the nature of the counselling/treatment provided (box 17.5).

Free Yourself Program — an example of a self-help therapy

The ‘Free Yourself Program’ is a self-help approach developed by Gabriela Byrne, a former problem gambler (subs. 9, 74, D196). ‘Free Yourself’ aims to free people of their ‘addiction’ to gambling, based on improving their physical, mental and spiritual wellbeing. The program was developed as an alternative to approaches used by Gamblers Anonymous and conventional problem gambling counselling.

Group support/self-help approach — Gamblers Anonymous

Gamblers Anonymous (GA) views compulsive gambling as an illness, and the only way to recover from this illness is to stop gambling — the illness/abstinence model. The number of GA meeting groups in the various jurisdictions are: New South Wales (69), Victoria (31), Queensland (18), South Australia (4), Western Australia (2), Tasmania (2), Northern Territory (1), and ACT (3). Walker (1997) reported that in New South Wales, an estimated 550 gamblers attended GA meetings each week in 1997, compared with 154 attending all other problem gambling counselling agencies each week in that year.

Approaches used by problem gambling counselling agencies

A number of problem gambling counselling agencies reported on the counselling and treatment approaches to problem gambling that they typically used, and a selection is presented in box 17.6. As Break Even-Western commented:

Problem gamblers are variously referred to as compulsive, pathological, addictive or excessive. The varying terminology reflects the differing views on the nature of the problem, and consequently different models and approaches that are used in treatment (sub. 64, p. 4).

Box 17.5 Broad types of help/treatment for problem gambling

Self help — is where an individual is largely responsible for dealing with the problems associated with their gambling, drawing upon information provided in self-help kits distributed by some counselling agencies and programs developed by former problem gamblers, such as:

- *Free Yourself Program* (Gabriela Byrne 1997); and

self-help guides developed by clinical practitioners, such as:

- *Overcoming Compulsive Gambling: A self-help guide using Cognitive Behavioural Techniques* (Alex Blaszczynski 1998b).

Group support — is another type of self-help approach but in a group context, such as that used by:

- Gamblers Anonymous, and
- GABA (in Tasmania).

Counselling — usually involves individual or group face-to-face counselling with problem gamblers, their partners, or others affected by problem gambling behaviour. The types of counselling can cover one or a combination of the following:

- gambling behaviour (addiction) counselling
- financial counselling
- relationship counselling
- family counselling and support
- legal advice
- counselling for co-morbidities (psychiatric/emotional disorders, alcohol, drugs).

Medical approaches — adopt more intensive therapies for treating problem gambling, in cases where clients present with signs or symptoms of disorders (such as a suicide risk or a co-morbid condition such as schizophrenia) which indicate such treatment is appropriate, and can involve:

- inpatient or residential care
- medication therapy (for example to control depression or reduce impulsivity).

The Commission's *Survey of Counselling Services* sought information on the approaches or techniques used by the agencies to treat problem gamblers (table 17.16). The information refers to the proportion of agencies which use a particular method, rather than the proportion of clients who are treated by a technique. With that proviso, the general impression is that as many agencies appear to be using modern types of treatment like cognitive-behavioural therapy (CBT) as are using more traditional supportive counselling approaches.

There is some debate as to what are preferred types of treatment for problem gambling. As Blaszczynski, Walker et al. (1997) have noted:

There is a consensus that problem gambling is a treatable condition ... However, there is no single intervention modality that is the 'gold standard' or 'best practice' in the

management of problem gambling. Strategies and goals should be developed in conjunction with the client, taking into account co-morbid conditions and other relevant environmental factors (p. 19).

Box 17.6 Counselling and treatment approaches used

- Society of St Vincent de Paul — use an approach called GAME (a proGram for gAMblers and their faMilies with problEMs) which is a non-medical ‘competency-based’ program, involving a combination of financial counselling and goal oriented therapy. Such an approach places an emphasis on working with clients to achieve *their* goals, and means that it does not necessarily advocate abstinence from gambling (sub. 36).
- Break Even Southern (Victoria) — typically uses a two-stage counselling/treatment process. The first stage uses behavioural and cognitive behavioural interventions to address gambling itself. Treatment in middle and later stages typically incorporates a range of techniques to address relapse prevention and interventions for other life issues faced by clients (sub. 132).
- Break Even-Western — uses a family therapy/systemic approach involving three main constructs: the model of change (change is possible for gamblers and their families, but it is a slow process that needs to be worked out); assessment of gambling behaviour (clients are provided with rational, program-oriented therapy, learning rules for responsible gambling or how to give up completely); and exploration of underlying factors, mainly through systems theory (to determine what problems contribute to gambling as an escape) (sub. 64).
- Relationships Australia (SA) Inc. — uses an approach which focuses on crisis management (including immediately assisting clients with legal, financial and relationship issues); attention to gambling behaviour (including the development of individual strategies to modify or cease this behaviour); resolution of underlying issues (to ensure long-term effectiveness of intervention); and management and response to lapses (sub. 118).
- Wesley Gambling Counselling Service — stressed that problem gambling counselling requires flexibility and the use of a broad range of techniques. Utilisation of only one method is very limiting and in fact may not be helpful for clients requiring different strategic approaches. Therefore, as each individual has their own personality and style, so the counselling approach must be suited to the unique needs of the individual client (sub. 26).

Currently favoured interventions include behavioural modification techniques and cognitive techniques, either on their own or in combination (CBT). But in relation to past New South Wales experience, Walker (1998a) has commented that:

With few exceptions, counsellors and therapists are not using these approaches. When asked about their approach, many counsellors responded that they talk to the client and from their experience know what to say. [But] client-centred counselling has been shown to be relatively ineffective across a wide range of problems (p. 18).

Results from the Commission’s *Survey of Counselling Services* appear to suggest a generally more favourable picture: a high proportion of the agencies which responded reported the use of cognitive, and cognitive-behavioural techniques, even

in New South Wales. This finding is consistent with the 1999 New South Wales survey conducted by Walker, where it was found that CBT is the most commonly used approach (sub. D287).

Table 17.16 Techniques used to treat people with gambling problems
per cent of agencies

<i>Methods/techniques</i>	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Other^a</i>	<i>Total</i>
Supportive counselling ^b	91	100	100	67	94	86	93
Cognitive/Cognitive-behavioural ^c	86	100	100	67	81	86	89
Systemic therapies ^d	59	70	75	33	69	71	65
Psychodynamic therapies ^e	27	52	50	0	38	29	37
Other methods or approaches	32	57	25	50	75	29	48

^a Tasmania, ACT and NT. ^b Includes allowing clients to vent feelings and offer a general supportive environment. ^c Includes analysis of beliefs through pattern restructuring; behavioural advice. ^d Includes structural, strategic family therapy, psychodrama. ^e Includes use of transference.

Source: PC Survey of Counselling Services.

Another source of information on approaches to treatment in government funded Victorian problem gambling agencies is the analysis of the 18 Break Even services (Jackson et al. 1999b). That study found that the most common treatment technique used was supportive counselling (for 60 per cent of problem gambler clients), cognitive behavioural approaches (33 per cent of clients) and systemic therapies (19 per cent of clients). However, these results are not necessarily inconsistent with the Commission's findings — the *Survey of Counselling Services* obtained information on whether a particular technique was being used, but cannot distinguish clearly between whether most or only a few clients are receiving such types of treatment.

Any conclusion on the application of different treatment approaches remains uncertain, because as Walker has suggested, the issue of treatment is a complex one and possibly one that is not accurately described by any data:

The problem is knowing what actually occurs in therapy. An agency may say that it uses CBT but we do not know how strictly the criteria for CBT are being met. ... CBT is a “buzz” word in therapy currently and most counsellors will have heard the term and have some understanding of what is involved. But whether their understanding is sufficient to categorise their own therapy is another matter (sub. D287, p. 2).

Training and accreditation of counsellors

The Commission's *Survey of Counselling Services* sought information on whether agencies required counsellors to have accreditation. Across the 82 respondent agencies, it was found that:

-
- 71 per cent of agencies required counsellors to have accreditation; and
 - 89 per cent required counsellors to have educational qualifications.

While these results might seem favourable, the details provided by agencies on the types of accreditation indicated very few requirements in problem gambling specific counselling areas. For example, while two of the New South Wales agencies reported training of staff at the Wesley Gambling Counselling Service course, other accreditations were typically in areas such as social worker, psychologist, addiction counselling qualification, etc.

Some respondents to the survey also expressed concerns about training and accreditation, with comments such as:

- “accreditation body for training is lacking” (New South Wales agency)
- “there should be a minimal accreditation requirement of all those who work in gambling counselling” (SA agency)
- “our counsellors would appreciate the availability of more training” (New South Wales agency)

Training was seen as an important issue by the Ethnic Affairs Commission NSW:

Training is particularly important because it ensures that those working with problem gamblers do so professionally, using sound and proven methods, based on an understanding of the cultural basis for gambling problems (sub. D281, p. 142).

Walker has indicated that there is a move in New South Wales to set up accreditation standards for the training of problem gambling counsellors (sub. D287).

The Commission sees merit in a framework being established to achieve improved training and a consistent accreditation process for gambling counsellors Australia-wide.

What outcomes are achieved by counselling/treatment?

The effectiveness of problem gambling counselling services can be gauged in terms of the extent to which clients achieve the outcomes they seek. In relation to gambling behaviour, for example, client expectations prior to counselling can range from wanting to stop gambling completely, to ‘getting in control’ such that gambling is no longer the source of any significant problems.

At Break Even problem gambling agencies in Victoria prior to August 1997, a Case Close Summary Form was completed at the final contact with a client. The

outcomes recorded were whether the problems for which a client primarily sought help were either fully resolved, partly resolved or unresolved. The outcomes for clients whose problem gambling counselling was completed in 1996–97 are reported in table 17.17. It should be noted that some clients who dropped out before indicating to a counsellor that they were not planning a further contact would not be included — though it is difficult to speculate the extent to which dropouts cease further contact because their problems have been resolved.

Table 17.17 Client outcomes of problem gambling counselling, Victoria, 1996-97^a

<i>Problem area</i>	<i>Fully resolved (%)</i>	<i>Partly resolved (%)</i>	<i>Unresolved (%)</i>	<i>Clients with problem (No.)</i>
Financial issues	14.8	48.2	37.0	670
Gambling behaviour	27.1	42.3	30.6	840
Interpersonal	18.9	45.3	35.8	603
Family issues	17.7	45.9	36.3	586
Physical symptoms	41.1	32.4	26.5	392
Employment/work role	30.6	29.7	39.7	421
Leisure use issues	19.0	48.0	32.9	583
Intrapersonal	19.1	52.5	28.4	669
Legal issues	57.1	19.7	23.1	350

^a Information relates to 1001 clients whose cases were closed in the period.

Source: Jackson et al. 1997.

There is considerable variation in the extent to which particular problems were resolved after counselling. While problems in all areas were either partly or fully resolved in the majority of cases, problems remained unresolved in 20 to 40 per cent of cases. The two areas with a relatively larger degree of problems being fully resolved were physical symptoms and legal issues associated with problem gambling. In other areas like financial issues, interpersonal and family issues, it is perhaps not surprising that problems may take longer to resolve than just the period of the counselling. Jackson et al. conclude that:

... while many clients experience full resolution of their problems, ... it is the case that many do not achieve resolution. ... This is consistent with the chronic nature of problems experienced by people with problem gambling behaviour (1997, p. 29).

Other information on outcomes of counselling services is available from a survey of clients of Break Even agencies in South Australia, conducted by Elliot Stanford & Associates (1998) as part of an evaluation of the GRF. A questionnaire was provided to all clients attending Break Even services during a two-week period, which sought perceptions on the severity of their problems before they started

counselling and at the time of the survey, and the extent to which counselling had made an impact on their problems (table 17.18).

Table 17.18 Client perceptions of outcomes of problem gambling counselling, SA

<i>Severity of the gambling problem</i>	<i>Clients No.</i>	<i>No problem (%)</i>	<i>Slight (%)</i>	<i>Definite (%)</i>	<i>Marked (%)</i>	<i>Very severe (%)</i>
Before counselling	130	1	5	18	19	57
Currently	129	10	34	32	11	13
<i>Impact of counselling on gambling related problems:</i>		<i>Made no difference (%)</i>	<i>Slight difference (%)</i>	<i>Definite difference (%)</i>	<i>Marked difference (%)</i>	<i>Very large difference (%)</i>
Gambling behaviour	118	-	21	31	31	18
Family & relationships	73	6	14	36	29	16

Source: Elliot Stanford & Associates (1998, Appendix 7).

The Elliot Stanford & Associates' survey revealed that before counselling, 76 per cent of clients perceived their gambling behaviour to be causing marked or very severe problems, whereas only 24 per cent still thought that way currently. Also, around half the clients thought that counselling had made at least a marked difference in their gambling behaviour, with only a slightly smaller proportion (45 per cent) reporting a similar impact on family and relationship problems. Again, these data have the proviso that the sample respondents were still in treatment, and so perceptions of dropouts were not captured.

The Society of St Vincent de Paul reported on outcomes from their GAME program, which involves a combination of financial counselling and goal oriented therapy as follows:

We ... found that we have a high client self report (85 per cent approximately) success rate where clients received at least some improvement in their gambling behaviour. ... By focussing on the positive and their competencies, we offer them hope [and] this in turn motivates them to change (sub. 36, p. 3).

However, a limitation of much of this evidence on gambling treatment outcomes is that it is very short term in nature, with assessments generally made at the time of, or immediately after, counselling. What is more important in determining if treatment is effective is whether follow-up assessments of outcomes made at different points in time after counselling yield similar results.

To investigate this and other aspects of gambling treatment outcomes, the Commission's *Survey of Counselling Services* sought information on:

- whether an agency made an assessment of the outcome of the counselling for each client;
- how soon after completion of the counselling such an assessment was made; and
- what percentage of clients achieved a satisfactory outcome from the counselling provided.

Overall, 71 per cent of respondent agencies reported that they assessed how successful the counselling treatment had been for each client (table 17.19). In around two-thirds of the agencies, such assessments were carried out immediately after counselling was completed and in around one-third of agencies from one to three months after completion. But assessments after periods longer than three months were not common. Three of the agencies reported that they undertook multiple follow-ups — such as after 3, 6 and 12 months.

Table 17.19 Assessment of client outcomes of gambling counselling
per cent

	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Other^a</i>	<i>Total</i>
Assess outcomes of counselling (per cent of agencies)	77	48	100	100	75	57	71
How soon after counselling? (per cent of agencies) ^b							
Immediately after	64	70	38	50	81	71	66
1-3 months after	36	4	88	33	31	29	31
4-6 months after	9	52	0	17	6	0	20
More than 6 months after	9	0	0	0	0	0	2
Satisfactory outcome achieved (per cent of clients) ^c	63	54	41	42	52	49	57

^a Tasmania, ACT and NT. ^b Percentages can sum to more than 100 because some agencies reported more than a single assessment period — some only assessed clients some months after completion of counselling rather than immediately, while others assessed clients immediately after counselling as well as some months later. ^c Calculated as the percentage of an agency's clients achieving a satisfactory outcome, weighted by the number of clients.

Source: PC Survey of Counselling Services.

Across the various jurisdictions, on average 57 per cent of the clients of respondent agencies were assessed by those agencies as having achieved a 'satisfactory' outcome from the counselling provided in the sense that gambling was no longer the source of any significant problems for the client. But because clients were generally assessed either immediately or a short time after counselling was completed, this is not necessarily an indication of the longer term effectiveness of the counselling and treatment provided. As Walker (1998b) has noted:

From the perspective of counsellors, it may appear that most of their clients benefit from the counselling received; the majority of clients are satisfied with the counselling

and the clients have not gambled during the counselling program. However, to believe that counselling is effective based on such perceptions is fundamentally misguided. ... The recommended period at which to judge the effectiveness of counselling therapy is *two years* after the completion of treatment (p. 53).

Results from a longitudinal study of client outcomes from problem gambling treatment programs in Minnesota have been reported by Stinchfield and Winters (1996). In that study, clients were administered follow-up assessments of outcomes at periods of 6 and 12 months after treatment. One finding of interest is that while most clients were gambling on a daily or weekly basis before treatment, 79 per cent reported no gambling at the conclusion of treatment. However, this impressive outcome was not sustained — the proportions reporting no gambling after 6 and 12 months were 43 per cent and 42 per cent respectively.

Short-term assessments of outcomes can therefore give a misleading impression of treatment effectiveness. According to Walker (1998a), a review of the literature on treatment outcomes indicates that correctly measured success rates (such as after a follow-up period of two years) are typically only about 20 per cent with supportive counselling — for example, around 80 per cent of problem gamblers so treated return to excessive gambling within two years. However, the exceptions to this generally negative view of treatment are behavioural modification techniques and cognitive-behavioural techniques (Walker 1998b, p. 52).

17.7 Aspects of help services delivery

This section addresses a number of issues relating to the effectiveness of delivering problem gambling help services to clients.

Who should contribute to funding problem gambling services?

As noted in section 17.4, the parts of the gambling industry which contribute to the funding of problem gambling services differ among jurisdictions. For example:

- in New South Wales a portion of the tax paid by the Sydney Casino operator is hypothecated to the CCBF;
- in Victoria funding is derived from gaming machines in hotels only;
- in Queensland funding is derived from gaming machine and keno revenue;
- in South Australia contributions to funding are made by hotels and clubs;
- in Tasmania funding is derived from gaming machines in hotels and clubs; and

-
- in the Northern Territory funding is derived from gaming machines in hotels only.

There is a broader-based approach in Western Australia, where the three major stakeholders contribute (Burswood Casino, the TAB and Lotteries Commission).

A number of participants were critical of the narrowness of the funding sources. For example, in relation to the approach in New South Wales the Society of St Vincent de Paul stated that:

... whilst Star City is obliged by legislation to contribute 2 per cent of their revenue to combat the negative effect of their activity, there is no such legislation relevant to other gaming venues. Only 2 per cent (approximately) of our clientele are 'victims' of the activities of Star City whilst 80 per cent (approximately) are [those] of the pubs. This illustrates how the casino must subsidise the rectification of the socially negative aspects of gambling in pubs and to a lesser degree clubs (sub. 36, p. 5).

Gamblers Help Line Inc. suggested that the funding sources of the CCBF should be broadened to include not only *all* gambling/gaming operators but also a contribution from the government as well:

... all businesses which profit directly from gambling operations should contribute — not just the casino. ... As the industry moves to seriously addressing responsible gambling issues and problem gambling issues, it would seem glaringly obvious that the Government do the same through policy and financial support. [Gamblers Help Line] recommends that the government pay to the Community Benefit Fund \$1 for every \$2 the industry contributes (sub. 179).

In Tasmania, Tascoss was critical of the fact that no contributions to funding problem gambling services are made from the profits on gaming machines located within the casino complexes:

Patrons using the gaming machines through casinos are [just] as likely to be experiencing gambling related problems as those within the wider community, particularly given the revenue increases in this area (sub. 114, p. 3).

For the Northern Territory, a recent review of the gaming machine industry (Alder 1998) made suggestions in relation to both the uses and sources of the Community Benefit Fund as follows:

... the CBF ... should only be used for gambler services, gambler education and gambling research ... [and] this revenue [should] be drawn from the gambling industry as a whole (0.25 per cent of all gambling gross profits) (Alder 1998, p. 15).

Anglicare (SA) was critical of the approach in South Australia, and suggested that all gambling codes should contribute to the GRF:

It is important to acknowledge that problem gambling can be associated with other codes [as well as pokies]. In making \$1.5 million p.a. available to fund the Break Even

gambling services, the Australian Hotels Association and Licensed Clubs Association are accepting responsibility for helping pokie gamblers with a problem. Other gambling codes are at present not doing that, despite the fact that their patrons needing counselling attend Break Even programs (sub. 104, p. 17).

The Australian Hotels Association (SA) and Licensed Clubs Association (SA) shared this view:

... neither the racing industry via the TAB nor the Lotteries Commission make any provision, either voluntarily or otherwise to the provision of services to those adversely affected by broader gambling products despite the fact that it was widely recognised that there were significant problem gamblers before gaming machines were introduced (sub. 101, section 7a).

All gambling forms contribute to the need for problem gambling services and therefore should also contribute to funding. While in principle some differentiation by gambling code according to the risk of becoming a problem gambler might be appropriate — for example, lottery games rarely contribute to problem gambling — in practice this would be too difficult to administer over time. Gaming machine revenue should be the predominant source, and this should be regardless of venue.

The Commission is of the view, therefore, that the funding arrangements for problem gambling counselling and support services, as well as research and public education programs, should include compulsory contributions from all gambling codes. This should not negate government responsibilities in broader health areas.

Are funding levels for problem gambling strategies adequate?

A number of participants commented on the adequacy of the funding arrangements in their jurisdiction. Reporting on the experience in South Australia, the Adelaide Central Mission stated that:

Existing services for problem gamblers are over stretched and subjected to unreasonable uncertainty regarding their future funding. The scope of services available is restricted and does not adequately meet the needs of particular groups of people, particularly families of problem gamblers and problem gamblers facing criminal charges. At Adelaide Central Mission the complexity and number of cases that are arising has meant that our limited staff have difficulty maintaining manageable caseloads (sub. 108, p.18).

In relation to Tasmania, Tascoss (sub. 114) considered current funding of problem gambling services to be inadequate in a number of respects. They suggested that the Community Support Levy should be broadened (to include a contribution from the profits obtained from gaming machines within the casino complexes) and increased (by 2 percentage points) to allow (sub. 114, pp. 3-4):

- an extension of the community education program;
- a broader range of programs to be funded under Break Even; and
- research into problem gambling to be carried out.

According to Tascoss:

The Break Even program [in Tasmania] has now developed a 'closed shop' approach with a limited number of programs funded on an annual basis. This has been undertaken without community consultation and has excluded a notable service provider, Gamblers Anonymous (sub. 114, p. 4).

A review of gambling legislation in the ACT by the Allen Consulting Group (1998) recommended earmarking 0.5 per cent of all gambling-related tax revenue to fund baseline research into problem gambling, measures to prevent problem gambling, and counselling for problem gamblers. This would correspond to funding of around \$230 000 per year, compared with the \$85 000 per year allocated at the time of the review. But according to Lifeline, even that higher level of funding:

would not be sufficient to adequately fund the necessary research on gambling, provision of education programs, a 24-hour telephone service (G-line), an adequately resourced counselling service and independent evaluation of those programs (sub. 96, p. 3).

But in a more general context, to what extent are available problem gambling counselling services adequate to meet the demand for those services? A recent study by Walker (1998a) examined two aspects of problem gambling services delivery in New South Wales:

- whether clients face long waiting periods to see a counsellor; and
- the usage of services in relation to capacity (capacity being gauged as the maximum number of clients who could be seen if counsellors were to maintain their current standards).

The survey conducted by Walker (1998a) of 78 counsellors at 45 problem gambling agencies found that:

- only 3 of the 78 counsellors surveyed indicated that they had a waiting list (defined as whether a new client had to wait longer than seven days to see a counsellor); and

-
- services in New South Wales were generally working at around one-third of capacity.

However, because the number of problem gamblers seeking help in New South Wales appears to be increasing rapidly, if the number doubles again in the coming twelve months then more than 50 per cent of the maximum capacity of current services will be used in providing counselling and treatment (Walker 1998a, p. 16).

A similar assessment has been carried out for counselling agencies in SA as part of an evaluation of the GRF (Elliot Stanford & Associates 1998). Across the seven Break Even agencies examined, they found a variation in the utilisation of service capacity ranging from 34 to 99 per cent, with only one agency operating above 70 per cent capacity (Adelaide Central Mission). They also found that country services tended to have a lower utilisation rate than metropolitan services (28 per cent compared with 70 per cent respectively).

But the notion of what waiting time should be considered acceptable (say up to seven days) is debatable. Because waiting lists are a deterrent to a gambler's commitment to seek help, Eckhardt (1998) reports that agencies in Tasmania consider there is a need to reduce client waiting times — such as ensuring that a client can obtain counselling within 24 hours of the initial telephone contact.

Wesley Gambling Counselling Service also commented on waiting times as an indication that funding is inadequate for them to meet the needs of clients:

We are now operating on a 'waiting list' of two weeks which is *not on* when dealing with problem gambling. During that waiting period, clients often go and gamble and fail to return (sub. 26, p. 17).

A Queensland agency reported that:

This particular gambling counselling service has been severely under-resourced. We have been running a waiting list since October 1995. As at end March 1999, 52 per cent of those waiting have dropped out without accessing any assistance whatsoever (Respondent to *Survey of Counselling Services*).

To investigate how common this situation might be, the Commission's *Survey of Counselling Services* sought information on the frequency and duration of waiting times. Results are reported in table 17.20 for a metropolitan/regional breakdown of agencies.

Overall, slightly more than one-third of the 82 agencies reported that clients seeking counselling faced a waiting list, and the average waiting time for those agencies was 11 days. However, the survey also indicated that:

- the majority of agencies with waiting lists were able to schedule an appointment for clients in the coming week; and
- the proportion of agencies with a waiting list was systematically lower in regional areas.

Among the 22 New South Wales agencies which responded, four (18 per cent) reported a waiting list of longer than seven days. This proportion is somewhat higher than that obtained by Walker in three annual surveys of New South Wales agencies providing services for problem gamblers (sub. D287). Walker found that the number of agencies not able to offer appointments within a week was typically very small — for example, 3 out of 78 counsellors (from 46 agencies) in the 1998 survey. Two factors might account for the apparent differences. First, there are differences in coverage between the two surveys — of the 22 respondents to the Commission’s survey, 16 are common to 45 agencies surveyed by Walker while 6 are not included in Walker’s survey. Second, the fact that the Commission’s survey was conducted at a different time of the year may also be part of the explanation — the Commission’s findings may be representative of that different point in time.

Table 17.20 Waiting list for clients with gambling problems seeking help

	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Other^a</i>	<i>Total</i>
<i>Proportion of agencies with a waiting list</i>							
Metropolitan	64	44	33	50	38	17	43
Regional	36	0	40	0	50	0	28
Total	50	30	38	17	44	14	37
<i>Proportion of agencies with a waiting list longer than 7 days</i>							
Metropolitan	36	19	33	0	13	0	20
Regional	0	0	20	0	38	0	11
Total	18	13	25	0	25	0	16
<i>Average waiting time in days for agencies with a waiting list</i>							
Metropolitan	10	10	15	7	7	7	10
Regional	4	0	17	0	15 ^b	0	10
Total	8	10	16	7	11	7	10

^a Tasmania, ACT and NT. ^b Includes two regional services where counselling was only available on one day per month.

Source: PC Survey of Counselling Services.

Overall, there appear to be some agencies which because of waiting lists of longer than seven days may not be delivering fully effective services to problem gamblers. But generally speaking, the availability of problem gambling counselling and treatment services appears adequate to meet existing demand for those services. However, there is also the issue of latent demand — any advertising to increase

public awareness of the help services available would put increased pressure on some agencies to meet any resultant increase in demand.

Funding arrangements with problem gambling service providers

Nature of funding agreements

Some participants in jurisdictions where counselling agencies are required to seek funding on an annual basis were in favour of longer term agreements. For example, in relation to the New South Wales arrangements, the Society of St Vincent de Paul stated that:

In our opinion the current rounds of annual funding are inadequate and counterproductive and we would prefer a three year funding period instead of the current annual one (sub. 36, p. 4).

Similarly, Wesley Gambling Counselling Service reported on the problems that arise for agencies from the annual funding mechanism:

When the yearly round of funding ends, our agency is required to wait until the next round of funding submissions is called for. In our case, our first year of funding ended on May1 1998, [and] ... submissions [for the next round of funding] were not called for until August, [which left] agencies waiting until end-November to find out if they were successful. ... This process is so time consuming and exhausting and it takes away from the very service we offer to the community (sub. 26, p. 18).

In a review of the Gamblers Rehabilitation Fund (GRF) in South Australia, Elliot Stanford & Associates also favoured a longer funding agreement for problem gambling counselling service providers:

GRF funded services are one of the few Departmentally funded services [in SA] not to receive funding on a minimum three year cycle. This is an anomaly and needs rectification. There are concerns that the temporary nature of the funding arrangements impacts adversely on the development and retention of staff competency and service continuity (1998, p. 66).

In its Report on charitable organisations in Australia, the Commission favoured funding agreements with community social welfare organisations for a period longer than a year. The conclusion expressed in that Report is also relevant for funding agreements with problem gambling counselling agencies:

Longer term agreements would provide greater stability of funding and allow [service providers] to plan with greater certainty. This would give [them] greater flexibility and offer increased opportunities to innovate rather than waste resources on repetitious negotiations (1995, p. 382).

Who should receive funding?

Because of the many different reasons why people take up gambling, and the broad range of harms that many gamblers experience, there is unlikely to be a single counselling or treatment solution for all problem gamblers. Hence the Commission favours the funding of a diverse range of problem gambling services, so as to ensure that:

- *clients have choice in relation to counselling and treatment approaches* — ranging from self-help and group support, to individual and group outpatient services, to inpatient or residential care (in cases, for example, where there is a suicide risk or where a co-morbid condition is present); and
- *needs of particular client groups are being met* — such as people of culturally and linguistically diverse backgrounds, aboriginal people, and women.

But with the proviso that it is also important that:

- *funding should not be wasted on treatments that are ineffective.*

On the second point, Walker (1998a, p. 18) reports that there are few services in New South Wales that cater specifically for the problems faced by the immediate family of the problem gambler, and suggests that such services might be made more available. Currently, the main support for family members is provided by the GamAnon self help groups. In relation to Tasmania, Eckhardt (1998, p. 27) also reported that services for families and victims of gambling need to be considered.

GABA indicated that they would like to provide more help for particular groups in the community such as the aboriginal community and elderly citizens groups. These communities have been approached and information presented but the response has been low (Eckhardt 1998, p. 23).

Rolling triennial funding arrangements for agencies, such as applies in Victoria, have merit because of associated advantages for service delivery in terms of planning, training and retention of skilled people. But such arrangements should be contingent on processes being in place to evaluate the effectiveness of the counselling and treatment services provided by agencies.

The efficacy of different types of counselling/treatment

While problem gambling counselling agencies use a wide variety of techniques and approaches to treat problem gambling behaviour, the question arises as to whether the techniques that are actually being used are the most effective. As Blaszczynski, Walker et. al. have stated:

There is limited knowledge as to the best counselling and clinical strategies that should be applied for the management of problem gambling. There is a need for psychologists to carry out controlled treatment outcome studies to develop ‘best practice’ approaches in the management of problem gambling (1997, p. 23).

The Society of St Vincent de Paul suggested the value of funding clinical trials to compare the efficacy of different treatment methods:

... we feel the need for more research of the Brief Solution Focused approach [we use] to make more substantive claims about our therapeutic efficacy. We would welcome the opportunity to participate in a comparative outcome study with other applications (sub. 36, p. 4).

After reviewing the various approaches used to treat problem gambling (such as psychodynamic, behavioural, cognitive, addiction-based and self-help) and the available international literature on their effectiveness, the US Committee on the Social and Economic Impact of Pathological Gambling concluded that:

At this point, we do not know which treatments work best and why they work, and we do not know the extent to which gamblers can recover naturally (1999, p. 211).

In view of the uncertainties surrounding the effectiveness of the various treatment approaches, the Commission sees merit in providing funding to allow:

- **problem gambling agencies routinely to carry out follow-up assessments of clients, at (say) 6 and 12 month intervals after counselling; and**
- **on a more limited scale, longitudinal research on client outcomes at (say) two and five year intervals after treatment.**

Such evaluations are important for determining best practice treatments for problem gambling and thus achieving more cost effective funding.

Needs of people of culturally and linguistically diverse backgrounds

The particular help needs of people with culturally and linguistically diverse backgrounds were raised by several participants. For example, Break Even-Western (Victoria) pointed out that many such people with gambling problems are not using mainstream counselling services to any significant degree (sub. 64).

The Chinese Community Problem Gambling Action Group (Victoria) stated that one reason for this is that mainstream counselling approaches are not appropriate for the Chinese and other ethnic communities:

The Action Group is not convinced that therapeutic counselling, the organisation of self help groups and financial counselling provide an adequate range of service responses to

the needs of Chinese people with gambling problems. ... Service providers (and government departments charged with the disbursement of funds to alleviate problem gambling) need to be much more 'open' to new suggestions as to effective ways to both inform and help those adversely affected by gambling activities (sub. 139, p. 4).

The Ethnic Affairs Commission (NSW) listed a number of factors why people in ethnic communities have particular difficulties in accessing problem gambling help services (sub. D281):

- lack of proficiency in English;
- a stigma about problem gambling that prevents them seeking help;
- a cultural tradition against discussing emotional problems, particularly with people outside the family;
- cultural values different from those that underpin Western concepts of counselling; and
- a lack of knowledge of available services.

Some Break Even agencies in areas with relatively large ethnic communities reported initiating projects to improve service delivery to these groups. For example, the issue of the most effective form of intervention was raised by Broadmeadows Care and Kildonan Child and Family Services. These two agencies commenced a joint project in December 1997 to work with ethno-specific communities in their regions to provide information about problem gambling counselling services and financial counselling. However, in their view, their experience so far:

... raises questions about the effectiveness of therapeutic intervention and financial counselling models as they are currently practised with such communities. ... [S]ignificant research about these two questions needs to be undertaken to inform Government and the community sector about the most effective form of intervention (sub. 77, p. 4).

The Commission sees benefit in the funding of further research on approaches for determining how best to deliver problem gambling help services to particular groups in the community for whom mainstream approaches may not be suitable.

Other counselling needs

Links between problem gambling and criminal offences are discussed in chapter 7 (and appendix H). Many problem gamblers turn to crime to finance their gambling habits once legitimate sources of funds are exhausted. The Commission's *Survey of Clients of Counselling Agencies* revealed that around 40 per cent of clients seeking

help had committed a gambling related crime at some stage of their gambling careers. While the majority of offences committed by problem gamblers do not result in legal action, typically around 40 per cent of offenders are charged and convicted. In relation to such problem gamblers, Blaszczynski, Walker et al. (1997) suggest that:

Psychological rehabilitation programs should be recommended for offenders in addition to any penalty imposed by the courts (p. 23).

In considering the referral sources for new clients of counselling agencies (table 17.6), the detailed information available for some jurisdictions provides evidence of court order/legal system referrals. For example, around 5 per cent of new clients who attended Victorian Break Even services in 1997-98 did so to fulfil legal requirements that they receive counselling for issues associated with their gambling.

In relation to problem gamblers who receive custodial sentences, Marshall, Balfour and Kenner stated that:

There is a gap in [problem gambling counselling] services for problem gamblers in custody and there is an urgent need to provide them with rehabilitation services (sub. 116, p. 15).

But whether problem gambling counselling and treatment alone for this group is likely to be effective (in the sense of making such people less likely to re-offend) depends on the nature of the crimes committed (Blaszczynski et al. 1989, pp. 150–1):

- for those committing only gambling related offences, treatment programs for the problem gambling may well be associated with a reduced likelihood to re-offend;
- but problem gamblers who engage in both gambling and non-gambling related offences would be expected to have higher recidivist rates and be less responsive to treatment; and
- for problem gamblers who engage in non-gambling related offences only, treatment for problem gambling only would be expected to be effective in reducing some gambling-related problems but to have little impact on their re-offending.

For the last two groups, there is a need for counselling and treatment for psychological and psychiatric co-morbidity as well as for problem gambling.

Coordination of services

An important consideration is the extent to which the current organisational structure of help services result in problem gamblers having their problems assessed adequately and receiving the most appropriate treatment.

In discussing assessment procedures in counselling agencies in the previous section, it was concluded that standards across jurisdictions and agencies are somewhat mixed. Because the most appropriate form of treatment for a problem gambler is likely to depend on the severity of the gambling problem, poor assessment may limit the ability to adequately deal with the problem.

In addition to assessment there is also the issue of referral. Even if organisations accurately assess the severity of the gambling problem, they may be reluctant to refer the client to the most appropriate treatment, instead attempting to help the clients themselves. As one participant reported:

There were several opportunities for professionals in generic services to refer me on to a more appropriate, knowledgeable service ... [but] most of these professionals appeared to want to retain my appointments for themselves which is service-centred care not client/family-centred care (confidential submission by the spouse of a problem gambler).

This raises the issue of whether there is a need for problem gamblers and those affected by problem gambling to have access to an independent source to assess their problems and then a subsequent referral to the most appropriate counselling or treatment.

Most states have contracted the ARI to provide a telephone counselling and referral service (G-Line). While providing a much needed service, the independence of G-Line is questionable given that it has been contracted to supplement the existing organisational structure in most states. G-Line, however, are only able to refer people to those organisations that actually exist, which largely depends on whether or not they receive government funding. These organisations are predominantly counselling agencies, some of which may be using relatively ineffective techniques in dealing with problem gambling. In addition, referrals made by G-Line are to some extent also geographically based rather than determined by what treatment is best for the individual.

Who should control the funds for problem gambling services?

Several participants raised concerns about the potential scope for the gambling industry to influence funding decisions. For example, a counselling agency in Western Australia stated that:

One of the major constraints in WA is the funding body — given that the gaming industry funds our agency and has the desire to be involved in most decision making processes about funding allocation (Respondent to *Survey of Counselling Services*).

Similarly, a counselling agency in South Australia commented that:

Whilst funding is through the State government, the actual funds are a donation from the Australian Hotels Association (AHA). As a result, they sit on the funding committee and have a greater than necessary influence on how funds are allocated. Also, funding is meant to be targeted at EGM gamblers as the other gambling codes refuse to pay a similar levy [as that] paid by the AHA (Respondent to *Survey of Counselling Services*).

However, the Australian Hotels Association disagreed with the counselling agency's view:

The AHA does not have the balance of power on the GRF so therefore any recommendations the AHA makes can be rejected by the GRF. ... We believe that the AHA's involvement on the GRF has been essential, facilitating better understanding between welfare agencies and industry (sub. D231, p. 79).

Given the potential for competing incentives with industry-based involvement, in chapter 22 the Commission presents a model with the funding of problem gambling programs being placed under the control of an independent board, established under the auspices of an independent gaming control authority.

18 Policy for new technologies

Box 18.1 Key messages

- Current use of internet and interactive gambling by Australians is negligible, but is expected to grow strongly.
- Online gambling offers significant potential benefits to some consumers and scope for commercial returns.
- On the other hand, online gambling also poses significant new risks for problem gambling. It represents a quantum leap in accessibility to gambling, and is likely to involve new groups of people in gambling.
- Risks to minors, a major concern for many, are potentially less significant where there are properly licensed sites — given screening requirements, ease of monitoring of accounts and the inability to access any winnings.
- It is not clear that liberalising internet gambling would involve significant tax losses.
- The Commission considers that, regardless of what regulatory approach is taken, there are strong grounds for governments to pursue palliative measures, such as:
 - warning people of the hazards of offshore online gambling;
 - providing information on the internet about gambling help services and gambling sites which meet consumer protection criteria; and
 - making available or promoting software for providing consumers with greater control over their gambling.
- However, there are also grounds for regulation of internet gambling, along the lines of regulations applying to other gambling forms. The Commission considers that there are ways of controlling online gambling sufficiently to exercise such regulations.
- Prohibition of online gambling would clearly reduce gambling problems associated with the internet, but would also eliminate any benefits of the technology.
- Managed liberalisation — with tight regulation of licensed sites to ensure integrity and consumer protection — has the potential to meet most concerns, as long as the approach is national.
- Uncertainty about the magnitude of the possible impacts of internet and Interactive gambling, would normally suggest a more gradual implementation of liberalisation, but this may not be feasible given the nature of the technology.

18.1 Introduction and framework

Technological changes are having a rapid impact on the ways in which gambling services are delivered. New technologies such as the internet and cable and digital television allow the delivery of gambling services into the homes of consumers. These new technologies pose fresh challenges for regulation, harm minimisation and taxation, with concerns about youth gambling, exacerbated problem gambling, supplier integrity, and an eroded tax base. On the other hand, these new gambling technologies also offer the potential for gains to consumers and businesses.

These competing effects have made it difficult for governments to determine the appropriate policy response. The Western Australian Government, for example, stated:

The emergence of broadband interactive technologies such as the internet and Pay TV has a number of far-reaching implications for gambling in Western Australia. These include both new market opportunities for existing industries in the State and new sources of competition; with associated threats and opportunities for tax revenue. However, the potential for interstate and international gambling operators to sell their products directly into Western Australian homes also poses a particular dilemma in that it directly challenges the State's firm policy stand prohibiting access (outside of the casino) to electronic gaming (sub. 76, p. 56).

Central to the debate is whether the downside risks can be effectively controlled by regulation and/or technology.

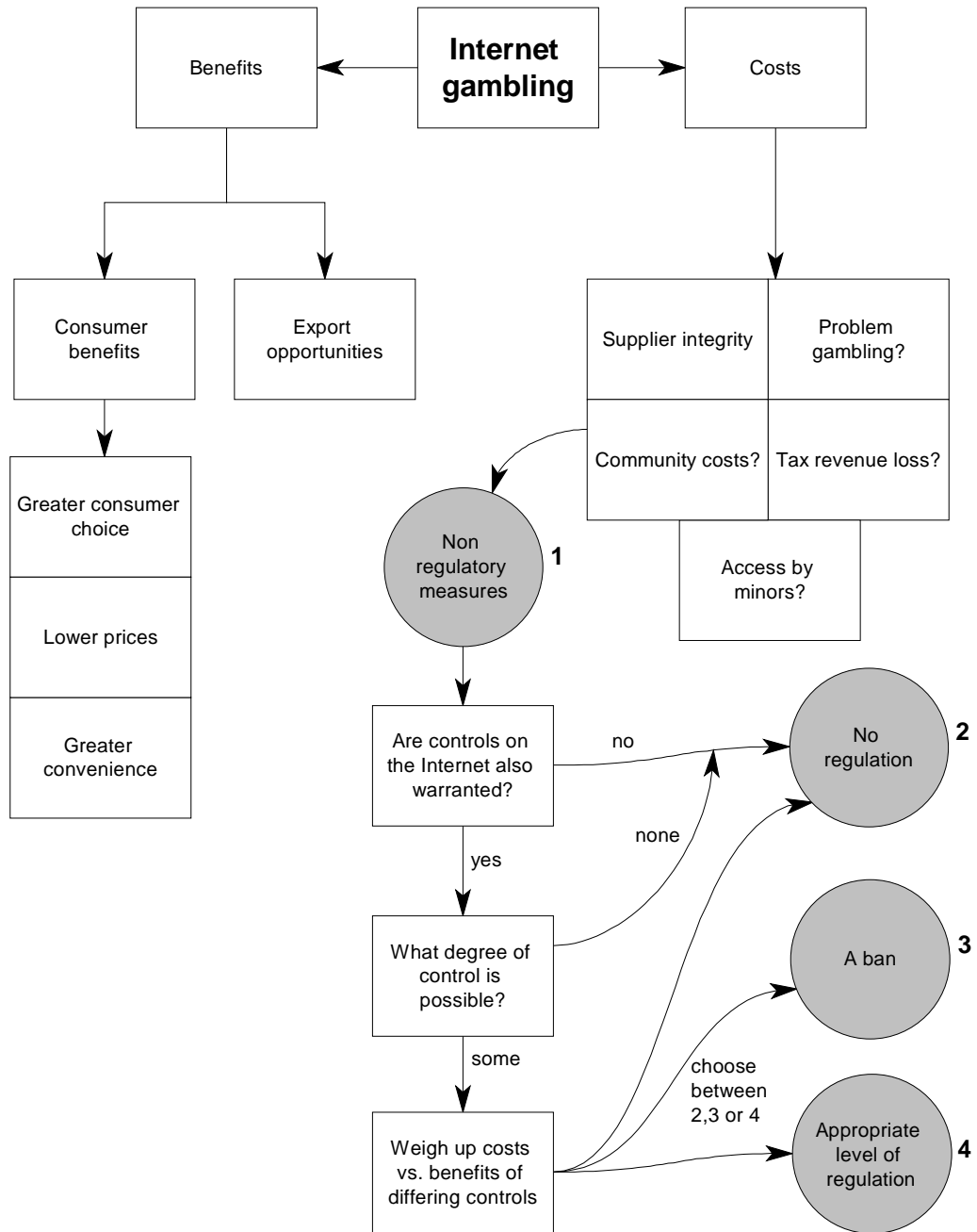
Figure 18.1 illustrates the relevant issues in assessing the role of the new gambling technologies, on which the structure of the chapter is based. Firstly, the chapter presents background information about internet and other interactive gambling (section 18.2) and explores the benefits associated with these new technologies (section 18.3). It then examines the costs which may arise from expanded gambling using these technologies, and what non-regulatory 'palliative' measures might partly address these concerns. It also assesses whether the costs are important enough to warrant regulatory controls on internet or interactive TV gambling. However, quite unlike other existing forms of gambling, these technologies poses special dilemmas for regulators wishing to control it, and so critical policy relevant questions are:

- to what extent can internet or interactive TV gambling be controlled?; and
- what are the costs associated with control, both for interactive gambling as a consumer good, and for internet users and other operators as a whole?

Finally, drawing on the Commission's views on the previous questions, we consider regulatory options, including prohibition of gambling using these technologies (as is

proposed in the United States) and current regulatory responses by state and territory governments.

Figure 18.1 Assessing internet and other interactive technologies for gambling



18.2 Background

What is internet gambling?

A few years ago, the buying and selling of goods and services over the internet seemed a futuristic notion. Now the proliferation of the internet is changing the way we communicate, bank, shop and are educated. Gambling, too, is undergoing significant changes.

Internet gambling is a form of interactive gambling. Interactive gambling involves gambling through a communication channel such as a computer terminal, television or telephone. Telephone gambling is not new — TABs have had telephone betting facilities available for over 30 years. But gambling through a computer terminal by accessing the internet is a new and growing mode of interactive gambling.

The internet is a network which connects groups of smaller computers used by millions of individuals and organisations around the world. It is a delivery mechanism which makes possible the exchange of information and ideas in a manner not possible via traditional electronic and print media. For gamblers, the internet enables them to place bets directly from a computer terminal in their own home.

To gamble on the internet a personal computer, modem and internet access from an Internet Service Provider (ISP) are required. Gambling sites can be accessed on the internet by using a search engine or by typing a known address. A web search for 'internet gambling' on the Alta Vista search engine for example, yields about 7000 hits (as at 11 October 1999). However, many of these are not genuine internet gambling sites, but provide information about internet gambling or other aspects of gambling, such as problem gambling services. Evidence from internet directories of gambling sites suggests that in October 1999 there were around 500 internet gambling sites where people could win or lose money while gambling online (table 18.1). A recent study suggested that there were 700 online gambling sites run by about 200 different companies (based on Faust 1999).

To make a bet, a gambler must first register and establish an account with the gambling service provider. The account is debited when a gambler places a bet and credited when a gambler wins a bet. The account must be funded prior to betting. Funding of the account can be by transfer from a credit card, cheque, money order, or direct bank transfer.

Table 18.1 Internet gambling sites

October 1999

<i>Gambling type</i>	<i>Source 1</i>	<i>Source 2</i>	<i>Source 3</i>	<i>Source 4</i>
Online casinos and games	..	35	179	443
Online (sports) betting	..	28	..	143
Online lotteries	..	11	63	39
Slots and video poker	50
Total	497	74	242	675 ^a

^a Some sites offer multiple forms of gambling so that the total number of online gambling sites will be less than the sum of the individual numbers. Only sites which offer gambling for money stakes are included in the above counts. The data for source 1 does represent a true estimated total for gaming sites, since duplicate sites are not counted twice.

Source: The sources are www.internetcommission.com (source 1), www.wheretobet.com (source 2), www.gamblinglinks.com (source 3) and www.gambling.com (source 4) accessed on 11 October 1999. Other than the first source, these are commercial sites which receive commissions for listing, and are not comprehensive.

Two distinct types of gambling are available on the internet — virtual online gambling and gambling on a separate physical event. Virtual online gambling includes software-generated games such as slot machines, blackjack, roulette and baccarat. This form of gambling exists only in the virtual arena — the games are not played physically in a gaming room and the outcome of the event is determined by a random number generator on the operator’s server. These games are either played ‘on site’ using the gambling provider’s server or by downloading software which communicates results to the host. Generally the software gives the gambler the option of playing in *practice mode* (not for real money) or playing *online* (for real money).

Alternatively, gamblers can use the internet to place bets on separate physical events such as horse and dog races and football, cricket and tennis events that take place on a *real* race track or playing field. Or they may use the internet to place bets on lotteries, where there are physical draws. Unlike virtual gaming, this form of gambling is a new *mechanism* for placing wagers, rather than a new form of gambling per se.

Who are the providers of internet gambling services?

The first internet gambling sites were launched in 1995. They provided slow casino-type games with simple graphics. Since then, advances in internet speed, security and graphics have enabled the industry to boom. The development of Java-based software allows players to gamble directly from their web browser without having to download large files onto their computers (Frost and Sullivan 1999).

The majority of internet gambling providers are smaller companies, licensed by local governments — often in the Caribbean or South America — and largely unregulated. However, the place where a site is licensed typically differs from the location of the server that contains the computer programs, which may be different again from the location of the ultimate owners of the sites (table 18.2). The computer servers and owners tend to be based in western countries, particularly North America.

Table 18.2 Traces on some typical internet gambling sites^a

<i>Name</i>	<i>Internet address</i>	<i>Licensed</i>	<i>Ultimate owner</i>	<i>Domain server/s location</i>
Casino Australia	www.casinoaustralia.com	Netherlands Antilles	US	Canada, US
Casinos Australasia	www.casinosaustralasia.com	Vanuatu	UK	Australia
Australian Casino	www.australiancasino.com	?	US	US
Oz Gaming	www.ozgaming.com	Costa Rica	?	US
Kenny Rogers Casino	www.kennyrogers.com	Netherlands Antilles	US	US
Plus Lotto	www.pluslotto.com	Liechtenstein	Liechtenstein	Liechtenstein
Aces Casino	www.acescasino.com	Venezuela	US	US
Action Sports Wagering	www.actionssportswagering.com	Netherlands Antilles	?	Puerto Rico
Avalon Casino	www.avaloncasinos.com	Commonwealth of Dominica	US?	US
Cyberbetz	www.cyberbetz.com	Commonwealth of Dominica	US	Canada
Festival Casino	www.fecasino.com	Commonwealth of Dominica	Canada	Canada
Golden Jackpot	www.goldenjackpot.com	Venezuela	Germany(?)	Germany
Twinkling Casino	www.twinklingcasino.com	Antigua	Canada(?)	Canada
Lasseters Casino	www.lasseters.com.au	Australia	Australia	Australia
Centrebet	www.centrebet.com.au	Australia	Australia	Australia
Mega-Sports	www.megasports.com.au	Australia	US	US

^a Information about licences was sourced from each internet providers site or from www.internetcommission.com ; registrant details and the IP addresses for the servers were traced using a WHOIS program (www.swhois.com), supplemented by information on contact addresses and information provided by the online gambling sites. The location of the servers associated with the IP addresses were obtained using an IP address finder (www.mjhb.mdr.ca.us). The location of the ultimate owner is usually conjectural, except where a site explicitly indicates their final ownership (as in Casino Australia, CyberBetz, Lasseters and Centrebet). Details are correct for 13 October 1999.

In Australia a number of companies offer online racing and/or sports betting services. Centrebet (www.centrebet.com), for example, is one of the largest providers of internet sportsbetting services (box 18.2).¹ Lasseters Casino

¹ Other Australian online sportsbetting providers include: Canbet (www.canbet.com.au — Australian Capital Territory); City Index (www.cityindex.com.au — Australian Capital Territory); Mega-Sports (www.megasports.com.au — Australian Capital Territory); NSW TAB (www.tabnsw.com.au — New South Wales); Ozbet (www.ozbet.com.au — Western Australia);

(www.laseters.com.au), Australia's first online casino, offers virtual casino games (box 18.3).²

The cost of entering the market as an internet gambling provider is small compared with the cost of establishing on-site gambling services. Flatt (1998) for example, reports that the necessary equipment and software to develop a site can cost as little as \$US 135 000. And operating costs are similar whether a company has 50 or 5000 customers. For example, Internet Casinos Incorporated, one of the first online casinos, was developed for \$US1.5 million and employs 17 people. In contrast it may cost \$US 300 million to build and operate a resort casino which employs thousands. Further, the costs of updating games is also less costly on the internet than for *physical* forms of gambling. Machine replacement is not necessary; games can be updated with new software, and the fixed costs spread over thousands of users.

Who are the internet gambling users?

The Commission's *National Gambling Survey* (table 18.3) suggests that in 1998-99 around 90 000 Australians gambled on the internet (including casino games, sports betting and racing) — which amounts to 0.6 per cent of Australian adults. The surveys commissioned by the VCGA of gambling patterns in Victoria suggest an even smaller proportion (0.1 per cent). Their most recent survey (Roy Morgan Research 1999, p. 241) surprisingly finds no evidence of an increasing trend in internet gambling, although given the small number of participants this may be a statistical illusion.

Darwin All Sports (www.betthe.net — Northern Territory); and TAB Queensland (www.tabq.org.au — Queensland).

² On 3 June 1999, the Queensland Government issued the first interactive gambling licence under its Interactive Gambling (Player Protection) Act 1998 to GOCORP Ltd. This is the first licence to be issued in Queensland under its legislative and regulatory regime emanating from the Draft Regulatory Control Model for New Forms of Interactive Home Gambling agreed in principle by Gaming Ministers from all Australian jurisdictions in May 1997. However, controversy arose over governance arrangements and probity associated with GOCORP, but legislative and other changes have remedied these.

Box 18.2 **Centrebet**

Founded in 1992, Centrebet in Alice Springs has grown to be one of the largest sports betting providers in the southern hemisphere and one of the world's leading internet gambling operators. After the first 12 months of operation Centrebet's turnover was about \$1 million. Today, turnover is around \$3 million per week, with a third coming from overseas.

Licensed by the Northern Territory Government and regulated by its Racing and Gaming Commission, Centrebet pays a tax on gambling turnover of 0.5 per cent or over \$500 000 annually. It employs 25 full time staff and 21 casual workers and is a net exporter receiving over \$2.5 million annually from the losses of overseas punters.

Centrebet accepts wagers on diverse range of sporting codes and events worldwide that are sanctioned by a reputable controlling body. Betting is offered on such sports as Australian Rules Football, baseball, basketball, boxing, cricket, golf, Olympic and Commonwealth Games, tennis and ice hockey. All wagers are based on fixed odds and can be made in person at their office, over the telephone or via the internet. About 300 books are open at any one time.

Prior to betting a client must open a Centrebet betting account. Consumers must be over the age of 18 to bet and proof of identity is required eg. a passport or drivers licence. All deposits and winnings are credited to the account and wagers are debited. Deposits can be made using credit cards, money orders or cheques, telegraphic transfers, or by depositing money directly into Centrebet's account. Centrebet uses encryption technology on the internet and provides a password to account holders to ensure security of transactions.

The majority of Centrebet's clients are offshore — 20 per cent are from Australia, 20 per cent from the United States, 20 per cent from Scandinavia, 15 per cent are from Asia (predominantly Singapore) and 25 per cent are from other overseas countries. Centrebet observe their typical client as male, aged 25–36, who wagers between \$20 and \$50 per bet, about 10 to 12 times a year.

Centrebet's web site was launched in July 1996. Today, it is apparently ranked in the world's top 5 internet sites receiving 20 000 to 100 000 hits every day, or over 20 million hits annually. The site is fast and user friendly. It provides an editorial on each sports book and includes information such as the regulations and rules for betting and a link to tourist information on Alice Springs. In addition, gamblers can gain access to their full history of transactions over the internet.

About 30 per cent of Centrebet's business is carried out of the internet with 10 000 bets taken over the internet each week. In 1997, Centrebet sales over the internet accounted for 50 per cent of Australia's electronic commerce.

Sources: sub. 75 and www.centrebet.com.au.

Box 18.3 Lasseters online casino

Australia's first internet casino, Lasseters Online was launched in April 1999. The site offers a range of casino games including roulette, blackjack, poker, sicbo and slots. The online casino is available to international players and residents of Northern Territory. Lasseters plans to make online gambling available throughout Australia once a national approach to internet gambling regulation has been determined.

The site took \$5 million and two years to develop. In its first six months of operation it has taken over \$13.5 million in turnover. In addition, the revenue generated online has exceeded the returns from table games at its Alice Springs casino. This financial year Lasseters online is expected to contribute 37 per cent of Lasseters total revenue and 40 per cent of total profits.

Demand and growth for Lasseters online gambling products has risen above Lasseters targeted levels:

- Over 12 000 players are currently registered, of which 82 per cent are from overseas.
- Players are registered from 154 countries.
- Player's registrations have been nearly doubling each month since the site's launch. In September alone the site recorded turnover of \$4.3 million, a 70 per cent increase in players and more than one million visitors.

Lasseters predicts continued strong growth and a market worth \$100 million within the next two years.

Source: Information provided by Lasseters Casino.

Table 18.3 Internet gamblers in Australia, 1998-99

	<i>Casino games</i>	<i>Bet on the races</i>	<i>Sports betting</i>	<i>All internet gambling^a</i>
Number playing in last 12 months	58 266	17 738	16 881	89 787
Proportion of Australian adults (%)	0.41	0.12	0.12	0.64 ^b

^a This is less than the sum of the three types of internet gambling because some internet gamblers gambled on more than one form. ^b The unweighted proportion is 0.7 with a 95 per cent confidence interval of 0.4 to 1.0 per cent. The Commission also estimated the share of internet gamblers who were problem gamblers (based on SOGS 5+). This was 13.3 per cent, 0 per cent and 0 per cent for casino games, betting on the races and sports betting respectively. However, the standard errors associated with these estimates are very high, and it is not possible to be certain that levels of problem gambling among internet gamblers are statistically significantly different to other gambling forms.

Source: PC National Gambling Survey.

Internet gamblers tend to be much younger than other adults, with about 53 per cent aged 18 to 24 years (compared with only 13 per cent of other adults). Their mean age was 33 years compared with 44 years for other adults. They also had

significantly higher personal income, at \$39 000 compared with \$32 000 for other adults. Otherwise it was not possible to discover significant socio-demographic differences between internet gamblers and other adults.³

As internet capable computers and interactivity spreads throughout Australian society — including through digital television, it can be expected that the socio-demographic profile of internet gamblers will even more closely match the characteristics of the Australian adult population as a whole.

What are the future directions in technology?

The internet is still in its infancy and subject to rapid change. As a result it is only possible to speculate about what developments are possible for the delivery of internet gambling services.

There is likely to be an expansion in the types of gambling products delivered by the new technology beyond the traditional casino and poker machine games. One likely feature is an increase in the pace of gambling as more gambling modes become continuous. Instant keno and continuous lotteries, for example, are already available on the internet (figure 18.2) and a Perth-based company has recently signed a contract to manage an internet bingo product.⁴ One participant commented that network adventure games are difficult to convert to forms of gambling because they are not always a game of chance — players can control the odds by developing skill or by upgrading computer systems. However in the future, these problems may be overcome and network adventure games resembling *Doom* may be played for money. Finally, a significant number of virtual casinos also provide adult or pornographic content as either part of the gambling experience, or as a prize.⁵

Virtual reality may be used to make gambling online more closely akin to real-world casinos:

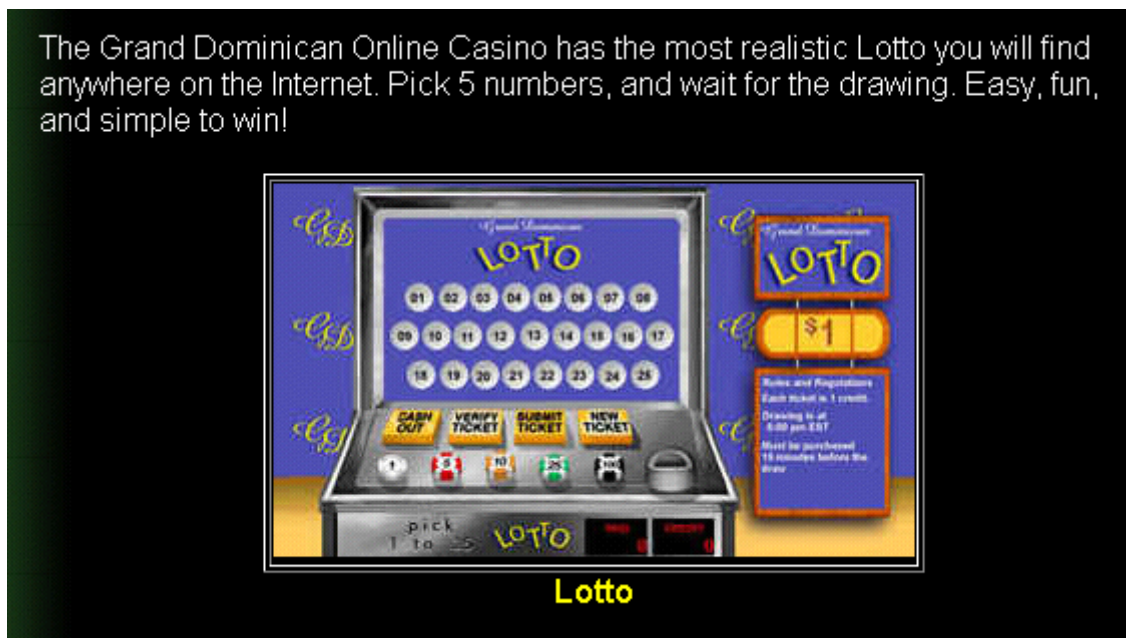
³ A logistic regression of internet use was estimated on a variety of socio-demographic variables, most of which were statistically insignificant (including education, marriage and work status). However, both age and income were highly significant. For example, the model suggested that a person with income of \$50 000 a year aged 25 years was about 60 times more likely to be an internet gambler than someone with annual personal income of \$25 000 aged 65 years.

⁴ Mitchell (1999, p. 80) and <http://www.it.fairfax.com.au/breaking/19990730/A627441999Jul-30.html> (accessed 25 November 1999).

⁵ For example, <http://play.at/astroncasino>, www.xxxsexcasino.com, www.asexysportscasino.com, www.vegasxxxcasino and www.adultclubcasino.com. Many more are listed at www.50hotcasinos.com. A number of these casinos share an internet protocol address with www.Australiancasino.com.

If you become bored with the comfort of your lounge room you put on the virtual balaclava, a glove and you vanish into virtual reality. You are no longer staring at your computer screen, you are walking into a casino but you have not left your lounge room. You stroll around your lounge room (accidentally kicking the cat) admiring the “casino construction”, play a few hands of blackjack, move onto a poker machine and then sit at the Keno lounge and strike up a conversation with the person in the chair beside you, another visitor to the casino who lives on the other side of the globe (Toneguzzo 1997, p. 27).

Figure 18.2 **Virtual Lotto**



Source: <http://www.granddominican.com/info5.htm>.

The new technology is capable of generating a range of safeguards to reduce the social harm of gambling (see later). Star City said:

... it is likely that some computer systems will be able to identify hand or finger prints as a way of accessing internet gambling. Parents would, therefore, be able to prevent their children gaining access to online gaming (sub. 33, p. 35).

On the other hand, the new technologies may create more manipulative environments for gamblers. It is possible that virtual intelligence will be used to influence the behaviour of the individual gambler in ways that are far more subtle than existing gaming machines. This reflects the fact that, through electronic trails, the new technologies are able to collect more information about participants than was previously possible in the gambling industry. A computer, for example could record the type of play (and if the person has used a membership card, look closely at the history of the play) and interact with the player accordingly. It could also

record the nature of that person's involvement with other internet services to build up a picture of their customer profile.

Internet and interactive gambling offers the prospect, therefore, of an infinitely flexible gaming machine in every Australian household.

Convergence of internet and TV technologies

In the near future with the spread of broadband cable and digital TV, it will be possible for gambling operators to bring a range of interactive products into consumers' homes through television. Interactive television can be provided by combining pay TV with a telephone modem (set-top box) to relay messages back to the service provider or by connecting a computer to a cable modem. Ultimately the distinction between TVs and internet-connected computers may largely vanish (Noam 1995 and News Limited 1998, p. 3).

McMillen considers that interactive TV gambling will become particularly important:

The greatest potential for commercial development and increased gambling participation is with interactive digital television. This already operates in the United Kingdom and is anticipated in Australia by early 2001. The capacity for the medium to develop and promote interactive sportsbetting will result in a rapid expansion of this form of gambling in Australia and other nations. If legalised, I predict that interactive television sportsbetting rapidly will become as popular as gaming machines are now (sub. D274, p. 8).

Products are already being developed in Australia to provide home television gambling. One example is a hand held interface (similar to a remote control) which allows a player to select a racing field, access tips, place bets, watch the event live and check account balances. Other possibilities are:

- betting while watching television sports programs — for example on the Australian Football League or the cricket (box 18.5);
- a television channel dedicated to displaying results and selling tickets in lotto and keno style games;
- simulated scratch tickets;
- the televising and simultaneous betting on roulette and other casino games; and
- connection of the TV to the internet so that the full internet network is available.

To the extent that these emerging TV technologies are based on globally *open* networks where there are potentially millions of global content suppliers (unlike existing TV content), then there are no essential differences between gambling on a

computer or that on a TV. However, where TV gambling services are provided from a closed network, in which service suppliers have to have a mandate from the Australian Government to supply content, then they are more akin to traditional gambling forms — such as TAB phone betting. In the latter case, some of the problems posed by internet gambling do not apply (for example, issues of controllability), while others, such as the probity of the services and harm minimisation remain relevant.

The remainder of this chapter emphasises internet gambling. However, the same issues would largely arise whether TVs or PCs are the delivery mechanism, and the same prudent policy approaches would need to be applied.

Access outside the home

While the household is where it is likely that most internet capable computers and interactive TVs will be located, it is possible that the internet or other forms of computer networks may still play an increasingly important role in the provision of gambling services in traditional gambling venues. For example, it is possible that instead of stand-alone machines dedicated to a given game, a venue might have a series of large-screen generic machines connected to an intranet which provides many game options on any given machine. This would provide consumers with instant access to new forms of games, and also facilitate games with interaction between players. It is conceivable that groups of venues may cooperate (for example, clubs or hotels) in developing a computer site on which they have game content, and then connect to this content remotely from each of their venues. The advantage to consumers of in-venue rather than home access to gambling is that they could combine computer network gambling with a social outing, a meal and other entertainment options, and also use computer technology (screen quality and size, sound) which would be prohibitively expensive at home.

The expansion of the internet into new areas outside the home (cafes, malls, and planes) will also raise challenges for regulatory authorities, and may blur the distinction between gaming and non-gaming venues. For example, should an internet cafe which promotes its internet gambling facilities be regarded as a gambling venue and be subject to the probity requirements of other gaming venues? What harm minimisation measures should be mandated for such venues? In section 18.9, the Commission suggests some options for policy which are not affected by *where* the network is accessed.

18.3 What are the potential benefits of interactive gambling?

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:

- Casino games, such as roulette and blackjack, which have high initial outlays can be offered more cheaply, because the internet avoids the high overheads associated with such games in casinos.⁶ For example, Lasseters online casino offers the European version of roulette with 36 numbers and only one zero.
- People can play at a pace they find comfortable, rather than one dictated by physical casino conventions (for example, in games like blackjack).
- Game variety can be much greater at any one time, while the internet also offers the scope for the rapid development of new games. This reflects the fact that to introduce a new game, an internet gambling provider only has to change some software, rather than re-configure machines in remote venues.
- Home-based sports betting — for example, on the Australian Football League — may increase the entertainment value of sports media.
- There are many people who are not highly mobile or are distant from gambling venues — the old, disabled and isolated rural dwellers — who may be able to enjoy gambling in their own home.
- It offers gambling to people who dislike the ambience of existing gambling venues.

While the major benefits of internet gambling are likely to go to recreational consumers, there may also be some other economic benefits — in terms of higher returns on resources in the economy. These arise from the higher productivity of internet gambling providers and their export potential — particularly if, as many suggest, Australian technology and probity regulation provide significant competitive advantages.

Perceptions of the commercial potential of internet gambling vary considerably. This in part reflects the infancy of the industry, as well as uncertainties in

⁶ Some participants suggested that gambling would cost more on the internet than physical forms (eg sub. 167, p. 4) because of the costs of the ISP. However, these costs are low relative to the costs of operating physical machines, and are likely to fall as telecommunications and cable technologies develop. It is already possible to obtain 100mb and unlimited hours a month of internet services for about \$30, which would exceed the required capacity of most internet gamblers. For those who were using the net anyway, the *marginal* costs of online gambling are even lower.

legislation, and the technology itself. Some see vast opportunities driven by growth in new markets and technologies. For example, International Gaming and Wagering Business (sub. 16, p. 4) estimate that internet gaming turnover will grow from US\$5 billion currently to US\$25.4 billion by the year 2000. Bell (1999, p. 3) estimates that the online casino segment of this market will have revenues of \$7.9 billion by the year 2001. Data cited by Mitchell (1999), Faust (1999) and Ledbetter and Viuker (1999) suggests that worldwide internet gambling expenditure (not turnover) amounted to around \$US 651 million in 1998, \$US 1.485 billion in 1999 and could grow to around \$3 billion (US) by 2002, even if the US Government enacts a ban.

McMillen and Grabosky (1998, p. 2) see emerging opportunities in Asia, America and Europe:

Notwithstanding the current Asian economic crisis, there are tremendous profits which await those entrepreneurs who can meet the gambling demands of the emerging Asian middle class, whose own governments may discourage gambling on their own soil. Similar market opportunities exist in America and Asia.

They also argue that Australia is in a good position to benefit from these commercial opportunities:

Australia can take the lead to foster an industry based on state of the art technology, and with a worldwide reputation for integrity. Australian policy makers can assist Australian entrepreneurs to maximise the upside potential of the new technologies, to minimise their downside risks, and to encourage competitiveness in Australian enterprise (p. 5).

Some argue that the benefits from internet gambling are already evident — Centrebet, for example, reported:

Centrebet is a technology-driven business and spends hundreds of thousands of dollars in the Northern Territory each year on state-of-the-art internet and software development. This has generated not only employment in that industry onshore, but has also opened up export opportunities, such as Octa4 in Darwin, that have piggy-backed their development work for Centrebet into new markets around the world (sub. 75, p. 5).

Other Australian online betting services are reporting significant increases in demand (Mitchell 1999):

- Turnover in the year to July 1999 was \$1.17 million on eBet's racing and sports betting internet site, which was 10 times higher than that achieved in the previous corresponding year.
- Takings rose to more than \$3 million in July this year for Canbet, up from \$1 million in July 1998 before it offered internet betting.

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- SportOdds, has generated 40 per cent of its revenue via its online gaming presence in its first five months of operation.

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 added economic benefits, when they largely represent resources displaced from other uses.

Other commentators, are more unsure about the commercial potential of internet gambling, because of current uncertainties in internet gambling legislation in the United States and elsewhere, and with the technology itself (discussed later). The Office of Strategic Crime Assessments (1998, p. 2) for example stated:

At a global level, technical difficulties, the lack of a uniform secure payment method, low consumer confidence and other problems are constraining the growth of internet commerce (and gambling).

However the predominant view is that, corresponding to growth in information technology and electronic commerce, internet gambling is a growth industry and has the potential to generate significant export earnings (see box 18.4) and consumer benefits. The advent of digital TV in the next few years, combined with the existing large number of cable TVs, suggest that there is also large scope for an expansion of gambling —probably as sports betting — on that medium too.

18.4 What are the costs of interactive gambling?

Participants in the inquiry raised a number of problems associated with interactive gambling in any unregulated market, including exacerbated problem gambling, accessibility of minors to gambling, supplier integrity, adverse community impacts and a loss of revenue. The Australian Institute for Gambling Research, for example, noted:

It should be emphasised however that online gambling is different from other forms of e-commerce, just as more conventional gambling is different from other industries. The potential social, economic and regulatory impacts are likely to be profound. Sportsbetting, although currently only a small part of the Australian gambling market, will experience dramatic growth especially after the advent of digital television in 2001. However, it would be erroneous to concentrate primarily on the potential economic benefits that might accrue if Australian licensed operators establish market advantage over other nations. It is imperative that the full social and economic costs and benefits of online gambling are effectively monitored to inform policy adjustments that will maximise community benefits and minimise costs wherever possible (sub. D216, p. 18).

Box 18.4 Growth in Information technology and electronic commerce

ABS survey data (1999) suggest that

- At May 1999, nearly 50 per cent of households (3.2 million) had a home computer, a 13 per cent increase since May 1998.
- Over 22 per cent of households (1.5 million) had home internet access in May 1999, an increase of 57 per cent (553 000) since May 1988. A further 684 000 households expected to get internet access in the next year.
- 5.5 million adults or 40 per cent of Australia's adult population accessed the internet at some time over the 12 month period to May 1999. In the previous year 26 per cent of Australia's population accessed the internet.
- Over 74 per cent of 18-24 year olds accessed the internet from any site (home or other) in the year to May 1999, compared with 49 per cent in the previous year. 53 per cent of people aged 25-39 accessed the internet compared with 34 per cent in the previous year. 39 per cent of 40-54 year olds accessed the internet (28 per cent in the previous year). People over 55 are least likely to access the internet — 10 per cent accessed the internet in the year to May 1999 compared with 5 per cent in the previous year.
- Couples with children account for 55 per cent of internet households — 36 per cent of households of the family type couple with children had internet access, 16 per cent of households of the type couple with no children had internet access and 13 per cent of households of the type single parent were connected to the internet.
- 5 per cent of Australians used the net for purchasing goods and service in the past year, corresponding to 650 000 shoppers.

However, a prior ABS survey into household use of information technology (1998d), suggests that interest by Australian consumers in internet gambling was relatively low, with less than 4 per cent of adults stating an interest in internet gambling services.

A report published by the National Office for the Information Economy (1998, p. 3) also notes the small demand for electronic commerce in Australia, but highlights its potential for growth:

The market for electronic commerce in Australia is still small, despite the intense interest and activity surrounding it. But predictions are that it will grow by a factor of ten by the year 2000, and keep on growing. The global market for goods and services bought and sold over the internet is around US\$3 billion per year; by 2000 it is likely to be \$US150 billion. Optus predicts that the value of Australian electronic commerce will be A\$2 billion by 2000.

The growth in internet use and commerce points to the future. In 1996 only 40 million people around the world were connected to the internet. By the end of 1997 that number had reached 100 million. Traffic on the internet has been doubling every hundred days. America's first on-line bookstore sold \$16 million worth of books and CDs in 1996; in 1997 it made internet sales of \$148 million. In Australia in 1995, two percent of Australians bought things over the net; in 1997, six percent of the population did so.

Problem gambling

While problem gambling is an issue for both venue-based and internet gambling the concern is that the characteristics associated with internet gambling make it a particularly troublesome medium. A key aspect of the risks of online gambling is the degree to which it increases accessibility:

- Access is 24 hours per day.
- Gambling can be slotted into very small periods, increasing convenience, but also of impulsive gambling. As noted by the Interchurch Gambling Taskforce, an office worker, might for example, try to double their paycheck on a whim during an office break (sub. 167, p. 4).
- There is no longer any issue of scarcity of machines (such as occurs through caps or venue licensing restrictions) — if a person has an internet-connected computer they have access to a myriad of gambling forms.
- Other than having determined a payment method, there are no conditions of entry, dress requirements, expectations of patron behaviour or capacity to exclude children. A person can be disorderly, drunk or on drugs, and play at the home casino — so long as they can guide their mouse or still push the keys on their keyboard.
- The technology is, however, relatively socially inaccessible at the moment, reflecting the differential receptiveness of people to computer technology, which explains why it is the young (and well-off) who currently dominate as internet gambling customers. However, this pattern of use will change. It can be expected that the majority of households will soon have internet capable machines. If 70 per cent of households acquire this technology in the next five years, this will imply that there will be about five million (home) casinos offering gaming machines, casino table games and other gambling opportunities in Australia — a massive increase in accessibility. As well, people will be able to access gambling opportunities from internet cafes or from hundreds of thousands of workplaces.
- Advertising of online gambling (whether deceptive or not) or inducements to gamble are much harder to control than for other media, again acting to stimulate demand. For example, a Commission staff member set up an email account for an under-18 year old with a well known free email provider (indicating the status of the client as a minor). Within days, unsolicited messages were received inviting the mail recipient to gamble at online casinos.
- Games can be multilingual, increasing their accessibility to non-English speaking people.

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- Initial outlays to play casino-type games, such as roulette and blackjack can be very low, because of the greater productivity of online casinos.
 - Ease of use is high, because patrons can get help about how to play any game at their own pace, without the social stigma of displaying ignorance in a crowded casino.

Other aspects of internet gambling also pose problem gambling risks. The fact that all transactions are electronic, combined with the similarity of the games to non-cash computer games, may mean that people are less aware of the amount of money they are spending.

Online casino games — like gaming machines and roulette — are continuous forms of gaming, with high frequency low payoffs. As in their physical counterparts, such continuous forms of gambling present substantial risks for problem gambling — especially as these also tend to be the more popular forms of gambling. Online sports betting, at least as currently operating, is less likely to involve problem gambling.

For people with past problems on physical forms of gambling, the ready availability of internet gambling may also increase the risk of relapse, or force them to give up the useful aspects of internet technology for fear of relapse. This fear was voiced, for example, by one problem gambler speaking to the *Conference on the Responsible Service of Gambling Within the Club Industry* (August 1999).

Finally, while there may be substitution effects from other, more expensive gambling forms (this being the likely basis for concern about online gambling by many traditional gambling providers), it is also likely that online gambling will establish a new market, just as gaming machines introduced many women to gambling. This in turn implies that a proportion of this newly exposed group will develop problems with gambling. The Interchurch Gambling Taskforce considered that the characteristics of the people attracted to internet gambling would accentuate the risks:

This is due primarily to the fact that most problem gamblers are of a young age, and it is this younger population which are most internet literate and will take to the technology fastest (sub. D200, pp. 5–6).

Echoing these risks, many participants expressed concern that the greater accessibility of interactive gambling and its structural characteristics may increase the harm of gambling and intensify tendencies towards addiction (box 18.5).

Box 18.5 **Some views on problem gambling and the internet**

Internet and interactive gambling presents one of the greatest social threats ... to individuals, communities and government. The ability for innumerable gambling opportunities to be broadcast into every home at all times could result in devastating social and economic effects (Interchurch Gambling Taskforce, sub. 167, p. 2).

Technology has removed the reality check or natural barrier which going to the races, or waiting for a croupier, imposes. It enables opportunity to participate uninterrupted in a way which presents a constant, irresistible, financially devastating lure to many ... We have particular concern because of the ability of patrons to participate in their own home, making those individuals at risk of developing a problem even more at risk (Anglicare, sub. 110, p. 4).

Internet gamblers are as susceptible to becoming problem gamblers as those who prefer more traditional forms of gambling. (Australian Medical Association, sub. 53, p. 12).

Interactive home gambling poses a significant challenge to regulators, and to the community generally, given the potential for a rapid increase in problem gambling with increasing levels of accessibility of the internet, and the universal accessibility (within the next ten years) of digital TV and the increased potential for interactive home gambling (Xenophon, sub. 98, p. 9).

Shane Warne ambles back to his bowling mark, tossing the ball from hand to hand, contemplating how best to bamboozle the batsman with his next ball. Should it be a leg spinner, top spinner, wrongun', flipper or zooter, he muses? [In] a suburban home ... a young cricket fanatic is watching ... With a click of the television remote or the press of a couple of buttons, instantaneously he bets, just prior to its delivery, that Warne's next delivery will be a wrongun'. Warne delivers the ball but sadly for the young fan it turns out to be a standard leg spinner and his money is gone. Never mind. He can try again next ball, or the one after that (Senator Grant Chapman, sub. 23, p. 2).

The advent of internet gambling has opened up a whole new range of concerns. For problem gamblers it has the potential to isolate from their community, and from others who can warn of a potential problem. We agree with the Commission's view that (without harm minimisation measures and appropriate regulation) on-line gambling will pose significant new risks for problem gambling (Anglicare Riverina, sub. D227, p. 2).

...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 (sub. D208).

Ameliorating features

On the other hand, there are some features of internet gambling which may moderate problem gambling. While it is possible that internet gambling might take place in locations other than people's homes (such as cafes), it appears that the high growth market will be home-based internet gambling. Here, the demands of other

household members and their readier scrutiny of what a gambler may be doing may act as a brake on lengthy or hazardous gambling⁷:

... consumers who log on from home computers will find it impossible to escape yelling kids, barking dogs, and all the other distractions of the real world. Internet gambling thus offers a more wholesome environment than its real world counterpart (Bell 1999, p. 11).

Since cash is not used for transactions, there will be other evidence of gambling transactions that will be easier for other household members to detect (for example, credit card records and cheque clearances to a gambling venue).

Further, if the odds are better for internet gambling, because of lower tax rates and lower technology costs, then this implies that player losses will tend to be smaller for a given duration and intensity of playing, which could thereby reduce some of the harms.

As well, counsellors contacted by the Commission indicated that many existing problem gamblers were inherently social in nature, and liked to get out of the home to gamble in social settings (even if, ironically, they did so alone). If this is generally true, then this particular vulnerable group may not find gambling on the internet very attractive.⁸

Overall, however, the Commission considers it likely that (without harm minimisation measures and appropriate regulation) online gambling will pose significant new risks for problem gambling.

Accessibility of minors

Children are banned from physical gambling venues and this can be enforced by on-site gambling operators and staff. However, many participants expressed concern that internet gambling operators cannot determine the age of gamblers, so that minors could gamble online by using an adult's credit card:

We have all seen young teens hunched over machines in video parlours, oblivious to their surroundings. This behaviour, in itself, mirrors gambling addiction. While age rules apply in the more formal gambling outlets, I defy any computer, no matter how smart, to be able to detect if a minor is placing bets using their parents' credit facilities (Senator Grant Chapman, sub. 23, p. 6).

⁷ Of course, these distractions and demands do not apply to single person households.

⁸ Tabcorp noted that its research and experience on customer motivations suggested that participants at gaming venues are attracted by much more than just gambling (such as a meal and a social outing), and that gambling at home on the internet was more likely to appeal to a subgroup seeking a gambling opportunity only (sub. D232, p. 14).

In an online environment of anonymous identity, the ease with which teenagers and children can access internet gambling, coupled with their proclivity for gambling addiction, will exacerbate this worrying trend (Janower 1996).

A further concern is that minors will become more exposed (and culturally conditioned) to gambling in general via the proliferation of internet gambling:

Children will be present while adults gamble and will be more likely to develop gambling problems as adults (Wesley Community Legal Service, sub. 46, p. 11).

[A cost will be the] Potential exposure to children and others, with the cultural shift of children now being able to observe parents' gambling behaviour in the home (Interchurch Gambling Taskforce, sub. 167, p. 3).

Notwithstanding such perceptions, underage access is not an insurmountable problem with internet gambling, even in an uncontrolled environment. The motivation and capacity for unsupervised and *regular* gambling by minors on the internet is weak:

- A minor cannot make any financial gain if money is won (unless the parent endorses the gambling). A consumer under the age of 18 can only legally obtain a credit card as a secondary card holder on an adult's account. If a minor uses an adult's credit card or account details to gamble, the winnings are paid by cheque, or credited to the account holder and cannot be accessed by the minor.
- The minor would also need to know a password to access the gambling supplier.
- Gambling by a minor can be easily detected by parents. Money for gambling withdrawn from accounts or credit cards will be listed on account statements.

There will be a small group of technologically astute minors who will be able to gamble on the internet for money without parental consent. However, this is not a unique problem. Some children look like adults and can gain admission to casinos, TABs and hotels to gamble. Some venues act irresponsibly and admit underage clients. An ACOSS study into *Young People, Gambling and the Internet* (1997), revealed that from its sample there were 14 to 16 year olds who regularly placed bets at the races, and minors that occasionally or regularly played gaming machines in clubs. If anything, the statistics on youth gambling (chapter 16) suggest that current levels of entry to physical gambling venues is likely to be much more prevalent than their future access to online gambling.

It is also likely that some minors will engage in internet gambling with their parents' consent, as they do now with racing and scratchies. This appears to be less problematic than unsupervised gambling. Arguably, socially restrained consumption of gambling within a family environment — even if notionally illegal — may

potentially have the benefit of teaching responsible gambling (as in the case of alcohol consumption).

It is too early to assess the social impacts of minors' exposure to gambling via the internet and other interactive technologies. Minors are already exposed to gambling through advertising, and are largely aware of whether and how their parents gamble. Nevertheless, home-based gambling does represent an increase in exposure, which may further normalise gambling. Whether this is seen as an adverse outcome depends on complex judgments about community and family norms.

Community impacts

Internet and interactive gambling represents a new level of community accessibility to gambling. Its impacts on the nature of community and family life will depend on its uptake and use. It may have some desirable social impacts — for example, by making gambling a less socially isolating pursuit for some individuals. On the other hand, it may further reduce social interaction outside the family, and affect social values.

Uncertainty about such effects would suggest a cautious approach to liberalisation of online gambling. In part, however, the fact that existing online casino games are slow to play (and therefore often not as entertaining as their physical counterparts) and that a relatively small share of households have the technology for accessing the internet, provides a natural (if short-lived) constraint on the pace at which online gambling will grow over the next few years.

Supplier integrity

Integrity concerns about online gambling include security and privacy issues, as well as whether operators are providing *fair* games of chance.

McMillen and Grabosky (1998) list problems including:

- a gambling site on the other side of the world may or may not be legitimate;
- a gambling service provider may close down a site before paying winnings or returning deposits;
- credit card or account details provided over the internet may be intercepted by a hacker and used fraudulently; and
- there is a potential for invasion of privacy.

Clearly, if the internet's amorphous and global nature precludes control, people will be able to gamble effortlessly on foreign and unregulated sites and it is likely that some consumers will fall victim to unscrupulous suppliers. However, even in an uncontrolled environment, it is likely that consumers and markets would at least partly respond to some of the problems.

Most consumers are likely to take a cautious approach to internet gambling and develop methods to test the integrity of suppliers. For example, a gambler may bet minimal amounts of money until confidence in payments mechanisms is attained. They may search for information about the reputation and nature of online casino operations before using their services. For example:

- www.internetcommission.com provides a listing of online gambling sites, and the extent to which they are likely to meet consumer expectations (covering issues such as algorithm testing, minimum and maximum bets, payment methods and transactions costs).
- www.gamblingmagazine.com has a black list of non-recommended gambling sites (numbering 245 in October 1999).

Furthermore, consumers will not fall victim to patently unscrupulous operators more than once — if an operator fails to pay winnings the consumer will gamble at an alternative site. In this sense, gambling on the internet is no different from other transactions on the internet, which require a degree of consumer caution and common-sense.

On the other hand, unlike physical goods purchased over the net, like books or CDs, it is difficult in some cases for consumers to verify if they have bought a 'lemon' or not, even after purchase. Even marked differences between the stated odds on virtual gaming machines and the real odds would be very hard for consumers to verify (given the volatility of outcomes on such machines — see appendix U and chapter 16). Accordingly, it would easily be possible for an unscrupulous unregulated online provider to claim player returns of 93 cents per dollar, and yet only return 90 cents (a 43 per cent increase in actual prices). Similarly, a gambler who participated in an online lottery does not expect to win a large jackpot, even over a lifetime, and could not therefore verify through experience whether an operator was fair or not. In contrast, sports betting is far more secure since the gamble relates to an event outside the control of the gambling provider.

In response to these consumer uncertainties, high quality operators will want to signal their quality and probity to clients. They would use a number of strategies to achieve this. They might:

- develop codes of practice;

-
- use payment systems which were more reliable;
 - seek out independent scrutiny of their operations (for example, the International Red Cross internet lottery is audited by Coopers and Lybrand). Many of the online casinos listed by www.internetcommission.com have their operations scrutinised by one of the big seven global accounting companies;
 - put in place dispute resolution procedures;
 - establish an alliance with (or be a subsidiary of) an existing corporation which has a strong reputation (and which would consequently lose too much from fraudulent or deceptive behaviour with its clients; and
 - actually invite the government to regulate them to provide endorsement of their quality.

It is notable that Centrebet and Lasseters, which are outside the jurisdiction of the regulatory authorities of most countries to which their customers belong, have used just these sorts of strategies to secure a competitive advantage through reputation.

While online gambling providers would find some ways of differentiating their quality from those of unscrupulous operators, this does not mean that this is the most efficient outcome. An appropriate regulatory framework — combined with credible monitoring and enforcement — may decrease probity risks more efficiently than under an uncontrolled environment. For example, in an unregulated environment, small online providers without a reputation would probably find it hard to secure a long term future, even if their products were innovative and their prices low. A regulatory environment, by more cheaply certifying quality, may therefore provide efficiency benefits for consumers.

Are adverse impacts on ‘off-line’ gambling providers a cost?

Many existing gambling providers are hostile to internet gambling, because they fear that they will lose some of their customers to less highly regulated and taxed online providers (box 18.6). This concern by established gambling interests is not a peculiarly Australian phenomenon. Bell (1999, p. 3) notes that much of the lobbying for a ban on internet gambling in the United States stems from threatened incumbents:

The established offline gambling industry has huge sunk and overhead costs that nimble new competitors might prevent it from recovering.

However, whether in fact the fears of incumbents will be realised is unclear. In the past, the introduction of new forms of gambling appears to have had relatively minor substitution effects away from existing forms of gambling. Whether internet

gambling follows this trend depends on the extent to which the attributes of internet gambling are intrinsically new, drawing increased expenditure on gambling and a new market of consumers, or whether the internet represents a more convenient access to games that are already widely available in a physical form. The effects are likely to vary significantly by gambling mode.

Box 18.6 Impacts of internet gambling on existing gambling providers

From the casino industry's point of view, the spread of internet gambling could threaten the competitive position of individual casinos. Casino operators have paid large up front and ongoing licence fees as well as high taxes for the right to operate exclusive location-based casinos. The advent of large numbers of internet competitors undermines the rules of operation already in place and raises questions about how appropriate current tax arrangements might be (existing casinos pay large taxes and interactive casinos pay none) in light of this new competition (Australian Casino Association, sub. 124, p. 27).

Internet gambling has various forms and represents a new development that has the ability to render the established principles and mechanisms of regulation and control traditionally applied to gaming ineffective. In addition, it has the potential to cause significant structural change to the club industry which over the years has invested and continues to invest hundreds of millions of dollars into both the community and the supporting industry infrastructure and facilities (Council of Community Clubs of Australia and New Zealand, sub. 63, p. 13).

... 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 ... (Australian Hotels Association (NSW), sub. D208).

It is likely that expenditure incurred through gambling at home will be largely in substitution for other gambling expenditure (NT Select Committee 1996).

Internet gaming players are a different group to those of typical gamblers in traditional forms of gambling. Access understands that most problem gambling occurs with poker machines played by the less well off in society. If this is the case, we consider that these are the least likely to have access to home computing and the internet. This indicates a relatively low level of transfer of gambling from traditional venues to the internet — from which one may conclude that internet gambling is likely to be in addition to existing gambling, rather than replacing it in part (Access Systems, sub. 16, p. 5).

Racing and lotteries

Gamblers who bet on racing, or purchase lotto or lottery tickets may find the internet a more convenient method of gambling — just as phone betting increased the convenience of TAB wagering. For these gamblers the product or wager on the internet is the same as that offered by a venue. The difference is that the product can be purchased from home — the provision of gambling in these forms via the internet will likely lead to some substitution in the *medium* by which gambling takes place, but not the country of the supplier, and indeed, in most cases not even the

supplier. It should be noted that internet wagering represents a relatively small technological step since people could already lodge their bets remotely by phone.

Sports betting

Sports betting is still a relatively new form of gambling, and is highly suited to internet and home-based gambling. It is likely that it will grow rapidly via the internet, largely creating a new market, though there may be some shift away from wagers on racing.

Casino tables games and gaming machines

The effect of internet gaming on venue-based gaming is less clear. Gamblers who play gaming machines and casino table games typically enjoy playing in a social setting (figure 18.3). While it is possible for venues, such as internet cafes, to provide a social setting for virtual gambling, the atmosphere of a casino or gaming machine room cannot be fully replicated. The virtual product may be viewed as intrinsically different from the physical product. In the virtual realm the player cannot touch the cards or chips, experience the excitement of others or obtain the personal attention of a venue employee.

However, a sizeable minority of gamblers who go to the casino, play gaming machines or Club Keno, do so to win, to pass the time or because they enjoy the nature of the game (figure 18.3) — motivations for gambling which can be as readily met by internet as venue-based gambling. Internet gambling may, therefore, reduce gambling by these people in some existing venues.

At the same time, online gaming is likely to tap a new market of gamblers. For example, Star City said:

Many people are reluctant to leave their homes to go to a club or casino to bet alone. Others feel intimidated by the prospect of sitting at a gaming table with other players. There will be a temptation for many of these people to take the option of betting privately at home so the internet has the potential to open up a vast new gaming market (sub. 33, p. 35).

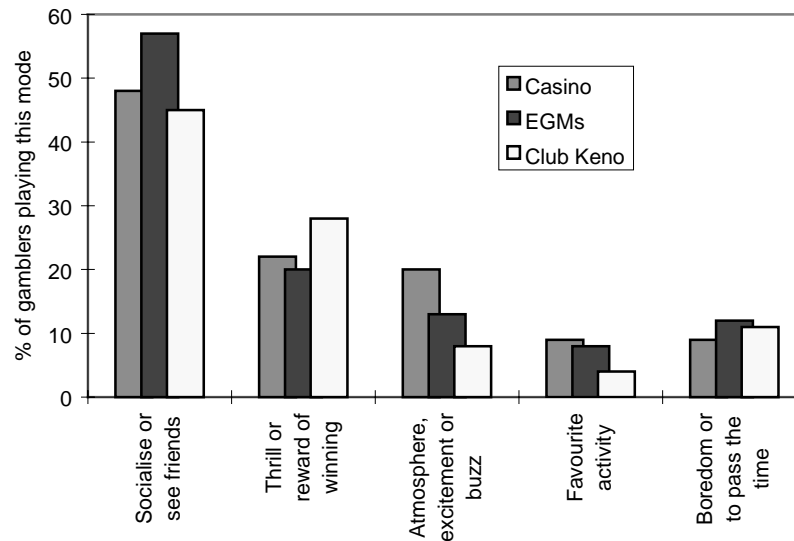
Online gaming will be attractive for those who:

- live in remote locations, are house bound or live with a disability may find that gambling services that were previously difficult to access are now readily available;
- are concerned about safety at venues and when travelling to and from gambling venues (notably women);

- do not like the atmosphere of venue eg the smoke or noise;
- are intimidated by other gamblers at gaming tables; and
- are already heavy users of the internet.

Figure 18.3 **Motivations for gambling on traditional gambling forms**

Victoria 1998



Data source: Roy Morgan Research (1999) for the VCGA.

In summary, the expansion of online gambling will have repercussions for existing suppliers. For many it will largely represent a new medium for gambling transactions (such as lotteries). For others it will partially erode existing markets, but also create new ones.

Whether any adverse impacts on incumbents should figure as policy relevant costs depends on how these impacts have arisen. To the extent that they arise due to the more stringent regulatory treatment of physical gambling forms compared with virtual ones, then this can be inefficient and inequitable, a point emphasised by the AGMMA (sub. D257, p. 24). The Commission’s policy option — explored in section 18.9 — would involve regulatory treatment for virtual forms that were in close parity to physical forms (although the issue of appropriate tax treatment is more complex).

However, to the extent that any adverse impacts on incumbents arise from the technological advantages of the internet, they constitute little basis for remedial policy action. The existing gambling industries have generally denied the policy relevance of the displacing impacts of the growth of gaming machines on retailing

(chapter 10) — it seems scarcely consistent to regard the potential impacts of online gambling on traditional gambling forms in any different a light. In general, societies do not prohibit technological change because some existing businesses lose as new businesses form. The appropriate barometer for accepting or denying technological growth is net social benefits — which in this case, is largely determined by consumers.

Taxation

Many participants expressed concern that internet gambling may diminish state/territory taxation revenue and affect community services. The Australian Racing Board, for example, stated:

In terms of the Australian Racing Industry, a significant proportion of the revenue earned from wagering on racing is returned to:

- The Industry to fund prize money, racetrack facilities and the major employment that is associated with the industry;
- Consolidated revenue to contribute to community obligations such as, hospitals, schools etc.

The erosion of this revenue lifeline would have serious consequences for the economy of the Racing Industry and the State Governments, as well for the Australian economy in general. Accordingly, there is significant concern that unlawful internet wagering operators should not be afforded the opportunity to establish themselves. Moreover, if such operators established a significant Australian subscriber base during these early days then it is considered that they will be that much more difficult to displace (sub. 48, p. 2).

Similarly, AUSTRAC reported that:

Internet gambling and the resulting access to offshore gambling sites also has the potential to undermine State and Territory revenues. Estimates from the Office of Strategic Crime Assessments indicate that by the year 2015 the NSW government alone could be losing up to \$16 million per annum in taxation revenue through consumers utilising offshore gambling sites (sub. 43, p. 7).

However, the overall tax implications of expanded internet gambling are more complex than simply one of revenue lost abroad to foreign gambling providers (box 18.7).

Box 18.7 Tax revenue losses?

A simple model may be useful to illustrate the potential tax effects of the expansion of internet gambling.

Australians spend on four goods:

$$M = E_{NG} + E_{TG} + E_{IA} + E_{IOS}$$

where E_{NG} is expenditure on non-gambling goods and services, E_{TG} is spending on traditional gambling, E_{IA} is spending on internet gambling in Australia and E_{IOS} is expenditure on internet gambling overseas. Suppose that *overall* expenditure by consumers was constant (M is fixed) — which abstracts from any efficiency dividends emanating from the expansion of internet gambling.

Tax collected on goods and services by Australian governments is:

$$T = \tau_{NG} E_{NG} + \tau_{TG} E_{TG} + \tau_{IA} E_{IA} + \tau_{XG} E_{XG}$$

noting that no taxes on spending by Australians on overseas-provided online gambling services are repatriated to Australia (and where τ is the tax rate associated with each of the differing expenditure categories), but that Australia does collect tax on exports of internet gambling services (E_{XG}).

The change in the tax revenue from the expansion of internet gambling services is:

$$\Delta T = \{ \tau_{IA} \beta - \tau_{NG} (1 - \alpha) - \tau_{TG} \alpha \} \{ \Delta E_{IA} + \Delta E_{IOS} \} + \tau_{XG} \Delta E_{XG}$$

where $(\Delta E_{IA} + \Delta E_{IOS})$ is the expansion in gambling internet services consumed by Australians, α is the share of this expansion displaced from traditional gambling expenditure (E_{TG}), while β is the share of the expansion that is met by Australian internet gambling suppliers (cf foreign internet gambling providers).

The impact of this internet expansion on the sales of traditional Australian gambling suppliers is:

$$IMPACT = - \left\{ \alpha \frac{\Delta E_{IA} + \Delta E_{IOS}}{E_{TG}} \right\}$$

Source: Commission calculations.

The overall tax impact will depend on:

- the size of the expansion in Australian consumption of internet gambling services. This is unknown, but with online TABs, lotteries, sports betting and new virtual casinos, it seems plausible that growth could be highly significant. If Australian consumers were to account for about 5 per cent of the global player losses projected for 2002 (section 18.3), then Australians could be spending around \$230 million on online gambling in the next few years.
- how much of this expansion represents substitution from (highly taxed) traditional gambling forms (compared with other goods and services, which are more lightly taxed).
- the share of expanded internet gambling by Australians which is met by domestic online gambling providers. As noted previously, it seems likely that

gambling on internet racing and lotteries by Australians will still favour domestic suppliers, as will sports betting. Australia's comparative advantage in gaming also suggests that a significant share of online gaming will be retained in Australia in the shorter run, though this would be open to erosion if reputable offshore internet providers were to secure a technological lead or to obtain significant tax advantages.

- the extent to which domestic online gambling suppliers sell services to foreigners. Australia appears well set to provide significant gambling internet services to foreigners — reflecting a comparative advantage in gambling technologies, regulatory regimes and reputational advantages. Centrebet, for example, sells far more to foreign customers than to Australians. These foreign earnings generate tax revenue which offsets that which is lost abroad. The scenarios which follow assume that Australia captures around 5 per cent of the market.
- the tax rates levied by Australian governments on domestic and foreign consumers of Australian internet gambling services. For example, Lasseters online casino has a tax rate of 8 per cent on gross revenue from all its virtual games (compared with 22.5 per cent on gaming machines and about 8 per cent on table games in the 'real' casino). However, the lower tax rate on the internet apparently recognises the upfront costs of developing the site and will be subject to yearly review. In the case of CentreBet, internet sportsbetting is taxed at the same rate as phone betting.

Using the model outlined in box 18.7 — based on provisional settings for the major variables — the Commission examined the tax outcomes of varying scenarios (table 18.4).

It is conceivable that tax revenue may *increase* with the expansion of internet gambling, under managed liberalisation. This is due to two factors. First, tax rates on non-gambling goods and services are relatively low at around 10.3 per cent, so that expenditure displaced to Australian domiciled internet gambling services would probably earn more revenue. Second, while some tax revenue is lost when Australians buy overseas-provided internet gambling services and when more highly taxed traditional gambling forms are displaced, there is offsetting revenue from taxes on online gambling exports. Revenue gains can be very significant if online gambling mainly represents a new market (scenario 2). This result, however, does depend on the extent to which Australia has a competitive advantage in online gambling (scenario 3).

On the other hand, if Australian provision of gambling is prohibited, then Australian governments lose any export revenue as well as revenue displaced from lower taxed

non-gambling domestic goods and services. Nor does prohibition stem the flow of taxes abroad, as some consumers could still be expected to buy overseas even if it was illegal. Consequently, prohibition would still be likely to generate overall revenue losses (relative to the benchmark) — though these would be less than the most pessimistic scenario under managed liberalisation.

Table 18.4 Projected tax impacts of the expansion of online gambling in Australia^a

	<i>Managed liberalisation</i>			<i>Prohibition^e</i>	<i>Tax competition^f</i>
	Scenario 1 ^b	Scenario 2 ^c	Scenario 3 ^d		
Change in revenue from non-gambling sources (\$m)	-9.8	-19.6	-9.8	-1.0	-9.8
Change in revenue from traditional gambling (\$m)	-47.9	-16.0	-47.9	-4.8	-47.9
Change in revenue from Australian online gambling providers (\$m)	32.3	32.3	13.8	0.0	8.1
Change in revenue earned from online exports (\$m)	92.3	92.3	92.3	0.0	23.1
Change in gambling revenue (\$m)	76.7	108.6	58.2	-4.8	-16.8
Revenue lost abroad (\$m) ^g	17.3	10.7	40.4	5.8	17.3
<i>Change in net revenue (\$m)</i>	66.9	89.0	48.4	-5.8	-26.6
α	0.6	0.2	0.6	0.6	0.6
β	0.7	0.7	0.3	0.0	0.7
τ_{IA}	0.2	0.2	0.2	0.2	0.05
τ_{XG}	0.2	0.2	0.2	0.2	0.05
E_{XG}	461.5	461.5	461.5	0.0	461.5
$E_{IA}+E_{IOS}$	230.8	230.8	230.8	23.1	230.8

^a The model in box 18.7 was calibrated as follows. In the benchmark case, gambling expenditure is \$11 billion (Tasmanian Gaming Commission 1997–98), non-gambling household expenditure is equal to \$321.3 billion (ABS National Accounts, Cat. no. 5204.0, 1997–98), $\tau_{NG}=10.6$ per cent (calculated from the ratio of taxes on non-gambling goods and services over non-gambling household expenditure, with tax data from ABS Cat. no. 5506.0) and $\tau_{TG}=34.6$ per cent (calculated from the Tasmanian Gaming Commission) and since current values are small, it was assumed that $E_{IA}=E_{IOS}=E_{XG}=0.0$. The projections relate to the year 2002 (based on a 5% share of the global market from Faust 1999). ^b In this scenario, it is assumed that a large 60 per cent of the expenditure on online gambling comes from traditional gambling forms — though note that given other parameters, this only generates a 1.3 per cent contraction in expenditure on traditional gambling modes. It is also assumed that 70 per cent of online gambling consumption by Australians is met by local producers. Tax rates on online gambling are assumed to be much smaller than on traditional gambling forms, reflecting greater global mobility of punters. ^c In this scenario, it is assumed that only 20 per cent of the expenditure on online gambling comes from traditional gambling forms — which, given other parameters, generates only a 0.4 per cent contraction in expenditure on traditional gambling modes. ^d In this scenario it is assumed that only 30 per cent of online gambling consumption by Australians is met by local producers. ^e Under domestic prohibition of internet gambling services, E_{XG} and β are by definition zero. However, notwithstanding prohibition, some Australians will still gamble abroad (because of the difficulty of detection), albeit at a much lower level than under a liberal regime. It is assumed that gambling abroad is only \$23 million. ^f Under intensified tax competition, tax rates on online gambling are competed away by different Australian jurisdictions and by global competitors, until tax rates fall to 10 per cent only. ^g Revenue lost abroad is calculated as $\alpha(1-\beta)*(E_{IA}+E_{IOS})*\tau_{TG}+(1-\alpha)*(1-\beta)*(E_{IA}+E_{IOS})*\tau_{NG}$. Note that the net revenue change already takes account of tax lost abroad, and so revenue lost abroad should not be subtracted from the previous item in the table.

If different Australian jurisdictions and other countries compete away tax rates, then there is the potential for more significant tax losses.⁹ However, the notion that tax competition would be fierce is unclear. Certainly, differential tax rates may influence the ability to attract high rollers. But normal punters betting modest amounts may not be that responsive to (or even aware of) the small price changes achieved by lowering taxes. They are more likely to choose sites which are reputable and have entertaining games.

It is misleading to examine revenue lost abroad without taking account of other revenue effects. For example, more tax is lost abroad under managed liberalisation than under prohibition, but the *net* tax collected is higher under the former than the latter.

Finally, while preservation of tax revenues is an objective of government, it should only be one consideration when determining the appropriate policy stance for online gambling.

18.5 Non-regulatory responses to problems

Regardless of whether internet gambling is subject to regulation, Australian governments could offset some of its potential adverse social effects by palliative measures.

Promoting responsible practice

The Government could promote responsible internet gambling practices, warning people of the risks of using offshore sites which do not meet adequate standards of consumer protection, with graphic illustrations of some of the worst possible risks (for example, 'Careless moments with a mouse can cost you your house').

Help services

It seems sensible to use the internet itself as a vehicle for helping people with problems. For example, the government could establish a single national self-help and diagnosis site, and advertise the existence of this site widely on the net (for example, via search engine companies). This site could have links to problem gambling counselling agencies and to online counselling if the demand were sufficient.

⁹ These tax losses do not appear to be large relative to existing gambling taxes for the forecast horizon that has been used, but may be more significant over the longer run.

A reputable site listing service

Consumers may not be well informed about which sites conform with adequate consumer protection standards or even know where the site is located. None of the first four gaming locations listed in table 18.2 that imply an Australian origin are owned or licensed in Australia.

- For example, Casino Australia (which strongly portrays an Australian image — figure 18.4) is licensed in the Netherlands Antilles, run from a server in the United States and Canada, and owned by a US company.
- One online site, www.Australiancasino.com, shares internet protocol numbers (which point to the computer server where the sites are hosted) with a range of casinos purporting to be from other countries. These other online gambling sites include www.Britishcasino.com, www.Canadiancasino.com, www.Russiancasino.com, www.Europeancasino.com and www.Chinacasino.com, as well as a range of pornographic online gambling sites. The owners are said to be a consortium of US corporations and others, but no details are provided. Nor are licensing conditions revealed on their sites. The registrants for the sites typically provide a common UK address. The servers are all on a popular internet service provider in the United States.

There may, therefore, be advantages in creating a site which lists and has links to reputable gambling sites. In this way consumers may be better informed about which sites meet consumer protection standards, with any costs of certification met by any site which wishes to be considered for certification.

This information site could also provide basic information about all known online gambling sites (which are still relatively few in number):

- what are the licensing conditions?;
- are they regulated by a government which is trustworthy?;
- are they audited?;
- how sure can the consumer be that the games have integrity?;
- where is the site?;
- what are the prices?; and
- are there peculiarities in the rules?
- can you self-exclude or limit your gambling if you wish to do so?

Figure 18.4 The site entrance to Casino Australia



Source: www.casinoaustralia.com.

The site www.internetcommission.com partly achieves this end already, but does not cover all of the above points, and has not been able to check the authenticity or characteristics of many currently operating online casinos.

It is important that any such listing site not be seen as government promotion of gambling, which suggests that it would be best managed by a non-government body subject to government determined guidelines.

PC-based technologies for obtaining informed consent

In chapter 16 the Commission set out some measures for increasing informed consent in the use of gambling. As the internet is mediated by computers under the control of the consumer, there is potentially significant scope for technological solutions which widen their scope for self-control. Filters, labels and safe zones are technological tools developed to block undesirable material on the internet (box 18.8). For example, the Western Australian Ministry of the Premier and Cabinet recommended the use of start-up warnings on gambling web pages, the

utilisation of ratings on such pages and help facilities so people know how to block future access if they wish to (sub. D261, pp. 4ff).

Box 18.8 Overview of blocking tools

Filtering software such as *Webkeys Prowler*, *CyberPatrol* and *Net Nanny* can be installed on home computers. Filtering products have a list of banned sites, keywords and phrases which are used as a basis to block unsuitable material on the internet. Some filtering products block access to newsgroups, chat rooms and e-mail. Other additional features provided by some filtering products include:

- the ability to create a personalised list of bad sites and words;
- different levels of access can be established for different family members;
- the filter can block by either providing a warning or shutting down the computer;
- time spent on-line can be restricted; and
- internet access can be restricted to pre-determined times in the day.

Labelling: Some internet sites are labelled according to content (in a similar way to the rating of television programs). Rating systems are generally based on the Platform for Internet Content Selection (PICS) which was developed by the World Wide Web Consortium as a system to attach labels to internet sites. Labels can be read by browsers and a site blocked if it does not conform to a users deemed minimum rating. However most web sites are unlabelled. In addition, the dynamic nature of the internet means that labelling tools are not fully effective as a content blocking mechanism. Labelling tools are therefore generally operated in combination with filters.

Safe zones are suitable for young children. Safe zones are secured networks, separated from the rest of the internet. Some such as Kidz.net and Kahootz are provided on a subscription basis. Others such as Bonus.com are free, supported by advertising.

Source: www.aba.gov.au/family/

Governments could act by promoting (through listing reputable products) software available to people that is loaded onto personal computers, and offers greater control over whether they wish the family to gamble, at which sites, and under what conditions.

As software installation would be entirely voluntary it would not affect consumer choice, and because it would not be on an ISP's server, it would have no effects on overall internet efficiency. As noted by the Internet Society of Australia (IIA 1999, pp. 2–3):

If filtering of internet content is to be done, the best location for this is at the point

of consumption, the end user's machine. This has advantages in that:

- The choice may be made by the consumer as to the level, if any, of filtering they desire;
- No burden is placed on the internet industry;
- Enhanced avoidance measures may be implemented which are not possible at the service provider or higher level. For example, only information which may be inspected and filtered may be allowed, disabling the use of encryption techniques and other avoidance measures.
- No delays or restrictions are placed on the general populace, businesses or e-commerce merchants.

Many products already exist to allow some self-control of household internet use (such as *WebKeysProwler*, *CYBERSitter*, *SurfWatch*, *Net Nanny*, *Cyber Patrol*, *ifilter*, *iseek*¹⁰ and others listed at <http://www6.pilot.infi.net/~carolyn/guide.html> — table 18.5).

The more simple of software tools would allow families to restrict access to gambling sites and time spent on the internet. But it is conceivable that smarter AI software could be developed which could act as an additional interface with *any* gambling site — providing options for limiting expenditure or time (as described for gaming machines in chapter 16) — and issuing warnings if analysis of the site suggests that it is hazardous.

For example, such software could interrogate an online database periodically for sites which have been found to lack probity or may be otherwise risky for consumers, and inform the consumer. It is likely that the technical difficulties for effective home-based blocking of active gambling sites is much easier than generalised blocking or filtering of content (such as mentions of sex, which sometimes also block quite appropriate sites).¹¹

Employers are also increasingly using blocking and other software technologies to filter content and to monitor internet use — both to increase worker productivity and to reduce some of the risks of litigation that might arise from inappropriate content flowing through their networks (see for example, www.rulespace.com). Such blocking could presumably encompass gambling sites.

¹⁰ The latter two are Australian products, which provide filtering of sites, and were launched by the Australian Government on March 1999.

¹¹ See, for example, Electronic Frontiers Australia (1997, p. 9).

Table 18.5 Overview of selected filtering software

	How it works	What it blocks	Features
<p>Webkeys Prowler Free copy available at www.webkeys.com</p>	<p>Blocks access to sites deemed unsuitable according to chosen rating — child, preteen, teen, adult and x-rated</p> <p>Provides a list of over 1000 sites safe for children</p>	<p>Words and phrases</p> <p>Web sites</p>	<p>Sites and 'bad' words can be added to the default list</p> <p>Default 'bad' sites and words can be switched off which allows the user to create a personalised filter</p> <p>Different levels of access can be established for a number of users</p> <p>Option to keep a log of internet activity</p>
<p>CyberPatrol Trial version for windows 3.1/95/98/NT and Macintosh available from www.cyberpatrol.com</p>	<p>The software either blocks access to sites deemed unsuitable or allows access only to a list of children's sites. It also allows filtering by PIC labels. The block list is overseen by a review committee</p> <p>Updates to blocked lists can be downloaded weekly</p>	<p>Words and phrases</p> <p>Web sites</p> <p>URLs</p> <p>Newsgroups,</p> <p>Chat groups</p> <p>Outgoing information</p>	<p>Sites can be added and deleted</p> <p>Different levels of access can established for a number of users</p> <p>Time spent on-line can be limited</p> <p>Internet access can be restricted to pre-determined times of the day</p>
<p>CYBERSitter Trial version for windows 95/98/NT available at www.cybersitter.com</p>	<p>Blocks access to sites deemed unsuitable for children</p> <p>Blocks searches of material deemed inappropriate</p> <p>Blocks sites deemed adult content by PICS ratings systems</p>	<p>Words and phrases in context (to prevent blocking of safe sites)</p> <p>Options to block FTP sites, IRC chat rooms, Usenet newsgroups and outgoing information</p>	<p>Words and phrases can be added to blocked list but sites from the list cannot be deleted</p> <p>Automatic updates to block list</p> <p>Monitors and records Internet activity and attempts to access blocked sites</p>
<p>Net Nanny Trial version for windows 3.1/95/98 available at www.netnanny.com</p>	<p>Blocks access to unsuitable sites</p> <p>Designed for parents to set up their own list of 'bad' phrases. A default 'bad' list is provided but it is not effective until words are added.</p> <p>Provides a list of sites safe for children</p>	<p>Words and phrases</p> <p>Web sites</p> <p>IRC chat rooms</p> <p>Newsgroups</p> <p>Outgoing information</p>	<p>Monitors attempts at violations</p> <p>Can be set up to issue warnings or shut down the computer on attempts to access blocked sites</p>

Source: NOIE Web sit summary of filtering and labelling tools, www.aba.gov.au/family/family/tools.html and testing by the Commission

And like the pre-commitment mechanisms in chapter 16, it would be possible to make it hard to reverse the options selected by the consumer prior to the agreed time. For example, the software could not be uninstalled or have its preferences altered unless the consumer keyed in a special code. A person who wanted to pre-commit would give the code to someone else.

However a few limitations of blocking software should be noted:

- Filters can block access to safe sites.
- The software decreases the speed of access to sites.
- None are completely foolproof — sites on the internet are constantly changing — filtering software which blocks sites (rather than words or phrases) needs to be reviewed and updated constantly.

The Commission considers that, regardless of what regulatory approach is taken, there are strong grounds for governments to:

- **take measures to warn people of the hazards of offshore online gambling,**
- **provide information on the internet about gambling help services and gambling sites which meet consumer protection criteria; and**
- **make available or promote software for providing consumers with greater control over online gambling.**

18.6 Are non-regulatory responses enough, or are regulatory controls warranted?

While non-regulatory responses have the virtue that they may solve some problems without compliance costs for gambling providers or ISPs, they are unlikely to deal with significant concerns. They cannot deal with taxation issues, and their method for controlling consumer protection is to equip consumers with better information rather than to reduce hazards directly. This is akin to telling people which cars have faulty brakes, but not fixing the brakes.

Nor is a laissez faire approach consistent with the regulatory approach adopted for other gambling modes. Arguably a consistent approach to regulation of gambling is blind to the medium used to provide that gambling:

... if we talk about the regulation of gaming, one must appreciate that regulatory measures should address the activity itself rather than the medium on which the activity takes place. That is, if it is illegal to gamble in a jurisdiction, it is illegal to gamble in a jurisdiction. The law should be independent of the medium (Toneguzzo, 1997, p. 16).

... the established casino and club gambling industry is already heavily regulated. This provides the legitimate basis for strongly arguing that the same standards of regulation should be applied to internet gambling, otherwise an erosion in the overall level of regulation could result (Surebet Gaming Systems Pty Ltd, sub. D263, p. 12).

This would imply that ideally internet gambling should be subject to the same set of regulatory principles as other forms of gambling, such as licensing of approved operators, probity checks on management, consumer protection and confirmation of game integrity.

However, other aspects of current regulatory approaches to gambling are difficult to separate from the medium. For example, it is hard to see how a venue or state-wide cap on gaming machines could have an equivalent in online gambling — and it is precisely the absence of this equivalent method for controlling accessibility which drives concern over internet gambling. Nevertheless the purpose for venue and other caps on physical machines is to reduce problem gambling, and it may be that there are other ways in which this goal could be achieved with online gambling, which should then be incorporated into any regulatory framework. In this sense it may be possible to derive a regulatory framework for online gambling which is consistent with the objectives, if not the form, of the framework applying to other gambling modes.

The Commission considers that some form of regulation of internet gambling, is, *subject to controllability*, an important objective, and is consistent with the aspirations of other regulations applying to gambling — consumer protection, probity and preservation of revenue.

One reason why regulatory frameworks for internet gambling tend to depart from principles adopted in other gambling modes is that regulators are aware of the profound difficulties of implementing a similar framework for the essentially anarchic internet. Building in these implementation problems is a sensible aspect of good regulatory design, but the Commission considers that the *starting* point for an internet regulatory framework should seek to mimic the principles applying to other gambling forms and *then* see how implementation problems necessitate modification of these principles. These regulatory measures include controls relating to:

- the probity of suppliers. These must meet certain criteria to be licensed as a gambling provider (relating to, for example, probity and financial security), provide certain records of their transactions, and be able to be monitored and pay their taxes;

-
- harm minimisation, typically achieved by specifying features of the gambling environment (such as where it is, what modes of gambling are permitted, signage and the use of credit);
 - the integrity of the gambling product. This must meet certain known standards (for example, that the dice are not weighted, the chip algorithm in a poker machine has been verified and tested);
 - prohibited access to gambling by minors; and
 - taxation of gambling.

Clearly stating these as common goals of all regulation of gambling, including internet gambling, stops potentially important regulatory options from being prematurely discarded following cursory consideration of pragmatic hurdles. We turn next to these pragmatic hurdles to see how they might require modification of these principles.

18.7 To what extent can internet gambling be controlled?

Regulation of internet gambling is overshadowed by perceptions of intractable control problems (box 18.9). Traditionally, gambling has been limited to venue based forms of gambling, whereby gamblers had to leave home to participate. This made gambling relatively straightforward to control. By regulating the venue, state and territory governments were able to control gambling. Venue based gambling also made it difficult for residents (unless living close to state/territory borders) to shop interstate for gambling products. The key to these control mechanisms is the ability of governments to use sanctions against non-complying operators.

Internet gambling has changed this. The difficulty for regulators is that accessibility to a gambling internet site is currently only constrained by language and culture, rather than by distance or venue. As one commentator put it: ‘All sites are equal to the mouse click’. Once consumers in one jurisdiction can readily use gambling operators located in another — be they in other states within Australia or internationally — then government control is diluted. This poses a number of challenges for existing gambling regulatory models. The Queensland Government, for example, said:

Developing telecommunications technology and the uptake of interactive broadband services will result in increasingly more players having free access to interstate and overseas gambling products in circumstances where there will not be any ability to intervene in transactions between a player and the gambling service provider (sub. 128, p. 49).

Box 18.9 **Doubts about controllability**

I think there is a component of futility because information is very hard to manage and can slip through the smallest crack (Hal Varian, Dean of the School of Information Management Systems, University of California, Berkeley in Ludlow, 1999).

The very architecture of the internet renders gambling prohibition futile ... sending a message over the internet is a bit like writing a letter, chopping it up, and mailing each piece separately to the same address. The recipient can put it together, but anyone snooping on your correspondence has a tougher go of it ... The internet's inherently open architecture hobbles law enforcement officials, and relentless technological innovation ensures that they will only fall further and further behind (Bell 1999, pp. 7-8).

Right now, gaming on the internet is probably illegal but nearly impossible to regulate due to the offshore location of many of the Cyber-casinos, certain encryption technologies that make the gamblers virtually anonymous and certainly difficult for law enforcement to trace ... (Gordon 1996).

Given the state of technology and the nature of the internet, it is difficult to see how the US ban would work. Even if the ban could be somehow enforced in the US, experience shows that prohibition of an activity which the community at large regards as acceptable, and people would like to pursue, does not work (Australian Casino Association, sub. 124, p. 27).

[The option of prohibiting electronic gambling or internet gambling] is simply unlikely to be viable ... We are not aware of any technologically advanced jurisdiction that has attempted with any success to prevent its citizens from accessing parts of the internet by creating a specific offence for the activity (Horner and Bradfield, Department of Internal Affairs, New Zealand, 1998).

... interactive gaming is already here and is here to stay — legally or otherwise. Legislators can seek to ban it, but risk losing control if they do (Tattersall's, sub. 156, p. 59).

What mechanisms are available for control?

It should be emphasised that the relevant question for public policy is not *whether* online gambling can be controlled, but the *extent* to which it can be controlled. Full control is an unattainable objective, which would be undesirable to achieve because of its attendant costs. A reasonable objective is to significantly reduce demand for and access to unlicensed sites. This is the same principle that applies to illegal 'physical' gambling — it is not argued that SP bookies and unlicensed casinos be made legal simply because there is a possibility that some will remain operating.

International agreement

In theory, one response to the regulatory challenges posed by the internet is to replicate some of the global reciprocity arrangements that exist elsewhere (for example, aspects of telecommunications, international maritime rescue, air services, patent protection and taxation). These measures effectively give one jurisdiction

proxy control over aspects of another's jurisdiction (and vice versa). This, however, would require considerable time to negotiate, may be subject to power imbalances between the competing interests of different jurisdictions, and may be subject to erosion by renegade jurisdictions.

Making unlicensed sites illegal

Another possible way of increasing control is to make it illegal for consumers or businesses to use or run a site which has not been issued with a license by Australia or other cooperating jurisdictions. This is consistent with the treatment of other unlicensed gambling suppliers, such as illegal SP bookies and casinos. It would be relatively easy for regulatory authorities to police illegal *domestic* sites (although there are some significant technical challenges, especially when the site may appear to be operating from abroad — Clarke and Dempsey 1998). On the other hand, it would be very difficult to directly deal with offshore sites.

Toneguzzo (1998, pp. 5–6) has outlined some possible methods for penalising Australian gamblers who use illegal offshore sites — but these would breach norms about acceptable practice:

A Government anti-cybercrime computer is designed to stake out the virtual address of offshore cyber-casinos ... It then identifies the owner of the destination packet ... The computer has the audit trail for evidence, and so automatically withdraws \$50 000 (or whatever the penalty may be) from the bank account of the line owner as a fine. If the money isn't in the bank the Government could automatically take out a mortgage over the person's house ... Finally, depending on the international agreements Australia has with the country of origin, it launches a cyber-terrorism attack to bring down the offending provider's site, and sends a message to the punter advising of the felony, that the government now owns their house and to have a nice day.

But draconian enforcement measures may not be required for the measure to be reasonably effective. Small fines or/and confiscation of winnings for the (few) people who are caught using illegal offshore sites may be quite sufficient. Most people do not like to break the law, even if detection probabilities are low. It is likely that most consumers would find such a managed approach to liberalisation of online gambling acceptable, so long as they had some access to clearly certified regulated sites.¹²

¹² This suggests that it will be important to find mechanisms to enable consumers to know which sites are illegal and legal — along the lines of the software solutions discussed in the chapter.

There are other advantages to this option. By making unlicensed sites illegal, the government strongly signals their hazardous nature.¹³ And it would clearly be inconsistent for a government to make domestic unlicensed online gambling sites illegal (because they are more readily policeable), but expediently allow unfettered legal use of unlicensed offshore sites.

Blocking

Clarke and Dempsey (1998, p. 12) differentiate between ‘hard’ and ‘soft’ protection. Making gambling on unlicensed sites illegal constitutes ‘soft’ prevention. Blocking unlicensed sites through ISPs to *preclude* illegal activities is ‘hard’ protection. There are technical questions relating to the efficacy of such measures (box 18.10).

However, the objections to internet ISP blocking as a generic approach are less applicable to gambling:

- the intention of blocking is to eliminate a small number of active illegal gambling sites, rather than the hundreds of thousands of sites that offer some potentially inappropriate function or content.¹⁴ The costs of checking a database of a moderate number of illegal site addresses is relatively small (in terms of delay);
- blocking a gambling site is unlikely to incidentally remove access to other potentially acceptable content — casino gaming sites are not usually part of broader sites;
- there would be little ambiguity about what would constitute an illegal site. The relevant authority would only have to check whether a site were licensed or not, rather than make subjective judgments about whether its content or function were appropriate; and
- blocking does not require any filtering of the content of an internet transaction — which has many limitations. Rather, ISPs would only need to respond to notifications of illegal addresses.

¹³ Some argue that illegality adds to the excitement and participation, but that does not appear to be true for other forms of gambling. There is a consensus that managed liberalisation of other forms of gambling — such as casinos — led to the closure of illegal casinos.

¹⁴ For example, an Alta Vista search using the words ‘Internet gambling’ revealed 6 967 sites compared with 4 971 234 sites identified by a search for sites which combined ‘XXX’ and ‘sex’ (on 12 October 1999). In both cases, the number of sites overestimate the number of active sites offering such material — but the ratio of 1 to 700 is probably indicative.

Box 18.10 **Blocking on the internet**

Blocking on the internet can occur at two levels — the application level and the packet level. At the application-level internet sites are blocked by specifying the URL (address) of the site, a page or file within the site or by blocking an entire news group. With this type of blocking, ISPs direct access to the internet via a proxy server which performs the blocking of material. The consumer configures his/her web browser to 'point to' the ISP proxy server and the server can then compare clients requests with a supplied 'black list'. This type of content blocking is conducted in countries such as Singapore and China.

At the packet-level content is blocked on the basis of the *source address* or where the packets have come from. This blocking technique requires a router. A router is a computer which examines the destination address of a packet, and directs the packet towards an output port. To block the packet the router examines the address of the sender of a packet, in addition to the destination address, and compares it with a supplied 'black list'. This level of blocking can be implemented within an organisation, at the ISP or Backbone Service Provider level, or at international internet provider gateways.

A recently published report on *Blocking Content on the Internet* by CSIRO found that while technically possible, both packet-level and application-level blocking are not always effective. Specifically, the report found that consumers can overcome blocking by methods such as tunnelling (an IP packet is received inside another IP packet). Some web sites offer free anonymous surfing. A further possibility is that black listed sites may develop software to overcome blocking and this would require counteraction with the development of more sophisticated blocking techniques.

In the short term, CSIRO recommends the use of filtering software to control content problems. A wide range of filtering software is available including *Net Nanny*, *Cyber Patrol* and *Cybersitter*. They can operate on an ISP's proxy server or at the customers end. While this approach cannot be guaranteed to prevent every consumer from gambling on illegal sites it is likely to work for the majority of gamblers. In addition the incentive for consumers to overcome the filtering of illegal gambling sites may not be very strong as legal sites would offer similar forms of gambling (albeit probably at lower odds).

In addition, CSIRO recommends that ISPs be encouraged to offer differentiated services to clients, based on access to the internet through a proxy server. The ability of industry to provide this service will depend on the cost, who bears the cost and whether the service will impact on the services provided by the ISP. For example, using proxy servers to access the internet is likely to slow down the speed of the internet.

In the long term CSIRO proposes that Australia enter in international forums to work out ways for ISPs to determine the jurisdiction of the user. Once a jurisdiction is established the server can establish whether the requested content is legal in the users jurisdiction.

Source: McCrea, Smart and Andrews (1998).

Even if blocking is not fully effective because some illegal gambling sites and some technically able Australian gamblers could circumvent blocking, it may work adequately for most people.

Many internet service providers are hostile to *generalised* blocking at the ISP level, because of concerns about individual freedom, the uncertain legal liabilities of ISPs and the unintended consequences for internet efficiency. However, it appears that they concede that some level of blocking is technically and economically feasible. For example, the code of practice for ISPs developed by the IIA notes:

Code Subscriber ISPs will take reasonable steps to prevent users of their service from placing on the internet, obtaining through the internet or transmitting using the internet, illegal content (IIA 1999, p. 11).

In any case, there are now at least 17 ISPs¹⁵ such as www.cleansurf.com in the United States that offer blocking at the ISP level as a competitive strategy. It is claimed that access speeds are reduced only slightly:

The software itself does not slow down your system. However, by accessing our proxy server, there is a potential for a slightly increased access time -- not download time, but actual time to query (or initiate a "conversation") a server, since all queries have to pass through our proxy server. This is usually unnoticeable, however, and takes place much faster than your actual modem speed. To make up for any lost internet access time, however, FamilyConnect includes Microsoft Proxy, a program on our server which PRE-caches commonly accessed sites (like CNN, Disney, etc.) to our server to allow for quick downloads without having to brave the web traffic.

Apart from the potential technological limitations of blocking, there are a number of other possible issues:

- First, it is not certain how costly such technologies might be, including the costs of combating responses by illegal sites.¹⁶ However, some evidence from the United States suggests that blocking is not highly costly. For example, CleanSurf indicated to the Commission that it licenses its server-based filtering system to ISPs for about US\$2 a user¹⁷, and that the ISP would also have to install a proxy server (costing about US\$5000) for each dial up location. The less the

¹⁵ See [http://dir.yahoo.com/Business_and_Economy / Companies/Internet_Services/ Access_Providers / National_U_S_/Filtered_Access/](http://dir.yahoo.com/Business_and_Economy/Companies/Internet_Services/Access_Providers/National_U_S/Filtered_Access/) accessed on 13 October 1999.

¹⁶ It is possible that some of the costs of blocking at the ISP server level could be reduced through random blocking (only checking some internet requests) or by only interrogating the database of illegal gambling sites for internet requests that are waiting in a queue. Such an approach would serve to frustrate rather than stop use of illegal sites, but it would probably be achievable at lower cost to ISPs (and thereby, internet users in general).

¹⁷ For ISPs with more than 10 000 users.

imperative for complete control and the more that blocking is targeted at high risk sites, the lower the costs of blocking. A key problem is that blocking illegal gambling would only be one of many government imperatives for regulating internet content (pornography, copyright infringements etc), and the sum of these imperatives may be unmanageable.

- Second, who should bear any costs? The sites where the technology may be deployed — the ISPs — may not be the appropriate bearers of the costs (and in any case would pass these costs onto all internet users, regardless of whether they gambled on the net or not). If controls on internet gambling were regarded as primarily benefiting internet gamblers, then it would be appropriate to levy some additional tax on internet gambling. On the other hand, if control was seen as providing a benefit for the public as a whole, then it might be appropriate for government — and ultimately taxpayers — to bear the costs.
- Third, how acceptable is such blocking to the general public? Would they perceive blocking arrangements as part of a wider agenda for social control or just one of the ad hoc minutiae of regulation (like insisting on a tax return)? As long as consumers were able to use legal licensed gambling sites this would probably allay concerns that blocking was an inappropriate form of censorship. In effect, all that governments would be doing with internet gambling is applying existing laws in a consistent fashion to virtual as well as physical games.

The Commonwealth Government has recently passed legislation — mainly intended to deal with pornography — to control illegal material on the internet (box 18.11).

However, the Australian Broadcasting Authority considers that the legislation does *not* provide a basis for blocking illegal offshore gambling sites:

The online services legislation was not designed as a broad consumer protection measure. It does not provide for other features which may be desirable in regulating online gambling, such as surveillance of the internet to identify illegal gambling sites... The scheme to regulate online content as set out in the online services legislation appears to have a number of limitations of readily accommodating the regulation of internet gambling sites and providing for the type of features that are likely to be desirable in such a scheme (sub. D241, p. 2).

This suggests that new legislation would be necessary to achieve the blocking of unlicensed online gambling sites¹⁸, as well as measures for identifying gambling sites and assessing compliance. Under any such new legislation, ISPs should be required to block only notified sites, as in the case of pornography, rather than

¹⁸ Although those gambling sites that also posted pornographic content, could be subject to the existing legislation.

having to themselves search for potentially illegal gambling sites.¹⁹ As noted by the National Office for the Information Economy (1999, p. 2), ISPs are primarily content hosts and mediators rather than the creators of the content. In many cases they will be unaware of the material that passes through their servers. Accordingly, as in the ABA legislation, the ISPs should not, arguably, be subject to liability where they have no knowledge of its nature. But once advised, they would be required to act by the relevant authority (which might be a new part of the ABA or some other body).

Box 18.11 Recent changes to the regulation of online content

The Broadcasting Services Amendment (Online Services) Act 1999, an Act to amend the Broadcasting Services Act 1992.

Amongst other things, the Act:

- establishes a complaints-based legal regime;
- ensures that internet service providers (ISPs) are not, in the first instance, liable for material carried on their service;
- ensures that, once notified of the existence of illegal or highly offensive material on their service, ISPs have a responsibility to remove or block access to such material;
- ensures that, in the case of overseas-hosted material, ISPs develop a Code of Practice which sets out the “reasonable steps” that an ISP will take to block access to illegal or highly offensive overseas-hosted material;
- provides that the ABA, rather than a service provider, will be the first point of contact for complaints about internet content;

The Act was passed following a report by the Senate Select Committee on Information Technologies.

Source: www.dcita.gov.au/cgi-bin/trap.pl?path=3891.

Controlling financial flows to and from illegal sites

Gambling online requires payment — both to place bets and to receive wins — which potentially provide means of controlling illegal gambling. For example, it could be made illegal for financial institutions to participate in transactions by unregulated gambling operators (Toneguzzo 1998, p. 4; Festival of Light, sub. 107, p. 12 and Farago and Griffiths 1999, p. 16). This may be easier for some modes of

¹⁹ ISPs would be notified by the responsible authority of the descriptive domain names (and associated internet protocol numbers).

transactions than others (for example, credit cards²⁰ compared with cheques). But it seems likely that internet gambling operators could change their trading names very quickly, complicating detection of illicit financial flows. Checking every credit card transaction or cheque clearance for illegal transactions would also be very costly. It is possible that a risk management approach could be applied, which would target certain patterns of transactions from certain locations, with the costs being met by government. Again, only partial success may still serve an important function — any attraction from betting abroad may be obviated by the risk for punters that they may not get paid if they win.

In summary, there are a number of options for controlling the internet. All have some disadvantages. Nevertheless, it would appear technically feasible for governments to exercise some cost effective but imperfect control over internet gambling. As well, a number of measures acting together will increase the effectiveness of control.

18.8 Current policy responses by Australian governments

As there are some options for albeit, partial, control of internet gambling, regulation is a feasible objective. This then raises the question of how internet gambling could be regulated such as to achieve the objectives set out in section 18.6. We first briefly examine the current responses of state and territory governments before considering policy options for online gambling in the next section.

Australian states and territories are currently putting in place arrangements for the regulation of internet gambling. In May 1996, state and territory Gaming and Racing Ministers agreed on a set of principles for a draft national regulatory model on interactive gambling (box 18.12). The model put in place a number of principles for regulating internet gambling while providing scope for state and territory governments to individually determine how such principles should be applied.

Queensland was the first to regulate internet gambling when it introduced the *Interactive Gambling (Player Protection) Act 1998*. The Act is very detailed, covering more than 150 pages with a further 20 pages of regulations. It follows the principles of the draft regulatory model, and places great weight on consumer protection issues. Since then the Northern Territory, ACT and most recently, Victoria, have introduced legislation specifically related to online gambling.

²⁰ For example, it is understood that Provident National Bank, a large Visa card issuer in the US, will deny approval for most online wagers made by its customers (news.cnet.com/news accessed on 25 October 1999).

Box 18.12 **Model code for interactive gambling**

On May 3 1996, state and territory Gaming and Racing Ministers agreed on a set of principles for a *Draft Regulatory Control Model for New Forms of Interactive Home Gambling*. The draft model report states:

A cooperative approach by all State and Territory Governments is the only effective means of regulating interactive home gambling products at this level. A non cooperative approach is likely to result in individual States and Territories maintaining barriers to interstate products. In the short term this will limit the ability of Australian based service providers to effectively market their products to a critical mass of consumers and provide advantages to overseas based providers. In the long term a non cooperative approach can only result in the ineffective regulation of interactive home gambling products and erosion of the gambling taxation revenue of all States and Territories.

Further, the report states:

Provided all States and Territories participate in the Model the assistance of Federal bodies is unnecessary to provide effective regulation of interactive home gambling products sourced from within Australia.

Implementation of the model requires each state and territory government to enact complementary legislation based on the principles of the Draft Regulatory Model. Principles include:

- licensing of service providers pursuant to background checks and financial capacity;
- requirements for player identification to prevent gambling by minors;
- the prohibition of betting on credit;
- periodic audits of providers accounts and gaming software by regulatory authorities;
- facilities for players to specify protection measures such as self-exclusion and limits on wagering;
- the provision of contact information for assistance with problem gambling;
- requirements for the maintenance of privacy of player information;
- a code of conduct developed by the industry; and
- taxation applied on the location of residence of the player.

A number of states and territories have since enacted legislation, some such as Queensland's approach is in complete accordance with the model code but others, such as Tasmania's, is not.

Source: Working party of State and Territory Gaming Officials (1997), Draft National Regulatory Model for Interactive Home Gambling, 23 May.

Many aspects of the legislation introduced by various states have conformed to the draft model, though there are a number of significant differences:

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- As set out in the draft agreement, legislation introduced in Queensland, the ACT, the Northern Territory and Victoria prohibits credit betting, establishes requirements for player privacy and enables players to self exclude and set betting limits.
 - The Victorian Act is the only one which legislates minimum returns to players — a rate of 85 per cent.
 - The draft agreement proposed that contact points for problem gambling services be made available at gambling sites. However none of the state/territory interactive gambling acts explicitly make this provision. However a number of Australia's online sites, for example, Lasseters and Tattersall's, do provide links to such services.
 - All legislation follows the draft agreement in prohibiting minors from registering as players and establish requirements for the verification of the identity, ages and addresses of players. The Northern Territory legislation extends further, with a requirement that software which limits access to minors be made available at gambling sites. Lasseters online, for example, has links to Net Nanny and CyberPatrol, where trial software can be tested.
 - The state/territory acts are similar in legislating that licensed internet providers can only use approved computer and control systems. However, Victorian legislation has no explicit provision for periodic auditing of accounts and software.
 - Arrangements for taxing internet gambling differ between jurisdictions. Queensland and ACT legislation distinguishes between three types of taxation — taxation on gambling by domestic residents, taxation on residents of participating jurisdictions and taxation on residents of non-participating jurisdictions. In contrast, the Victorian and Northern Territory Acts do not explicitly establish provisions to remit taxation back to the players jurisdiction (table 18.6).

In Tasmania, Federal Hotels has to date had exclusive rights to gaming and this has been interpreted to include internet gambling. This single operator can only provide services to non-Tasmanians and intends only to provide services to non-Australians. As a result, the Tasmanian approach to internet gambling has not yet incorporated the principles of the draft agreement.²¹ However, in late 1999 the Tasmanian

²¹ There are also some attempts by jurisdictions to try and preserve tax revenue by reducing cross-border online gambling. For example, NSW has recently amended legislation (the *Racing Administration Act 1998*) so that information on non-NSW racing and betting operations cannot be provided by a person operating in that state via the internet. This would stop someone setting up a site in NSW which posted information on sporting events in other states and which had links to non-NSW betting operations, such as Centrebet. However, NSW gamblers would still be able

Government introduced legislation to enable licences for internet casinos, sport betting, lotteries and fixed odds wagering to be issued to any applicants meeting the required regulatory, financial and probity standards. It is not proposed that licensees be restricted to customers from outside Tasmania or Australia.

The other jurisdictions have not, as yet, introduced internet gambling regulations.

Table 18.6 Taxation arrangements for Australian internet gambling

<i>Draft agreement</i>	<i>Queensland and ACT</i>	<i>NT</i>	<i>Victoria</i>
Applied on the basis of the location of the resident — the rate determined by the players jurisdiction.	Licensed providers required to pay an interactive gambling tax for each authorised game. Taxation revenue from licensed providers has three components:	Taxation and license fees, paid according to the license agreement. For example, Lasseters gambling revenue is taxed at 8 per cent.	Licensed provider to pay a supervision charge in instalments each financial year.
The jurisdiction where the service provider is located is responsible for collecting, auditing and verifying that the service provider has remitted the appropriate tax to each jurisdiction.	1. Tax on gross profits from residents. If the game is a game to which a gaming act applies the tax rate is that specified in the act. Otherwise the tax rate is 50% 2. Tax on gross profit from residents of participating jurisdictions. The tax rate is the tax rate specified under a law corresponding to the jurisdiction. If no rate is specified by law the rate is that specified by regulations of the participating jurisdiction. If there are no laws in Queensland (ACT) or in the participating jurisdiction the rate is 50%. 3. Tax on gross profit from residents of non-participating jurisdictions. If the game is a game to which a gaming act applies the tax rate is that specified in the act. Otherwise the tax rate is 50% License fee paid according to conditions of license		Licensed provider to pay each month 50 per cent (or another prescribed percentage) of gaming revenue (turnover less winnings) into the Consolidated Fund.

Source: Information from various Acts.

The case of Norfolk Island

In addition to the online casinos now authorised in the Northern Territory and Queensland, an internet casino gambling service is being planned for Norfolk Island (box 18.13).

to bet via the internet on sites outside NSW, so the impact of the legislation on cross-border gambling is likely to be extremely weak.

As is currently the case in Tasmania, it is planned that any online gambling provider established on Norfolk Island would be precluded from taking bets from Australian or Norfolk Island registered addresses:

We want to maintain a good relationship with our counterparts in Australia and, being a Commonwealth Territory, we consider it would not be acceptable to diminish in any way a revenue stream available to States and Territories of Australia (sub. 177, p. 2).

However, the Government of Norfolk Island also noted that:

... any adverse economic and social impacts that are often mentioned as being associated with gaming are avoided in so far as the Island is concerned ... adverse impact on others will be carefully watched and guarded against even though no resident of Norfolk or Australia should be affected because of the ban on players [from those jurisdictions] (sub. 177, p. 3).

This stance may simply reflect an unwillingness to become embroiled in fiscal or regulatory disputes with other Australian Commonwealth jurisdictions, in the same way that Lasseters Casino in the Northern Territory does not take bets from other Australian jurisdictions. Offering online gaming services to other Australian jurisdictions would immediately raise taxing and tax-sharing questions.

Box 18.13 Norfolk Island's proposal for online gaming licences

The Government of Norfolk Island has passed legislation to allow the establishment and operation of internet gaming on the island. It has established a gaming authority to regulate this activity. The Government's objective is to provide an additional revenue source to supplement the island's tourism activity, and to obtain, through this development, an upgrade of the island's communication facilities.

Legislation has been passed to provide for a regulatory framework:

... to at least match to standard of regulatory control that is required by ... Queensland and the ACT ... well regulated gaming, which presents and maintains integrity throughout, is a very marketable commodity and one that is best able to engender public confidence (and hence revenue) ...

Once the technical requirements are finalised, prospective applicants for licences will be notified. Some 'unsolicited inquiries' are being handled at present.

There is ... a vast reservoir of internet business - both gaming and commerce - that is available ... we appear to be uniquely placed to take advantage of that market ... It is really a case of if we don't take this step someone outside the Australian sphere will. Why should that be allowed to happen?

Online gaming would be taxed by the Norfolk Island government.

Source: sub. 177.

18.9 Policy options for internet gambling

Existing policy measures by individual states and territories represent pragmatic responses to the rapidly evolving opportunities and threats posed by online and interactive gambling. They do not necessarily represent the optimal policy response. This section examines a number of policy options for the internet.

Is a policy of prohibition feasible, cost effective or desirable?

One possible policy response to the risks entailed by internet and interactive gambling is a ban.

There are a number of relatively strong arguments for prohibition. Online gambling presents the risk of a quantum leap in accessibility to gambling and presents new risks for problem gambling. Unlike physical gambling technologies, it is hard to gradually increase access, because the number of gambling opportunities is determined by the number of internet-ready computers rather than by the number of gambling websites. It is unlikely that any Australian regulatory agency would be content to approve 1.5 million new gambling venues, but that is what access to online gambling incidentally achieves.

The taxation revenue consequences also represent a gamble for state governments. They may make more revenue, but under worst-case scenarios, may lose significant sources of revenue if Australians divert gambling to online sites in offshore tax havens, or if tax competition between jurisdictions erodes rates.

The grounds for bans are strongest for gaming technologies (casino-type games such as roulette and virtual gaming machines). The case for banning internet wagering (sports betting and racing) or traditional lotteries are weaker, reflecting likely lower risks and the fact that other mediums for making these gambles, such as phone-betting, are close substitutes for the internet.

Some participants advocated that Australia should prohibit internet gambling. For example, the Festival of Light said:

We urge the federal government to use its powers under the Broadcasting Act 1992 and the Telecommunications Act 1991 to prohibit absolutely any gambling via these media. Australian banks and other financial institutions should be prohibited from processing transactions via credit cards which relate to internet or TV gambling. The Commonwealth government should seek to negotiate an international agreement to ban internet gambling worldwide (sub. 107, p. 12).

Similarly, Xenophon stated:

Given the current levels of problem gambling in Australia, a prohibition of this form of gambling should be a legislative priority at a Federal level (given Commonwealth powers over banking and telecommunications) (sub. 98, p.10).

The Woman's Christian Temperance Union of Victoria, in responding to the Commission's draft report, said:

We agree with the Commission that it is likely that (without harm minimisation measures and appropriate regulation) online gambling will pose significant new risks for problem gambling. Whether such regulatory policies can be implemented is problematic. We would like interactive gambling on the internet to be banned ... If the US Senate believes that a ban is feasible it should be possible to outlaw it here (sub. D195, p. 4).

Echoing concerns about the social consequences of online gambling, attempts have been made in the United States to prohibit internet gambling, and these have been given further weight through the endorsement by the United States National Gambling Impact Study Commission (box 18.14).

However, a policy of prohibiting access or provision by Australians of online gaming is likely to be less enforceable than allowing some licensed sites. The principles behind some of the control mechanisms discussed in section 18.7 is that they increase the cost to consumers of accessing illegal sites, so that they decide to use legal sites instead. If *all* sites were illegal, then the measures would work less effectively.

Even so, making it illegal to operate or use online gaming sites would have the likely effect of significantly reducing their use, albeit while also creating a black market.²²

... while a regime of prohibition will not suppress gambling entirely, it would certainly dissuade involvement on the part of legitimate gaming operators who would be loathe to jeopardise their land-based casino licences through involvement in prohibited activity. Prohibition might ... create a black market in online gambling services (McMillen and Grabosky 1998).

²² But a significant reduction in use would presumably still reduce exposure and risks of problems for a sizeable number of people — the objective of a ban is reduction not eradication of use.

Box 18.14 US initiatives on internet gambling

Legislation

Currently, the law most applicable to internet gambling is the 1962 Federal Wire Communications Act which prohibits the use of telephone lines for betting or wagering. However, it is not clear how applicable the Act is to internet gambling, and accordingly, attempts have been made at both the federal and state level to enact legislation which unambiguously has the power to ban internet gambling.

In some states gambling is prohibited and there have been some attempts by state Attorneys General to prosecute on-line operators. The Attorneys General of Minnesota and Missouri have launched actions against internet gambling operators under their local consumer protection laws. And in March 1998 the FBI indicted 14 operators for providing bookmaking services on the internet (Office of Strategic Crime Assessments 1998).

The proposed *Internet Gambling Prohibition Act of 1997* (the Kyl Bill), first introduced by Republican Senator Jon Kyl in March 1997, sought to extend the 1961 Wire Act's prohibition on interstate sports gambling conducted by telephone or wire to newer forms of technological transmission, including the internet. The Kyl Bill included provisions for fines of at least \$20 000, and four years imprisonment for people operating internet casinos and fines of at least \$500 and three months imprisonment for those betting on internet casinos. In addition it required telephone companies and internet service providers to terminate service to the internet gambling operator. The Kyl Bill was passed by the Senate in August 1998 by 90-10. The Bill was subsequently introduced to the House of Representatives, where its penalties and constitutionality was questioned, and as a result a vote on its passing was deferred.

In response to these criticisms, in March 1999, Senators Kyl and Bryan introduced s. 692, the *Internet Gambling Prohibition Act of 1999*, which changed the nature of penalties. In June, the Act was approved by the full Judiciary Committee. The bill was unanimously approved by the Senate in November 1999, and is expected to go before the House of Representatives in the year 2000.

If passed — and some question whether it will do so — then the legislation would prohibit any person engaged in a gambling business from using the internet or any other interactive computer service to place, receive or make a bet or wager or assist in the placing of a bet or wager.

The US National Gambling Impact Study Commission

In May 1999, this Commission recommended that the Federal government should prohibit internet gambling within the United States, and asked that the DOJ develop enforcement strategies included but not limited to Internet Service Providers, credit card providers, and money transfer agencies. Further, the Commission recognises that internet gambling is expanding rapidly, bringing gambling into the home of every family with a computer. Since it crosses State lines, it is difficult for States to adequately monitor and regulate such gambling.

The Commission also recommended the passage of legislation prohibiting wire transfers to known internet gambling sites, or the banks who represent them. Furthermore, the Commission recommends the passage of legislation stating that any credit card debts incurred while gambling on the internet are unrecoverable.

Finally, the Commission recommended that because internet gambling is expanding most rapidly through off shore operators, the Federal government should take steps to encourage or enable foreign governments not to harbour internet gambling organisations that prey on U.S. citizens (NGISC 1999).

The across-the-board prohibition of online gambling has a number of other potential disadvantages. It would:

- make it impossible for governments to regulate consumer protection features as part of legal ‘safer’ sites, consistent with a general approach of harm minimisation. The people who use unregulated offshore sites because of the absence of safer regulated local sites may be exposed to significant risks;
- reduce the choice of gambling products and suppliers available to consumers; and
- eliminate domestic commercial opportunities and exports of gambling services.

A transitional disadvantage is that banning would lead to adjustment costs for existing internet gambling providers.

Managed liberalisation

An alternative option is one of managed liberalisation within a nationally agreed framework. Managed liberalisation would have harm minimisation and consumer protection as its chief goal. It would require regulation of Australian sites and bans on offshore sites which do not meet minimum consumer protection standards. The bans on offshore sites could be achieved using the control mechanisms discussed in section 18.7, and would probably be relatively effective because consumers would still be able to gamble on the (safer) legal internet sites with ease. Lighter handed regulation may achieve more than prohibition, as noted by Bell (1999, p. 12):

...proponents of a ban on internet gambling have argued that, if prohibition will not work, then neither will any scheme of regulation. Such an argument fundamentally misunderstands a basic principle of governance: if they offer greater benefits than burdens, regulations can succeed even where prohibition fails. The comparative advantage of limited regulation over prohibition explains why people do not illegally shoot craps in Las Vegas alleys.

A key advantage of managed liberalisation is that it allows the development of measures to counter the problems occasioned by gambling in a way that is consistent with other codes — and possibly, more successful.

Problem gambling

In chapter 16 a range of measures were suggested for ameliorating problem gambling. Some of these have already been implemented as part of Australian internet gambling sites. For example, Lasseters Online Casino (www.lasseters.com.au) has:

-
- scope for self-exclusions, of initially 7 days, but indefinitely after three successive self-exclusions. Self-exclusions of this sort are likely to be highly effective compared with those offered in physical venues, where people may not be detected;
 - a link to the website of Amity Community Services, which includes a self-diagnosis test of problem gambling;
 - links to downloads of Net Nanny and Cyber Patrol for controlling child access to internet material deemed inappropriate by parents;
 - records of transactions so players know what they have spent; and
 - possibly, most significantly, the facility to set expenditure limits — which are currently impossible in physical venues. To date (October 1999), 541 subscribers to Lasseters' online services have set a bet limit (about 4 per cent of total subscribers).

Gambling providers noted the potential for *regulated* internet sites to be inherently safer than other licensed venues:

Internet gambling systems are much more able to closely monitor a player's activity and habits than in traditional gambling activities for example by collecting data by player on what games are played, when, how many times, for how long and with what results. Thus these systems are able to provide powerful means to monitor and control the amount a player bets and may also limit a player's gambling in other ways, such as the length of time they wish the system to permit them to gamble ... Regulators, as a matter of good practice, will probably need to place more emphasis on aspects other than player fairness — especially protecting problem gamblers (Access Systems, sub. 16, pp. 4, 7)

Interactive gaming is a new form of gaming that will naturally raise questions in the community. However, Tattersall's believe that interactive gaming (if properly regulated) has the potential to create less problems than more traditional forms of gambling (Tattersall's, sub. 156, p. 59).

In theory, nearly all the informed consent and harm minimisation measures described in chapter 16 can be readily incorporated into online gambling sites — including time reminders, self-imposed time limits, betting rate limits and breaks. It is also possible that the dual pricing strategies discussed in chapter 16 may be more feasible in online gambling than physical machines, because of the lower costs of operating virtual casinos. Surebet Gaming Systems (sub. D263, p. 18) and Access Systems (sub. 16, p. 5) have also floated the option of identifying problem gambling from playing patterns — which may be useful in providing early assistance to gamblers. For example, Access Systems notes:

A properly designed licensed system gathers huge quantities of raw data automatically, as a standard part of an internet gaming system, so it will be a relatively minor step to

develop software to analyse this data and search for patterns of behaviour within prudent limits on privacy. Planning should be put in place early to select and analyse data gathered on real internet gambling activity ... with the prospect of using these patterns to identify possible problem gamblers in live systems.

One flaw in current online harm minimisation measures is the lack of coordination between different sites. A person who self-excluded on one site could subsequently enter another licensed site. This might be solved at the PC-level using the software methods described in section 18.5. Or it may be that Australian online gamblers could store some player preferences (such as self-exclusion, player expenditure limits or time limits) in a central database, which all would interrogate. This is similar to the way that EFTPOS facilities can be accommodated by thousands of participating retailers because they have links to central computers with the account information. **The Commission sees benefits in technical measures, such as a central database, that may enable a gambler to credibly pre-commit to time or money limits and self-exclusion (if they wish to do so) across all Australian licensed online gambling sites.**

It is also important that people with expertise on the functioning of the internet be represented among regulators, so that consumer protection and other regulatory measures take account of the realities of the evolving technologies.

Minors

In a controllable environment, a number of measures could be introduced to limit the accessibility of minors and to detect gambling by minors. These include:

- making it illegal for minors to gamble on the internet and advertising its illegality at gambling sites;
- a requirement that gamblers must fax identification papers (such as a passport or drivers license) to a licensed gambling provider to verify age;
- cheques (which are a more secure payments mechanism), rather than credit cards be used to establish gambling accounts;
- the issuing of a password once registration is complete;
- a requirement that when money is transferred into a gambling account an electronic e-mail is sent to the gambler so that unauthorised financial transactions can be detected; and
- gambling providers to provide players with a regular log of all past play so that unauthorised gambling can be detected.

These features are now incorporated into existing Australian sites, so that the risk of access by minors without parental consent is likely to be significantly lower than for physical venues. However, minors will be able to gamble on the internet if their parents provide consent.

Integrity

In a controlled environment integrity problems can be minimised with encryption and regulation.

Encryption is a means of scrambling data so that only the holder of the electronic key can read the message. It is a method used to guarantee privacy of information and to ensure security of financial transactions over the internet. Encryption is already being used by internet gambling providers such as Centrebet to ensure security in payments mechanisms. In addition, financial institutions worldwide have demonstrated confidence in the technology and are using encryption so that customers can securely operate accounts over the internet.

Other integrity problems such as whether an internet gambling provider is providing a fair game of chance, or has the financial capacity to pay winnings can be controlled by regulations including:

- the licensing of internet gambling providers pursuant to background checks and financial capacity,
- approval of internet games and control systems by a regulatory authority and
- the periodic testing of games to verify odds.

Coms21 Ltd reported that under its proposed regulatory model:

The manager cannot bias the outcome as the outcome random process algorithm and its installation is verified by the regulator; the generation of the random number is directly supervised by the regulator, with there being no opportunity for the manager or any other party interfering with equipment or software and once the random number is determined the outcome of the bet is determined and recorded independently by the regulator (Weston 1998, p. 5).

Further, Coms21 conjectured that while an internet gambling operator may go bankrupt, a player's account, under regulation, could remain protected. In their proposed model a regulator would control funds equal to the players account plus an amount to cover winning streaks and jackpots.

These integrity features provide a major incentive for consumers to prefer licensed sites to offshore unregulated sites:

The reality of it is that to cyber-gamble outside of Australia, you would send money thousands of miles away to an unregulated, uncontrolled and probably illegal enterprise, give them a credit card number, then trust them to tell you when you've won (Toneguzzo 1997, p. 13).

Taxing internet gambling

As noted earlier, it is quite possible that managed liberalisation of online gambling will produce more, not less tax revenue for states. States, however, have two major concerns about internet taxation.

First, they want to ensure that they receive tax from transactions undertaken by their citizens. This is readily achieved, as under the model code, by requiring:

- the taxation of internet gambling based on the player's jurisdiction rather than the location of the provider;
- registration of providers contingent upon an agreement that both interstate and overseas providers remit taxation back to the jurisdiction of the gambler; and
- appropriate records to be kept by providers. Providers would be responsible for establishing the jurisdiction of each player, apply the tax rate of the jurisdiction to the gross profit in proportion to the jurisdiction's share of player turnover, and remit the tax to the government.

Second, they wish to avoid wasteful tax competition. While the first measure removes the incentive for one state to lower tax rates to encourage inter-state trade, it does not deal with the incentive to lower taxes on online transactions for foreigners. Each state might then bid down tax rates applying to internet gambling by foreigners in order to increase their share of this market — lowering overall tax revenue from internet gambling for Australia as a whole. This could be solved by agreeing on a set gambling tax rate on foreigners for all jurisdictions. If state governments wished to bind themselves to a credible long term taxation regime, another alternative would be for the Commonwealth Government to administer and collect internet gambling taxation and remit the taxation back to the state or territory, a similar approach to the proposed GST.

Another important facet of the tax treatment of gambling, raised by traditional suppliers of gambling, such as the AGMMA (sub. D257, p. 24), is that lower taxes imposed on internet gambling have the potential to disadvantage local suppliers of physical forms of gambling. This raises a number of issues and implications, some of which extend far beyond the boundaries of internet gambling to the appropriate tax treatment of e-commerce in general (Surebet Gaming Systems Pty Ltd, sub. D263, pp. 10ff).

In principle, it is desirable to levy similar sales tax rates on close substitutes. Existing sales taxes on goods and services traded through traditional means treat imports and domestic goods and services equally. For example, a motor vehicle made in Australia or overseas faces equal sales taxes. Internet traded services have escaped this principle, largely because of practical limitations of taxing such transactions. However, there is widespread agreement that it would also be desirable to introduce tax neutrality for virtual transactions. For example, the Joint Committee of Public Accounts and Audit (JCPAA 1998) noted:

... in GST regimes operating in other countries, the supply of functionally equivalent 'products' would be expected to attract the same rate of tax, whether in tangible or intangible form (p. 85).

The ATO, similarly, has espoused the principle of equality of tax treatment between internet businesses and online ones (submission to JCPAA 1998, p. 89).

However, while this may be desirable in theory, it raises the question of how it could be achieved in practice. For example, Australia could seek to tax gambling winnings at the Australian services tax rate as a condition for providing a license for an overseas site to sell gambling services to Australians. Or government could seek to detect and tax internet gambling transactions by Australians (with the obvious difficulties that implies). Or there could be cooperative measures between governments to work out protocols for taxing internet transactions, and agreed standards for reporting and verification.

In the short term, the prospects for significant damage to local 'physical' providers of gambling (and to domestic gambling tax revenue) appears small. This reflects the relatively modest projected demand for internet gambling. This in turn suggests that consideration of regulations to facilitate tax collection from either Australian customers of foreign online gambling services, or from those services themselves, should weigh up the gains to economic efficiency (and equity) from neutral tax treatment, and the possibly substantial compliance costs of developing an effective e-commerce tax system. In its submission to the JCPAA's inquiry into internet commerce, the Industry Commission stated that:

At current relatively modest levels of internet commerce, the costs of monitoring and enforcing the taxation of these transactions could easily outweigh the benefits (IC 1998).

In the longer run, however, it is likely that online commerce, including gambling, will exhibit significant growth, and failure to tax transactions could erode Australia's tax base. That will increase the benefits of finding ways of taxing internet transactions — gambling among them — in a way that does not destroy the advantages of the internet.

The question then arises as to what should be done in the meantime. While Australian governments will not, in the short run, be able to tax foreign suppliers of internet gambling services, they can set the tax rates of Australian internet gambling providers. Should they set such tax rates at parity with domestic traditional gambling suppliers, or should they seek to tax them at rates which will increase the capacity to compete with foreign internet suppliers?

The answer depends on the extent to which physical and virtual forms of gambling are close substitutes. The AGMMA, by postulating significant damage to local traditional forms of gambling, presuppose that:

- the different tax rates create significant price differences; and
- the customers of gaming machines react to any price margins that are created by differential tax rates.

Theoretically, tax rate differentials can make a significant difference to prices. Lasseters Online Casino, which faces an 8 per cent tax on its gross gaming revenue, has better odds on its virtual gaming machines than the average for physical gaming machines in Australia. For example, its prices are about 25 per cent lower than gaming machines in New South Wales clubs (table 18.7). However, it is hard to disentangle the extent to which technology, competition and taxes bear on the price of virtual versus physical gaming machines. Internet technologies are cheaper than physical gaming technologies, and may explain some of the difference in the price. In any case, it is certainly not assured that lower taxes necessarily make a very large difference to the posted price of gaming machines relative to other factors (chapter 19).

Table 18.7 Gaming machine return rates in virtual and physical venues

	<i>Lasseters</i>	<i>NSW clubs^a</i>
	%	%
Bar 7 Classic	92.33	..
Prehistoric Wonderland	91.85	..
Priceless Gems	92.80	..
Space Race	91.66	..
Lasseters Gold	93.04	..
Coral Paradise	91.95	..
USA Classic	93.39	..
Average	92.43	89.91

^a These clubs paid an average 21.6 per cent tax rate on their gross revenue compared with the 8 per cent applying to Lasseters. The gaming machine 'price' is 100 minus the odds.

Source: Information provided by Lasseters and from NSW Department of Gaming and Racing, 1999, *Registered Clubs Quarterly Gaming Analysis, February 1999*, August for NSW clubs.

Even where differential tax rates create a significant price margin, it is not clear that customers will necessarily respond to it. The AGMMA itself acknowledges that:

AGMMA members do not concern themselves with price or demand elasticity because they lack momentum and generate little of consequence to successful design and marketing of games (sub. D257, p. 11).

If, in fact, the users of electronic gaming machines do not react strongly to price differences, then there should be a relatively small shift between the physical market and the virtual. This would be all the more true because other attributes of physical and virtual games are quite different (the sound and graphics quality, speed, game features and the experience of the venue as a whole).

However, the degree of substitution between virtual games offered on one site at one price and at another virtual site at a different price, is likely to be greater than that between physical and virtual forms. This reflects the fact that both sites are a mere mouse click away and that the nature of the experience is more similar. It is unlikely, however, that price will play a very significant role in determining most player choices. This is because other facets, such as the integrity of the operator, and the speed, special features and appearance of the games, will probably be more important to recreational players. Overall, this suggests that while there may be grounds — at least until e-commerce tax systems have been developed generally — to tax Australian internet gambling services at lower rates than on other Australian physical forms, any tax margin should be modest.

Should Australian online gambling providers export to countries where gambling is banned?

It is clear that many jurisdictions perceive online gambling as another potentially rich source of revenue, and will seek to export services around the world, in some cases to people in countries where gambling in this form is illegal. Should regulators permit Australian online gambling providers to offer internet services to such countries? To not do so, would be to lose significant markets. To do so, however, means that 'the regulator becomes a co-conspirator to aiding a foreign citizen break the laws of its country' (Toneguzzo 1997, p. 20).

Arguably, the appropriate stance is to follow a 'best endeavours' approach to avoiding transactions with countries which outlaw such transactions. This will work for online gamblers who use an ISP located in their own country, but will not stop transactions occurring where an ISP is located outside the destination country and contrived mailing addresses are used for payment.

Who should regulate online gambling policy?

There are significant advantages in taking a national approach to internet and interactive gambling, both to preserve tax revenues from the risk of tax competition (as noted above) and to ensure that standards of consumer protection are uniformly high and coordinated. For example, arguably it would be better to have:

- one (excellent) national site for information, self-diagnosis and referral for problem gambling linked to each online provider — regardless of which jurisdiction the online gambler was located in — rather than a multiplicity of lower quality help sites;
- a single database which would allow consumers to self-exclude, if they wished, from any Australian online gambling provider;
- standards for the ‘look and feel’ of the menu of options consumers can give for achieving informed consent while playing (eg similar ways of invoking budget or time limits);
- a single national system for blocking access to illegal sites and in policing infringements (similar to the recent amendments to the Commonwealth Broadcasting Act);
- one system for tax setting and collection;
- standards for the way sites advertise themselves both within Australia and abroad;
- equality of treatment of all Australians, regardless of their location; and
- a single voice when negotiating multilateral agreements relating to consumer protection and taxation issues on the internet.

Given historic rivalry and competition between the states and territories it is not clear whether a coordinated approach to internet gambling can be achieved. McMillen and Grabosky (1998) foresee problems with the draft model approach, and argue for Commonwealth involvement:

The Draft Regulatory Model embraces the classic themes of federalism — unity within diversity in application. Inevitably such an approach involves contradictions and tension which could be reflected in the policies which evolve in the various States.. Without Commonwealth involvement, interstate rivalry and competition may erode standards, drive down the tax benefits and expand the market with the inevitable social costs.

There are clearly already significant departures from the goals of the draft agreement (section 18.8). This may reflect concerns over the either the social harms or tax impacts of online gambling, but underlines the need for a coordinated national approach.

The Commission considers that there would be major benefits to the states and territories from pursuing a national approach to online gambling, in cooperation with the Commonwealth.

The case of Norfolk Island raises some particular difficulties. While their proposed online services would not be sold to Australians and so would not directly affect revenue streams from Australian gamblers, they could have some adverse indirect impacts on other Australian jurisdictions.

First, they might have some revenue effects to the extent that they used lower tax rates to poach offshore customers who would otherwise have gone to another Australian online site.

Second, there are grounds for any site which will be identified as part of the Commonwealth of Australia following similar consumer protection and ethical principles. This would include, for example, any ruling about not selling services to another country which regards participation in internet gambling as illegal. Otherwise, other Australian sites may suffer from a weakened reputation. The Commonwealth Department of Transport and Regional Services noted:

It may also be that Norfolk Island would be an attractive jurisdiction for operators of questionable integrity, affording them the benefits attached to Australia's good reputation, without being subject to the rigorous legal regime from which that reputation is born. In this context it is worthy of note that some Commonwealth legislation such as the Corporations Law and the Trade Practices Act 1974, does not extend to Norfolk Island. Although the current Island proposals are for online services which would not be sold to Australians, this may change in the future (sub. D271, p. 2).

Finally, while companies owned by Norfolk Island residents do not pay Commonwealth income tax, the picture is less clear when an offshore associate is involved (Kennedy 1999).

There are grounds for trying to tax some of the income that might otherwise flow offshore and for including Norfolk Island in any national approach to online and interactive gambling.

Summing up

Regulation of online gambling under this 'managed liberalisation' model has mutual advantages for consumers and operators, and creates a market which drives the unscrupulous operators — the 'lemons' — out of the market. Consumers know that regulated sites will guarantee payment, have secure databases, meet privacy concerns, have fair games and be managed by people of good character. They will also know that the site has been designed to increase their informed consent — with

features such as self-imposed limits, records of transactions and self-exclusion. They face few incentives to seek to circumvent blocking to illegal offshore sites which may appear to be a little cheaper, but where the quality of the good is suspect.

Operators benefit by obtaining the certification from the government that they are a reputable operator — which increases the likelihood of attracting clients from Australia and abroad. A good regulatory framework is likely to be a more important feature for export success than comparative tax rates.

In implementing any policy towards gambling on the internet, it has to be acknowledged that there remains considerable uncertainty about the magnitude of its possible impacts, which might suggest caution. As Access Systems noted: ‘No-one really knows what effect internet gambling will have’ (sub. 16, p. 5).²³

Reflecting these uncertainties, New Zealand, for example, has adopted what it considers a cautious attitude to establishing internet gambling sites:

There are many issues relating to electronic commerce in general that have yet to be resolved ... We believe there is a significant step in moving from recognition of the availability of cross border electronic gaming to people residing in New Zealand, which is where we are now, to the Government setting up a regime to license such operations within New Zealand ... We also recognise that no one jurisdiction is likely to reach a satisfactory end point to this debate on its own (Horner and Bradfield 1998, p. 10).

The advantage of staging access to internet gambling is that it may provide time to assess effects and develop responses. However, notwithstanding the desirability of such a cautious approach, the concept of gradualism is less tenable for internet gambling than for other forms — for example, just one site can be visited by millions of people. Accordingly, it is not clear what scope there is for staging as a feature of managed liberalisation. It is possible that apparent caution, which proscribes local internet gambling while not effectively limiting foreign provision, simply exposes a countries’ citizens to the risks entailed in consuming gambling from unregulated foreign sites.

²³ In this context, it should be noted that the Senate Select Committee on Information Technologies announced on 31 May 1999 an inquiry into the nature, extent and impact of online gambling in Australia. The Committee said it was ‘particularly concerned to look at the impact this new form of gambling is having on children and young people and the feasibility of implementing controls on access’ (www.aph.gov.au/senate/committee/media/gamble.htm).

19 The taxation of gambling

Box 19.1 Key messages

- The gambling industries in Australia are subject to a wide range of state and territory taxes, as well as licence fees and a range of levies.
- Revenue from gambling has almost doubled in the last 10 years, to \$3.8 billion in 1997-98, and now averages about 12 per cent of state own-tax revenue:
 - the increase is almost entirely due to the expansion in the number of gaming machine and casino licences.
- Gambling is taxed more highly than most activities, and lotteries are particularly highly taxed.
- To the extent that the demand for gambling is relatively insensitive to its price, the excess burden of existing taxes on recreational gamblers may not be particularly high. With the possible exception of lotteries, reducing taxes on gambling may thus not yield significant gains in efficiency.
- In the face of remaining government restrictions on gambling, high taxes also have a role to play in appropriating for the community the excess profits that would otherwise go to gambling operators.
- High taxes can impact adversely on existing problem gamblers, but lowering taxes could serve to encourage increased gambling activity by people who are at risk of becoming problem gamblers. *Overall, taxes are not an effective instrument for managing problem gambling.*
- Gambling taxes are regressive, particularly for lotteries and gaming machines. But consideration of lower taxes on equity grounds would need to take account of the available options for raising other taxes, some of which are also regressive.
- There are both efficiency and equity grounds for experimenting with lower lottery taxes.
- While the levels of other gambling taxes are unlikely to be optimal, on the basis of available information there is not a strong or unambiguous case for general reductions.

19.1 Introduction

The taxation of gambling is primarily undertaken by state and territory governments. Government revenue from gambling is collected via direct taxes, licence fees, mandatory contributions to specific community programs or funds, and where governments own the gambling provider (such as TABs and lotteries) revenue may be obtained by the distribution of profits. While the specific arrangements differ, broad levels of taxation are similar between jurisdictions.

Gambling has expanded rapidly over the last decade as a result of deregulation, notably the legalisation of casinos and the expansion of gaming machines. State and territory government revenue from gambling has risen, from a low of 8 per cent of own-source tax revenue in 1988-89 to 12 per cent in 1997-98.

Government revenue from gambling averaged 34 per cent of the money spent by consumers on gambling products in 1997-98. However, different gambling forms are taxed at different rates. The share of consumer spending going to government revenue (including taxes, licence fees and other charges) is 82 per cent for lotteries/lotto, 34 per cent for wagering, 30 per cent for gaming machines and 21 per cent for gambling at casinos (table 19.6 on page 12).

The following sections examine the structure of taxes in more detail, followed by a discussion of whether the levels of gambling taxes are appropriate.

Tax arrangements and levels also differ between different providers of the same form of gambling, the most notable being the concessional tax arrangements provided for clubs. This issue is examined in chapter 21.

19.2 The changing pattern of gambling tax revenue

State and territory revenue from gambling has risen rapidly over the last decade, increasing, in real terms, from \$2 billion in 1987-88 to \$3.8 billion in 1997-98.

- All of this growth in revenue has come from the expansion of gaming, notably gaming machines and gambling in casinos.
- Revenues from traditional forms of gambling — wagering and lotteries/lotto — have been broadly unchanged in real terms over the period (table 19.1).

The importance of gaming machines as a growing source of revenue is even more pronounced than is indicated in the table, as an estimated 46 per cent of the governments' revenue from gambling in casinos is derived from gaming machines in those venues.

Table 19.1 Gambling revenue has grown quickly^a

Real revenue from gambling (1997-98 dollars) and per cent of total revenue from gambling: All states and territories (1987-88 to 1997-98)

Year	Wagering		Lotteries and pools		Casino gaming		Gaming machines		Other gaming		Total
	\$m	%	\$m	%	\$m	%	\$m	%	\$m	%	
1987-88	678	35.0	816	41.5	78	4.0	377	19.2	16	0.8	1 964
1988-89	711	35.9	780	39.4	92	4.6	382	19.3	16	0.8	1 981
1989-90	728	33.5	814	37.4	86	4.0	376	17.3	16	0.7	2 174
1990-91	713	32.3	938	42.5	109	4.9	431	19.5	19	0.9	2 209
1991-92	704	31.3	976	43.4	110	4.9	440	19.6	20	0.9	2 250
1992-93	723	29.7	955	39.2	129	5.3	607	24.9	20	0.8	2 434
1993-94	726	26.5	981	35.8	164	6.0	853	31.1	18	0.7	2 743
1994-95	677	22.3	994	32.8	238	7.8	1115	36.7	16	0.5	3 040
1995-96	635	19.4	982	29.9	355	10.8	1290	39.3	15	0.5	3 281
1996-97	616	18.0	956	27.9	391	11.4	1451	42.4	12	0.4	3 426
1997-98	575	15.0	1,004	26.2	460	12.0	1786	46.6	9	0.2	3 833

^a Revenue includes taxes, licence fees and other levies paid to the government by gambling operators

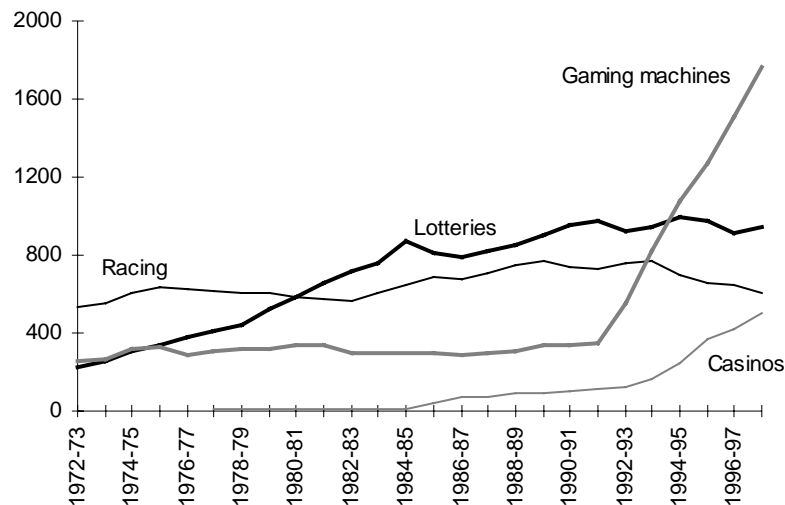
Source: Tasmanian Gaming Commission (1999).

The composition of gambling revenues has been changing over a much longer period as well (figure 19.1).

- During the 1970s, wagering was the predominant source of gambling tax revenues.
- By the early 1980s, the rapid growth of expenditure on lotteries had displaced wagering as the major revenue source.
- The growth in lottery revenues peaked in the mid 1980s, growing much more slowly during the rest of the 1980s and into the 1990s.
- Revenue from gaming machines took off in the early 1990s, and revenue from casinos later in the decade, displacing lotteries as the principle revenue source by 1993-94.
- While the revenue from wagering grew very slowly over the period, it did not decline in real terms until the mid 1990s, following the introduction of gaming machines and casino gambling.

Figure 19.1 New forms of gambling provide revenue growth

Total state and territory revenue from different forms of gambling: 1972-73 to 1997-98 (1997-98 dollars million)



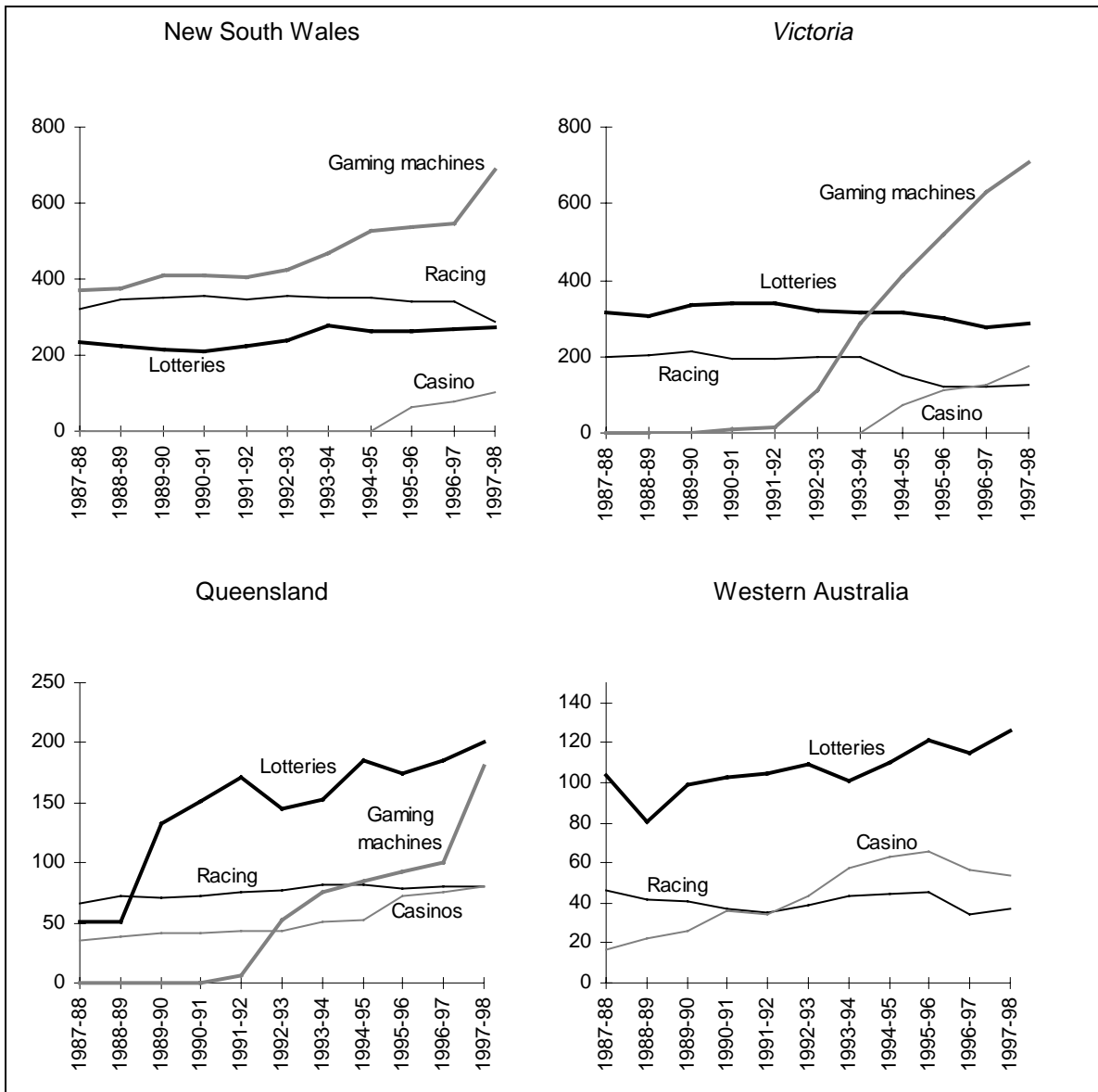
Data source: ABS (1998c and earlier issues); and PC estimates.

The aggregate data masks some variation in the composition of gambling revenue among jurisdictions (figure 19.2). Notable features are:

- the rapid rise in gaming machines as a source of revenue, with the commencement of growth in each jurisdiction determined by the differing dates of liberalisation;
- that Western Australia is the only state which continues to prohibit gaming machines outside of the casino;
- that even in states such as New South Wales where access has been liberalised for some time, revenues from gaming machines grew rapidly in real terms;
- while revenue from other forms of gambling appears to have stabilised, revenues from gaming machines remains on a steep growth path in all jurisdictions (other than Western Australia); and
- the decline in revenues from the casino in the ACT coincides with the opening of the Star City casino in Sydney.

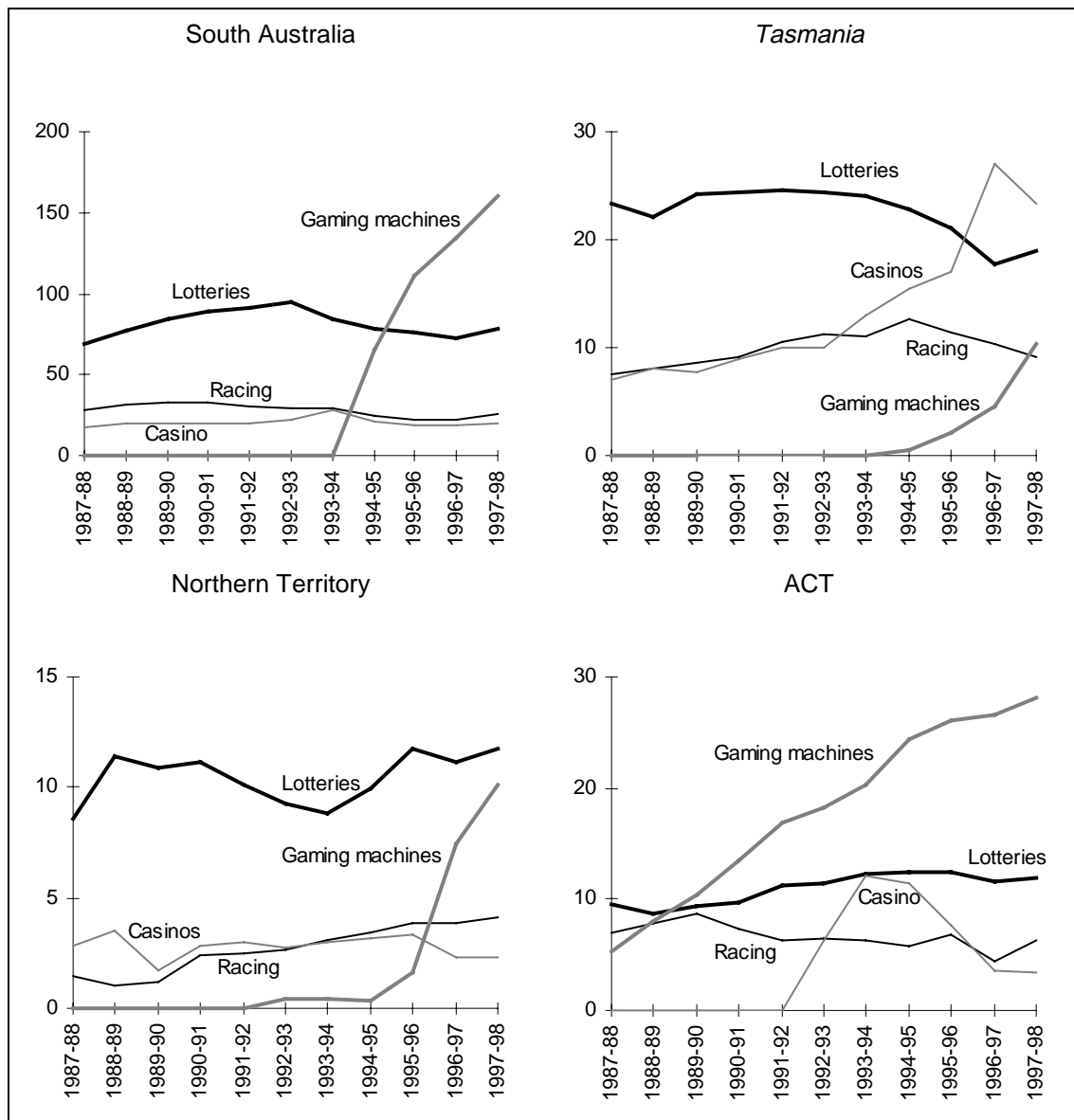
Figure 19.2 Gaming machines dominate revenue growth in most jurisdictions

Gambling taxation revenue in each state and territory by major type of gambling, 1987-88 to 1997-98 (\$ million, 1997-98 dollars)



(Continued)

Figure 19.2 continued



Source: Tasmanian Gaming Commission (1999).

19.3 The importance of gambling taxes in state and territory revenues

As a proportion of state and territory own-tax revenues, gambling revenues declined in most jurisdictions in the 1980s. This was due to a rapid rise in non-gambling own-source revenue rather than any decline in the revenue from gambling. Revenues from traditional forms of gambling — lotteries and wagering — still increased in real terms over this period (figure 19.1), but this growth was slow compared to the rate of increase in revenue from other sources. The licensing of casinos and introduction of gaming machines in many states has led to a significant

growth in gambling revenues in the 1990s, and a rise in gambling as a share of state and territory own-source revenue (table 19.2). Western Australia is the last state with significant restrictions on gaming machines, and this is reflected in the low share of revenue from gambling from that state.

Table 19.2 Gambling taxes are a significant share of state tax revenue^a
Gambling tax revenue as a percentage of total own-tax revenue

	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>	<i>Average</i>
1975-76	12.8	9.4	6.7	6.4	5.1	6.0	na	na	9.8
1980-81	13.6	10.3	6.1	5.6	6.8	9.2	na	na	10.5
1985-86	11.6	9.1	10.1	5.8	7.6	9.6	na	na	7.9
1990-91	9.7	9.1	11.1	7.7	9.5	8.1	6.9	9.3	9.4
1991-92	9.4	8.5	10.3	6.6	8.8	7.7	7.2	4.3	8.9
1992-93	10.2	9.6	11.9	6.7	8.2	8.3	8.8	3.9	9.7
1993-94	10.1	10.7	12.8	6.4	7.8	8.1	9.7	4.3	10.0
1994-95	10.6	12.2	13.5	7.0	10.0	8.5	10.1	6.0	11.0
1995-96	11.0	12.6	13.1	7.4	11.5	8.8	10.1	8.4	11.4
1996-97	10.2	13.0	12.8	6.4	13.0	9.8	8.6	9.4	11.2
1997-98	10.4	15.2	12.5	5.7	13.8	10.3	8.3	9.6	11.7

^a Figures for 1997-98 are preliminary; Tax includes licence fees and charges

Source: ABS (1998e and earlier issues), Alchin (1989).

The recent expansion of state gambling tax revenues also reflects a rise in tax revenue per adult resident.

- In the past, New South Wales residents paid higher gambling taxes per adult than residents of other states. However, by 1995-96, Victoria had overtaken New South Wales.
- Currently, Victoria, New South Wales and South Australia lead other states in the gambling tax revenue collected per resident. In 1997-98 Victoria collected \$375 per person in gambling taxes, compared with a low of \$130 per person collected in Western Australia (table 19.3).

However, given that not every person over the age of 18 years gambles, this underestimates the tax collected from the average gambling consumer (to some extent, this effect is offset by gambling revenues obtained from interstate and overseas visitors to the jurisdiction in question, which have not been identified separately).

Table 19.3 Gambling taxes per adult are rising^a

Average gambling taxes per adult resident, 1991-92 to 1997-98, (1997-98 dollars per person)

	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>	<i>Average</i>
1991-92	218	176	159	122	146	143	174	71	177
1992-93	228	201	184	121	138	140	211	71	192
1993-94	241	249	208	131	139	144	244	89	214
1994-95	251	286	225	146	180	158	256	134	235
1995-96	261	315	220	152	212	164	239	194	249
1996-97	261	338	223	132	247	182	223	233	256
1997-98	285	375	216	130	279	191	218	258	275

^a Tax includes licence fees and charges

Source: ABS (1998e), 1997-98, Tasmanian Gaming Commission (1999)

Differences in the gambling tax revenue per adult between the states and territories are largely the result of different levels of expenditure on gambling in each jurisdiction (table 19.4). There are also differences in the share of expenditure that each jurisdiction takes as revenue which contribute to the variability in gambling revenue (table 19.6).

Table 19.4 Gambling spending per adult varies greatly across states

Expenditure on gambling per adult, \$, 1997-98

<i>Gambling form</i>	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>	<i>Average</i>
Wagering	134.5	124.9	113.3	111.9	92.9	90.4	91.4	223.7	121.7
Lotteries/lotto	77.3	86.2	103.3	125.3	67.8	54.4	67.5	117.3	87.7
Gaming machines	636.0	493.1	239.6	-	351.4	68.0	555.3	153.0	424.1
Casino	94.9	214.0	186.6	270.8	67.8	217.4	75.5	367.6	161.4
Other	20.5	2.7	51.6	19.5	37.4	77.8	7.9	-	24.0
Total	963.2	921.0	694.3	527.5	617.2	507.7	797.6	861.5	818.8

Source: Tasmanian Gaming Commission (1999).

19.4 The role of Commonwealth/State financial arrangements

Considerable comment has been made about the financial pressures on state and territory governments to exploit the revenue raising potential of gambling. The Western Australian Government commented:

... it seems certain that the revenue motive would have played a bigger role [than the desire to regulate gambling for the public good] in the more recent rapid expansion of

legalised gambling in most parts of Australia (in the last 10 - 20 years), due to: the States' excessive reliance on Commonwealth grants (commonly known as Vertical Fiscal Imbalance or VFI) and substantial cuts in those grants: and very limited own source revenue raising options for the States (sub. 76, p. 39).

The Western Australian Government also said that:

... 20 years ago the Commonwealth returned 34% of its taxes as grants to the States. By 1988/89 this had fallen to 24% and this year it is expected to be only 21%. This has placed considerable pressure on State budgets;

... increased gambling opportunities and associated taxes are a relatively "easy" option (to the extent that gambling is "voluntary") to fill the funding gap for growth in demand for essential services.

This increasing reliance on state and territory own-source revenue was also noted in a review of the taxation of gambling in Australia by Smith (1998). She commented (p. 13):

However, with relatively generous Commonwealth grants during the 1970s, states had eroded their major tax bases by granting various concessions and exemptions, notably land and payroll taxes, and abolishing estate and gift duties. They were thus forced to respond to heavy cutbacks under the Hawke and Keating governments by raising revenues from their remaining increasingly inequitable, narrow and distorting taxes, including on gambling. State and local government own-source taxes increased from around 20% of national taxation in the 1970s and 1980s to around 24% by 1996-97.

The mechanism by which the distribution of funding between the states and territories is calculated reinforces the pressure to collect gambling revenue. States and territories that do not fully exploit their capacity to raise taxes from gambling are 'penalised' to the extent that the recommended levels of Commonwealth funding are calculated on the basis of their *capacity* to raise revenue (including from gambling) rather than the actual revenue raised.

In other words, once a form of revenue-raising becomes widespread and contributes significantly to the revenue base of some jurisdictions, the revenue raised becomes the benchmark, and the capacity to raise that revenue is taken into account when estimating the need for Commonwealth funding in jurisdictions with lower gambling revenue.

While this approach is soundly based on the need to ensure that individual states and territories do not transfer the cost of funding their services to other jurisdictions (by failing to raise their own taxes and then relying on top-up from the Commonwealth), it also has the effect of placing pressure on those not collecting gambling taxes to do so.

In calculating recommended levels of transfers from the Commonwealth to the states and territories, the Commonwealth Grants Commission calculates each state's:

- *index of revenue raising capacity* — to indicate their potential to raise revenue through gambling tax — which is based on the level of household disposable income in each state; and
- *index of the revenue raising effort* — to indicate how intensively (the severity of taxation or charges) the states are using their revenue bases (table 19.5).

A state with relatively high incomes will have a high capacity index. If it applied low taxes to gambling relative to the Australian average, or restricted some gambling forms, it would have a relatively low effort index. By contrast, if it taxed or promoted gambling more heavily than other states, it would have a high effort ratio. In general, the capacity of a state is determined by circumstances outside government control, whereas 'effort' is mostly determined by government decisions.¹

Table 19.5 Some states have greater capacity to raise gambling taxes some use their capacity more intensively

Indices of revenue raising capacity and effort, gambling taxes, 1997-98

<i>State or Territory</i>	<i>Capacity^a</i>	<i>Effort^b</i>
New South Wales	104.10	99.52
Victoria	102.05	133.94
Queensland	94.10	82.70
Western Australia	96.11	59.53
South Australia	96.72	93.18
Tasmania	90.12	82.47
Australian Capital Territory	112.55	66.37
Northern Territory	86.88	87.44
Average	100.00	100.00

^a Indicates the ability of a state to raise revenue relative to the Australian average. It is broadly based on each state's average household disposable income.

^b Indicates the intensity (the severity of taxation or charges) of use of a revenue base made by individual states to raise revenue relative to the Australian average effort.

Source: CGC (1999, vol. II, pp. 134-5).

According to the way revenue raising capacity is measured, the ACT, Victoria and New South Wales were better placed to raise revenue through gambling taxes than

¹ Effort is not wholly determined by government decisions. For instance, in the ACT gambling is taxed at similar rates to other states and there are no greater restrictions on forms of gambling than in other states (ie government effort seems to be similar to other states). Yet it appears that ACT residents choose not to gamble as much as other states so the measured effort ratio appears to be low.

other jurisdictions in 1997-98. This is because their adjusted household disposable income per capita exceeded the Australian average (CGC 1999, vol. II, p. 210).

Victoria and, to some extent, New South Wales have used their gambling tax bases more intensively than have other states and territories. The lower gambling revenue raised in most of the other states and territories can be attributed to:

- the absence of poker machines in clubs and hotels in Western Australia;
- below standard revenues from lotteries, wagering and the casino in the ACT;
- below standard wagering turnover in South Australia and the Northern Territory; and
- a declining trend in the revenue from wagering and lotteries in Tasmania (and Tasmania only began the phased introduction of poker machines in clubs and hotels in January 1997).

19.5 Differences in revenue collected between types of gambling

In 1997-98, Australians spent (lost) \$11.3 billion on various forms of gambling. In the same year, state and territory governments collected \$3.8 billion in revenue — one third of the amount spent — in gambling taxes, licence fees and other charges.

The share of gambling expenditure appropriated by government varies widely for different forms of gambling. For example, in 1997-98, government revenue averaged ²:

- 82 per cent of expenditure on lotteries, lotto and pools;
- 34 per cent of expenditure on wagering;
- 30 per cent of expenditure on gaming machines; and
- 21 per cent of gambling expenditure in casinos.

This mirrors the pattern in the individual states and territories (table 19.6).

² It is conventional to express gambling tax rates as a percentage of post-tax expenditure (tax as a proportion of expenditure). However, often indirect tax rates are expressed as a percentage of pre-tax expenditure (this is the tax paid as a proportion of expenditure less tax). For instance, the GST rate is expressed in this way. Gambling tax rates expressed in pre-tax terms are: lotteries 455 per cent; casinos 26 per cent; gaming machines 42 per cent; and racing 52 per cent. For total gambling the tax rate is 52 per cent.

Table 19.6 States collect similar shares of expenditure from each form of gambling^a

State and territory government revenue from gambling as a share of expenditure by different forms of gambling (1997-98), per cent

<i>Form of gambling</i>	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>	<i>AUST</i>
Wagering	45	29	28	25	25	29	31	14	34
Lotteries, lotto and pools	75	96	77	76	87	100	77	77	82
Casino gaming	23	24	17	15	27	31	20	5	21
Gaming machines	22	41	30	-	41	44	22	51	30
Average all gambling	30	41	31	31	41	35	28	25	34

^a Figures for gaming machines in New South Wales include Keno. Figures for Lotteries etc in South Australia include Keno.

Source: Tasmanian Gaming Commission (1999).

While there are broad similarities in the level and form of taxation for the same type of gambling in the different jurisdictions, there are nonetheless differences in the average rate of revenue collected.

- Differences in the average rate of revenue collection of gambling in casinos is largely the result of different compositions of gaming machine and table game activity in each jurisdiction. For example, gaming machine revenues can account for up to 80 per cent of an individual casino's total gaming revenue.
- Differences in the average rate of revenue collection for lotteries reflects differences in administration costs among jurisdictions, rather than differences in tax rates.
- Low rates of revenue collection on gaming machines in New South Wales and the ACT (particularly in relation to Victoria) are probably the result of the dominance of clubs in gaming machine gambling in those jurisdictions. Clubs receive concessional tax treatment in most jurisdictions, but these are more pronounced in New South Wales and the ACT as is the dominance of clubs in the provision of gaming machine gambling.
- Government revenue from wagering — and thus the revenue-to-expenditure ratios presented in table 19.6 — do not include revenues transferred to the wagering industry. In all jurisdictions a share of the gambling expenditure on wagering (and in Victoria a share of the expenditure on gaming machine gambling) must be distributed to the wagering industry. While the amounts being distributed to the wagering industry vary between jurisdictions, they are typically similar to the amounts collected directly by government as revenue from wagering (table 19.7).

Table 19.7 Some government revenue from wagering is given back to racing clubs^a

Government revenue and funds distributed to the racing industry from TABs in each jurisdiction (\$ million; 1997-97)

	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>
Revenue to government	247	Na	80	37	21	9	5.4	na
Distributions to the racing industry	142	118	79	43	32	11	4.7	na

^a Information for SA, and the ACT are for 1996-97.

Source: PC estimates.

Impact of tax reform

The New Tax System involves the introduction of a 10 per cent tax on goods and services. Gambling is to be included in the ambit of this tax, with a rate of 10 per cent levied on industry revenue (net player loss).

The ACA (sub. 124, p. 18) has said:

... the ACA has concerns about how the blind application of a GST to gambling in general, and casinos in particular, would discriminate against casinos relative to other activities. The tax reform package currently under consideration in Australia will, if implemented, apply a 10 per cent GST on the net win of casinos. The net win is the mirror image of consumer expenditure... In effect, casinos would not be able to pass on a GST to consumers of their gaming products (because, as noted above, the rules of the game are effectively fixed). A GST would be a business tax on casinos, not a consumption tax, and would make the gaming tax burden faced by casinos even more severe.

The Commonwealth Government has acknowledged the problem saying:

... operators cannot always adjust their prices because these are often set by the rules of the game, or by State government legislation relating to levels of pay-out. As the States already tax gambling highly there may need to be corresponding reduction in State gambling taxes (Commonwealth Government 1998, p. 98).

Thus, although the new tax system may involve a change in the collection arrangements for some gambling taxes it is envisaged that it will not change the rates of tax on different gambling forms.

19.6 Are the levels of gambling taxes appropriate?

Determining the appropriate level and form of gambling taxes, as for any tax, involves assessing the tax against three criteria — economic efficiency, equity and administrative simplicity.

As discussed, gambling taxes are higher than those imposed on most other goods and services, the exceptions being alcohol, tobacco, luxury cars and petrol. They are much higher than the proposed GST rate of 10 per cent. The rates of taxation also vary significantly between different gambling products.

There are three possible efficiency related arguments for taxing gambling products at a higher rate than other products — and indeed, for taxing different gambling activities at different rates:

- high gambling taxes may be efficient. That is, the efficiency costs from taxing gambling at higher rates (distorting peoples' behaviour) may be lower than for other goods;
- government restrictions on competition may create excess profits which should be returned to the community;
- the negative social consequences of gambling may justify raising the price of gambling to deter people from spending as much.

These arguments are examined in turn.

Efficiency costs of gambling taxes

Taxes generally change the behaviour of those who bear them. Where taxes increase prices, consumers will consume less than otherwise, and the level of production will be lower. Because taxes distort the behaviour of consumers and producers, these groups lose more than just the revenue that goes to government. Economists typically describe these losses as the 'excess burden' of taxation — but also as 'efficiency losses', 'welfare losses', or as the 'deadweight loss'. They represent a reduction in the consumer surplus derived from gambling (chapter 5).

As already noted, it is only appropriate to discuss the excess burden of gambling taxes in relation to gamblers who derive 'consumer surplus' from their gambling activity. For problem gamblers, normal assumptions about benefits from gambling are inapplicable. The effects of taxes on problem gamblers are also important for policy but are considered separately.

An efficient tax system is one that raises the necessary amount of revenue for the government (and the community) at least cost. The size of excess burden depends on:

- the responsiveness of demand for a product (in this case, gambling) to changes in its price (that is, the degree to which a tax causes behaviour to change); and
- the size of the tax (and thus the price change).

For instance, the excess burden would be relatively high if a large tax was imposed on a product for which demand was particularly sensitive to price. In this case, people would consume significantly less (and be significantly worse off). Conversely, if a tax did not change the demand for a product at all, it would not affect economic welfare ('merely' transferring income from people to the government). The responsiveness of demand for a good to changes in price is known as its *demand elasticity*.

Sensitivity of demand to price changes

In principle, it would be efficient to vary the rates of taxation on goods and services inversely to their demand elasticities. Thus, higher taxes would be imposed on goods for which demand was insensitive to price changes, whereas lower taxes would be imposed on goods for which demand was more elastic. While this may be sound in principle, there are significant practical difficulties in measuring elasticities on a widespread basis, and the administrative costs of a system with numerous rates would be high. This has led most policy makers to reject this approach as a basis for designing a general tax regime.

Nevertheless, some goods with inelastic demand — such as petrol, alcohol and tobacco — have always been taxed at relatively high rates. Under proposals for implementing a GST they are to remain so. High rates for these goods are often partly justified on the basis that demand for them is insensitive to price, and hence taxes do not involve significant efficiency losses. This argument also applies to gambling. Table 19.8 shows that, with the notable exception of lotteries, average tax rates on gambling are not high in this country.

A number of participants considered that the current level of taxes could not be justified on the basis of insensitive demand. For instance, in the case of lotteries, Tattersall's (sub. 156, p. ix) considered that:

the rate of tax on lotteries is higher than can be justified on efficiency grounds... The demand for gambling products may have been price inelastic in the past. However, it is likely that this is becoming less true as different forms of gambling proliferate.

Table 19.8 Gambling is not highly taxed compared to alcohol, tobacco and petrol

Ad valorem tax rates for selected commodities ^a

<i>Product</i>	<i>Taxes</i>	<i>Ad valorem tax rate</i>
		<i>Percent</i>
Lotteries, lotto and pools	Various	455
Spirits	Excise, WST, BFT	234
Tobacco	Excise, BFT	211
Leaded petrol	Excise, BFT	130
Unleaded petrol	Excise, BFT	120
Beer	Excise, WST, BFT	89
Wagering	Various	52
Wine	WST, BFT	42
Gaming Machines	Various	42
Cars	Tariff, WST, Stamp	38
Casino gaming	Various	26

^a Gambling taxes are expressed as a percentage increase on the pre tax price. That is tax as a proportion of expenditure-net-of-tax.

Data Source: Albon (1997), Tasmanian Gaming Commission (1999)

Knowing the sensitivity of the demand for gambling to price changes is, therefore, a key to understanding the excess burden of gambling taxes. It is also important to determining whether taxing gambling at different rates is efficient, or whether rates should be made more uniform. As discussed in appendix D, very little data are available on the sensitivity of the demand for gambling as a whole or on particular activities. However, it appears that demand for most forms of gambling is relatively insensitive to price:

- the demand for lotteries appears to be the most insensitive across a broad range of prices;
- gaming machine demand also appears to be insensitive (eg AGMMA, sub D257, p.11) although less so than lotteries; and
- while casino and wagering demand may also be slightly insensitive to price changes, some sections of these markets, such as casino high rollers, are likely to be quite sensitive (which has implications for tax rates — box 19.2).

Two factors explain, at least in part, why most gambling forms are likely to be relatively insensitive to price:

- As discussed in chapter two, unlike normal consumer goods, the price of gambling is not readily apparent. To the extent that consumers do not know the price, it is reasonable to suggest that they will not be particularly responsive to price changes.

-
- Secondly, there appears to be only limited substitution of one gambling form for another by consumers. As illustrated in figure 19.2 the introduction of gaming machines and casinos in a number of states drew more gamblers into the market, rather than drawing significant revenue from existing forms of gambling. The less substitutable a good is, in general, the less price responsive it is.

Box 19.2 Less tax for the rich?

Casinos pay a lower rate of tax on the revenue earned from high rollers — gamblers who bet significant amounts — than on the revenue earned from other gamblers. Typically, high roller activity is taxed at 10 per cent as against 20 per cent for other activity. In normal circumstances a lower tax rate will be passed on to consumers.

Casinos have argued — and governments agreed — that the lower tax rate is necessary to attract high rollers to Australian casinos (or casinos in particular states). Underpinning this argument is that high rollers (both from Australia and overseas) are internationally mobile and will gamble where they receive the best price. Lower tax rates allow casinos to offer inducements to high rollers — such as free accommodation and other services, or discounting losses by a certain percentage — which effectively lowers the price of gambling. If Australian casinos did not match the “prices” offered by other casinos, the economic activity generated by high rollers would be lost.

Thus the lower taxes on high rollers are based on the assumption that they are highly sensitive to changes in price. The casinos’ and governments’ argument in a nutshell is that 10 per cent of something is better than 20 per cent of nothing.

There is some force to this argument. Taxing economic activity which is price sensitive will significantly depress the level of the activity and be ineffective in raising revenue. On the same basis Australian exports (including some services exports such as tourism) will be zero rated under the GST, and there is a debate about the extent to which mobile international capital should be taxed.

Understandably, however, the community is suspicious of arrangements whereby the rich are given a better deal than the poor. And it is difficult to determine the lengths to which the argument should be taken. Should we levy no tax on high rollers because these gamblers increase the level of economic activity?

To maximise revenue, governments may need to set taxes for high rollers at a lower rate than other gamblers. But state governments should be wary of competing directly for high roller business among themselves as this could erode any revenue gains.

A number of economy-wide models have been used to assess the impact of current levels of gambling taxes on the economy, including work commissioned for this inquiry using the Econtech model. This work was primarily commissioned to assess the impact on the economy of regulatory restrictions, but it also contains some analysis of gambling taxes. Consistent with the above conclusion these models each

assume that demand for gambling is relatively unresponsive to price. However, they obtain quite different of results depending on how the model is structured and operated (box 19.3), ranging from significant gains from reducing gambling taxes to virtually no gains. While each model provides a particular insight on how gambling taxes may affect the economy, from the collective results it is difficult to draw conclusions about the appropriate level of gambling taxes, even from a narrow efficiency perspective.

Box 19.3 Economy-wide modelling of the impact of gambling taxes

Econtech (commissioned by the inquiry), the Centre for International Economics and ACIL have used 'general equilibrium models' to investigate the impact of gambling taxes on the economy. In each of the models the demand for gambling was assumed to be relatively insensitive to price.

Econtech modelled the impact of reducing taxes on gambling to the GST rate of 10 per cent (offset by income tax increases). Econtech concluded that there would be gains of between \$477m and \$735m a year. It also found that there would be significant gains from more uniform taxes.

Underpinning this result is the principle that uniform tax rates do not cause efficiency losses because they do not change relative prices. Thus, the model is not structured to explore the option of Ramsey pricing. Ramsey pricing is impractical for general application to a tax regime. However, given the distortions present in the state and Commonwealth tax system, the inelastic demand for gambling has emerged as a key consideration in assessing the impact of tax reductions. In addition, evidence to the inquiry suggests there is less substitution between different gambling forms than normal modelling parameters would suggest. For these reasons the Commission has not used the results of the Econtech model for examining taxation options.

ACIL modelled the impact of a 50 per cent cut in gambling taxes offset by income tax increases. It found that a reduction of taxes on gambling has *almost no* impact on consumer behaviour and the level of industry output in both the short and long run. It attributed this result to the inelasticity of demand for gambling services. Only when ACIL modelled a 50 per cent reduction in taxes without offsetting tax increases elsewhere — effectively a 'free lunch' — did their model show gains to the economy. However, these gains stem from an assumed increase in government efficiency, or reduced outlays, (allowing other taxes not to increase) rather than to the lowering of gambling taxes.

(continued)

Box 19.3 continued

The **Centre for International Economics** modelled the effect of a tax increase that would reduce the level of gambling activity by 1 per cent. It found that the tax increase would reduce Gross Domestic product by \$160m and consumption by \$130m. However, the model was run in short-run mode, which limits the ability of the capital and labour displaced by the reduction in activity to be used for other purposes.

None of the models are able to incorporate the impacts of problem gambling.

In summary, there are many complexities associated with general equilibrium modelling, particularly for modelling gambling which does not have a straightforward price like other goods, and which has addictive qualities for some people. For these reasons there are advantages in analysing gambling taxes using a partial equilibrium approach.

Source: Econtech 1999; ACIL sub. 155 p. 195; CIE (1997).

The conclusion that the demand for lotteries, and other gambling forms, is relatively unresponsive to price provides some support for the argument that taxing gambling at higher rates than other goods may be efficient. However, this does not mean that current tax rates are optimal. The efficiency, or excess burden of a tax depends on its price responsiveness *and* the tax rate. A very high tax on a good which has inelastic demand can still be inefficient.

Economists describe inefficient taxes as having a high Marginal Excess Burden (MEB). The MEB is the efficiency cost of raising another dollar of tax. For instance, income taxes are typically estimated to have a MEB of around 20 cents and are generally considered to be quite efficient. If gambling taxes are efficient, their MEBs will be comparable to that of other relatively efficient taxes such as income or payroll tax. This provides a benchmark for assessing the efficiency of gambling taxes.

Lotteries

Lotteries are very highly taxed — at a rate of 455 percent when the tax is expressed in the same way as we express the GST. This raises the issue of whether it has a high MEB, notwithstanding its unresponsiveness to price. In the absence of reliable estimates of the elasticity of demand for lotteries the MEB cannot be calculated directly. However, it is possible to identify what different elasticities would imply for the efficiency of lottery taxes. For instance:

-
- if lotteries have an elasticity of -0.5 (significantly inelastic) it implies they have a marginal excess burden of around 70 cents. That is, there is an efficiency loss of 70 cents for every dollar raised — clearly an inefficient tax;³
 - on the other hand, if lotteries have an elasticity of -0.3 or lower (highly inelastic), it implies they have an MEB of around 20 to 30 cents — comparable to other efficient state taxes.

While the elasticity of lotteries is unknown, very high tax rates imply that very low elasticities are necessary for lotteries to be an efficient tax. Very low elasticities (highly unresponsive to price) are possible, indeed four out of the six elasticities for Tattersall's lottery products calculated by Access Economics are -0.24 or below (appendix D). Yet it is also possible that the price responsiveness is higher. Certainly, a large majority of goods and services have elasticities higher than -0.3 .

In this situation what should governments do?

The Commission considers that with such a high tax rate there is an in-principle case to experiment with lower lottery taxes on efficiency grounds. However, governments' actions should be guided by whether they have scope to efficiently raise the revenue from other means that would be lost from lowering lottery taxes:⁴

- if state governments have scope to increase relatively efficient taxes, such as payroll tax or land tax, they should experiment with lottery taxes (say an increase in the payout ratio from 60 per cent to 65 per cent) to determine if lower rates would provide benefits to the community; and
- if, governments do not consider there is scope to raise other taxes — or there is scope only to raise taxes which themselves have a high MEB (such as stamp duty) — there would be little value in experimenting with lottery tax rates.

Gaming machine taxes

In contrast to lotteries, the case for experimenting with gaming machine taxes on efficiency grounds is weaker. The demand for gaming machines is also likely to be relatively unresponsive to price (although not to the same degree as lotteries). However, the tax rates on gaming machines are only one tenth of those on lotteries (averaging around 42 percent compared to 455 percent). Over a reasonable range of elasticities this translates into MEBs associated with gaming machine taxes that are

³ The MEB calculations are based on the methodology presented in Albon 1997.

⁴ Another relevant factor is whether Lottery taxes are likely to be the most inefficient state tax. If other taxes are more inefficient, given the ability to raise other revenue is limited, then the most inefficient tax should be reduced before any experimentation with lottery taxes.

not markedly higher than other efficient taxes. For instance at an elasticity of -0.75 the MEB on the average gaming machine tax rate would be around 30 cents.⁵

Another relevant consideration is whether any tax reductions would be passed on to consumers.

Normally, tax cuts can be expected to reduce prices. However, in the gaming machine market there is evidence that this may not always occur. In the United States, tax rates among states vary widely, yet prices do not exhibit much variation. For instance, the differences in gaming machine prices in Nevada, New Jersey, Colorado, Illinois and Missouri do not appear to be at all correlated with the substantially different tax treatment that is applied to gaming revenue in each state.⁶

In Australia, both cross-sectional and time series information also indicates that tax rates do not significantly affect prices (table 19.9 and box 19.4). For instance, tax rates are higher in Victoria than New South Wales, but Victoria has a lower price (or a higher return to players). Paradoxically, in some jurisdictions, the payout to players seems to have increased as the tax rate has increased.

Table 19.9 Gaming machine prices and taxes, 1997-98

1997-98	NSW	VIC	QLD ^a	SA	TAS	ACT	NT
Turnover (\$m)	30 540	18 098	4 058	3 292	207	1 249	232
Expenditure (\$m)	2 989	1 711	601	395	24	127	20
Tax (\$m)	690	707	180	161	10	28	10
Return to player	90.2%	90.5%	85.2%	88.0%	88.4%	89.8%	91.4%
Av tax rate	23%	41%	30%	41%	42%	22%	50%
Price per dollar gamble	10c	9c	15c	11c	11c	10c	9c

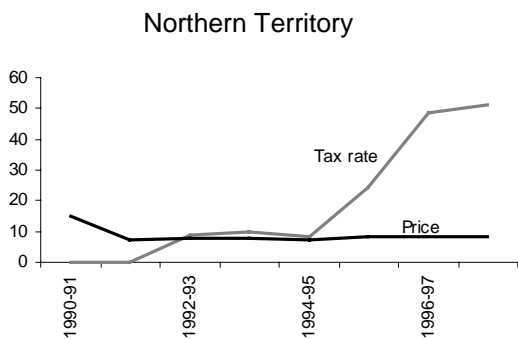
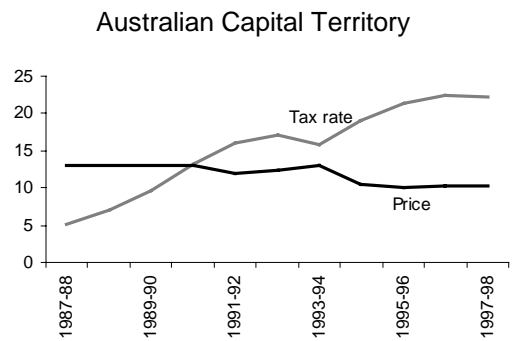
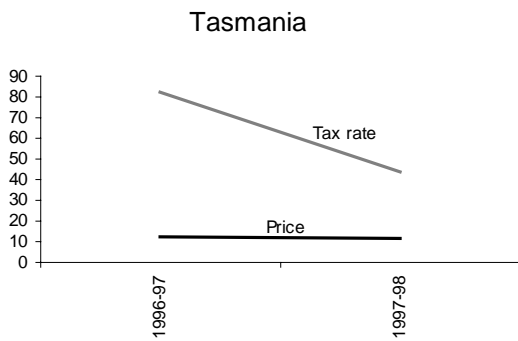
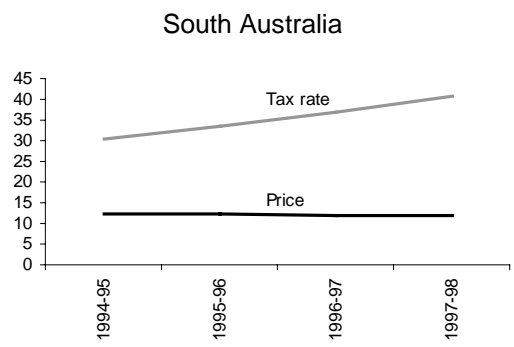
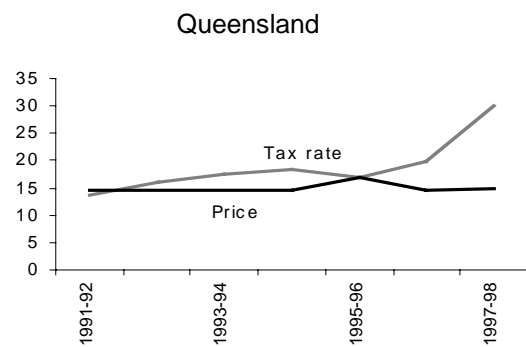
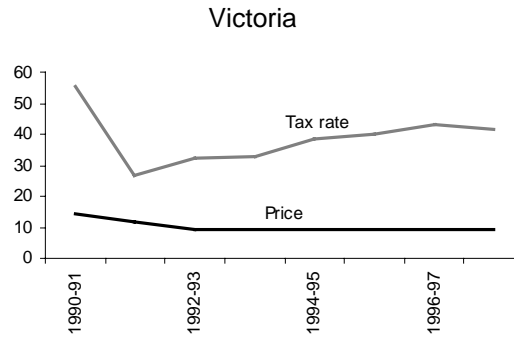
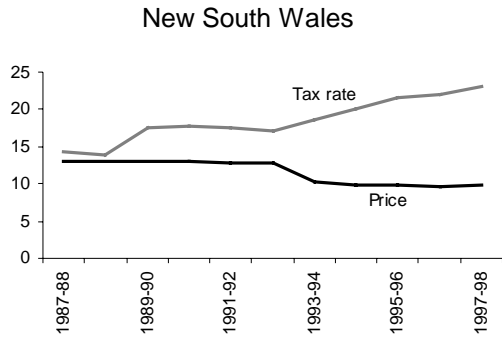
^a Queensland previously had a fixed return to player rate of 85 per cent. This fixed percentage has recently been removed.

Source: South Australian Government (sub. D284, p. 19).

⁵ Of course, the MEB in more highly taxed jurisdictions would be higher, and correspondingly, the MEB in jurisdictions with lower gaming machine taxes would be lower.

⁶ Based on data on machine prices from www.thewizardofodds.com and tax rates from Dunstan (1997).

Box 19.4 Gaming machine prices and taxes, selected years^a



^a Tax rate is government revenue as a percentage of expenditure (for some jurisdictions this revenue includes non-tax revenue such as licences and fees). The price of games on gaming machines is expenditure as a percentage of turnover. Data excludes gaming machines in casinos and includes keno in hotels and clubs. Excludes WA as there are no gaming machines outside Burswood casino.

Source: Tasmanian Gaming Commission (1999).

It is difficult to explain why higher taxes appear to be associated with lower prices. Indeed, the whole question of the relationship between taxes and prices would be a fruitful area for further research.

However, whatever the explanation, based on the evidence, the Commission could not be confident that tax cuts would necessarily deliver better prices to consumers, rather than higher profits to gaming machine operators.

Of course, governments could increase the minimum payout ratio to ensure the tax cut is fully passed onto consumers. However this approach could have significant drawbacks. To ensure larger venues with low cost operations passed on the tax cut, the payout ratio would have to be set quite high. In turn, this may render gaming machine business in smaller venues (with higher costs) uneconomic.

Overall, the lack of evidence that gaming machine taxes are particularly inefficient at current levels, and potential problems in ensuring that any reductions were passed onto consumers, suggests there is not a strong case for reducing gaming machine taxes on efficiency grounds.

On the contrary, as discussed in chapter 21, there are arguments for increasing the tax rates for clubs to that of hotels.

Other gambling taxes

Casinos are the lowest taxed form of gambling. While some sections of the casino market are highly responsive to price changes, overall it is likely that casino gambling is somewhat unresponsive to price changes. Owing to the relatively low tax rate it is, therefore, unlikely that the MEB associated with casino taxes is relatively high.

Wagering faces many different tax rates on different types of bet (for instance bets for a win are generally taxed at a lower rate than a trifecta bet). Overall, it is taxed at a slightly higher rate than gaming machines — around 50 per cent overall. However, like gaming machines there is little evidence that there are high MEBs associated with wagering taxes.

Summary of efficiency arguments

In summary, drawing on the material presented in appendix D as a guide to the MEBs associated with various gambling taxes, the Commission considers that:

- with the possible exception of lottery taxes, the evidence of low responsiveness to price changes (while not definitive) should caution against assuming that

simply because gambling taxes are high, there would be large efficiency gains (via recreational gamblers) from reducing them; and

- the likely variation in responsiveness to price changes among different forms of gambling should caution against assuming that a move towards uniformity among gambling forms would significantly improve resource allocation or improve welfare.

Thus, while the pattern of taxes may not be optimal, on the basis of the available information the Commission does not consider that a case can be made for changing gambling taxes on efficiency grounds, with the possible exception of lotteries.

Taxing excess profits

The second ground for higher gambling taxes is based upon the restrictions governments impose on the availability of different forms of gambling. Governments restrict the supply of gambling activities in many ways, including restrictions on the number of gaming machines (in total and in each establishment), the number of lottery operators, and the number of casino licences. Restricting the range and quantity of gambling services available will tend to increase prices and allow gambling operators to earn greater than normal profits. Gambling taxes and licence fees are one means by which states can capture these windfall profits on behalf of the community.

ACIL (sub. 155, p. 133) considered that the excess profit argument for high taxes may be overstated:

... whether there might be a case for such high taxes to extract economic profit is not as clear cut as it might first appear... In some market segments, for example, casino commission play, the market is highly competitive and this will ensure that economic rents are practically non-existent. In other markets, the question should be asked as to what extent licence fee arrangements already deal with economic rents.

ACIL is correct to point to the difficulty of determining the level of excess profits for different forms of gambling; however, there is clear evidence that they exist for some gambling services.

Potential excess profits will depend on the restriction imposed, the competition remaining in that form of gambling and the competition from other forms of gambling. For instance, despite restrictions there is a degree of competition in the gaming machine market. Otherwise operators would be likely to offer only the minimum legislated payout rates of 85-87 per cent rather than the 89-91 per cent rates observed. On the other hand, New South Wales has the least restrictive gaming machine regulations, yet hotels have bid significant amounts (up to \$60 000) for

additional gaming machine licences. This indicates that the restrictions generate an element of excess profits at current tax rates for operators who have not had to pay licence fees for their machines.

Thus, as noted, reducing the tax rate could potentially increase profits to existing operators rather than lead to increased payout rates.

Similarly the casino operators in New South Wales and Victoria paid over \$300 million each in upfront licence fees, on the basis of the tax regime that would apply to their operations. Again, these bids are a reflection of the after-tax profits they expected to generate.

While lotteries are restricted to one operator in most states, they are mostly operated by governments. As such, problems with windfall gains accruing to private operators generally do not arise.⁷

The approach of a number of governments in combining a tax regime with the auction or tender of licences, is one method of ensuring that the government collects potential windfall gains. It is difficult to determine the exact level of profits resulting from restrictions on competition so it is hard to set a tax rate that would exactly collect this excess profit. Auctioning licences in association with a well defined tax regime, allows the market to determine the value of the licence and helps ensure that any expected windfall gains or excess profits are transferred to government.

Another method of ensuring that windfall profits do not accrue to operators would be for governments to regulate payouts. Governments could set payout ratios on gaming machines, the TAB, and lotteries so that operators could earn only a normal return on their investment despite restrictions on access (although, as discussed, this could cause problems for smaller gaming machine operators). Under this approach consumers would benefit from better ‘odds’, whereas under the taxation approach government revenue will benefit.

Thus, taxes (and licence fees) are a legitimate way, but not the only way, of ensuring gambling operators do not earn excess profits that are created by restricting access to gambling.

If anti-competitive restrictions were eased, this general rationale for higher taxes would be similarly reduced. Moreover, if despite the restrictions, competition

⁷ In Victoria the lotteries are operated by a private monopoly. Even in the absence of high taxes, unless minimum payout ratios are imposed by the government prices may be higher than the costs of production. Thus, any reduction in the tax rate in Victoria would need to be accompanied by an increase in the payout level to prevent rents accruing to the operator.

increased from, say, internet or other new gambling forms, this rationale for higher taxes could again be weakened.

Reducing social costs of gambling through taxes and funding problem gambling services

There is a high degree of consensus that gambling taxes should be used to fund problem-gambling services and community awareness campaigns. While this is a strong argument for taxing gambling, it does not in itself justify high taxes. The resources required to fund these services at appropriate levels are likely to be only be a small proportion of the taxes raised from gambling (less than one per cent).

The third argument for taxing gambling more highly than most other goods is to *reduce* the level of problem gambling. According to this argument, raising the price of gambling reduces the demand for gambling and hence the level of problem gambling.

However, the proportion of recreational gamblers to problem gamblers is high. For recreational gamblers, raising the price will produce no benefit, indeed an efficiency loss, so at best, using taxes in this way is a blunt instrument.⁸

Although this point can also be made with respect to alcohol taxes, there is an important difference between the effect of these taxes on the respective target groups. In most cases problem drinking relates directly to the effects of the excess consumption of alcohol rather than to the financial cost of consumption. In contrast, the financial cost of gambling is the principal problem.

⁸ Simple externality arguments whereby a tax reduces output of a 'bad' to a socially optimal level are difficult to apply to gambling. While all pollution may have a negative impact on the community, gambling is not like pollution. Gambling yields recreational benefits to the large majority of gamblers: only some gamblers suffer problems. A tax reduces the benefits people derive from gambling as well as the costs to some people.

Box 19.5 Do taxes help or hurt problem gambling?

Taxes, and tax breaks, are often used to discourage socially damaging activities and promote socially good activities. However, it is uncertain whether taxes on gaming machines can play a role in assisting problem gamblers.

Taxes raise the price of gaming. For most goods, consumers' can observe prices and price changes directly, and react accordingly. This is more difficult in the case of gaming machines. Gamblers generally can only observe prices and payouts indirectly. For instance, they may observe how much money they lose in a period of time, or how much it costs to play for a certain period.

If taxes were reduced it would be possible to increase payout rates. If problem gamblers did not change their behaviour they may lose their money at a slower rate. For many problem gamblers this could reduce the total amount they lost because the time they have available to gamble is limited by work or family commitments. Thus, reducing tax rates could help existing problem gamblers.

However, for this to occur, gamblers would have to maintain the same intensity of gaming (the amount wagered on each credit and the number of credits played at one time). If problem players increased their intensity of play in response to the tax decrease, potential benefits of the reduction would be lost. The behaviour of problem gamblers is poorly understood and it is uncertain how they would react to a tax reduction. For instance, if they lost less, would they no longer feel a pressure to recoup losses through more intense play? Or would they increase the amount they bet in response to better payouts?

Thus, if governments were considering lowering taxes to help existing problem gamblers, they would need to also regulate the intensity of play to ensure problem gamblers spent less. Even then, reducing taxes could increase the attractiveness of gaming machines and encourage more people into problem gambling over time.

Alternatively, to decrease the attractiveness of gambling, governments could consider a policy of raising taxes. But problem gamblers may not notice small tax increases because of the difficulty of observing price. If they maintained the same intensity of play they would lose money more quickly, which would exacerbate their problems. Again it is uncertain whether they would maintain, reduce or even increase their intensity (to chase losses) in this situation.

Large tax increases would affect payouts significantly and could break the illusion problem gamblers hold that they can win. Large increases would also reduce the number of people who become problem gamblers.

However, this policy would work by fundamentally altering the attractiveness of gaming, and would reduce the enjoyment of recreational gamblers.

Until more is known about the profiles and behaviour of problem gamblers, taxes should be regarded as a blunt instrument to address problem gambling. More focussed instruments to assist problem gambling are those discussed in chapter 16.

Depending on the behaviour of *existing* problem gamblers, high taxes will either not assist, or indeed could worsen their situation.

- if problem gamblers spend to a certain limit on gambling regardless of its price, high taxes will not significantly affect their behaviour — they will simply lose their money more quickly; but
- if raising the price of gambling through higher taxes causes problem gamblers to spend more than they otherwise would (in some cases raising additional funds through crime) it will exacerbate their problems.

Different problem gamblers are likely to exhibit either types of behaviour. In either case, unless taxes were so high as to almost prohibit gaming, high taxes are not a good policy to assist *existing* problem gamblers. This might suggest that *lower* taxes could assist existing problem gamblers. However, at least for gaming machines, the practical scope to do this is limited given the existing level of taxes. Even if the tax rate was reduced from present levels to the GST rate, payout ratios would only increase by 2 percentage points or so — which may not be enough to materially affect the expenditure of problem gamblers. In addition, the behaviour of problem gamblers needs to be better understood to be confident that low taxes, even in principle, would assist them (box 19.5).

As well as assisting *existing* problem gamblers, preventing people *becoming* problem gamblers should also be an aim of policy makers. It is possible that, in principle, gambling taxes have a more beneficial effect in preventing people developing gambling-related problems. Higher prices would tend to reduce the total level of gambling in the community to some extent, and may deter some people from gambling who would later develop gambling problems. However, if, as seems apparent, the demand for gambling is relatively insensitive to its price, taxes need to be relatively high to reduce the level of gambling activity significantly. Again, in relation to gaming machines, the effect of current taxes is to lower payout ratios by about three percentage points, which is probably not enough to significantly reduce the attraction of gaming machines.

In any case, while this argument may be used to support relatively high taxes on some forms of gambling, such as gaming machines, it cannot be used to support high taxes on all gambling forms. For instance, there is no evidence that lotteries are a significant contributor to problem gambling yet they are the highest taxed activity.

Overall, until more is known about the behaviour of problem gamblers, it is not clear that taxes — either high or low — have a large role to play in preventing problem gambling.

The impact of gambling taxes on equity

The principle of equity, or fairness, includes both the concepts of *horizontal* and *vertical* equity.

- horizontal equity is achieved when those with similar incomes or wealth pay similar levels of tax;
- vertical equity implies that higher levels of tax should be paid by those with a greater capacity to pay.

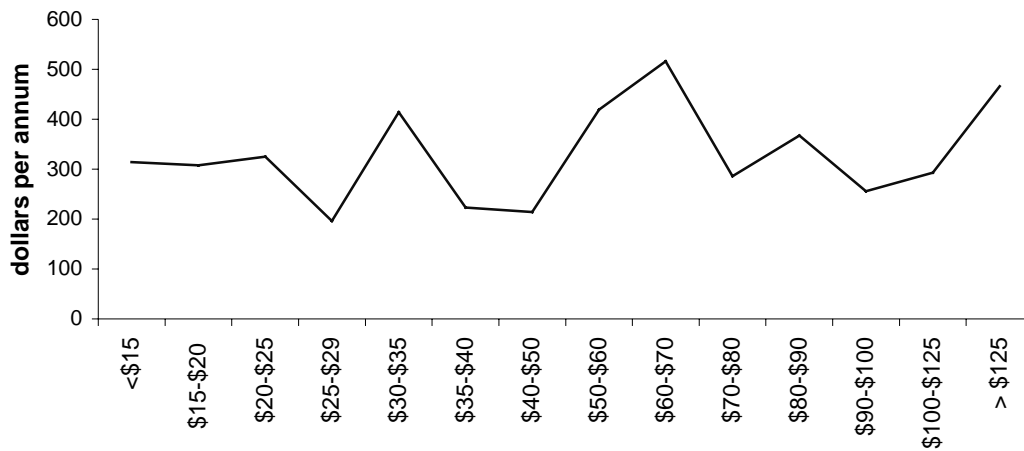
In relation to vertical equity, a tax is defined as *progressive* if the proportion of a taxpayer's income paid in tax rises with income; it is *regressive* if the tax paid as a proportion of income falls as income rises.

The Commission has analysed the equity impacts of gambling taxes using data from its *National Gambling Survey*. As shown in figure 19.3, people on different incomes tend to pay similar amounts of gambling tax (the variation is more likely to be a reflection of the survey sample than actual behaviour). According to the *Survey*, about 65 per cent of gambling taxes are paid by people with an above average household incomes.

Expressing taxes paid as a proportion of income, however, confirms that gambling taxes are regressive (figure 19.4). This result is consistent with the work by Access Economics (sub. 156) and Smith (1998).

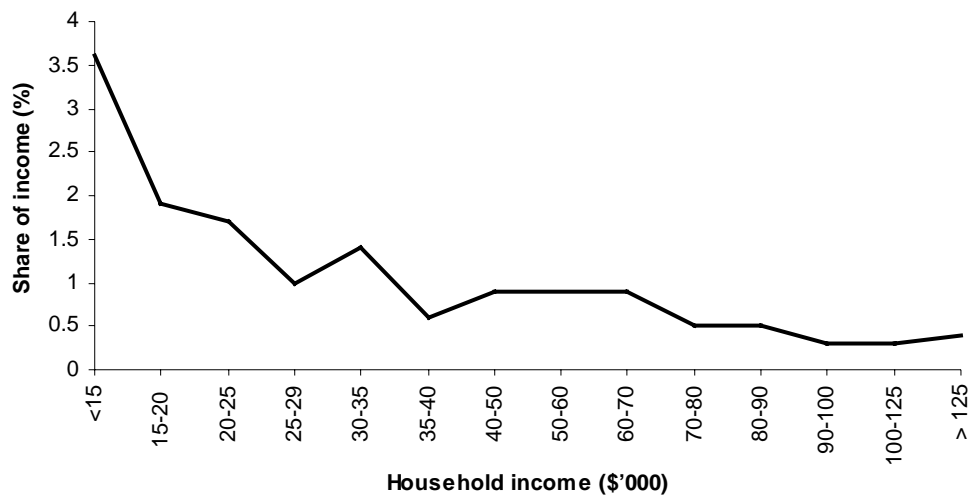
Figure 19.3 **Most gamblers pay a similar amount of gambling tax**

Tax paid by each household income group (for people that gamble). Income is in thousands



Data source: PC National Gambling Survey.

Figure 19.4 Gambling taxes are regressive
Gambling tax as a proportion of household income



Data source: PC National Gambling Survey.

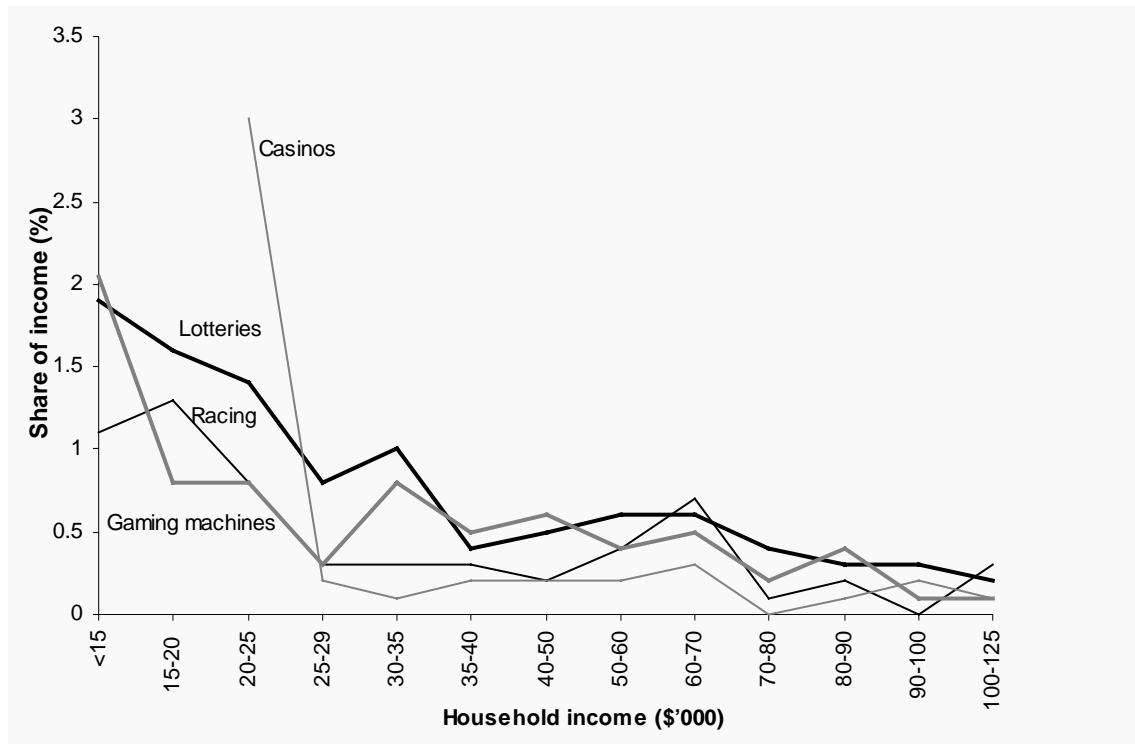
Low income earners pay a greater proportion of their income in tax because they spend proportionately more of their income on gambling. Using Household Expenditure Survey data that takes into account amounts wagered, Smith (1998, p. 35) concluded:

... the pattern of gambling expenditures and player losses has become more concentrated in lower income groups over the decade to 1993-94. Lower income groups have increased their gambling proportionally more than those on higher incomes. According to the HES, gambling spending has nearly doubled as a share of income in the poorest 40 per cent of households, while falling from already low levels in the incomes of the most affluent 40 per cent of households.

While the Commission's survey has shown that, overall, gambling taxes are regressive, the level of regressivity differs among different gambling forms (figure 19.5):

- taxes on lotteries and gaming machines are the most regressive;
- wagering taxes appear to be regressive, although there is significant variability among income groups; and
- other than for the lowest income groups (in which there are few casino players), casino taxes are proportional.

Figure 19.5 **Regressivity differs by gambling form^a**
 Gambling tax as a proportion of household income



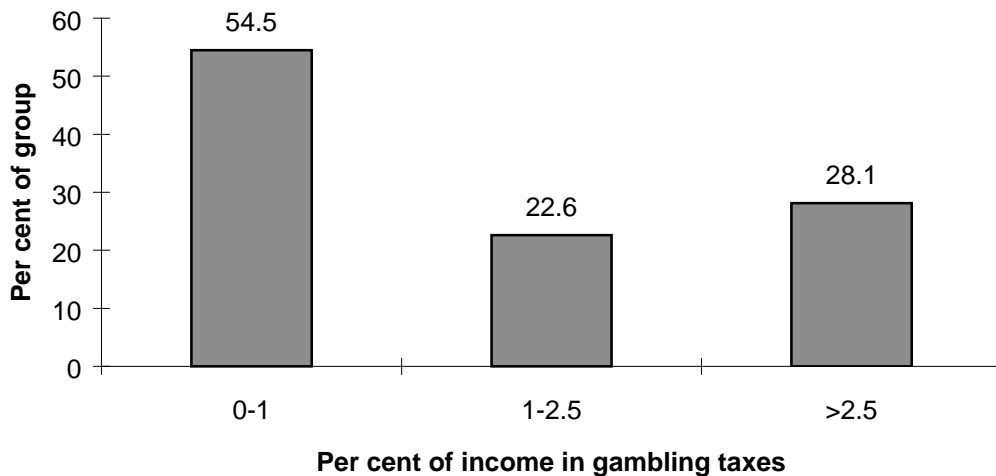
^a Casino data has been presented for incomes under \$25 000 because of low sample numbers (ie few players) at lower income categories.

Data source: PC National Gambling Survey.

Lottery and gaming machine taxes, therefore, provide the most cause for concern on equity grounds.

The regressivity of lotteries and gaming machines is of particular concern because, the distribution of gambling taxes among the poorest 20 per cent of households is uneven (figure 19.6). One half of the group pay less than one per cent of their income in gambling taxes, whereas one quarter pay above 2.5 per cent (10 per cent of the group pay more than 5 per cent). For these latter groups, gambling taxes constitute a significant burden. But, in contrast to taxes on products such as food which is consumed by everybody, it is difficult to identify which low income earners are paying the tax. Whereas the government could effectively compensate low income earners for a tax on food, it would be difficult to provide targeted compensation to offset the regressivity of gambling taxes.

Figure 19.6 **Low income gamblers pay differing amounts of gambling tax**
Percentage of the lowest income quintile paying different levels of gambling tax



Data source: PC National Gambling Survey.

Notwithstanding these concerns, the Australian Hotels and Hospitality Association (sub. 154, p. 24) summed up a common attitude toward gambling taxes in the community:

It is true that gambling taxation is regressive. Lower income people are highly represented amongst gamblers who use gaming machines. Thus lower income people pay a high percentage of the gambling tax. This is a universal fact in respect of all indirect taxes and is unavoidable. *At least gambling is a discretionary spend and no lower income person is forced to pay the tax.* [emphasis added].

Although these comments help explain why there is community acceptance of high taxes on gambling, the so called ‘voluntary’ nature of gambling taxes, like that of many other consumer items, should not mean that their negative equity effects are ignored when devising tax policy.

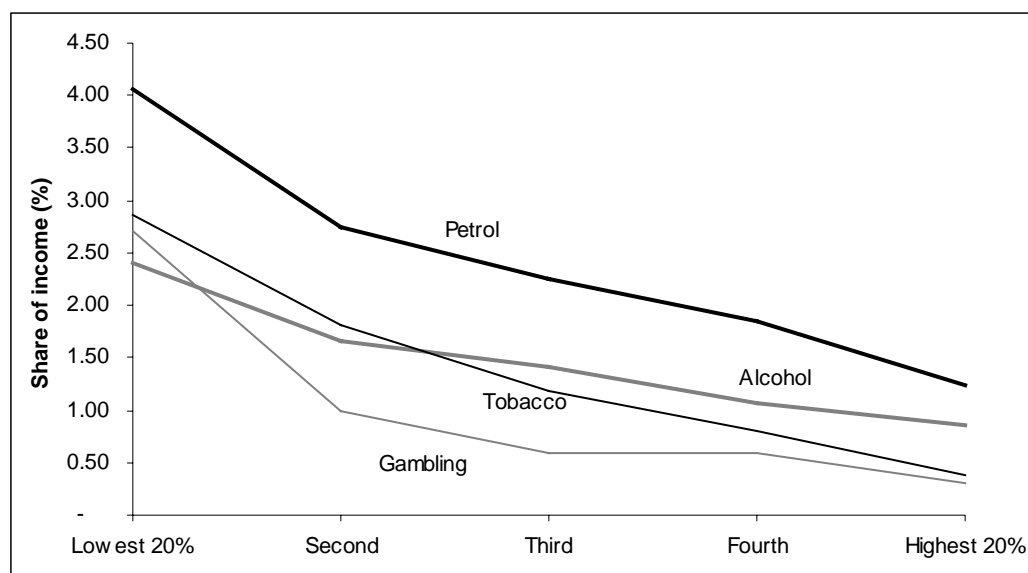
Reducing lottery taxes (and raising the minimum payout ratios) would by definition reduce the regressivity of lottery taxes — the expected return to all gamblers would increase, and lower income earners as a group would not pay as much in lottery taxes. As ACIL (sub D233) has pointed out gamblers would benefit because they would be purchasing a better value product — they would have a greater chance of winning, or a chance at winning a greater amount of money for the same ticket price.⁹

⁹ However, to the extent that the tax reduction were to be reflected in higher prize money rather than lower ticket prices there are two qualifications to this analysis. Firstly, as noted earlier,

Similarly, if as the Commission has concluded, the demand for gaming machines is not particularly sensitive to price, reducing taxes will lead to players spending less on gaming machines. Lower income earners would be left with more money in their pockets. Consideration of lower taxes to improve equity outcomes should, therefore, centre on gaming machines taxes and lotteries.

Such an assessment would need to take account of a range of wider factors, such as the potentially offsetting progressivity of income taxes within the system as a whole, and the available options for raising other state taxes (some of which, such as alcohol, tobacco and petrol are also regressive — figure 19.7).

Figure 19.7 Some other state taxes are also regressive
Expenditure as a proportion of household income by quintile



Data source: Gabbitas and Eldridge (1998), PC estimates.

gamblers find it very difficult to compute the odds of winning lotteries. And for some lotto games it is not possible to calculate them in advance. If gamblers do not know the odds of winning now, it is not clear that if taxes were reduced what *ex ante* benefit they will get from better odds that would also be unknown. Secondly, to the extent that the governments motivation for reducing lottery taxes would be to increase the spending power of low income earners for other goods (i.e. put money back in their pockets) then the policy could fail. The distribution of lottery prizes is highly skewed. A few people win a lot: most people win nothing or very little.

Administrative simplicity

There appears to be considerable debate surrounding the administrative costs of raising taxation revenue. Summarising this debate Smith (1998, p. 47) comments that:

Gambling taxes typically cost more to collect than most other taxes, although how much so is a matter of debate... At issue is whether to count the payment of prizes and the costs of regulating or running gambling enterprises as tax-collection costs.

An apparent source of confusion in this debate is the notion that legalised gambling is simply a device for governments to raise revenue and has no social purpose. For instance Smith (1988) cites Clotfelter and Cook (1989) as saying:

... it is widely accepted that the primary purpose of state run lotteries is to raise revenue (p. 49).

If legalised gambling is solely a revenue-raising activity then all operating costs of gambling operators could be treated as costs of raising this revenue. This would obviously generate very high estimates of the administrative costs of raising gambling taxes.

However, this argument ignores the fact that lotteries (and other forms of gambling) are an entertainment service that many people wish to buy regardless of who runs them and whether they are taxed or not. That governments often restrict people's ability to gamble, does not alter that fact. Indeed, the argument that all gambling is a form of tax collection is analogous to arguing that the costs of producing a movie should be included in the costs of administering the GST.

In short, the collection costs of gambling revenue should be assessed on the same basis as the costs of collecting tax on other goods and services. They include the compliance costs for gambling operators — record keeping, assessing liability, making payments — and the costs to government of processing receipts and ensuring taxes are paid. They do not include the costs of regulating the activity or ensuring probity, as these are costs that will be incurred regardless of taxation arrangements.

Looked at in this way, the administration costs of collecting most gambling revenue appear to be quite low. While tax arrangements across jurisdictions appear to be complex, this need not raise compliance costs for individual operators. Taxes are collected from relatively few sources compared to most state taxes and remittance processes can be automated. Indeed the costs of collecting lottery revenue are likely to be very low. Estimates are not available for the collection costs of other gambling taxes, but they are likely to be no higher than other state taxes.

Conclusion: should gambling taxes be lower?

The taxation of gambling has evolved in an adhoc way, mirroring developments in the gambling industry and the way it is regulated. In this environment, it would be unlikely if gambling taxes were at the most appropriate levels. However, given the poor state of information about how gamblers react to changes in tax rates, it is uncertain what those levels should be.

Analysis of the impact of gambling taxes on problem gambling reflects this uncertainty. Given the lack of knowledge about the gambling behaviour of problem gamblers (and not all problem gamblers are alike) it is not clear that tax is a useful instrument for assisting them or preventing new problem gamblers. Thus, at the present time, problem gambling does not provide a rationale for either maintaining high taxes, or having lower taxes.

Nor is there a sufficient case, based on the evidence, for changes in gambling taxes on efficiency grounds. Because the demand for most gambling forms appears to be relatively insensitive to price changes across a broad range of prices, there may not be significant efficiency gains from reducing rates of tax. In addition, the likely variation in price sensitivity among gambling forms means that there may be little efficiency gain from greater uniformity of tax rates. Lotteries may constitute an exception, however, because of the very high tax rates applying to them.

Taxing gambling at higher rates than other goods is also justified in order to collect the excess profits that arise from restricting gambling. Indeed, in the case of gaming machines in clubs, the current taxes appear to be too low in some cases (chapter 21).

However, on equity grounds high gambling taxes are problematic. They are regressive overall, with this being most pronounced for lotteries and gaming machines. However, equity outcomes from reducing gambling taxes would also depend on what alternative taxes were available to states and territories to replace lost revenue, and their degree of regressivity.

In sum, there are both efficiency and equity grounds for experimenting with lower lottery taxes. While the levels of other gambling taxes are unlikely to be optimal, on the basis of available information there is not a strong, or unambiguous case for general reductions.

19.7 Design issues

As described in appendix M, there is enormous variation in the design of taxation arrangements between forms of gambling and between jurisdictions. Many of these

variations are of little material importance. However, concerning wagering, two issues of significance are the use of turnover taxes for bookmakers, and the implications of a national market for wagering. Another design issue that policy makers should examine is the use by a number of jurisdictions of sliding scales of taxation (based on revenue) for gaming machines.

Wagering

Turnover taxes

Turnover is used as the base for bookmakers tax in all jurisdictions and for sports betting in the Northern Territory. While this arrangement is longstanding there are a number of disadvantages for bookmakers associated with the tax. The most significant disadvantage is that it places all risk for variation in cashflow with the industry. The profits of bookmakers vary significantly from race to race and meeting to meeting. However, under the turnover tax, bookmakers pay a certain proportion of all bets wagered regardless of whether a race or a meeting yielded any profits. While over time bookmakers will achieve some average return, the turnover tax will exacerbate any lumpiness in the timing of profits. The tax arrangements, therefore have the effect of raising the risk (both positive and negative) faced by bookmakers (and probably short term financing costs) relative to a tax that used gross profit as the tax base.

Turnover taxes have traditionally been used, because they have represented the most verifiable and auditable measure of bookmakers takings. There have been concerns that gross profits may be open to manipulation and therefore an unreliable tax base.

However, the Commission notes that, increasingly, bookmakers' operations, like most gambling operations, are electronically based, or at least involve an electronic record of all bets. For instance, Centre Bet in the Northern Territory keep audio records of all bets. This presents an opportunity to begin to move to gross profit taxes. Initially governments could introduce a gross profit tax for those bookmakers that can present verifiable profit figures. This would provide an incentive for bookmakers to make any improvements required to their recording systems.

The national market for wagering

Like gaming machine taxes, wagering and sports betting taxes are set at the state level. However, in contrast to gaming machine gambling, wagering and sports betting can more easily take place in a national rather than state market — such as

by placing bets on interstate races through the local TAB, or by placing bets on local races through a telephone bet with an interstate bookmaker.

In a national market differences in state taxes can potentially affect the level of wagering activity among states.

As described in appendix M, wagering taxes differ across jurisdictions. Although these differences appear relatively slight for TAB (racing) and bookmaker taxes, they are more marked in the case of sports betting. For example, most jurisdiction's taxes on bookmakers vary by only one percentage point, whilst for some sports betting there can be differences of up to ten per cent.

It is unclear how significant cross border bets are in the turnover of TABs and bookmakers. In fact, to minimise leakage to local government revenues, most jurisdictions do not allow advertising by non-local betting operators (these provisions are currently being reviewed under the legislative review requirements of the Competition Principles Agreement) (NSW Dept of Gaming and Racing 1999).

Nevertheless, the differences in taxes across jurisdictions give operators in lower tax jurisdictions the potential to undercut the prices offered by operators in higher tax jurisdictions. Although the extent to which this actually occurs is unclear, there is certainly a stronger incentive to pass on tax cuts where consumers may choose from operators in different states and territories.

While this creates a better deal for consumers, it may erode government revenues in the more highly taxed jurisdictions, and would be likely to place pressure on state and territory government to further align rates.

Sliding scales of tax rates for gaming machines

A number of jurisdictions — New South Wales, Queensland, and South Australia — have a scale of tax rates for gaming machines based on the level of revenue (gross profit) from machines. As shown in figures 19.8 and 19.9 tax rates (on additional revenue) increases as revenue increases. For instance in New South Wales clubs, the tax rate is 20 per cent on between \$200 000 and \$1 million, but rises to 25 per cent on revenue above \$1 million. This obviously has the effect of taxing venues with smaller numbers of gaming machines at a lower rate than larger venues.

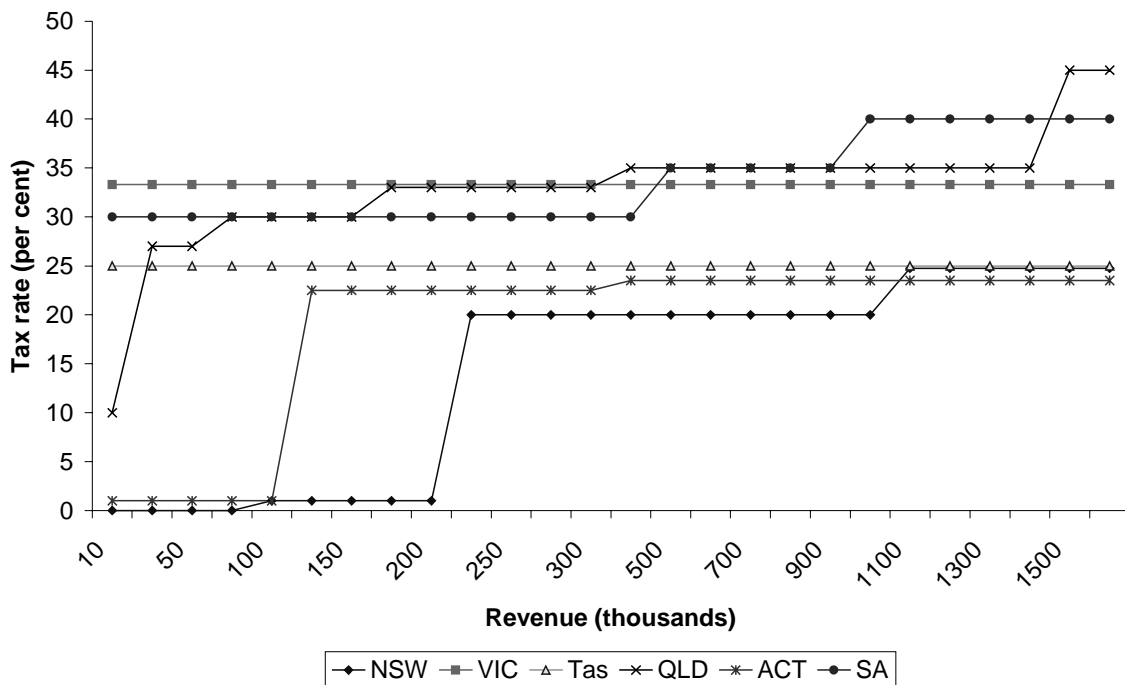
In terms of costs, aside from a revenue loss to government, the policy could serve to increase the penetration of gaming machines in the community. All small clubs

have a strong incentive to have a number of gaming machines since at low tax rates they will be highly profitable.

In the case of hotels, it is difficult to find a justification for providing tax advantages to smaller hotels relative to larger hotels. Consistent with the arrangements in most jurisdictions, taxing all hotels as a single rate would appear to be a sensible policy.

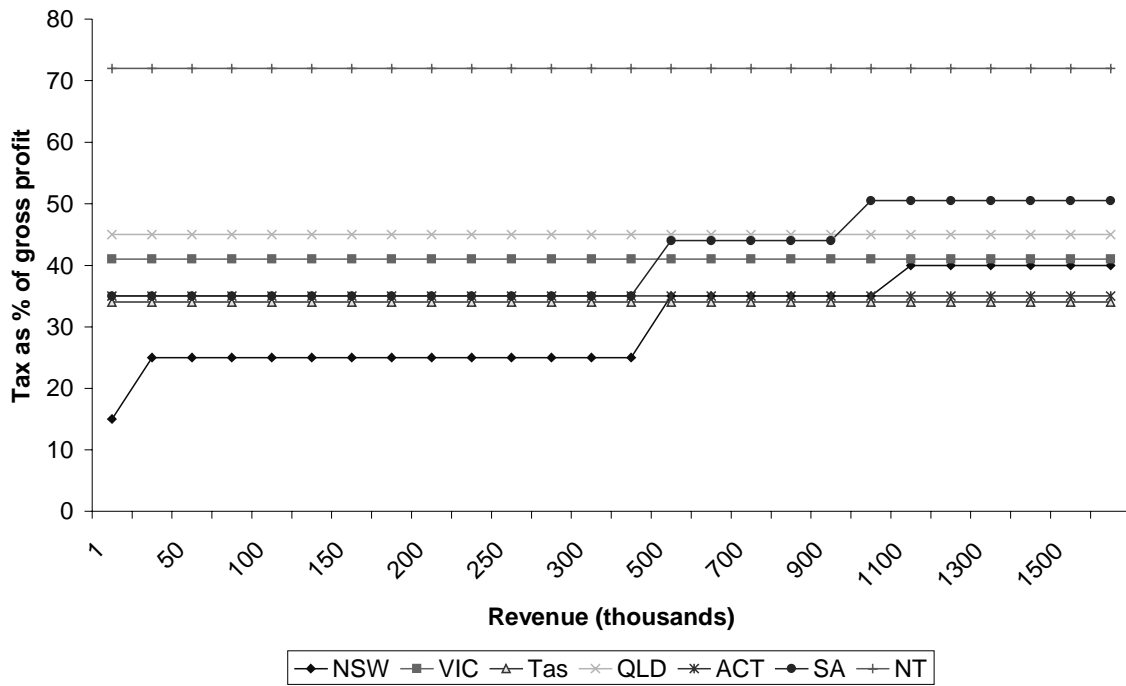
While there could also be some advantages in taxing all clubs at the same rate, any moves to uniformity would need to take account of the impact on smaller clubs — which often exist for specific community purposes — and the resulting impact on local communities. The taxation of clubs is discussed further in chapter 21.

Figure 19.8 Tax scales for gaming machines in clubs



Data source: NSW Treasury (1999).

Figure 19.9 Tax scales for gaming machines in hotels



Data source: NSW Treasury (1999).

20 Earmarking

Box 20.1 Key messages

- About \$1.5 billion, or one third, of gambling revenues are earmarked for specific purposes.
 - Health services receive the majority of earmarked funds (\$1.1 billion).
 - Problem gambling related services are often funded through earmarking but the amounts are a small proportion of total earmarking (less than two per cent of the total).
- Budget funding is generally preferable to earmarking arrangements, because earmarking makes it more difficult for governments to set and reset funding priorities.
- However, earmarking for problem related gambling services, gambling research and community awareness campaigns is appropriate, since gambling has created the need for such services, which otherwise may not be adequately funded.
- Earmarking for other uses does not appear to have created widespread distortions to budget spending (although there are problems at the margin). However, it offers no particular advantages over budget funding and plays a dubious role in promoting some forms of gambling.

All governments, to varying extents, earmark (or hypothecate) part of gambling taxation to social programs. Earmarking has a long history in Australia and overseas. A number of lotteries were established in Australia in the 1920s and 1930s to provide funds for community projects (as well as to combat illegal gambling). Large-scale projects such as the Sydney Opera House were partly funded from gambling revenue, and funds continue to be earmarked for such purposes.

Of the total gambling revenue (taxes charges and other levies) of \$3.8 billion in 1997-98, nearly \$1.5 billion, or a third, is earmarked for specific purposes. Victoria accounted for over one billion of earmarked revenue in 1997-98 (table 20.1).

Gambling taxes are earmarked for a variety of purposes. All states earmark revenue to fund gambling-related activities, such as problem gambling services and research into the impact of gambling on the community. However, hospitals are the major beneficiaries of earmarked funding, particularly in Western Australia (\$60.5 million in 1997-98) South Australia (over \$80 million) and Victoria (where around

\$1 billion went to the Hospitals and Charities fund). Other activities that receive earmarked revenue include sports, cultural activities such as the Perth Festival, and a wide range of charity and community-run activities.

Earmarking takes three broad forms, with most states employing more than one model.

- The first model involves gambling revenue being channelled into ‘community benefit funds’. Grants are then made from these funds to projects that are consistent with the funds’ purposes. Although funds are distributed via grants, they often support ongoing activities. Most problem gambling services are funded from community benefit funds, although the revenue is also distributed to a much wider range of activities.
- Hospital funds represent the second type of earmarking and are used in South Australia, Victoria and Western Australia. These funds receive a fixed percentage of revenue from particular gambling activities which is then reappropriated to the hospital sector, as part of normal budget processes.
- The third form of earmarking is through direct grants, such as operate in Western Australia and New South Wales. In Western Australia, the Lotteries Commission administers a program to distribute revenue to community groups. In New South Wales, registered clubs can distribute up to 1.25 per cent of gaming machine revenue to health and community groups, as an offset to the tax they would otherwise have to pay. Generally direct grants are made as one-off payments to community groups, often for relatively small amounts.

In considering the merits of earmarking, a distinction can be drawn between earmarking gambling revenues for problem gambling services and earmarking for other purposes such as health, sport or cultural activities.

Table 20.1 **Community benefit levies on gambling**

<i>Fund</i>	<i>Funding</i>	<i>Expenditure estimates (\$'000)</i> <i>1997-98 unless indicated</i>	
New South Wales			
Casino Community Benefit Fund	2% of casino revenue	Problem gambling	3 729
		Gambling research	257
		Gambling programs	795
		Health	913
		Aged Care	115
		Other	3 115
Sport and Recreation Fund	28.2% of Sports TAB player loss		1 429
	Sub-total		10 353
Victoria			
Community Support Fund	8.33% of gross profit from gaming machines in hotels	Health	1 358
		Other	84 172
Hospitals and Charities Fund	1% of casino revenue		8 043
	12.5% of keno revenue		2 590
	33% of gaming machine revenue in clubs and hotels		553 785
	28.2% of player loss from TABs lottery revenue allocated by treasurer.		261 382
Mental Hospitals Fund	Lottery revenue allocated by treasurer		120 560
Tourism Victoria	5 yearly payments of \$1m from the casino		62 115
	Sub-total		1 095 005
Queensland			
Gaming Machine Community Benefit Levy	4% of Keno tax and an allocation of 8.5% of gaming machine tax	Health	1 552
Children's health	Fixed annual sum from Golden Casket revenue	Other	13 967
		(1996-97)	1 500
Casino Community Benefit Funds	1% of casino revenue		4,700
Charities and Rehabilitation Fund	A (variable) percentage of gaming machine and keno revenue		26,400
Sports and Recreation Benefit Fund	1% of commission of 25% of Queensland's pool of Footy TAB		43,700
	Sub-total		134.119
South Australia			
Hospitals fund	Lotteries revenue and 14% of keno subscriptions		73 500
	45% of TAB surplus		10 125
Gamblers Rehabilitation Fund	Voluntary contributions by the Australian Hotels Association and Licensed Clubs Association		1 500
Community Development Fund	Allocation from gaming machine taxation	Health	6 000
		Other	13 500
Allocation by the Department of Recreation and Sport	35% of net soccer pools sales		93
Racing Industry Development Authority	0.5% of net sports betting sales		4
Recreation and Sports Fund	15-18% of net sports betting sales		131

(continued)

Table 20.1 continued

<i>Fun'd</i>	<i>Funding</i>	<i>Expenditure^a (\$'000)</i> <i>1997-98 unless indicated</i>	
South Australia (cont.)			
Housing Improvement Fund	1% of casino gaming revenue (administered by SA Housing Trust)		na
Charitable and Social Welfare Fund	from gaming machine revenue		3 000
Sport and Recreation Fund	from gaming machine revenue		2 500
	Sub-total		110 353
Western Australia			
			(1997)
Hospital Fund	16% of lottery turnover		60 500
Lotteries Discretionary Fund	Voluntary contributions from the Lotteries Commission of WA, Burswood Resort Casino and WA Totalisator Agency Board		8 309
Lotteries Direct Grants	5% of lottery receipts plus remaining funds after lottery costs		45 105
Allocation by the Minister for Sport and Recreation	20-25% of net sports betting sales		189
Upkeep of Burswood Island	1% of casino gaming revenue		3 588
	Sub-total		117 691
Tasmania			
			(1996-97)
Community Support Levy	2% of gross profit from gaming machines in clubs and 4% of gross profit from gaming machines in hotels.	Health	203
		Other	506
	Sub-total		709
Northern Territory			
Community Benefit Levy	25% of gross profit from gaming machines in hotels	Fund balance ^a	2 000
Australian Capital Territory			
Community Services Grants program	Derived from a percentage of gambling revenue	Problem gambling	86
Clubs and Racing Development Fund	4% (of the net % of totalisator revenue received by government)		223
Distributed to Clubs	0.25% of 1.25% of sports betting taxes		not available
	sub-total		309
Sum of states and territories			1 470 539

^a In the NT payments to the Community Benefit Fund were suspended in July 1997, pending the Gaming Machine Industry Review, however the balance of the fund is over \$2 million.

Source: Submission 155; Alder (1998) for NT data; the ACT Department of Education and Community Services for ACT Community Grants data; expenditure estimates for health and problem gambling funds from submission 163 and expenditure on sports, recreation and other funds were estimated using data from the Tasmanian Gaming Commission eg. NSW Sport and Recreation fund expenditure was estimated as 28.2% of expenditure on sports betting.

20.1 Earmarking revenue for problem gambling services

Earmarking for problem-gambling services, gambling research and community awareness campaigns currently account for less than two per cent of total earmarked funds. Given that these services are directly related to gambling activity, earmarking for these purposes has been relatively uncontroversial. Indeed, it was generally supported by participants. For instance, the Mental Health foundation stated:

The Foundation endorses the practice adopted by the Victorian and NSW Governments, wherein a specified portion of gambling revenue is channelled directly to fund services that assist gamblers. In Victoria, the Break Even and G-Line problem gambling services were introduced with specific allocations from the Community Support Fund, and did not exist prior to the Fund being established by Government (sub. 51, p. 3).

In addition to a clear community perception that gambling operators should be seen to fund problem gambling services, there are two practical reasons for doing so.

- Firstly, earmarking funds for problem gambling is a form of pre-commitment by government to support these services. This can remove the perception, reasonable or not, that governments may be reluctant to fund these service adequately because of the revenue benefits from gambling.
- Secondly, requiring operators to fund these services may reinforce the link between gambling and the problems it can cause for some people. If the public is aware that gambling taxes fund problem-gambling services it can implicitly act as a form of warning to balance some of the more positive messages that are conveyed by using gambling taxes to fund worthwhile community projects.

The Commission accordingly supports the earmarking of gambling revenue for problem-gambling, harm minimisation, and community awareness campaigns, and for the funding of problem-gambling related research and data collection.

However, there are a range of questions about the design of earmarking schemes. A key one is whether *all* gambling activities should fund these services, or just those that contribute most to problem related gambling?

In principle, one benefit of earmarking a percentage of funds to problem gambling is that if gambling increased, funding would automatically become available to handle any increase in the number of problem gamblers. On the other hand, it is not clear that falling gambling levels would immediately lead to less problem gambling, so mechanisms are needed to ensure gambling-related services do not suffer if gambling revenue declines in certain markets. In addition, it is also important to ensure that services funded through earmarking are subject to the same level of accountability as other government funded programs.

20.2 Earmarking for other programs

In contrast to problem gambling services, the merits of earmarking revenue for services that are unrelated to gambling such as core health, sporting or cultural activities are more contentious.

One issue is the role earmarking appears to serve to promote gambling. For instance, the Western Australia Government echoes a common view among researchers that the rationale for earmarking is political, not economic or social:

These forms of revenue hypothecation are often justified on the basis that they increase gambling's acceptability to the community, making it easier for agencies such as the Lotteries Commission to market their products, while at the same time negating opposition from socially concerned groups over gambling's social costs (sub. 82, p. 49).

This view is supported by the Institute of Public Affairs which stated that earmarked funds have been set up 'in order to ameliorate pressure groups opposed to gambling' (sub. 12, p. 8). The Commonwealth Department of Health and Aged Care also considered that:

... there is a risk that this hypothecation is disguising the impact both of the revenue raised and of the gambling activity being promoted (sub. 163, p. v).

Whether the promotional role of earmarking is a cause for concern in itself, depends largely on the activity being promoted, and whether or not it is harmful. For instance, it would obviously be of concern if governments promoted smoking by earmarking smoking taxes to cultural or sporting activities. In the case of gambling, some forms contribute more to problem gambling than others. Lotteries do not contribute significantly to problem gambling, so earmarking their funds to social purposes is unlikely to cause problems. Lottery customers may even derive some additional benefit if they feel they are contributing to charitable causes.

However, to the extent that earmarking promotes gaming machines, casino gambling and wagering — activities which do attract a significant level of problem gambling — its role is questionable.

This issue aside, participants considered earmarking or hypothecation has both advantages and disadvantages compared to budget funding.

Support for earmarking

The Commonwealth Department of Health and Aged Care recognised that there were potential problems with earmarking, but considered that:

... earmarking, per se, does not necessarily result in these negative impacts. Rather, it is the way in which hypothecated funds are managed that is critical (sub. 163, p. vi).

The Department considered that earmarking should be regarded as a complementary process to normal government funding processes rather than a replacement — that is, it should serve to increase total funding for earmarked activities. It particularly supported the community-based nature of some earmarking arrangements.

... the pattern of mostly one-off grants established by the States has the capacity to foster self help particularly in the States which require communities to make their own contribution to costs ... At times, communities need ‘a bit extra’ to cope with set-up costs or large maintenance items, but can manage day to day costs (sub. 163, p. viii).

Some participants also suggested that earmarking was as a way of returning gambling taxes to the communities that generated them. This view was strongly put by participants from disadvantaged areas with high concentrations of gaming machines. As the City of Greater Dandenong said:

Due to high density of gaming machines in Greater Dandenong, the community is contributing a substantial and disproportionately high level of taxes and charges ... Council is concerned that Greater Dandenong should receive an appropriate level of benefit and return from these taxes and charges (sub. 82, p. 7).

The Break Even – Western Gambling Service also said:

The distribution of funds should consider the areas of highest gambling usage and hence contribution to taxation ie. Low-income areas. Through our community education services we hear a common request that these funds should be directed back into these communities (sub. 64, p. 1).

One aspect of this argument is that earmarking funds for disadvantaged communities is a response to the regressivity of gambling taxes. The motivations behind this approach are sound, and it would be feasible to make grants of gambling revenue to councils based on the average income of households in the council area.

However, this approach may not effectively target the problem of regressivity, nor address regional inequality comprehensively. The basic drawback is that individuals gamble, not communities. Within any community there are widely differing levels of gambling. Earmarking funds for disadvantaged communities would assist many people who do not gamble, as well as the gamblers who contributed gambling revenue. Such an approach would, therefore, be a blunt instrument for offsetting the regressivity of gambling taxes.

Another aspect of this argument is that gambling causes a drain of resources away from already disadvantaged areas. While the level of economic activity in disadvantaged regions is of concern to policy makers, it is generally more

appropriate to address this in a holistic sense, rather than devising policies to address the financial impact of individual government policies.

Potential problems associated with earmarking and hypothecation

Hypothecation arrangements are subject to a number of criticisms. These include, lack of budget scrutiny for earmarked programs, uncertainty of funding, and additional administrative costs for recipients. These need to be explored in the case of gambling revenue.

Lack of budget scrutiny

The Western Australian Government summarised the potential problems associated with earmarking as follows:

the hypothecation of State revenues such as these can be criticised on the grounds that it affords a privileged budgetary position to specified functions (ie. these functions are not subject to the scrutiny of the annual budget process). Revenue hypothecation can also reduce budgetary flexibility and may, over time, result in a distortion of priorities and allocation of resources (sub. 76, p. 49).

Ideally, earmarked revenue should be taken into account by Governments when deciding the level at which activities should be funded. Otherwise, budget funds may not be allocated to the highest valued uses in the community. Spending may be biased in favour of earmarked programs.

The extent to which earmarked gambling revenue is taken into account is difficult to determine.

Hospital funding is the 'big ticket' item in hypothecation of gambling revenues. The Department of Health and Aged Care found little evidence that earmarking has had an impact on overall hospital funding. States that earmarked funding to hospitals provided neither higher or lower funding in total than states that did not use earmarked funding (sub. 163, p. 30).

This finding is consistent with the conclusion of Smith (1998, p. 41) who stated that:

The consensus is that earmarking revenue does not severely restrict legislatures flexibility in spending if expenditures can be substituted within the general budget. Earmarking merely reshuffles government spending and revenues rather than increases resources for the funded social programs.

On the other hand, activities that receive earmarked revenue via *grants* appear more likely to escape normal budget scrutiny. For instance, the Western Australian

Lotteries Commission receives around 2500 applications for funding each year, of which around 90 per cent are successful (sub. 82, p. 55). Such a high success rate suggests that the funding criteria for the program are very broad, which would make it difficult to assess the effectiveness of funding. Although the nature of grant programs to community groups is such that it is often more difficult to assess their effectiveness than for other programs, the Western Australian program appears to be a unique product of earmarking.

In New South Wales, clubs with gaming machine revenue greater than \$1m can make donations of up to 1.5 per cent of their gaming machine revenue toward general community development and support activities, to offset a proportion of the tax they would otherwise pay. Funding must be provided to community groups serving the disadvantaged (at least 0.43 per cent escalating to 0.75 per cent in the third year), or to other community development and support activities, including certain sporting and recreational activities (0.83 per cent decreasing to 0.75 per cent in the third year). This is a form of earmarking that is administered privately by clubs, but which is also required by the enabling legislation to be informed by advice from social welfare agencies.

While this scheme may appear attractive because grants are made in the regions that raise gaming machine taxes, there appears to be minimal scrutiny of the effectiveness of these arrangements by government, and it is difficult to tell whether funding is allocated to the highest priority areas in the community. Certainly, it is almost impossible for the New South Wales Government to take this form of funding into account when deciding other budget allocations. **The Commission considers that this arrangement is unlikely to deliver the level of benefits to the community that would be delivered if the tax were paid into consolidated revenue and allocated as part of normal budget processes.**

Uncertainty of funding

While gambling revenue has in total increased, some newer forms of gambling such as casinos may have increased at the expense of traditional forms, such as racing. If an activity depends on hypothecation of revenue from one form of gambling its funding could be subject to fluctuation as revenue from that activity fluctuates.

The degree of uncertainty associated with government funding will depend upon the extent to which earmarked funding is integrated with budget priority-setting processes. If hypothecation is well integrated with these processes, it is likely that major fluctuations in gambling revenue — either positive or negative — can be handled though adjusting other budget allocations.

Since earmarking does not appear to affect significantly the level of spending on social activities, the majority of earmarked funding appears to be well integrated with budget processes.

However, there is evidence that for some activities fluctuation in gaming revenue has caused fluctuation in funding. For instance, in its 1996-97 Annual Report, the Western Australian Lotteries Commission reported that:

The Commission's failure to achieve revenue targets this year has had consequences, in particular for our 'statutory funding' recipients, the Health Department, the Ministry of Sport and Recreation and the Department for the Arts, who receive funding based on a percentage of turnover. For these recipients uncertainty in the gaming market makes longer term planning particularly difficult (p. 17).

As a result of the fall in lotteries revenue, it appears that funding for hospitals in Western Australia contracted by \$2 million in 1996-97. It is clearly undesirable for funding to hospitals to be dependent on outcomes in a particular gaming market, rather than being based on an assessment of health priorities against other areas of expenditure.

Even though cases like this may not be widespread, they do illustrate the danger of relying of earmarked revenue for funding rather than normal budget funding.

Administrative and accountability issues

Some participants alleged that there were some administrative problems with the grant processes under some of the 'community benefit funds'. For instance, the Wesley Gambling Counselling Service in New South Wales said that:

Funding needs to be regular and ongoing to these types of services as the time taken in yearly submissions and the angst of waiting to see if your submission is accepted is not a professional way of managing a counselling service (sub. 26, p. 18).

However, this is not a feature of all community benefit funds. Under the Victorian program, funds can be committed for up to a three year period.

Other concerns related to the accountability of earmarking programs. For example, in 1996 the Auditor General in Victoria concluded that:

There is a need for application of a consistent approach to assessment and approval of distributions from the Fund and for participation in the decision-making process by all relevant Ministers (VAGO 1996, p. 3).

He also pointed to the need to develop annual reporting on the funds effectiveness, as a means of reinforcing the Government's accountability for management of the fund (p. 4).

These concerns relating to individual funds and grant arrangements illustrate that good program design principles — embodying transparent funding criteria and clear accountability measures — need to apply as much to earmarked programs as to any government program. They are thus not a problem inherent with earmarking as a concept, but with its implementation in particular jurisdictions.

However, one potential problem with earmarking, no matter how well administered, is that of agencies having to apply for funding from multiple sources. For instance, the Wesley Gambling Counselling Service receives some funding from the Community Benefit Fund and some from the Department of Community Services. This creates duplication of administrative effort and possibly the need to meet multiple performance criteria. Funding activities entirely from one source would overcome these problems, although this may not be practical in all cases.

20.3 Conclusions

The Commission supports earmarking gambling revenue to fund problem related gambling services, gambling research and community awareness campaigns. Since gambling directly creates the need for these services it is appropriate that gambling revenues explicitly fund them, particularly given potential for them to be underfunded otherwise.

While earmarking revenue to other activities is widespread, there do not appear to be particular advantages of earmarking over budget funding:

- although earmarking need not reduce accountability, distort budget spending or create uncertainty in funding for particular activities, there is a greater chance of these problems occurring than if gambling revenue were directed through consolidated revenue;
- earmarking gambling revenue to disadvantaged communities to offset the regressive effects of gambling taxes could have some benefits, but is unlikely to adequately target those who pay the gambling taxes; and
- earmarking of gaming machine and casino revenue can also serve to promote these activities. Such mechanisms for promotion are questionable in view of the social costs of these gambling forms.

21 Mutuality

Box 21.1 Key messages

- Clubs play a major role in Australian society, providing significant benefits to both their members and to the local communities in which they operate.
- However, the growth of gambling has led to significant (and because of the mutuality principle, largely untaxed) income flows to *some* clubs in *some* jurisdictions, changing the character of a segment of the club sector.
- The Commission estimates that the tax forgone arising from the application of the mutuality principle to clubs was around \$100 million in 1997-98.
- In some clubs the revenue from poker machines amounts to 80 per cent or more of total revenue, higher than is found in some casinos. Gambling revenues have grown rapidly in clubs — especially in New South Wales and the ACT. For example, real losses per adult from gaming machines in New South Wales clubs grew by a factor of about 17 from 1957 to 1998 — and are currently around \$500.
- Overall, gambling income was just below 60 per cent of income earned by all clubs in New South Wales in 1997-98, and nearly 70 per cent in ACT clubs. In South Australia, by comparison, it was about 22 per cent, while for Tasmania, Western Australia and the Northern Territory combined it was around 10 per cent.
- There is evidence that clubs use gambling revenue to subsidise bar and other services to members. The odds for gaming machines are also slightly better in clubs than hotels. However, these better average odds appear to be more a product of some scale advantages enjoyed by super clubs (which are unencumbered by venue caps) than mutuality itself.
- The growth of gambling revenues in clubs, combined with mutuality, has the potential to result in excessive capital allocation in club facilities and other investments. It may also reduce equity by reducing tax revenues, which in turn crowds out government expenditure.
- The principle of mutuality is not, by itself, the source of the problems identified above. Mutuality has had unintended consequences for equity and efficiency when segments of the club industry gained access to substantial revenue from gaming machines.
- There are a number of options for addressing the problems raised by mutuality. Of these, the one which appears to offer the best prospects for remedying the worst problems, while allowing for the different contexts of clubs in different states, is the imposition of a higher level of state tax on gambling in clubs in some states.

21.1 Introduction

Clubs serve a very important role in Australian communities, providing:

- a mechanism by which people can pool resources for a common purpose;
- a focal point for local communities;
- a means of strengthening social cohesion; and
- a way of funding many charitable, sporting, recreational and community groups, which by themselves, lack the ability to raise funds efficiently.

But gambling has changed the circumstances of some parts of the club industry. While clubs play a pivotal role in Australian communities, the privileged access by clubs to highly profitable gambling opportunities, particularly gaming machines, *combined* with mutuality (which protects much of the revenue of clubs from income taxation) has been seen by some as unfair, inefficient and socially undesirable (Australian Hotels Association (NSW), sub. 68, p. 137). There has been a large expansion of part of the club sector in some states and an increased concentration on gambling as their main business. This has skewed the traditional nature of clubs — and has led to the development of ‘super clubs’ in some areas. This then raises the question of whether the club cocktail of mutuality, and a heavy and rapidly growing dependence on gambling revenues by a segment of the club industry, is one which policymakers should accept without restraint.

The chapter is organised as follows:

- section 21.2 is concerned with defining the mutuality principle;
- section 21.3 then examines how mutuality affects clubs, examining which sorts of income are taxed, and which are not;
- in considering any change to the current tax treatment of clubs, it is important to understand the context in which these clubs exist and the meteoric rise of super clubs in the 1990s in some states (section 21.4);
- the chapter then assesses the economic grounds for mutuality, and examines how, in special circumstances, equity or efficiency concerns could arise out of its application (section 21.5);
- section 21.6 then examines the combined efficiency, equity and social impacts of the combination of untaxed gaming machine revenues and the rapid growth of the club industry; and
- finally, the chapter assesses the scope for policy change, indicating the strengths and weaknesses of different approaches for dealing with the adverse outcomes of the existing arrangements (section 21.7).

21.2 What is the mutuality principle?

The mutuality ‘principle’ relates to the notion that a person cannot make a profit from selling to him or herself. An amount received from oneself is not regarded as income and is therefore not subject to tax. The concept has been extended to defined groups of people who contribute to a common fund, controlled by the group for a common benefit. Any amount surplus to that needed to pursue the common purpose is said to be simply an increase of the common fund and as such not considered income, and not subject to tax. Over time, groups which have been considered to have mutual income have included church groups, bodies corporate, clubs (including licensed clubs), friendly societies, credit unions, automobile associations, insurance companies and finance organisations.

Mutuality is not a form of organisation, even if the participants are often called members. Any organisation can have mutual activities. A common feature of mutual organisations in general, and of licensed clubs in particular, is that participants usually do not have property rights to their share in the common fund, nor can they sell their share. And when they cease to be members, they lose their right to participate without receiving a financial benefit from the surrender of their membership. A further feature of licensed clubs is that there are both membership fees and, where prices charged for club services are greater than their cost, additional contributions. It is these additional contributions which constitute mutual income.

Over the years there have been a number of challenges in the courts involving the mutuality principle (box 21.2). These challenges have generally not been concerned with the validity of not taxing mutual income. Rather, the challenges have been concerned with whether the surplus was mutual or not.

21.3 Clubs, mutuality and taxation

For many clubs the mutuality principle is irrelevant, because they are non-profit associations exempt from income tax by statute. These include, for instance, sporting clubs which satisfy the requirements of Taxation Ruling TR97/22. The main thrust of this ruling is that clubs will only be eligible for an exemption if they can demonstrate that their main or dominant activity is the encouragement or promotion of a sport (figure 21.1).

Box 21.2 The mutuality principle at common law

One of the earliest modern judicial statement of the mutuality principle is by Lord Watson in the House of Lords, in 1889, in *New York Life Insurance Co v Styles*:

... when a number of individuals agree to contribute funds for a common purpose ... and stipulate that their contributions, so far as not required for that purpose, shall be repaid to them. I cannot conceive why they should be regarded as traders, or why contributions returned to them should be regarded as profits. (14 App Cas 318; 2 TC 460)

The High Court of Australia first considered the mutuality principle in *Bohemians Club v the Acting Federal Commissioner of Taxation* in 1918:

A man is not the source of his own income ... A man's income consists of moneys derived from sources outside of himself. Contributions made by a person for expenditure in his business or otherwise for his own benefit cannot be regarded as his income ...

The contributions are, in substance, advances of capital for a common purpose, which are expected to be exhausted during the year for which they are paid. They are not income of the collective body any more than the calls paid by members of a company upon their shares are income of the company. If anything is left unexpended it is not income or profits, but savings, which members may claim to have returned to them. (24 CLR 334-339)

In *Colonial Mutual Life Assurance Society v Federal Commissioner of Taxation* (1946) the High Court considered the issue of an association's surplus:

Where a number of people, associated together for a common purpose, have contributed to a common fund in which all contributors are interested, the surplus of their contributions remaining after the fund has been applied to the common purpose, is in essence a return of their own moneys which they have overpaid and is not a profit. (73 CLR 604)

In 1965, the High Court appeared to consider the issue as settled. In *Revesby Credit Union Co-operative Ltd v Federal Commission of Taxation*, McTiernan J stated:

The principle of mutuality seems to me to be settled. Where a number of people contribute to a fund created and controlled by them for a common purpose any surplus paid to the contributors after the use of the fund for the common purpose is not income but is to be regarded as a mere repayment of the contributor's own money ... (112 CLR 574-575)

In *Royal Automobile Club of Victoria v Federal Commissioner of Taxation* (1973) it was held that where the activity is mutual, the fact that only some members chose to take advantage of the benefits did not affect the element of mutuality. Losses and outgoings between the organisation's mutual and non-mutual activities needed to be separately accounted; income from those which were non-mutual were taxable (4 ATR 471).

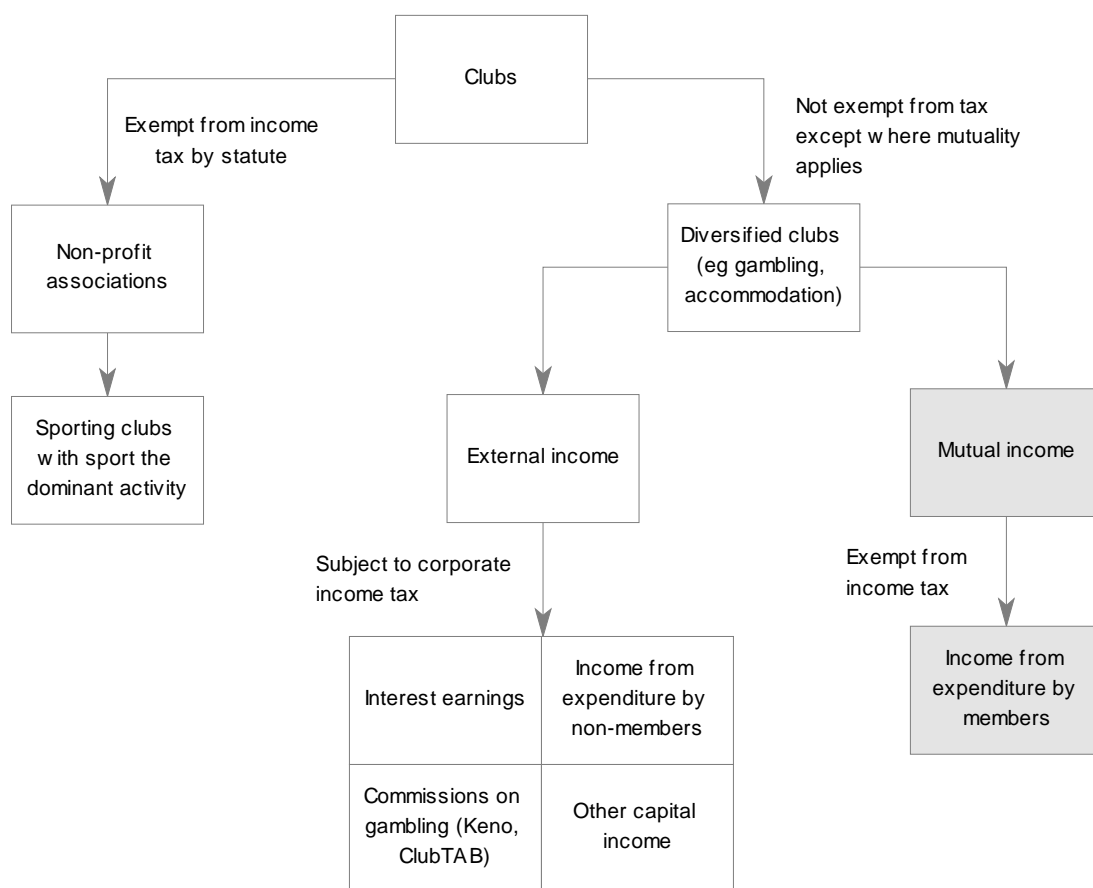
Source: sub. 137; sub. D265 to inquiry into private health insurance (PC 1997).

Many licensed clubs started off as sporting clubs. Indeed, many still provide sporting facilities. However, most are no longer eligible for an exemption by statute. That is because the provision of restaurant and bar services, as well as poker machines, and often additional services, such as entertainment and holiday accommodation, has become so large a proportion of their activities that the sports related activity is no longer dominant. Nevertheless, all or part of the surplus

generated by such clubs may not be considered income for the purposes of income tax because of the application of the mutuality principle.

Not all the surpluses of licensed clubs are subject to the mutuality principle, and consequently non-taxable. Whether they are, depends both on the rules governing the club and on how the income is generated.

Figure 21.1 **Where does the mutuality principle apply?**



Member receipts

Both membership fees and receipts from trading with members are covered by the mutuality principle. As stated in the Australian Master Tax Guide (CCH 1999), the member receipts of licensed clubs will be excluded from assessable income where the rules of the club:

- (1) prohibit any distribution of surplus to the members; or

(2) provide that any surplus may be distributed only among members who have contributed to the common fund and in substantial proportion to the amount of their respective contributions (p. 126).

In practice, as regards clubs, the latter condition is irrelevant, as licensed clubs must be 'non-profit' organisations. That also means that in the case of a club being wound up, any proceeds must be distributed to a comparable non-profit organisation or charity. It does not mean clubs cannot generate surpluses through member trading, but they must use their surpluses for purposes other than distribution to members. Licensed clubs are also governed by individual state legislation. For instance, in New South Wales clubs are regulated by the *Registered Clubs Act 1976*. This Act prescribes in detail all the conditions licensed clubs must satisfy (box 21.3).

Non-member receipts and investment income

Not all income earned by clubs is free of income tax. Three categories of income are assessable.

First, if a person entering a club is not a full member (that is, they are either a guest or a temporary member) and purchases club goods and services, including playing gaming machines owned by the venue, then this is regarded as external income earned by club members, and is subject to tax.

Second, income from external investments, such as interest on accounts or dividends is fully taxable.

Finally, gambling income earned as commissions is fully taxable. For example, keno and TAB surpluses are taxable whether they are generated by members or by non-members. That is because these games are played under licence and the commission received is considered to be 'external' income. In Victoria, because poker machines in clubs are owned by an external operator (box 21.4) and the clubs receive a commission, the ATO has ruled (after initial disputation by the clubs) that all gaming machine income is taxable (TD1999/38).

To arrive at taxable income, the expenditure associated with earning assessable income may be deducted. Expenditure, therefore, also needs to be allocated between that attributable to members, that attributable to non-members and that attributable to other income (box 21.5).

Box 21.3 **New South Wales licensed clubs**

Licensed clubs were first established in New South Wales in the period following World War II, as licensed clubs for returned servicemen, to provide a congenial environment for socialising and pursuing common interests. In most places where they were established they existed side by side with hotels. Court decisions in 1947 first confirmed the clubs' entitlement to serve their members liquor outside the licensed premises trading hours which had to be observed by hotels. The concept of 'licensed club' spread to clubs promoting some game or sport, and those with cultural or other objectives.

In 1956, following considerable community debate, poker machine gaming in New South Wales clubs was legalised. A per machine licence fee applied, which was to be directed to the Hospitals' Fund. No cap was set on the number of poker machines allowed. In the following decades New South Wales clubs enjoyed rapid growth, some growing into large entities, providing a large variety of services. Apart from gaming, bar and restaurant services the larger clubs today often provide entertainment for both members and non-members, sometimes holiday and/or motel accommodation, and even invest in hairdressing establishments or butcher shops.

There are now more than 1500 licensed clubs in New South Wales, just under 60 per cent of which are located in rural areas. They employ around 65 000 people and hold a similar or slightly larger number of poker machines.

The *Registered Clubs Act 1976* (of New South Wales) requires that members of licensed clubs shall not be entitled to derive directly or indirectly, any profit, benefit or advantage from the club that is not offered equally to every full member of the club. It also requires that any profits or other income shall be applied only to the promotion of the purposes of the club and shall not be paid to or distributed among the members of the club. In the case of a club being wound up, any proceeds must be distributed to a comparable non-profit organisation, charity or an association exempt from income tax.

Licensed clubs are not prohibited from trading with non-members. So long as they are living at least 5 kilometres away from the club premises or are members of another similar registered club, non-members can be granted temporary membership status and still use club facilities. However, if a person does not meet these conditions, they are not eligible for temporary membership and can only be admitted as the guest of an accompanying member.

Box 21.4 The structure of the Victorian poker machine industry – implications for mutuality

In most states, clubs own the gaming machines and any surpluses generated by members is mutual income and not assessable for income tax purposes. Only that proportion of poker machine surpluses generated by non-members is assessable.

In Victoria this is not so. Poker machines were introduced in Victoria in 1992. However, Victorian clubs do not own the poker machines installed on their premises. Under Victoria's gaming regulation, the two gaming operators, Tabcorp and Tattersall's, who are each permitted to operate 50 per cent of the 27 500 gaming machines permitted to be available for gaming in all licensed venues, remain the owners of the poker machines. A club takes the money out of the poker machines and banks all of the proceeds in a trust account. The relevant operator later pays one third to the club, one third to the Victorian Government and retains one third for itself.

The Victorian clubs initially assumed that the member portion of the commission received on the poker machine proceeds was mutual income and not assessable. Self-assessment led to this situation continuing until the introduction of keno in New South Wales clubs in 1995, and the decision that keno surpluses were taxable because they were in the nature of commission earned, and therefore income from outside the club. The Victorian circumstances then also came to the notice of the ATO. The ATO subsequently informed the Victorian clubs that their poker machine income was derived by the gaming operator and not the club venue operator, and was therefore fully assessable.

Initially the Victorian clubs were informed that they would be taxed retrospectively to 1992. This was later relaxed to retrospection to the 1996-97 tax year. The Victorian clubs initially disputed this matter but ATO Taxation Determination TD1999/38 stated:

If a club enters into an arrangement with an external gaming operator under which gaming machines are installed on the club's premises, the gaming income is derived by the gaming operator from the players ... The amounts paid or allowed to a club by the gaming operator under such an arrangement is derived by the club from the external operator and not from the members/non members. Therefore, such income is fully assessable to the club because it is derived from an external source and is not subject to the principle of mutuality (TD1999/38).

Source: Australian Taxation Office.

Taxing non-mutual income

All clubs are regarded as companies for income tax purposes (except where exempted as non-profit associations) and, where there is taxable income, the normal company tax rate (currently 36 per cent) applies. For non-profit companies, including clubs, there is a phasing in of the full 36 per cent rate. No tax is payable if taxable income (for the 1998-99 tax year) is less than \$417. Once taxable income reaches \$1204, the full rate applies to the whole of the taxable income.

Box 21.5 Assessable income and expenses of a licensed club

The assessable income of a licensed club may comprise:

- any investment income (rents, interest, etc);
- the 'non-member percentage' of gross trading income (eg gross poker machine, bar and restaurant receipts).

Expenses relating specifically to members are not allowable deductions. The allowable deductions may comprise:

- expenses relating specifically to non-members (eg non-members only promotions, visitor sign-in books);
- expenses relating to wholly assessable income (eg investment expenses);
- non-apportionable deductions (eg contributions to staff superannuation, donations and costs of preparing tax returns) and
- the 'non-member percentage' of the apportionable expenditure (ie the remaining expenditure, other than expenditure relating solely to members and non-allowable items such as expenditure of a capital nature).

Source: CCH 1999.

As receipts from members are excluded from taxable income, clubs need to isolate those receipts from those of non-members and investment income when preparing tax returns. This is not likely to be a problem in the case of investment income, but presents difficulties in the case of receipts from non-members. To overcome this problem, the ATO has adopted a formula (box 21.6) to calculate the proportion of club receipts which are attributable to non-members. The formula has been accepted by tribunals as reasonable in the absence of evidence from clubs to show that it is unjustified. Clubs do not have to use the formula but can use any alternative method which they can demonstrate produces reasonable and accurate results.

Tax paid by clubs

Information extracted from the annual reports of 28 licensed clubs in New South Wales indicates that the total amount of income tax paid by those clubs in 1996-97 was just over \$8 million (a selection is given in table 21.1). Since the rate of income tax was 36 per cent, total taxable income for income tax purposes could have been around \$22 million. Total reported surpluses for the clubs involved were nearly \$80 million. From this it can be deduced that the proportion of net income attributable to non-members and investment income was around 28 per cent.

Box 21.6 The 'Waratahs' formula

To isolate a club's receipts and expenses from trading with non-members from those from trading with members, the ATO assumed that expenditure by non-members is the same as that by members, and developed the formula below. It is known as the 'Waratahs' formula, so called after a decision in *Waratahs Rugby Union Football Club v Federal Commissioner of Taxation* (1979) 10 ATR 33; 79 ATC 4337). The proportion of income which is assessable (p) is:

$$p = \frac{B \times 0.75 + C}{(R \times S \times T) + A}$$

where:

A = total visitors for the year of income;

B = members' guests, ie visitors who are accompanied to the club by a member and signed in by that member. The formula assumes that 25 per cent of members' guests do not contribute to the club's assessable income, ie they are non-paying guests or non-working spouses of members;

C = A - B;

R = average number of subscribed members for the year of income;

S = the percentage of members that attend the club on a daily basis; and

T = the number of trading days for the year of income.

Factor A can be determined by summation of the visitors' books. Clubs are required by law to keep a register of members' guests and visitors. A club should conduct surveys to determine the percentage of members attending the club on a daily basis.

Source: CCH 1999.

For Australia as a whole, clubs earned operating profits before tax of \$561 million (of which \$530.9 million are accounted for by clubs with gambling). If this surplus was taxed at the company tax rate, this would generate revenue of \$202 million. Assuming that 28 per cent of the income was already subject to tax suggests that the additional revenue forgone through the mutuality principle is around \$145 million. However, this somewhat overstates the true tax forgone as a result of mutuality since Australia has a dividend imputation system in place. If club income was treated like other corporate income, it is ultimately taxed at the average marginal rates of personal taxpayers. Supposing this tax rate to be around 25 per cent for the average club 'shareholder', this would imply tax forgone of around \$100 million in 1997-98 as a result of the mutuality principle, principally from New South Wales clubs. Over time, this loss could be expected to grow. Moreover, the real loss of tax may be higher than this, as operating profits may be artificially low due to subsidised services — in principle, governments should be taxing any implicit income earned by club members (section 21.5).

Table 21.1 Income tax paid by selected clubs, 1996–97

	<i>Operating profits before income tax^a</i>	<i>Gaming net profit^b</i>	<i>Income tax paid</i>	<i>Income tax as % of operating profit</i>	<i>Income tax as % of poker machine net profit</i>
	\$000	\$000	\$000	%	%
Penrith Rugby League Club	573	28 926	73	13	3
Canterbury-Bankstown League Club	6 846	21 242	863	13	4
Rooty Hill RSL Club	6 682	18 970	795	12	4
Mt Pritchard & District Community Club	6 686	15 810	1 014	15	6
Bankstown District Sports Club	4 069	23 899	126	3	<1
North Sydney Leagues Club	4 017	..	94	2	..
Eastern Suburbs Leagues Club	2 472	12 158	380	15	3
Blacktown Workers' Club Limited	1 896	13 384	201	11	2
Cabra-Vale Ex-Active Servicemen's Club	5 341	12 016	747	14	6
Revesby Workers' Club	1 120	9 467	119	10	1
Western Suburbs Leagues Club	3 009	10 780	309	10	3
Canterbury-Hurlstone Park RSL Club	1 598	9 534	171	11	2
Manly-Warringa Rugby League Club	2 562	10 785	..	..	..
Liverpool Catholic Club	2 632	9 383	136	5	1
Campbell Town Catholic Club	4 009	9 767	148	4	2
North Ryde RSL Club	3 018	10 268	180	6	2
Marrickville RSL Club	661	7 235	235	36	3
Burwood RSL Club	2 223	7 861	184	8	2
Gosford RSL Club	648	3 264	5	<1	<1

^a Operating profits represents total revenue less costs, before income tax.

^b Poker machine net profit comprises net receipts (takings less payouts and prizes) less direct costs attributable to poker machines.

Source: Club annual reports.

21.4 The club industry

Currently there are some 5600 registered and licensed clubs in Australia. They cover a large variety of interests, including sports, workers, cultural, ethnic, religious, RSL, ex-services, community and social objectives. Sporting clubs make up about half of all registered and licensed clubs, but many clubs not initially established to promote a sport provide a range of subsidiary clubs and organisations devoted to some sport or game. Other clubs were established to bring together ethnic groups, those belonging to a specific religion, ex-service personnel or some other group within the community with similar interests. Total membership Australia-wide is estimated at around nine million (sub. 142, p. 1) although that is likely to be an overestimate as many people belong to more than one club. Many of the clubs offer gaming facilities other than poker machines, such as TAB and keno,

but, as shown in table 21.2, poker machines provide by far the largest proportion of gambling revenue.

Table 21.2 Net profit/loss from selected club activities

Selected clubs, \$'000s, 1997

<i>Club</i>	<i>Poker machine net profit</i>	<i>Other gaming</i>	<i>Bar trading</i>	<i>Catering</i>
Penrith Rugby League Club	28 926	43	3 070	621
Canterbury-Bankstown League Club	21 242	n/a	(353)	(499)
Cabra-Vale Ex-Active Servicemen's Club	12 016	(31)	(137)	(649)
Western Suburbs Leagues Club	10 780	(84)	(187)	(4)
Canterbury-Hurlstone Park RSL Club	9 534	45	(50)	(383)
Burwood RSL Club	7 861	23	407	(310)
Eastern Suburbs Leagues Club	12 158	236	314	(328)
Liverpool Catholic Club	9 383	146	245	(51)
Revesby Workers' Club	9 466	(39)	579	(424)
Blacktown Workers' Club Limited	13 384	99	390	(289)
Rooty Hill RSL Club	18 970	163	141	(278)
Mt Pritchard & District Community Club	15 810	n/a	(457)	(242)

Source: Club annual reports.

The licensed club industry is extensively regulated, mainly through state legislation. Much of each state's regulation was put in place at the time poker machines were first introduced in that state. State regulation generally covers such matters as state taxes, numbers of poker machines permitted, compulsory contributions to the community, the physical location of poker machines in clubs, minimum age of persons permitted to play poker machines, ownership of poker machines, and minimum payout ratios. Table 21.3 provides some information about the number of clubs and poker machines in Australia and some of the regulatory provisions applied to them.

In particular table 21.3 reveals the high dependence on gambling (mainly gaming machines) by clubs in the ACT and New South Wales:

- About 60 per cent of income of clubs with gambling facilities is derived from gambling in New South Wales. This dependence reaches nearly 70 per cent in the ACT. In contrast, it is around 50 per cent in Victoria and Queensland, and about 35 per cent in South Australia;
- Other data from the ABS reveal that in 1997-98, those states in which club gambling was most intense had the smallest non-gambling club sector. For example, non-gambling clubs accounted for only 1.4 per cent of total club income in New South Wales and 1.8 per cent in the ACT. In contrast, non-

gambling clubs accounted for just over 35 per cent of total club income in Victoria and South Australia.

Table 21.3 Clubs with gambling facilities, 1997–98

<i>State</i>	<i>Number of clubs 1997-98</i>	<i>Gambling revenue to total sales</i>	<i>Numbers of poker machines 1997-98^a</i>	<i>When machines introduced</i>	<i>Maximum permitted per club</i>	<i>Payout ratio</i>	<i>Owned by</i>	<i>Does mutuality apply?</i>
	No.	%	No.					
NSW	1 474	60.8	65 000	1956	No limit	85% min	Club	Yes
Vic	205	49.7	13 230	1991	105	87% min	Operator	No
Qld	615	46.7	16 624	1992	270 ^b	85%-92%	Gov/club ^c	Yes
WA	9 ^d	np	0	..	0	..	..	..
SA	93	35.7	..	1994	40	85% min	Club	Yes
Tas	42	np	..	1997	No limit	85% min	Operator	No
ACT	63	69.4	4 376	1976	No limit	85% min	Club	Yes
NT	25	np	404	1996	No limit	89%-92%	Gov ^e	Yes
Australia	2 525	57.5	..					

^a 1997-98 figures shown for comparability. See table 13.1 in chapter 13 for most recent gaming machine numbers in each jurisdiction. ^b Phasing up to 300 from 1 July 2001. ^c In transition from government to club ownership. ^d Western Australia does not allow electronic gaming machines into clubs or hotels, but does allow video lottery terminals and other gambling forms. ^e No lease fee applies.

Source: Data for the number of clubs with gambling facilities and gambling dependence is from ABS (1996b). Other data are from subs. 103 and 128.

Overall, gambling income was just below 60 per cent of income earned by all clubs in New South Wales in 1997-98, and still nearly 70 per cent in ACT clubs. In South Australia, by comparison, it was about 22 per cent, while for Tasmania, Western Australia and the Northern Territory combined it was around 10 per cent. Clubs are located both in urban and metropolitan centres. For example, of the registered clubs in New South Wales, 57 per cent are located in rural areas, often being the largest business operating in the community. The total net worth of Australian clubs at 30 June 1995 was \$4 billion. Capital expenditure during 1994-95 was \$714 million (ABS 1996b).

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 59 543 or 88.5 per cent of these worked in clubs with gambling facilities. By far the largest proportion of those employed in clubs with gambling facilities worked in New South Wales (69 per cent).¹

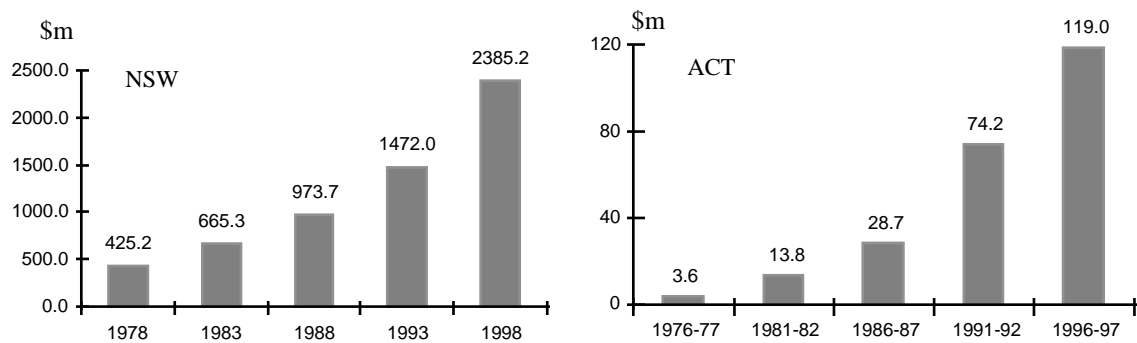
¹ Based on data from ABS (Cat. no. 8687.0, June 1999).

The growth of licensed clubs

Even before poker machines were introduced in Australian clubs, licensed clubs formed an important part of the social life of many Australians. However, they generally remained relatively small, having a minimal impact on the economic environment of the area in which they operated.

Currently, in New South Wales and the ACT there are a number of very large clubs — ‘super clubs’ — with significant ‘members’ equity’ (in a number of cases exceeding \$30 million) and turnovers of many millions of dollars, mainly from poker machines. Figure 21.2 shows the rapid growth in poker machine revenue in New South Wales clubs, where poker machines became legal over forty years ago, and ACT clubs, where poker machines were introduced in 1976. Real losses per adult from gaming machines in New South Wales clubs grew by a factor of about 17 from 1957 to 1998, and are currently around \$500.

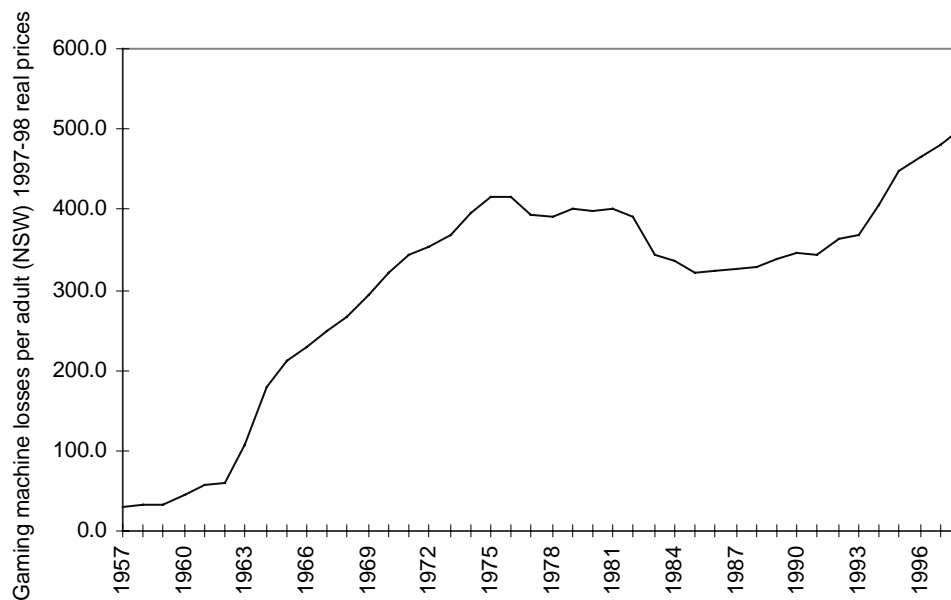
Figure 21.2 **New South Wales and ACT clubs – gaming machine revenue**
\$ million



Data source: NSW Department of Gaming and Racing 1999, *Gaming Analysis 1997-98; Registered Clubs, Quarterly Gaming Analysis May 1998*; and Revenue Management Branch, Office of Financial Management, Chief Minister's Department, ACT.

However, while revenues in New South Wales have grown rapidly in the last decade, this has not been true for all periods since the removal of the prohibition on gaming machines in the early 1950s (figure 21.3). This suggests that the rapid growth seen recently may not persist. However, even if growth were to abate, it would be expected that the stock of club assets would continue to grow significantly over time.

Figure 21.3 **Gaming machine revenue per adult**
New South Wales real (1997-98) prices (\$)



Data source: NSW Department of Gaming and Racing, *Gaming Analysis 1996-97* (1998) and *Registered Clubs, Quarterly Gaming Analysis May 1998* (1999); and data on the adult population and the Sydney CPI from ABS data in Econdata.

In some cases the revenue from poker machines amounts to as much as 80 per cent or more of total revenue (table 21.4), while the net surpluses from poker machines can be more than 60 per cent of machine revenue (table 21.5). In those states where poker machine numbers are capped, or not permitted at all, clubs have tended to remain smaller, with fewer and less luxurious facilities. Examination of the annual accounts of some of the large 'super clubs' also reveals that poker machine surpluses offset losses made from other club services, predominantly restaurant and bar services (table 21.2). The implication is that prices for non-gambling goods and services are subsidised by gambling.

In New South Wales, Queensland and the ACT, the commencement of rapid growth in club facilities and expansion in club services appears to have coincided with the introduction of gaming machines. The Council of Community Clubs of Australia & New Zealand said there can be no doubt:

... that the major social impact of clubs came about as a direct result of the licensing of poker machines in the mid-1950s [in New South Wales]. This ... saw an expansion of the Club Movement which was neither predicted nor planned, and has culminated in the huge leisure industry that clubs represent today (Directors Guide, 5th edition, Registered Clubs Association of New South Wales, quoted in sub. 142).

Table 21.4 Club poker machine revenue as a proportion of total revenue

Selected clubs, 1997

<i>Club</i>	<i>Total revenue</i>	<i>Poker machine revenue</i>	<i>Proportion of total revenue</i>
	\$000	\$000	%
Canterbury Bankstown League Club	42 577	37 340	88
Marrickville RSL Club	15 569	13 338	86
North Sydney Leagues' Club	25 173	20 956	83
Dee Why RSL Club	16 594	13 459	81
Cabra-Vale Ex-Active Servicemen's Club	25 087	20 167	80
Western Suburbs Leagues Club	22 078	17 331	79
Manly-Warringa Rugby League Club	20 696	16 005	77
Canterbury-Hurlstone Park RSL Club	22 319	16 620	75
Burwood RSL Club	16 104	11 951	74
Eastern Suburbs Leagues Club	25 385	18 397	73
Liverpool Catholic Club	22 540	15 197	67
Revesby Workers' Club	24 394	16 042	66
Blacktown Workers Club	31 705	20 410	65

Source: Club annual reports.

Table 21.5 Poker machine net profit as a proportion of poker machine revenue

Selected clubs, 1997

	<i>Poker machine revenue</i>	<i>Poker machine net profit</i>	<i>Net profit as a proportion of revenue</i>
	\$000	\$000	%
Canterbury Bankstown League Club	37 340	21 242	57
Marrickville RSL Club	13 338	7 236	54
Cabra-Vale Ex-Active Servicemen's Club	20 167	12 016	60
Western Suburbs Leagues Club	17 331	10 780	62
Manly-Warringa Rugby League Club	16 005	10 785	67
Canterbury-Hurlstone Park RSL Club	16 620	9 534	57
Burwood RSL Club	11 951	7 861	66
Eastern Suburbs Leagues Club	18 397	12 158	66
Liverpool Catholic Club	15 197	9 383	62
Revesby Workers' Club	16 042	9 467	59
Blacktown Workers Club	20 410	13 384	66

Source: Club annual reports.

With distribution of surpluses as cash dividends to members not an option, clubs have several alternatives. They can use surpluses to reduce membership charges, to lower the prices charged for services, they can use them to provide benefits for the community as a whole, to make donations to charities, or they can use them to expand services provided to members. Many clubs do all of these, and indeed, state

regulation, and sometimes local government by-laws, require contributions to be made to the community as a condition of licence. Sometimes these requirements are very specific and spell out precisely the contributions required. Annual membership charges are already low, and, in New South Wales, cannot legally be less than \$2. However, club objectives generally provide that surpluses be used for the benefit of members, and members are likely to prefer the majority of surpluses to be so used. With poker machine surpluses constituting the bulk of club surpluses, it seems clear that it is those which are driving the expansion of clubs.

The question then is whether the changed nature of parts of the Australian club sector — associated with burgeoning profits from gambling — form a basis for re-evaluating the application of the mutuality principle. To consider this question, the next section looks at the economic principles that should underlie tax exemption. These principles are then used as a basis for assessing the economic and social impacts of club expansion in section 21.6.

21.5 What are the *economic* grounds for the mutuality principle?

There are a number of key issues when considering whether mutuality is an appropriate basis for exemption from income tax.

Is mutual income genuine income?

One threshold issue is whether any part of the surpluses generated by mutual organisations constitute genuine economic income (box 21.7). If that were so, this would provide an in-principle rationale for some taxation of mutual income, consistent with the treatment of other economic income.

Whether mutual surpluses can be considered as economic income to members depends on the way in which they have been derived. If, for example, the surpluses arise because members pay membership subscriptions or higher than market prices for goods or services in order to buy some common facility, then they are not income, but rather capital contributions. In this instance, there would be no economic grounds for taxation of these surpluses.

Box 21.7 A story about beer and gambling

John is a member of a club (which, through mutuality, is exempt from income tax) that sells its beer at \$1.50 a glass, 50 cents below the asking price at nearby hotels. At face value, it appears that John is receiving untaxed 'in-kind' income of about 50 cents for every glass of beer drunk. But matters are more complex than this. How can the club sell the beer at a price lower than that in hotels? Say that the beer is subsidised by gambling in the club. But to subsidise beer means that gambling prices must be higher than they would otherwise be. That means that John and other club members might get benefits from cheap beer, but these benefits are exactly offset by more expensive gambling. It looks like the apparent 'in-kind' income represented by cheap beer has just disappeared!

The story is similar if the beer is priced at the same price as hotels, but gambling is still priced higher than its full economic cost to the club — in this case, the club makes a surplus, and it is precisely that surplus which the mutuality principle protects from income taxation.

But what happens if the costs of gambling in clubs are *lower* than in hotels — not because of any natural advantage of clubs — but because of the different ways in which governments treat clubs versus pubs? Gambling in pubs will be more expensive than in clubs for three reasons. Pubs have to:

- pay bigger state taxes on gambling losses made by their customers;
- pay hefty license fees for new gaming machines (when they want to have more than 15 machines);
- bear income tax on any profits from gambling.²

In that case, whatever the club charges for gambling compared to hotels, there is a *component*, equal to the subsidy afforded clubs through preferential regulatory and taxation treatment, which represents implicit income to club members.

It is this subsidy which allows the club to sell its overall package of goods and services at cheaper prices than their members could get from commercial operators.

The story has some important implications. In particular, the surplus of any club will only imperfectly match the implicit income received by members. For example, imagine two clubs. One makes its beer very cheap and exhausts all of the surpluses it receives from gambling, so that its overall surplus is zero. Another, maintains beer at market prices and accumulates a large surplus. In both cases, members have received exactly the same implicit income — one in current consumption, the other in future consumption.

However, in other circumstances, members do receive benefits, which could be seen as intangible income. These benefits may be derived from receiving the services

² If the income tax system imposed neutral pure profit taxes on capital it would not affect the price of gambling in hotels — but Australia's tax system is not like this (and nor is anybody else's).

provided by the mutual organisation at prices lower than those charged by commercial enterprises. Or, if prices *paid* are not actually lower, the environment in which the services are enjoyed may be more luxurious than those of commercial establishments providing the same service at the same price. These benefits are hard to measure, but in theory they are income which, like other income, should be ideally subject to tax. In fact, for pragmatic reasons, generally only financial flows are taxed under the Australian income tax system. For instance, home owners are not taxed on the imputed rent earned from living in their own home.

There is another complication. While members collectively ‘own’ the club, and the benefits derived by members from club services can be seen as a return on their share in the club, ownership of club assets carries a reduced level of property rights compared with a shareholding in a publicly listed company. Shares in a publicly listed company can be sold. A club member, on ceasing to be a member, loses all property rights in the assets of the club, without being able to sell his or her share in the club’s assets. Strictly speaking, that could be seen to constitute a capital loss. In contrast, a new member, through gaining a share in the assets of the club simply by paying a (generally very low) membership fee, could be said to be making a capital gain.

Thus, notwithstanding the different nature of property rights that exist for members of mutual organisations, that does not alter the fact that members sometimes enjoy services and facilities at lower prices than would be charged by other commercial enterprises — in effect, they earn untaxed income.

The mutuality principle is a common law principle which establishes a useful rule-of-thumb for the tax treatment of surpluses generated by mutual groups. It recognises that in many cases any surpluses generated by a mutual organisation are really savings, rather than genuine profits. In other instances, the application of the principle may be rationalised by the pragmatic difficulties of assessing and taxing any implicit income to members. But where it is justified, is practicable and meets standard taxation principles — a fairly stringent test — then it may be appropriate to tax some of the income of mutual organisations.

One illustration of some of the problems in the application of the mutuality principle is the different tax treatment of gambling commission income from Club Keno and Club TAB, and of commission income from gaming machines in Victorian clubs. In New South Wales, clubs pay no corporate tax on the income earned from gaming machines, because the machines are owned by the club and the expenditure is made by members. However, New South Wales clubs do pay corporate tax on commission income from Club Keno and Club TAB, even where the expenditure is made by members. Similarly, in Victoria, although the

expenditure is made by members, the fact that payments are mediated through a third party (the owner of the machines) and then repatriated to the club as commission income, means that the income is regarded as external — and therefore subject to taxation.

Does mutuality create the right incentives for efficiency?

As noted above, a key feature of mutuality is limited property rights for members. Amongst other things, this means that mutual organisations cannot distribute surpluses to members, but must either invest them or provide additional services at prices that do not reflect their costs.

Normally, this does not have significant economic implications. Many mutual organisations charge prices which are close to the full economic costs of the services that they provide, and any residual profits are very small. For example, in 1997-98 the operating profit per club without gambling facilities was about \$13 000.³ With close to zero surpluses it is likely that any changes to the tax treatment of these clubs would fail to collect any significant revenue, would not correct any inefficiencies and would adversely affect their ability to maintain valuable community facilities.

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. The existing odds for gaming machines appear to provide significant profits to clubs in excess of what would be required to cover costs associated with the machines (including provision for a normal rate of return on the assets used) — so-called economic ‘rents’. The evidence for this is that:

- hotels in New South Wales have to bid for licences for gaming machines in excess of 15 up to the cap limit of 30, with the bid prices per machine licence being in excess of \$50 000. Clubs, in contrast, are able to buy additional machines without paying such costs. Moreover, hotels face a top tax rate of 40 per cent on machine revenues, whereas clubs face a maximum tax rate of 24.75 per cent. The implication is that clubs not only are exempt from federal income tax on the profits they make, but that the profits include a substantial rent that has not been appropriated for the wider community by the New South Wales government; and

³ In contrast, the operating profit per club with gambling was around \$201 000 per year (about 16 time bigger). Based on data from ABS (Cat. no. 8687.0, June 1999).

-
- gaming machine prices in Victoria are lower than in New South Wales, despite a higher tax rate on machine revenue and the existence of large license fees paid by the duopoly machine owners to the Victorian Government.

Thus it is the particular combination of rents from gambling *and* mutuality, which provide the greatest potential for inefficiency.

The policy implications

Once it is recognised that it might sometimes be appropriate to tax (at least part of) mutual income, then this suggests the application of broadly accepted taxation principles — a good tax system aims to collect revenue in a way that is equitable and efficient, taking into account the transactions costs of collection (such as administrative and compliance burdens) and other feasibility issues.

Tax relief arising from mutuality has the *potential* to distort prices or investment in the economy, with possible adverse efficiency, equity or social impacts. **The Commission is of the view, that *where this is the case, and it is feasible and cost-effective to tax any relevant income — or to find other ways of effectively countering the inefficiencies that mutuality generates — the application of the mutuality ‘principle’ should be open to examination.***

21.6 The consequences of growth

Clubs potentially serve a useful social purpose when they are formed by groups of people who pool their resources to pursue a common purpose (for instance craft clubs, church groups, bodies corporate). Often they fill a void, where the service provided by the club is not available commercially. CCCANZ said:

It is important to note that clubs locate their facilities according to community need and not potential commercial return ... Private entrepreneurs are different because they seek to maximise shareholder value. This is not, and can not be, an objective of a not-for-profit club ... (sub. D226, p. 13).

While clubs retain their club nature, and provide services generally not available in the market place, their character can be said to be truly mutual. However, it has been asserted that the super clubs that have developed cannot be characterised this way.

The nature of the large clubs

The large licensed clubs, providing bar, restaurant, poker machine, entertainment and often other services to members and non-members alike, often with turnovers exceeding \$20 million annually, are in character very different from the common purpose clubs described above. While many may have started off as sporting clubs exclusively, often the sporting objective has been eclipsed by gambling, bar, restaurant and entertainment services. In addition, there are few restrictions on who can use club facilities. Membership appears to be open to all (at a token 'membership' fee), and in any case, non-members are generally welcome, with few if any restrictions, to use club facilities. They have the appearance of being more like commercial enterprises, with expert commercial management and ambitious expansion plans.

Looked at from the members' perspective, in the case of the large clubs, do members still feel a sense of ownership, a sense of common purpose? Or has the club taken on a 'life of its own', separate and removed from the members? It is true that clubs publish annual reports and members are invited to elect the board, but how aware are members of how decisions are taken? How accountable really is the board and club management? Importantly also, when people use club services, is it just the same for them as going to some commercial establishment?

The fact that some clubs now have the character of large commercial enterprises raises the question of whether the surpluses earned by the clubs can still be regarded as mutual. The Australian Hotels Association (NSW), while not questioning the application of the mutuality principle to certain types of organisations, said the large clubs, having become huge commercial enterprises, lack a mutual character (sub. 137). The Industry Commission also, in its report on tourist accommodation, found that:

... given the changing nature and scope of some large clubs, the Tax Commissioner may need to review their eligibility for access to concessions under the mutuality principle (IC 1996, p. 176).

In a countervailing viewpoint, the Council of Community Clubs of Australia & New Zealand said:

The size of the club is immaterial to mutuality, as the larger the club the greater the membership, and the more extensive the facilities available to these members and to that section of the community that extends beyond the club's membership (sub. 142, p. 19).

It also said that 'members do join particular clubs because they have an affinity with that club' (sub. D226 p. 25).

The Commission accepts that the fact that some clubs are large, is not, by itself, an argument for revoking mutuality for those clubs. Size has potential advantages to members and the communities in which they are located. For example, large clubs may reap economies of scale, which allow them to offer club facilities at lower prices than otherwise. However, the fact that they generate such large surpluses relative to their income — the source of funding for their rapid expansion — is a potential concern, as examined below. As one participant observed, bigness is the result of a problem, not the problem itself.

What are the effects on efficiency and equity?

Private taxable commercial enterprises must finance their reinvestment and expansion out of post-tax profits, as well as providing dividends to owners. Clubs, in addition to not paying tax, do not have to provide a direct financial return to their owners in the same way as commercial enterprises. Club rules, as well as the legislation governing licensed clubs, prohibit the distribution of surpluses to members. The only way in which clubs can provide a return to their members is by:

- subsidising goods and services provided to members;
- upgrading club facilities, or
- expansion into new club activities.

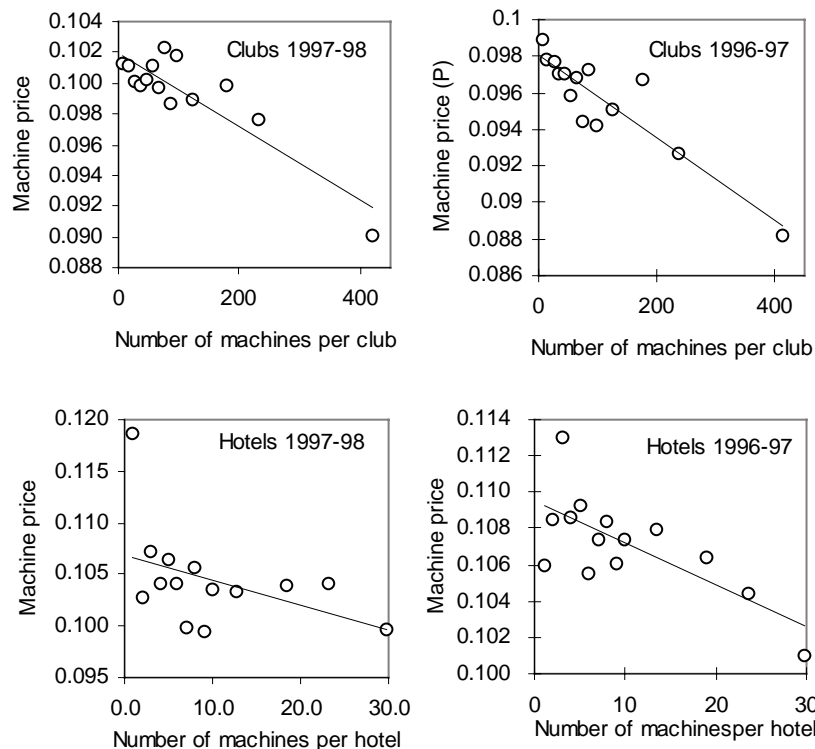
Effect on prices

One potential source of distortion stemming from mutuality are prices which depart from market values. For instance, in 1997, in New South Wales, poker machine payouts in clubs averaged 90.6 per cent, while those in hotels paid out an average of 89.5 per cent (DGR 1998a). This means that in those clubs poker machine services were on average 11 per cent cheaper in clubs than in hotels. However, unlike hotels, clubs have no cap on the number of poker machines they may install, so that the average number of machines in clubs is much greater than in hotels. This points to the possibility of scale advantages in operating gaming machines, so that it may be that the price difference reflects the combination of hotel-specific venue caps and differences in scale, rather than the influence of mutuality.

Indeed, the Commission found a highly significant relationship between price and the number of machines in hotels and clubs in 1996-97 (figure 21.4). Price differences, controlled for the size of the venues, were much smaller than 11 per cent. For venues with 30 machines the price difference was around 5 per cent, while if the cap on machines in hotels were to be relaxed, it appears likely that the price differential would fall even further, and may disappear (or go the other way). This

suggests that the major reason for the more attractive odds on gaming machines in clubs was not mutuality itself, but the fact that clubs, unencumbered by venue caps, could reap some advantages associated with scale.

Figure 21.4 **Prices for playing gaming machines in New South Wales clubs and hotels^a**



^a The machine price is equal to one minus the odds. For example, on a 90 per cent payout machine, the price is 10 cents per dollar of turnover. An assessment was made of the relationship between number of machines per venue and the price. In all cases the relationship was a statistically significant inverse one. The best statistical representation of the data for both venue types and years was:

$$\begin{aligned} \text{Price} = & 0.0981 \text{ Clubs}_{1996-97} + 0.1019 \text{ Clubs}_{1997-98} - 0.000023 M_{\text{clubs}} + 0.1095 \text{ Hotels}_{1996-97} \\ & (118.8) \quad (123.3) \quad (5.1) \quad (122.0) \\ & + 0.1068 \text{ Hotels}_{1997-98} - 0.00024 M_{\text{hotels}} \quad N=56, \bar{R}^2 = 0.81 \text{ (t's in parentheses).} \\ & (119.4) \quad (4.0) \end{aligned}$$

where Clubs_t and Hotels_t are 'dummy' variables that are equal to 1 if the observation is a club at time t or a hotel at time t respectively. M is the number of machines per venue. The hypothesis that the 'scale' effects for hotels and clubs were the same could be rejected, but not the hypothesis that the 'scale' effects for each separate venue form were constant over the two years. However, there was a statistically significant upward shift in gaming machine prices for clubs from 1996-97 to 1997-98, and a small, but statistically significant, fall in hotel gaming machine prices over his period. The 'scale' effect was significantly larger for hotels than clubs.

Data source: Department of Gaming and Racing, *Gaming Analysis 1996-97 and Gaming Analysis 1997-98*, March 1998 and February 1999; and Commission calculations.

Both Clubs Queensland (sub. D273) and the CCCANZ (sub. D226) disputed that it was economies of scale which resulted in the difference in payout prices. They said

that prior to 1 April 1997 hotels in New South Wales were only able to offer machine gaming via Approved Amusement Devices and that gaming duty on these machines was based on machine turnover and not on revenue. This meant that player returns offered by hotels were lower than those offered by clubs where the poker machines were subject to a revenue tax. With the introduction of poker machines to hotels on 1 April 1997 turnover tax was replaced by revenue tax. Figures from the NSW Department of Gaming and Racing now indicate that the average loss rate for hotel players for the quarter ended March 1999 was 10.24 per cent and to club players for the quarter ended February 1999 was 10.09 per cent (a modest 1.5 per cent difference).

Analysis of the *annual* data for 1997-98, which should be subject to less volatility than quarterly data, also confirms that the price gap between hotels and clubs has fallen (figure 21.4). The Commission found that returns to player appear to have risen in hotels, while they have fallen in clubs. However, there remains a statistically significant relationship between the odds and the number of machines per venue, which holds over both 1996-97 and 1997-98 and for both venue types (figure 21.4). These results suggest that mutuality has probably played a minor role in the disparity of gaming machine prices between the two venue types. The disparity has, in any case, narrowed significantly.

What of other prices, such as for bar services and meals? With regard to price discounting and cross-subsidisation, Clubs Queensland said that while:

... there may be isolated cases of this activity amongst its members, however, on an industry-wide basis, there is no evidence to support the assertion that clubs engage in below-market pricing and cross-subsidisation (sub D273, p. 32).

However, a survey of prices charged by hotels and clubs in the Brisbane metropolitan area undertaken by KPMG Consulting on behalf of Clubs Queensland (sub. D273) appears to show some price differences. With regard to beer and spirits the survey found average full strength 10 ounce beer prices to be 4 per cent less in clubs than in hotels, average reduced alcohol 10 ounce beer prices to be 4.5 per cent less in clubs than in hotels, and basic mixed spirit 7 ounce prices to be 5.9 per cent less in clubs than in hotels. However, the survey found that 'special' discounted prices are generally lower in hotels than in clubs. The survey did not cover meal prices in hotels and clubs as meals are a less homogeneous product and prices much more difficult to compare.

The Commission accepts that there are likely to be many clubs which do not engage in cross-subsidising services. Nevertheless, those club annual accounts examined by the Commission show operating results for meals and bar services consistent with cross-subsidisation and below market prices for these services. However, these

results could also be an indication of inefficient production due to lack of pressure on management to produce services at minimum cost.⁴ Clubs also tend to provide free or cheap auxiliary services, such as coffee and tea, meeting rooms, and exercise classes.

Cross-subsidisation of one good by another is not necessarily inefficient if it is a commercial decision made to maximise overall profits (and is not anti-competitive). And hotels are also likely to cross-subsidise services if that is seen to be at their advantage. For instance, it is generally accepted within the community that the ‘counter meals’ served in hotels may be cross-subsidised by bar prices. However, the concern in the case of mutuality is that the taxpayer is an unwitting participant in an arrangement whereby club members receive goods at below market prices. Of course, it is possible that many members of the public may still value clubs sufficiently to approve the allocation of tax revenue for such purposes.

Effect on investment

While some of the surplus of clubs may be dissipated through subsidised food, bar or other services, clubs still make large surpluses which cannot be distributed to members as cash dividends. These surpluses from gaming machines must end up in investment, either in upgrading club facilities or commercial expansion into areas not usually associated with club activities. The Australian Hotels Association (NSW) stated:

Many clubs have entered the commercial world by operating businesses in accommodation, gymnasiums, hair dressing salons, butcher shops, cinemas and a range of activities that have sent many small businesses in the State of NSW to the wall ... (sub. 68, p. 10).

The most rapid expansion of clubs appears to be occurring in those states where there is no limit on the number of poker machines that clubs can install — that is, New South Wales and the ACT. In 1997, members’ equity in a number of the large clubs in New South Wales increased by more than \$1 million, and in a small number by more than \$5 million (various annual reports). As catering, bar and other services are often operated at a loss, it seems clear that it is the poker machine surpluses which are financing the capital expenditure by those clubs.

⁴ ABS survey data (Cat. no. 8687, June 1999) suggest that price margins on bar services and other purchases tend to be *lower* in bars than clubs. If the prices of inputs are the same, this suggests that average prices are actually lower in hotels than clubs. However, around 50 per cent of the sales of alcohol and other beverages from pubs is for consumption outside the premises (ie bottle shops) where margins would be very low. If account is taken of this, it appears that margins on sale of beverages for consumption on the premises is higher in hotels than clubs — which is consistent with cross-subsidisation from funds earned from gambling surpluses.

The Commission was unable to obtain information about club capital expenditure by state. However, in 1997-98 clubs in New South Wales accounted for 77.3 per cent of club gross income, the average income per club being \$1.68 million, compared with the average for other Australian clubs of \$0.69 million (ABS 1999a). Total capital expenditure Australia-wide in 1994-95 was \$714.5 million (ABS 1996b). It is likely that the majority of that expenditure occurred in New South Wales.

Whether expanded investment has adverse effects is dependent on whether the pre-tax rates of return are comparable to investments made elsewhere in the economy. If they are, there are no impacts on efficiency. However, for a variety of reasons it appears likely that the investments made by clubs will be less efficient than those made by fully taxable commercial enterprises:

- Some of the investments are in club facilities, whose costs are not represented in the prices of the goods and services sold on the premises. For example, the Australian Hotels Association (NSW) said:

The massive amount of money has not been put back into the servicing the community, charitable community organisations or research into problem gamblers and like issues. These vast billions have gone into bigger and better marble staircases within the clubs and the branching out of many clubs into other businesses (transcript, p. 305).

- While Clubs Queensland (sub. D273, pp. 45–7) denies that this is the case, the governance arrangements in clubs may be weaker than those in most private commercial businesses. This is not to suggest that club boards might engage in dishonest practices. However, small business owner managers have direct and powerful incentives to make investments which maximise their income, while the managerial performance of public companies is subject to self-interested scrutiny by shareholders, and disciplined by the threat of takeover. In contrast, while club members do have some controls over club boards, they have weaker incentives to demand the best rates of returns on investment since they can only benefit through improved club facilities (and at some point, the value of incremental improvements in facilities is lowly valued by members), rather than through cash dividends.
- Even if current investments made by clubs achieve competitive pre-tax rates of returns, this implies that the surpluses must continue to rise (because they are untaxed). Without recourse to cash dividends, club managers must reinvest the surpluses. To avoid significant inefficiency, the clubs would, over the long run, have to become diversified conglomerate businesses, with investments in disparate industries across Australia. If they do not pursue this strategy, then the clubs would saturate investment in the hospitality industry — with inevitably lower rates of return on those assets than alternatives. In this sense, diversification by clubs into areas in which they formerly were not involved may

be preferable on efficiency grounds than if they invested in a narrow range of assets related only to traditional club hospitality — though this would take such clubs far away from the purposes for which they were established. Moreover, there are equity problems associated with unfettered expansion of clubs — whether in the hospitality industry or wider.

In the current regulatory environment, the bulk of resource allocation effects are confined to New South Wales. However, no one fully anticipated the expansion of club facilities that occurred in New South Wales or fully appreciated its consequences. A similar expansion is conceivable in other states, depending on machine capping and taxation policies, widening the resource allocation effects of mutuality.

Recent data from the ABS suggest annual operating profits before taxes of clubs with gambling facilities are over \$0.5 billion dollars (compared with \$30.1 million for clubs without gambling facilities). Surpluses are also growing rapidly (at an average 6.9 per cent per annum from 1994-95 to 1997-98). Over a number of years, therefore, it can be expected that the club industry will make investments of many billions of dollars. If these assets earn a rate of return just two percentage points below the competitive market rate, that represents a loss to society of \$20 million per year for every billion dollars of assets. It is therefore conceivable that as the industry grows further, there may be efficiency costs of over \$100 million dollars per year.

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.

Effect on equity

Equity encompasses many issues, but here it is defined in its more narrow sense that either:

- people on the same income are treated equally by the tax system (horizontal equity); and
- people on higher incomes pay higher taxes than people on lower incomes (vertical equity).

Equity is therefore largely concerned about who gets what.

In 1956, when the New South Wales Government authorised registered clubs to operate gaming machines, it did so on the basis that the profits derived from gaming

would go back into club amenities and the community. Much later, in Queensland regulations also favoured clubs to ensure that profits from gaming machines would be returned to the community. In effect, most jurisdictions now have community benefit levies in place, or some other kind of arrangements to ensure that some proportion of club profits are used for the benefit of the wider community, as well as that of club members (sub. 41, p. 14). In Queensland and South Australia, community benefit funds are raised within the state gaming taxation arrangements. But in New South Wales, a system of Community Development and Support Expenditure was put in place in 1998, under which expenditure of 1.5 per cent of gaming machine revenue must be spent on approved projects by clubs with surpluses in excess of \$1 million per annum. And in Victoria, under self-regulating gaming machine industry codes of practice, clubs make an annual contribution of \$5 per gaming machine to fund the costs of the Gaming Independent Complaints Resolution process and the self exclusion process for problem gamblers.

Apart from these more formal arrangements, clubs also make voluntary contributions to their local communities. The Council of Community Clubs of Australia and New Zealand said the value of community support provided in 1996-97 by the New South Wales club industry alone was around \$155 million (sub. 63). In a later submission (sub. D226, p. 15) it said this figure was derived from a survey undertaken by Pannell Kerr Forster on behalf of the New South Wales Government and the Registered Clubs Association. The CCCANZ said the amount of \$155 million consisted of 39.2 per cent (or around \$60.8 million) in cash support to external parties, and 15.7 per cent (or around \$24.2 million) in non-cash support to external parties. Non-cash support takes several forms including the provision of capital equipment and maintenance, club facilities, and the services of club employees. CCCANZ provided the information presented in table 21.6, which shows that community support by New South Wales clubs to external organisations was 16.9 per cent of operating profit in 1997.

CCCANZ illustrated the club movement's contributions to the promotion of tourism by noting that the Registered Club Association donated \$250 000 to the Sydney 2000 Olympic Bid. It also pointed to the Royal Perth Yacht Club hosting the Challenge for the America's Cup. Penrith Rugby League Club said in the 12 months before the introduction of the Club Community Benefit Levy it donated \$1.3 million in community support. Further, it said:

For the past few years, Panthers has averaged donating over 20% of its annual profit to a range of worthwhile causes with the main emphasis on charities and junior sport. Note that this figure excludes all donations to our NRL team. (sub. D268, p. 3).

Penrith City Council (sub. D244) said registered clubs fulfil many of the community service obligations that Council or other service providers are unable to deliver. For

instance local clubs provide facilities, free of charge, for the meetings and other functions of service organisations and charities, and contribute to the maintenance of sports facilities, as well as being a major source of local employment. It said further, that under the *Liquor and Registered Clubs Legislation Amendment (Community Partnership) Act 1998*, Council and six registered clubs have formed a partnership, which distributed around \$12 million to community welfare, community development, social services and employment assistance projects in the 12 months to 30 November 1998. It concluded its submission by saying:

If Penrith is to meet the social, environmental and economic needs of a large and vibrant urban community, we will rely upon registered clubs playing an active role in supporting community and recreation endeavours, while also offering diverse leisure and entertainment facilities to satisfy expanding community needs. Our view is that registered clubs play a valuable role in the life of our City and Council's Strategic plan places substantial emphasis on our partnership with those clubs (sub. D244, p. 4).

Table 21.6 **Community support by New South Wales clubs as a proportion of operating profit, 1997**
per cent

	<i>Metropolitan clubs</i>	<i>Country clubs</i>	<i>Total</i>
Cash in house	4.8	11.9	7.0
Cash to external parties	5.8	19.8	10.7
Non-cash in house	15.5	8.9	10.9
Non-cash to external parties	3.9	7.2	6.2
Total	30.0	47.8	34.8

Source: CCCANZ, sub. D226, p. 16.

In a joint submission, the Club Managers Association Australia and Leagues Club Association of New South Wales said the community role played by registered clubs is not fully acknowledged by many commentators, and:

The fact remains, however, that the 'club' plays an important role in the lives of literally millions of people, particularly in New South Wales. Clubs provide community support in-house to members and community groups as well as support to external organisations. In many municipalities clubs relieve the financial pressures on councils to provide social, sporting and cultural infrastructure. This contribution is particularly valuable in provincial towns, regional centres and the rapidly growing urban fringes of sprawling Australian cities (sub. 41, p. 14).

Clubs Queensland said that in addition to gaming taxes and levies to the Queensland Government, it provides around \$35 million in cash support annually to sporting groups, charities and welfare organisations and the general public. In addition to this it provides in-kind support equivalent to approximately \$44 million. This equated to 7.6 per cent of gaming machine revenue for cash contributions and 9.7 per cent of gaming machine revenue for in kind-contributions, summing to

discretionary contributions to the community in total of 17.4 per cent of gaming machine revenue.

The Commissioner for ACT Revenue has provided estimates of community contributions for the ACT (table 21.7). These suggest total contributions on a self-assessed basis by clubs for the year 1998-99 of around 8.4 per cent of player losses, an increase of around half a percentage point over the previous year. The ACT Government has been working towards a more stringent test of what constitutes an acceptable community contribution by clubs and it considers only those contributions it categorises as primary contributions to be contributions to the broader and general community, as distinct from those of benefit to club members. Primary contributions constituted a little over 3 per cent of gross gaming machine revenue in 1998-99, or close to 5 per cent of net gaming machine revenue. The extent of community support provided by clubs in the ACT has been subject to criticism. Tax increases and the requirement for minimum community contributions were announced by the ACT Government in the 1999 budget.⁵

Clearly, whatever estimates are most accurate, clubs do provide benefits to their local community and very substantial ones to their members. Mutuality, by protecting club incomes from taxation, provides a major funding source for these benefits.

However, it is important to emphasise that the cash flows to members and local communities facilitated by mutuality are funded from the tax system. The forgone taxation revenue implies lower levels of government expenditure.⁶ This raises the question of whether the types of club expenditure funded by the tax forgone represent a better investment for Australians as a whole than those made by the governments. Expressed another way, in the absence of mutuality would Australians support subsidies of around a hundred million dollars per year to clubs?

As noted above, clubs provide resources for local communities (much of it in support of community sporting and recreational activities), invest in larger and more pleasant club facilities with more amenities, and invest in a range of other activities less directly linked to clubs as community organisations (such as large accommodation projects). This expenditure supports a narrower base of activities than government expenditure (for example, health, education and welfare) and lacks the assessment of competing needs characteristic of government budget processes.

⁵ Media release, Chief Minister, 4 May 1999.

⁶ Or higher Commonwealth taxes elsewhere in order to meet expenditure needs, with consequent equity effects on those who bear this tax burden, and with efficiency costs associated with a narrower tax base which bears higher tax levels.

In this sense, it is likely that investments by clubs generate less equitable outcomes than expenditures made by governments.

Table 21.7 Community contributions by ACT clubs, 1998-99

<i>Category</i>	<i>Total contributions</i>	<i>Share of gross gaming machine revenue^a</i>	<i>Share of net gaming machine revenue^b</i>	<i>Share of total contributions</i>
Primary contributions	\$	%	%	%
1 Charity	1 343 580	0.91	1.45	10.90
2 Sports	2 005 018	1.36	2.16	16.27
3 Non-profit	575 171	0.39	0.62	4.67
4 In-kind	581 578	0.40	0.63	4.72
5 Public asset	112 463	0.08	0.13	0.90
Sub-total	4 617 810	3.14	4.99	37.46
Secondary contributions				
6 Associated organisations	2 288 586	1.56	2.47	18.57
7 Infrastructure assets	4 542 592	3.09	4.90	36.85
8 Political/union	878 083	0.60	0.95	7.12
Sub total	7 709 261	5.25	8.32	62.54
TOTAL	12 327 072	8.39	13.31	100

^a Gross gaming machine revenue is defined as total money inserted into machines less winnings to players.

^b ACT Revenue Office estimates.

Source: Commissioner for ACT Revenue, 1999.

On the other hand, others would argue that clubs are integral parts of a local community and have the detailed knowledge of local needs to be able to channel resources into activities which the local community highly values. The CCCANZ (sub. D226) said it recognises that a central perspective is necessary for deciding on cross-regional priorities, but that Australia's three tiers of government make centralisation complex, cumbersome and costly in terms of administration and compliance costs, reducing the funds available. It also said that political considerations rather than need can result in politically marginal areas receiving benefits at the expense of communities in other areas providing the taxes. CCCANZ argued that the current system provides a balance between local priorities and central priorities, and:

Club members are a part of the local community and reflect the values and understand the issues of their community. Their boards are elected democratically. Their boards reflect the wishes of the membership in providing the support donations to groups and individuals in their community (sub. D226, p. 18).

Penrith Rugby League Club said:

It makes a lot of sense for Clubs to be able to allocate funds in their own areas. They are best placed to know where the funds are best used. They can respond immediately to urgent requests. A central body administering a pool of funds, would not have detailed knowledge of the needs of the Penrith area. In order to obtain that knowledge, they would need to build an infrastructure of some size and the cost of that bureaucracy would impact on, and eat into, the amount of allocations (sub. D268, p. 3).

The Australian Hotels Association (NSW) (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.⁷ It is certainly true that the mutuality principle does not treat hotels and clubs *equally*. However, the differential tax treatment between clubs and hotels has been in place a long time, and there is no evidence to suggest that the rates of return on capital in hotels are permanently reduced by the advantages afforded clubs by mutuality.⁸ On the contrary, there is evidence that the value of capital invested in hotel assets in New South Wales has been increasing rapidly since gaming machines were introduced in hotels. And if the favourable tax treatment of clubs were to be abolished, hotels would be at an advantage for a period, compared to the situation as it exists currently. But any increased returns to hotels would soon be competed away through greater investment in hotel assets.

In its draft report the Commission said that if rates of return on hotel capital were reduced due to the favourable tax treatment of clubs, hotel owners would no longer find it profitable to invest in hotel assets and capital would move out of hotels into higher performing assets elsewhere. The Australian Hotels Association (NSW) disputed that statement. It said this represented an 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 (sub. D208, p. 60).

⁷ Sentiments which were echoed by a report by the House of Representatives Standing Committee on Banking, Finance and Public Administration, entitled *Taxing Relaxing* (March 27, 1995).

⁸ ABS statistics suggest that operating profit margins in hotels with gambling facilities were around 8.9 per cent in 1997–98 compared to 9.6 per cent in clubs. It does not seem likely that sales to assets ratio of hotels are lower than that of clubs, which implies that, if anything, rates of return on assets are likely to be currently higher in hotels than clubs (for venues with gambling facilities).

Where clubs are expanding into areas of economic activity previously untouched by club entrepreneurship, such as hairdressing, butcher shops, motels and holiday accommodation, and cinemas, they may undermine the profitability of those enterprises, and generate inequitable capital losses for existing owners. For example, Forrester's Resort (sub. 157, p. 4) said gambling surpluses enabled clubs to compete with existing businesses at subsidised rates. CCCANZ (sub. D226) commented on the concern expressed by the Commission in the draft report about clubs entering into competition with commercial enterprises. It said that in the quoted example of a club purchasing a butcher shop, the shop in question was facing closure and club members had sought the club's support to keep it open, and there was no evidence to show that any other butcher in the region had been materially affected by the club's decision to keep the shop open. Furthermore, it said:

Clubs have different arrangements for what might be called ancillary business services for members. In many cases it is treated as non-mutual income and therefore treated appropriately under income tax rules (sub. D226, p. 27).

It remains the case that, any commercial activity operated by a club, whether on a mutual or a non-mutual basis, does not need to make a profit, enabling it to undercut prices charged by commercial enterprises, if it so wishes.

Summary of concerns

Clubs play a pivotal role in Australian communities. However, the preferential regulatory and taxation treatment of gambling in clubs by some state governments, has provided a substantial source of income to clubs. This, combined with the virtual protection of this income from tax by the mutuality principle, has led to a more significant expansion of club assets and price subsidisation of club services than otherwise would have been possible. This, in turn, can have adverse impacts for economic efficiency and equity, concerns which are likely to intensify as the relevant segment of the club industry expands further in the future. The benefits that clubs bestow on local communities are unlikely to outweigh these impacts.

21.7 Can anything be done?

The first point to emphasise is that the principle of mutuality is not, by itself, the *source* of the problems identified above. Mutuality has had unintended consequences for equity and efficiency when some segments of the club industry gained access to the potential for substantial profit growth from gaming machines.

Nor does the fact that, in this context, the mutuality principle poses some threats to efficiency and equity, mean that policy could effectively remedy these without either high transactions costs or other adverse effects. 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, unless the inability of clubs to distribute surpluses to members was also amended. Nothing requires any entity to make a profit. Clubs forced to pay income tax on any surpluses would find ways of avoiding large surpluses by:

- subsidising other goods and service to a greater extent, with even more profound effects on price distortions and greater (if transitory) costs to competitors; and
- possibly borrowing heavily to expand their businesses, offsetting interest charges against income.

This posts a warning that attempts to solve one set of problems can perversely create a fresh and even worse set of difficulties.

Notwithstanding this, there are a number of options for change. They are assessed below against the following criteria:

- investment distortions;
- price distortions;
- equity, including to members, owners of competing businesses and to the local community; and
- their feasibility.

Tax poker machine surpluses?

The Australian Hotels Association (NSW) (sub. 137) proposed that gaming income from both members and non-members be quarantined from other club income and taxed. It considered gaming income to be the heart of the problem to be solved by treating it as non-mutual income. There is already the prospect of this being realised in Victoria, where clubs do not own the gaming machines. The ATO's assessment is that club poker machine surpluses are not mutual income, consistent with the tax treatment of commissions from keno and TABs.

Effect on investment and pricing

Quarantining the tax to machine surpluses removes the ability of the club to offset machine surpluses with other trading losses (such as interest burdens or cross-subsidised prices on other goods). However, it leaves one avenue for subsidisation

still open — the prospect of better odds for gaming machines. Clubs would have an incentive to somewhat reduce the price of playing, since this would provide a tax-free benefit to members. This would tend to increase the attractiveness of playing the machines somewhat, and have all the uncertain effects on problem gambling that have been discussed in chapter 19.

Taxing surpluses would reduce the scope for unfettered expansion of clubs, but it provides little or no incentive for improved governance.

Effect on equity

The Licensed Clubs Association of Victoria said that if gaming income is quarantined for clubs and not for other venues supplying poker machine services, clubs might pay a higher rate of tax than other venues with the same gaming income. This would occur because other venues would be able to write off inadvertent losses from other activities against poker machine surpluses, while clubs could not. Moreover, under dividend imputation, the returns of other businesses are ultimately taxed in the hands of shareholders at their marginal personal tax rates, not at the corporate rate. Accordingly, any tax rate on gaming machine surpluses, should arguably be below the corporate tax rate.

However, even if a lower tax rate were implemented, this would fail to take account of the differing marginal tax rates among members — everyone is being implicitly taxed at the same rate. It is not clear that there is any workable system for taking account of this, without adding significant additional complexity to the tax system.

If clubs increase their payout, those members (and non-members) who mainly visit the clubs to play the poker machines would benefit. The reduced ability of clubs to cross-subsidise other club services would mean a reduced benefit to those members (and non-members) who use those services. The effect on equity would depend on the socioeconomic composition of each group (but would probably represent a gain, given evidence on the parallel issue of regressivity discussed in chapter 19).

As with demutualisation, clubs would reduce contributions to the community. However, here also the Government would have increased funds for its welfare programs.

Feasibility

There would be no or few administrative barriers, as the clubs already prepare poker machine profit and loss accounts and the ATO already processes club tax returns. There would however be some implementation issues. These might include:

-
- the possible exclusion of clubs with less than a threshold level of poker machine profits;
 - the determination of eligible gaming machine-related expenses which could be deducted from gaming machine revenue to determine the taxable base;
 - legislation to exclude poker machine surpluses derived from members from mutual income; as well as
 - legislation to quarantine poker machine profits for tax purposes so that they cannot be reduced by losses incurred on other activities.

Clubs Queensland (sub. D273, p. 50) was of the view that this option would be unworkable, because:

- it penalises all clubs, whatever their size;
- it would not address any of the issues raised by the Commission;
- it is likely to lead to the adoption of tax minimisation strategies; and
- it would impose an administrative burden and additional compliance costs on both the clubs and the government, possibly resulting in further inefficiencies.

CCCANZ termed this option ‘partial demutualisation’ and agreed with Clubs Queensland who said that the imposition of income tax on member activities would cause clubs to reassess their operations to minimise the tax burden, and would increase administrative costs.

Should gaming machines only be available on a commission basis?

In most Australian states, gaming machines are owned by the clubs. However, this is not true in Victoria or Tasmania, where a third party owns the machines, and clubs are provided with commission income. Other gambling forms — such as keno and TABs — also provide commission income to clubs throughout Australia. Under the current tax system, commission income is regarded as external income by the ATO and is subject to corporate income tax. Accordingly, one measure for bringing gaming machines into line with the treatment of other gambling forms in clubs is to have them provided by a third party (not necessarily along the lines of the Victorian model, which has its own defects). This would render all gaming income as taxable.

Effect on investment and pricing

The impacts on investment and prices would be similar to the option above, except that clubs would not have the ability to lower prices, since the machines would be owned by a third party.

Equity

Equity effects are again similar to the previous option, except that there would be no anticipated benefit for people on lower incomes who use gaming machines, because prices would not be likely to fall.

Feasibility

Adoption of the measure would not require amendment of any existing tax laws. However, it would require considerable restructuring of gaming machines in states other than Victoria and Tasmania, with significant structural adjustment costs. Depending on how it was implemented it might also generate some of the anti-competitive problems present from having one or a few owners of poker machines. The Australian Hotels Association would not support such an approach:

Such an arrangement potentially leads to problems associated with the third party provider exerting considerable pressure on establishments that wish to offer gambling services.

If the allocation of gaming machines is entirely dictated by the licensed third party there is likely to be frustration with venues not being able to access gambling facilities while their competitors are able to offer the service (sub. D231, p. 94).

Clubs Queensland (sub. D273, p. 51) said this option would be inappropriate as well as unworkable, because:

- it could result in an anti-competitive market, increasing the market power of gaming operators;
- it would divert gaming revenue from the community sector to the private sectors; and
- it would contravene the recent amendments to Queensland's *Gaming Machine Act 1991*.

Introduce a higher revenue tax rate on gaming machines in clubs?

This is again similar to the option of taxing the surplus on gaming machines, but would involve a state (consumption) tax rather than an income tax.

Effect on investment and pricing

The impacts on investment and prices would be similar to the first option above, except that, unlike the quarantined income tax approach, the price of playing gaming machines would tend to rise rather than fall. If clubs operated in a perfectly

competitive environment, then patrons would bear the full burden of the tax. However, as noted in section 21.6, it appears likely that clubs, at least in New South Wales, earn ‘super’ profits, typical of an incompletely competitive market. This implies that the extent to which prices will rise is indeterminate. Since governments already apply price regulations, it is possible that an increased state tax could be combined with a price cap set at a level which reduces any price increase.

The advantage of increasing the tax rate on gross gaming machine revenue in clubs, rather than an income tax, is that it can both redress some of the adverse impacts of mutuality *and* extract (at least some of) the rents that appear to be earned by clubs. If most of the rents were removed, it would cut substantially the flow of funds that underlie price subsidisation and excess club investment. This option does not affect mutuality as a principle — rather it removes the source of the ‘super’ profits that are the source of the problem.

Equity

Equity effects are similar to the previous option.

Feasibility

It would require minimal legislative change and in principle could be readily implemented by those state governments who were concerned by the inefficiencies in the current tax treatment of clubs. Tax changes have occurred in the past. For example, the rate of tax levied on clubs’ gaming machine revenue of under \$2.5 million increased on 1 February 1998 in New South Wales.

Furthermore, state governments could decide, depending on the very different contexts of their local club/hotel markets, what tax rate would be appropriate. In New South Wales it would be feasible to levy higher tax rates, in keeping with the existing, arguably overly generous treatment afforded clubs, whereas in Victoria and Tasmania no change may be required.

The Australian Hotels Association supported this option, saying that it believed that the Australian clubs sector should be taxed at the same rate as hotels when offering gaming services. It added:

The large differential between each state as well as each type of venue in the State should be addressed and placed high on the priority of State and Territory Governments throughout Australia (sub. D231, p, 94).

CCCANZ (sub. 226, p. 29) said increased taxation would have an adverse impact on the viability of clubs and their contributions to the local community. It said a

financial analysis had shown that more than 20 per cent of clubs in New South Wales would become unprofitable or financially marginal under tax equalisation. However, if such an increase were to be implemented, a phasing in of the higher tax rates over a number of years would allow clubs to prepare for the change. Clubs Queensland (sub. D273, p. 51–2) gave the following reasons for not supporting this option:

- there is no evidence that increasing taxes results in increased prices for gambling and reduced demand;
- there is no evidence that funds are distributed better by governments than the community sector; and
- clubs are best placed to distribute funds to the community as they have local knowledge, and no political bias.

Limit the number of poker machines permitted in clubs?

The problems occasioned by the treatment of gaming machine income under mutuality appear to arise mainly in those states where unlimited numbers of poker machines are permitted in clubs, and particularly New South Wales. One option, proposed by Star City, would be to limit the number of poker machines permitted in clubs in New South Wales (sub. 33, p. 3).

Effect on investment and prices

Depending on the limit set, it would tend to reduce the flow of funds to investment and cross-subsidised goods and services — reducing the distortions associated with these. By reducing the economies of scale associated with large gaming machine venues, it could be expected that costs would rise, and some (but not all) of these would be recovered from consumers through higher prices.

The impact of caps would encourage the formation of more clubs, partly circumscribing the intent of the policy. However, there are limits on the number of bodies which could pass the appropriate tests for club status.

Effect on equity

Higher prices would fall on gaming machine players, though the magnitude of such price increases is likely to be relatively modest. There would also be fewer poker machines available and in some cases this might create crowding. This might be beneficial in the case of problem gamblers, but result in costs for recreational players who have to wait to play.

Feasibility

There would be a number of implementation issues. Firstly, any such measure can only be implemented by state governments. This is an advantage as it recognises the diversity of the club/hotel markets across Australia and could take account of any existing regulations that affect these venues.

Secondly, the case for venue caps as a way of reducing the flow of concessionally taxed gaming machine revenues into club coffers is greatest in New South Wales, but the transitional costs of any cap which credibly reduced those flows would be substantial. Setting machine numbers at existing levels for any club would have a modest impact on the problems related to clubs' mutual status — caps would have to be more akin to those operating in Victoria (105) or South Australia (40) to have a real impact.

Any realistic plan would thus require a gradual phasing down of machine numbers for those clubs with machine numbers which significantly exceeded any relevant cap. This reflects the fact that many of these clubs would have financial commitments which depended on poker machine surpluses. At the end of May 1998, for example, clubs in New South Wales with over 100 machines accounted for 11.9 per cent of clubs, but for 50.8 per cent of machines and 66.2 per cent of machine revenue⁹ — underlining the magnitude of any transition to a cap of under 100 machines.

The Australian Hotels Association (sub. D231, p. 96) said the numbers of poker machines allowed to operate in clubs is a major concern. If the numbers were to be limited, however, clubs currently offering gaming facilities in excess of the limit should be able to continue to operate but subject to full taxation. Clubs Queensland (sub. D273, p. 52) did not object to a limit provided it is not a state-wide cap, as this would result in a shift of machines from smaller to larger clubs. In commenting on the fact that caps already exist in Queensland, it added that further capping of hotels would help to address the continued dilution of the concept of community-owned gaming in the state. CCCANZ said caps were a very blunt and inefficient method of addressing the Commission's concerns and it could foresee severe problems for clubs which are planning, or which already have commitments with regard to investments. It also said:

Capping will reduce consumer benefit because access limitations will lead to queuing effects and possibly price effects such as lower payouts (sub. D226, p. 28).

⁹ Department of Gaming and Racing, *Registered Clubs — Quarterly Gaming Analysis May 1998*, January 1999.

Demutualisation?

An extreme option, which would represent a fundamental shift in the approach to Australian clubs, would be enforced demutualisation of relevant clubs. Demutualisation involves a change in the corporate form of an organisation that results in members surrendering their rights to participate mutually in any common fund that constitutes the organisation. Upon demutualisation there is effectively a distribution or allocation of any accumulated mutual surplus, with former members receiving tradeable shares in the new entity or an equivalent cash payment. The new entity is taxed on its profits and the former members, who become shareholders, would receive franked dividends.

Effect on investment and prices

Pressure from shareholders for a return on their investment would place the new entity on a par with other commercial enterprises as regards investment and pricing decisions, as well as create pressure for efficiency in production.

In normal corporate entities, shareholders are not the exclusive or even dominant consumers of the goods and services of the entity of which they are owners. They wish any surpluses to be paid to them. However, in the case of demutualised clubs, the initial group of shareholders would also be the dominant customers. Might not they still wish to see subsidised services to members because these provide untaxed benefits? This is unlikely over the medium or longer run, because:

- members who use the club less frequently — and there are many of these — will prefer a dividend to subsidies on services they rarely consume;
- members with zero or low marginal tax rates, can obtain bigger benefits from cash dividends (which they can use to buy anything) than implicit ‘dividends’ hypothecated only to club services; and
- clubs have used their surpluses to invest in assets other than club facilities, and many members will prefer some dividend, rather than reinvestment of all retained earnings.

For these reasons, demutualisation appears to stem all the inefficiencies associated with price subsidisation or excess investment associated with current policy settings.

Effect on equity

Currently the more often members use club services the more they contribute to the surplus. As member attendance and individual expenditure are not recorded (and

could, in any case, not easily be done), some other basis for the allocation of shares would have to be devised. The most likely one would be to initially allocate equal shares to all members. Some windfall gains to those members who rarely visit the club would be inevitable and inequitable.

Fewer funds would be available for community contributions. The CCCANZ said that if clubs were to be taxed as companies and pay fully franked dividends this would entail a fundamental shift in the overall philosophy of being a club member and would:

... result in a decline in funds available for non-financial benefits available to members and non-members using the club's facilities and for support of the community at large (sub. 142, p. 23).

Indeed, the Club Managers Association Australia and Leagues Club Association of New South Wales argued that the concessional taxation treatment conferred on clubs recognised the contribution clubs make to local communities. However, abandonment of mutuality would not preclude tax deductible donations, which would still apply to a very wide range of charitable and other community groups. Moreover, taxing club surpluses does not necessarily reduce funds available for community purposes, as the Government would have increased tax revenue to fund improved education, health and social infrastructure in Australian communities. The people who would benefit — the incidence of these contributions — would however be different than under current club community contribution arrangements.

With regard to taxation, the shareholders of the demutualised club would receive franked dividends. The imputation system would ensure that those shareholders earning high incomes would pay a larger amount of tax on these dividends than those on low incomes.

Feasibility

Demutualisation is currently a voluntary process. Members are most likely to vote for demutualisation if they expect to gain access to significant capital gains or dividend streams. Currently there are taxation anomalies associated with demutualisation, particularly in the area of capital gains tax, which would deter such voluntary demutualisation (because taxpayers would be subject to double taxation). In its 1997-98 Budget, the Commonwealth Government announced its intention to develop a generic framework for determining the tax consequences of transactions associated with the demutualisation of non-insurance organisations.¹⁰

¹⁰ The taxation treatment for demutualisation of insurance organisations is already covered by specific provisions contained in the *Income Tax Assessment Act 1936*.

Subsequently, in February 1999, the Government released a draft of proposed amendments to the *Income Tax Assessment Act 1936* to deal with demutualisation of mutual entities other than insurance companies. When implemented, this legislation will ensure, inter alia, that the capital gains tax provisions will not apply to the surrender of a membership interest, and that on the issue of demutualisation shares, no amount is included in a member's assessable income.

Further legislative changes would be required were demutualisation to become compulsory. Moreover, the transition costs of demutualisation may be high, relative to any gain, for smaller clubs. Some participants commented that while the mutuality principle should not apply to the large licensed clubs, it should not be 'abolished' altogether. In a study prepared for the Australian Hotels Association (NSW), Firmstone & Feil said:

The principle of mutuality currently applies to many organisations which rightly benefit from its application. Apart from bodies corporate, small church groups and 'non-commercial' clubs all benefit from mutuality. It is an important principle and should not be abolished by statute (attachment to sub. 137, p. 1).

Prof McGregor-Lowndes said it would have an adverse impact on many small non-profit organisations if mutuality were no longer to apply, and:

... it is important that [the abolition of the mutuality principle] not be broad-brush, and be targeted specifically at clubs ... otherwise [it] will bring a whole range of non-profit and community organisations into the tax system ... I want to impress upon you that to broadly say mutuality ought to go by the wayside is not appropriate ... (transcript, p. 100).

This suggests that it would be necessary to set a threshold for any demutualisation. The threshold could be based on the number of poker machines, on total assets or on turnover. Senator Andrew Murray, took the view that:

The loophole in the mutuality principle must be reformed. The large super clubs continue to dominate, adding to the concerns of not only private business but also smaller clubs that are, in fact, operating within their original charter and are within their right to claim the mutuality principle exemption (sub. D276, p. 2).

He suggested a turnover of \$1 million might be an appropriate threshold (p. 3). But while any regulation concerned with demutualisation would apply Australia-wide, it would be irrelevant in those states where the clubs for one reason or another remained small enough to stay below the threshold.

Thresholds, however pose their own problems for efficiency and equity. Clubs just under and over the threshold are treated very differently. The existence of thresholds might lead to complex club structures in which a super club breaks into an apparently large number of small cooperating sub-clubs operating at the same

site, each one under the legal threshold for demutualisation. This would require countervailing measures, and inevitably leads to more complex regulation.

With regard to administrative feasibility, the larger clubs already produce professionally executed accounts, scrutinised by auditors. And clubs might elect no longer to distinguish between members and non-members, as there would be no taxation advantage from doing so. In the case of the ATO, there would be no additional complexity, as the mechanics for dealing with business taxes are already in place.

The Australian Hotels Association (sub. D231, p. 96) supported demutualisation provided small, legitimate sporting or cultural clubs were not disadvantaged, and suggested a threshold based on either turnover or gaming machine numbers. CCCANZ did not support this option, for the same reasons it did not support quarantining and taxing gaming machine income. Clubs Queensland (sub. D273, p. 53) considered demutualisation inappropriate for the following reasons;

- this would go against the concept of community-owned gaming;
- it would result in a purely profit-driven club industry;
- in such an environment, self-regulated responsible gaming strategies would be more difficult to implement.

Conclusion

The Commission has outlined a number of possible options for dealing with the problems that arise when mutuality is combined with a substantial and growing source of revenue to clubs — in this case, gambling. All have some advantages, but none are free of limitations. The Commission has rated the various options in table 21.8. In doing so, judgments have been made about difficult issues like equity. In particular, the Commission has judged that tax revenues collected by governments have more equitable outcomes in principle than if the same amount of money is collected by a club that then distributes resources to its members and to community purposes of its choosing. Participants from the club movement disagreed with this judgment, as did Penrith City Council.

Of the options, the one which appears to offer the most scope for remedying the distortions is the imposition on clubs of a higher rate of state tax on gambling. This would need to occur only in some states, recognising the different contexts of clubs in different jurisdictions. But any such move would need to involve phasing to minimise transitional losses on existing investments.

Table 21.8 Effects of current club structure and options for reform^a

<i>Criteria</i>	<i>Current club structure</i>	<i>Demutualise clubs</i>	<i>Tax poker machine income</i>	<i>Gaming machines only available on a commission basis</i>	<i>Increase tax rates on poker machine revenues</i>	<i>Limit number of poker machines</i>
Efficiency in Investment decisions	●	●●●●●	●●●	●●●	●●●●●	●●●
Efficiency in pricing decisions	●●	●●●●●	●●●	●●●	●●●●●	●●●
Equity						
• for the wider community	●●	●●●	●●●●	●●●●	●●●	●●●
• for other businesses	●●●	●●●●	●●●●	●●●●	●●●●	●●●●
Feasibility	n/a	●	●●●	●	●●●●●	●

^a The dots represent a rating from ● (low) to ●●●●● (high).

22 Regulatory processes and institutions

Box 22.1 Key messages

- Current institutional arrangements for gambling policies and regulation have some positive aspects, but also some deficiencies:
 - regulatory responsibilities are sometimes unnecessarily divided;
 - some regulators are part of government, some are independent;
 - mechanisms for obtaining community input are generally insufficient; and
 - there is inadequate information for good decision making.
- Key questions concern the appropriate level at which different decisions should be made, the information which should inform such decisions, and how that information, including community views, should be accessed.
- A regulatory ‘model’, drawing on the best aspects of current arrangements — though going beyond what is to be found in any jurisdiction — would comprise:
 - ‘big picture’ policy decisions being made by each government/Parliament, but informed by more open processes and better information;
 - an independent gambling control authority in each state and territory:
 - * with the primary objective of furthering the public interest;
 - * its charter emphasising a high standard of consumer protection as a central objective; and
 - * with the role of making decisions in accordance with legislative criteria, as well as providing objective information to government and the community.
 - * It would have:
 - > *a structure* which facilitates its statutory independence;
 - > *coverage* of all gambling activities; and
 - > *processes* based on transparency and public consultation;
 - an enforcement function separate to the control authority or the policy department;
 - an independent board with responsibility for (a) administering the Community Benefit Fund, (b) funding of counselling and harm minimisation programs, and (c) research and information gathering and dissemination (see also chapter 23).

22.1 Introduction

Previous chapters have only touched upon part of the complex web of government controls and requirements designed to regulate Australia's gambling industries. Nevertheless, it is apparent that current regulatory structures are characterised by a wide variety of approaches, heavily influenced by the changing views of governments and societies at different times and by specific arrangements entered into with particular providers. In addition, chapter 12 has shown that governments have not been wholly clear or consistent about their reasons for regulating gambling.

There are many positive aspects to current arrangements, and the ongoing process of review, through racing and gaming ministers conferences, NCP reviews and the like, have led to changes in regulations and the associated governmental structures. The changing nature of the gambling market itself has added impetus to this.

However, there are some perverse features. In part, this is because governments continue to face conflicting pressures. They wish to reduce the social harms of gambling, but also to expand gambling tax revenues. They promote and provide some forms of gambling. They inflate the prices of gambling products to consumers through exclusivity arrangements and high taxes, while imposing ceilings on the prices of some gambling products.

These matters raise questions about how decisions are made, and whether there are better ways to structure policy making and regulatory processes to get better outcomes in the future. Indeed, a concern frequently expressed to the Commission was that there was insufficient emphasis upon proper processes for reaching decisions, a general lack of transparency in those processes, and that decision making was insufficiently independent from the various interests involved (including arms of government). The variety of processes and governance arrangements used in different jurisdictions suggests that there may be lessons to be learned.

These issues are not unique to Australia. The United States National Gambling Impact Study Commission said that one of its key arguments for a 'pause' in the expansion of gambling in that country was:

... to encourage governments to do what to date few if any have done: To survey the results of their decisions and to determine if they have chosen wisely ... virtually no state has conformed its decisions in this area to any overall plan, or even to its own stated objectives. Instead, in almost every state whatever policy exists toward gambling is more a collection of incremental and disconnected decisions than the result of deliberate purpose (NGISC 1999, p. 1.7).

Across Australia, the development of regulatory regimes is in a state of flux. Several states and territories are reviewing or changing aspects of their policy towards one form of gambling or another. For example:

- the Queensland Government is nearing completion of a review into the economic and social impacts of gaming machines, and has announced several policy changes it will seek to implement;
- the ACT is setting up a Gambling and Racing Commission to be responsible for all forms of gambling, following a report by an ACT Legislative Assembly committee;
- the newly elected Victorian Government has announced that it intends to make some wide-ranging changes to aspects of that state's gambling policies, including with respect to caps on machine numbers, local community consultation and greater independence for the VCGA;
- New South Wales has enacted the *Gambling Legislation (Responsible Gambling) Act 1999* to, among other things, strengthen controls over the industry and foster harm minimisation measures;
- New South Wales and South Australia, among others, are undertaking public NCP reviews of their racing and wagering industries; and
- at the federal level, a Senate committee is examining the implications of growth in online gambling.

This chapter looks at some central questions about the structures and processes which lead to good policy outcomes. It asks:

- what functions need to be undertaken by a regulatory regime?
- at what level should different decisions be made?
- how should regulatory institutions be structured?
- how broad should their respective ambits be?
- what rules and processes should be followed by regulators and policy makers?

The next section looks at the functions which need to be undertaken within a regulatory regime for gambling industries, and briefly notes how some of these are being undertaken now. It also highlights some concerns raised by participants during the inquiry. The chapter ends with the Commission's views on what the most appropriate regulatory regime might look like, drawing on the experiences of different jurisdictions.

22.2 What regulatory functions need to be undertaken?

Previous chapters, the work of analysts such as McMillen and recent reports such as that by IPART (1998) point to the need for a regulatory regime for gambling to be organised around several key functions, namely:

- *the development of policy* — settling the ‘big picture’ questions on threshold matters with significant community-wide impacts;
 - this includes decisions about the liberalisation and accessibility of gambling, what forms of gambling should be legal, tax rates, harm minimisation and consumer protection policies, the number of provider licences to be issued, the nature of exclusivity arrangements entered into with particular providers, issues of government or private ownership of some gambling providers and caps on gaming machines;
- *control* — more ‘administrative’ decisions and independent advice within the established broad policy framework:
 - deciding, within the context of the principles so established, who should get licences, which venues get machines, which persons may operate or work in venues, which games may be played, technical standards for machines, and penalties for breaches of licence conditions; broadly, this is about making decisions, approving standards and (perhaps) deciding appeals;
- *enforcement* — monitoring to ensure compliance with the rules and standards;
 - the day-to-day surveillance of the conduct of gaming and enforcing the rules already in place, checking that technical standards are complied with, investigating complaints and ensuring that consumer protection requirements are met;
- *adjudication* on appeals against decisions made under the control and enforcement functions;
- *revenue assessment and collection*; and
- *programs* — such as those covering community awareness of the risks of gambling, support services for problem gambling, research programs and data collection.

The boundaries between these functions can be difficult to delineate precisely. In particular, separating the control and enforcement functions poses some practical difficulties. But what is clear is that there is currently some confusion of roles and functions, and that these are likely to lead to poor decision making, with the consequence that community concerns about aspects of gambling policy may not be properly addressed.

How are these functions undertaken now?

Each of the regulatory functions listed above is carried out in each jurisdiction, but in different ways. For example, each jurisdiction has a department or office with responsibility for administering a range of gambling legislation (box 22.2), responsible to a Minister who has the major responsibility for gambling policy and regulation — in several cases, within the Treasury portfolio. But a number of other agencies (for example, departments of health or community services, racing clubs and the police) may also have particular responsibilities.

The broad approaches are summarised in tables 22.1 and 22.2, which capture some of the main features and differences.

In addition, each jurisdiction has a statutory authority with a particular set of responsibilities. Typically, the authorities comprise independent commissioners, appointed for fixed terms, but the scope of their activities varies considerably. Some have a fairly broad focus (the VCGA, for example, and the ACT's proposed Gambling and Racing Commission), while others have a narrower set of responsibilities. Some have their own staff (the VCGA, for example, has 146, the Casino Control Authority of New South Wales has 22 and the ACT's Casino Surveillance Authority has 12), but more commonly they are serviced by secretariats from the regulating agency (the Queensland Gaming Commission is an example).

Some independent authorities have the semi-judicial right to determine certain matters, rather than recommend action to a Minister. In Queensland, where the regulation of gambling is almost wholly the responsibility of the QOGR, the power to grant, suspend or cancel licences (or to issue sanctions) for gaming machines in clubs and hotels is given to an independent statutory authority, the Queensland Gaming Commission. Similar powers are vested with:

- the VCGA (with respect to gaming machines and the casino);
- the Casino Control Authority of New South Wales (with respect to the casino);
and
- the New South Wales Licensing Court and the Liquor Administration Board (with respect to gaming machines).

In many other cases, these functions are carried out by regulators, Ministers and the courts. In South Australia, for example, the Liquor and Gaming Commissioner has these powers, as does the Office of Racing, Gaming and Liquor in Western Australia (which also performs some functions for the Gaming Commission of Western Australia).

Box 22.2 Main legislation governing gambling

New South Wales:

Bookmakers (Taxation) Act 1917
Casino Control Act 1992
Gambling (Two-up) Act 1998
Liquor Act 1982
Lotteries and Art Unions Act 1901
Public Lotteries Act 1996
Racing Administration Act 1998
Racing Taxation (Betting Tax) Act 1952
Registered Clubs Act 1976
Totalisator Act 1997
Unlawful Gambling Act 1998

Victoria:

Casino (Management Agreement) Act 1993
Casino Control Act 1991
Club Keno Act 1993
Gaming No. 2 Act 1997
Gaming and Betting Act 1994
Gaming Machine Control Act 1991
Interactive Gaming (Player Protection) Act 1999
Lotteries, Gaming and Betting Act 1966
Racing Act 1958
Tattersall Consultations Act 1958
Trans-Tasman Line Gaming Act 1993

Queensland:

Art Unions Act 1992
Breakwater Island Casino Agreement Act 1982
Brisbane Casino Agreement Act 1992
Cairns Casino Agreement Act 1993
Casino Control Act 1982
Charitable and Non-profit Gaming Act 1999
Gaming Machine Act 1991
Interactive Gambling (Player Protection) Act 1998
Jupiters Casino Agreement Act 1983
Keno Act 1996
Lotteries Act 1997
Racing and Betting Act 1980
Wagering Act 1998

Western Australia:

Betting Control Act 1954
Casino (Burswood Island) Agreement Act 1985
Casino Control Act 1984
Gaming Commission Act 1987
Lotteries Commission Act 1990
Totalisator Agency Board Betting Act 1960

South Australia:

Casino Act 1983
Gaming Machines Act 1992
Lottery and Gaming Act 1936
Racing Act 1976
State Lotteries Act 1966

Tasmania:

Casino Company Control Act 1973
Gaming Control Act 1993
Racing Act 1983
Racing and Gaming Act 1952
TT-Line Gaming Act 1993

ACT:

Betting (ACTTAB Limited) Act 1964
Bookmakers Act 1985
Casino Control Act 1988
Games, Wagers and Betting-houses Act 1901 of NSW
Gaming and Betting Act 1906 of NSW
Gaming Machine Act 1987
Interactive Gambling Act 1998
Lotteries Act 1964
Pool Betting Act 1964
Racing Act 1998
Unlawful Games Act 1984

Northern Territory:

Gaming Control Act 1993
Gaming Machine Act 1995
Racing and Betting Act 1998
Totalisator Administration and Betting Act
Unlawful Betting Act
Soccer Football Pools Act
Racing and Gaming Authority Act

Table 22.1 Key portfolio and statutory agencies

Excluding taxation and revenue collection

<i>State/ Territory</i>	<i>Agency</i>	<i>Main portfolios</i>	<i>Main roles in relation to gambling</i>
NSW	Dept of Gaming and Racing (incl Director of Casino Surveillance)	Gaming and Racing	has overall responsibility for the proper conduct and balanced development - in the public interest - of the gaming, racing, liquor and charity industries
	Liquor Administration Board		administers liquor licences, assesses and collects gaming machine duty in clubs and hotels, approves gaming machine technical standards
	Licensing Court of NSW		responsible for granting liquor licences to hotels and certificates of registration to clubs, both of which carry entitlements to operate gaming machines; also responsible for issuing licences to gaming machine dealers, sellers, technicians and advisers
	Casino Control Authority		licensing, supervision and control of casino operations, approval of casino games and equipment etc, fund and conduct research into casino-related matters
Vic	Victorian Casino and Gaming Authority VCGA together with its: <ul style="list-style-type: none"> • Director of Gaming and Betting^a and • Director of Casino Surveillance^a 	Gaming	has powers of review, regulation and to fund and conduct research grants licences, decides who is suitable to hold a licence etc quasi-judicial - tasks include making final determination on appeals lodged by external parties against decisions of the Directors
	Office of Racing	Racing	licensing of bookmakers
Qld	Queensland Office of Gaming Regulation	Treasury	regulation of almost all legalised gambling licensing and compliance functions
	Queensland Gaming Commission		has the power to grant, censure, suspend or cancel a range of licences incl gaming machine licences; determines number of gaming machines at each venue; hears appeals against certain decisions; (appeals against its decisions go to Minister or Magistrates Court)
WA	Office of Racing, Gaming and Liquor	Racing and Gaming	carries out many of the Gaming Commission's operational functions, including the provision of licensing, inspection and audit for casino and permitted gaming, together with wagering
	Gaming Commission of WA		policy and procedures in the administration of casino gaming; licensing and regulating minor gambling, VLTs and lotteries

(continued)

^a Appointed statutory positions, with specific functions established in legislation.

Table 22.1 (continued)

<i>State/ Territory</i>	<i>Agency</i>	<i>Main portfolios</i>	<i>Role and activities in relation to gambling</i>
SA	Liquor and Gaming Commissioner	Justice	administers and regulates the casino and gaming machines in clubs and hotels determines applications for licences hears disciplinary action against licensees, and has to power to reprimand, suspend or cancel licences inspects, monitors and gaming machine operations
	Dept of Treasury and Finance	Treasury	some supervisory functions with respect to the casino, gaming and the Lotteries Commission
	Gaming Supervisory Authority	Treasury	review and supervision of the licensing process and of conduct of gaming can hear appeals and conduct inquiries on any matter relating to gaming covers casino and gaming machines
Tas	Dept of Treasury and Finance	Treasury	responsible for most gaming and wagering
	Tasmanian Racing Authority		licensing of bookmakers
	Tasmanian Gaming Commission		oversees and monitors gambling policy administers the Community Support Levy and makes recommendations on allocation of funding
ACT	ACT Revenue Office	Chief Minister	responsible for most gaming and wagering
	Casino Surveillance Authority ^a		supervises the operation of the casino, licences employees, checks and approves gaming equipment, casino layout etc
NT	Racing and Gaming Authority	Racing, Gaming and Licensing	main regulator of all forms of gaming and racing
	Gaming Control Commission		review and advisory functions on gaming matters
	Racing Commission		regulates and controls racing, bookmaking and TAB

^a To be replaced by the Gambling and Racing Commission.

Source: submissions, annual reports.

Table 22.2 Policy, control and enforcement: the main regulators

<i>State/Territory Who handles the gambling policy role?</i>	<i>Regulators</i>	<i>Statutory authority?</i>	<i>Coverage of gambling modes</i>	<i>Mainly control or enforcement?</i>	<i>A research function?</i>	<i>Program adminis- tration^a</i>
NSW <i>Minister for Gaming and Racing</i>	Dept of Gaming and Racing	✗	most	both	✓	✓
	Liquor Administration Board	✓	machine gaming in clubs and hotels	control	✗	✗
	Licensing Court	✗	machine gaming in clubs and hotels	control	✗	✗
	Casino Control Authority	✓	casino gaming	control	✓	✗
Vic <i>Minister for Gaming (also Minister for Finance)</i>	Victorian Casino and Gaming Authority	✓	most	both	✓	✓
	Office of Racing	✗	racing		✗	✗
Qld <i>Treasurer</i>	Queensland Office of Gaming Regulation	✗	most	both	✗	✓
	Queensland Gaming Commission	✓	most	control	✗	✗
WA <i>Minister for Racing and Gaming</i>	Office of Racing, Gaming and Liquor	✗	most	both	✗	✗
	Gaming Commission of WA	✓	most	control	✗	✗
SA <i>Treasurer</i>	Liquor and Gaming Commissioner	✗	casino, clubs, hotels	both	✗	✗
	Gaming Supervisory Authority	✓	casino, clubs, hotels	control	✗	✗
	Dept Treasury and Finance	✗	most	enforcement	✗	✗
Tas <i>Treasurer</i>	Dept Treasury and Finance	✗	most	enforcement	✗	✗
	Tasmanian Gaming Commission	✓	most	both	✗	✓
	Tasmanian Racing Authority	✗	racing		✗	✗
ACT <i>Chief Minister</i>	ACT Revenue Office	✗	most	both	✗	✓
	Casino Surveillance Authority	✓	casino	both	✗	✗
NT <i>Minister for Racing, Gaming and Licensing</i>	Racing and Gaming Authority	✗	most	enforcement	✗	✓
	Gaming Control Commission	✓	gaming	control	✗	✗
	Racing Commission	✓	racing	control	✗	✗

^a Undertaking or funding counselling, community or research programs.

In the past, it was common for casinos, racing and other forms of gambling to be handled separately, and to some extent this still holds in some jurisdictions. For example, control of casinos is vested in an independent authority in New South Wales and (currently) the ACT, but comes under a more broadly-based independent gaming control authority in several other states. For example, the VCGA is responsible for regulating all forms of gambling in Victoria other than the licensing of on-course bookmakers (the responsibility of the Office of Racing).¹

As new gambling forms have been permitted and have expanded in importance, regulatory regimes have sought to adapt to these changes. For example:

- the VCGA was formed in 1994 when Victoria’s Gaming Commission, established to control the gaming machine industry, and its Casino Control Authority, established to regulate casino operations, were combined;
- South Australia’s Gaming Supervisory Authority has a broader purview than the Casino Supervisory Authority, which it replaced in 1995;
- the ACT Government is about to establish a Gambling and Racing Commission with responsibility for all gambling including the casino and ACTTAB; and
- the QOGR is now responsible for almost all legalised gambling in Queensland (sub. 128, p. 15).

Other institutional changes have also been made. For example, Queensland has separated the operational functions of owning and monitoring gaming machines from the regulatory functions of the QOGR. It has separated the regulatory and business functions of the Golden Casket Lottery Corporation, and is doing the same for its TAB prior to selling off the business function (sub. 128, pp. 6–7). These changes have served to focus the regulatory responsibilities in the one place.

Similarly, the South Australian Government said that, while its TAB and Lotteries Commission are ‘self-regulated through the Minister of Government Enterprises’:

If they are to be privatised it is the intent of the government that the regulatory functions would be vested with a separate regulatory body (sub. D284, p. 7).

It cited section 4 of the Competition Principles Agreement, which requires that:

Before a party introduces competition to a sector traditionally supplied by a public monopoly, it will remove from the public monopoly any responsibilities for industry regulator (sub. D284, p. 7).

¹ The VCGA’s responsibilities are shared between the Authority and the two senior statutory officers, the Director of Gaming and the Director of Casino Surveillance. The Authority and the Directors can provide advice to the Minister for Gaming jointly or separately.

Issues which have arisen during this inquiry

Some of the issues raised by participants were as much about how decisions were made as about the decisions themselves. Several raised concerns about:

- conflicting objectives;
- inconsistency of approaches;
- lack of transparency; and
- the inadequacy of consultation processes.

Conflicts of objectives

As noted elsewhere in this report, there are conflicts among some of the objectives which regulatory regimes seek to meet. Noting the government's reliance on gambling taxes, Logan City Council said:

Current regulation in Queensland appears to have been designed to achieve a mix of objectives that may have detracted from its main role (sub. 66, p. 23).

Some objectives are the cause of controversy. For example, the Casino Control Authority of New South Wales has responsibility for:

... promoting tourism, employment and economic development generally in the State (IPART 1998, pp. 16–17).

And similarly the VCGA is required:

... to promote tourism, employment and economic development generally in the State through the administration of the various Acts (sub. 135, p. 2).

The Interchurch Gambling Task Force and others criticised this clause, referring to 'the inherent contradiction between regulating gaming and promoting tourism'. It argued that that the VCGA 'isn't there to promote tourism and the hospitality industry ... it's there to ... regulate' (transcript, p. 373).

How much effect such a clause has in practice is not clear. Clearly there are some tourism and economic development aspects to gambling, particularly in the case of large destination venues such as casinos. But they should be taken into account in the economic and social impact studies which the agency commissions or carries out. In the Commission's view, *promoting* gambling, whether for tourism or any other reason, should not be a role of the regulator. (In the case of the Victoria, the newly-elected government has announced that it intends to introduce legislation to remove this role from the VCGA.)

The Australian Hotels Association, in its response to the draft report, agreed that:

... the promotion of this industry should be left to those that provide the services ... if privately owned companies wish to advertise their products then they should do so like the majority of other business enterprises and budget it into their general operating costs (sub. D231, p. 97).

While a mix of regulatory objectives is probably unavoidable (and this report has suggested some which the Commission sees as desirable), a key question is how to organise regulatory arrangements so as best to meet those objectives. As part of this, the respective roles of Ministers and regulators need to be kept clear.

For example, Catholic Social Services talked about the need for:

... a clear delineation of ... policy power and decision-making on the part of the government from the oversight and application and implementation of that policy by a body such as the Victorian Casino and Gaming Authority (transcript, p. 387).

In response, the VCGA observed that:

The Authority is responsible for the regulation of the industry; it does not determine gambling policy. This is entirely the province of government — eg whether or not there is to be a moratorium on [gaming machines] or the introduction of Club Keno etc. Legislative amendments would be required if the Authority was to become involved in any policy making procedures (sub. 135, p. 3).

In several jurisdictions, the main regulating agency sits within the Treasury portfolio, but the desirability of this location was questioned. Logan City Council argued that gambling regulation should be a part of the state agency that has responsibility for consumer protection, rather than part of an agency with a primary objective of increasing state revenue. It said that the location of the QOGR in Treasury raised questions about whether its primary objective would be to regulate the impact of the industry on the community, or to provide revenue for the state:

This is not to suggest there has been regulatory failure to date, only to indicate that the existing arrangements mean there are significant risks that regulatory failure could occur (sub. 66, pp. 23–5).

Of major concern to some is the perceived difficulty of regulators remaining immune to the preferences of Ministers and governments for particular regulatory outcomes. And some participants argued that the enormous revenues which gambling generates for the states and territories were unduly influencing the attitudes of governments and their willingness to tackle resulting social problems. For example, the Interchurch Gambling Task Force said:

... in this state I don't think it's an accident that the Minister for Gaming is the Minister for Finance and Gaming. That link is, I think, very undermining of the state government's regulatory role ... there is proper attention that needs to be given to the regulatory role of the VCGA, the role of government, not promoting and sponsoring this, and proper restraints upon the industry (transcript, p. 374).

It added that state governments can be ‘addicted to the gaming dollar almost more than the industry’:

... gaming has grown to nearly ... 14 per cent of recurrent revenue now, and it is growing. I think this has proved in the Victorian experience that ... governments find it almost impossible to be both regulator, in an objective sense for the social good, and revenue collector. This is what my reference is to as minister for finance and gaming. I think there is a fundamental contradiction with those two (transcript, p. 388).

Commonwealth-State funding arrangements have a role to play here. The Women’s Electoral Lobby argued that:

States do have enormous funding responsibilities in terms of provision of education and health and essential services, so it's important that they’re receiving funding which enables them to support that. If they don't, the pressure to raise revenue through fairly socially damaging means becomes more intense (transcript, p. 514).

More broadly, Star City argued that:

... governments of the day are under enormous pressure from gaming operators to approve additional machines and games. No government wants to lose the support of these powerful lobby groups so there has been a tendency for gaming decisions to be based on political considerations rather than on merit (sub. 33, p. 28).

Others expressed concern about the scope for industry to unduly influence regulators. Logan City Council said:

In the face of all the evidence in recent years that single industry regulators are vulnerable to capture from the very industries they regulate, this arrangement creates risks that the regulators will act first to protect the State’s revenue base, particularly if it does not threaten the industry. It raises questions about whether the public is at risk of its legitimate interests being overlooked. McMillen was raising issues about the conflict of interest apparent in the access of commercial interests to the policy-making process as early as 1991 (sub. 66, p. 23).

A concern expressed by several participants is that, in some jurisdictions, there is an undue closeness between government and the gambling industry, which many critics see as inimical to good regulatory practice. This need not be related to questions of government ownership. But government acting as a gambling provider (particularly in the context of heavy advertising by government lotteries and TABs) can reinforce such perceptions.

Inconsistency of approaches

Earlier chapters have noted that there are some significant differences between jurisdictions with respect to the approach in like circumstances. This contributes to some of the inconsistent outcomes mentioned in previous chapters. For example:

-
- in some jurisdictions there are separate regulatory structures for casinos, and probity checks are stringent for casinos but minimal for clubs, some of which are bigger than casinos (in New South Wales, the casino act requires an investigation of the casino licence every three years after its original grant);
 - liquor licences are sometimes handled by the same agency, and sometimes they are not;

The CCA is responsible for issuing and monitoring the Star City liquor licence and other liquor licences within the casino complex. This is in contrast with the rest of NSW which has liquor licensing undertaken by the Licensing Court and the Liquor Administration Board, yet very similar regulatory practices are followed (IPART 1998, p. 17); and

- broadly similar venues are subject to different regulation and taxation in some jurisdictions.

Jurisdictions also vary in the extent to which the regulatory agency is involved in the allocation of funds for counselling services or for harm minimisation programs. For example, New South Wales' Department of Gaming and Racing provides secretariat and administrative support for the Casino Community Benefit Fund, from which funds are allocated for counselling services, harm minimisation programs and gambling research. In South Australia funding for harm minimisation programs is undertaken by a private body funded by voluntary contributions from the clubs and hotels. And in Victoria, allocations from the Community Support Fund are the responsibility of the Premier. The Victorian Local Governance Association expressed concern about this:

... Victoria's own auditor-general has been critical of the fact that less than 5 per cent of the proceeds of gambling go back to research and gambling amelioration activities. We ... are very concerned that the final decisions about the use of funds rests with the premier. That doesn't happen in any other state and currently there is no local government, no community and no independent voice that has any say over the distribution of those funds (transcript, p. 408).

Lack of transparency

In recent times, governments have held public inquiries before changing aspects of gambling policy. For example:

- the Queensland Government released White Papers on proposed changes to its laws covering gaming machines (1996) and art unions (1998) and invited public comment before finalising its position. And in 1999 it has been undertaking a review of the social impact of the recent growth of gaming;
- in New South Wales, IPART held a public review of gaming policy in 1998, again using a process of public inquiry;

-
- the South Australian Parliament’s Social Development Committee held a public inquiry into the effects of gambling on that state (completed in August 1998);
 - a Northern Territory inquiry into gaming machines was undertaken in 1998; and
 - NCP reviews in many jurisdictions have involved extensive consultation with stakeholders, including the general public, and the reports have been distributed widely, including by way of the internet (see, for example, Western Australia’s NCP review of its racing and betting legislation at www.orgl.wa.gov.au).

This is a welcome development, but a relatively recent one, as public processes have been used only sporadically in the development of gambling policy. More generally, some participants questioned the extent of the transparency and integrity of review or decision making processes (including some NCP reviews). They noted that, for example, reviews vary in the extent to which public input is invited, the openness of the process, and whether they are sufficiently independent.

Later in this chapter, the Commission argues for greater transparency in procedures to be the norm when gambling policy is being reviewed. Such an approach is an important component of good policy making, particularly because gambling touches on issues of ‘community norms’ and requires judgments to be made about the nature of the public interest in a controversial area.

Inadequate community consultation

Some also argued that there is insufficient consultation with the community or canvassing of different views before decisions are made.

In particular, the inquiry heard consistently (and in most jurisdictions) that there was insufficient consultation of local communities. In particular, several councils in Melbourne expressed concern about their inability to influence the expansion of gaming machines and venues in their local government areas. In their view, low income areas were being targeted by the gaming operators. Local government representatives from Maribyrnong, Dandenong and Moreland argued that several communities were experiencing disproportionate harmful effects from the proliferation of ‘convenience gambling’.

The councils said that state government legislation provided them with little scope to control or limit the number or location of gaming machine venues in their communities. For example, Maribyrnong City Council and the Shire of Yarra Ranges said that the powers of local government to regulate venues were very limited. A club or hotel only requires planning permission from council if the proposed restricted gambling area would account for more than 25 per cent of its

licensed floor area. Maribyrnong said, where a planning permit is required, a council's consideration of the application:

... may take into account factors such as car parking, hours, noise, and impact on amenity. Moral concerns do not constitute allowable grounds for refusal or the imposition of particular conditions. It is however arguable that demonstrated social and/or economic impacts may provide such grounds.

... there is some scope for opposition to extended hours on the basis of adverse economic and social impacts, but this issue remains comparatively complex and unclear (sub. 39, p. 5).

The Victorian Local Governance Association noted that Victoria's *Planning and Environment Act 1987*:

... does provide for the consideration of social and economic impacts in town planning decisions as well as traditional planning concerns such as noise, traffic and urban design. This applies to planning decisions where gaming machines exceed 25% of a venue's licensed area.

It added that:

Although many limitations are imposed on consideration of social and economic impacts some recent Victorian Civil and Administration Tribunal decisions have demonstrated a willingness to take into account social and economic impact when there is sufficient evidence. A recent decision endorsed Maribyrnong City Council's requirement that a venue operator demonstrate that there would be no adverse social and economic effects arising from a proposed expansion in gambling hours (sub. D206, p. 14).

The councils sought greater involvement in decisions about the spread of gambling in their local government areas. The Victorian Local Governance Association argued that there is a need for:

... greater local regulation to present an opportunity for local governments to support their communities and work to protect their communities (transcript, p. 409).

Councils from other states made similar requests (box 22.3).

At the draft report hearing, Maribyrnong City Council said:

There can be no systematic approach to ... local consultation which does not incorporate a central role for local government, not only because local government is very closely concerned with local issues but also because of its responsibility for the framework of decision-making about physical planning (transcript, p. 1260).

The Interchurch Gambling Task Force urged the Commission to recommend:

... that local councils have the right to veto further gambling venues and increases in the number EGMs, and to even allow for the removal of EGMs, in their region if they can (sub. D230, pp. 15–16).

Box 22.3 Some local government views

The Local Government Association of Tasmania argued that:

... as local government is the tier of government closest to the communities of Australia, any reforms to decrease the community costs of gambling must give local councils the powers to assess the community impacts and make decisions concerning the introduction of gaming machines and other forms of gambling. It is the local council that is in the best position to have knowledge of the dynamics of the community, and the socio-economic status of the majority of residents (sub. 52, p. 5).

It argued that local government should be given the power to assess whether the adverse effects of the introduction of gambling outweigh the costs to the community:

... the Federal government should urge the states to legislate so that all State regulations on the granting of casino, gaming, and gambling licenses are subject to the approval of the local planning authority – local government. It is local government that is in the best position to ascertain the likely effects of such on their communities (sub. 52, p. 5).

The Victorian Local Governance Association argued that:

... while there is no capacity to control the number of machines in particular areas, the machines just continue to flood into those areas on a performance basis, because that's where people are spending the money on the machines ... local governments must be given the capacity to introduce caps and to regulate the number of machines that they are able to have in their municipalities.

We also think there is a need for greater regulation at a local level over the venues themselves ... [and] over the proceeds of gambling ... an acceptable percentage of the gambling takes must go back into support programs for gamblers and their families ... research [and] gambling revenue really should be returned by formula ... to the communities that are making the major contribution (transcript, p. 410).

A survey of South Australia's local councils showed that 82 per cent of responding councils consider the impact of gaming machines on their community has been 'negative or severely negative'. The Local Government Association of South Australia said that, while over half of the councils prefer the State Government to remain responsible for licensing gaming machines, 73 per cent want to see them subject to greater regulation and 70 per cent want councils to obtain:

... input in the licensing process at least or more significant to the input Councils have into liquor licensing (sub. 171, p. 1).

In a response to the draft report, the Australian Hotels Association said it agreed with the Commission's view that local consultation is necessary:

There must be, however, considerable caution exercised by the authority when consulting ... given the general composition of local council. Many councillors continue to operate businesses that are in direct competition with gambling venues ... the AHA would have significant concerns over councillors with conflicts of interest having a significant say in the granting of licences (sub. D231, p. 102).

In its view, clear guidelines dealing with conflict of interest situations would be needed to deal with any such problems.

Some communities have been successful in preventing the spread of gaming machines. For example, in South Australia, Aboriginal leaders led a successful effort to have an application for additional gaming machines at a South Australian country motel denied (box 22.4). Maggie Brady of the Australian Institute of Aboriginal and Torres Strait Islander Studies argued that the case:

... indicates the degree of concern about gaming machines among these two Indigenous populations (sub. D203, p. 3).

The scope for the Liquor and Gaming Commissioner to uphold community objections is determined by the *Gaming Machines Act 1992*, which, among other things, requires an applicant to satisfy the Commissioner that gaming:

... would be unlikely to result in undue offence, annoyance, disturbance or inconvenience to those who reside, work or worship in the vicinity of the premises (section 15(4)(d)).

As the Nundroo case and the views of some councils show, Australian communities are not alike in their attitudes towards gambling, and, subject to good governance arrangements, there may be merit in mechanisms to better allow communities to have a say in these matters. However, different jurisdictions differ in how much leeway the licensing agency has to prevent or cause alteration to be made to a development.

Moreover, changes are occurring. In recent months, the Queensland and Victorian Governments have announced that they intend introducing processes to allow for greater local community consultation in decision-making. The Queensland Government said that it is considering:

... a stricter licensing process for gaming machines which will include a mechanism through which the community can have a say in how gaming expands in their local community.

One option being considered is a community impact study:

The Queensland Government seeks to establish a better balance between the benefits and costs of gambling, and ensure adequate returns to Queensland communities, particularly those communities and individual most adversely affected by gambling. (sub. D275, p. 7).

The Queensland Government explained:

... some form of impact assessment and the application of guidelines, depending on the social environment in question, to ensure growth is consistent with community

expectations and the community has an opportunity to influence the establishment of new venues in their local area.

The use of the local government urban planning process to assess public need, suitability of premises and impact on the amenity of surrounding areas and residents, is a consideration that may help create an improved licensing procedure. It may also indirectly help address many issues relating to access and problem gambling and would therefore enable the regulator to concentrate on probity issues, supervision of gaming and the control of internal gaming environments (sub. D275, p. 14).

Box 22.4 The Nundroo case

This concerns an application for a licence to operate six gaming machines at the Nundroo Hotel Motor Inn, located on the Eyre Highway at Nundroo, 143 km west of Ceduna in South Australia.

Representatives of two local aboriginal communities, the Yalata Community and the Maralinga Tjarutja, opposed the application on the grounds that granting a gaming licence would result in undue hardship to local aboriginal people.

Nunkuwarnin Yunti of South Australia said that, were the applicant successful, it would have generated economic returns for itself but the responsibility for supporting insolvent community members would have fallen on the local aboriginal people. Nunkuwarnin Yunti emphasised the need for consultation and local self-determination in processing licensing applications, noting that:

... this industry requires a special amount of regulation and control and communities need to be able to set the pace, mix and define the major beneficiaries of gambling at a local level (transcript, p. 974).

It added that:

This is a clear example of an industry participant being insensitive to the wishes of the local ATSI people and insensitivity to the realities of the projected harmful consequences of setting up such a business in this type of region.

South Australia's Liquor and Gaming Commissioner refused to grant the licence, noting that:

... the machines have the potential to drain a substantial amount of money from communities that are already hurt by money spent on alcohol.

... The result of this could be a significant increase in anti-social behaviour in and around Nundroo caused by Yalata and Oak Valley residents.

The motel operator appealed, but the Commissioner's decision was upheld by the Licensing Court of South Australia.

Subsequently, the operator submitted a revised application, but soon thereafter the motel changed ownership.

Source: sub. 106, p. 10 and the Office of the Liquor and Gaming Commissioner.

Summarising on current arrangements

There is a diversity of regulatory arrangements among jurisdictions, but no one system could be described as ideal. These systems change and evolve as governments review regulatory structures and their outcomes. Nevertheless, across jurisdictions, the problems the Commission has observed include:

- conflicts of objectives;
- fragmented responsibilities;
- lack of due process and transparency of procedures;
- patchy consultation processes; and
- inadequate data collection and research.

While each jurisdiction has some of these problems to varying degrees, they each have strengths in particular aspects of their approach to regulation.

The rest of this chapter draws on the best features of each jurisdiction's regulatory regimes in an attempt to describe the elements which would comprise a model regulatory framework. In so doing, it seeks to describe a regulatory regime which is more open, better focused on the broader public interest, and robust and flexible enough to cope with future changes in the industry or in community attitudes.

22.3 Towards a blueprint for gambling regulation

The above discussion, and the experience of states and territories, suggest some fundamentals of good regulatory design. These relate to:

- the structure of the institutions involved;
- the allocation of roles and functions between those institutions; and
- the processes by which each institutional or functional responsibility is carried out.

Importantly, these need to be underpinned by:

- avoidance of conflicting objectives and interests;
- open, consultative and well-informed processes; and
- the guiding principle of the broader public interest.

This approach has much in common with that used for regulation impact statements (box 22.5) and NCP review processes (chapter 14). Both are accepted and used in all jurisdictions in regulation-making and legislative review generally. However,

these processes have generally not been applied in respect of the development of, and changes to, gambling policies and regulation.

Box 22.5 Regulation impact statements

These are becoming widely used by Commonwealth, state and territory governments and by member nations of the OECD. A RIS sets out:

- the problem or issues which give rise to the need for action;
- the desired objective(s);
- the options (regulatory and/or non-regulatory) that may constitute viable means for achieving the desired objective(s);
- an assessment of the impacts (costs and benefits) on consumers, business, government and the community of each option;
- a consultation option; and
- a strategy to implement and review the preferred option.

Source: ORR (1998), p. xv.

We now turn to look in more detail at each of the regulatory functions listed at the beginning of the chapter, namely:

- *policy development* — answering the ‘big picture’ questions about matters with significant community-wide effects;
- *control* — advising the Minister on such matters and making decisions within the established policy framework;
- *enforcement* — surveillance and monitoring to ensure compliance with current rules and standards;
- *adjudication* — deciding on appeals against the decisions of the control or enforcement functions; and
- *program administration* — funding of community awareness, support for problem gambling services, research and data collection.

The policy development function

What is it?

As noted earlier, this is concerned with threshold questions about issues which can have significant community-wide impacts, such as decisions about:

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- the increased liberalisation and accessibility of gambling;
 - the forms of gambling which are acceptable;
 - tax rates;
 - harm minimisation and consumer protection policies.

Who should do it?

In the Commission's view, resolving these basic policy issues is properly the preserve of the Parliament in each jurisdiction, through the responsible Minister.

That said, there is an issue about who the relevant Minister ought to be. For example, some have said that a Minister within the Treasury portfolio is inappropriate because of the risk that decisions about gambling policy may be unduly influenced by revenue considerations. Others argue that a specialist Minister for Gaming or a Minister for Racing may be more vulnerable to lobbying by the industry concerned.

Indeed, some have seen a need to apply in Australia the recommendation of the United States National Gambling Impact Study Commission that the industry be prevented from making contributions to politicians or political parties. But the Australian Hotels Association argued against this:

While the AHA has significant concerns over the amount being donated to political parties by the club sector in Canberra, it is unfair and counterproductive to discriminate against the gambling industry and prevent political donations from this sector alone ... A possible alternative ... is to ensure that political parties do not have a financial interest in gambling enterprises (sub. D231, p. 98).

A core question concerns the amount of discretion which should reside with Ministers, and the extent to which decision making is delegated to others — whether to departmental staff or to a regulatory agency (see below).

How should it be done?

The process by which decisions are informed is crucial. Major policy questions require political debate that is adequately informed by disinterested and publicly available advice. They also require some measure of community awareness and support for legitimacy.

This may be best achieved by public policy processes to ensure that:

- the process of making decisions is well-informed — good information and clear identification of options are critical;

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- public consultation processes are effective — these are particularly important where the issue is controversial and community impacts are not easy to anticipate;
 - independent public reviews are used to identify options, and possible winners and losers, and otherwise inform this process;
 - the assessment of the costs and benefits (both economic and ‘social’) of each are undertaken rigorously, notwithstanding that many will be largely qualitative; and
 - all of these processes are undertaken in a transparent manner.

These processes may be used by the Parliament to inform itself. They should also be an important part of the activities of the regulatory authorities, as they are crucial to inform decisions made by governments.

In view of the need for well-informed political decisions, the use of such processes, including a requirement for independent assessments, should be a prerequisite for legislative change in this difficult area of policy — a government should be required to seek advice from its regulatory authority before implementing major change (and consequent obligations should apply to the authority, as discussed later). Such a requirement is broadly consistent with regulation impact statement (RIS) processes — for example, a RIS is required to accompany any Commonwealth legislative change which has an impact on business.

Once decisions are made, it is important that they be entrenched in legislation to provide transparency, greater surety for industry planning and guidance for administrators and regulators.

The Australian Hotels Association argued that entrenching extensive public consultation and information-gathering processes into legislation would result in some inefficiencies, given the ‘highly distorted and inaccurate public perceptions that exist in the community’:

Public consultation could, therefore, result in an inaccurate picture of the actual effect the gambling venue will have on the community (sub. D231, p. 99).

It also preferred to rely on a mechanism similar to that used for liquor licensing, under which applications are advertised locally and the public are given 40 days to register concern. Following council approval, an application is then made to the licensing court where, again, the application is advertised in local and state newspapers and in the licensing court, and the public given four weeks to register concern. The AHA saw such an approach as allowing:

... the possibility of linking the process of gambling and liquor licensing as well as ensuring that the public has ample opportunity to register their concern (sub. D231, p. 100)

It added that:

The right of appeal to the State Government over any decision must, however, be an element of such a process (sub. D231, p. 99).

While such arrangements (which tend to be specific to a venue or a single proposal) may have a place, the Commission also sees consultation in a wider context. In its view, there remains a need for processes to assess broader community views to inform the development of governments' policies towards gambling generally. Some of these may be triggered by a specific development proposal, but others may relate to questions concerning the forms of gambling which the community sees as acceptable, the extent of accessibility permitted and the efficacy of harm minimisation and consumer protection policies.

In sum, the Commission sees the policy development function as properly the preserve of parliaments. But effective public consultation and information-gathering processes should be prerequisites for legislative change, (supplemented by periodic review of outcomes, in part to inform future decisions). Policy should be entrenched in legislation with clear standards for subsequent decision making by an independent authority in each jurisdiction. Legislation should be reviewed on a regular basis and processes put in place to ensure such reviews are transparent and well-informed.

The control function: the need for an independent regulator

What is it?

Subsequent decision making, within the broad policy framework so established, involves making decisions about licences, approving standards and taking disciplinary action on some matters. This is the control function.

Who should do it?

Regulators will always be the 'meat in the sandwich' — under pressure (overt or otherwise) to give additional weight to the needs of particular interests, be they governments, industry representatives or others. In such circumstances, there is a risk that the broader community interest may at times be given lesser priority.

Such considerations emphasise the importance of an independent regulator with a clearly defined set of responsibilities (specified in legislation), an obligation to take a community-wide view when making decisions or providing advice, and a requirement that it employ public processes for informing its decisions. This is particularly important in areas of regulation (like gambling), where significant community and financial impacts can result from the decisions taken.

This can have several advantages on a number of levels. It can provide assurance to the community that some decision making, and some review and factfinding processes, are being undertaken independently of government and vested interests. It also helps Ministers, who can be independently advised and be seen to be at arm's length from the regulator.

The importance of independence

But what does 'independence' mean, and how is it best assured? In a recent report, the Victorian Auditor-General referred to 'the fundamental principle of independence' which underpins the work of the Ombudsman, Auditors-General, and internal and external auditors in both the public and private sectors. It argued that:

Any organisation charged with the responsibility of reviewing or monitoring the operations of another organisation and reporting the results to a third party must be capable of operating in a totally independent manner. Such a prerequisite is necessary to ensure that the reviewer or monitor is free from any influence or direction so that responsibilities are discharged without fear or favour and reported results can always be regarded as totally impartial in nature (VICAG 1999, p. 66).²

This raises questions of the extent to which direction or control may be exercised, and to whom the body reports or is accountable. In its review, IPART asked:

Is a commission that reports to a minister independent or does independence require that a commission should be only accountable to parliament? If a commission reports to a minister can a minister direct (either formally or informally) the commission? If so, is this still deemed 'independent'? (IPART 1998, p. 33).

Interestingly, venue operators making submissions to IPART all preferred the proposed gaming commission to report to the Minister, while most social welfare groups and problem gambling service providers preferred that it report only to Parliament. In IPART's view:

² The report discussed the role of the Correctional Services Commissioner.

... the Minister should have some control over key decisions in gaming. By contrast, the need for independence is greater where issues of control and property rights are involved (IPART 1998, p. 34).

It noted that New South Wales' Casino Control Authority is not subject to the control or direction of the Minister except in certain limited circumstances and directions given must be notified publicly and tabled in Parliament. In its view, the CCA has:

... functioned well for both the government and the community and could form a model for the commission (IPART 1998, p. 34).

IPART recommended that its proposed gaming commission be fully independent, but with the exception that it could be directed by the Minister in specified circumstances, and that such directions should be in writing, tabled in Parliament and published. It also argued that, before giving a direction, the Minister should be required to call for a report on the matter from the independent commission.

There are several advantages in adopting this approach. Governments remain free to accept or reject advice from the authority. But the public nature of the process would ensure that the subsequent decision making processes were better informed and took place in public.

Its structure and functions

In the Commission's view, the control function ought to be undertaken by an independent body, at arm's length from government and from interest groups. This would require it to be established by an Act of Parliament. The structure of the statutory authority will also have a significant influence on its capacity to be independent. To this end, the statute should specify that:

- the authority comprise a number of Commissioners (of whom one should be full-time), appointed by the Governor;
- appointments should be of fixed term, with terms not able to be terminated by the government of the day without just cause (to be specified in the Act);
- independence may be strengthened by a requirement that Commissioners may only serve one term;
- to avoid the perception of lack of independence, no persons with present or past links to gambling providers, regulators, counselling agencies or the like should be eligible for appointment;
- the authority should have its own budget, voted by Parliament;

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- and should employ its own staff, rather than be dependent on a secretariat from a department.

The Council of Community Clubs of Australia and New Zealand had reservations about this proposal. It saw it as unworkable if independent authorities did not also have responsibility for industry development, promotion or tourism:

Governments are not likely to make policy decisions on gambling in isolation from these other issues (sub. D226, p. 30).

The Council said it would be concerned if:

... the role of the government and the role of the minister was de facto passed down to the independent commission to make policy and make strong recommendations which would enable some politicians or some ministers to say, "Look, this independent commission has recommended this. Clearly that's what should be done," and they would walk away from their policy responsibilities. It's in that narrow area of ... influence where the independent commission would tend to make policy and have it rubber stamped by a government. (transcript, p. 1595).

In respect of the people who would comprise the independent authority, the Council asked:

Where would they come from? Would they come from people who had no knowledge, no involvement with gambling or with hotels and clubs? Would they be people drawn from an area who had no sympathy or empathy ... (transcript, p. 1595).

In contrast, the AHA supported the establishment of:

... an independent body in States where no such body exists to oversee the control function of the gambling industry with input and representation from industry (sub. D231, p. 8).

It agreed that those who have current direct interests in the gambling industry should not be involved in the makeup of the board, but argued that those with past associations and specialist knowledge or industry representatives should be considered:

The gambling industry is ... highly complex and incorporates a broad range of issues that require specialist knowledge ... there should be a range of board representatives that have previously been involved in the industry and fully understand the contentions issues surrounding its operation (sub. D231, p. 101).

The Queensland Government took a similar view on this point. It also saw no value in limiting commissioners to single term (sub. D275, p. 16).

There is merit in these views. But the Commission sees the independence of the regulator as a cornerstone of good regulatory practice. It places considerable weight on the need for the regulator to be, and to be seen to be, independent of the various

interests involved — whether they be gambling providers, regulators, counselling agencies, church groups or the like. Governments should forgo the specialist benefits which such people can bring, in favour of a clear public signal that the industry is being overseen by a regulator who is independent.

In the Commission's view, the independent control authority should have the primary objective of furthering the public interest. Its charter should emphasise a high standard of consumer protection as a central objective.

It should have an independent advisory function, distinct from departmental advice, with respect to major public interest matters, such as gaming machine caps and licences for casinos and TABs. These matters fall within the scope of the policy development function, and are properly decided at the political level.

But once the broad parameters of government policy towards gambling have been set in legislation, the authority should be charged with making decisions in accordance with established criteria. This would encompass, for example, making decisions about the licensing of a hotel or club, or authorising gaming machines.

The authority should also be required to assure itself that the *enforcement* function (discussed below) is carried out effectively. While not a direct supervising role, it should be required to assess the methods used and report and include in its annual report a judgment as to the effectiveness of the process.

Both advisory and decision making functions should be underpinned by an information-gathering and research program. Public dissemination of the results of this work would be a key part of this work.

In view of the sensitivities surrounding gambling policy in all jurisdictions, there are significant advantages in specifying that a government be required to seek the advice of its independent authority on all major policy changes. This in turn would require the authority to carry out a public consultation process, and to publish the advice it gives to Ministers.

There are also some functions that the authority should be *precluded* from undertaking.

- It should have no revenue or taxation functions.
- And it must have no industry development or tourism-related functions, or in any way be involved in promoting gambling.

It should cover all gambling activities

In the past, particular forms of gambling tended to have their own regulatory structures. Racing, in particular, tended to be treated separately because of, for example, the range of structures for regulating racing itself, unrelated to wagering activities per se. Casinos were also subject to special attention because of earlier concerns about possible links with crime.

Having separate regulatory authorities for particular forms of gambling increases the likelihood that inconsistent policies will be put in place in like circumstances. It also runs the risk that special arrangements for particular sectors may be established and maintained, with insufficient attention to the broader public interest.

Partly with these concerns in mind, a more integrated approach to gaming and wagering on racing is increasingly an objective of governments. Several jurisdictions, notably Queensland and Victoria, have already moved in this direction. Indeed, both the QOGR and the VCGA are consolidations of previously more fragmented arrangements in those states.

The Commission sees merit in placing all forms of gambling under the one regulatory umbrella to allow greater consistency of approach. This may also generate efficiencies in the regulation process. As the BetSafe Group of Clubs noted, having:

... one statutory independent central body to administer the entire gambling industry with regard to policy advice and administration of legislation ... would allow for some sort of standardisation in control mechanisms and provision of [Responsible Service of Gambling] policies for consumer protection and in the public interest (sub. D250, pp. 8–9).

In the Commission's view, there is also merit in having all gambling legislation consolidated into a single gaming Act. This would also reinforce the notion of a broadly consistent approach to gambling regulation.

Its processes should be open and transparent

The determination of public policy, particularly in the case of issues which are highly controversial, is helped by government processes which are consultative and open to public scrutiny. Of particular importance are:

- *transparent operating procedures*, to permit public scrutiny of ongoing processes — examples include ensuring the advertising of matters under review, publishing details of the process, and the basis for the decisions it reaches; and

using open tendering processes for the letting of contracts for research, public opinion surveys or other data collection;

- *processes for public consultation* on issues of public importance through, for example, providing opportunities for community input on a wide range of issues, providing open forums for community views to be put, and undertaking public inquiries where major policy changes are being considered.

Box 22.6 The control function: structure and activities

The control function should be undertaken by an independent body, at arms length from government and from interest groups. To this end, it should:

- be established by an Act of Parliament;
- be required to report to Parliament (through the Minister); and
- comprise at least one full-time Commissioner appointed by the Governor
 - appointments should be of fixed term, with terms not able to be terminated by the government of the day without just cause (to be specified in the Act);
 - Commissioners should be limited to one term; and
 - no persons with present or past links to the gambling industry should be eligible for appointment.

The control body should:

- have its own budget, voted by Parliament; and
- employ its own staff, rather than be provided with a secretariat from a department.

Its *activities* should include:

- advising the Minister on major public interest matters, such as gaming machine caps, licences for casinos or TABs;
- undertaking or commissioning social and economic impact studies; and
- deciding such matters as licence applications, suspensions and revocations.

These functions would be underpinned by information gathering and research.

The authority should cover all gambling activities, and have no promotion, industry development or tourism-related functions, and no revenue or taxation functions.

Assessing community views

As noted, several communities expressed concern about the effects of local proliferation of gambling facilities. Councils said they observe first hand the social impacts of gambling, and also expressed concern about money leaving the area, disadvantaging local businesses. Several argued for greater local council and

community input into decisions about the location and expansion of gambling activities.

In the Commission’s view, the principle that local communities should be consulted on these matters is a strong one. Councils are close to the local community, and it is at the local level that most social impacts are concentrated. Councils may have a better perspective on the impacts of gambling on families, households and community life than state government agencies. A typical view was put by Yarra City Council, which said:

Councils are in a key position to monitor these effects both through formal research methods and also through anecdotal evidence gathered through community networks and contacts. Local community services are often a “barometer” of social problem growth (sub. 238, p. 1).

Among participants, there was widespread agreement with the need for a consultation process whereby the local community’s views can have an influence on the decisions of regulators. As noted above, the Queensland and Victorian Governments have recently announced their intentions to implement greater local community consultation processes where gambling is concerned.

A mechanism for more local input would be to require, with the establishment of an independent control authority, that it take explicit account of community impacts of decisions and consult with local communities when matters of likely concern to them are under consideration (for example, in making decisions about licence applications for local venues). This could include the undertaking of surveys or, for occasional major issues, referenda.³

In Victoria, the VLGA (sub. D206) and some councils sought greater control over planning decisions concerning gambling, and sought to impose conditions, such as adherence to a local *Responsible Gaming Charter*, on the establishment and operation of venues. In part, they sought a repeal of the provision which limits their role in cases where the gaming area of a venue does not exceed 25 per cent of the licensed area.

Consideration of these matters raises several questions about the respective roles of state governments and councils, and about the processes most likely to give good outcomes. For example, while councils may be well-placed to evaluate social impacts, there is perhaps less of a case for the economic effects of a particular proposal to be evaluated at the local level. As noted in chapter 12, observed effects on jobs, retail trade, entertainment activities and the like at the local level may be

³ As occurred, for example, prior to the introduction of lotteries in South Australia and the licensing of the Wrest Point casino in Hobart. Referenda are also commonly used in many states in the United States.

only part of a broader reshuffling of economic resources within a region or across the state, with the net gains or losses being unclear when looked at in isolation. For such reasons, economic effects are probably better assessed at the state or regional level.

The most appropriate form and extent of local community input is difficult to judge, and will partly depend on the characteristics of different jurisdictions. As the primary responsibility for gambling policy rests with state or territory governments, which have established policy stances on such matters as the availability of gambling in strip shopping centres, venue or regional caps on gaming machine numbers and so on, careful consideration would need to be given to the range of matters over which further control ought to be passed to local councils.

A proper resolution of these matters would require more detailed and specific analysis than is possible in this national inquiry. Relevant considerations would include:

- the respective roles and responsibilities of councils and state planning and gaming authorities, and available appeal processes;
- the extent to which councils have the capacity or inclination to perform these roles (a survey of South Australian councils (sub. 171) noted that a majority wanted ‘more input’ into the licensing process but preferred that responsibility for licensing of gaming machines remain with the State Government, while Victorian councils sought more direct control over developments in their local areas);
- the adequacy of processes to ensure the appropriateness of decision-making and the quality of the information on which it is based. Some councils have invested considerable efforts in undertaking or commissioning research into the effects of gambling in their local areas. But were councils to have an enhanced role, establishing agreed methodology and criteria would be important, including appeal mechanisms and transparent processes;
- the alternative processes by which local community input may be sought; and
- the quality of governance structures at the local level. As the Commission has emphasised, independence of decision-making is a key to good outcomes which are widely accepted. The Commission is strongly of the view that the independence of the regulator is the cornerstone of good regulatory practice, and has delineated what this function requires in its ‘blueprint’. Some members of councils — who have close personal (and perhaps commercial) links with the

people, businesses or community groups in their area — may not be perceived as sufficiently independent of the interests involved.

Box 22.7 The control function: processes

The control authority should operate on an open, consultative basis, and undertake or commission worthwhile studies before making decisions.

Its guiding principle ought to be furtherance of the public interest for the community as a whole. To this end, it should implement:

- *transparent operating procedures*, to permit public scrutiny of ongoing processes — examples include ensuring the advertising of matters under review, publishing details of the process, and the basis for the decisions it reaches; and using open tendering processes for, for example, letting contracts for research, public opinion surveys or other data collection; and
- *processes for public consultation* on issues of public importance through, for example, providing opportunities for community input on a wide range of issues, providing open forums for community views to be put, and undertaking full formal public inquiries for issues where major changes are being considered.

The control authority should consult with local communities when matters of likely concern to them is under consideration (for example, in making decisions about licence applications for local venues). This could include the undertaking of surveys or, on major issues, referenda.

In addition:

- the authority could require impact studies to be undertaken as part of any proposed change put before it;
- it should have the power to initiate public inquiries into matters which it judged to warrant this; and

Government should be required to seek the advice of its independent authority on all major policy changes.

For such reasons, there is a need to proceed cautiously. One option would be to conduct a trial in a small number of local government areas by providing stronger local government powers over gambling activity for a specified period. In this way, lessons could be learned about the implications of greater control at that level, the most appropriate criteria for permitting expanded gambling and the ability of the appeals process to handle disputed decisions. An important element would be to establish benchmarks against which to judge the success or otherwise of such a trial. (Rough indicators might include the extent to which gambling was encouraged or deterred, the number of cases appealed or overturned on appeal, general community reactions and so on, and comparing experiences across local government areas might help sharpen the benchmarks to be used.)

The enforcement function

What is it?

As noted earlier, enforcement is about the day-to-day surveillance of the conduct of gaming: enforcing the rules already in place. It is about ensuring venue operators comply with the licence conditions and the law, and prosecuting cases of non-adherence.

Who should do it?

There are several ways this could be undertaken. One approach is simply to place this function within the independent control authority, to be handled by its staff.

This would have the advantage of bringing all the relevant regulatory expertise under the one roof, with consequent benefits in terms of skill development, cost efficiencies, maximising corporate knowledge and the like. (Indeed, such benefits partly explain the trend in some states to consolidate their regulators into single agencies with a broad remit.) But it would also require ‘Chinese walls’ to be established between the control and prosecution/enforcement functions to ensure the integrity of both.

Indeed, the appropriate degree of separation of control and enforcement is the key to making a judgment in this area. IPART agreed with the view expressed in a paper prepared for the New Zealand Gaming Review about the importance of keeping them separate. In IPART’s view:

Separation of these two functions for the gaming industry is particularly important, as there has been a history of criminal involvement in some countries in the gaming industry, particularly casinos. The potential for criminal involvement exposes regulators to bribery and corruption to a much greater extent than in other industries (IPART 1998, p. 26).

Moreover:

It is vital to ensure separation of the control and enforcement functions to provide appropriate checks and balances, minimise the potential for corruption, ensure proper accountability and maximise public confidence (p. iv).

Star City demurred, arguing that:

Much of this debate is not relevant to Australia. The policy functions will always rest with the government of the day. The judicial and policing functions may be conducted under a Commission provided their integrity is maintained (sub. 33, p. 28).

But McMillen and others took a similar view to IPART. This idea is also behind the so-called New Jersey model of gambling regulation, reputed to be the strictest gaming regulatory structure in the world (box 22.8).

Box 22.8 The New Jersey model of gaming regulation

The New Jersey Government placed governmental authority over the casino industry in two separate agencies.

The **New Jersey Casino Control Commission** is an independent agency. The Governor appoints the chairman (who is also the chief executive officer) and four full-time members for five-year terms.

The Commission has both regulatory and quasi-judicial functions. It has the power to interpret and enforce the provisions of the Casino Control Act, including the power to issue, deny, revoke, suspend or limit any required gaming affiliated licences and to hear and decide all complaints for violation of the Act.

The Commissioners act as quasi-judicial hearing officers to consider contested licence issues involving casinos, their employees and casino service industries. They preside over hearings, and make evidentiary rulings. They are required to make comprehensive findings of fact and conclusions of law in formal written submissions to the full commission for a final determination. The Commissioners vote on matters ranging from issuing casino licences to establishing rules of games. In addition, they rule on applications for corporate refinancings and restructurings as they affect financial stability.

Commission inspectors monitor compliance with regulations, receive complaints from the public and observe the daily count of casino revenue

The **Division of Gaming Enforcement** of the Attorney General's office investigates all licence applicants for corporations, individual owners, managers, employees and service industries.

It reports its findings and recommendations to the Commission, which has the authority to grant or deny a licence at a public hearing.

The Division also monitors casino equipment and operations, and prosecutes all complaints brought under the Act.

The separation of functions was done for the specific purpose of creating a system of checks and balances. The legislature recognised the need to centralise the regulation of this highly sensitive industry. However, it recognises the need to minimise the possibility of corruption. The Commission and Division act as a check and balance on each other. For example, if the Commission disagrees with a Division recommendation it may disregard that recommendation. Conversely, if the Division disagrees with a final decision of the Commission, it may appeal that decision to the courts.

Source: NJCCC (1998), pp. 7-8 and 16 and Seton Hall Legislative Journal, New Jersey Casino Gaming Symposium, vol. 6 Summer 1982, pp. 17-20, cited in IPART (1998), p. 32.

Under that model, the separation of functions into two agencies was recommended because:

- placing regulatory authority in one agency would be dangerous in an area as sensitive as casino gaming.
- by creating the Commission as an independent, impartial body vested with full quasi-judicial and quasi-legislative authority, the investigative and prosecutorial functions could remain in the Attorney General's office (the principal law enforcement agency of the state) without offending the concepts of fairness or due process. The scenario of one agency serving as investigator, prosecutor, and judge was avoided.

The Queensland Government cautioned that:

The New Jersey model was designed in 1976 to combat the specific issue of organised crime in the regulation of gambling. With there being no evidence relating to organised crime in Australia, such a model could be considered much less relevant than ... an Australian best practice model (sub. D275, p. 17).

It also queried whether there was sufficient evidence to show that a physical separation of enforcement and control functions would be an improvement:

... separation of regulatory functions can potentially lead to the duplication of resources, communication problems, inconsistent policy direction and formation and territorial disputes (sub. D275, pp. 16–17).

The Queensland Government agreed with many of the objectives of the Commission's draft report model, but considered that the criticisms of current arrangements did not adequately distinguish between the different approaches in different jurisdictions. It said that many of the elements of the Commission's preferred model are currently present in the Queensland regulatory structure. Nevertheless, it is reviewing its regulatory structure to ensure, for example, that the regulators are sufficiently independent of government while the policy direction continues to be set by government (sub. D275, p. 17).

The Commission agrees with this approach. While the merits of separating or combining policy and enforcement may be debated, a critical element is having strict separation of the control function from policy development.

Other approaches to the enforcement function include allowing it to be undertaken by:

- a unit within the policy department;
- a unit within another department; or
- a new separate agency.

The first has similar advantages and disadvantages as using the control authority. The second would encompass the New Jersey approach, where enforcement is undertaken by the Attorney General's office. And the third would involve setting up a new, independent enforcement agency, which would achieve the benefits of separation, but at the cost of some duplication of expertise and effort.

In the Commission's view, there are benefits in keeping the enforcement function in an organisation separate to the control authority or the policy department. The control authority should have responsibility to assure itself that the enforcement function is effectively carried out.

The adjudication function

At present, there is considerable variation in the processes by which decisions may be appealed. For example, Star City said that it had access to:

... no appeal processes at all ... There can be no valid reasons for this (sub. D217, p. 26).

A clear and readily available procedure for appealing the decisions of regulators is crucial to good governance.

At one level, the control authority should have the function of deciding upon administrative and disciplinary matters referred to it by the enforcement arm, possibly leading to the suspension or revocation of licences. In respect of decisions made by the control authority, there exist appropriate appeal processes, such as administrative appeals tribunals and ultimately the courts.

In respect of breaches of statute such as fraud or other criminal matters, investigations by the enforcement agency would be referred as appropriate to the police or the public prosecutor.

The program administration function

What is it?

A key question concerns the administration of programs funded by community levies. At present, some control authorities have responsibility for research or for disbursement of funds raised through community levies (for example, the Tasmanian Gaming Commission and the New South Wales Casino Control Authority).

Who should do it?

As noted in chapter 17, there is merit in an independent board having responsibility for all community levies for the funding of:

- counselling, harm minimisation and community awareness programs; and
- research and information-gathering.

The high level of concern about due process in these areas warrants a separate board to oversee the raising of funds through levies and their disbursement. No-one from the industry or from recipient organisations ought to have a place on such a board. Its secretariat could be provided by the independent control authority, although departments of health or human services could equally discharge that role. The board would need to establish appropriate processes and guidelines for undertaking this role.

At the draft report hearing, Reverend Harry Herbert of the Uniting Church (and a trustee of the New South Wales Casino Community Benefit Fund), strongly supported the proposal that support services be funded by an independent body. He saw particular merit in keeping ‘social impact issues’ under the one administration:

For instance, ... it is important that the organisation of public awareness campaigns about gambling is closely connected with the support services that are available [and] research into the incidence and effect of gambling is assisted by being linked with the body that funds support services (sub. D188, p. 2).

In his view, independence is particularly important for the body undertaking public awareness campaigns:

Such campaigns must be distanced from the industry itself, which is bound not to be pleased with them, and distanced also to some degree from the State Governments who are the recipients of funds from the industry (sub. D188, p. 2).

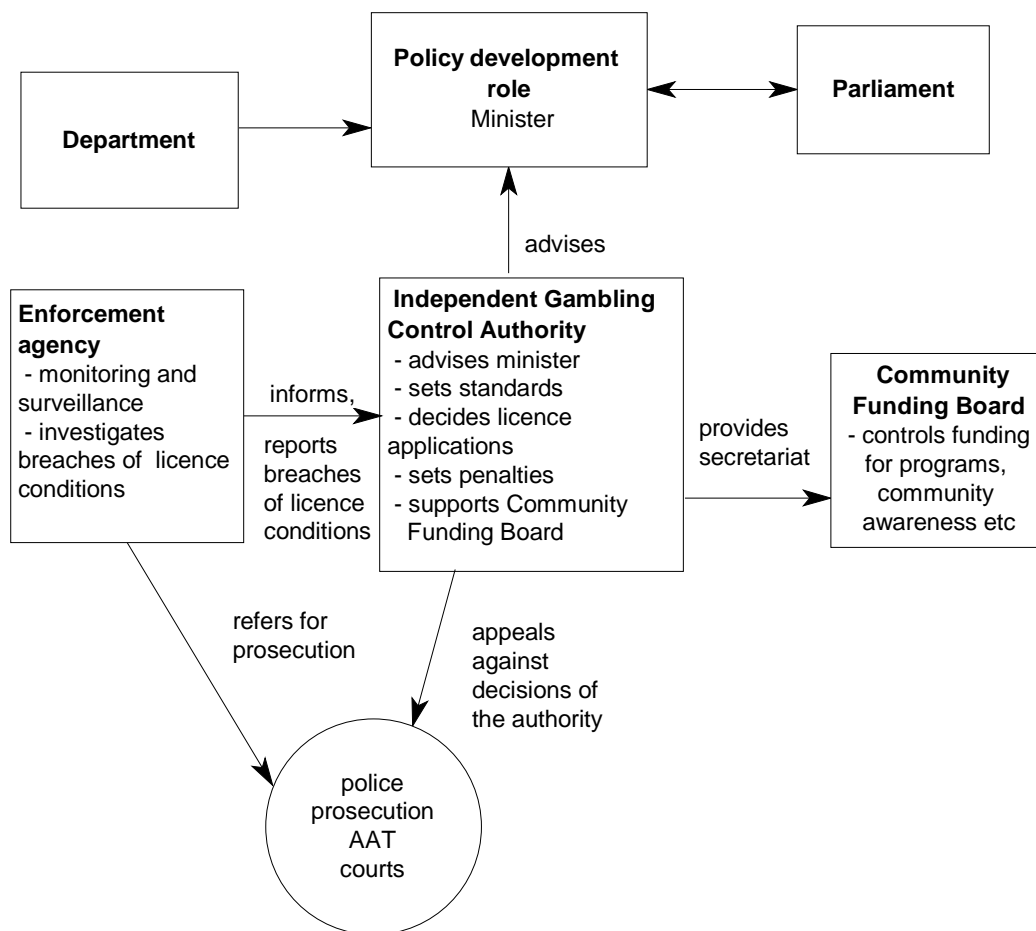
An independent board should have responsibility for:

- **administering the community development fund;**
- **funding counselling, harm minimisation and community awareness programs;**
- **funding research and information gathering and disseminating; and**
- **conducting evaluations of these programs.**

In the case of counselling, harm minimisation and community awareness programs, this board should have responsibility for setting the agenda in each area, in consultation with those groups responsible for service delivery. It should also implement ongoing programs to gather information and evaluate the effectiveness

of the programs implemented (chapter 17). And coordination of activities and sharing of information with boards in other jurisdictions would be likely to enhance the community's knowledge about these matters.

Figure 22.1 **Towards a regulatory blueprint for each state and territory**
Summary of the Commission's views



And as discussed in the next chapter, similar arrangements should apply with respect of research and information issues. But for these matters, the Commission sees merit in the establishment of a national research facility (chapter 23). There would be additional benefits were each state and territory's independent board to coordinate its activities with that body.

What role for the Commonwealth?

While gambling is primarily a matter for state and territory governments, jurisdictional borders have become increasingly less binding. This is not a recent

development: telephone betting with TABs across borders has been around for 30 years, and lotteries and TABs have entered into interstate pooling arrangements.

More recently, there have been further developments which, some suggest, call for greater Commonwealth involvement. Sports betting (by telephone and internet) and internet gambling, notably casino-type games, are starting to become more important. They are beginning to be offered by both Australian and offshore providers.

Clearly, the Commonwealth has a role with respect to international treaties, payment systems, taxation across national borders and telecommunications matters. For example, internet gambling can really only be effectively regulated and taxed with the assistance of the Commonwealth (chapter 18).

These matters may become more relevant to future developments in gambling. And the involvement of the Territories of Christmas Island and Norfolk Island in gambling activities raises immediate issues for the Commonwealth.

Some participants also pointed to the Commonwealth's interest in the social welfare and community impact aspects of gambling: when some gamblers end up on unemployment benefits or become heavy users of the Medicare system there is some resultant 'cost shifting' between the states and the Commonwealth.

There may also be economies of scale and scope in having some form of national focus for particular issues, such as for the organisation of counselling services. In that case, the program name Break Even is used across Australia, and its objectives are broadly common, although funding is undertaken in a piecemeal manner. There may be benefits in relevant Commonwealth departments and authorities being involved in cooperative arrangements among the states and territories.

And as noted in previous chapters, Commonwealth-State financial arrangements provide the context for the approaches of state and territory governments towards gaming and gambling taxation (chapter 19).

The prime role of the states and territories with respect to gambling is not in dispute. But some of these considerations suggest that there are benefits in the Commonwealth playing some role in cases where its involvement now is minimal or non-existent.

Commonwealth involvement would provide one way of facilitating a more formal process of coordination, notwithstanding that there are already annual conferences of gaming and racing ministers, and other contacts between regulators. This could initially be by way of a forum, such as a Ministerial Council, for reviewing

emerging issues of relevance to all jurisdictions. Increasingly, many issues will have an interjurisdictional and perhaps international dimension, and, in time, other administrative arrangements may develop.

One other area requiring a more significant role for the Commonwealth is in relation to information and research, the subject of the final chapter.

23 Information issues

Box 23.1 Key messages

- There is a need for better quality information to guide policy-making and public understanding about gambling:
 - there are major gaps in research and data; and
 - analysis of changes over time is particularly difficult.
- This would be helped by greater emphasis in each jurisdiction on developing systematic research strategies and programs.
- Guiding principles should include:
 - independence of decision-making about information needs and priorities;
 - transparency of processes;
 - provision of scope for community input; and
 - early public release of results, methodologies and (confidentialised) data sets to allow further research and replication.
- Obtaining information generates administrative and compliance costs, however, which should be taken into account.
- There would be particular value in assigning responsibility for research and data collection to the independent control authority in each state or territory:
 - it should also determine the processes by which priorities are set, projects are commissioned and their results published and disseminated.
- There would also be benefits in facilitating more coordinated approaches to data and research across jurisdictions:
 - the Commission sees merit in establishing an independent national research facility for this purpose.

23.1 Introduction

The terms of reference for this inquiry ask the Commission to report on the adequacy of ABS statistics involving gambling (para 3(h)). However, the issue of the quality and quantity of information on gambling, its relevance to public policy and its usefulness to the community is much broader than this. Each of these matters is discussed in this chapter.

By international standards, Australia is reasonably well served with data and research on gambling. The statistics published by the ABS and the Tasmanian Gaming Commission provide a detailed picture of patterns of spending (or net takings) by state and mode of gambling, employment characteristics, income and profit etc. This provides a better picture of the industry than the Commission has seen for any other country.

Broadly, much current information (and research) originates from departments with regulatory or taxation responsibilities, by way of projects financed by funds compulsorily collected from the gambling industry, from industry-funded projects and through conventional research sources such as universities.

There is detailed information (which is readily available and easily accessible) on particular modes of gambling in some jurisdictions (for example, club and hotel gambling in New South Wales and Queensland). And in Victoria, the VCGA has for some years commissioned and disseminated extensive research on gambling, while that state's Department of Human Services has undertaken separate research on service delivery. Victoria's Auditor-General said of the VCGA's research into the social impact of gambling:

The collective results were an important source of information for the Government in reaching its decision in December 1997 to retain the cap of 27,500 electronic gaming machines until the year 2000 (para 1.1.16 of VICAG (1998), cited in sub. D240, p. 1).

Nevertheless, in the main the information that is available is far from comprehensive and not always relevant to the key policy issues, even in those jurisdictions which have well-developed information sources for some aspects of gambling policy. As McMillen has observed, while government-funded research has increased in recent years, in most states research is still 'unsystematic and ad hoc, providing only a partial picture' (McMillen 1999, p. 213). For example:

- information tends to be fragmented — for example, while there are a number of useful surveys of the prevalence of problem gambling in various jurisdictions, they mostly have relatively small samples and apply different methodologies;
- research projects and data collection have, in many cases, been driven by particular concerns of the moment, rather than by an attempt to obtain systematic information on key policy areas;
- much research is specific to a location or a project, a particular type of impact or a particular group in society (examples include an impact study of a new casino development or studies of crime or problem gambling); and

- research typically tends to cover only a short time frame, rather than providing information on trends or the factors which underlie them.

Box 23.2 Current research efforts: some views

The Queensland Government noted that:

The quality of results of gambling research projects in Queensland and other jurisdictions has, to date, been generally disappointing. While more quality nation-wide research will be helpful in general terms, more jurisdiction specific research needs to be undertaken (sub. D275, p. 12).

It added that:

... existing research into the economic and social costs of gaming is inadequate and not sufficiently state or regional focused to quantify or adequately consider the [net benefits and costs] at a state, regional or community level, or nationally ... For example, there are significant state, regional and community social and economic costs associated with the rapid expansion of gaming machines that need to be more fully addressed (sub. D275, p. 23).

Maribyrnong City Council referred to the need for better information to facilitate debate and allow local communities to determine for themselves the level of gambling that they are prepared to accept. But it noted that:

... the standard of information and ... official research available to assist public debate on these issues has been, to be charitable, undistinguished. It's for this reason that my city in cooperation with three others felt it necessary to commission the original research to assist our understanding of the economic implications of local gambling (transcript, p. 1260).

The Interchurch Gambling Task Force said of the VCGA's research:

... the research has been piecemeal. It has concentrated on certain geographical areas at the expense of others. It has been research which has not been able to be replicated over a period of time, other than those surveys which have actually been attitudinal surveys by way of virtual marketing surveys for the industry, and it has been research which has largely ignored some of the social impacts which the Interchurch Gambling Task Force has been pointing out for some time (transcript, p. 375).

It also acknowledged that:

... in recent months there has been a number of research projects which are really quite significant and which do reflect some of the submissions that the Interchurch Gambling Task Force has been making over a period of time (transcript, p. 375).

The VCGA responded as follows:

All projects undertaken by the Authority are designed to examine aspects of both the social and economic impacts of gambling ... The Authority has consulted on the development and conduct of its research projects [and] the Authority has considered the suggestions put forward by the Victorian Council of Churches Gaming Task Force and, where appropriate, incorporated these suggestions into its programs. At present, there are no matters which the Victorian Council of Churches Gaming Task Force have suggested which have not been incorporated into the Authority's research program (sub. 135, p. 5).

Source: submissions and transcript.

Other participants (in all jurisdictions) criticised current research as being insufficiently focused on the key public policy issues (box 23.2). There were also criticisms of the secrecy which sometimes accompanies the information collection process, of the need to obtain Ministerial approval to release information, and of research and data being copyrighted, rather than freely available to other researchers.

The Commission shares these concerns. In the course of this inquiry, it encountered unexpected difficulty in obtaining data of a kind which ought to be readily available in all jurisdictions. It had some difficulty in obtaining existing survey-based information from some government departments and regulatory agencies. In other cases, information generated as part of an administration or legal function is not subsequently incorporated into some useable form (thus, there is little information on gambling and crime coming out of the criminal justice system, notwithstanding that gambling may be an issue in some criminal and civil cases). Finally, there are many cases where little or no information is collected at all.

23.2 Some specific information gaps

Earlier chapters have highlighted a variety of areas where the Commission has had particular difficulties in obtaining information, or where it became apparent that better information was needed. Without necessarily arguing that all should be undertaken, major information gaps include the following:

- *Effects on children and partners of problem gamblers.* A major gap in the information available to this inquiry concerns the effects which the behaviours of problem gamblers have on children and partners — an important element in the assessment of the social costs of problem gambling.

[chapter 7]

- *Ethnic gambling.* Members of different cultural groups perceive gambling in different ways, and face different problems. This may affect policy interventions such as access, harm minimisation, awareness campaigns and the provision of counselling and welfare services. Some work is being undertaken in some jurisdictions on this matter.

[chapter 6]

- *Gambling in prisons and other institutions.* Little is known about the role of gambling as a contributing factor to imprisonment, about the gambling behaviour of those in prisons and other institutions, or about their behaviour on release.

[chapters 7 and 9]

-
- *Under-age gambling.* Again, a matter about which little is known but where fears are held for its capacity to lead to significant problems in adulthood for some. (The possible ‘conditioning’ of young people and its relationship to greater or lesser problem gambling is a related matter for research.)
[chapter 6]
 - *The emotional and psychological costs of gambling problems.* Most previous studies of the cost impacts of gambling have only counted the readily measured financial costs, such as court and police costs, and the costs of providing counselling services. They have generally not counted the distress suffered by problem gamblers, their families or the community. However, these are likely to constitute the major costs of problem gambling, in the same way that the emotional and psychological benefits (measured by consumer surplus) constitute its major benefits. The Commission has produced some ‘ball-park’ estimates but it is important that more detailed quantitative assessments be undertaken.
[chapter 7]
 - *Interactive home gambling.* There are many views about the likely impact of such developments, but information and research will only become available as the importance of these forms of gambling increases. Major questions concern the social impacts, characteristics of players, nature of play, efficacy of regulatory and taxation arrangements and the like.
[chapter 18]
 - *Co-morbidity aspects of problem gambling.* The role of other factors impinging on problem gamblers are understood in general terms, but little detailed analysis has been done.
[chapter 6]
 - *Indigenous gambling.* Some studies have been done, but there is much more to be learned, both in relation to informal and formal gambling in indigenous communities.
[appendix E]
 - *The effectiveness of harm minimisation programs.* Some proposals in chapter 16 could simply be implemented and monitored to confirm their effectiveness. But implementing others would involve significant changes to the technology of gaming machines and could impose significant costs on venues. These proposals would need to be made the subject of experimental research, for example in a particular confined area or group, prior to general implementation.
[chapter 16]

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- *The effectiveness of counselling services.* Many different approaches are being used, with little agreement as to a core set of protocols. ‘Horses for courses’ is a common approach in treatment, but follow-up work is not widely undertaken because of cost considerations.
[chapter 17]
 - *Local and regional assessments of the impacts of gambling.*
[chapter 9]
 - *The characteristics of clients of problem gambling counselling agencies.* There is a need for a national minimum data set to be collected, using identical definitions across all jurisdictions and an approach that would allow repeat clients to be identified as well as clients who attend more than one counselling service. The suggested approach would be not unlike that currently in place in relation to hospital admissions.
[chapter 17]
 - *The spatial distribution of counselling and treatment services.* Time series data on the spatial distribution of clients would inform analysis of the link between accessibility and problems, and help plan counselling services. Important information would include gender and the source and duration of gambling problems. This could be linked with information on promotional measures by counselling agencies to assess to what extent an increase in demand follows awareness campaigns. It may also allow some evaluation of the effectiveness of the harm minimisation strategies used if policy experiments are undertaken in some areas but not others.
[chapter 17]
 - *Taxation and pricing of gaming products.* Normally, reduced taxes lead to lower prices. But in some jurisdictions, payouts to players have increased as the tax rate has increased. It is difficult to explain why higher taxes appear to be associated with lower prices. This relationship would be a fruitful area for further work.
[chapter 19]

Areas where methodologies require further development

Another area for further consideration is work to help refine methodological approaches. It has become apparent during this inquiry that there are some areas which merit further work:

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- *Longitudinal studies.* In a longitudinal study, subjects are followed over time with continuous or repeated monitoring of risk factors or health outcomes, or both.¹ Longitudinal studies of groups of regular gamblers and problem gamblers, while expensive, may allow better analysis of the causal factors which can lead to the development of gambling problems, and help assess the effectiveness of different counselling/treatment approaches.
[chapters 6 and 17]
 - *Measures of incidence and prevalence.* Many studies have attempted to measure the *prevalence* of problem gambling (that is, the proportion of the population classifiable as problem gamblers in a given time period), and there is room for further work here. But it would also be useful to have some indication of the *incidence* of problem gambling (that is, the number of new cases arising each year). One way of contributing to this would be to establish a national database on problem gambling, together with processes for keeping it up-to-date.²
[chapter 6]
 - *Verification of test instruments.* The strengths and weaknesses of current test instruments such as the SOGS and the DSM-IV criteria are well known. Continued work is needed to improve these and other measures.³ Survey instruments should also be reviewed. (One approach might be to undertake follow up studies on people identified as problem gamblers, as was done in phase 2 of the New Zealand study of Abbott and Volberg (1992).)
[chapter 6]
 - *Estimates of elasticities.* The current evidence on demand elasticities for various forms of gambling was discussed at some length in earlier chapters. Such information is important to help make judgments about, for example, consumer benefits and appropriate taxation regimes. The Commission used a wide range of studies to reflect the uncertainty about such estimates. It would be useful to have more precise indications of the likely magnitude of the elasticities for different gambling modes. However, rather than suggesting more studies using similar methodologies (which would be subject to the deficiencies of current data), this may be an area where there is scope for ‘methodological experiments’ to find new ways to approach estimation of elasticities.
[chapter 5]

¹ In the Commission’s survey, respondents were asked if they would take part in any follow-up survey. Many indicated they would.

² The Australian Medical Association (sub. 224) has published a *Position Statement on the Health Effects of Problem Gambling*, identifying problem gambling as a public health issue and alerting general practitioners to the need to detect and manage such problems.

³ Indeed, the VCGA has commissioned work on this matter.

Participants' views

Inquiry participants also identified a variety of areas where they saw the need for more information. A selection is in box 23.3, while box 23.4 lists those areas which the recent United States Gambling Commission report suggested for future research efforts.

Box 23.3 Data and research needs: some participants' views

Several local governments said they need better information on the provision of gambling services, their economic and social effects, and the views of the community within their local government area.

Gambling counselling, church and social welfare agencies generally sought better information on the social costs of gambling. A typical request came from the Southside Coalition of Emergency Relief Welfare Agencies, which argued for:

A National Research Centre ... to further investigate the on-going impact of gambling on the community. That all research relating to gambling be kept as a unit in order to provide a clear overview of the whole impact on the community. [It] must be kept independent and autonomous of any government [and have no] association with the gaming industry (sub. D235, p. 8).

South Australia's Heads of Christian Churches Task Force on Gambling recommended regular research on the economic and social costs of gambling, gambling by young and elderly people and the concentration of venues and gaming machines in lower income areas. It also saw a need for data collection from the criminal justice system on links between gaming and crime, and more generally for an Australia-wide database to gauge the connection between accessibility and problem gambling (sub. D278, p. 13).

The Australian Medical Association (sub. D224), which seeks a national strategy 'to recognise, reduce and prevent problem gambling' and to identify its underlying causes and health effects,^a argued for research to evaluate the effectiveness of measures put in place to deal with problem gambling.

McMillen suggested the need for:

- a consistent national data framework for all aspects of gambling;
- a national database on, for example, profiles of people presenting with problems, the efficacy of client support services and treatment programs and social and economic impacts;
- consistent data categories at regional, state and national levels to allow comparison;
- comparative regional studies; and
- better information on state gambling tax systems (sub.D274, pp. 10–11).

^a In its *Position Statement on the Health Effects of Problem Gambling*.

Source: submissions.

**Box 23.4 United States National Gambling Impact Study Commission:
its proposals for future research**

The Study Commission's report included a chapter containing wide-ranging proposals for future research, variously recommended to federal, state and tribal governments. Its main proposals were for further work to:

- develop a framework for research on problem and pathological gambling;
- add gambling components to the *National Household Survey on Drug Abuse*;
- consider adding a gambling component to longitudinal research surveys undertaken by federal agencies;
- analyse public awareness campaigns;
- establish reliable instruments to measure non-monetary costs including divorce, domestic violence, child abuse, suicide, bankruptcy and crime;
- undertake an analysis of adult problem gamblers below the pathological gambler threshold;
- add gambling components to studies of prison inmates, parolees and probations who manifest disorders that frequently coexist with pathological gambling; and
- undertake research into:
 - the benefits and costs of legal and illegal gambling (including internet gambling);
 - the age of initiation into gambling, influence of family and correlates with other youth high-risk behaviours;
 - effects on family members, such as divorce, spousal and/or child abuse, severe financial instability and suicide;
 - the development of gambling problems associated with electronic gaming machines and the risk factors that accompany this;
 - effects on the workplace;
 - adolescent participation in legal and illegal gambling;
 - job quality in the gambling industry; and
 - the prevalence of problem and pathological gambling among gambling industry employees.

Source: NGISC (1999), chapter 8.

23.3 Better processes are also needed

The informational shortcomings documented throughout this report underline the need for improved processes for generating and disseminating policy-relevant information.

Most of these processes can be implemented under existing administrative arrangements. **However, in the Commission’s view, the ultimate responsibility for commissioning, collecting and disseminating information on gambling should be given to each state and territory’s independent control authority (among its other functions).** As noted in the previous chapter, the Commission has indicated that this could best be undertaken through an independent board, which would have responsibility for, among other things, setting the research agenda and funding the research.

Such a responsibility would also help each authority in its decision-making and policy advising roles. But it is especially important as a way of informing community and political debate in this area. It should help overcome the fragmented, piecemeal, inconsistent and sometimes secretive approach to information and research which is commonly found in many areas.

As each jurisdiction’s authority will have its own processes and face different policy questions, fragmentation of data across states may continue. In some areas, particularly where they have no experience, authorities may choose to emulate the better examples of what is done in other jurisdictions as a starting point, and this facilitate future comparability. Nevertheless, more formal coordination processes may also be needed (see below).

The importance of having an independent body charged with producing and disseminating public interest information and raising community awareness is highlighted by recent events in the media. An Australian Broadcasting Authority investigation was told by Star City Casino that it had a contract with an influential radio host under which he would promote the casino complex on his talk-back program and avoid adverse comments on gambling (ABA 1999a, pp. 625–6). The Authority was told that the radio host also had a promotional contract with the Registered Clubs Association of New South Wales (ABA 1999b, pp. 217–18).

Developing research strategies and programs

Under the Commission’s proposals, each independent authority would have the responsibility and the funding to provide a specialist research and information role for its own jurisdiction, so as to accumulate the kinds of baseline and trend data needed in social analysis.

The role of each authority should be to collect information, or undertake or commission research, of a kind which would inform public policy or provide other public benefits through, for example, community awareness and understanding.

A first step for each would be to look at *what* information should be collected to aid policy formulation and public debate. An important element in this should be a transparent, consultative process for determining the research agenda, with a focus on policy-relevant issues. This could be illuminated by a ‘theme-setting’ process, under which each authority should actively determine its research agenda, rather than react to issues as they arise. And as discussed below, a national focus with respect to the research undertaken and the methodologies used, can increase the policy usefulness of this information.

The VCGA has, for some time, used a research committee to help determine the nature of the projects it commissions. And the Reverend Harry Herbert, a trustee of the New South Wales Casino Community Benefit Fund, advised that the Fund was also taking a more active role in generating research. In the past, it reacted to proposals for research, but:

... we’ve now discovered that’s not a good way to go. It would be better to ask more deliberately, to work out a research program and then go out to people and say “Look, this is what we want to know. Who wants to help us find out about it?” (transcript, p. 1434).

A major advantage of a proactive approach to establishing a research program will be to perpetuate an overarching research perspective. The prime task in each jurisdiction should be to establish a systematic research framework, to help overcome the adhocery and patchwork nature of work undertaken to date. Efforts should be made, particularly in the development and prioritisation stage, to mesh in with work done in other jurisdictions and to avoid unnecessary duplication of research effort.

This would be followed by processes to:

- review what information is already generated through administrative processes but not systematically recorded or produced in a form which is readily useable (examples include data from the criminal justice system, for which much information comes out during the course of an investigation or procedure; data from bankruptcy proceedings where gambling was an element; and statistical information from hospital records);
- encourage more systematic processes (for example, each jurisdiction could ensure that its taxation reporting clearly separates licence fees, contributions to community funds and standard taxation payments) to facilitate analysis and comparison across jurisdictions;
- mine new information from unit record data from already completed studies (including as part of meta-analysis);

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- set in place mechanisms for generating gambling-related data from other administrative procedures where it may be added at low cost. Gambling might be added to minimum data sets prepared by government-funded service agencies, provided it were not too onerous or expensive to do so. For example, admission records for jails might include information on a prisoner's gambling problems or whether he or she had committed crimes related to gambling; and
 - commission new work.

Apart from establishing a pattern of research across a range of topics and methodologies, components of the subsequent research program might include undertaking and repeating prevalence and impact surveys to provide the kinds of trend data which is needed in social analysis, and establishing programs to look at broader questions such as the relationship between gambling and, for example, mental health issues.

While these are matters for each jurisdiction to determine, a key emphasis ought to be on the development of a comprehensive and forward looking research function to build up an information base for policy development and public information on a controversial subject which has significant social impacts.

And as noted earlier, none of this need await the establishment of an independent control authority.

Procedures to assure quality

There are well-established procedures concerning the way in which research or data collection is commissioned and undertaken which all jurisdictions could employ now to raise the quality of data and research. These include:

- open tendering procedures for selecting researchers, together with safeguards as to the independence of the researchers and the avoidance of perceptions of bias or conflict of interest;
- providing manuals and training for the guidance of departments and others to help provide methodological integrity and a common approach where that is appropriate (counselling and church agencies, for example, usually rely on anecdotal information which, while valuable and often well documented, needs to be supported by evidence with greater scientific rigour);
- independent peer review refereeing of research results, including, as appropriate, by international referees as well as local researchers and 'blind' peer review procedures; and

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- publication procedures which include a commitment to early release and wide dissemination of research results, and of (confidentialised) unit record data sets for other researchers to analyse, where possible also by way of the internet.

It should be an important guiding principle that:

- **information should be publicly available with minimal delays; and**
- **methodologies and (confidentialised) unit record data should be made available to researchers for subsequent analysis.**

Importantly, research findings need to be actively shared with other jurisdictions. While a commitment to early release and wide dissemination of results would facilitate this, there is also a case for a more formal coordination process among jurisdictions (see below).

In all cases, questions about what data should be collected, or research undertaken, need to be approached carefully, given that collection involves costs to the collecting agency and compliance costs for those from whom the data is collected. (The ABS has implemented processes to reduce the compliance costs of its collections; these could be emulated as appropriate.) The Australian Casino Association cautioned that additional demands for data and information would lead

... to an already overburdened casino industry being required to provide more information, fill in more surveys or be subject to even greater regulation than now. This is unacceptable (sub. D234, p. 1).

The (public and compliance) costs of generating particular types of information should be taken into account and set against the benefits of better information, using a transparent process.

Minimum reporting requirements should be set

While areas for future research ought to be matters for the independent control authority to determine, the analysis in this report suggests that there are some basic matters which ought to be subject to mandatory reporting in all jurisdictions.

Each authority would need to report annually on:

- **changes in the availability of gambling (numbers of venues, machines, gaming tables and the like);**
- **the uptake and effectiveness of counselling services;**
- **tax collections;**
- **licence breaches, prosecutions and their outcomes; and**

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- **consultation processes and their outcomes, especially at the local level, including assessment of local and regional impacts.**

In addition, there needs to be reporting of any surveys on the prevalence and impact of gambling.

Priorities for research over and above this would be matters for the independent gambling authorities to determine.

How can better coordination be achieved?

While consistency or coordination across jurisdictions is not always essential, there are many cases where the comparisons it facilitates can shed light on particular policy matters, and provide a national picture. Comparisons of the prevalence of problem gambling across jurisdictions with different gaming facilities is one example. There is also a need to achieve better coordination in the data that is collected from, for example, counselling agencies, to provide systematic data across jurisdictions.

The Commission's proposals for each jurisdiction to have its own independent authority commissioning research and information gathering would not overcome this. There will remain a need for administrative arrangements to facilitate cooperation, information sharing and joint research and collection activities where that is appropriate. Without such arrangements, opportunities for obtaining better information or combining research efforts of, for example, the smaller states and the territories, will be left to the vagaries of informal arrangements.

There are several ways of facilitating this, and some are already in place. State and territory gaming and racing Ministers and officials meet regularly, and there are frequent formal and informal contacts among regulators.

While such forums may readily be established to review taxation and regulatory matters, it may be more difficult to maintain ongoing coordination for what may be perceived as the less immediate needs of information and research planning, notwithstanding that these underpin good taxation and regulatory policy.

The Commission sees considerable benefits in a formal process to facilitate the coordination of information-gathering and research efforts between jurisdictions. There would be considerable benefits in terms of providing a central focus for data and research. It would also facilitate a more national focus, and help coordinate such work where that is appropriate.

Possible approaches include:

- *formal consultation and meeting processes*, akin to racing and gaming Ministers' meetings (but having a wider purview), with commitments to meet several times annually and review progress;
- *a national clearing-house*, akin to a (real or virtual) library, where information and research is stored for use by all jurisdictions, but where the decisions and skilled personnel remain wholly with the state and territory authorities; and
- a more active *national research facility*, which might begin as an information clearing-house, but with the capacity to undertake or commission independent research. Its work should complement, rather than duplicate, that of the individual states and territories. In time, such a facility could become a specialist body, able to provide advice to jurisdictions on methodological and research matters, and information to the community on gambling.

At a minimum, any of these approaches could lead to a better sharing of information about statistical collections, research-in-progress and methodological matters, depending on the extent of commitment they received from each jurisdiction. They could also facilitate more joint (or, at least, coordinated) research than currently exists.

So, for example, a clearing house would best be established under rules such that effectively allows it to operate as a central library, where material is contributed by all jurisdictions and made available to all other jurisdictions, to researchers and to the public. Given that its role is to be a central storehouse of information, processes which facilitated information dissemination (including by online means) would be preferred.

However, the Commission sees merit in establishing a national facility, constituted in a manner that encouraged cooperation, interchange of research ideas, discussion of methodological questions and early release of information.

Consistent with the Commission's proposals for independent authorities in each state and territory, the role of the national facility should be to collect information, or undertake or commission research, of a kind which would inform public policy or provide other public benefits through, for example, community awareness and understanding. Research and information about gambling which does not fall within this definition is more properly the role of others, such as university researchers, counselling agencies and the industry itself.

Indeed, the Commission notes the recent announcement by several major gambling providers that they intend to establish their own national research institute to promote an understanding of the industry. This would be likely to become a high

profile source of information about gambling in Australia. But as McMillen observed in another context:

Although the gambling industries undoubtedly commission their own research to assist commercial decisions, industry rarely has funded public research. The most notable exceptions have been the [Registered Clubs Association of NSW's] support for a trial program on responsible gambling in NSW clubs ... and the support from Jupiters Casino and Reef Casino for [the AIGR's] three-year study of casino impacts in Brisbane and Cairns (sub. D216, p. 19).

In the Commission's view, a properly constituted national research facility would be an effective way to facilitate national cooperation and coordination in data collection and research:

- Its success would be helped by having all jurisdictions involved in the process.
- While it could be established by the Commonwealth, there is logic in establishing a co-funded facility.
- It should be supervised by a board, which included representatives from all states and territories.
- Its activities should be limited to information and research only — it should have no policy role.
- It should operate to quality assurance principles for its own research and for the work it commissions:
 - but this requirement should not act to hinder the accumulation of incomplete data from state regulatory agencies — those which generate relevant data in the course of their responsibilities should be encouraged to supply that to the facility for use by researchers.
- It should operate under rules which specify that data ought to be released in a timely manner.
- Processes should be implemented such that lessons learned in one jurisdiction could readily be picked up by others.

One task for a national facility might be to replicate the Commission's *National Gambling Survey* on a regular (say, three-yearly) basis to build up an information base which would facilitate trend analysis.

Box 23.5 National research coordination: participants' views

The Queensland Government said:

... there should be a national research facility to provide a central focus for data collection and research, including greater consistency of information. This should establish an accessible one-stop shop of consistent and accessible information relating to gambling for the use of regulators, the industries and the public in general. Such a facility would also be beneficial in establishing trends and possible links between gambling venue accessibility and problem gambling on a national basis (sub. D275, p. 12).

The Reverend Harry Herbert of the Uniting Church Board for Social Responsibility argued that there is:

... clear evidence of the need for ongoing research on the industry and the benefits of a large amount of this being undertaken nationally ... Although there would continue to be some research which would be relevant to particular jurisdictions, a national unit would be very helpful to analyse broad national issues as well as to ensure the flow of information from one jurisdiction to another (sub. D188, p. 1).

And the Australian Hotels Association argued that:

A national research facility would ensure that policy and legislative responses are formulated on hard evidence rather than 'gut feeling' ... Gambling research, being the highly emotional topic that it is, should be based on sound research and comprehensive data (sub. D231, p. 103).

The South Australian Government advised that a working party established by Gaming Ministers had not been successful in its attempts to coordinate research, with each state and territory commissioning its own research projects. But the working party did establish a database of all known gambling research and studies:

South Australia is currently looking at whether this information can be provided on the Internet and for each State and Territory to then assume responsibility for updating it in relation to research conducted in that jurisdiction (sub. D284, attachment, p. 9).

McMillen strongly argued for:

... collaborative research that involves active participation of the key stakeholders — government (national, state and local authorities), industry and community representatives (sub. D216, p. 20).

Source: submissions

23.4 What role for the ABS?

The terms of reference for this inquiry asked the Commission to report on:

... the adequacy of ABS statistics concerning gambling (para 3(h)).

The ABS produces information on gambling in two main forms — through surveys of gambling providers and a survey of spending by households. ABS statistics were used extensively by the Commission in preparing this report.

Industry statistics

A key element of the ABS's Service Industry Surveys strategy is a program of studies of selected service industries:

Within that program, a detailed study was undertaken in 1994-95 of businesses involved in the ... gambling industries (sub. 141, p. 4).

The surveys cover businesses classified to the following Australian and New Zealand Standard Industrial Classification classes:

5720 — Pubs, taverns and bars

5740 — Clubs (hospitality)

9321 — Lotteries

9322 — Casinos

9329 — Gambling services not elsewhere classified.

The surveys provide information on the number of businesses, net takings and commissions, employment and its characteristics, and labour and other industry costs.⁴ The results have been drawn on by the Commission.

Subsequent to the 1994-95 study, annual surveys have been undertaken of the casino industry. In 1997-98, further surveys of the gambling industries and clubs, pubs taverns and bars were undertaken, and the results published in 1999.

Household statistics

The Household Expenditure Survey (HES) is conducted every five years and is designed to provide information on the spending patterns of Australian households. The HES asks householders, among other things, to record their net spending on gambling. The results are reported in *Household Expenditure Survey, Australia: Detailed Expenditure Items* (cat. no. 6535.0). The latest issue is for 1993-94.

However, as noted in earlier chapters, there are significant differences between the estimates of gambling expenditure derived from the HES, and estimates arrived at by examining the income of businesses providing gambling services as measured by industry surveys (and published by the Tasmanian Gaming Commission). The ABS advised that there are a number of potential sources of difference between the two. These include:

⁴ The results are published in *Casinos, Australia* (cat. no. 8683.0), *Gambling Industries, Australia* (cat. no. 8684.0) and *Clubs, Pubs, Taverns and Bars, Australia* (cat. no. 8687.0).

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- reporting errors (such as householders having difficulty in recalling or isolating gambling expenditure from other forms of spending such as food, drink and entertainment; or finding it easier to recall winnings rather than losses); and
 - conceptual differences (for example, the HES excludes gambling expenditures by overseas visitors) (sub. 141, p. 3).

Nevertheless, the ABS acknowledged that the ‘supply estimates’ as recorded by the Tasmanian Gaming Commission demonstrate that there is extensive under reporting in the HES, indicating that:

... respondents are deliberately failing to report the full extent of their gambling activities. This may be due to a concern that they have that other members of the household and ABS staff will see the diary of expenditures and may judge their gambling activities as excessive and/or anti social (sub. 141, p. 3).

To illustrate the problem, the ABS noted that HES figures for 1993-94 showed net *winnings* for the household sector in several states from TAB and on-course betting.

Other sources

The Population Survey Monitor (PSM) is an ABS quarterly social survey in the ‘omnibus’ style, which means that ‘slots’ on the questionnaire can be taken up by both external (fee paying) and internal ABS users.

In the thirteen quarters between May 1994 and May 1997, the ABS asked respondents two questions in respect of their gambling. And in the four quarters between February 1996 and November 1996, the ABS also asked a question about whether respondents would consider using their television or computer for gambling at home. The results were reported in subsequent publications.

The ABS advised that:

The PSM collection on the incidence of gambling is user funded. Its continuation will be dependent on the continued availability of such funding (sub. 141, p. 6).

Future developments in ABS gambling statistics

Few participants to this inquiry made any comment on ABS statistics. However, the Queensland Government said:

... the [ABS] gambling statistics in previous years were usually on a national basis and therefore of limited use to Queensland in terms of informing state gambling policy decision making (sub. D275, p. 12).

The ABS is attempting to improve its services sector data collections. It has changed the wording of the gambling items for the 1998-99 HES, to try to improve reporting of gambling expenditure. But it cautioned that:

... these changes are unlikely to substantially improve the reporting of gambling expenditure, and there is no reason to believe that this survey will be any different to earlier HES collections in terms of reporting ... of gambling losses (sub. 141, p. 5).

It added that:

... within the broader scheme of a HES design, it is ... highly unlikely that such reporting problems can be fully addressed in a systematic fashion. The problems with accurate reporting of gambling expenses in HES are an international problem, not just restricted to Australia (sub. 141, p. 5).

In respect of 'supply side' statistics, the ABS considers that its collections, together with the data produced by the Tasmanian Gaming Commission:

... provide a comprehensive picture of the economic impact and significance of the gambling industries (sub. 141, p. 6).

It added that:

The inclusion of gambling industries in the future program [of service industries studies] will be dependent on user requirements and the relative cost of undertaking the collection. It is expected that similar supply side data will continue to be available on a periodic basis (sub. 141, p. 6).

While the faults in the HES are well-recognised by the ABS, which is pessimistic about the scope to overcome them within the context of the HES itself, the value of such statistics suggests that further efforts to obtain similar information by other means would be worthwhile. This might, for example, involve testing whether different ways of asking questions might yield better results — for example, whether expenditure may be better estimated by asking about the gross amounts wagered (rather than the net amounts spent) and applying an estimation factor derived from aggregate industry data. But even if successful, this implies long delays in obtaining this information from the ABS.

In any case, future developments in ABS statistics, or continuation of existing collections, will in part be determined by demands on ABS resources from many quarters. The Commission's proposals for independent authorities in each jurisdiction with information and research responsibilities, and for better coordination across jurisdictions, may also have implications for the ABS down the track.

One area where information about gambling may be gathered by the ABS as the opportunity arises would be by way of the its occasional social surveys. The ABS

has in the past conducted surveys which may well have been conducive to the adding of gambling questions. While surveys are expensive to undertake, once one is planned, adding questions on gambling may not be unduly expensive. In this way, there may be scope for future specialist surveys on social issues to generate further information on gambling behaviour. This might, for example, be particularly useful to shed light on the activities of some marginal groups such as the homeless, prison populations and the like.

The statistics produced by the ABS and the Tasmanian Gaming Commission together provide a valuable database on gambling in Australia. There may be benefits from the ABS undertaking further pre- and pilot-testing to assess different ways of obtaining better information on spending in gambling by way of the HES. And, if a national research facility were to be established, there may also be opportunities for the ABS to extend its activities in the area of gambling statistics by tendering for any surveys that it commissioned. But for the present, the statistics it produces shed considerable light on this activity, notwithstanding the deficiencies in expenditure data.