



Parliamentary Joint Select Committee on Gambling Reform

Fourth report

National Gambling Reform Bill 2012 and related bills

November 2012

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ISBN 978-1-74229-728-6

This document was printed by the Senate Printing Unit, Parliament House, Canberra.

Committee Membership

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Ms Gai Brodtmann (from 14 March 2012, Deputy Chair from 20 March 2012)	Australian Capital Territory, ALP
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Recommendations

Recommendation 1

3.9 The committee recommends that the ban on the use of biometrics be included as an issue for the Productivity Commission to consider in its review of assessment of progress in complying with the requirements around pre-commitment.

Recommendation 2

3.27 The committee recommends that the linking of pre-commitment to loyalty schemes be included as an issue for the Productivity Commission to consider in its review of assessment of progress in complying with the requirements around pre-commitment.

Recommendation 3

3.59 The committee recommends that the issue of whether there are grounds for further exemptions for smaller venues in regional and remote areas should be included as an issue for the Productivity Commission to consider in its review of assessment of progress in complying with the requirements around pre-commitment.

Recommendation 4

3.61 The committee recommends that the government develop an appropriate national education and social marketing campaign for voluntary pre-commitment and work with industry to develop training for staff.

Recommendation 5

4.13 The committee recommends that the members of the ATM Industry Reference Group be given until the end of 2013 to implement the \$250 daily withdrawal limit on ATMs in gaming machine premises should the government believe such an extension would assist with the transition.

Recommendation 6

4.16 The committee recommends that the issue of including EFTPOS transactions in the \$250 per day ATM withdrawal limit be considered by the Productivity Commission in its review of assessment of progress in complying with the requirements around the ATM withdrawal limits.

Recommendation 7

4.43 The committee recommends that the Australian Gambling Research Centre should, as a priority, conduct a national prevalence study of problem gambling to establish baseline data (using best practice screening tools) that will enable comparison between jurisdictions and will include as many at risk groups as possible.

Recommendation 8

4.45 The committee recommends that the bills be passed.

Chapter 1

Introduction

1.1 On 1 November 2012, the National Gambling Reform Bill 2012 (the bill), and two related bills, the National Gambling Reform (Related Matters) Bill (No.1) 2012, and the National Gambling Reform (Related Matters) Bill (No.2) 2012,¹ were introduced into the House of Representatives.² Pursuant to the resolution of appointment of the Joint Select Committee on Gambling Reform the bills were referred to the committee for inquiry and report.³

Background to the bills

1.2 On 21 January 2012, the government announced its plan to address problem gambling.⁴ On 17 February 2012, the government released exposure drafts of the National Gambling Reform Bill 2012 and the National Gambling Reform (Related Matters) Bill 2012, inviting comment on the technical and operational aspects of the bills by 23 February 2012. After concern was expressed about the short timeframe for comments, this deadline was subsequently extended to 2 March 2012.⁵ The government undertook consultation with key industry groups, manufacturers, state and territory governments and community groups in the week beginning 20 February 2012.⁶

1.3 Ms Liza Carroll, Deputy Secretary, Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) confirmed that consultation with industry and community stakeholders has taken place. It included formal consultation on the exposure draft of the legislation which was released on 17 February 2012. FaHCSIA also noted that consultation by the department, Minister

1 The three bills are referred to as 'the bills'.

2 House of Representatives, Votes and Proceedings, No. 142, 1 November 2012, p. 1945.

3 The resolution of appointment for the Joint Select Committee on Gambling Reform directs the committee to inquire into and report on 'any gambling-related legislation that has been tabled in either House, either as a first reading or exposure draft'. *Journals of the Senate*, 30 September 2010, pp 141–142.

4 The Hon Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs, 'Tackling problem gambling in Australia', *Joint Media release*, 21 January 2012.

5 See Joe Kelly, 'State aghast as bill lets feds regulate pokies', *Weekend Australian*, 18 February 2012, p. 6.

6 The Hon Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs, 'Legislation for National Gambling Reforms', *Media release*, 17 February 2012.

Macklin and her office on specific issues was undertaken outside the formal consultation period.⁷

1.4 The reforms also build on the May 2011 agreement of the Council of Australian Governments Select Council on Gambling Reform to support the required infrastructure for pre-commitment technology in all jurisdictions in every gaming venue. In addition the bills are based on the evidence and recommendations of the Productivity Commission.⁸

Purpose of the bills

1.5 The object of the proposed Act is to reduce the harm caused by gaming machines to problem gamblers, their families, their communities and those at risk of experiencing that harm.⁹

1.6 The Minister for Families, Community Services and Indigenous Affairs, the Hon Jenny Macklin MP stated that the intention of the bills is to give effect to the gambling reforms announced by the government on 21 January 2012 which include:

- by the end of 2013, new poker machines manufactured in, or imported into, Australia to be capable of supporting an approved pre-commitment system;
- by the end of 2016, all gaming machines to be part of a state-linked pre-commitment system and display electronic warning messages (noting that eligible small venues will have longer to implement);
- a \$250 a day ATM withdrawal limit for gaming venues (other than casinos) from 1 May 2013.¹⁰

Conduct of the inquiry

1.7 The committee advertised the inquiry on the committee's website. The committee also wrote to a number of organisations and individuals inviting submissions by 9 November 2012. The committee received 20 submissions which are listed in Appendix 1.

1.8 The committee held a public hearing for the inquiry which took place on 13 November 2012 at Parliament House in Canberra. A list of witnesses who appeared

7 Ms Liza Carroll, *Proof Committee Hansard*, 13 November 2012, p. 64; See also Ms Leesa Croke, *Proof Committee Hansard*, 13 November 2012, p. 68; See FaHCSIA, Answers to questions taken on notice, No. 23, received 16 November 2012.

8 The Hon Jenny Macklin MP, Second reading speech, *House Hansard*, 1 November 2012, p. 12911.

9 Clause 4, National Gambling Reform Bill 2012.

10 The Hon Jenny Macklin MP, Second reading speech, *House Hansard*, 1 November 2012, pp 12912–12913.

at the hearing is at Appendix 2 and the Hansard transcript is available online at: <http://www.aph.gov.au/hansard>.

Scope of the report

1.9 Given the limited amount of time available for the inquiry, and the extensive consultation process undertaken in early 2012, the committee has decided to focus on the provisions of the bills and not to again cover in detail the policy issues covered in its first report, *The design and implementation of a mandatory pre-commitment system for electronic gaming machines*.¹¹ For those who may be unfamiliar with the background to the legislation and policy development that report provides greater detail.

Note on references

1.10 References in this report are to individual submissions as received by the committee, not to a bound volume. References to the committee Hansard are to the proof Hansard. Page numbers may vary between the proof and official Hansard transcript.

Acknowledgement

1.11 The committee thanks those organisations and individuals who made submissions and gave evidence at the public hearing.

11 Joint Select Committee on Gambling Reform, *First Report: The design and implementation of a mandatory pre-commitment system for electronic gaming machines*, 6 May 2011.

Chapter 2

Who will pre-commitment help?

2.1 Before going to the specifics of the bill, the committee takes the opportunity to briefly remind readers of the reason for the legislation: the personal, family and community cost of problem gambling. Over a number of inquiries the committee has heard from problem gamblers and their families, and the committee hopes that people will take the opportunity to reacquaint themselves with the personal stories in its reports.¹

2.2 As this was a legislation inquiry, the committee did not receive many submissions from individuals but a problem gambler wrote in to tell the committee how he believed the legislation would assist him. It is worth reproducing some of this submission here as it is representative of many others who have experienced or are experiencing gambling problems.

I am 41 years old and I have a massive gambling problem with pokies. I am also in debt where my commitments from this debt are quite high, I find it near impossible to pay bills and living expenses on a weekly basis, I am always, almost broke the day after pay day.

I am paid fortnightly and am on a pretty good wage, my take home pay is \$2806 per fortnight, now you would think that I would have a house, car and be able to afford to go on holidays, I don't own a house, don't own a car and don't go away on holidays because of gambling on pokies. As I am not married and have no dependants, its very easy for me to do this. Living in a new city (Brisbane) I like to go out and have a drink, but when I do, I'm always drawn to the pokies, sometimes leaving a venue flat broke and not paying my bills.

I believe that someone like myself would benefit greatly from having a pre commitment card on the pokies and I would be able to manage my life and self better, I would have money at all times...

With regards to the pre commitment cards, I would like to propose that people who participate in this scheme would do so voluntarily. I am thinking that if they walk into any venue with the card, that it would have some sort of chip or something in it where the pokies would recognise that this person has entered a venue and would automatically pick up how much of their pre commitment is left, like for example, if I made a pre commitment of \$250 to gamble in a 24 hour time frame, then it would only allow me to play up to that amount and if I left to attend another venue and

1 In particular see chapter 2 of Joint Select Committee on Gambling Reform, *First Report: The design and implementation of a mandatory pre-commitment system for electronic gaming machines*, May 2011; See also Second report, *Interactive and online gambling and gambling advertising and Interactive Gambling and Broadcasting Amendment (Online Transactions and Other Measures) Bill 2011*, December 2011; Third report, *The prevention and treatment of problem gambling*, October 2012.

if I had \$60 left on my pre commitment, then I would only be allowed to play that amount. Of course people have to take responsibility for their own actions and there would be ways around it, but if I was to have access to something like this, this would make me more responsible for my own actions and make me conscious of the fact that I have my own destiny in my own hands and make me think about what I am doing. If I walked into a venue without making a prior commitment with the card in my wallet, then the machines should not allow me to play any poker machines within the venue...²

2.3 During the committee's first inquiry into mandatory pre-commitment a number of former problem gamblers told the committee that they believed being able to set a limit would have assisted them when their gambling was out of control.

2.4 When asked whether pre-commitment would have helped her, Ms Karpathakis responded:

If there had been another option, there is no way I would have been an addict. If there had been a precommitment card or an opt-out card there is no way I would be an addict. You get your pension and you know you have three kids and rent to pay, but you look at that money and it is not even real—it is just something to play with. That is free rein. Your brain does not think properly, but if there were a block there I would not think like that.³

2.5 In her submission Ms Karpathakis outlined that she believed a pre-commitment system would have the potential to prevent people becoming addicted and would limit the damage done by those already addicted:

I believe that pre-commitment has the potential to help people, especially the ones who can't seem to stop. At least they will be able to curb their addiction or at least not cause such extreme damage. I believe that if we had had a pre-commitment scheme when I began to play I would have been a recreational gambler and not an addict. A pre-commitment scheme, including pre-commitment cards and the opt-out system, could result in many benefits. These could include preventing new people from becoming addicted, reducing the incidence of child neglect, as well as a reduction in crime. I find the idea of preventing future pokie addicts with the help of the pre-commitment scheme exciting.⁴

2.6 Ms Sue Pinkerton told the committee that she believed pre-commitment would have assisted her.⁵ She offered the following view:

Had there been a precommitment system in place when I first began playing the pokies, I sincerely believe I would not have become a pokies addict. Before that habituation process took hold, spending \$20 in one night while playing the machines seemed excessive, almost decadent. Always when

2 Name withheld, *Submission 8*.

3 Ms Julia Karpathakis, *Committee Hansard*, 1 February 2011, p. 11.

4 Pokies Anonymous, *Submission 34*, p. 3.

5 Ms Sue Pinkerton, *Committee Hansard*, 1 February 2011, p. 66.

entering a gaming room, even at the height of my addiction, I had the very best of intentions to stay for...only an hour or two and to spend \$50, \$100 or maybe even \$200, before going home. By the end of my pokies playing career, spending \$200 in a few hours did not seem an unreasonable thing and leaving the venue with cash in my purse almost never happened.

In the first few weeks of playing the pokies, had I been unable to continue gambling once I had spent my \$20 I would have gone home or found other activities within the venue to amuse myself with.⁶

2.7 Ms Gabriela Byrne also supported a pre-commitment system that would assist people when they are in the midst of the urge to gamble:

When I blew a certain amount of money that I set as a maximum that I could afford to lose, the urge to gamble ceased after 24 hours and the next limit I would set would be just the same or less...When you want to continue to gamble in the moment the urge is so strong that you would give anything to continue. If you stopped...and then you walked out and had time to cool off you realise that a measure like this is probably protecting you from losing a lot more. I think it is a worthwhile thing.⁷

2.8 Ms Byrne added that she felt a pre-commitment system would have stopped her losing so much money and all the negative consequences that flowed from that:

I think I would have lost a lot less money if that had been in place. And I probably would have saved my family and myself a lot more of the other consequences that go with the loss of money, the loss of confidence, the loss of relationships.⁸

2.9 Ms Byrne also mentioned that a pre-commitment system would have provided her with more time to work on recovery as:

When you are chasing the money that you lost the day before, you are in this mode where nothing is more important than feeding the beast but if you had 24 hours where you could sit back and say 'How much money can I afford to lose?', it would have limited the losses. To give you some anecdotal evidence, I saw a woman about three months ago, a single mum, who lost \$7,000 in 45 minutes on a 1c machine. I just think that is criminal. I would not call that entertainment.⁹

2.10 To be clear, the committee emphasises that the opinions listed above from the committee's first inquiry were in response to mandatory pre-commitment, not voluntary. During that inquiry, former problem gamblers expressed the view that the system should be mandatory. However, the committee feels it is worthwhile reproducing their views about how setting a limit could have helped them.

6 Ms Sue Pinkerton, *Committee Hansard*, 1 February 2011, p. 56.

7 Ms Gabriela Byrne, *Committee Hansard*, 2 February 2011, pp 16–17.

8 Ms Gabriela Byrne, *Committee Hansard*, 2 February 2011, p. 17.

9 Ms Gabriela Byrne, *Committee Hansard*, 2 February 2011, pp 23–24.

Committee view

2.11 The committee notes that clause 33 of the National Gambling Reform Bill 2012, ensures that poker machines will be equipped for mandatory pre-commitment, was not included in the exposure draft of the legislation released in February 2012. In April 2012, the government agreed to the inclusion of clause 33 which fundamentally changes the nature of the bill. It ensures that mandatory pre-commitment can be turned on by a future government at the flick of a switch.¹⁰

Public opinion supports reform

2.12 Public support for poker machine reform has remained high over the period since the committee's first report. A number of polls have shown national support for action on gambling reform consistently over 60 per cent.¹¹ Although most of these polls cover mandatory pre-commitment, it is clear that the public supports people being able to set a limit on the amount they can lose before they start to play poker machines.

Support for the bill

2.13 Evidence to the committee was generally in support of the bill. For example, the Australian Churches Gambling Taskforce noted that, although the taskforce's preferred option is mandatory pre-commitment and maximum \$1 bets, it supports the legislation as a first step to provide greater protection for people living with a gambling addiction and people at risk.¹² Ms Lin Hatfield Dodds, member of the taskforce, told the committee:

So voluntary [pre-commitment] is a step in the right direction, but we are really pleased that this legislation will deliver capability so that, in the future, when we have the next reform wave, we will be able to flick a switch and move to mandatory.¹³

2.14 She added:

...it is legislation that will make a difference. It has a range of measures in it that will make a material difference on the ground immediately...¹⁴

2.15 To conclude, Ms Dodds reminded the committee that across the UnitingCare Network, one of the top three reasons that people access emergency relief services, financial counselling services and family crisis services is problem gambling.¹⁵

10 Explanatory Memorandum, p. 19.

11 Essential Research, *Essential Report*, 12 September 2011, p. 8; Essential Research, *Essential Report*, 10 October 2011, p. 6; Australian National University, 'Public opinion on gambling', *ANUpoll*, July 2011, p. 3; Information available from: <http://au.nielsen.com/news/200512.shtml> (accessed 17 November 2012).

12 Australian Churches Gambling Taskforce, Ms Lin Hatfield Dodds, *Proof Committee Hansard*, 13 November 2012, pp 1–2.

13 Ms Lin Hatfield Dodds, *Proof Committee Hansard*, 13 November 2012, p. 3.

14 Ms Lin Hatfield Dodds, *Proof Committee Hansard*, 13 November 2012, p. 5.

2.16 The committee also notes the support of the Council of Australian Governments Select Council on Gambling Reform to support the infrastructure for pre-commitment in every gaming venue across the country,¹⁶ and that industry supports the intent of the bill although it has raised issues around implementation which are covered in the next chapters.

Committee view

2.17 The committee is grateful to all individuals who shared their personal stories in relation to problem gambling with the committee to assist others during this and previous inquiries. The committee has stated in previous reports that there is no one solution to address problem gambling. It requires a range of measures along the gambling continuum (low to high risk). This legislation, along with the other measures announced by the government,¹⁷ is an important step in providing more assistance for problem gamblers, their families and communities.

15 Ms Lin Hatfield Dodds, *Proof Committee Hansard*, 13 November 2012, p. 9.

16 Council of Australian Governments Select Council on Gambling Reform, *Communique*, 27 May 2011.

17 On 21 January 2012, the government announced a range of measures to address problem gambling. As well as pre-commitment technology these measures include additional counselling support with 50 new financial counsellors and expanding the reach of the Gambling Help Online, strengthening self-exclusion arrangements and improving training for staff in poker machine venues. See The Hon Jenny Macklin MP, 'Tackling problem gambling in Australia', *Joint Media Release* with The Hon Julia Gillard MP, the Hon Bill Shorten MP, Senator the Hon Stephen Conroy, 21 January 2012.

Chapter 3

Establishment of a voluntary pre-commitment system

3.1 This chapter will briefly describe one of the key reforms contained in the bills, the establishment of a state or territory-wide pre-commitment system, and issues raised with the committee in relation to it.

3.2 Based on the committee's experience over the past two years, which includes a significant inquiry into pre-commitment, the committee offers a number of suggestions to improve aspects of the pre-commitment system for consideration by those putting the systems in place. The committee notes that the legislation only specifies the minimum requirements, that jurisdictions are free to do more and that its suggestions are for increased functionality on top of the minimum requirements detailed in the bill. It offers the suggestions based on evidence provided to the committee during its previous inquiries.

Pre-commitment system

What is it?

3.3 Although legislation can make concepts such as pre-commitment appear complex, stated simply, pre-commitment is a tool which poker machine players can use to set a budget and limits around their play and the system will assist them to remain within those limits.¹ It is intended to be a state or territory-wide system so that those limits apply wherever they play. The system proposed in the bill is voluntary and use is free for players.² There is no requirement to use the system but players who wish to use the pre-commitment system would register and set their own limits around how much they are able to lose over a particular period.³

3.4 Associate Professor Paul Delfabbro, a gambling researcher at the University of Adelaide, agreed that providing players with more information to make them aware of their expenditure will be useful for players. Even though he explained that an opt-out system over an opt-in system would have greater effect, he supported the intent of the legislation to bring about change.⁴

1 Explanatory Memorandum, p. 13.

2 Subclause 21(3), National Gambling Reform Bill 2012.

3 See Chapter 2, Part 2. Setting how much money a player can lose is called the 'loss limit'. Setting the period over which this applies is called the 'limit period'. The limit period must be at least 24 hours, see subclause 25(2), National Gambling Reform Bill 2012.

4 Professor Paul Delfabbro, *Proof Committee Hansard*, 13 November 2012, pp 23–25.

Biometric identification is banned

3.5 To identify a person who chooses to register, the system may use a photograph or signature but biometric identification is explicitly banned.⁵ Some submitters felt that this could limit the technology options in the future as technologies develop and the use of biometrics in this area and others becomes more convenient, widespread and therefore more accepted.⁶ The Independent Gambling Authority, SA, suggested that the prohibition on biometrics should be subject to reversal by the regulations.⁷

Committee view

3.6 The committee recognises the importance of privacy and human rights concerns with respect to biometric technology. However, the committee also recognises the need for viable technology to enable consistent identity management to ensure that pre-commitment practices are enforceable.

3.7 The committee has no firm views on this issue but notes that the rest of the bill remains technology neutral to assist states/territories and venues with different systems to select technology that is most appropriate for them to meet the requirements. While the committee understands that the use of biometrics in Australia is not yet widespread and accepted in these areas, it notes that limiting the technology options of states/territories and venues into the future seems to be at odds with the rest of the bill which is technology neutral.

3.8 The committee suggests that this issue could be included in the Productivity Commission (PC) review of assessment of progress in complying with the requirements of pre-commitment systems.⁸ The PC could include the provisions around the prohibition for the use of biometrics in its review to consider whether states and territories are finding the restriction is inhibiting their ability to offer more functionality to players.

Recommendation 1

3.9 The committee recommends that the ban on the use of biometrics be included as an issue for the Productivity Commission to consider in its review of assessment of progress in complying with the requirements around pre-commitment.

5 Subclauses 23(1), 23(2) and 23(3).

6 See Responsible Gaming Networks, *Submission 6*, pp 2–3; Independent Gambling Authority, SA, *Submission 9*, p. 1; Australian Churches Gambling Taskforce, *Submission 4*, p. 3.

7 Independent Gambling Authority, SA, *Submission 9*, p. 1.

8 Clause 194 of the National Gambling Reform Bill 2012 requires the Productivity Commission to undertake an assessment of the progress gaming machines premises are making towards complying with pre-commitment system requirements. The inquiry will also include dynamic warnings and ATM withdrawal limits. See chapter 4 of this report.

Ensuring registration and use is simple for players

3.10 The Australian Churches Gambling Taskforce noted that the bill allows for multiple providers of pre-commitment within a state or territory for the one pre-commitment system. It therefore felt there was a need to clarify that a player will only need one device to access the system.⁹

Committee view

3.11 The committee agrees that in order to facilitate use, the system needs to make registration and use simple for players. It notes that clause 28 indicates that a player can only have one registration per player per jurisdiction. It assumes this would cover a single access device/method but does not oppose further clarification in the bill if the government believes this is warranted.

Setting limits

3.12 The Explanatory Memorandum of the National Gambling Reform Bill 2012 stresses that the pre-commitment system does not determine loss limits or limit periods for people who choose to register.¹⁰ A player may set any loss limit, including \$0 which means they are effectively preventing themselves from using gaming machines as a registered user.¹¹

Committee view

3.13 The committee notes that in evidence to previous inquiries, particularly from problem gamblers and treatment providers, the ability to set limits or exclude themselves from becoming a registered user of the system, remotely, ie. away from the venue and gaming machines, such as in counsellor's offices or via the internet is valued by those with a gambling problem so they don't have to enter a venue.¹² The committee believes that enabling players to set limits outside the venue and away from gaming machines should be made available to registered players as it would assist problem gamblers to make use of the system.

Reaching loss limit

3.14 If a person uses a gaming machine as a registered user, then once the person reaches their loss limit they are prevented from using gaming machines in the state or

9 Australian Churches Gambling Taskforce, *Submission 4*, p. 5.

10 National Gambling Reform Bill 2012, Explanatory Memorandum, p. 13.

11 Clause 24, National Gambling Reform Bill 2012.

12 Also see Professor Paul Delfabbro, *Proof Committee Hansard*, 13 November 2012, p. 25.

territory as a registered user for the rest of the limit period.¹³ However, the system is not required to prevent a person who is not registered from using a gaming machine.¹⁴

3.15 The committee notes that reaching a limit as a registered user does not prevent the player from continuing to play as a non-registered player.

Changing limits

3.16 If a registered player wants to increase their loss limit or decrease the limit period, the system must prevent the change from taking effect until after the end of the limit period.¹⁵ However, if a registered user wants to decrease their loss limit or increase their limit period that change must take effect as soon as practicable.¹⁶

Committee view

3.17 The committee notes that there is no guarantee that decreasing loss limits would take effect immediately, so players could continue to play at harmful levels until this occurs. It would be desirable for this decrease in loss limits to be able to take effect immediately to strengthen the harm minimisation intent of the bill.

Pre-commitment information to be displayed

3.18 The bill provides that information on settings must be displayed to the user before play, including the amount remaining of loss limit and length of time since the loss limit was set or changed. During play, information on net losses and amount remaining of loss limit is to be displayed. Requirements regarding the form, frequency, content and position of the information may be prescribed in the regulations.¹⁷ At the end of a session the machine must transmit the total amount of money or credit that the person spends and the total amount of money or credit that a person wins.¹⁸

Transaction statements

3.19 A registered player will be presented with a transaction statement on request. The information to be provided is specified and the information must be provided without charge.¹⁹

13 National Gambling Reform Bill 2012, Explanatory Memorandum, p. 11.

14 Subclause 33(2), National Gambling Reform Bill 2012.

15 Subclause 27(2), National Gambling Reform Bill 2012.

16 Subclause 27(3), National Gambling Reform Bill 2012.

17 Clause 31, National Gambling Reform Bill 2012.

18 Subclauses 30 (2) and (3), National Gambling Reform Bill 2012.

19 Clause 34, National Gambling Reform Bill 2012.

3.20 The Australian Churches Gambling Taskforce highlighted its preference that, in addition to being able to access a statement on request, gamblers be issued with this information every six months unless they have specifically requested not to. It explained:

The provision of statements of activity is one way of letting gamblers know how much they are spending, while they are in a 'rational mind set'. The more regular the activity statement the better, but given the amount of money that a person can lose over a year, a six monthly activity statement should be a minimum requirement.²⁰

3.21 The need for more frequent transaction statements was also underlined by the Independent Gambling Authority, SA which argued that statements available on request is a 'weak harm minimisation measure because those most in need of a transaction statement will not request it'. In South Australia transaction statements are required to be provided at fixed periods depending on the level of activity.²¹

Committee view

3.22 During previous inquiries the committee was told that problem gamblers have difficulty keeping track of how much they are spending and tend to underestimate how much they have lost. A key of the reforms objective should be to provide the player with information on their play quickly, easily and regularly. The committee therefore agrees that transaction statements should be provided regularly to registered players as it is their intention to keep track of their play. The committee would encourage a facility to be incorporated in pre-commitment systems that in addition to being provided with a transaction statement on request, a player is provided with statements regularly according to their intensity of play. The committee also suggests there could be an option of viewing transaction statements via an icon on the screen which could be printed on request.

Loyalty schemes

3.23 The bill is silent on the potential for pre-commitment systems to be linked by venues to loyalty schemes. The Australian Churches Gambling Taskforce noted that some loyalty schemes already offer pre-commitment. However, it pointed out the extent to which loyalty schemes are used to actively promote gambling and how this would be incompatible with the aim of pre-commitment.²²

3.24 Dr Samantha Thomas echoed this view:

From a health promotion and public health perspective, linking harm minimisation schemes to industry based incentivisation schemes is extremely problematic. It may send conflicting messages about gambling to

20 Australian Churches Gambling Taskforce, *Submission 4*, p. 5.

21 Independent Gambling Authority, SA, *Submission 9*, p. 3.

22 Australian Churches Gambling Taskforce, *Submission 4*, p. 4.

individuals, and may also enable industry to collect extensive data about the consumption patterns of individuals (both of gambling and other products within venues), which may enable them to more effectively target individuals. It is important that the Government considers how pre-commitment can run independently and be protected from the influence of such schemes.²³

3.25 The committee raised this issue with Professor Paul Delfabbro who stated:

It is a difficult one. Loyalty schemes do provide a way to get the systems going. The availability of loyalty schemes has made it possible to do some of these trials. Without the loyalty systems, it would not have been possible to even do the limited research we have done. It is a difficult one that I would have to reflect upon. There is not a lot of evidence that having a loyalty system necessarily contributes to more problem gambling. There are certainly some inducements, which I think are problematic and there is certainly legislation around those. It is one where there are probably arguments both ways. Loyalty systems may create more industry cooperation; it may lead to making it easier for industry [to] support...precommitment, which may have benefits. It depends on the type of loyalty scheme.²⁴

Committee view

3.26 In its first inquiry into pre-commitment the committee acknowledged the differing views on this issue. It did not consider the case for prohibition with loyalty schemes was overwhelming, although it acknowledged there are legitimate concerns in some quarters. It concluded that as it could assist some players to use pre-commitment features, if individual venues decided in the interests of their members to link pre-commitment to loyalty schemes this should not be prohibited but that it would be prudent for regulatory authorities to monitor the effects of linked loyalty programs.²⁵ The committee suggests that this issue is included in the review of implementation by the Productivity Commission.²⁶

Recommendation 2

3.27 The committee recommends that the linking of pre-commitment to loyalty schemes be included as an issue for the Productivity Commission to consider in its review of assessment of progress in complying with the requirements around pre-commitment.

23 Dr Samantha Thomas, *Submission 11*, p. 1; See also Australian Psychological Society, *Submission 19*, p. 2.

24 Professor Paul Delfabbro, *Proof Committee Hansard*, 13 November 2012, pp 25–26.

25 Joint Select Committee on Gambling Reform, *First Report: The design and implementation of a mandatory pre-commitment system for electronic gaming machines*, 6 May 2011, p. 123.

26 Clause 196, National Gambling Reform Bill 2012.

Approval period

3.28 The committee notes that the approval period for a pre-commitment system is 10 years unless revoked.²⁷ While the committee understands that operators want regulatory certainty, it notes that the timeframe does not prohibit new pre-commitment systems and trusts it does not inhibit innovation and enhanced functionality from being implemented, such as that being suggested by the committee.

Implementation timelines

3.29 The timelines in the bill for implementation affect state and territory systems, gaming machines manufacturers, state and territory regulators, and venues.

States/territories

3.30 The uniform timelines and conditions on all states and territories were noted despite the different technological environments and the lack of central monitoring systems in some jurisdictions²⁸ and different communication protocols. The committee notes that subclause 58(2)(b) of the bill clarifies that there are no penalties if there is no approved pre-commitment system available.

3.31 Ms Liza Carroll, FaHCSIA addressed the issue of jurisdictional monitoring systems:

I think the issue is in some states there might be a central monitoring system, such as that in Queensland, which will make it easier for the venues to be linked together. In some states, like in New South Wales, where I think their central monitoring system is up for renewal in around 2015-16, they still have an older style central monitoring system. But for the linking of the venues there are other options other than through a central monitoring system. There is technology out there that would allow venues to link together, which does not have to be through a central monitoring system. That is obviously easier if it already exists.²⁹

Committee view

3.32 The committee notes that through the Council of Australian Governments Select Council on Gambling Reform all states and territories have indicated they will support the required infrastructure for pre-commitment technology in all jurisdictions

27 Subclause 52(4), National Gambling Reform Bill 2012.

28 Clubs Australia, *Submission 7*, p. 4. See also Mr Ross Ferrar, Chief Executive Officer, Gaming Technologies Association, *Proof Committee Hansard*, 13 November 2012, p. 39; Northern Territory Government, *Submission 12*; Department of Racing, Gaming and Liquor, WA, *Submission 5*, pp 2–3.

29 Ms Liza Carroll, *Proof Committee Hansard*, 13 November 2012, p. 67.

in every gaming venue.³⁰ The bill allows states and territories to continue to run their own systems. Recognising the different technical environments in each state and territory, the bill is not prescriptive regarding pre-commitment technology which could be machine-based, venue-based or more widely networked. It could also be multiple systems that share data. Technology will need to be determined state-by-state according to what already exists.

Manufacturing and importing of Electronic Gaming Machines

3.33 Chapter 5 outlines the requirements for manufacturing and importing gaming machines to ensure that all new gaming machines manufactured in Australia or imported to Australia from 31 December 2013 are pre-commitment capable. With the requirements for pre-commitment systems not due to commence until 31 December 2016, this provision will ensure that new machines coming on to the market from 31 December 2013 are pre-commitment capable. The Explanatory Memorandum notes that this will help minimise the impact of introducing pre-commitment as there will be ongoing machine replacement between 31 December 2013 and 31 December 2016 (31 December 2020 for small gaming premises).³¹ It prescribes civil penalties for constitutional corporations if they manufacture or import non-compliant gaming machines.³²

3.34 The technical challenges for manufacturers were outlined by the Gaming Technologies Association (GTA) whose members supply gaming machines.³³ However, when asked whether industry can find a way to sell machines at the end of 2013 that would be consistent with the bill, Mr Ross Ferrar, Chief Executive Officer stated:

Industry will always comply with all legislation. When I say 'industry' I mean our members. I hate to repeat myself, but they sell games and machines all around the world and they comply with all legislation and all regulations worldwide. They hold licences which mean that if they do not then those licences are jeopardised.³⁴

3.35 Mr Ferrar added that his members have been 'doing their best to prepare for every eventuality'³⁵ and will 'do everything in their power' and that their 'commercial

30 The Hon Jenny Macklin MP, 'Tackling problem gambling in Australia', *Media release*, 27 May 2011.

31 Explanatory Memorandum, p. 40.

32 Clause 58.

33 Gaming Technologies Association, *Submission 10*; See also Ross Ferrar, Chief Executive Officer, Gaming Technologies Association, *Proof Committee Hansard*, pp 38–40; See also Aristocrat, *Submission 15*, pp 4–5.

34 Mr Ross Ferrar, *Proof Committee Hansard*, 13 November 2012, p. 42.

35 Mr Ross Ferrar, *Proof Committee Hansard*, 13 November 2012, p. 41.

success depends on being able to sell gaming machines'.³⁶ Mr Ferrar highlighted that they need to know the specifications at the earliest possible opportunity and that he was meeting with officials from the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) to discuss this.³⁷

3.36 The committee notes information from Aristocrat that they have already developed a venue-based voluntary pre-commitment functionality, held a trial, and that NSW regulatory approval for the venue based voluntary pre-commitment module of the pre-commitment functionality has been granted.³⁸

3.37 Ms Liza Carroll, Deputy Secretary, FaHCSIA addressed the issues around technology options:

What the legislation does is provide the parameters within which the machines would need to operate, and within a particular state and jurisdiction. Because we did not want to preference one type of technology we have purposely tried to not be explicit about saying, 'This is the kind of technology you would use.' The regulations become very important here, and we will be developing those regulations in consultation with a range of stakeholders, including industry and others. In that regulation we will be able to get some more of that specification. As you have heard, the circumstances are quite different around Australia. We also know there will be innovation in the industry and we want to make sure the legislation does not pre-prohibit and limit the amount of innovation and new things that can come onto the market.³⁹

3.38 Responding to the claims by the GTA, Mr David Agnew, FaHCSIA, replied:

There are a number of technical solutions to enable voluntary precommitment. So, while Mr Ferrar may have made a claim around manufacture of machines and impact on machines, there are a number of other technical solutions to enable precommitment.⁴⁰

3.39 In answers to questions on notice FaHCSIA provided further information on technology options:

There are a number of pre-commitment systems available and already operating in Australia that may be compliant with the legislation.

These systems have been trialled in Queensland and South Australia, and are operating within venues in a number of states.

These include, but are not limited to, the following systems:

36 Mr Ross Ferrar, *Proof Committee Hansard*, 13 November 2012, p. 42.

37 Mr Ross Ferrar, *Proof Committee Hansard*, 13 November 2012, p. 45.

38 Aristocrat, *Submission 15*, pp 3–4.

39 Ms Liza Carroll, *Proof Committee Hansard*, 13 November 2012, p. 64.

40 Mr David Agnew, *Proof Committee Hansard*, 13 November 2012, p. 66.

Maxgaming SIMPLAY

Worldsmart Playsmart

eBet Odyssey

Global Gaming Industries Max-e-Tag

Crown Play Safe

It is possible that a number of existing and new pre-commitment providers of these systems will seek to become approved providers under the legislation.

The Department has not been prescriptive about particular systems or technologies in the legislation, but instead the legislation sets out the functional requirements for a system to be approved. This approach provides maximum flexibility for industry to choose systems that suit their particular operating environment. It also allows for new systems to be developed and marketed over time, in addition to those currently available.⁴¹

State regulators

3.40 Ms Carroll advised the committee that FaHCSIA has been speaking with regulators and other state government officials. She advised that the specifics of what is required of a regulator will be covered with the development of the regulations.⁴² Ms Carroll added:

...we have had broad consultation with a range of parties, including regulators and state governments. We recognise that there is a whole lot of things that state governments do in their own regulation but that what will occur out of this legislation is a Commonwealth regulator. Minister Macklin has made it quite clear that our preference would be to refer those powers to state government regulators, but we still have to go through that consultation process.⁴³

3.41 In response to further questions about whether the timelines are achievable, Ms Carroll responded:

All I can say is that with the information we been provided...and, certainly, from our discussions with different parties, we would be working on the basis that we could come up with solutions that are possible and that the regulation could be implemented in that period of time.⁴⁴

41 FaHCSIA, Answers to questions on notice, No. 22, received 16 November 2012.

42 Ms Liza Carroll, *Proof Committee Hansard*, 13 November 2012, pp 64–65.

43 Ms Liza Carroll, *Proof Committee Hansard*, 13 November 2012, p. 64.

44 Ms Liza Carroll, *Proof Committee Hansard*, 13 November 2012, p. 65.

Committee view

3.42 The committee notes advice from FaHCSIA that the legislation is purposefully not prescriptive regarding technology to be used. This recognises that states and territories have different monitoring systems currently in place and gaming venues have various systems in place. The legislation accommodates the need for states and territories and venues to be able to choose from the range of technical options that best ensure their compliance with the requirements. The committee also notes that consultation with states and territories and their regulators will be ongoing as regulations are developed.

3.43 Clubs Australia raised questions about the treatment of existing pre-commitment systems⁴⁵ as under clause 46 of the bill all pre-commitment systems require approval by the Regulator. The Explanatory Memorandum notes that approval by the Regulator is intended to ensure that pre-commitment systems are offered on reasonable terms that are fundamentally consistent across Australia.⁴⁶ The committee expects there will be a number of options available to the Regulator regarding existing systems. If current systems have the minimum features they could be approved or there could be an interim approval pending final approval which would provide a transitional period to achieve formal regulatory approval. This issue will form part of ongoing consultations.

3.44 The committee notes that a number of issues raised by the Independent Gambling Authority, SA, regarding how the legislation will interact with state and territory regimes⁴⁷ would also be covered as part of the ongoing consultation between states and territories and the Commonwealth.

3.45 This legislation has been available as an exposure draft since February 2012 and the committee notes advice from industry that manufacturers have been doing their best to prepare for every eventuality. The committee has confidence in the ability of industry to innovate. The commercial and regulatory imperatives that mean it will be in their interests to do so.

Venue timelines and costs

3.46 The implementation dates are:

- 31 December 2016 for larger venues;
- 31 December 2020 for venues with 11 to 20 machines; and
- for smaller venues with 10 or fewer machines, when machines are replaced in their usual replacement cycle.

45 Clubs Australia, *Submission 7*, p. 5.

46 National Gambling Reform Bill 2012, Explanatory Memorandum, p. 24.

47 Independent Gambling Authority, SA, *Submission 9*; See also Mr Robert Chappell, *Proof Committee Hansard*, 13 November 2012, p. 52; South Australian Government, *Submission 20*.

3.47 Clubs Australia expressed concern about the implementation timelines for venues with more than 20 poker machines, saying that it does not provide sufficient time for clubs to absorb the compliance costs and may result in non-compliance. It suggested an expansion of the definition of small venues so that the timeframe can also take into account a venue's average revenue per machine.⁴⁸

3.48 The Australian Hotels Association expressed its preference to install pre-commitment technology via the natural replacement of machines.⁴⁹ The committee notes that the Victorian Hotels Association when responding to the Victorian governments discussion paper on voluntary pre-commitment, while it described the timeframes (2015-16) as challenging, it supported voluntary pre-commitment.⁵⁰

3.49 Whereas industry has expressed concern about the timelines for implementation in the bill, the Australian Churches Gambling Taskforce was disappointed at the 'generous time extension' for venues with 20 gaming machines or less to comply with the requirements. It argued that this will mean venues with large revenue generation per machine, which would be capable of introducing the requirements, will be able to delay implementation.⁵¹

3.50 FaHCSIA told the committee that it had undertaken independent work around this aspect which found that the initial timeline and then the extended timeline for smaller venues are achievable.

We have had independent technical advice, noting that independent technical advice is not out of the manufacturers space, that says that the time frame is achievable.⁵²

3.51 In answers to questions taken on notice, FaHCSIA provided a link to the independent technical advice received from the Toneguzzo Group which was subject to an FOI request on 12 August 2011.⁵³

3.52 Ms Liza Carroll, Deputy Secretary, FaHCSIA further addressed the issues around timelines for industry:

48 Clubs Australia, *Submission 7*, p. 5. See also Mr Peter Newell, *Proof Committee Hansard*, 13 November 2012, pp 54–55.

49 Australian Hotels Association, *Submission 14*, p. [4]. See also Mr John Whelan, *Proof Committee Hansard*, 13 November 2012, p. 10.

50 Australian Hotels Association (Victoria) submission to the Baillieu government's policy on voluntary pre-commitment, 2 December 2011.

51 Australian Churches Gambling Taskforce, *Submission 4*, pp 3–4.

52 Mr David Agnew, *Proof Committee Hansard*, 13 November 2012, p. 65.

53 See <http://www.fahcsia.gov.au/disclosure-log> FOI reference number 11/12-010 document 39) (accessed 17 November 2012). Note: The remaining parts of the advice were determined to be Commercial in Confidence and unable to be released. See FaHCSIA, Answers to questions on notice, No. 23, received 16 November 2012.

We have had consultation with the industries and with a range of parties over a length of time. It is our understanding that the 2016 time line and then the extended time lines for small venues are achievable. That is based on both some independent work that the department had done and the different evidence and information that we have been given, particularly by manufacturers and suppliers, about the different kinds of machine technology and some of the things that have been raised today about the fact that it is not all about machine replacement—a lot of machines can be upgraded, and the upgrades to machines can be relatively simple and easy to do...⁵⁴

3.53 Ms Carroll also spoke on the suggestion by Clubs Australia to expand the definition of small venue so that it includes average revenue per machine:

The main issue with going to a different definition is that data is not made available in any easy form. In fact, it is quite hard to get revenue data about clubs generally. What is available across Australia is the number of machines. So it is very clear that that is an easy mechanism to use. It is already available. The other complication if you went to a revenue measure would be what you would be counting and discrepancies in arguments about what revenue looked like. It would be a lot of red tape. Our view would be that that would be a lot of extra reporting for all clubs.⁵⁵

3.54 Ms Carroll emphasised that they have been working to minimise the cost to industry and minimise regulatory burdens but there was a need to balance these considerations with the costs to individual problem gamblers, their families, others affected and the community. Industry costs have to be weighed up against the social consequences and social costs⁵⁶ which were estimated by the Productivity Commission in 2012 to be \$4.7 billion.⁵⁷ Ms Carroll reassured the committee that in the view of the Department, clubs will have the revenue to pay for the necessary changes.⁵⁸

Committee view

3.55 The committee notes that when the government announced its reforms in January 2012 these reforms were supported by Clubs Australia. The legislation was made public as an exposure draft in February 2012 and Clubs Australia participated in consultations on the exposure draft in February. The timeframe and requirements on venues have not changed since the exposure draft.

54 Ms Liza Carroll, *Proof Committee Hansard*, 13 November 2012, p. 64.

55 Ms Liza Carroll, *Proof Committee Hansard*, 13 November 2012, p. 70.

56 Ms Liza Carroll, *Proof Committee Hansard*, 13 November 2012, p. 71.

57 Productivity Commission, *Gambling*, vol. 1, Commonwealth of Australia, Canberra, 2010, p. 2.

58 Ms Liza Carroll, *Proof Committee Hansard*, 13 November 2012, p. 71.

3.56 The committee notes that the concerns of clubs regarding the timetable have been taken into account and more than 25 per cent of pubs and clubs will be able to introduce the changes as they replace their machines, at no additional cost. An additional 26 per cent of pubs and clubs (those with between 11 and 20 machines) have until 2020, which is more than eight years lead time. In this period, many machines would have to be replaced as part of the usual replacement cycle, now with pre-commitment built in, at no additional cost. In New South Wales, which has more than half the nation's poker machines, almost two thirds of pubs and clubs have been given extra time to get ready for the voluntary pre-commitment system.

3.57 The committee also notes that the government has taken into consideration that small clubs and pubs are not the same as large gambling venues located in cities. Therefore not all clubs will be required to implement pre-commitment technology by 2016. These changes are being phased in over a decade to reduce costs for smaller pubs and clubs. In fact, more than half of Australia's clubs and pubs will have extra time to prepare, and 63 per cent of clubs and pubs in regional areas will have more time.⁵⁹

3.58 The committee is mindful of the concerns about regional and remote venues, but supports maintaining an evidence-based approach. As a result, the committee considers that this issue should be included in the review of implementation to be undertaken by the Productivity Commission (PC). The PC could consider whether there are grounds for further exemptions for smaller venues in regional and remote areas.

Recommendation 3

3.59 The committee recommends that the issue of whether there are grounds for further exemptions for smaller venues in regional and remote areas should be included as an issue for the Productivity Commission to consider in its review of assessment of progress in complying with the requirements around pre-commitment.

Need for a national education and social marketing campaign

3.60 As noted in the committee's first report,⁶⁰ to facilitate take up of pre-commitment by players, there will be a need to launch an effective national awareness

59 The Hon Jenny Macklin MP, 'Pokies legislation gives more than half of Australia's clubs and pubs extra time to get ready', *Media release*, 2 November 2012. See tabled document by FaHCSIA at the 13 November 2012 hearing regarding data on small venues. Available from: http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=gambling_reform_ctte/gambling_reform_legislation_2012/submissions.htm.

60 Joint Select Committee on Gambling Reform, *First Report: The design and implementation of a mandatory pre-commitment system for electronic gaming machines*, 6 May 2011, pp 120–121.

and education campaign that is targeted not just at players (who won't use it if they don't understand it), but also staff who are likely to be asked questions and will be in a good position to encourage use. This important aspect was noted by Dr Samantha Thomas:

It is important to note that social marketing and education initiatives will be an important part of the implementation of the scheme. As the proposed pre-commitment scheme is one which seeks to encourage individuals to make 'responsible' choices about their gambling, education and social marketing initiatives will be essential in educating and encouraging individuals to use the new technology. These social marketing initiatives (which must be broader than campaigning) will be necessary in providing accurate, targeted and tailored information to the community about the scheme. Social marketing and education schemes should consider the range of factors that may encourage and prohibit individuals from using the scheme. For example, given that most pre-commitment schemes at this stage will be voluntary rather than mandatory, it may be that individuals choose not to use the scheme for fear of being stigmatised as someone who may potentially have a problem with 'losing control' with gambling. Social marketing has a clear ethical dimension, and as such, it is important that any social marketing and education schemes are developed independently of industry, and are regularly evaluated to ensure their effectiveness.⁶¹

Recommendation 4

3.61 The committee recommends that the government develop an appropriate national education and social marketing campaign for voluntary pre-commitment and work with industry to develop training for staff.

Committee comment

3.62 The committee notes the preference of submitters in this⁶² and previous inquires that the pre-commitment system be mandatory rather than voluntary. The committee is encouraged by the trial of mandatory pre-commitment proposed for the Australian Capital Territory. While there are some details of the trial in the bill, including requirements about the design and evaluation methodology, the trial is not dependent on the legislation passing. The bill⁶³ ensures that machines will be mandatory pre-commitment equipped and therefore, at some future point, the committee notes that it does not stop a jurisdiction deciding to adopt mandatory pre-commitment.⁶⁴

61 Dr Samantha Thomas, *Submission 11*, p. 1.

62 See, for example, Australian Psychological Society, *Submission 19*; Australian Churches Gambling Taskforce, *Submission 4*, p. 3; Regis Controls, *Submission 3*.

63 See Clause 33, National Gambling Reform Bill 2012.

64 Clauses 11 and 12 make it clear that there is nothing to stop a jurisdiction having stricter requirements than the minimum set out in the bill, including mandatory pre-commitment.

Chapter 4

Dynamic warnings, ATM withdrawal limits and other issues

4.1 This chapter will cover the remaining reforms: dynamic warnings on poker machines and an automatic teller machine (ATM) withdrawal limit, and issues raised with the committee in relation to them. It also covers other issues such as the new levies to be imposed and the establishment of an Australian Gambling Research Centre within the Australian Institute of Family Studies.

Dynamic warnings on poker machines

4.2 The bill proposes that dynamic player warnings be mandatory. The warnings must relate to the use by a specific person of a particular EGM or EGMs, or the potential harm and cost of using EGMs. Details such as form, frequency, content and position of the player warnings may be prescribed in the regulations.¹

4.3 Work has been done in this area by Aristocrat which has trialled warnings and researchers found that:

- responsible gambling messages should be placed within easy sight of players and frequently changed to reduce habituation to their content; and
- responsible gambling messages tended to reduce the enjoyment of problem gamblers far more than recreational players. The potential therefore exists to use messaging in a targeted way to interrupt problem gambling.²

4.4 Professor Paul Delfabbro spoke about what type of messages are the most effective:

Simple factual information is not that useful. Problem gamblers often do know the odds; they do know something about how gambling works. They simply do not pay attention to it. Simply telling people to gamble responsibly is not enough. Even the word 'responsible' gets some people's ire up because it is imposing values. It is much better to talk about setting your own budget and putting the ball in their court. Having messages which people can personalise and which are also dynamic in a sense that they are very visible on the screen, I think, are going to be much more useful. If people can set their own message, it is them dictating for themselves rather than being told what to do. From our experience, that probably works a bit better.³

1 Clause 38, National Gambling Reform Bill 2012.

2 Aristocrat, *Submission 15*, p. 3.

3 Professor Paul Delfabbro, *Proof Committee Hansard*, 13 November 2012, p. 25.

Committee view

4.5 The committee notes that this measure was supported in submissions. In evidence to previous inquiries, the committee heard that if there is no basic guidance on visibility, then the messages could be placed where they are difficult to see. The committee has also heard during previous inquiries that messages of a more generic nature about gambling harm are less likely to be effective.⁴ The committee suggests that the location and content of messages should have to be changed regularly so players don't become habituated to them. Messages also need to have sufficient impact to reach people who are 'in the zone' with their playing and who are more likely to ignore them and keep playing. To this end the committee welcomes the research outlined above which noted the potential to use messaging in a targeted way to interrupt problem gambling.

ATM withdrawal limits

4.6 The Productivity Commission (PC) found that 'people experiencing problems with their gambling tend to make repeat visits to ATMs and make large withdrawals, whereas recreational gamblers tend to withdraw smaller amounts less frequently'.⁵ The PC also found that 85 per cent of cash withdrawals from ATMs in gaming venues involved amounts below \$250.⁶ In its 1999 report, the PC also reported that 'problem gamblers were more likely than non-problem players to withdraw money from an ATM at a venue whilst playing the pokies'.⁷

4.7 The bill establishes that ATMs on gaming machine premises (other than casinos) must not allow a person to withdraw more than the cash limit of \$250 in any 24 hour period.⁸ The amount is to be indexed⁹ and the implementation date is 1 May 2013. The limit will not affect any state and territory regulation that further restricts access to ATMs in gaming venues. For example, Victoria has legislated to prohibit ATMs in gaming venues from July 2012. In addition, Tasmania does not have

4 See Joint Select Committee on Gambling Reform, Third report, *The prevention and treatment of problem gambling*, October 2012, Chapter 5. See also Professor Paul Delfabbro, *Proof Committee Hansard*, 13 November 2012, p. 25.

5 Productivity Commission, *Gambling*, Overview, Commonwealth of Australia, Canberra, 2010, p. 32. See also Professor Paul Delfabbro, *Proof Committee Hansard*, 13 November 2012, pp 26–27.

6 Productivity Commission, *Gambling*, vol. 1, Commonwealth of Australia, Canberra, 2010, p. 13.26.

7 Productivity Commission, *Australia's Gambling Industries*, vol. 1, Commonwealth of Australia, Canberra, 1999, pp 44–45.

8 Clause 39, National Gambling Reform Bill 2012.

9 Clause 40, National Gambling Reform Bill 2012.

ATMs in hotels or clubs.¹⁰ The committee notes the table provided by FaHCSIA at the hearing which contains details of state and territory ATM restrictions.¹¹

4.8 Regulations can prescribe exemptions for venues, after an application is made, if compliance would cause 'unreasonable inconvenience' to the community.¹²

4.9 This measure was welcomed in most submissions.¹³ However, while supporting the \$250 limit, the Australian Churches Gambling Taskforce stated that it believes the daily limit of \$250 is too high and advocated for the removal of ATMs from EGM venues altogether.¹⁴ A lower limit or removal of ATMs from EGM venues was also supported by the Australian Psychological Society.¹⁵

4.10 In contrast, clubs and hotels opposed this measure saying 'there is no evidence to show that withdrawal limits will have any effect on the prevalence of problem gambling, while imposing significant inconvenience to other patrons and club staff'.¹⁶ Instead, industry called for problem gamblers to approach their bank or financial institution to lower their daily withdrawal limits.¹⁷

4.11 The committee heard from the ATM Industry Reference Group which advocated for a daily withdrawal limit of \$400.¹⁸ However, the Reference Group's most pressing concern was the implementation timeframe of May 2013 and it outlined a number of arguments for a 12-month lead in time.¹⁹ These issues were discussed with the committee at the hearing where further detail was provided by Mr Paul Stewart, General Manager, The Banktech Group, ATM Industry Reference Group:

...our industry wants to ensure that any transition is seamless, and therefore we do need 12 months to assure that this will be the case for a number of reasons, including, firstly, clear identification of the appropriate locations to which any limit would apply. Because the legislation is national, it is a

10 COAG Select Council on Gambling Reform, Communiqué, 22 October 2010.

11 Document tabled by FaHCSIA at the 13 November 2012 hearing.

12 Clauses 42 to 44. The committee notes that 'unreasonable inconvenience' is not defined.

13 ACTCOSS, *Submission 13*; Australian Churches Gambling Taskforce, *Submission 4*, p. 5; Australian Psychological Society, *Submission 19*, p. 2.

14 Australian Churches Gambling Taskforce, *Submission 4*, pp 5–6.

15 Australian Psychological Society, *Submission 19*, p. 2. See also Professor Paul Delfabbro, *Proof Committee Hansard*, 13 November 2012, p. 26. Note: Professor Delfabbro stated that although he supports the measure, he believes that it should be undertaken in conjunction with other measures such as bill acceptor removal.

16 Clubs Australia, *Submission 7*, p. 6; See also Australian Hotels Association, *Submission 14*, p. [4].

17 Clubs Australia, *Submission 7*, p. 7.

18 ATM Industry Reference Group, *Submission 16*, p. 5.

19 ATM Industry Reference Group, *Submission 16*, p. 4.

significant task with, as mentioned, over 5,000 ATMs. We need to build the technology in conjunction with different state and territory jurisdictions that exist with different requirements.

We have a range of contractual issues with individual locations, including those locations that may have multiple ATM providers and which may be put into a position of needing to break one or both of those contracts in order to comply with legislation. Payments industry technology moratoriums are a common practice throughout the Christmas-New Year period, and also through the Easter period, which limit our ability to make technology changes during these periods. Therefore, work could not commence until late January at the earliest.

Processing platforms that we use for ATM transactions are complicated, and they are not used exclusively for ATMs. They are often shared by multiple parties, and that includes some that are shared by financial institutions. Some of the locations where the limit would need to apply would require physical hardware upgrades, and a significant number would require software upgrades to those ATMs in order to deliver the legislated limit.

There are also a number of smaller of ATM deployers who would need to be involved in the process who are currently not engaged in any government process at the moment. Finally, we would have an obligation in terms of reporting and monitoring to ensure compliance against the legislation was measured and adhered to.²⁰

Committee view

4.12 The committee appreciates the technical and other issues facing the ATM Industry Reference Group and its request for additional time to implement these changes. It notes the self-imposed moratorium across the peak processing period so work could not commence until mid-January 2013. Taking into consideration the timing of the next self-imposed moratorium, the committee does not oppose the industry being given until the end of 2013 to implement the changes. However, as the committee are not technical experts, it understands that government will be best placed to judge whether such a time extension is warranted.

Recommendation 5

4.13 The committee recommends that the members of the ATM Industry Reference Group be given until the end of 2013 to implement the \$250 daily withdrawal limit on ATMs in gaming machine premises should the government believe such an extension would assist with the transition.

4.14 However, given the disparity of views regarding what the actual limit should be, the committee is inclined to support \$250, noting that \$250 is not the maximum

20 Mr Paul Stewart, *Proof Committee Hansard*, 13 November 2012, pp 29–30.

amount of money a patron would be able to spend in a venue as they could also access EFTPOS or credit card facilities.

4.15 The committee notes that ATM transactions have no element of human interaction as there is with EFTPOS. However, the committee is concerned that not including EFTPOS transactions in the \$250 per day withdrawal limit may result in unintended consequences and believes this issue should be included in the review of implementation to be undertaken by the Productivity Commission.

Recommendation 6

4.16 The committee recommends that the issue of including EFTPOS transactions in the \$250 per day ATM withdrawal limit be considered by the Productivity Commission in its review of assessment of progress in complying with the requirements around the ATM withdrawal limits.

Privacy

4.17 Chapter 4 of the bill creates offences to protect information that has been obtained under the Act. The creation of a national database of information obtained from pre-commitment systems is ruled out.²¹ However, disclosing information is authorised in a number of situations including for the purposes of the Act, for law enforcement purposes, statistical research or with consent. Clause 67 provides offences for unauthorised disclosure of protected information. These include imprisonment penalties.

4.18 The committee notes that the Privacy Commissioner has reviewed the bill and raises a number of suggestions that may improve the effectiveness of privacy safeguards in the bill.²² The Australian Churches Gambling Taskforce also raises some concerns in this area.²³

Committee view

4.19 The committee suggests the government review the submission by the Privacy Commissioner and consider any necessary amendments to improve privacy safeguards in the bill. The committee also suggests the government respond to any issues raised by the relevant scrutiny committees.²⁴

21 Clause 36, National Gambling Reform Bill 2012.

22 Office of the Australian Information Commissioner, *Submission 18*.

23 Australian Churches Gambling Taskforce, *Submission 4*, pp 6–7.

24 The Scrutiny of Bills Committee and the Parliamentary Joint Committee on Human Rights. See Scrutiny of Bills Committee, Alert Digest Number 14, 21 November 2012, p. 17.

Imposition of new levies

4.20 Chapter 6 of the bill provides for levies to support the bill: the supervisory levy and the gaming machine levy.

Supervisory levy

4.21 Part 2 of Chapter 6 (see also National Gambling Reform (Related Matters) Bill (No. 1) 2012) imposes a liability for a supervisory levy which applies to all gaming machine premises to cover the regulatory costs to the Commonwealth of administering the Act.²⁵ The amount will be payable for a gaming machine for a levy period²⁶ if a person makes the gaming machine available for use at any time during that period.²⁷

4.22 Industry raised concerns that the levy has no expiry date or cap and that it would be set after the legislation has passed the Parliament.²⁸

Committee view

4.23 The committee notes that the method of calculating the supervisory levy will be determined by regulations and the government has undertaken to consult with industry to inform the development of the regulations that will determine the levy.²⁹ Additionally, the government has indicated that the supervisory levy will only be used to cover the costs of administering the legislation.³⁰ The committee emphasises that the levy will be determined in consultation with industry and until the regulations are made, the levy is not payable.

Gaming machine regulation levy

4.24 The gaming machine regulation levy (see also National Gambling Reform (Related Matters) Bill (No. 2) 2012) imposes a liability on a person who is entitled to gaming machine revenue, who is not a constitutional corporation. The Explanatory Memorandum notes that the purpose of the gaming machine regulation levy is to encourage compliance with requirements relating to pre-commitment systems and dynamic warning requirements by persons who are not constitutional corporations. It will be determined by reference to the amount of gaming machine revenue. It is not payable if a gaming machine complies with the pre-commitment system and dynamic

25 National Gambling Reform Bill 2012, Explanatory Memorandum, p. 42.

26 The levy period is defined in clause 5 of the bill and means a three month period commencing on 1 January, 1 April, 1 July and 1 October.

27 Clause 83, National Gambling Reform Bill 2012.

28 Clubs Australia, *Submission 7*, p. 2; Australian Hotels Association, *Submission 14*, pp[6–7].

29 National Gambling Reform Bill 2012, Clause 83; Explanatory Memorandum, p. 42.

30 National Gambling Reform Bill 2012, Explanatory Memorandum, p. 42.

warning requirements, or if the gaming machine is made available by a person who is, or is sufficiently connected, to a constitutional corporation.³¹

4.25 This is the first time the Commonwealth has taken national action in the area of gambling. Dr Anne Twomey agreed that the corporations power would 'cover direct regulation in relation to most entities that own or operate gaming premises'. Dr Twomey questioned how many entities are not incorporated and therefore will not be affected by direct legislation.³² This question was asked of FaHCSIA on notice which responded that government analysis suggests a minority of venues are not incorporated.³³

Committee view

4.26 The committee recognises that the levies address two separate issues. First, is how to cover the regulatory costs to the Commonwealth of administering the Act. This is addressed by using the taxation power to impose the supervisory levy on all licensees of gaming machines premises (contained in National Gambling Reform (Related Matters) Bill (No. 1) 2012). The second issue is around non-compliance. Civil penalties for non-compliance for constitutional corporations are contained in the bill.³⁴ The committee is pleased to note that the bill also recognises that there might be organisations operating gaming machines that are not constitutional corporations. The gaming machine regulation levy (contained in the National Gambling Reform (Related Matters) Bill (No. 2) 2012) uses the taxation power to encourage compliance with pre-commitment and dynamic warning requirements by persons who are not constitutional corporations.³⁵ The levy is not payable if they comply with the pre-commitment system and dynamic warning requirements.

Reviews

4.27 Chapter 9 of the bill provides for two inquiries by the Productivity Commission: in relation to any trial of mandatory pre-commitment systems; and an assessment of the progress gaming machine premises are making towards complying with the measures contained in the bill.

Productivity Commission review of mandatory pre-commitment trial

4.28 The government has undertaken to sponsor a large-scale trial to build the evidence base for mandatory pre-commitment. It will be held in the ACT and run for 12 months. The trial will test the operational features of mandatory pre-commitment

31 National Gambling Reform Bill 2012, Explanatory Memorandum, p. 42.

32 Dr Anne Twomey, *Submission 1*, p. 1.

33 FaHCSIA, Answers to questions on notice, No. 10, received 20 November 2012.

34 Clause 58, National Gambling Reform Bill 2012.

35 National Gambling Reform Bill 2012, Explanatory Memorandum, p. 42.

and assess whether mandatory pre-commitment delivers sufficient advantages to communities and individuals when compared to voluntary pre-commitment. The trial will assess the effects on problem gamblers, recreational gamblers, venues and communities. One or more independent bodies will be engaged to design, manage and evaluate the trial. After the trial has been completed the PC must inquire into the results as evaluated by the independent body.³⁶

4.29 On 8 September 2012, the Minister announced a Trial Oversight Committee would be appointed to provide technical and implementation advice to the Australian and ACT Government and the independent contractors who will manage and evaluate the trial. Preparatory work for the trial will begin before the end of 2012.³⁷ FaHCSIA confirmed that the trial oversight committee has already met.³⁸

Productivity Commission review of assessment of progress

4.30 The Productivity Minister must refer to the PC for inquiry, an assessment of the progress gaming machine premises are making towards complying with pre-commitment systems and dynamic warning systems, ATMs limits, requirements for manufacturing and importing gaming machines and any other matters the Minister considers relevant. This referral must occur no later than 30 September 2014.³⁹

4.31 The committee has recommended that the following areas be included in this review:

- the ban on the use of biometrics;
- the linking of pre-commitment to loyalty schemes;
- whether there are grounds for further exemptions for smaller venues in regional and remote areas; and
- any unintended consequences of not including EFTPOS transactions in the \$250 per day ATM withdrawal limit.

4.32 The PC must submit its report on both inquiries within six months.⁴⁰ As soon as practicable after receiving the report, the minister who administers the new Act must prepare a statement that sets out the government's response to each

36 Clause 193, National Gambling Reform Bill 2012.

37 The Hon Jenny Macklin MP, 'Progressing a trial of mandatory pre-commitment in the ACT', *Media release*, 8 September 2012.

38 Ms Liza Carroll, *Proof Committee Hansard*, 13 November 2012, p. 70.

39 Clause 194, National Gambling Reform Bill 2012.

40 Subclause 195(1), National Gambling Reform Bill 2012.

recommendation. The statement must be tabled in Parliament within three months after receiving the report.⁴¹

Research into gambling

4.33 Chapter 9 of the bill also establishes a new Australian Gambling Research Centre within the Australian Institute of Family Studies supported by an expert advisory group. The bill proposes that additional functions be given to the Director of the Australian Institute of Family Studies to establish the Australian Gambling Research Centre. The new functions will be to undertake or commission research into, or produce data and statistics about: the harm caused by gambling to problem gamblers, their families and communities; those at risk of experiencing harm; measures that might be undertaken to reduce that harm; and recreational gambling. The Centre will also seek to increase the capability and capacity of researchers to conduct this research and produce gambling data and statistics.⁴²

4.34 An expert advisory group would be established to provide advice to the Director of the Australian Institute of Family Studies in their capacity as the Director of the Australian Gambling Research Centre in relation to: strategic directions, research plans and programs; and strategies for increasing the capability and capacity of researchers to conduct research and produce data and statistics about gambling.⁴³ The group would consist of at least 7 but no more than 11 members apart from the Director.⁴⁴

The need to ensure independence and transparency

4.35 The proposed research centre was welcomed in submissions.⁴⁵ However a couple of issues were raised that the committee agrees warrants attention. First is the independence of the Centre, the academics and the expert advisory group. Dr Samantha Thomas outlined her concerns in this area:

As we have learned from many other public health issues, it will be important that the research institute is independent from the interests of the gambling industry. This includes ensuring that representatives of the gambling industry are not appointed to the board of the institute or any of its subcommittees - either through direct industry appointments, or through the appointments of academics or community groups who have existing or previous funding links to the gambling industry. Further detail is required in

41 Subclauses 195(2) and 195(3), National Gambling Reform Bill 2012.

42 Clause 196, National Gambling Reform Bill 2012.

43 Clause 197, National Gambling Reform Bill 2012.

44 Subclause 197(3), National Gambling Reform Bill 2012.

45 Dr Samantha Thomas, *Submission 11*.

the Bill about the make up of the Board of the Gambling Institute to ensure its independence.⁴⁶

4.36 This view was supported by the Australian Psychological Society (APS):

The APS strongly supports the establishment of an Australian Gambling Research Centre. In particular, we support a centre that:

- is completely independent from the gambling industry, including that no research is funded directly by the industry.⁴⁷

4.37 The APS also made a number of other suggestions that the Centre:

- is adequately resourced to undertake the required research and the capacity to inform decision-making in relation to gambling-related policy;
- considers both the impacts and treatment interventions for individuals and their families, and the systemic and structural factors and solutions, in keeping with the WHO's Social Determinants of Health Framework that has been endorsed by the Australian Government;
- prioritises research to understand the impact of emerging forms of gambling, such as the interactive and online gambling including saturated, integrated and impulse gambling marketing strategies in sporting matches and particularly with regard to the influence on children and young people;
- works collaboratively with the Problem Gambling Research and Treatment Centre to further research for screening, assessment and treatment of problem gambling; and
- conducts rigorous evaluations of current interventions and treatment services and undertakes independent evaluation and research into the impact of policies designed to reduce gambling related harm.⁴⁸

Committee view

4.38 The committee notes that the Australian Gambling Research Centre will start work in July 2013. It will undertake and commission research and produce data and statistics on: problem gambling and those at risk; measures to reduce harm; and recreational gambling. It will create a more policy-oriented approach to research; improve data collection; increase transparency; and focus the research agenda on measures to reduce harm. The Centre will help address the lack of robust evidence and consistent data to inform policy development. The Australian Institute of Family Studies is an Australian government statutory body and this will ensure independence from government while ensuring the support of an experienced and highly capable

46 Dr Samantha Thomas, *Submission 11*, pp 1–2.

47 Australian Psychological Society, *Submission 19*, p. [3].

48 Australian Psychological Society, *Submission 19*, p. [3].

research organisation.⁴⁹ The issues of research independence and transparency were highlighted in the committee's third report. The committee notes that inclusion of industry can provide access to research opportunities and data. It therefore does not rule out the input of industry but would support transparency around this. The committee encourages the development of appropriate guidelines for the management and transparency of any potential conflicts of interest, for example as used by the Australian Research Council and the National Health and Medical Research Council.

Need to ensure adequate funding

4.39 The other area of concern was the amount of funding for the Centre and the need for it to be ongoing. The Gaming Technologies Association supported the establishment of an Australian Gambling Research Centre but expressed the view that its preliminary annual budget of \$1.5 million would not be sufficient:

GTA's view in relation to an AGRC budget is based on experience. The cost of the landmark University of Sydney research project which resulted in its report of November 2012 and is still widely referenced, exceeded \$1 million in today's dollars (including \$260,000 to reconfigure a small number of machines). GTA anticipates that the AGRC would be requested to undertake several such studies in its first year; accordingly, its annual budget should be more than \$5 million.⁵⁰

4.40 The Australian Churches Gambling Taskforce also highlighted the need for additional funding:

...this provision will only have meaning if the Commonwealth Government provides the Australian Institute of Family Studies with additional funding to conduct such research effectively. Much of the research into measures to reduce the harms caused by gambling has been constrained by inadequate research budgets, forcing the use of methodologies that do not allow researchers to fully evaluate proposed measures.⁵¹

Committee view

4.41 The committee notes advice from FaHCSIA confirming that the Australian Gambling Research Centre will receive funding from the Australian Government of \$1.5 million per annum on an ongoing basis.⁵²

49 FaHCSIA Fact sheet 'Australian Gambling Research Centre'.

50 Gaming Technologies Association, *Submission 9*, p. 3.

51 Australian Churches Gambling Taskforce, *Submission 4*, p. 7. See also Professor Paul Delfabbro, *Proof Committee Hansard*, 13 November 2012, p. 26.

52 Advice from FaHCSIA to secretariat, received 20 November 2012.

Need for a national prevalence study

4.42 The committee considers that as a priority, the Australian Gambling Research Centre should conduct a national prevalence study of problem gambling, using best practice screening tools,⁵³ to establish baseline data as the last such study was conducted in 1999. During its inquiries the committee heard of the difficulties in comparing prevalence data from the states and territories due to inconsistent methodologies. The committee is concerned that due to inconsistent measurements there may be groups of problem gamblers and vulnerable populations that are not being identified and this hampers our understanding of the extent of the problem.

Recommendation 7

4.43 The committee recommends that the Australian Gambling Research Centre should, as a priority, conduct a national prevalence study of problem gambling to establish baseline data (using best practice screening tools) that will enable comparison between jurisdictions and will include as many at risk groups as possible.

Conclusion

4.44 The committee supports the intent of the National Gambling Reform Bill 2012 to set the minimum requirements for the establishment of a state or territory-wide pre-commitment system that can be used by players as a tool to help them set limits around their play and to assist them to play within those limits. It trusts that its suggestions for additional functionality will be of assistance in providing the most helpful pre-commitment system for players which is simple and easy to use. The committee welcomes the complementary measures of dynamic warnings and limits on ATM withdrawals as well as the other measures announced by the government on 21 January 2012 to assist problem gamblers. It sees this legislation as a positive step to address a national public health⁵⁴ problem on a national basis.

Recommendation 8

4.45 The committee recommends that the bills be passed.

53 The committee notes issues raised with current screening tools during previous inquiries which may miss vulnerable populations. Such deficiencies will need to be addressed.

54 The committee has stressed in previous reports the importance of a public health approach to gambling.

Mr Andrew Wilkie MP

Chair

Chair's Additional Comments

Although I support the legislation and the report I want to ensure my personal views are clearly set down. I reluctantly support the government legislation. I wish it went further and achieved more. The current opportunity for real reform has not been fully realised and this is deeply disappointing. But the legislation is the best thing on the table right now and a step in the right direction, so I will support it.

Most importantly, I want all the people affected by problem gambling who have spoken to me and to the committee about their experience, as well as those we have not heard from (and I know there are many), to know that your stories and calls for real reform will continue to drive me on this issue. I hope that you in particular understand my position on this legislation. It does not mean that I will give up advocating for further reform.

This legislation is a start. It is modest reform which I hope will be supported by the parliament. I have been able to improve it from when it was first released as an exposure draft. The government has agreed to two crucial amendments. The legislation now includes reference to the trial of mandatory pre-commitment in the Australian Capital Territory and puts in place safeguards to ensure that only independent bodies will be involved in the design, management and evaluation of the trial and that relevant data from neighbouring areas will be included. Also, the legislation also now explicitly states that all new and retrofitted machines are to be capable of mandatory pre-commitment.

I urge those in the parliament who want to see reform as much as I do to support this as a starting point. It will allow the federal government to progress gambling reform which until now has been the exclusive domain of the states and territories. It effectively puts the states and territories on notice that harm minimisation measures must be effective or the federal government will take further action. I hope the legislation will serve as a stepping stone to more effective harm minimisation measures in the future such as mandatory pre-commitment and/or \$1 maximum bets.

Addressing the product is the key. Making the machines less harmful is essential. The extraordinary reaction of the industry shows that measures such as mandatory pre-commitment and maximum \$1 bets will work to reduce revenue received from problem gamblers. As in the committee's first report, I maintain that any venue which can't sustain a drop in revenue from problem gamblers has a business model that is fundamentally flawed, unsound and unethical. These are not measures I have dreamed up. They were recommended by the Productivity Commission (PC) starting with their report in 1999 and another in 2010. How many more reports does the PC have to do advocating the same reforms before action is taken?

The support in the community for poker machine reform and these measures such as mandatory pre-commitment and maximum \$1 bets continues to be overwhelming. Those affected by problem gambling are calling for them loud and clear. I am sorry

that the government lost its nerve on this issue despite the overwhelming calls for change.

The committee has heard numerous times that voluntary pre-commitment will not work for many problem gamblers. Academic experts, former problem gamblers and social service agencies all agree, and trials of voluntary pre-commitment show that in order to be effective pre-commitment must be mandatory. If a problem gambler reaches their spending limit and they can opt out by taking out their card to keep playing or can move to another venue to keep playing, then clearly this voluntary limit will be of little use when they are in the midst of their addiction. This was also pointed out very clearly in submissions to this inquiry. Mandatory pre-commitment is a management tool to assist all players to manage their gambling. It is not the device of a 'nanny state'. It would ensure that a spending limit set away from the poker machines is enforced. The vast majority of people would never reach their limit but for problem gamblers it would limit the amount of money that would be lost and therefore limit the harm to them and their families.

I have not said that mandatory pre-commitment or maximum \$1 bets are the silver bullet to address problem gambling. Gambling exists on a continuum with people moving in and out of low to medium to high risk. A combination of strategies is required to reach everyone on the continuum which includes effective prevention and treatment measures. However it must also include machine design and limiting the amount of money that can be lost on machines to minimise the harm.

We should not be waiting until people hit rock bottom to get them help. We should not be waiting for them to lose their money, their job, their relationship, their house or their life. Poker machines are the riskiest form of gambling. They are designed to be addictive. We should not rely on ineffective responsible gambling messages to stop people developing a gambling problem. Most of the responsibility is currently with the individual and if that individual is vulnerable in some way through mental health issues, loneliness, or wanting to escape problems in their life, then what is promoted as harmless recreation can turn into a harmful addiction. If these machines are for recreation then people should not be able to lose \$1,200 per hour on them.

Industry wants to keep the focus on the individual, on individual responsibility. It wants to focus on prevention and treatment and yet would not attend a hearing to discuss improving these areas with the committee. What industry wants to do is keep the focus off the machines because any changes to machines will threaten their revenue stream from problem gamblers.

I realise that it would be up to a future government to implement mandatory pre-commitment. With this legislation, the system and machines will be ready and I hope that a strong government with a good heart will take that step. I will continue to fight for this outcome.

Regarding the \$1 bet legislation put forward by Senators Xenophon, Di Natale and Madigan I will support amendments such as they have outlined should they be moved

in the House of Representatives. \$1 bets were my original position. It was recommended by the Productivity Commission without the need for the trial. It is clear this measure would also be effective and it can co-exist with mandatory pre-commitment.

There are a couple of areas in the bill which I believe should go further. One is the need to include EFTPOS transactions in the \$250 per day ATM withdrawal limit. It seems self-evident that despite the human interaction involved with EFTPOS transactions, problem gamblers are likely to use this avenue to access additional funds. I am pleased that the committee has recommended that this issue be included in the review of implementation to be undertaken by the Productivity Commission.

While the Australian Gambling Research Centre within the Australian Institute of Family Studies is welcome, I wish to correct the impression in the second reading speech¹ that this fully delivers on the recommendation made in each of the committee's reports that a 'national, accountable and fully independent research institute on gambling be established to drive and coordinate national research efforts, monitor the effectiveness of policies to reduce harm from problem gambling and build an evidence base to better inform future policy development'.² I believe there are areas for improvement, particularly around ensuring independence and funding.

The issue of research independence was highlighted in the committee's third report where it emphasised the need to ensure independence of research and funding sources. It noted that declaration of conflicts of interest would be a condition of funding gambling research projects if, as recommended, gambling was designated as a National Health Priority Area under the National Health and Medical Research Council or as an associated priority goal recognised by the Australian Research Council. While noting that collaboration with industry can be useful for gambling researchers in terms of access to data and venues, the committee wished to see transparency about the nature and extent of such relationships.³ I consider that the independence of members of the expert advisory group from the interests of the gambling industry should be a pre-requisite for appointment. I am pleased to note the committee's emphasis on the need for transparency in relation to any existing or previous funding/relationships with industry. I believe this should be required of any researchers, individuals or institutions applying for funding from the Centre and such relationships should be made public with the research.

1 Ms Jenny Macklin MP, Second reading speech, *House Hansard*, 1 November 2012, p. 12914.

2 See Joint Select Committee on Gambling Reform, *First Report: The design and implementation of a mandatory pre-commitment system for electronic gaming machines*, 6 May 2011, pp. 89–92.

3 See Joint Select Committee on gambling Reform, Third report, the prevention and treatment of problem gambling, October 2012, pp 197–201.

Recommendation 1

I recommend that the independence of members of the expert advisory group from the interests of the gambling industry should be a pre-requisite for appointment. In addition, researchers should be required to declare any existing or previous funding or relationships with the gambling industry, including publishing the details of such relationships.

Regarding funding for the centre I am not reassured by the advice from FaHCSIA. The committee heard there is a real danger that the amount of money allocated will be insufficient and I believe the government needs to respond to calls to increase the amount of funding and make explicit publicly that the funding is ongoing.

Recommendation 2

I recommend that the government take action to ensure that the funding for the Australian Gambling Research Centre is increased to be a more realistic figure and that it makes explicit publicly that the funding is ongoing.

Mr Andrew Wilkie MP

Chair

Coalition members' dissenting report

1.1 The Coalition members of the committee believe the amount of time set aside for what should have been a thorough inquiry into this legislation was disgraceful. Serious issues have been raised with the committee including a lack of consultation and clarity regarding the legislation. State governments and regulators have raised issues in submissions¹ and requested further consultation through COAG.² Industry has raised issues around the timelines for implementation and cost.³ The concerns of the governments and organisations which the Labor government would leave to implement this legislation appear to have been ignored.

1.2 This inquiry has been a rush job from start to finish. One week for submissions and one hearing is not adequate for this legislation and the number of serious issues raised with the committee. A thorough inquiry is warranted. The experience that committee members have gained since this committee was established, and which could have been applied to the issues, has been wasted through lack of engagement with all the stakeholders.

1.3 While the Coalition supports voluntary pre-commitment as a tool for those who have gambling problems it does not agree with the how the Labor government wants to achieve this. Coalition members of this Committee therefore believe this legislation should not be supported in its current form.

1.4 Coalition committee members will outline below the concerns raised with the committee which we believe have been glossed over in the committee majority report. Although ultimately not supporting this legislation, coalition committee members will make some recommendations in an attempt to improve the bill so that it takes into consideration the key issues raised with the committee.

1.5 The evidence presented to the Committee on the negative impact of this proposed legislation on hospitality employment and the very real risk there will be widespread non-compliance was clear. There was no rebuttal to the concerns raised by industry that the forced expenditure to achieve compliance would result in job losses, marginal clubs being further disadvantaged, and many venues being non-compliant through no fault of their own, rather as a consequence of state and territory based regulators not approving new and/or altered games within the timeframes specified by the legislation.

1 Department of Racing, Gaming and Liquor, WA, *Submission 5*; Independent Gambling Authority, *Submission 10*; Northern Territory Government, *Submission 12*; Government of South Australia, *Submission 20*.

2 Mr George Souris MP, Minister for Tourism, Major Events, Hospitality and Racing, 'NSW Disappointed in Federal Pokies Bill', *Media Release*, 2 November 2012.

3 Clubs Australia, *Submission 7*; Gaming Technologies Association, *Submission 9*; Australian Hotels Association, *Submission 14*.

This legislation is not needed

1.6 Coalition committee members believe that ultimately, gaming is a state issue and the Commonwealth should not continue to erode the powers and responsibilities of the states. Professor of Constitutional Law, Dr Anne Twomey was also of this view:

As a matter of principle, however, I am of the view that gambling is fundamentally a State matter that should be dealt with by State laws. While I am personally supportive of measures to limit the pernicious effects of gambling on poker machines (or indeed, to get rid of them altogether), it would be more consistent with the federal system and with the principle of subsidiarity for such laws to be applied at the State level.⁴

1.7 The evidence shows a clear lack of consultation with the states⁵ even though they will be left to implement the system. The states and territories, via COAG support voluntary pre-commitment technology so there is no need to add yet another layer of bureaucracy to this process which does not take into consideration the differences between jurisdictions.⁶

1.8 Agreement by the states and territories for the Commonwealth to legislate on a national basis should be a necessary precursor for legislation of this type.

Uniform timelines will create unequal compliance burdens

1.9 This bill imposes uniform timelines and conditions on all states and territories which will result in extensive compliance burdens and costs for some jurisdictions due to the lack of central monitoring systems.⁷ The Productivity Commission (PC) acknowledged the disparities between states and territories regarding their ability to implement pre-commitment.⁸

1.10 These technical differences were also pointed out by the Gaming Technologies Association (GTA):

Further, each State and Territory has its own existing technical requirements which must be augmented by clearly defined pre-commitment functional and technical requirements before redevelopment can begin.⁹

4 Dr Anne Twomey, *Submission 1*, p. 1.

5 Department of Racing, Gaming and Liquor, WA, *Submission 5*; Mr George Souris MP, Minister for Tourism, Major Events, Hospitality and Racing, 'NSW Disappointed in Federal Pokies Bill', *Media Release*, 2 November 2012; Northern Territory Government, *Submission 12*; Government of South Australia, *Submission 20*.

6 Clubs Australia, *Submission 7*, p. 2.

7 Clubs Australia, *Submission 7*, p. 2.

8 Productivity Commission, *Gambling*, Overview, Commonwealth of Australia, Canberra, 20120, p. 28.

9 Gaming Technologies Association, *Submission 9*, p. 1.

1.11 Coalition committee members suggest that these differences between states and territories, which will affect the implementation timeline and costs for some jurisdictions, be taken into consideration with the timelines being moved from the legislation to regulations to allow greater flexibility and more time to achieve compliance.

Recommendation 1

1.12 Coalition committee members recommend that the different technical situations in jurisdictions, which will directly affect timelines and costs for implementation, be taken into consideration by moving the timelines from the legislation to the regulations to allow greater flexibility and more time.

Technical challenges

1.13 Technical challenges are not limited to the state/territory system as confirmed by the Gaming Technologies Association whose members supply gaming machines. As the association has repeatedly told the committee, before redevelopment of machine software can begin, functionality must be clearly defined so technical requirements can be developed. The GTA reported that to date work has not commenced on the functional design. Technical differences in each state and territory further complicate the process. The GTA stressed to the committee that the implementation timelines in the bill 'cannot be met'.¹⁰ This is the organisation that represents the suppliers of new gaming machines in Australia and they have made this point repeatedly to the government and the committee but they have been ignored. This advice around the complexity and cost for industry was reinforced by Aristocrat, which has almost 60 years experience in the industry. Aristocrat supported the information provided by GTA and added:

Currently there are approximately 400 Aristocrat titles installed in the Australian gaming environment. Upgrading these to ensure compliance with any new regulatory requirement would involve a huge investment and redirection of resources towards the development of the necessary mathematics models, artwork and feature sets. Aristocrat believes the implementation timeframes being discussed by the Committee are wholly unrealistic.

Each new Aristocrat game has to be modified to meet 11 different protocols across the country, a problem that cannot be overlooked. Manufacturers will need time to gain recommendations from independent licensed testing laboratories and approval from gaming regulators for compliant solutions, estimated at two months per game, per jurisdiction. Therefore the proposed voluntary state wide precommitment system is highly complex.¹¹

1.14 Aristocrat concluded:

...the issues that stand out for Aristocrat relate to the significant technological and regulatory hurdles that will need to be overcome in order

10 Gaming Technologies Association, *Submission 9*, p. 1, 5.

11 Aristocrat, *Submission 15*, pp 4–5.

to provide what is outlined in the legislation within the timeframes specified.¹²

1.15 Coalition committee members are astonished that the Department of Families, Housing, Community Services and Indigenous Affairs appears to be accepting the advice from one organisation, the Toneguzzo Group, over the consistent advice provided by the gaming machine manufacturing industry.¹³ Coalition committee members also note that the copy of the Toneguzzo Group report available under FOI on the FaHCSIA website has blacked out all useful information regarding implementation, costs and timeframes.

Existing pre-commitment systems

1.16 The status of existing pre-commitment systems is not clarified in the bill. Many venues have already made significant investments in pre-commitment systems and in most cases have entered contractual relationships to provide pre-commitment to patrons. As pointed out by Clubs Australia it would be unfair to penalise venues which have already installed pre-commitment systems and require them to replace their systems with a new version.¹⁴

1.17 Coalition committee members suggest that the legislation specify that existing pre-commitment systems that meet the minimum requirements should be recognised as compliant as quickly as possible to provide regulatory certainty.

Recommendation 2

1.18 Coalition committee members recommend that existing pre-commitment systems that meet the minimum requirements specified in the legislation should be recognised as compliant as quickly as possible in order to provide regulatory certainty for venues.

Timelines

1.19 Coalition committee members note that although the introduction of the legislation had been delayed by 10 months, only the timeline for the ATM limit changes has been extended. Specifically Clubs Australia has pointed out that the three year implementation timeframe for venues with more than 20 poker machines does not provide sufficient time for clubs to absorb the compliance costs and may result in widespread non-compliance. It noted that the Productivity Commission recommended that venues be given a minimum of six years to amortise the capital investment.¹⁵

12 Aristocrat, *Submission 15*, p. 5.

13 FaHCSIA, Answers to questions taken on notice 13 November 2-12, No 21, received 16 November 2012. See also Ms Liza Carroll, *Proof Committee Hansard*, 13 November 2012, p. 65.

14 Clubs Australia, *Submission 7*, p. 5.

15 Clubs Australia, *Submission 7*, p. 5.

1.20 The Australian Hotels Association stated its preference that venues be able to make the change to voluntary pre-commitment through the natural replacement of machines.¹⁶

1.21 The need for venues to have more time to comply was supported by the manufacturing industry. Aristocrat stated:

We strongly believe a long term, phased implementation timeframe is a necessity for venues, especially smaller venues, who will need sufficient time to absorb the costs associated with overhauling their entire machine and game fleet. Importantly, a phased approach would also allow policy makers to respond to the evidence base that emerges from trials.¹⁷

1.22 GTA also highlighted this issue to the committee:

The Bill should instead specify that the development of revised functionality must be completed by consultation with relevant stakeholders; and that its subsequent implementation should then commence according to venues' machine replacement programs.¹⁸

Financial capacity to comply

1.23 Clubs Australia pointed out that a 2011 KPMG survey found that 51 per cent were in financial distress. The legislation does not take into consideration the financial capacity of clubs to comply. Clubs Australia noted that many clubs in regional and rural areas will face the same timelines as city casinos despite the average annual revenue per machine being significantly less. It suggests that the venue's average revenue per machine should be taken into account and recommends an expansion to the definition of small venue to include those that have smaller revenues per gaming machine.¹⁹

1.24 While the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) raised issues with the suggestion made by Clubs Australia regarding expanding the definition of small venues,²⁰ Coalition committee members believe it should not be dismissed out of hand but should be the subject of consultation to see whether some aspects can be accommodated.

Need for greater flexibility

1.25 Given the difficulties that some venues may face to implement pre-commitment by the timeframe required in the legislation, Clubs Australia has suggested that the Minister should have the power to extend the timelines if required.

16 Australian Hotels Association, *Submission 14*, p. [5].

17 Aristocrat, *Submission 15*, p. 5.

18 Gaming Technologies Association, *Submission 9*, p. 5.

19 Clubs Australia, *Submission 7*, p. 5.

20 Ms Liza Carroll, *Proof Committee Hansard*, 13 November 2012, p. 70.

To achieve this it suggests the deadlines for venues should be contained in the regulations rather than the legislation.²¹

Recommendation 3

1.26 Coalition committee members recommend that further consultation with industry take place to ensure the timelines proposed in the bill can take further consideration the ability of smaller venues, those in regional and rural areas and those in financial distress to comply with the requirements. This should include the suggestions put forward by industry and the placement of deadlines in regulations.

Need for a general exemption power

1.27 Clubs Australia suggested that there is a need for a provision to allow the Minister or Regulator to have powers to exempt or modify the obligations for individual venues in extenuating circumstances such as floods. This would allow the minister/regulator to extend deadlines for implementation. These provisions should also include the temporary suspension of the ATM withdrawal limit if banking facilities in a local area have been affected.²²

1.28 Coalition committee members support this suggestion for a general exemption power.

ATM withdrawal limits

1.29 Another example of the lack of consultation and evidence is around the \$250 per day ATM withdrawal limit. The Productivity Commission found that the causality between access to ATMs and problem gambling was 'hard to prove'.²³

1.30 The ATM Industry Reference Group outlined why a 12-month lead in time is required:

Unlike Victoria where a limit of \$400 per card applied across any 24-hour period, the current proposed change would apply across multiple states and territories, which are all subject to different legislative and regulatory models;

The geographical locations of ATMs in gaming venues across Australia are spread far and wide;

It will take many months for each ATM company to put in place the necessary technological arrangements to differentiate between ATMs in their networks that the limit would apply to (licensed premises with electronic gaming machines – EGMs) and those that it wouldn't (service stations, convenience stores, licensed premises without EGMs, other locations, etc). As part of this process, ATM companies will have to

21 Clubs Australia, *Submission 7*, p. 6.

22 Clubs Australia, *Submission 7*, p. 7.

23 Productivity Commission, *Gambling*, vol. 1, Commonwealth of Australia, Canberra, 20120, p. 13.11. See also ATM Industry Reference Group, *Submission 16*, p. 2.

identify and work on ATMs at each individual site (there are currently more than 5000 of ATMs located on licensed premises in Australia);

On the basis that these bills were to pass Parliament before the end of 2012, the development process for the implementation of this limit would not be able to commence until mid-January 2013, due to industry change moratoriums in place across the peak processing period within the ATM deployers. These moratoriums are self imposed and have been put in place for the protection of the payment system across peak periods such as Christmas and holiday periods. These moratoriums are critical to ensure integrity to the payments system and so that there is no interruption to consumers during this peak period for access to cash;

In many instances, the introduction of the limit will mean that fresh contractual agreements between the ATM companies and merchants (hotels, clubs) will need to be agreed upon and struck;

ATMs that are captured by the limit will need to be programmed to ensure that once the limit is reached, further withdrawals are rejected;

ATM and network technology will require updating to ensure the limit applies across multiple terminals and multiple transactions, and overall impact to locations where more than one service provider is present;

The AIRG notes that there is no ability for venues to maintain compliance with the proposed legislation where multiple devices by multiple service providers are in place, resulting in removal of one of the service providers' device and requiring a logistical effort to be undertaken, as well as the technical effort, not to mention negotiations regarding contractual breach relating to early contract termination remedies with one of the providers;

ATM companies will need to ensure that information displayed on ATM screens is updated; and

ATM companies will need to update reporting processes in order to ensure that this major policy change can be adequately monitored.²⁴

1.31 Coalition committee members believe that given the implementation issues outlined by the ATM Industry Reference Group, in order to ensure successful implementation, there should be a lead time of not less than 12 months from the date of the legislation passing parliament for the daily withdrawal limit to apply.

Recommendation 4

1.32 Coalition committee members recommend that there should be a lead time of not less than 12 months from the date of the bills passing parliament for the proposed daily withdrawal limit to apply.

Limit too low

1.33 The committee heard evidence that the proposed \$250 daily ATM withdrawal limit is too low and should be higher. The ATM Industry Reference Group submitted that the PC report was completed in 2010 and allowing for CPI of three per cent per

24 ATM Industry Reference Group, *Submission 16*, pp 4–5.

annum the limit would be around \$280 which could be rounded to \$300. The timeframe from the publication of the PC report to implementation in May 2013 also does not take into account the higher cost of living in this timeframe. It therefore advocated for a limit of \$400 as this limit was introduced in Victoria in 2012 and had a significant impact on the number of transactions in gaming venues (a decline of 5 per cent).²⁵

1.34 Concerns about the limit were also raised by venues. The Australian Hotels Association stated that the proposed limit will affect food and beverage sales. It noted that the ABS confirmed that 70 per cent of hotel income is generated from food and beverage sales.²⁶ Clubs Australia also highlighted the weak evidence for this measure which will cause inconvenience for patrons and staff.²⁷

1.35 More targeted measures which would not affect other patrons were suggested to the committee. Clubs Australia pointed out that problem gamblers can already lower their daily withdrawal limits by contacting their bank or financial institution directly.²⁸ The Australian Hotels Association told the committee about self-exclusion ATMs which would also target problem gamblers without causing inconvenience to recreational and non-gamblers.²⁹

Recommendation 5

1.36 Coalition committee members recommend that measures around ATM use targeted specifically to help problem gamblers, such as lowering their daily withdrawal limits and/or the use of self-exclusion ATMs, should be pursued in preference to causing inconvenience to all patrons. However, if implemented, the proposed daily limit should be increased to at least \$400 to take account of the issues raised by industry.

Conclusion

1.37 Coalition committee members do not support this bill. It is unnecessary, heavy handed and overly prescriptive. It places impractical and impossible timelines on jurisdictions and industry to implement the best systems for voluntary pre-commitment and their valid concerns appear to have been ignored in the rush to push through this legislation.

1.38 The delay with the introduction of this legislation has not been taken into account for manufacturers, venues or for implementation of the \$250 ATM daily withdrawal limits. Although the industry can prepare for various scenarios and the committee heard it has been doing its best, the significant movements in gambling policy over the past two years has meant that industry could not start significant

25 ATM Industry Reference Group, *Submission 16*, p. 5.

26 Australian Hotels Association, *Submission 14*, p. [4].

27 Clubs Australia, *Submission 7*, p. 6.

28 Clubs Australia, *Submission 7*, p. 7.

29 Australian Hotels Association, *Submission 14*, p. [5].

preparations with any degree of certainty. There were and are no guarantees that what was proposed in the draft legislation and what is proposed in these bills will become law until the bills pass both houses of parliament. At the very least the timeframes should take account of the 10 month delay since the draft legislation was released in February 2012.

1.39 Given the numerous issues raised in submissions it is clear that consultation has been inadequate and that further work with jurisdictions and industry is required in order to develop the best voluntary pre-commitment system that targets and assists problem gamblers which is achieved in a realistic timeframe that takes account of the technical, implementation and cost issues raised by industry.

Recommendation 6

1.40 Coalition committee members recommend that the bills not be passed in their current form.

Mr Steven Ciobo MP

Mr Josh Frydenberg MP

A BREACH OF TRUST

Dissenting Report by Senator Nick Xenophon

- 1.1 Following the 2010 election, Prime Minister Julia Gillard announced on 2nd September 2010 she had struck a deal for poker machine reform with independent Member for Denison Andrew Wilkie (a copy of which is attached). Those who have been fighting for real reform in this area have been waiting to see if the Government would live up to its promise. With the introduction of this legislation, it is finally clear that they have not.
- 1.2 At the outset, Mr Wilkie pushed for the Government to commit to introducing \$1 maximum bets and maximum average \$120 hourly losses on poker machines, in line with the Productivity Commission's 2010 report.¹ That unambiguous recommendation is set out as follows:
Recommendation 11.1
Governments should require that by 2012, all new EGMs include the capability of being played at a maximum intensity of \$1 per button push, with this being activated in 2016.

*In 2016, all EGMs should be limited to a \$1 bet, with an exemption until 2018 for venues with less than ten machines that also face significant implementation costs relative to revenue.*²
- 1.3 Instead, the Prime Minister offered to implement a mandatory pre-commitment scheme, which was a secondary recommendation from the Productivity Commission³, in exchange for Mr Wilkie's support to an ALP Government. In good faith, Mr Wilkie agreed to this arrangement, and relied on the Prime Minister's written word.
- 1.4 In response, Clubs Australia and the Australian Hotels Association launched what was nothing more than a scare campaign against the reform, targeting Government members in marginal seats. Assertions from these organisations included the claim that people would need a 'licence to punt', that the Government was going to track people's gambling activity, and that any type of gambling reform would see clubs no longer able to make contributions to their local communities. I have attached a letter sent from Mr Wilkie and myself to all Members of Parliament in 2010, refuting those claims.
- 1.5 It is worth noting at this point that several studies, including one by the Productivity Commission, have raised concerns about how much sporting clubs actually return to

¹ Productivity Commission, *Gambling*, vol. 1, Commonwealth of Australia, Canberra, 2010, p. 11.29

² Ibid

³ Ibid, p. 10.44

their local communities in exchange for the tax breaks they receive as not-for-profit organisations. Most recently, a report commissioned by Uniting Care and undertaken by Charles Livingstone, Chebiwot Kipsaina and Angela Rintoul of the School of Public Health and Preventative Medicine at Monash University found that, on average, clubs in New South Wales returned the equivalent of only 1.3 per cent of their poker machine losses to the communities they claim to support.⁴

- 1.6 However, in early 2012, the Government gave in to the pressure from the gambling industry, following the recruitment of the Member for Fisher, Peter Slipper MP, into the Speaker's Chair. No longer in need of Mr Wilkie's support to stay in government, the ALP withdrew support for mandatory pre-commitment and instead said it would trial mandatory pre-commitment in the Australian Capital Territory, and work towards implementing a form of voluntary pre-commitment across Australia. This was a blatant breach of the agreement Mr Wilkie had entered into with the Prime Minister.
- 1.7 It is also important to note that the Opposition has sided with the industry throughout this process. It did briefly consult with the intention of forming its own policy for reform, but it appears this has not progressed.
- 1.8 Ultimately, this issue must be about problem gamblers and those directly affected. I acknowledge the Committee for the time they have taken to speak to people who have been affected by addiction, either directly or indirectly. I thank the Committee for its efforts in this area, because those discussions have played a vital part in informing Committee members and putting a human face on this issue.
- 1.9 Sadly, however, what should have been about human suffering and a dangerous product has now become all about vested interests. Instead of being a fight for what is right, it has become a fight for what is least offensive to those with the most money.
- 1.10 I wish to formally note that I consider both Mr Wilkie and the Australian Greens have acted in good faith throughout this process. I believe them when they say this is only the first step and they will continue to fight for reform.
- 1.11 However, I am fundamentally unable to support this bill. I cannot support legislation that is so qualified and conditional, and fraught with technical difficulties. It will also not help problem gamblers in any significant way. Further, this legislation is a direct result of a fundamental breach of trust on the part of the Government and, as is set out below, the Government cannot credibly explain its position.

⁴ Livingstone, C., Kipsaina, C., & Rintoul, A. *Assessment of Poker Machine Expenditure and Community Benefit Claims in Selected Commonwealth Electoral Divisions*, April 2012, p. 4. Available online: http://www.unitingcare.org.au/images/stories/resources/120412_research_poker_machine_expenditure_and_community_benefit.pdf

- 1.12 Voluntary pre-commitment does not work. Formal studies have repeatedly shown that these systems are not effective at limiting losses.
- 1.13 A study into poker machine pre-commitment schemes prepared for the Nova Scotia Gaming Foundation in Canada found that voluntary schemes consistently failed because they relied on the willpower of players.⁵
- 1.14 The Nova Scotia study found that high risk players were unlikely to use a voluntary system. It also found that high risk players would often continue to gamble beyond their limits unless they were locked out of play and that they lost more money than they intended "most times they play".⁶
- 1.15 The take-up of voluntary pre-commitment schemes has also been shown to be woeful. In South Australia, Worldsmart Technology's J-Card loyalty scheme allows a player to set self-imposed limits on time and spending. After reviewing Worldsmart's scheme, the Productivity Commission reported:
*"Relatively few consumers have enabled their loyalty card for pre-commitment features. By mid-September, 233 of just under 32,000 loyalty card members (or 0.7 percent) had enabled pre-commitment options."*⁷
- 1.16 Ultimately, the idea of voluntary pre-commitment seems to be based on how governments believe people *should* behave, rather than how they *actually* behave.
- 1.17 Beyond this fundamental issue, it is important to note that the bills also contain significant flaws and weaknesses. I will be moving a number of amendments in the Senate to highlight these, but my main concerns relate to the structure of the pre-commitment systems and the lack of incentive for any party to establish such a system. For example, the penalty provisions in the National Gambling Reform Bill 2012 contain an exemption for where 'there is not an approved pre-commitment system for a State or Territory'.⁸ A similar exemption applies to the gaming machine regulation levy, which is designed to encourage compliance among organisations that are not constitutional corporations.⁹

⁵ T Schellink, et al, 'Evaluating the Impact of the "My-Play" System in Nova Scotia', Nova Scotia Gaming Foundation, October 2010, http://www.nsgamingfoundation.org/uploads/Research/Technical%20Report%20Phase%201%20My-Play%20Benchmark%20Final%20%20_Focal_%20Jan%2028%202011.pdf (accessed 19 November 2012).

⁶ T Schellink, et al, 'Evaluating the Impact of the "My-Play" System in Nova Scotia', Nova Scotia Gaming Foundation, October 2010, http://www.nsgamingfoundation.org/uploads/Research/Technical%20Report%20Phase%201%20My-Play%20Benchmark%20Final%20%20_Focal_%20Jan%2028%202011.pdf (accessed 19 November 2012).

⁷ Productivity Commission, *Gambling*, vol. 1, Commonwealth of Australia, Canberra, 2010, p. c2-3.

⁸ National Gambling Reform Bill 2012, Section 58(2)

⁹ *Ibid*, Section 85(4)

- 1.18 The the only place FAHCSIA could point to a requirement for a pre-commitment system to apply across a whole state or territory (and therefore cover all machines in that state or territory) is in the Explanatory Memorandum to the bill.¹⁰ Further, the penalty provisions to require compliance do not apply if there is no system, so it is hard to see how this legislation could be enforced at all.
- 1.19 Most importantly, this legislation will not provide immediate assistance to problem gamblers, or those at risk of problem gambling. The fact that the voluntary systems are not required even to have a default loss limit is very problematic.
- 1.20 I would have been more inclined to support this legislation if it had also mandated that machines at least should be capable of being limited to \$1 bets and hourly losses of \$120, as recommended by the Productivity Commission.¹¹ This measure was intended to work in conjunction with pre-commitment, and is vital in reducing the intensity of play. Poker machines in Australia operate at an incredibly high intensity, which many consider increases their addictiveness.
- 1.21 For a product that is touted as ‘entertainment’, it seems unbelievable that gamblers can lose up to \$1,200 an hour.¹² This cost can hardly be considered a form of recreation. Limiting losses to \$120 an hour will not only reduce the harm caused by these machines, but bring them more into line with an average person’s idea of ‘recreational spend’. The Commission’s research indicates that some 88 per cent of recreational players and about 80 per cent of all players never spend more than \$1 per button push.¹³
- 1.22 Not only has the Government disregarded this key reform, it refuses to give the reasons for this policy position. Previously, it has claimed that the cost of implementation will be excessive, with the Minister for Families, Community Services and Indigenous Affairs, the Hon. Jenny Macklin MP, claiming in January this year that it would cost \$1.5 billion.¹⁴ However, despite promising at that press conference that the Department would release the basis for those figures, they have never been publicised.
- 1.23 Indeed, two Freedom of Information requests from my office failed to reveal the basis for that figure, and resulted in documents that were more redactions than information.

¹⁰ Department for Families, Housing, Community Services and Indigenous Affairs, response to Question on Notice 26.

¹¹ Productivity Commission, *Gambling*, vol. 1, Commonwealth of Australia, Canberra, 2010, p. 11.29

¹² *Ibid*, p. 11.5

¹³ *Ibid*, p. 11.12

¹⁴ Press conference with Minister Macklin and the Prime Minister, 21 January 2012. Online: <http://jennymacklin.fahcsia.gov.au/node/1706>

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- 1.24 Further, the Government has not explained with any credibility how it willing to make the machines mandatory pre-commitment ready (at the ‘flick of a switch’) but refuses to do the same for maximum \$1 bets. The maximum \$1 bets reform was the primary reform recommended by the Productivity Commission, yet the Government refuses to even have machines capable of supporting it.
- 1.25 I understand that this has become a difficult political issue for the major parties. Tragically, it appears this has now become a ‘tick and flick’ exercise for the Government, just to get the ‘problem’ off the table.
- 1.26 However, this issue will not go away. Earlier this year, the Stop the Loss Coalition released data from a survey by AMR Research that revealed over 70 per cent of Australians want poker machine reform, and only two in ten believe no further action is needed. Further, over 80 per cent supported the introduction of maximum \$1 bets, which rose to a massive 90 per cent for intending ALP voters.¹⁵
- 1.27 To put this in context, most Australians would know of someone who has been affected by poker machine addiction. The Productivity Commission figures from 2008/09 indicate that over \$10 billion a year is lost on poker machines,¹⁶ with problem gamblers accounting for between 22 to 60 per cent of that figure, with 40 per cent the accepted average. Also according to the Productivity Commission, there are between 80,000 and 160,000 adult Australians who are suffering from ‘significant problems with their gambling’, with a further 230,000 to 350,000 at risk of developing further problems.¹⁷ On average, each of these problem gamblers affects seven other people.¹⁸
- 1.28 Too many Australians are have first-hand knowledge of the damaged caused by poker machines for the issue to disappear from the political radar, as perhaps both the Government and the Opposition hope.
- 1.29 Ultimately, to use gambling terminology, in my view this legislation is a ‘loss disguised as a win’. It will not do enough to help existing gamblers or curb problem gambling in the future, and those measures it does contain may not be enforceable.

¹⁵ Stop the Loss Coalition. Online:

https://www.dropbox.com/s/wmeyw1fs1u5x933/STOP%20THE%20LOSS_SURVEY%20REVIEWS%20MAJORITY%20SUPPORT%20FOR%20STRONGER%20POKER%20MACHINE%20REFORM.pdf

¹⁶ Productivity Commission, *Gambling*, vol. 1, Commonwealth of Australia, Canberra, 2010, p. 2.1

¹⁷ *Ibid*, p. 5.1

¹⁸ Productivity Commission, *Australia’s Gambling Industries*, Commonwealth of Australia, Canberra, 1999, p. 2.

1.30 To that end, I call on the Government and the Opposition to support a plebiscite on the issue of maximum \$1 bets and \$120 maximum average hourly losses to determine the will of the Australian people.

1.31 The Government has not explained why it is willing to have machines mandatory pre-commitment ready but not maximum \$1 bet ready, which is arguably a cheaper, simpler, and easier to explain option that will be more effective. The Government's failure to support this measure as recommended by the Productivity Commission is, I believe, a cynical act of bad faith on their part.

Recommendation 1: That the bills not be passed unless amended to include provisions for the implementation of maximum \$1 bets and hourly losses of \$120 on all gaming machines in Australia.

Recommendation 2: That there be a plebiscite to be held at the next Federal Election to determine the will of the Australian people on the maximum \$1 bet and \$120 hourly loss recommendation of the Productivity Commission.

NICK XENOPHON

Independent Senator for South Australia

The Hon Julia Gillard & Mr Andrew Wilkie ('the Parties') - Agreement

Between:

The Hon Julia Gillard MP Prime Minister

And

Mr Andrew Wilkie MP - elect MP Denison

1. Purpose

- 1.1 This agreement establishes a basis for stable and effective government.
- 1.2 Mr Wilkie will maintain his right to vote on all legislation according to the needs of his electorate and his conscience, but undertakes to involve himself in negotiations with the Government before exercising that right.
- 1.3 Mr Wilkie will vote with the Government to ensure supply.
- 1.4 Mr Wilkie will oppose any motion of no confidence in the Government unless the motion is moved or seconded by Mr Wilkie.

2. Principles

- 2.1 The Parties agree to work together to pursue the following principles:
 - a) transparent and accountable government;
 - b) improved process and integrity of parliament; and
 - c) policies which promote the national interest.

3. Promoting open and accountable government

- 3.1 The Parties will work together and with other parliamentarians to promote open and accountable government.
- 3.2 The Parties acknowledge specifically that reform proposals are being developed on:
 - a) Online registering of lobbyists
 - b) Establishing a Leaders' Debate Commission

- c) Funding of political parties and election campaigns
- d) An Information Commissioner and public interest disclosure
- e) Producing a Statement of Legislative Intent at the beginning of each Parliamentary Sitting to set out the Government's legislative program
- f) Holding referenda during the 43rd Parliament or at the next election on Indigenous constitutional recognition and recognition of local government

3.3 The Parties agree to work collaboratively with each other and other parliamentarians on the reform proposals detailed in Clause 3.2.

3.4 The Parties agree to introduce legislation to protect whistle blowers and seek to have such legislation passed by 30 June 2011.

4. Improved processes and integrity of parliament

4.1 The Parties agree to work together and with other parliamentarians to implement parliamentary reforms.

4.2 The immediate reforms include:

- a) Improving Question Time in the House of Representatives by setting fixed time limits for questions and answers with supplementary questions given at the discretion of the Speaker.
- b) A fixed and fair allocation of questions for independent and minor party members with the first question no later than the 6th question in each Question Time.
- c) At least 2.5 hours dedicated for debating and voting on private members' bills including a fixed and fair allocation of time for independents and minor party members in every full sitting week in both houses.
- d) In addition to clause 4.2(c), dedicated time for voting on motions from independents and minor party members in every full sitting week in the House of Representatives.
- e) The House of Representatives will debate and vote, during Government Business time, private senators' bills as passed by the Senate within 6 sitting days of the message being received by the House.
- f) Amending the Standing Orders of both Houses so that there can be a recommittal of any vote within one sitting day where a member was absent from that vote due to inadvertence.
- g) Agreeing that in the House of Representatives, 'pairs' may be made by private arrangement during votes, similar to the arrangements which currently occur between Whips in the Senate or that another arrangement to facilitate Members who cannot attend due to ill health, family circumstances or performing Government or electorate business be agreed.

- h) Providing for 90 second statements and three minute electorate statements in the chamber and main committee.
- i) Establishing a Code of Conduct and behavioural standards for Members of the House and Senate.
- j) Reforming and strengthening parliamentary committees by reducing the number of general purpose committees, enhancing the role of cross-bench members, conducting an external review of committee staffing and establishing a new cross-party committee on staffing and appropriations.

4.3 Further reforms include:

- a) Establishing within 12 months a Parliamentary Budget Office within the Parliamentary Library with the structure, resourcing and protocols being the subject of decision by a special committee of the Parliament which is truly representative of the Parliament.
- b) Establishing within 12 months a Parliamentary Integrity Commissioner, supervised by the Privileges Committees from both houses to:
 - i. provide advice, administration and reporting on parliamentary entitlements to report to the Parliament;
 - ii. investigate and make recommendations to the Privileges Committees on individual investigations, to provide advice to parliamentarians on ethical issues; and
 - iii. uphold the Parliamentary Code of Conduct and to control and maintain the Government's lobbyists register.

5. Working relationships

- 5.1 The following arrangements will govern the working relationship between Mr Wilkie and Ms Gillard for the duration of the 43rd Parliament. These arrangements may be altered by mutual agreement.
- a) When Parliament is in session, Ms Gillard will meet with Mr Wilkie each sitting week, principally to discuss and negotiate any planned legislation.
 - b) When Parliament is not in session, Ms Gillard, or her delegate, will meet with Mr Wilkie, or his delegate, at least once each fortnight, principally to discuss the upcoming legislative agenda.
 - c) The Government will endeavour to give at least six working days notice of the introduction of legislation to the House.
 - d) The Parties will ensure that the Government's budget is subject to an exchange of information and views between the Parties as follows:

- i. Mr Wilkie receiving economic and financial briefings from the Treasurer and the Minister for Finance and the Secretaries of the Departments of Treasury and Finance and Deregulation at regularly agreed times.
 - ii. Mr Wilkie having regular discussions with the Treasurer and the Minister for Finance on economic circumstances, fiscal strategy and budget preparation.
- e) Should Mr Wilkie wish to propose new policies, these proposals may be formally submitted to the Office of the Prime Minister and forwarded to the appropriate Department and Minister for analysis. Where the proposal is likely to involve costs, it may also be sent to the Department of Treasury, and the Treasurer, and the Department of Finance and Deregulation, and the Minister for Finance, for costing.
- i. The number of proposals that may be considered in this way is not limited in number but the Parties will ensure that the workload arising is reasonable.
 - ii. Every endeavour will be made to provide required advice within ten business days.
 - iii. The Parties acknowledge that during the six week period leading up to the Federal Budget, the turnaround time may be greater than ten business days.
- f) The Parties acknowledge that the above mechanism can be used to have any of Mr Wilkie's policies for the 2010 election considered.
- g) Senior staff members of the Office of the Prime Minister and Mr Wilkie's Office will liaise to ensure that Mr Wilkie has access to Ministers, key public servants and Ms Gillard, as outlined above.
- h) The Parties recognise that providing appropriate staffing support to Mr Wilkie requires urgent consideration and the Parties will work to ensure this task is undertaken at the earliest opportunity by the new cross-party committee on staffing and appropriations, which will be formed the first week that Parliament sits.
- i. Until such time as the staffing review is complete, Mr Wilkie will be allocated two staff, both of which will be personal staff, in addition to his electorate office staff.

6. Royal Hobart Hospital

- 6.1 The Parties agree that the redevelopment of the Royal Hobart Hospital is of vital importance to the people of Tasmania.
- 6.2 The Labor Government will contribute \$100 million upfront to enable the construction of the Women and Children's Hospital in Hobart to commence by the end of 2010.
- 6.3 The balance of the Labor Government's contribution to the \$565 million redevelopment of the Royal Hobart Hospital announced during the Tasmanian State election campaign will be delivered from and following a new national round of the Health and Hospitals Fund

- 6.4 The Labor Government will open a new round of applications to the Health and Hospitals Fund (HHF) for investments in major hospital projects, commencing 1 October 2010. All States and Territories, major hospitals, health research institutes and universities will be able to apply for funding to upgrade hospital infrastructure.
- 6.5 The Tasmanian Government will be invited to make an application to the HHF for up to \$240 million (for a total contribution to the RHH redevelopment of \$340m), to be used towards the \$565 million redevelopment of the Royal Hobart Hospital.
- 6.6 The Parties acknowledge that the Tasmanian Government's application for funding for the Royal Hobart Hospital redevelopment will be assessed by the HHF Advisory Board, alongside other submissions which may be received from any other parties.
- 6.7 The Parties acknowledge that the Tasmanian Government's application for funding will need to meet the HHF evaluation criteria in order to receive funding, including that the proposal:
- a) addresses national infrastructure priorities (including that it will contribute to meeting the Government's health reform targets);
 - b) demonstrates high benefits and effective use of resources;
 - c) efficiently addresses infrastructure needs; and
 - d) meets established standards in implementation and management.
- 6.8 The Parties acknowledge that the Tasmanian Government has previously applied for funding for the Royal Hobart Hospital from the HHF, but that circumstances surrounding the Tasmanian Government's plans for the Royal Hobart Hospitals have since changed:
- a) In early 2009, the Tasmanian Government submitted an application to the HHF for \$60 million for improvements to the existing Royal Hobart Hospital site.
 - b) The Parties acknowledge that the HHF Advisory Board recommended against the application at the time, on the grounds that the Tasmanian Government's business case could not stipulate what the longer term solution for the Royal Hobart Hospital would be.
 - c) The Parties acknowledge that the Tasmanian Government has undertaken further work on a long term solution to the Royal Hobart Hospital.
 - d) The Parties acknowledge that the Tasmanian Government is now in a position to make a submission to the HHF board for a long-term project solution to the Royal Hobart Hospital.
 - e) The Parties note a new call for applications to the HHF for major hospital projects was envisioned under Clause 13 (d) of the National Health and Hospitals Network Inter-governmental Agreement.
 - f) The Parties acknowledge that the new call for applications for the HHF funding is occurring in this time frame because of this agreement.

- g) The Parties acknowledge that all spending out of the Health and Hospitals Fund would need to be fully offset, consistent with the Government's fiscal rules.
- 6.9 The Parties acknowledge the unique circumstances of the Royal Hobart Hospital redevelopment, in that a small state like Tasmania does not have the financial capacity to invest in a major hospital infrastructure project without assistance from the Commonwealth Government.
- 6.10 The Parties acknowledge that the National Health and Hospitals Network Agreement states that in addition to the Commonwealth's 60 per cent contribution to public hospital capital, the Commonwealth may also choose to invest in national priority areas, or in geographic or functional areas of identified capital under-investment, following consultation with relevant states or territories.
- 6.11 The Parties agree that this investment in the redevelopment of the Royal Hobart Hospital is intended to, and will lead to, the provision of extra hospital services in Tasmania.
- 6.12 The Parties agree that the National Health and Hospital Network agreement struck on 20 April 2010 (which would be terminated by a Coalition government) provides an unprecedented opportunity to permanently lock in more Commonwealth support for Tasmanian hospital and health services, and associated capital investments, into the future, including at a redeveloped Royal Hobart Hospital. This is because:
- a) the redevelopment of the Royal Hobart Hospital will increase the Hospital's service capacity, attracting a greater Commonwealth contribution under its reforms to provide 60 per cent of the efficient price of each public hospital service;
 - b) the Commonwealth's contribution towards 60 per cent of capital funding is automatically linked to the number of services delivered, according to a pre-determined formula; and
 - c) accordingly, greater capacity for service throughput will also expand support to the Tasmanian Government for maintenance, ongoing refurbishment and other capital needs into the future, beyond any one-off contribution to the redevelopment of Royal Hobart Hospital.

7. Poker Machines

- 7.1 The Parties agree that problem gambling, especially through poker machines, is an important issue which must be addressed by all governments.
- 7.2 The Parties acknowledge that given gambling is predominantly regulated by State and Territory governments that addressing problem gambling requires co-operation between the Commonwealth and State and Territory Governments.
- 7.3 The Parties also acknowledge that the Commonwealth may be able to exercise greater legislative authority, if required, and agree to commission and receive no later than 1 February 2011 comprehensive legal advice about the Commonwealth's constitutional competence and prospects for successfully legislating in this area.

- 7.4 The Parties also acknowledge and agree that any approach taken to address problem gambling must be evidence based and that the Government has commissioned and received a comprehensive Productivity Commission report on problem gambling.
- 7.5 The Government commits to adopt a Commonwealth Government position on gambling reform that will include the initial response released on 23 June 2010 to the Productivity Commission report and further commits to the following additional measures:
- a) Implementing a best practice full pre-commitment scheme – that is uniform across all States and Territories and machines – consistent with recommendations and findings of the Productivity Commission. Implementation of pre-commitment arrangements will commence in 2012, with the full pre commitment scheme commencing in 2014, working with States and Territories to achieve this outcome. The full pre-commitment scheme will include the use of technology that is expected to have the best chance of reducing problem gambling.
 - b) Supporting the Productivity Commission recommendations in relation to poker machine dynamic warning displays and cost of play displays.
 - c) Implementing a \$250 daily withdrawal limit for ATMs in venues with poker machines (excluding casinos).
- 7.6 The Parties agree that the Government should seek agreement of all jurisdictions to the reforms detailed in Clause 7.5, including a timetable, and then each jurisdiction would amend their own State and Territory laws to implement the agreement. Regulation of the gambling industry would remain a State and Territory responsibility.
- 7.7 In the absence of agreement with the States by 31 May 2011 on any of the reforms detailed in Clause 7.5, the Government will unilaterally seek to legislate in order to achieve these reforms, subject to the legal advice received in accordance with Clause 7.3. If required, the Government will support Commonwealth legislation through the Parliament by Budget 2012.
- 7.8 The Parties acknowledge the need for an evidence based approach addressing problem gambling.
- a) Therefore, the Parties agree that it is appropriate to commission an independent study of the impacts of a reduction in problem gambling on other revenue flows and individual spending behaviour to report by the end of 2011.
 - b) The Parties also agree that it is appropriate to task the Productivity Commission to conduct a thorough examination of the impact of the pre-commitment scheme on problem gambling from 2014 and to determine what further harm minimisation measures may be necessary.
 - c) The terms of reference for the Inquiry will be set by no later than 30 June 2013.
 - d) The Government agrees that it would rely on the Productivity Commission's further advice in determining further action on problem gambling.
- 7.9 The Government agrees that as soon as practicable, it will seek to establish a Select Committee of the Parliament to act in an advisory role to the Minister for Families, Housing, Community Services and Indigenous Affairs, the Assistant Treasurer and the Prime Minister

to progress a national response to the full set of recommendations in the Productivity Commission report.

- a) The Select Committee will include wide representation, including Mr Wilkie, Senator Xenophon and other parliamentarians.
- b) The Select Committee will be advised on the legal advice obtained under Clause 7.3 and will be able to inquire into the reasoning that supports the legal advice and the consequences which flow from it.
- c) The Select Committee will be able to provide direct input in to the Commonwealth position Ministers will take to the COAG Select Council on Gambling Reform.
- d) The Select Committee will inform the design of the full pre-commitment scheme outlined at 7.5 (a).
- e) The Select Committee will be able to provide direct input in to decision making about any Commonwealth legislation, the terms of reference of the further Productivity Commission process and the monitoring of the impact of the reforms detailed in Clause 7.5.

8. Administration

- 8.1 The agreement will come into effect on the day the Government is established and last for this parliamentary term of the Gillard Government.

Signed on this 2nd day of September 2010.

The Hon Julia Gillard MP
Prime Minister

Mr Andrew Wilkie MP -elect
Member-Elect for Denison



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Independent Senator for South Australia
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Independent Member for Denison
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Wednesday 29 September 2010

Dear Member,

RE: Response to claims by Clubs Australia regarding poker machine reform

You may be aware of recent reports that Clubs Australia Executive Director, Anthony Ball, has been leading what has been described as a highly organised campaign against poker machine reform.

We write to provide some background surrounding this issue, and to offer to meet with any Member or Senator who wishes to discuss this matter further.

We also seek to provide some additional information relating to unsubstantiated claims made by Clubs Australia in recent weeks.

On 23 June 2010, the Government released the Productivity Commission's Report into Gambling.

What the Productivity Commission said –

The Productivity Commission concluded that *"the number of Australians categorised as 'problem gamblers' ranges around 115,000, with people categorised as at 'moderate risk' ranging around 280,000"*¹.

The PC concluded that *"most policy interest centres on people playing regularly on the 'pokies'. Around 600,000 Australians (4 percent of the adult population) play at least weekly"*².

The PC also found that *"around 15 percent of these regular players are 'problem gamblers'," and "their share of total spending on machines is estimated to range around 40 percent"*³.

¹ Productivity Commission Inquiry Report into Gambling 2010, pg 2

² Productivity Commission Inquiry Report into Gambling 2010, pg 2

³ Productivity Commission Inquiry Report into Gambling 2010, pg 2

This is because, as the report pointed out, using an average poker machine, *"it is easy to lose \$1200 or more in one hour"*⁴.

The PC concluded that the social cost of problem gambling was *"at least \$4.7 billion dollars a year"*⁵.

What the PC report recommended –

As a result the PC made a number of recommendations, including:

- * That the amount of cash that players can feed into machines at any one time should be limited to \$20 (currently it is up to \$10,000);
- * There are strong grounds to lower the bet limits to \$1 per button push, instead of the current \$5 and \$10;
- * Shutdown periods for gaming in hotels and clubs should commence earlier and be of longer duration;
- * There should be a progressive move over the next six years to implement full 'pre-commitment' systems which allow players to set binding limits on their losses;
- * There should be increased 'warning displays' and 'cost of play displays' on poker machines which tell individual gamblers how much they will lose in a set time period if they continue playing at their current level of gambling intensity; and,
- * ATMs should be relocated away from gaming floors and a \$250 daily cash withdrawal limit should be imposed.⁶

What the Government has agreed to –

The Gillard Government has agreed to implement *"a best practice full pre-commitment scheme – that is uniform across all States and Territories and machines – consistent with the recommendations and findings of the Productivity Commission"*⁷.

Implementation will commence in 2012 with the full pre-commitment scheme commencing in 2014. The Government also agreed to support the recommendations of the Productivity Commission in relation to warning displays and cost of play displays on machines and to implement a \$250 daily withdrawal limit for ATM with poker machines (excluding casinos).

The Federal Government acknowledged that these reforms should initially be attempted through consensus with the States and Territories, but if this consensus could not be reached by 31 May 2011 the Federal Government agreed to act unilaterally, passing the necessary legislation by Budget 2012.

⁴ Productivity Commission Inquiry Report into Gambling 2010, pg 2

⁵ Productivity Commission Inquiry Report into Gambling 2010, pg 2

⁶ Productivity Commission Inquiry Report into Gambling 2010, pg 2 and 3

⁷ The Hon Julia Gillard & Mr Andrew Wilkie Agreement, 02 September 2010

What Clubs Australia has been claiming –

Clubs Australia has frequently made the claim that only 0.5 percent of Australians are problem gamblers.

According to the Productivity Commission statistics like this are "*misleading*"⁸.

As the Productivity Commission concluded:

*"It is common to report prevalence as a proportion of the adult population, but this can be misleading for policy purposes, given that most people do not gamble regularly or on gambling forms that present significant difficulties."*⁹

The PC report is unambiguous. Of those who regularly play poker machines, "*15 percent are 'problem gamblers' and they are responsible for 40 percent of the money lost*"¹⁰.

Clubs Australia has also claimed that a system of mandatory pre-commitment for all poker machines would be "*completely untested*"¹¹. Again, this is not true.

There have been results on full pre-commitment in Norway, as well as studies of optional pre-commitment in Nova Scotia. There are also optional pre-commitment schemes being tested here in Australia, in Queensland and South Australia. Clubs Australia would be aware of these studies.

Clubs Australia Executive Director, Anthony Ball, has also claimed that problem gambling is higher in Tasmania where ATMs are banned from venues, compared with other states such as NSW, Queensland and South Australia.

What he has failed to point out is that there are two recognised categories of problem gamblers; 'problem gamblers' and 'those at moderate risk of becoming a problem gambler'.

The number of people at 'moderate risk of becoming a problem gambler' is higher in all of those states and if you count those groups together, Tasmania actually has the lowest rate of problem gambling.

Clubs Australia has also argued that a full pre-commitment scheme would be an unfair burden on recreational gamblers. They offer no evidence to support this claim.

However, there is significant evidence to prove that this claim is simply wrong.

For example, a Victorian Government study titled 'Impact of Gambling Machine Characteristics on Play Behaviour of Recreational Gamblers, released in September 2009 concluded:

*"From a recreational gambler perspective, it is quite apparent that the new policy decision of compulsory limits during play is not likely to adversely impact the gaming experience of recreational gamblers, as most indicate that this would only very marginally affect their play. Similarly, the same applies to the concept of having a compulsory set limit past a certain expenditure point – this was not seen as a major issue for recreational gamblers and hardly affected play enjoyment."*¹²

⁸ Productivity Commission Inquiry Report into Gambling 2010, pg 2

⁹ Productivity Commission Inquiry Report into Gambling 2010, pg 2

¹⁰ Productivity Commission Inquiry Report into Gambling 2010, pg 2

¹¹ Media Release: Clubs Australia, 02 September 2010

¹² Impact of Gambling Machine Characteristics on Play Behaviour of Recreational Gamblers, September 2009

Clubs NSW has also claimed that if their machines were made safer they would have to reduce their community contributions.

Much is made by Club Australia about these contributions, but the Productivity Commission has questioned the value of these claimed contributions, making the following conclusions:

- * Many of the benefits go to members, not the public at large; and,
- * The gross value of social contributions by clubs is likely to be significantly less than the support governments provide to clubs through tax and other concessions.¹³

In other words, according to the PC, the clubs industry takes much more tax breaks than it gives back in community benefits.

Clubs Australia has also tried to argue that any move to make machines safer would cost jobs. The Productivity Commission also rejects this.

It says:

*"Many people are employed in the gambling industry. However, most are highly employable and would be in demand in other parts of the service sector were the gambling industry to contract. In that sense, the gambling industries do not create net employment benefits because they divert employment from one part of the economy to the other."*¹⁴

A report commissioned by the Tasmanian Department of Treasury and prepared by the South Australian Centre for Economic Studies found that:

*"Gambling facilities employed an average of 3.2 persons per \$1 million in gambling income, 8.3 persons per \$1 million income from sales of liquor and other beverages and 20 persons per \$1 million income from meal and food sales."*¹⁵

Clubs Australia Executive Director, Anthony Ball, has rejected the PC's claim that around 40 percent of poker machine revenue comes from problem gamblers.

In a submission to the New South Wales Independent Pricing and Regulatory Tribunal, Clubs Australia argued that the figure was 23.1 percent.¹⁶ They offered no evidence to support this.

But even if we did accept this seemingly arbitrary figure, the clubs industry is conceding that at least \$800 million in poker machine losses in their own clubs is coming from problem gamblers – people who shouldn't be on their machines.

Mr Ball is on the record as saying he supports *"people's right to set their own limits on what they can afford to spend gambling"*¹⁷.

A full pre-commitment system, as proposed by the Government, will achieve this.

We would respectfully suggest to Mr Ball and clubs around Australia that if they truly support a person's right to set their own limits, they must also support a person's right to set those limits before they enter a venue and for those limits to be binding.

¹³ Productivity Commission Inquiry Report into Gambling 2010, pg 6.1

¹⁴ Productivity Commission Inquiry Report into Gambling 2010, pg 6.1

¹⁵ South Australian Centre for Economic Studies, June 2008, pg vii

¹⁶ Clubs Australia Submission to Productivity Commission Inquiry Report into Gambling 2010, pg 92

¹⁷ Media Release: Clubs Australia, 02 September 2010

We would once again like to extend our offer to meet with any Member or Senator who would like to discuss this issue further.

Alternatively we are happy to work towards making ourselves available to sit in on any meetings you may be having with clubs, if you see value in that option.

Please do not hesitate to contact our offices if you have any queries at all.

Yours Sincerely,

NICK XENOPHON
Independent Senator for South Australia

ANDREW WILKIE
Independent Member for Denison

Australian Greens Additional Comments

The Australian Greens noted conflicting evidence from witnesses including the representatives of the churches and Clubs Australia regarding both the effectiveness and cost of implementing dollar bet limits on electronic gaming machines in Australia over a time period of five years or more. Greater clarity around this issue would assist the public debate when future reforms are considered, especially around the practicality of various timelines, the actual costs to industry, and the impact of previous changes to bet limits in state jurisdictions. Further evidence on the effectiveness of bet limits in limiting the harms of problem gambling is also desirable.

Recommendation 1

That the Australian Gambling Research Centre should prioritise research into the effectiveness and cost of implementing national bet limits on poker machines in Australia.

Senator Richard Di Natale

Appendix 1

Submissions received

Submission No.

1. Dr Anne Twomey
2. Maxgaming
3. Regis Controls
4. Australian Churches Gambling Taskforce
5. Department of Racing, Gaming and Liquor, WA
6. Responsible Gaming Networks
7. Clubs Australia
8. Name Withheld
9. Independent Gambling Authority, SA
10. Gaming Technologies Association Limited
11. Dr Samantha Thomas
12. Northern Territory Government
13. ACT Council of Social Service
14. Australian Hotels Association
15. Aristocrat
16. ATM Industry Reference Group
17. RSL and Services Clubs
18. Office of the Australian Information Commissioner
19. The Australian Psychological Society
20. South Australian Government

Additional Information Received

1. Tabled document from the Department of Families, Housing, Community Services and Indigenous Affairs, at Canberra public hearing 13 November 2012
2. Tabled document from the Department of Families, Housing, Community Services and Indigenous Affairs, at Canberra public hearing 13 November 2012

Answers to Questions on Notice

1. ATM Industry Reference Group, taken on notice 13 November 2012, received 16 November 2012
2. Clubs Australia, taken on notice 13 November 2012, received 16 November 2012
3. Department of Families, Housing, Community Services and Indigenous Affairs, taken on notice 13 November 2012, received 16 and 20 November 2012
4. Australian Churches Gambling Taskforce, taken on notice 13 November 2012, received 16 November 2012
5. Gaming Technologies Association, taken on notice 13 November 2012, received 16 November 2012

Appendix 2

Public Hearings and Witnesses

Tuesday, 13 November 2012 – Canberra, ACT

Department of Families, Housing, Community Services and Indigenous Affairs

Mr David Agnew, Branch Manager, Problem Gambling Taskforce

Ms Liza Carroll, Deputy Secretary

Ms Leesa Croke, Branch Manager, Problem Gambling Taskforce

Mr Anthony Field, Group Manager, Legal and Compliance

Independent Gambling Authority

Mr Robert Chappell, Director

Australian Churches Gambling Taskforce

Reverend Tim Costello, Chair

Major Brad Halse, Member

Ms Lin Hatfield Dodds, Member

Associate Professor Paul Howard Delfabbro

Gaming Technologies Association

Mr Ross Ferrar, Chief Executive Officer

ClubsACT

Mr Jeff House, Chief Executive Officer

Clubs Australia

Mr Josh Landis, Executive Manager - Policy and Government

Mr Peter Newell, President

ATM Industry Reference Group

Mr Paul Anthony Stewart, General Manager, The Banktech Group

Mr Lee John Whitney, General Manager, Cashcard Australia

Mr Andrew Kenneth Wingrove

Australian Hotels Association

Mr John Whelan, Director, Responsible Gaming