



Parliamentary Joint Select Committee on Gambling Reform

Final report

The Poker Machine Harm Reduction (\$1 Bets
and Other Measures) Bill 2012

Anti-Money Laundering Amendment (Gaming
Machine Venues) Bill 2012

Interactive Gambling Amendment (Virtual
Credits) Bill 2013

June 2013

© Commonwealth of Australia 2013

ISBN 978-1-74229-873-3

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

Committee Membership

Members

Mr Andrew Wilkie MP (Chair)	Tasmania, IND
Ms Gai Brodtmann (Deputy Chair)	Australian Capital Territory, ALP
Senator the Hon Kim Carr (from 14 May 2013)	Victoria, ALP
Mr Steven Ciobo MP	Queensland, LP
Mr Josh Frydenberg MP	Victoria, LP
Mr Stephen Jones MP	New South Wales, ALP
Mr Shayne Neumann MP (to 12 February 2013)	Queensland, ALP
The Hon Robert McClelland MP (from 12 February 2013)	New South Wales, ALP
Senator Louise Pratt	Western Australia, ALP
Senator Matt Thistlethwaite (to 14 May 2013)	New South Wales, ALP
Senator Nick Xenophon	South Australia, IND

Participating members

Senator Richard Di Natale	Victoria, AG
Senator John Madigan	Victoria, DLP

Secretariat

Ms Lyn Beverley, Committee Secretary

Ms Natasha Rusjakovski, Principal Research Officer

Ms Ruth Edwards, Administrative Officer (to 3 May 2013)

Ms Lauren Carnevale, Administrative Officer

PO Box 6100

Parliament House

Canberra ACT 2600

Ph: 02 6277 3113

Fax: 02 6277 5952

Email: gamblingreform@aph.gov.au

Internet:

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=gamblingreform_ctte/index.htm

Table of Contents

Committee Membership	iii
Chair's Preface	ix
Recommendations	xiii
Chapter 1	1
Introduction	1
Structure of the report.....	3
Chapter 2	5
The Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012	5
Background	5
Conduct of the inquiry.....	5
Purpose of the bill	5
Timeline for implementation.....	6
Key provisions of the bill	6
Note on references.....	7
Acknowledgement.....	7
Chapter 3	9
Key issues raised with the committee	9
Support for harm minimisation.....	9
Issues raised with the committee.....	10
Would the bill achieve its aims?.....	13
Reforms already underway.....	16
Conclusion.....	20
Chapter 4	23
Anti-Money Laundering Amendment (Gaming Machine Venues)	
Bill 2012	23
Conduct of the inquiry.....	23

Purpose of the bill.....	23
Chapter 5.....	27
Interactive Gambling Amendment (Virtual Credits) Bill 2013.....	27
Conduct of the inquiry.....	27
Acknowledgement.....	27
Purpose of the bill.....	27
Key provisions of the bill	27
Background.....	28
Chapter 6.....	31
Key issues raised with the committee.....	31
Scope of the bill.....	31
Government action	34
Consumer protection	40
Dissenting report by the Chair and Senators Xenophon, Di Natale and Madigan	43
The Poker Machine Harm Reduction (\$1 Bets and Other Measures)	
Bill 2012	43
Introduction	43
The damage done.....	43
The cost of inaction	45
The key measures	47
Other issues	48
Conclusion.....	51
Anti-Money Laundering Amendment (Gaming Machines Venues) Bill 2012..	51
Interactive Gambling Amendment (Virtual Credits) Bill 2013	52
Coalition committee members' additional comments.....	57
Lack of evidence.....	57
Unnecessary legislation.....	58
The bill is predicated on incorrect premises.....	58
Targeting non-problem gamblers and industry	58
Conclusion.....	59

Appendix 1	61
Submissions received	61
Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012	61
Anti-Money Laundering Amendment (Gaming Machines Venues) Bill 2012	61
Interactive Gambling Amendment (Virtual Credits) Bill 2013	62
Appendix 2	63
Public hearings and witnesses	63
Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012	63

Chair's Preface

On the occasion of the committee's sixth and final report I take this opportunity to provide a few final comments on the work of the committee over the past almost three years.

First thank you to my fellow committee members. Many of them have been with the committee since its beginning and I wish to thank them all for their spirit of cooperation in this important area. The committee has produced valuable work which I trust will continue to further progress reforms to minimise harm from gambling.

Throughout its reports the committee had the benefit of the work undertaken in 1999 and 2010 by the Productivity Commission and the committee has worked its way through the same areas. The committee has covered most forms of gambling in its six reports.¹

The committee's **first report** covered the design and implementation of a mandatory pre-commitment system for electronic gaming machines. The government response to this is examined in the committee's **fourth report**: National Gambling Reform Bill 2012 and related bills.

My personal view is that I wish the government had gone further and achieved more during the Parliament in the area of poker machine reform. The opportunity for real reform was not fully realised and this is deeply disappointing.

However, the government legislation is a start. It is a modest reform and I have tried my best to improve it. Importantly, it will allow the federal government to progress gambling reform which until now has been the exclusive domain of the states and territories. It puts them on notice that harm minimisation measures must be effective or the federal government will take further action. I hope it serves as a stepping stone to more effective harm minimisation measures such as mandatory pre-commitment and/or \$1 maximum bets.

The committee's **second report** covered interactive and online gambling and gambling advertising and the Interactive Gambling and Broadcasting Amendment (Online Transactions and Other Measures) Bill 2011.

Online gambling was another area the committee reviewed and this encompassed access to casino type games via overseas sites and sports wagering via domestic providers. In this report I originally indicated that the best response to Australians using unregulated overseas websites to access casino-type games would be to allow Australian operators to offer limited gaming options with appropriate harm minimisation and consumer protection measures in place. But having seen more evidence and taken more advice I have decided that the best response is not to

1 Two other bills were referred to the committee but the committee decided not to conduct inquiries into them due to overlapping subject matter: Poker Machine Harm Reduction Tax (Administration) Bill 2008 and Poker Machine (Reduced Losses – Interim Measures) Bill 2010.

liberalise the Australian market, but rather to tighten it up and put in place strategies to deter Australians from accessing the dangerous offshore sites.²

Given the continuing concern over the promotion of gambling services in sport, the committee undertook a short inquiry to update the information on this area in its second report. The committee's **fifth report** covers the advertising and promotion of gambling services in sport and a related bill.

As in the committee's second report I again called for a total ban not only on live odds promotion but all gambling advertising during sport. I believe this is the only sufficiently cautious approach given the level of community concern over the high level of exposure of children to betting promotion.

The committee's **third report** considered the prevention and treatment of problem gambling.

During all its inquiries, but particularly during its third inquiry, the committee has emphasised the importance of a public or population health approach to address problem gambling.³ When applied to gambling this emphasises the importance of preventative measures as well as treatment and emphasises the responsibility of all stakeholders⁴ to minimise harm and not just the individual. In contrast, the industry wants to keep the focus on the individual, on individual responsibility. It wants to keep the focus off poker machines in particular because any change to the machines will threaten the revenue stream from problem gamblers.

This **sixth report** covers the remaining matters referred to the committee:

- Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012;
- Anti-Money Laundering Amendment (Gaming Machine Venues) Bill 2012; and
- Interactive Gambling Amendment (Virtual Credits) Bill 2013.

During all its inquiries the committee heard about the need for more research, the need to improve the evidence base, fill knowledge and data gaps, improve coordination and develop the national research capacity. These gaps in data collection and inconsistencies across gambling surveys conducted by the states and territories were also highlighted by the Productivity Commission (PC). These shortcomings limit research capacity and policy development. The PC and the committee recommended a national independent gambling research centre to drive and coordinate national research efforts.

2 Mr Andrew Wilkie MP, 'Government online gambling copout', *media release*, 12 March 2013.

3 This considers the health of the entire population, rather than just those already ill or at risk of illness. It emphasises an orientation towards whole groups rather than individuals and complements approaches that seek to treat individuals. It tends to be multi-sectorial and takes into consideration socio-economic as well as clinical factors.

4 For example, government, industry, community and individual.

I note that the Australian Gambling Research Centre (AGRC) within the Australian Institute of Family Studies will be established from July 2013. The government has indicated that many of the committee's recommendations will be relevant to the work of the AGRC and that the committee's work will inform consideration of their forward work agenda. While this does not completely fulfil the committee's recommendation I hope it will be a way of helping to address the current gaps and progressing appropriate and necessary research. However, I remain concerned about the need for a national minimum dataset on gambling in line with the recommendation by the PC and the need for governments to publicly provide a basic level of nationally consistent and timely industry data on gambling. I am also left with concerns about issues around research independence and the need for transparency around the input of industry.

I wish to thank all the people and organisations who contributed to the committee's inquiries. In particular I single out the people who had dealt with or who were dealing with gambling problems who bravely told the committee their stories in order to see changes made. I am sorry the government lost its nerve on the issue of poker machines despite the overwhelming calls for change.

I know it will be up to a future government to implement more effective harm minimisation measures such as mandatory pre-commitment or maximum \$1 bets. The government legislation will ensure the system and machines will be ready and I hope that a strong government with a good heart will take that step. I trust that the work of the committee has and will continue to assist that process.

Mr Andrew Wilkie MP
Chair

Recommendations

Recommendation 1

3.59 The committee recommends that the Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012 not be passed.

Recommendation 2

4.13 The committee recommends that the Anti-Money Laundering Amendment (Gaming Machines Venues) Bill 2012 not be passed.

Recommendation 3

6.46 The committee recommends that the Interactive Gambling Amendment (Virtual Credits) Bill 2013 not be passed.

Chapter 1

Introduction

1.1 This is the final report of the Joint Select Committee on Gambling Reform. The committee was established on 30 September 2010 to inquire into and report on a number of areas, detailed below, and present its final report no later than 30 June 2013.¹

1.2 The committee has tabled six reports covering references and legislation:

- the **first** report covered the design and implementation of a mandatory pre-commitment system for electronic gaming machines;
- the **second** report covered interactive and online gambling and gambling advertising and the Interactive Gambling and Broadcasting Amendment (Online Transactions and Other Measures) Bill 2011;
- the **third** report covered the prevention and treatment of problem gambling;
- the **fourth** report covered the National Gambling Reform Bill 2012 and related bills; and
- the **fifth** report covered the advertising and promotion of gambling services in sport and a related bill.

1.3 The committee will briefly revisit its initial Terms of Reference to record the committee's actions and decisions. The committee was asked to inquire into and report on:

- (i) The Productivity Commission report on gambling, released in June 2010, including a national response to the full set of its recommendations;

1.4 Established in 2010, the terms of reference for the COAG Select Council on Gambling Reform indicate that, considering the recommendations of the Productivity Commission report, it was to develop a national approach to minimise harm from problem gambling. It was also to advise COAG on monitoring and implementing the recommendations. The final report to COAG was due by the end of 2011. This appears not to have occurred. The Council has met three times since 2010 with its most recent meeting held 27 May 2011.² In an effort to provide as much information as possible which could be used as input for such work, through its six reports, the committee has covered the key areas in the 2010 Productivity Commission report.

- (ii) The design and implementation of a best practice full pre-commitment scheme – that is uniform across all States and Territories and machines -

1 *Journals of the Senate*, No. 3—30 September 2010, pp 141–142.

2 See <http://www.fahcsia.gov.au/our-responsibilities/communities-and-vulnerable-people/programs-services/problem-gambling/coag-select-council-on-gambling-reform> (accessed 7 May 2013). The website notes that the remit of the Select Council on Gambling Reform expired in December 2011.

consistent with the recommendations and findings of the Productivity Commission.

1.5 This issue was covered in the committee's first report.

(iii) Legal advice commissioned and received by the Commonwealth by 1 February 2011 regarding the Commonwealth's constitutional competence and prospects for successfully legislating in this area, including the reasoning supporting the legal advice and financial and other consequences flowing from it.

1.6 The committee received the legal advice from the government by 1 February 2011. It decided not to conduct a separate inquiry into this area but noted it would be covered when the government legislation was introduced. Ultimately it was not a key issue raised with the committee during its inquiry into the National Gambling Reform Bill 2012 and related bills (fourth report).

(iv) Any gambling-related legislation that has been tabled in either House, either as a first reading or exposure draft;

1.7 Bills referred to the committee were examined in the committee's second, fourth, fifth and sixth reports.

(v) Appropriate terms of reference, to be set by no later than 30 June 2013, of a further Productivity Commission Inquiry to examine the impact of pre-commitment schemes on problem gambling and to determine what further harm minimisation measures may be necessary.

1.8 This requirement was overtaken by the government's gambling legislation which required the Productivity Commission to undertake a review of assessment of progress in complying with the requirements around pre-commitment. The committee recommended that several areas be included in the 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.³

(vi) Monitoring the impact of reforms to address problem gambling.

1.9 This was covered in the committee's third, fourth, fifth and sixth reports.

(vii) Such other matters relating to gambling referred by either House.

1.10 This was covered in the committee's second, third, and fifth reports.

1.11 This **sixth** and final report covers the remaining matters referred to the committee:

- Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012;

3 See Joint Select Committee on Gambling Reform, *Fourth Report: National Gambling Reform Bill 2012 and Related bills*, p. 34.

- Anti-Money Laundering Amendment (Gaming Machine Venues) Bill 2012; and
- Interactive Gambling Amendment (Virtual Credits) Bill 2013.

Structure of the report

1.12 Chapters 2 and 3 cover the Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012.

1.13 The Anti-Money Laundering Amendment (Gaming Machine Venues) Bill 2012 is detailed in Chapter 4; and

1.14 The Interactive Gambling Amendment (Virtual Credits) Bill 2013 is covered in Chapters 5 and 6.

Chapter 2

The Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012

Background

2.1 The Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012 (the bill) was introduced in the Senate on 22 March 2012.¹ Pursuant to the resolution of appointment of the Joint Select Committee on Gambling Reform the bill was referred to the committee for inquiry and report.² The bill was sponsored by Senator Richard Di Natale, Senator John Madigan and Senator Nick Xenophon.

2.2 In order to assist submitters, the committee originally decided to consider this legislation together with the government gambling reform legislation when it was introduced into the House of Representatives. On 18 September 2012, noting the government legislation had not yet been introduced, the committee decided to commence this inquiry. When the government gambling reform legislation was ultimately introduced in November 2012,³ the committee decided to continue with its inquiry into the \$1 bets legislation and report separately.

Conduct of the inquiry

2.3 The committee advertised the inquiry on its website. The committee also wrote to a number of organisations and individuals inviting submissions by 31 October 2012. The committee received 17 submissions, which are listed at the end of this report, in Appendix 1.

2.4 A public hearing for the inquiry was held in Canberra on 22 February 2013. A list of witnesses who appeared at the hearing is at Appendix 2, while the Hansard transcript is available online.⁴

Purpose of the bill

2.5 The bill's overarching aim is to reduce the harm caused by problem gambling. It seeks to achieve this by regulating the operation of poker machines, specifically through limiting the rate of loss experienced by players.

1 *Journals of the Senate*, 22 March 2012, p. 2362.

2 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*, No. 3—30 September 2010, pp 141–142.

3 See Parliamentary Joint Select Committee on Gambling Reform, *Fourth report, National Gambling Reform Bill 2012 and related bills*, November 2012.

4 Available at: http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=gambling_reform_ctte/poker_machine_harm_reduction/hearings/index.htm (accessed 10 May 2013).

2.6 To achieve this, the bill aims to regulate four parameters: acceptable banknote denomination, entering credit limits, maximum bet amounts/jackpots and linked-jackpot arrangements. The bill would:

- prevent poker machines from accepting banknotes of a denomination greater than \$20;
- prevent poker machines from accepting additional credits from a player while the machine stands in credit of \$20 or more to the player;
- prevent poker machines from allowing maximum bets in excess of \$1 per spin; and
- limit poker machine jackpots or linked-jackpot arrangements greater than \$500.⁵

2.7 The bill would also provide for a reduction in the poker machine spin rate.

Timeline for implementation

2.8 The bill sets out a timeline for implementation of the proposed measures.

2.9 Subclause 7(1) of the bill stipulates that from 1 January 2013 machines should no longer be able to be sold unless they are capable of supporting the specified limits.⁶

2.10 From 1 January 2017 machines would not be sold unless they operate only in accordance with the proposed limits. In venues with more than 10 machines, all machines are to be operated in accordance with those limits.⁷

2.11 From 1 January 2019 venues with 10 or fewer machines would only be able to operate compliant machines.⁸

Key provisions of the bill

2.12 The bill has five parts. Part 1 covers preliminary issues. Clause 5 of Part 1 indicates that the Act is not intended to exclude or limit the concurrent operations of any law of a state or territory to the extent that the law is capable of operating concurrently with the Act.⁹

2.13 Clause 6 of Part 1 sets out definitions. It defines a 'corporation' as a corporate entity to which paragraph 51(xx) of the Constitution applies. 'Jackpot' is defined as the result of a game that pays the maximum payable winnings. 'Spin rate' is defined as the interval between spins on a poker machine.¹⁰

5 Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012, clause 8.

6 Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012, subclause 7(1).

7 Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012, subclauses 7(2) and (3).

8 Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012, subclause 7(4).

9 Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012, Explanatory Memorandum, p. 3.

10 Explanatory Memorandum, p. 3.

2.14 Part 2 outlines the restrictions on the practical operation of poker machines. Clause 7 of Part 2 sets out restrictions on the sale and operation of poker machines that do not comply with the loss-limiting measures specified in the bill. It states:

- after 31 December 2012, a corporation must not sell or lease (or offer to sell or lease) a poker machine unless it is capable of complying with the requirements in clause 8 of the bill (i.e., that it can be operated in a mode that complies, whether or not this is the default or only mode of operation);
- after 31 December 2016, a corporation must not sell or lease (or offer to sell or lease) a poker machine unless the machine complies with the requirements set out in clause 8;
- after 31 December 2016, a licensed venue with more than 10 poker machines must not acquire, install, own, operate or lease a poker machine unless that machine complies with the requirements set out in clause 8; and
- venues which have 10 or fewer poker machines have until 31 December 2018 to ensure that their machines are compliant with the requirements set out in clause 8.¹¹

2.15 Part 3 outlines civil penalties which would apply for contravention of civil penalty provisions set out in clause 7.

2.16 Part 4 of the bill sketches out the minimum uniform national standards for poker machines in relation to harm minimisation. It also provides for a national monitoring network.

2.17 Part 5 covers miscellaneous matters.

Note on references

2.18 References in this report are to individual submissions as received by the committee, not to a bound volume.

Acknowledgement

2.19 The committee thanks those organisations and individuals who made submissions to this inquiry and gave evidence at the committee's public hearing.

11 See Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012, clause 7.

Chapter 3

Key issues raised with the committee

3.1 The committee considered all evidence presented over the course of this inquiry. In doing so the committee sought to assess the stated aims of the Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012 (the bill) against submitter concerns regarding the potential inadequacy of evidence to support the proposed measures.

Support for harm minimisation

3.2 Support for the bill's objective—effective harm minimisation—was considerable. The committee shares the community's concerns about problem gambling and supports the implementation of effective harm minimisation strategies.

3.3 It is evident from research cited by submitters that electronic gaming machines (EGMs)—poker machines—account for the vast majority of problem gambling behaviour.¹ This harm (as well as the flow-on negative social effects it leads to) is inherent in problem gambling and is particularly pronounced among vulnerable sectors of the community: low income earners, seniors, the socially isolated and the young. The social costs of problem gambling are considerable and demand deep contemplation. As put by FamilyVoice Australia:

The fundamental social question is whether the alleged benefits of gaming machines – revenue for non-profit clubs and enjoyment for "recreational" non-problem gamblers – are worth the social costs associated with problem gambling.²

3.4 These negative effects—both immediate and flow-on—are recognised by a variety of stakeholders, from social welfare groups to industry representatives.³

3.5 The committee's position is that these challenges are best addressed through cooperation by all involved parties, as such an approach stands the best chance of success. As put by the AHL Group:

Problem gambling is a complex social issue, requiring an integrated package of measures from the Federal Government that are implemented with strong co-operation from the States and with full support from the hotel and gaming industries and the wider community.⁴

1 See for example Municipal Association of Victoria, *Submission 2*, p. 1.

2 FamilyVoice Australia, *Submission 3*, p. 1.

3 See ALH Group, *Submission 16*, p. 1.

4 ALH Group, *Submission 16*, p. 4.

Issues raised with the committee

3.6 Although support for the bill's objective was widespread, submitters and witnesses were divided on whether the measures proposed in the bill could in practice achieve the bill's stated objective as effectively as intended. Key issues identified are outlined below.

Complexity

3.7 Questions were raised about the complexity of the proposed changes, and the committee assessed evidence received on this issue.

3.8 The Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), for example, informed the committee that placing \$1 bet limits and applying other low intensity parameters may be neither simple nor affordable. FaHCSIA's advice, based on consultation with gaming machine manufacturers, subsidiary providers and independent technical experts, was that implementing the proposed measures would necessitate the design and development of new poker machine software. In effect, FaHCSIA suggested, it would require individual games to be re-designed in order to operate under the new limit.⁵

3.9 Echoing this view, Gaming Technologies Australia stated that implementation of the measures outlined in the bill would require substantial software changes to every poker machine in Australia.⁶ As put by Mr Ross Ferrar, Chief Executive Officer:

Another myth is that it is easy and cheap to change the software in all Australia's 200,000 poker machines to accommodate a \$1 maximum bet and \$500 maximum pay. This would require that the game software in every poker machine be redeveloped, reaccredited, reapproved and reinstalled. This is neither easy nor cheap, as we have previously advised.⁷

3.10 Writing in support of the proposed measures, Dr Charles Livingstone had a different view:

Imposition of a \$1 maximum bet, preferably coupled with the introduction of low maximum prizes (\$500 or less) would result in little inconvenience to gamblers, and could be introduced over a period of time that would permit venue operators to replace machines (or, more likely, game software) gradually. It would almost certainly result in significant reductions in the harm generating possibility of EGMs.⁸

3.11 The committee also notes that lowering of maximum bets in Victoria from \$10 to \$5 through machine software upgrades did not present the industry with

5 Department of Families, Housing, Community Services and Indigenous Affairs, *Submission 5*, pp 1–2.

6 Gaming Technologies Association, *Submission 4*, p. 4.

7 Mr Ross Ferrar, Chief Executive Officer, Gaming Technologies Australia, *Committee Hansard*, 22 February 2013, p. 15.

8 Dr Charles Livingstone, *Submission 17*, pp 9–10.

significant difficulty. This point was underscored at a hearing held during this inquiry.⁹

Cost

3.12 A number of submitters cited cost as a significant impediment to implementing the proposed changes, with the overall cost of immediate reconfiguration estimated to be approximately \$2.5 billion.¹⁰

3.13 FaHCSIA put forward the advice it obtained regarding cost:

The advice that we in the department have received is that the switch to a \$1 bet limit requires a change of software—and \$1 bet game software does not exist at the moment. It is new. That is different to \$5 bet limits and \$10 bet limits. So we are talking about a new piece of software that does not exist currently. The advice that we had was that it would cost anywhere from around \$2,000 up to \$9,000 for the software change. That is on a per machine basis, but that does not include some of the more cosmetic changes to electronic gaming machines. So it might be around the cost of new signage, display and messages. That button now has to have \$1 displayed on it for people to recognise that it is a \$1 bet.

...

Also, if the machines are completely incapable of supporting the software there will need to be whole new machines.¹¹

3.14 These costs, according to a submission from the New South Wales Government, are not justified, because research does not conclusively show that bet, jackpot and cash input limits would 'slow the intensity of gaming machine play.'¹²

3.15 Accepting that the proposed measures would come at a cost to industry, other submitters nonetheless saw the reforms as worthwhile:

This is a feasible and reasonable reform which has foreseeable consequences and can be readily managed. It will result in revenue losses to industry and government; however the reduction in avoidable harm resulting from this would easily justify the reform, noting in particular that both the Productivity Commission and Victorian Commission for Efficiency and Competition inquiries into this issue have identified that the economic effects of gambling are not specific to that industry, and that

9 See Dr Ralph Lattimore, Assistant Commissioner, Productivity Commission, *Committee Hansard*, 22 February 2013, p. 8; Dr Mark Zirnsak, Australian Churches Gambling Taskforce, *Committee Hansard*, 22 February 2013, p. 24.

10 Gaming Technologies Association, *Submission 4*, p. 4.

11 Ms Leesa Croke, Acting Group Manager, Problem Gambling and SACS Group, Department of Families, Housing, Community Services and Indigenous Affairs, *Committee Hansard*, 22 February 2013, p. 45.

12 New South Wales (NSW) Government, *Submission 8*, pp 2–3.

gambling expenditure would be readily transferable to other economic purposes with the same, or better economic consequences flowing.¹³

3.16 The committee noted the argument that costs would predominantly be borne by sections of the industry that could well afford the expenditure. In this vein, Dr Charles Livingstone pointed out that the reforms, if implemented, would have the greatest impact on large operators, rather than small clubs:

...[T]his reform is likely to have the least impact on small local clubs which are associated with higher levels of community benefit. The largest impact would be on venues operating highly efficient and lucrative gambling operations at high intensity, which are also associated with the greatest level of harm generation.¹⁴

3.17 Despite discussion around the fine detail of who would bear the brunt of the cost, the reality that money would need to be invested in order to secure the proposed reforms was generally accepted. The Productivity Commission, for one, acknowledged that the cost of implementation is a real issue which must be considered:

There are genuine issues about the cost of undertaking these measures. Again, one has got to be very careful about correctly calculating those. In a number of cases, people have drawn attention to costs which are almost certainly significant exaggerations of the real costs. Nevertheless, the commission took seriously the fact that an immediate transition to a \$1 bet limit would involve significant costs for venues. For that reason, we suggested that the best approach was to build in a capability for the machines to go to a dollar bet limit so that new machines had that capability. They could be introduced in the normal cycle of replacement and then have that capability switched on at some time in the future. We thought that the time in the future should be a bit longer for the smallest venues, given that they would face some of the bigger costs given the very nature of those venues. We did recognise that costs were important.¹⁵

Committee view

3.18 The committee notes concerns regarding the cost of poker machine reconfiguration, specifically those voiced by industry. While the committee considers these costs to be secondary to the goal of harm minimisation, it is important to bear industry concerns in mind, particularly when it comes to legislation which may require considerable financial outlay.

3.19 The committee ultimately believes that policymakers' stance on this bill should be determined by the quality of the proposed legislation and the evidence—or lack thereof—in its favour. It is only feasible to argue for measures carrying a

13 Dr Charles Livingstone, *Submission 17*, p. 10.

14 Dr Charles Livingstone, *Submission 17*, p. 10.

15 Dr Ralph Lattimore, Assistant Commissioner, Productivity Commission, *Committee Hansard*, 22 February 2013, p. 6.

significant cost burden if the bill is likely to achieve significant gains in harm minimisation.

3.20 It is this question that the committee turns to next.

Would the bill achieve its aims?

3.21 The bill's Explanatory Memorandum states that the purpose of the proposed legislation is to limit the rate of loss poker machine users can experience.¹⁶ However, questions exist about whether evidence supports the assumption that poker machines which limit bet, cash jackpot and input maximum sizes are actually effective in minimising harm.

Limiting bets

3.22 The committee noted that the Productivity Commission supported lowered bet limits in its 2010 inquiry and report into gambling:

The Commission...considers that there are strong grounds to reduce the maximum intensity of play per button push well below the current \$5 and \$10 regulated limits. A limit of \$1 would strongly target problem gamblers, with little disturbance for others, and its widespread adoption would be feasible by 2016.¹⁷

3.23 A number of submitters also advocated imposing \$1 bet limits.¹⁸

3.24 Others, however, made the point that research is inconclusive on whether the limits themselves would contribute greatly towards harm minimisation efforts.¹⁹ As put by one submitter, the notion of limiting bets to one dollar in order to decrease the amount of money spent on poker machines is based on a number of assumptions which may or may not be correct:

...[T]he positive effect of a one dollar maximum bet on expenditure for those gambling more than one dollar is predicated on the assumptions that (a) such players would continue playing machines at the one dollar level or cease gambling, (b) not transition to other forms of gambling where no bet limits are applicable, for example, wagering (sports, horses), casino or Internet gambling, and/or (c) extend sessions of play such that the same level of losses are incurred but over longer timeframes of play.²⁰

3.25 Dr Ralph Lattimore of the Productivity Commission acknowledged fears that lowering intensity of play may have unintended consequences:

16 Explanatory Memorandum, Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012, p. 2.

17 Productivity Commission, *Gambling*, Vol.1, Commonwealth of Australia, Canberra, 2010 Overview, p. 26.

18 See for example Australian Churches Gambling Taskforce, *Submission 11*; Mission Australia, *Submission 13*; Gambling Impact Society (NSW), *Submission 14*.

19 See NSW Government, *Submission 8*, p. 3.

20 Professor Alex Blaszczynski, *Submission 1*, p. 3.

A concern raised by a number of people is whether a problem gambler faced with a lower intensity of play might prolong the period of time on the machine. You would certainly say that, theoretically, that was a concern.²¹

3.26 His subsequent explanation, however, suggested that this was not a simple equation to calculate:

There are two points to make in respect of that. First of all, Professor Blaszczynski, in his work some time ago, examined that question and did not find any significant increase in the playing time spent by problem gamblers in response to his particular in venue experiment. The other point to make is that...the required amount of extra time for you to get to the same player losses would obviously be a tenfold increase in time. That is a very appreciable increase in time which, for many practical reasons, would not be achievable by many problem gamblers. It would also raise the question of whether venues might have the greater opportunity to observe the person playing for those hours and to apply venue intervention. That does not mean to say that there is not any effect this way; it is likely that there will be some substitution between time and a \$1 bet limit if introduced.²²

3.27 Acknowledging the Productivity Commission's position on reducing bet limits, a submission from the Australasian Gaming Council (AGC) nonetheless pointed out that research on \$1 limits specifically was scarce:

Discussion in the body of the PC report, and referenced from other available sources, suggests that while regulating bet size in order to combat problem gambling has been a subject of consideration and debate for some years there is equally a clearly acknowledged lack of systematic research into *what* bet limit would be appropriate or evidence to show how any range of possible limits could impact on the play of gamblers in practice.²³

3.28 The AGC went on to cite a 2008 study which found that such limits—although intuitively appealing—are not necessarily supported by evidence demonstrating their effectiveness in practice. The evidence that problem gamblers would modify their behaviour when faced with \$1 bet limits, the AGC concluded, remains unclear.²⁴

Who will be helped by \$1 bet limits?

3.29 The committee also explored the question of which type of gamblers would stand to gain the most from the imposition of \$1 bet limits. To this end, the committee sought insight into the mindset of poker machine players and how this changes when

21 Dr Ralph Lattimore, Assistant Commissioner, Productivity Commission, *Committee Hansard*, 22 February 2013, p. 6.

22 Dr Ralph Lattimore, Assistant Commissioner, Productivity Commission, *Committee Hansard*, 22 February 2013, p. 6.

23 Australasian Gaming Council, *Submission 12*, p. 8.

24 AGC, *Submission 12*, pp 8–9.

the intensity of play is reduced. Professor Kevin Harrigan provided the following analysis:

Certainly the problem gamblers—and it took me a while to get my head around this—are there to gamble, so they want the time on the device. If you are a non-gambler, like me, if you won some money you might leave. But problem gamblers like to gamble. They do not leave when they have a \$100 win because they like to gamble. To them it is not so much the amount of the wager, it is how much time they can get on the device with their bankroll. For people who are non-problem gamblers, it is hard to say. But I have gone to slot machines at casinos, including in Australia, hundreds of times and everyone who is playing is basically playing flat out. I do not mean they are playing as fast as they can, but they do not look around for a while and then spin later; they tend to be spinning at a pretty good rate whether they are problem gamblers or not.²⁵

Possible unintended consequences?

3.30 Aristocrat Technologies Australia raised the spectre of unforeseen effects the bill may have. Rather than addressing and curbing problem gambling, the submission suggested that the bill may have the opposite effect, that is, it may drive problem gamblers to other, less regulated gambling environments.²⁶

3.31 Similarly, the committee became aware of concerns that decreasing the size of bets could create an incentive for people to gamble for longer instead. This may pose a particular risk for problem gamblers who continue to play poker machines while ever they have money remaining, regardless of how long that may be.

3.32 The committee put this to Professor Harrigan, asking whether there was a risk that problem gamblers would simply play for longer. Professor Harrigan confirmed that this was a risk but saw the potential for harm reduction:

Yes. I kind of see the \$1 limit as having more potential for harm reduction rather than for problem gamblers. The reason I say that is that the big factors for running into problems with gambling are loss of money and time away from family, loved ones, work and all of that. As a prevention tool, having a \$1 limit, compared to some higher limit, is reducing the possibility that the casual gamer could get out of control very quickly.²⁷

3.33 In this vein, submissions representing the views of the gambling industry explained that the cost to benefit ratio of introducing the proposed measures could render the reforms meaningless:

In the ACA's [Australasian Casino Association] view the likely end result will be that there will be little to no reduction in expenditure on the part of

25 Professor Kevin Harrigan, Research Associate Professor, University of Waterloo, Canada, *Committee Hansard*, 22 February 2013, p. 3.

26 Aristocrat Technologies Australia, *Submission 9*, p. 2.

27 Professor Kevin Harrigan, Research Associate Professor, University of Waterloo, Canada, *Committee Hansard*, 22 February 2013, p. 4.

problem gamblers but there will be significant reductions in expenditure on the part of recreational gamblers. This will have significant implications for the casino industry.²⁸

3.34 The ACA supported its position by highlighting that casinos are 'a key provider of tourism infrastructure, including hotels, restaurants and conference facilities that raise Australia's profile as a tourism destination' and attract large numbers of tourists to Australia. The proposed measures, ACA posited, stand to have a significant impact on the number of tourists that visit Australia and the quantity of money they spend on recreational gambling.²⁹

Limiting jackpots

3.35 Similarly, it was put to the committee that there is an absence of reliable research pointing to the effectiveness of a reduced jackpot limit. The NSW Government highlighted that the Productivity Commission's report on gambling did not itself recommend jackpot limits.³⁰

3.36 Instead, it was put to the committee that gamblers who spend more than they can afford are problem gamblers regardless of how high or low that sum might be.³¹

Limiting cash input

3.37 Similar arguments were put forth about the proposed \$20 cash input limit. The NSW Government, for one, posited that there was 'no conclusive research suggesting that a cash input limit of \$20 would slow the intensity of gaming machine play.'³²

3.38 The committee notes the call for further research in this area.

Reforms already underway

3.39 This bill is not the first or indeed only attempt made at tackling the evident harm caused by electronic gaming machines.

3.40 Key federal government measures being rolled out are outlined below.

Legislation

3.41 The *National Gambling Reform Act 2012* gives effect to the gambling reforms announced by the government on 21 January 2012. These include:

- by the end of 2013, new poker machines manufactured in, or imported into, Australia must be capable of supporting an approved pre-commitment system;
- by the end of 2016, all gaming machines must be part of a state-linked pre-commitment system and display electronic warning messages (noting that eligible small venues will have longer to implement this requirement); and

28 Australasian Casino Association, *Submission 15*, p. 2.

29 ACA, *Submission 15*, p. 1.

30 NSW Government, *Submission 8*, p. 3.

31 See, for example, Gaming Technologies Association, *Submission 4*, p. 3.

32 NSW Government, *Submission 8*, pp 2–3.

- a \$250 a day ATM withdrawal limit for gaming venues (other than casinos) from 1 May 2013.³³

3.42 The Act is the first piece of legislation introduced by a national government aimed at problem gambling. The government is confident the measures introduced by the Act will assist individuals to control their gambling behaviour.³⁴

Pre-commitment

3.43 Pre-commitment refers to a system whereby poker machine players are required to pre-set limits before they gamble. It is a system designed to help poker machine players stick to these limits. The committee has previously inquired into and described the design and implementation of a pre-commitment system at length.³⁵

3.44 When the government asked the Productivity Commission to look into gambling in Australia. An extensive, 18-month inquiry ensued, during which particular emphasis was placed on assessing harm minimisation measures. The resulting report concluded that pre-commitment was the best and most effective means of addressing challenges faced by problem and at-risk gamblers without simultaneously adversely affecting recreational gamblers. As a consequence, the government is supporting a pre-commitment scheme to reduce problem gambling, proposing that a system be in place and operational by 2016.

3.45 Furthermore, independent technical advice cited by FaHCSIA indicates that implementing pre-commitment is more cost-effective than implementing \$1 bet limits. The department explained that adapting machines to be pre-commitment or \$1 bet ready were two different propositions:

The solution for precommitment—mandatory or voluntary—is different from the solution for \$1 bets. There are \$1 bet capable machines at the moment, so we know that there is a capability already on the floor in some venues, and in fact precommitment does operate—venue linked but not necessarily state linked. For those machines that are precommitment

33 The Hon Jenny Macklin MP, Second reading speech, *House Hansard*, 1 November 2012, pp 12912–12913. For more on the National Gambling Reform Bill 2012 see the committee's fourth report, available at:

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=gambling_reform_ctte/completed_inquires/2010-13/gambling_reform_legislation_2012/index.htm

(accessed on 4 June 2013).

34 Government response to the committee's fourth report, *National Gambling Reform Bill 2012 and other related bills*, available at:

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=gambling_reform_ctte/completed_inquires/2010-13/gambling_reform_legislation_2012/index.htm

(accessed 30 May 2013).

35 See Joint Select Committee on Gambling Reform, first report, *The design and implementation of a mandatory pre-commitment system for electronic gaming machines*, May 2011, available at:

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=gambling_reform_ctte/completed_inquires/2010-13/precommitment_scheme/report/index.htm (accessed 27 May 2013). Note: this report covered mandatory pre-commitment.

capable, there is an additional piece of hardware that is around \$2,000 that can be bought—bolt on, sandwich or wedge board, whatever terminology we use. With that piece of equipment and having the central monitoring system talking across venues, that could be something that could be done more readily in terms of machines being precommitment capable at the moment and knowing that the solution is not the same solution as the software solution with \$1 bets. So, from what we understand, it is a different type of solution and there is already a capability that exists within machines that are being built today.³⁶

3.46 Whether or not a pre-commitment trial will get underway in the Australian Capital Territory this year is still, regrettably, uncertain,³⁷ however FaHCSIA outlined the work that had been done in preparation:

We went to the market with an EOI in December last year for preparatory work on the trial. That is looking at an optimum trial design and an optimum trial evaluation. We were looking at what an optimum mandatory precommitment trial looks like without having to look specifically at, for instance, the communication protocol that exists in the ACT. It was to look at the particular issues around ACT venues and some of that migration issue. Towards the middle of this year we will have findings and a range of evidence that will help us to more quickly go to the market for the actual trial proper.³⁸

We are not easing off on the work that we have in front of us, which is the trial preparatory work and the optimum trial design.³⁹

Other measures

3.47 The bill seeks the application of uniform harm minimisation national standards. Work to achieve this, however, is also already underway.

3.48 Pursuing national standards, the federal government has already consulted State and Territory Premiers and Chief Ministers in order to establish the high-level Council of Australian Governments (COAG) Select Council on Gambling Reform. This body is charged with progressing a national, consultative approach to harm

36 Ms Leesa Croke, Acting Group Manager, Problem Gambling and SACS Group, Department of Families, Housing, Community Services and Indigenous Affairs, *Committee Hansard*, 22 February 2013, p. 45.

37 This is due to a decision by Clubs ACT to postpone the trial until after the 2013 federal election. See the committee's discussion with representatives of FaHCSIA, *Committee Hansard*, 22 February 2013, p. 43.

38 Ms Leesa Croke, Acting Group Manager, Problem Gambling and SACS Group, Department of Families, Housing, Community Services and Indigenous Affairs, *Committee Hansard*, 22 February 2013, p. 43.

39 Ms Leesa Croke, Acting Group Manager, Problem Gambling and SACS Group, Department of Families, Housing, Community Services and Indigenous Affairs, *Committee Hansard*, 22 February 2013, p. 44.

minimisation, and has already 'agreed to support the required infrastructure for pre-commitment in every venue across Australia.'⁴⁰

3.49 On this point, the NSW Government added:

NSW is currently leading a national review of the standard and its accompanying jurisdictional appendices. The aims of the project include achieving greater consistency and minimising jurisdictional differences in the national standards. This will assist industry to meet its obligations and requirements.⁴¹

Dynamic warning trials

3.50 Together with the Commonwealth, the Queensland Government is working to trial dynamic warning technology in that state. The trial is to run for six months, and will involve machines which periodically display information and warnings about the risks of gambling while people use poker machines.⁴²

3.51 As outlined in the committee's fourth report, the committee notes the potential to use dynamic messaging in a targeted way in order to interrupt problem gambling.⁴³

Industry initiatives

3.52 In addition, industry representatives emphasised the point that a consultative and cooperative approach was most likely to produce results. Outlining its own harm minimisation efforts, the ALH Group, which operates 323 hotels and over 450 retail liquor outlets across the country and employs over 16,000 people, reiterated the view that gambling is only acceptable when it is undertaken and facilitated responsibly. The ALH Group stated:

As a result we exceed our legal and regulatory obligations in terms of how we manage our hotel and gaming operations. For example we:

- Conduct comprehensive training, including additional, mandatory full day training for hotel managers and key gaming staff at hotels;
- Have a Hotel and Gaming Charter and conduct rigorous internal and external audits to ensure that its standards are being adhered to;

40 Government response to committee's first report, *The design and implementation of a mandatory pre-commitment system for electronic gaming machines*, May 2011, available at: http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=gambling_reform_ctte/completed_inquires/2010-13/precommitment_scheme/index.htm (accessed 27 May 2013).

41 NSW Government, *Submission 8*, p. 3.

42 FaHCSIA, *Submission 5*, p. 3.

43 Joint Select Committee on Gambling Reform, Fourth Report, National Gambling Reform Bill 2012 and related bills, available at: http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=gambling_reform_ctte/completed_inquires/2010-13/gambling_reform_legislation_2012/index.htm (accessed on 4 June 2013).

- Are in the process of screening and separating gambling areas from other areas of its hotels so they are not visible to children;
- Partner with expert groups including Gambler's Help in each State to provide counselling services to patrons; and

These measures are in addition to numerous Federal and state regulations aimed at reducing problem gambling such as:

- Providing a self-exclusion program at each venue;
- Training all staff in the responsible service of gambling products;
- Only paying large wins to patrons by cheque;
- Having limits on amounts that can be withdrawn from ATM and EFTPOS facilities;
- Not allowing gamblers to use credit when gambling;
- Not locating ATMs in areas set aside for gambling. In Victoria, in line with regulatory requirements, no ATMs are located in venues with poker machines;
- Providing information on counselling services to all patrons; and
- Imposing advertising restrictions on material promoting gambling.⁴⁴

Conclusion

3.53 Considering the substantial harm minimisation work already underway, the committee has to question whether this bill, with its uncertain outcomes, is necessary.

3.54 Noting that research to support most of the proposed measures is at this stage inconclusive, and that both maximum bet and cash input limits are already being considered through the COAG Select Council on Gambling Reform,⁴⁵ the committee sees wisdom in allowing this process to play out before far-reaching and potentially costly policy decisions are made.

3.55 The committee supports the intentions underpinning the proposed legislation, noting strong community support for the implementation of harm reduction measures.

3.56 The committee is committed to addressing the negative effects of problem gambling. However, having considered all of the evidence made available during this inquiry, the committee is not convinced that passing the bill would achieve the desired outcomes.

3.57 Instead, the proposed legislation would potentially introduce complex, costly reforms without first demonstrating their efficacy. The government has demonstrated its commitment to harm minimisation by supporting pre-commitment, which is based on evidence indicating that setting spending limits can help individuals reduce the amount of money they spend on gambling. These evidence-based reform initiatives

44 ALH Group, *Submission 16*, pp 2–3.

45 NSW Government, *Submission 8*, p. 4.

are being introduced collaboratively, through consultation with and input from all stakeholders.

3.58 Should the need arise, the committee believes that the proposed measures can be revisited once more research is available and stakeholders have had more opportunity to engage with state and federal governments.

Recommendation 1

3.59 The committee recommends that the Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012 not be passed.

3.60 While signing this report as Chair of the committee, I do not support the conclusions reached by the committee. Instead, my position on the legislation is covered in a following dissenting report.

Chapter 4

Anti-Money Laundering Amendment (Gaming Machine Venues) Bill 2012

4.1 On 1 November 2012 the Anti-Money Laundering Amendment (Gaming Machines Venues) Bill 2012 was introduced into the Senate and referred to the committee for inquiry and report.¹

4.2 The original reporting date was 5 February 2013. On 20 November 2012, the Senate granted an extension of time for reporting until 28 March 2013.² A further extension was granted, on 13 March 2013, to 28 June 2013.³

Conduct of the inquiry

4.3 The committee advertised the inquiry on the committee's website. The committee also wrote to a number of organisations and individuals inviting submissions by 15 February 2013. As the committee worked on other inquiries it continued to accept submissions and indicated this on the committee website. However, the committee received only two submissions which are listed in Appendix 1. The committee thanks those organisations which made submissions.

Purpose of the bill

4.4 The Explanatory Memorandum outlined that money laundering can be achieved through poker machines in two ways. Money, which can be thousands of dollars, can be loaded into a machine, a few games played and then the remaining credits cashed out. The other way is for money launderers to purchase cheques or docketts for winnings from other players and then cash the cheques or docketts themselves.⁴

4.5 The bill amends the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (the Act) to address these practices and restrict the opportunities for money laundering through poker machines. It proposes including poker machine payouts over \$1,000⁵ and the cashing of transferred cheques as 'threshold transactions' which are reportable to the Australian Transaction Reports and Analysis Centre (AUSTRAC). This would allow AUSTRAC to monitor and record such activity to reduce money laundering.⁶

1 *Journals of the Senate*, No. 121, 1 November 2012, p. 3251.

2 *Journals of the Senate*, No. 123, 20 November 2012, p. 3326.

3 *Journals of the Senate*, No. 138, 13 March 2013, p. 3743.

4 Explanatory Memorandum, p. 2. See also Clubs Australia, *Submission 2*, p. 3.

5 The bill seeks to reduce the threshold reporting level for gaming machine payouts from \$10,000 to \$1,000.

6 Explanatory Memorandum, p. 2.

Issues raised in submissions

4.6 The Australian Churches Gambling Taskforce (the Taskforce) noted that the Australian Crime Commission (ACC) in its 2011 report on organised crime in Australia named gambling venues as one of the avenues identified for crime syndicates to launder funds. It reported that 'organised crime will consistently seek to exploit areas that receive less regulatory attention'.⁷ The Taskforce supported efforts to reduce the threshold for gaming venues to report transactions from \$10,000 to \$1,000. It called for adequate levels of identification before winning cheques are issued to prevent money launderers from purchasing these cheques and cashing them later. It suggested that attempts to purchase winnings from other patrons should trigger a suspicious matter report to AUSTRAC under existing legislative requirements. The Taskforce indicated that greater effort may be needed to ensure venues take anti-money laundering obligations seriously.⁸

4.7 Clubs Australia summarised its view that the bill would increase the compliance burden for clubs while not demonstrating any significant gains in financial intelligence. It outlined the reasons for its position:

- the potential for money laundering through electronic gaming machines has not increased since the passage of the original legislation when the issue of appropriate thresholds for reporting was extensively analysed;
- obligations under the legislation to report behaviours described in the Explanatory Memorandum⁹ already exist through the Suspicious Matters Reporting (SMR) channel; and
- no other jurisdiction seeks to impose differentiated reporting for any gambling service.¹⁰

4.8 Clubs Australia advised that clubs already have a number of obligations under the Act including:

- the development of an up-to-date Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF) program which defines the risk associated with gaming machines;
- a risk profile of gaming machines patrons;
- training for gaming employees;
- customer identification and verification for transaction threshold and suspicious matter reporting;
- ongoing customer due diligence;

7 Australian Churches Gambling Taskforce, *Submission 1*, p. 2; See Australian Crime Commission, *Organised Crime in Australia*, 2011, p. 47, p. 49.

8 Australian Churches Gambling Taskforce, *Submission 1*, p. 5.

9 The two options for money laundering. See Clubs Australia, *Submission 2*, p. 3.

10 Clubs Australia, *Submission 2*, p. 1.

-
- submitting annual compliance reports;
 - record keeping; and
 - senior level monitoring of the program's operations.¹¹

4.9 Clubs Australia explained that details of each club's AML/CTF program are independently reviewed. Gaming clubs also register online with AUSTRAC to receive information about emerging issues concerning AML/CTF and Clubs Australia provides its members with additional information and support to ensure industry compliance.¹²

4.10 Clubs Australia also advised that since the Act came into effect, AUSTRAC determined that it was acceptable to reduce the compliance burden for clubs and hotels with 15 gaming machines or fewer due to the lower risk of money laundering. However, the venues must still report activities regarded as suspicious, through the standard SMR procedure.¹³

4.11 Clubs Australia emphasised that to date there has been no enforcement action or civil penalty made by AUSTRAC against any clubs and Clubs Australia is a member of AUSTRAC's regular Gambling Consultative Forum. Clubs Australia emphasised that:

...at no time has AUSTRAC advised of systemic or regular non-compliance by the club industry, or raised an operation or intelligence need for reporting at lower transaction thresholds.¹⁴

Committee view

4.12 As the committee received only two submissions, wide support or compelling evidence to change the law was not received.

Recommendation 2

4.13 The committee recommends that the Anti-Money Laundering Amendment (Gaming Machines Venues) Bill 2012 not be passed.

4.14 While signing this report as Chair of the committee, I do not support the conclusions reached by the committee. Instead, my position on the legislation is covered in a following dissenting report.

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

12 Clubs Australia, *Submission 2*, p. 3.

13 Clubs Australia, *Submission 2*, p. 3.

14 Clubs Australia, *Submission 2*, p. 4.

Chapter 5

Interactive Gambling Amendment (Virtual Credits) Bill 2013

5.1 On 16 May 2013 the Interactive Gambling Amendment (Virtual Credits) Bill 2013 was introduced into the Senate.¹ Pursuant to the resolution of appointment of the Joint Select Committee on Gambling Reform the bill was referred to the committee for inquiry and report.² The bill was sponsored by Senator Nick Xenophon.

Conduct of the inquiry

5.2 The committee advertised the inquiry on the committee's website. The committee also wrote to a number of organisations and individuals inviting submissions by 31 May 2013. The committee received six submissions which are listed in Appendix 1. The committee agreed that, based on these submissions, a public hearing was not required.

Acknowledgement

5.3 The committee thanks those organisations and individuals who made submissions.

Purpose of the bill

5.4 The bill seeks to amend the *Interactive Gambling Act 2001* (IGA) to alter the definition of 'gambling service' to cover activities where virtual items, purchased using real money, are then used for gambling. Currently there is no way to cash out any winnings as such games are not considered to be a 'gambling service' under the IGA.³

Key provisions of the bill

5.5 Schedule 1 of the bill amends paragraph 4 (e)(i) of the IGA to alter the definition of 'gambling service' to clarify that 'items of value' include virtual items (credits, coins, tokens, objects or any similar thing) that are purchased within, or in relation to, a game.⁴

1 *Journals of the Senate*, No. 146—16 May 2013, p. 3958.

2 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*, No. 3—30 September 2010, pp 141–142.

3 *Explanatory Memorandum*, p. 2.

4 *Explanatory Memorandum*, p. 2.

Background

Increasing popularity of apps

5.6 The use of mobile applications or apps⁵ has increased significantly in recent years. A recent paper by the Australian Communications and Media Authority (ACMA) reported that the number of adult smartphone users who downloaded additional apps increased from 2.41 million in June 2011 to 4.45 million in June 2012, which is an increase of 85 per cent.⁶

5.7 The average number of apps downloaded in the last three months⁷ was eight free and four paid apps. Apple has reported that its customers have downloaded over 50 billion apps, 20 billion of these in 2012. Popular categories of apps for mobile phones and tablets include: social networking and messaging; games; photo-taking editing and sharing; navigation and location tracking; and banking and financial management. The most popular apps are Facebook, games, weather, maps and directions and email. In March 2013 the top free apps downloaded in Australia via the Apple App store were: 4 Pics 1 Word;⁸ Candy Crush Saga;⁹ Snapchat;¹⁰ What's the Pic?;¹¹ and Google maps.¹² The top paid apps were: WhatsApp Messenger;¹³ Temple Run: Oz;¹⁴ AFL Supercoach Season 2013;¹⁵ Sonic Dash;¹⁶ and Minecraft—Pocket Edition.^{17,18}

5 Apps are software programs that may be installed on smartphones and a growing selection of other devices including tablets, home entertainment devices, laptops or desktop computers. See Australian Communications and Media Authority, *Mobile apps, Emerging issues in media and communications, Occasional paper 1*, May 2013, p. 5.

6 Australian Communications and Media Authority, *Mobile apps, Emerging issues in media and communications, Occasional paper 1*, May 2013, p. 5.

7 To February 2013 by online Australians who had ever down loaded an app.

8 Game.

9 Game.

10 Photos and Video.

11 Game.

12 Navigation.

13 Social Networking.

14 Game.

15 Sports.

16 Game.

17 Game.

18 Australian Communications and Media Authority, *Mobile apps, Emerging issues in media and communications, Occasional paper 1*, May 2013, pp 7–9.

5.8 Apps can be down loaded as free¹⁹ or premium²⁰ versions. Once a free or premium app has been downloaded, an ‘in-app’ purchase or payment may be required to access specific features or associated content.²¹

New business model

5.9 Most apps continue to be free or relatively low priced.²² The apps market has enabled new business models which exploit the functionality. Free-to-play or Freemium²³ games are examples of a new business model developed in the games industry. Games are provided to the customer for free with revenue for the developer obtained from sources such as in game advertising or in-app purchases. A popular type of in-app purchase is virtual currency used within free or paid games. The Game Developers' Association of Australia (GDAA) listed the key benefits for consumers from in-app purchases:

- customers can enjoy games for free or by spending amounts relative to their own financial circumstances and interest in a particular game;
- customers are able to sample games;
- developers can continue to enhance games by providing more content driven by in-app purchases;
- developers can provide content to a broader market from those who are happy with the basic game experience and prefer not to spend money to those who want a more in-depth experience and are willing to pay for it; and
- in-app purchases have been used to prevent or reduce copyright infringement of games on mobile devices.²⁴

5.10 The Australian Interactive Media Industry Association Digital Policy Group (Digital Policy Group)²⁵ reported that the business model is common as it is so popular.

19 No upfront costs.

20 Upfront cost.

21 Commonwealth Consumer Affairs Advisory Council, inquiry into 'app' purchases by Australian consumers on mobile and handheld devices, Issues paper, available from <http://issues.ccaac.gov.au/2012/12/12/app-purchases-by-australian-consumers-on-mobile-and-handheld-devices/#8> (accessed 4 June 2013).

22 Australian Communications and Media Authority, *Mobile apps, Emerging issues in media and communications, Occasional paper 1*, May 2013, p. 11.

23 Freemium refers to a marketing concept where the download of the app is free but subscriptions or other purchasing of specific items may be required to unlock the full features of the app. See Commonwealth Consumer Affairs Advisory council, Issues Paper, *App purchases by Australian consumers on mobile and handheld devices*, December 2012, p. 7.

24 GDAA, *Submission 1*, p. 4.

25 The Digital Policy Group is a special interest group of AIMIA which represents 460 digital players in the Australian digital industry. The founding members include eBay, Facebook, Google and Yahoo!7. See AIMA Digital Policy Group, *Submission 2*, p. 1.

The in-game purchase model is very similar to consumers spending money on a movie, an amusement park ride or an arcade game. A player makes a purchase because it enhances their entertainment experience, not because they can earn or win something of real world value.²⁶

5.11 The International Social Games Coalition²⁷ (ISGC) pointed to a recent study by PwC which indicated that the Australian tech sector had the potential to be worth \$109 billion (or 4 per cent of GDP) and to create more than 540,000 high-value jobs.²⁸

5.12 The Digital Policy Group and the ISGC highlighted that one of the leading Australian games developers is Half-Brick Studios, and its Fruit Ninja game is one of the most successful games ever developed.²⁹ The AIMIA expressed concern that the bill would affect the growth prospects of Australian innovators like Half-Brick.³⁰

5.13 Issues raised with the committee are discussed in Chapter 6.

26 Australian Interactive Media Industry Association Digital Policy Group, *Submission 2*, p. 3.

27 Members include: Zynga, Rocketplay, Plumbee, Playtika, PlayStudios, IGT, Gamesys, and Aristocrat. See International Social Games Coalition, *Submission 3*, p. 3.

28 International Social Games Coalition, *Submission 3*, p. 3.

29 Australian Interactive Media Industry Association Digital Policy Group, *Submission 2*, pp 3–4; International Social Games Coalition, *Submission 3*, p. 3.

30 Australian Interactive Media Industry Association Digital Policy Group, *Submission 2*, pp 3–4.

Chapter 6

Key issues raised with the committee

6.1 This chapter covers the main issues raised with the committee in relation to the bill. The key concern was the scope of the bill and the effect it may have on the interactive entertainment industry, including non-gambling style games.

Scope of the bill

6.2 The bill seeks to change the current definition of a 'gambling service' as defined in the *Interactive Gambling Act 2001* (IGA). Currently the IGA defines a 'gambling service' as follows:

- (a) a service for the placing, making, receiving or acceptance of bets; or
- (b) a service the sole or dominant purpose of which is to introduce individuals who wish to make or place bets to individuals who are willing to receive or accept those bets; or
- (c) a service for the conduct of a lottery; or
- (d) a service for the supply of lottery tickets; or
- (e) a service for the conduct of a game, where:
 - (i) the game is played for money or anything else of value; and
 - (ii) the game is a game of chance or of mixed chance and skill; and
 - (iii) a customer of the service gives or agrees to give consideration to play or enter the game; or
- (f) a gambling service (within the ordinary meaning of that expression) that is not covered by any of the above paragraphs.¹

6.3 The bill proposes to change this definition by including the following after 'anything else of value' in (e)(i):

'anything else of value (including virtual credits, virtual coins, virtual tokens, virtual objects or any similar thing that is purchased within, or as part of, or in relation to, the game)'.²

6.4 The Australian Psychological Society (APS) supported the intent of the bill to ensure that games 'where players can participate in gambling or gambling-type activities using virtual items purchased with cash currency are appropriately regulated as 'gambling activities''. It noted the importance of:

...protecting consumers, particularly minors by the appropriate regulation of online gambling and gambling activity.³

1 IGA, Part 1, section 4.

2 Proposed Schedule 1.

6.5 However, most submitters did not support the bill, arguing that the proposed change would expand the definition of an interactive gambling service to include a broader category of services that do not contain gambling references.

6.6 As noted by the Game Developers' Association of Australia (GDAA) the effect of the proposed change would be to 'essentially prohibit a large category of games, particularly those that rely on in-app purchases, from being accessible in Australia'.⁴ The GDAA argued that the proposed change to the definition would 'radically expand the definition of gambling services and the respective prohibitions beyond gambling style games'.⁵ It added:

With the expanded scope of section 4(e)(i) the Bill would likely prohibit a large range of games, including non-gambling style games, particularly those games that use the free-to-play or freemium business models. This is likely to have a devastating impact on the interactive entertainment industry, particularly in the mobile games market.⁶

6.7 This view was supported by the Australian Interactive Media Industry Association Digital Policy Group (Digital Policy Group) which listed some of the games/apps that may be affected: Angry Birds, Farmville, Monopoly, Tetris, UNO, Pac-man, Candy Crush Saga, Lord of the Rings, Words with Friends, The Simpsons, Temple Run, the Sims, FIFA Ultimate Team and Smurfs Village.⁷ The following in-game purchases may also be affected:

- avatars (in-game representation of players) and clothing for avatars;
- power ups that allow a player to purchase help dealing with difficult portions of a game;
- virtual items generally, such as tractors and purple cows in Farmville.⁸

6.8 The International Social Games Coalition (ISGC) also mentioned in-game items such as extra lives, tools or maps which expand the game experience.⁹ The ISGC submitted that the proposed change would mean that:

...almost any social game played online, such as footy tipping to the Smurfs to Jetpack Joyride, which have a paid-for element would fall under the scope of the Interactive Gambling Act (IGA). By being considered gambling, they would be put at risk of an outright ban.¹⁰

6.9 The ISGC did not support the proposed amendment to the IGA and argued:

3 Australian Psychological Society, *Submission 4*, p. 2.

4 GDAA, *Submission 1*, p. 4.

5 GDAA, *Submission 1*, p. 6.

6 GDAA, *Submission 1*, p. 6.

7 Australian Interactive Media Industry Association Digital Policy Group, *Submission 2*, p. 2.

8 Australian Interactive Media Industry Association Digital Policy Group, *Submission 2*, p. 3.

9 International Social Games Coalition, *Submission 3*, p. 4.

10 International Social Games Coalition, *Submission 3*, p. 5.

Social games and gambling are fundamentally different. Gambling typically requires consideration, chance, and prize. Even though some social games do have the ability to allow players to pay for elements in a game, they do not have all of these elements.¹¹

6.10 These issues with the coverage of the bill were acknowledged by the Department of Broadband, Communications and the Digital Economy (DCBDE):

It should be noted that there are a range of online games that involve the use or possible purchase of virtual credits, virtual coins, virtual tokens, virtual objects or any similar things. It is not clear to what extent the proposed amendment is intended to cover the full range of such online games.¹²

6.11 By way of explanation, the department noted the use, purchase or winning of virtual items varies and provided a list of some of the possible characteristics of different games. These include:

- games that are free to play where a certain number of virtual credits are provided to the player at the start and they may be earned during the game. However, additional credits cannot be purchased without switching to a closely associated 'real money' online gambling service, for example, pokerstars.net.¹³

6.12 The department advised that where these online games are closely associated with a similar 'real money' gambling site, ACMA has found these to be an advertisement for a prohibited interactive gambling service. The review of the IGA (see further below) recommended that 'there would be merit in clarifying the precise nature of the advertising provisions in terms of such online games'.¹⁴ The department highlighted other possible game characteristics:

- games that are free to play where a certain number of virtual credits are provided at the start and may be earned during the game but additional credits may be purchased, for example, Slotomania, Zynga Poker, DoubleDown Casino, PyramidSolitaire Saga, Scrabble and Fishworld;
- games that have a cost to play where a certain number of virtual credits are provided at the start and virtual credits may be earned but additional credits cannot be purchased, for example, Monkey Money Slots;
- games that have a cost to play where a certain number of virtual credits are provided at the start and virtual credits may be earned and additional credits may be purchased, for example, Running with Friends;

11 International Social Games Coalition, *Submission 3*, p. 5.

12 Department of Broadband, Communications and the Digital Economy, *Submission 5*, p. 4.

13 Department of Broadband, Communications and the Digital Economy, *Submission 5*, p. 4.

14 Department of Broadband, Communications and the Digital Economy, *Submission 5*, p. 4.

- role playing or adventure games that may include simulated gambling-type elements in the game, for example, purchasing additional spins for Squeal of Fortune or chances to win virtual items in Runescape; and
- role playing or adventure type games where virtual items can be directly purchased to speed up the game or unlock features, for example, Farmville.¹⁵

6.13 The department advised that a key issue with the legislation would be defining game types to capture the games it intends to ban while not inadvertently capturing other games that do not contain gambling-type elements or may do so but they are not viewed as potentially causing harm:

For example, the proposed amendment could arguably cover some online games that require payment of a fee to play or enter the game, and include elements of chance for progress in the game, but would not be seen as traditional online gaming (for example, playing a game of Monopoly online as part of a tournament).

On the other hand, games with strong gambling characteristics that are free to enter and where virtual credits or similar could not be purchased would not be captured, as the payment of consideration to play or enter the game is a key component of the existing definition (see subparagraph (e)(iii) of the definition of ‘gambling service’ in section 4 of the IGA – which would not be altered as a result of the proposed amendment).¹⁶

6.14 The bill was also not supported by Clubs Australia which has established:

a Social Gaming Working Group to examine the many issues associated with gambling-style social gaming and establish whether it should be considered a responsible and appropriate option for clubs.¹⁷

Government action

Review of the IGA

6.15 Following a meeting of the COAG Select Council of Gambling Reform in May 2011, a review of the IGA was announced. On 19 August 2011, the Minister for Broadband, Communications and the Digital Economy released the terms of reference for the review. On 24 August 2011, a discussion paper was released and submissions were sought. On 29 May 2012 an interim report was released for public comment. The final report was released 12 March 2013.¹⁸

6.16 When the review was completed, the minister announced that the government will work with the states and territories to implement a national harm minimisation

15 Department of Broadband, Communications and the Digital Economy, *Submission 5*, pp 4–5.

16 Department of Broadband, Communications and the Digital Economy, *Submission 5*, p. 5.

17 Clubs Australia, *Submission 6*.

18 Department of Broadband, Communications and the Digital Economy, *Review of the Interactive Gambling Act 2001, Final Report 2012*, pp 22–25.

and consumer protection standard for all licensed online gambling activities.¹⁹ The government is also:

...further examining the recommendations of the review with respect to enforcement and deterrence, advertising, education and awareness and social media, in consultation with states and territories.²⁰

Games played with virtual currency

6.17 The area of games played with virtual currency was included in the review of the IGA and Senator Xenophon's concerns were noted:

The issue of gambling simulation services utilising virtual credits (or chips) was highlighted by Senator Nick Xenophon with respect to DoubleDown Casino, which allows consumers to purchase additional credits to continue to play once a certain amount of credit is used. Slotomania...and Zynga Poker are other examples of services where virtual currency can be purchased with real money.²¹

6.18 The final report highlights that the decision to play games like DoubleDown Casino and Zynga Poker, where additional virtual chips can be purchased, is currently a matter of consumer choice (and parental guidance where children are involved).²²

6.19 The final report summarised the characteristics of such games that cause concern:

- the games look very much like many real casino games and some may use a simulated rate of return that gives players an unrealistic impression of the rates of return for actual online casinos;
- there is an incentive to use virtual chips to unlock elements of the game (eg. new levels, items) and the fastest way to do this is to purchase additional virtual chips with real money; and
- if a player loses all their virtual chips, they are able to purchase more chips to continue playing the game.²³

IGA definition of gambling service

6.20 The DCBDE final report explained that currently games played with virtual currency do not fall under the definition of gambling under the IGA as virtual currency is not redeemable for real money or anything else of value. DCBDE

19 Senator The Hon Stephen Conroy, 'Strengthened consumer protection for online gambling', *Media Release*, 12 March 2013.

20 Department of Broadband, Communications and the Digital Economy, *Submission 5*, p. 2.

21 Department of Broadband, Communications and the Digital Economy, *Review of the Interactive Gambling Act 2001, Final Report 2012*, p. 139.

22 Department of Broadband, Communications and the Digital Economy, *Review of the Interactive Gambling Act 2001, Final Report 2012*, p. 142.

23 Department of Broadband, Communications and the Digital Economy, *Review of the Interactive Gambling Act 2001, Final Report 2012*, p. 141.

emphasised that the terms and conditions make it clear that virtual currency cannot be redeemed for real money, goods or other items of monetary value.²⁴

6.21 DCBDE also advised that consumers can choose to purchase virtual chips but it is possible to play many of these games without making these purchases.²⁵

Available evidence

6.22 One of the reasons given for regulating such games is that gaming simulations potentially normalise gambling for children. The DCBDE final report noted that the research evidence to support this view is 'at an embryonic stage'. It noted that no other countries have banned such gambling simulations or are considering doing so. However, the UK Gambling Commission has indicated that it is monitoring developments in this area.²⁶

6.23 The Australian Psychological Society (APS) acknowledged the lack of current evidence regarding 'prevalence, harm and associated policy responses in relation to online gaming opportunities, particularly given rapid technological advances'.²⁷ The APS called for:

Further independent research [to be] undertaken to investigate the participation in, and impact of interactive and online gaming and gambling, particularly to monitor and assess any harm caused by gambling, and any grooming effects of interactive gaming using virtual credits as a direct or indirect (symbolic) stimulus for involvement in online gambling. The outcomes of this research should inform appropriate policy responses, particularly relating to regulation.²⁸

Issues

6.24 The DCBDE final report detailed what would be required to ban such gambling simulations and the two areas of difficulty: suitable definitions that did not inadvertently capture other games; and enforcement.

Suitable definition

6.25 The characteristics of these games would need to be identified and defined in the legislation. The DCBDE Final Report acknowledged the potential for such a definition to inadvertently capture other games:

A key difficulty in attempting to prohibit gambling-like applications that allow the purchase of virtual currency with real money would be defining

24 Department of Broadband, Communications and the Digital Economy, Review of the Interactive Gambling Act 2001, Final Report 2012, p. 141.

25 Department of Broadband, Communications and the Digital Economy, Review of the Interactive Gambling Act 2001, Final Report 2012, p. 141.

26 Department of Broadband, Communications and the Digital Economy, Review of the Interactive Gambling Act 2001, Final Report 2012, p. 141.

27 Australian Psychological Society, *Submission 4*, p. 1.

28 Australian Psychological Society, *Submission 4*, p. 6.

such games in a way that did not inadvertently capture other games that contain some gambling elements. For example, while some games may require payment of an entry fee, and elements of chance for progress in the game, they are not seen as traditional gaming (e.g. playing board games which can be played online or as tournaments). The constant evolution of social gaming and consumer trends would also pose difficulties in applying an effective definition.²⁹

Enforcement

6.26 In addition to finding a suitable definition to ban these services, another area of difficulty would be the identification of how any legal requirements to ban such games would be enforced such that the access to these games by Australians (or by Australian children) could be prevented by the platforms on which these games are delivered.³⁰ The DCBDE Final Report highlighted that:

...the global nature of the platforms through which they are accessed, and the global nature of the developers that create them, would pose challenges for enforcement. Platforms and developers would be required to comply with a legal requirement for access to their services by Australians (or Australian children) which does not currently exist in any other jurisdiction. Such requirements are likely to be resisted strongly and would require a high level of co-operation with platforms and providers to put in place, particularly as most of the relevant global platforms operate under the laws of other countries. The challenges associated with extra-territoriality outlined in Chapter 4 [of the DCBDE Final Report] would also be relevant.³¹

6.27 The department also emphasised the enforcement challenges in its submission to the inquiry.

In circumstances where certain behaviour is not criminalised to the same degree as Australia, or at all, there is no ‘dual criminality’ attached to the offence and accordingly the international jurisdiction is unlikely to investigate, or provide assistance to Australia to investigate, matters not criminalised in that country. The lack of dual criminality in relation to online interactive gambling in most foreign countries demonstrates the practical barriers obstructing the AFP from progressing investigations in relation to these referrals.

It is unlikely that overseas law enforcement agencies would take any action against ‘free-play’ games hosted in their jurisdictions when they are reluctant to take action in relation to ‘real money’ gambling services currently.

29 Department of Broadband, Communications and the Digital Economy, Review of the Interactive Gambling Act 2001, Final Report 2012, p. 142.

30 Department of Broadband, Communications and the Digital Economy, Review of the Interactive Gambling Act 2001, Final Report 2012, p. 141.

31 Department of Broadband, Communications and the Digital Economy, Review of the Interactive Gambling Act 2001, Final Report 2012, p. 142.

It is also relevant that, to the department's knowledge, no other countries have, at this stage, been identified as having banned such gambling simulations or are considering doing so. This would create a further practical obstacle to securing cooperation from overseas law enforcement bodies.³²

IGA review conclusions

6.28 The review acknowledged that some games are starting to push the boundaries between games and gambling. It also noted major global gambling companies purchasing free or virtual games which may signal a move to offer paid gambling games on social networking sites or through mobile devices. However, it concluded that further research is required to inform policy decisions in this area and noted Gambling Research Australia is considering commissioning research into social media and gambling. Its recommendations on this issue are:

Recommendation 30: Popular social media services, mobile content providers, console providers and online game developers closely monitor the impact of their user policies regarding the provision of online gambling services (both licensed and unlicensed) as well as gambling-style services that are popular with children to ensure the implementation of these policies aligns with Australian laws and community expectations. In particular, these providers should closely monitor gambling-style services to ensure that they are not inappropriately targeting younger children or that they possess simulated payout ratios that differ significantly from actual gambling services as a means of misleading children about their prospects for success with real gambling services.

Recommendation 31: In addition to Recommendation 30 and subject to the outcome of proposed GRA research in this area, the department should consult with gambling regulators in like-minded countries regarding potential measures to address the access and marketing of online gambling-style services to children.³³

6.29 The committee discussed this issue with the department during its previous inquiry. Mr Abul Rizvi, Deputy Secretary, DCBDE, indicated the minister is raising the issue with a range of social media sites:

Mr Rizvi: ... There is a recommendation in the report which goes to the issue of gambling simulation games that are provided on social media sites as well as on other platforms. In the context of the review, concerns were raised about those. We looked at those issues and concluded that, in the current circumstances, the best way to approach that would be to go to the relevant social media sites and other platform providers to inquire of them as to what they are doing to deal with the concerns that have been raised in this space before deciding where to go further at this point.

32 Department of Broadband, Communications and the Digital Economy, *Submission 5*, pp 5–6.

33 Department of Broadband, Communications and the Digital Economy, *Review of the Interactive Gambling Act 2001, Final Report 2012*, p. 145.

Ms BRODTMANN: In terms of social media sites, is that specific gambling sites? Who will you be targeting?

Mr Rizvi: The range of social media sites—obviously the most popular being Facebook—but also platforms such as the Apple apps platform, the Android platform and those sorts of sites, as well as games such as online games that can be played which have, as a subset, an element of simulated gambling.

Ms BRODTMANN: And the time line for those sorts of consultations?

Mr Rizvi: The minister will be writing to those social media platforms in the very near future.

Ms BRODTMANN: And the expectation on the length of the consultation?

Mr Rizvi: It is hard to say at this stage. The minister has not set a time line on that, but clearly we would be expecting a response from the social media sites in the near future.³⁴

6.30 The GDAA noted that the Interactive Games and Entertainment Association (IGEA) is a member of the DCBDE's Consultative Working Group which is working on matters raised in the review of the IGA.³⁵

Other mechanisms to address the issue

Assist parents with more information

6.31 The DCBDE Final Report emphasised the ability of children to purchase virtual chips and the role of parents in deciding whether children should have access to these games. To purchase virtual chips or other items, the individual must have access to a credit card or another form of online payment system and this would involve some form of parental input and consent:

The child may either have access to their own credit card/online payment account (with the parent's consent), or be using their parent's card/account with or without consent. Payments for these games could also be made by using emerging mobile phone payment methods. The latter may be easier for some children to access but would show up on the mobile phone bill that parents receive (if the parent has provided the mobile phone to their child). The case may be that the parent does not clearly understand the purchases being made by the child as they are for what is viewed to be a game rather than a gambling-like service.³⁶

6.32 The DCBDE Final Report noted the need for more education and awareness for parents around these issues. For example, it highlighted the ability for parents to block access to websites and services they feel are inappropriate for their children

34 Mr Abul Rizvi, *Committee Hansard* (Inquiry into the advertising and promotion of gambling services in sport), 19 March 2013, p. 11.

35 GDAA, *Submission 1*, p. 6.

36 Department of Broadband, Communications and the Digital Economy, *Review of the Interactive Gambling Act 2001, Final Report 2012*, p. 142.

using approved family-friendly filters, or by disabling in-app purchases for gambling-like applications.³⁷

6.33 The department noted that parents should be provided with better information on online games to assist them to be more vigilant. As an example it highlighted a DCBDE publication, 'Easy Guide of Social Networking Sites'.³⁸

6.34 The DCBDE Final Report also pointed out age verification measures are a potential solution to better limit access by children to gambling-like applications. This would require cooperation with providers to put in place mechanisms that would operate effectively.³⁹

Stakeholders respond to emerging research

6.35 The department suggested that providers should be encouraged to monitor the research in this area and to block access to games that are identified as likely to have a negative effect on children. This would involve further consultation between researchers and social media services.⁴⁰

Consumer protection

6.36 It was pointed out that these games must comply with the consumer protection regulation, advertising regulation and other applicable laws.⁴¹ The Digital Policy Group highlighted current consumer protections:

Australian consumers benefit from strong legal and regulatory protections today, under the Australian Consumer Law and the Interactive Gambling Act. There is no evidence of deception by operators as to whether virtual goods will in fact be convertible to money or money-like 'value', or as to players being misled as to whether virtual goods will in fact be convertible to money or money's value. If misleading statements were made by operators of games sites where virtual goods may be used, the Australian Consumer Law would empower the ACCC to take appropriate enforcement action.⁴²

Consumer affairs advisory council inquiry

6.37 Given the focus of the bill on consumer protection, the committee notes wider issues with in-app purchases. The Commonwealth Consumer Affairs Advisory Council is conducting an inquiry into the issue of app purchases by Australian consumers on mobile and handheld devices. The inquiry commenced on 5 November

37 Department of Broadband, Communications and the Digital Economy, Review of the Interactive Gambling Act 2001, Final Report 2012, p. 143.

38 http://www.dcbde.gov.au/easyguide/social_networking (accessed 6 June 2013)

39 Department of Broadband, Communications and the Digital Economy, Review of the Interactive Gambling Act 2001, Final Report 2012, p. 143.

40 Department of Broadband, Communications and the Digital Economy, *Submission 5*, p. 6.

41 International Social Games Coalition, *Submission 3*, p. 6.

42 Australian Interactive Media Industry Association Digital Policy Group, *Submission 2*, p. 4.

2012, an issues paper was released and the formal consultation period ended on 31 January 2013.⁴³

6.38 The issues paper noted that the purchase of apps is generally accompanied by download and payment notifications but only a very low percentage of users read the terms and conditions. It advised:

...concerns that the way apps and in-app features are marketed or supplied may be confusing or misleading and could entice consumers (including children) to access in-app features without knowing they will incur costs.⁴⁴

6.39 The issues paper noted that games targeted at children can have options to purchase items within the app and in some cases this has led to children incurring costs without the knowledge of the parent.⁴⁵

6.40 Consumers have complained about confusing language when referring to the currency used to purchase in-app items as it may take the form of diamonds, coins or other virtual items.⁴⁶

6.41 Submissions to the inquiry have highlighted the need for consumer information around costs to be clearer and more accessible. The issues paper highlighted the legal framework for consumer protection in relation to mobile apps and in-app purchases. It noted that telecommunications companies provide a number of guides for parents to help them to manage mobile devices and set up controls. It also highlighted access controls and restriction options available to consumers to limit app and in app purchases. However, users need to actively enable these restrictions.⁴⁷

Committee view

6.42 The committee welcomes the work being undertaken by the Consumer Affairs Advisory Council to address wider consumer issues around in-app purchases.

6.43 The committee notes the lack of research in the area of social media and gambling and would support work being undertaken by Gambling Research Australia or the Australian Gambling Research Centre to assist with the development of effective policy responses.

6.44 The committee notes the need to define the characteristics of these gambling-like games in any legislation to ensure other games are not inadvertently captured. The

43 See <http://ccaac.gov.au/2012/12/12/app-purchases-by-australian-consumers-on-mobile-and-handheld-devices/> (accessed 4 June 2013)

44 Commonwealth Consumer Affairs Advisory council, Issues Paper, *App purchases by Australian consumers on mobile and handheld devices*, December 2012, p. 6.

45 Commonwealth Consumer Affairs Advisory council, Issues Paper, *App purchases by Australian consumers on mobile and handheld devices*, December 2012, p. 6. See also Sarah Whyte, 'Toddler spends big bucks on 'free' iPad app', *The Age*, 3 June 2013.

46 Commonwealth Consumer Affairs Advisory council, Issues Paper, *App purchases by Australian consumers on mobile and handheld devices*, December 2012, p. 6.

47 Commonwealth Consumer Affairs Advisory council, Issues Paper, *App purchases by Australian consumers on mobile and handheld devices*, December 2012, pp 7–10.

committee supports work underway by DCBDE following the review of the IGA to consult with relevant social media sites and platform providers regarding gambling simulation games.

6.45 Given the definitional and enforcement difficulties, the committee supports addressing the issue through the provision of better information to parents, targeted research and enlisting the cooperation of the relevant stakeholders.

Recommendation 3

6.46 The committee recommends that the Interactive Gambling Amendment (Virtual Credits) Bill 2013 not be passed.

6.47 While signing this report as Chair of the committee, I do not support the conclusions reached by the committee. Instead, my position on the legislation is covered in a following dissenting report.

Mr Andrew Wilkie MP

Chair

Dissenting report by the Chair and Senators Xenophon, Di Natale and Madigan

1.1 At the outset we wish to express our sincere gratitude and admiration for the work performed by the Secretariat of the Joint Select Committee on Gambling Reform since its inception. As has been made clear by the findings of the committee in its five previous reports, problem gambling in Australia is an issue that touches the lives of hundreds of thousands of people. The need for meaningful and effective gambling reform is overwhelming. There has been a perceptible change in the attitude of the Australian community towards gambling, and in particular towards online sports betting in 2013 alone. We believe there is a need for a permanent committee to be established to address gambling reform in Australia and we are disappointed to see this committee disbanded when there is still so much more work that needs to be done.

The Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012

Introduction

1.2 It is our view that the committee majority report is disappointingly devoid of a discernible position on gaming machine reform. Given the quality of evidence the committee received in support of the Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012 (the bill), as well as the large volume of material the committee has considered for previous inquiries, we reject outright the notion that the proposed legislation lacks sufficient evidentiary basis. On the contrary, it is the government and Coalition committee members' weak stance on poker machine reform that cannot stand up to rigorous analysis, particularly when their professed commitment to harm reduction is taken into account.

The damage done

1.3 More poker machine reform is desperately and urgently needed. Consider the following statistics, provided by the Gambling Impact Society of New South Wales:

- One in six people who play the poker machines regularly have a serious addiction.
- Only around 15 per cent of people who have a gambling problem seek help.
- Those affected by problem gambling are six times more likely to be divorced than those without gambling problems (Thomas, S, 2008).
- Children with parents who are addicted to gambling are up to 10 times more likely to become addicted themselves, than children with non-gambling parents (The Problem Gambling Treatment and Research Centre, 2010).

- The NSW Health Report of 2007 found that 10.4% of NSW residents had experienced a problem with gambling in the family.
- Between 40 – 60% of gambling revenue is from those gambling problematically (Productivity Report 2010)
- One in five suicidal presentations are linked to problem gambling (a study by The Alfred Hospital, Mental Health team research, Costello 2010).¹

1.4 Gambling exists on a continuum—it is not always clear who will develop a gambling problem and how many people an individual's behaviour will affect. Those affected by the 'ripple effects' of gambling include family members, friends, colleagues and workplaces and, as the committee explained in its first report, their numbers are likely to be underreported.² It is a mistake to ascribe all ill effects to what is accepted to be 'problem gambling':

Problem gambling is generally (and probably erroneously) regarded as being synonymous with the amount of harm occasioned by gambling. However, it should be noted that although problem gambling prevalence rates provide a metric (if instruments and survey methodologies are applied consistently over time), prevalence surveys are unlikely to indicate the number of people actually adversely affected by gambling nor are they capable of assessing the actual impacts of the harm experienced by those affected.³

1.5 Highlighting the point above, the Municipal Association of Victoria cited the Productivity Commission's conclusion that around 60 per cent of people who report health problems arising from their gambling do not fit the definition of 'problem gambler'.⁴ Furthermore:

It is well known that those gambling at problem or at-risk levels are unlikely to publicly attribute any health, social or financial difficulties they're experiencing to their gambling activity. Accurately assessing the social and economic costs of problem gambling in Victoria must then, inevitably, be a difficult task. That said, the fact that it is known that so much money is lost each year, predominantly in Victoria's most disadvantaged communities, and that gambling problems lead to a range of

1 Gambling Impact Society (NSW), *Submission 14*, p. 5.

2 For more on the gambling continuum see the Joint Select Committee's first report, *The design and implementation of a mandatory pre-commitment system for electronic gaming machines*, May 2011, p. 51, available at: http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=gambling_reform_ctte/completed_inquires/index.htm (accessed 6 June 2013).

3 Municipal Association of Victoria, *Submission 2, Attachment*, p. 5.

4 Municipal Association of Victoria, *Submission 2, Attachment*, p. 5.

physical health, mental health, social and economic harms, does, or should, raise important public interest questions for all three levels of government.⁵

1.6 It is clear that counting the costs of gambling is a difficult task. It is also clear that two Productivity Commission reports and numerous research studies have indicated that poker machines represent the most addictive form of gambling.⁶ Through its inquiries, the committee has catalogued the harm poker machine addiction can and does cause individuals, families and society⁷—leaving it up to individuals to carry this burden will not do. The proposed legislation gives us an opportunity to put in place effective measures which will minimise harm. This is not an opportunity to be missed.

The cost of inaction

1.7 The committee majority report states that the financial cost of implementing the proposed legislation is significant and, by implication, prohibitive. On reflection, what this position is actually saying is that the financial cost to the gambling industry is deserving of greater consideration than the cost of inaction to the community. This is an alarming position to take for any incumbent or would-be government. For one, cost cannot simply be measured in dollars and cents. However, even when it is, the financial cost our society bears for inaction in this area over the years is far greater than the one-off financial loss to the gambling industry.

1.8 Forgoing action because the gambling industry would have to pay in order to reduce the harm caused by revenue-raising poker machines amounts to putting profit and revenue-raising above people and communities. Those analysing criticism of the proposed legislation would do well to remember that opposition to the bill comes largely from those who stand the most to gain from the status quo: from the gambling industry and from some state governments. As put by FamilyVoice Australia:

It is time to consider whether the State governments – charged with providing for the peace and good order of their State – are failing in their duty to the extent that they have become dependent on revenue from gambling and have consequently become reluctant to restrict access to gambling in any substantial way.

5 Municipal Association of Victoria, *Submission 2, Attachment*, p. 14.

6 Gambling Impact Society, *Submission 14*, p. 4. See Productivity Commission, *Australia's Gambling Industries*, Report no. 10, 1999, available at: <http://www.pc.gov.au/projects/inquiry/gambling/docs/report>, and Productivity Commission, *Gambling*, Commonwealth of Australia, Canberra 2010.

7 A number of personal stories are set out in Chapter 2 of the committee's first report. See *The design and implementation of a mandatory pre-commitment system for electronic gaming machines*, May 2011, p. 51, available at: http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=gambling_reform_ctte/completed_inquires/index.htm (accessed 6 June 2013).

The fundamental social question is whether the alleged benefits of gaming machines – revenue for non-profit clubs and enjoyment for "recreational" non-problem gamblers – are worth the social costs associated with problem gambling.⁸

What are the costs?

1.9 Looking for a moment at the cost of implementation figures cited by sections of the gambling industry, these figures are not only spurious but, even if accepted at face value, pale in comparison to the social cost of problem gambling.

The cost of implementation versus the social cost of problem gambling

1.10 The Productivity Commission tells us that the social cost of problem gambling is *at least* \$4.7 billion per year.⁹

1.11 Gaming Technologies Australia (GTA), whose members supply all of Australia's new poker machines, tells us that the cost of reconfiguring Australia's poker machine inventory would exceed \$2.5 billion.¹⁰

1.12 Even if accepted, this figure is far lower than the annual cost of problem gambling incurred by society—it is a one-off cost of \$2.5 billion, as opposed to an annual cost of \$4.7 billion. It is quite obvious which cost is greater, even if compared in an absolute, purely financial sense. GTA's \$2.5 billion cost of implementation figure, however, is not a figure that I accept.

1.13 As the committee heard, much depends on how costs are calculated, and industry calculations of cost do not take into consideration the depreciation of existing poker machines:

...[A] point I would make, particularly about the way that these calculations are done, is that it is often along the line of saying the average cost of modifying or replacing the machine is X dollars—it is roughly \$25,000, for example, for a completely new machine—and there is a range of much lower costs for hardware and software changes. If you take the existing number of gaming machines and multiply it by that composite measure, you get an immediate cost. Many of the numbers you hear are of that kind, but that is intrinsically a problematic measure because it ignores the fact that many machines out there are not new machines. They are going to be replaced at some time in the future. The correct measure of the cost would take into account that very fact.

Perhaps to give an illustration, just imagine that a venue has a machine which is in the last year of its life and that its replacement ought to be \$25,000. It is currently worth \$2,000. If I bring forward the investment of

8 FamilyVoice Australia, *Submission 3*, p. 1.

9 Productivity Commission, *Gambling*, Report no. 50, Overview, 26 February 2010, p. 2.

10 Gaming Technologies Australia, *Submission 4*, p. 4.

\$25,000, the real cost is not \$25,000—it is \$2,000. Unless you take account of that fact, you get grossly misleading indicators of the costs. I cannot say which of those particular estimates you gave to me make which of those errors, but it sounds like the higher ones do so.¹¹

1.14 While industry will naturally be affected if machines are required to be upgraded, I believe this is a necessary consequence if harm minimisation measures of the kind proposed are to work.

The key measures

1.15 While the committee majority report cites submitter concerns regarding the quantity of research available to support the key measures proposed by the bill, it must be pointed out that a number of submitters—albeit not those reliant on revenue from gaming machines—pointed to strong evidence which is available.

\$1 bet limits

1.16 It is incorrect to say that the evidence supporting a \$1 cap on bets is weak. The \$1 figure is supported by the Productivity Commission in its 2010 inquiry and report on gambling in Australia. The Productivity Commission report is not a haphazard document based on guesswork and scant research—it is a serious piece of work produced by an impartial and highly professional agency. The fact that its conclusions may not be to everyone's liking is not sufficient reason to reject its findings.

Cash input limits

1.17 Cash input limits also received support among submitters. The Australian Churches Gambling Taskforce pointed out:

The Productivity Commission noted a 2007 NSW gambling prevalence study in which it was found people with gambling problems inserted notes into machines at a significantly higher frequency compared to other gamblers (84% of problem gamblers versus 54% of low risk gamblers who insert often/always). People with gambling problems were more than eight times more likely to insert \$50 notes into machines compared with EGM gamblers overall (41% to 5%). Moderate risk gamblers also displayed some of these expenditure patterns, but to a lesser degree.¹²

1.18 In fact, submissions such as the one above supported stronger measures than those proposed by the bill, but conceded that the legislation would be a good start:

The Taskforce would strongly prefer the removal of note acceptors altogether in those jurisdictions that currently allow for them, at the very

11 Dr Ralph Lattimore, Assistant Commissioner, Productivity Commission, *Committee Hansard*, 22 February 2013, p. 7.

12 Australian Churches Gambling Taskforce, *Submission 11*, p. 5.

highest allowing for note acceptors that accept \$5 notes. However, a restriction on note acceptors on EGMs to \$20 would be a small step forward in those jurisdictions that currently allow for \$50 notes to be inserted.¹³

1.19 We note that the cash input limit is also supported by the Productivity Commission, which included a recommendation to that effect in its 2010 report.¹⁴

Other issues

Compatibility with measures already underway

1.20 The committee majority is correct in saying that efforts towards the implementation of other measures, such as pre-commitment technology, are already underway. It is nonsensical, however, to imply that those measures are somehow incompatible with the application of the provisions set out by the bill. The point that the proposed measures and pre-commitment are entirely compatible and could work side by side as harm minimisation measures was made repeatedly over the course of this inquiry:

We do not regard mandatory precommitment and \$1-bet limits to be 'either/or' public policy options. Both are important budget-setting approaches and part of a broader public health approach. If you like, mandatory precommitment works on the demand side of the gambling industry while \$1-bet limits act on the supply side. Both are valid, important and useful ways of playing spending limits.¹⁵

1.21 Furthermore, parallel implementation of pre-commitment technology and \$1 bet limits is supported by the Productivity Commission.¹⁶ We believe this is a strong argument in favour of the legislation.

Effects on recreational versus problem gamblers

1.22 Certain submitters raised the prospect of the bill's effects inadvertently snaring recreational gamblers too, curbing their right to poker machine playing as a form of harmless entertainment. The evidence to support this assertion is scant.

13 Australian Churches Gambling Taskforce, *Submission 11*, p. 5.

14 Productivity Commission, *Gambling*, Vol. 1, Commonwealth of Australia, Canberra, 2010, p. 11.39.

15 Mr Mark Henley, Secretary, SA Churches Gambling Taskforce, and Member, Australian Churches Gambling Taskforce, *Committee Hansard*, 22 February 2013, p. 23. See also discussion with Professor Kevin Harrigan, Research Associate Professor, University of Waterloo, Canada, *Committee Hansard*, 22 February 2013, p. 2.

16 See Productivity Commission, *Gambling*, Commonwealth of Australia, Canberra, 2010.

1.23 When the above proposition was put to Dr Kevin Harrigan, an academic with many years' research experience in the gambling field, he explained that such an effect was unlikely:

What I will say based on observation but also some research, including some research from Australia, is that a lot of people are not wagering above \$1 anyway, the casual gamblers. I observe all the time here in my casinos in Ontario that people are wagering amounts that are nothing close to what the maximum wager on the machine is. They tend to play a nickel machine and wager \$1 or \$2. So for these casual gamblers it is not going to have much of an effect because that is what they wager anyway.¹⁷

1.24 Representatives of the Australian Churches Gambling Taskforce added:

A \$1-bet limit will be proportionately focused on the behaviour of people with gambling problems, and we highlight this as a really important point. It will have minimal impact on the behaviour of recreational gamblers. There is quite a bit [of] research, and our submission deals with some of that, but I highlight research from Queensland that shows that, from 2006-07:

... only 12% of recreational gamblers bet at \$1 or more a button push, compared to 50% of problem gamblers.

So \$1-bet limits are important public policy which we strongly support.¹⁸

1.25 The Productivity Commission, too, told the committee that imposing \$1 bet limits would achieve the outcomes intended by the bill insofar as harm minimisation is concerned:

The effects of bet limits on player outcomes and on different players are fairly straightforward. We looked at a range of evidence from a range of surveys and other source of evidence, and problem gamblers have a much higher tendency to play at high intensity and spend more than \$1. It does not mean that they all do, but they have a high probability of spending more than recreational gamblers, which means the measure is relatively well targeted at that group.¹⁹

1.26 While we accept that electronic gaming machines are intended primarily for recreational purposes, the point should be and has been made that machine design must be consistent with this intention. Given the intensity of play provided for by Australian poker machines, we cannot agree that this is the case.

17 Professor Kevin Harrigan, Research Associate Professor, University of Waterloo, Canada, *Committee Hansard*, 22 February 2013, p. 4.

18 Mr Mark Henley, Secretary, SA Churches Gambling Taskforce, and Member, Australian Churches Gambling Taskforce, *Committee Hansard*, 22 February 2013, p. 23.

19 Dr Ralph Lattimore, Assistant Commissioner, Productivity Commission, *Committee Hansard*, 22 February 2013, p. 6.

Will problem gamblers move to other forms of gambling?

1.27 The argument that introducing reforms to the operation of poker machines could potentially just drive those with a gambling addiction to other forms of gambling does not withstand scrutiny. As pointed out by the Gambling Impact Society, 80 per cent of those with gambling problems are struggling with the use of poker machines.²⁰ To assume that those people will all take up—and find equally addictive—other forms of gambling if poker machines are better regulated is conjecture. It completely disregards the fact that, among gambling products, poker machines are unrivalled in the level of addiction and consequently harm that they cause.²¹

Will problem gamblers gamble for longer periods?

1.28 We also note speculation, cited in the committee majority report, concerning whether problem gamblers will simply spend longer periods gambling if the intensity of play is curbed. Dr Ralph Lattimore, Assistant Commissioner at the Productivity Commission, told the committee that this effect would be limited, making two very valid points in the process:

There are two points to make in respect of that. First of all, Professor Blaszczynski, in his work some time ago, examined that question and did not find any significant increase in the playing time spent by problem gamblers in response to his particular in venue experiment. The other point to make is that, if the need is from the highest intensity machine—namely, a \$10 bet limit machine—to a \$1 bet limit machine, the required amount of extra time for you to get to the same player losses would obviously be a tenfold increase in time. That is a very appreciable increase in time which, for many practical reasons, would not be achievable by many problem gamblers. It would also raise the question of whether venues might have the greater opportunity to observe the person playing for those hours and to apply venue intervention. That does not mean to say that there is not any effect this way; it is likely that there will be some substitution between time and a \$1 bet limit if introduced.²²

1.29 Finally, problem gamblers are not the only gamblers who would benefit from reduced poker machine intensity. Gamblers as a group, the committee was told, have inaccurate recall and exhibit cognitive misperceptions about poker machines. This leads to greater expenditure than planned and can result in considerable losses.²³

20 Gambling Impact Society (NSW), *Submission 14*, p. 7.

21 For more on the addictive nature of poker machines see Natasha Dow Schull, *Addiction by Design: Machine Gambling in Las Vegas*, Princeton University Press, 2012.

22 Dr Ralph Lattimore, Assistant Commissioner, Productivity Commission, *Committee Hansard*, 22 February 2013, p. 6.

23 Dr Ralph Lattimore, Assistant Commissioner, Productivity Commission, *Committee Hansard*, 22 February 2013, p. 6.

Conclusion

1.30 It is disingenuous to say that the evidence to support this bill is still somehow lacking. How many studies need to prove that poker machines are harmful, and how many lives need to be destroyed before we accept that gaming machines need to be better regulated? How much evidence is enough? This is something the committee majority has not and will not explain.

1.31 This committee has done considerable work on problem gambling and is very well aware of the capacity poker machines have to engender addictive behaviour. We are firmly of the view that the time has come to act. This bill would bring tangible results. The proposed reforms may not be pleasing to those who profit from gambling addiction, but it is not their financial concerns that should drive this committee or indeed policymakers.

Recommendation 1

1.32 We recommend that the Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012 be passed.

Anti-Money Laundering Amendment (Gaming Machines Venues) Bill 2012

1.33 In October 2010 the Sydney Morning Herald reported that hundreds of millions of dollars was being poured into poker machines in New South Wales alone in order to convert illegally gained cash into funds that appear legitimate. The article explained:

Industry sources estimate that nationally \$2 billion a year is laundered through hotel, club and casino poker machines and gambling chips... This is a large slice of the \$14 billion fed through the nation's poker machines each year... The amount fed into machines by criminals far exceeds that spent by problem gamblers with psychological addictions to playing pokies.²⁴

1.34 The Anti-Money Laundering Amendment (Gaming Machines Venues) Bill 2012 seeks to 'restrict opportunities for money laundering through poker machines' by requiring that payouts over \$1,000 and the cashing of transferred cheques are classified as 'threshold' transactions'.²⁵ These transactions are then reportable to the Australian Transaction Reports and Analysis Centre (AUSTRAC), allowing AUSTRAC to 'monitor and record such activity for the purposes of reducing money laundering and other prohibited actions'.²⁶

24 Vanda Carson, 'Threat to pokies as money laundries', *Sydney Morning Herald*, 1 October 2010, available at <http://www.smh.com.au/nsw/threat-to-pokies-as-money-laundries-20100930-15zd5.html>, (accessed 19 June 2013).

25 Explanatory Memorandum, p. 2.

26 Explanatory Memorandum, pp 2–3.

1.35 Despite evidence that money laundering through poker machines is a real threat to the industry, Clubs Australia claims the current regulatory framework provides sufficient safeguards against the practice based on the requirements of the *Anti-Money Laundering and Counterterrorism Financing Act 2006*.²⁷ Clubs Australia claims that a variety of obligations under the *Anti-Money Laundering and Counterterrorism Financing Act 2006*, such as risk profiling of gaming machines patrons and training for gaming employees are adequate at preventing money laundering.²⁸

1.36 These claims are in stark contrast to an example of suspected money laundering reported in *The Australian* in 2012 involving the Westend Market Hotel in Melbourne failing to act on suspicions of money laundering through its poker machines by encouraging staff to turn a blind eye to one family presenting winning tickets of up to \$40,000 per week.²⁹ In total, \$632,396.67 in cheques was made out to this family.

1.37 This example demonstrates that it is clear the poker machine industry cannot be relied upon to report suspicious activity voluntarily. Currently it is too easy for cases of suspected money laundering to go unreported, allowing this criminal enterprise to thrive.

1.38 We believe there is a demonstrable need for greater regulation of payouts and transferred cheques at poker machine venues in order to stem the tide of money laundering. The Anti-Money Laundering Amendment (Gaming Machines Venues) Bill 2012 will go a long way to achieving this.

Recommendation 2

1.39 We recommend that the Anti-Money Laundering Amendment (Gaming Machines Venues) Bill 2012 be passed.

Interactive Gambling Amendment (Virtual Credits) Bill 2013

1.40 The purpose of this bill is to ensure that gambling activities online are appropriately captured by the definition of 'gambling service' in the *Interactive Gambling Act 2001*. The current definition does not cover activities where virtual items, which are purchased using real money, are then used for gambling. In these cases, gamblers are essentially betting with real currency, on games that are virtually

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

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

29 Chip Le Grand and Adam Shand, 'Mathieson's pub linked to money laundering', *The Australian*, 20 September 2012, available at: <http://www.theaustralian.com.au/news/nation/mathiesons-pub-linked-to-money-laundering/story-e6frg6nf-1226477624038>, (accessed 19 June 2013).

identical to 'land-based' gambling activities but have no way to cash out their winnings as the game is not considered to be a 'gambling service' under the Act.³⁰ This is an unacceptable loophole which has allowed potentially millions of dollars to be lost to online casino style websites and mobiles applications ("apps") such as DoubleDown Casino, Zynga Poker and Slotomania.

1.41 In its review of the Interactive Gambling Act, the Department of Broadband, Communications and the Digital Economy summarised why many of these websites and apps are cause for concern:

- The games look very much like many real casino games and some may use a simulated rate of return that gives players an unrealistic impression of rates of return for actual online casinos;
- There is an incentive to use virtual chips to unlock elements of the game (eg. new levels, items) and the fastest way to do this is to purchase additional chips with real money; and
- If a player loses all their virtual chips, they are able to purchase more chips to continue playing the game.³¹

1.42 The Australian Psychological Society in their submission affirmed the need for virtual currency or 'tokens' to be recognised as possessing monetary value:

...tokens have symbolic value, and demonstrate the widespread use of alternative forms of currency, that function in similar ways to that of cash currency. In this way, it is the symbolic value of the currency, together with the rewards for which it can be exchanged, whether in cash, privileges or other benefits, that has meaning, and not the actual unit currency. This evidence warrants caution regarding the accessibility of online gaming opportunities using virtual currencies, as these can simulate (and stimulate) broader gambling activities and reinforce gambling behaviour. Amending the Interactive Gambling Act 2001 to provide that virtual credits, coins, tokens and objects that are purchased are recognised as items of value in relation to a gambling service would appear entirely consistent with psychological research that demonstrates, and has utilised in therapeutic settings, the operation of token economies as systems of behaviour modification and reinforcement in which the token indeed has real currency.³²

1.43 The Department's cavalier attitude towards the definitional problems in the IGA is in stark contrast to the evidence provided by the Australian Psychological Society and is clearly identifiable through the department's statement in their submission:

30 *Explanatory Memorandum*, p. 2.

31 Department of Broadband, Communications and the Digital Economy, Review of the Interactive Gambling Act 2001, Final Report 2012, p. 141.

32 The Australian Psychological Society, *Submission 4*, p. 5.

... there are better ways of addressing this issue than changing the definition of gambling in the IGA - this includes encouraging greater vigilance by parents and by relevant social media platforms, etc being more responsive to the findings of emerging research in this area.³³

1.44 Placing the responsibility of limiting losses on parents' shoulders alone is simply unacceptable. Time and time again we have heard how children have been able to use their parent's credit cards and Pay-Pal accounts to make online purchases without the parents' knowledge.

1.45 It is not surprising that representatives from the online gaming industry have chosen to downplay the problems associated with virtual credits and instead assert that the current regulations go far enough. The Australian Interactive Media Industry Association Digital Policy Group told the committee:

Many other countries have assessed social gaming involving virtual items to be safe, and not in need of additional regulation.³⁴

1.46 This statement however does not take into account a ruling by the Dutch Supreme Court in 2012 that it was possible for virtual items to be the subject of a theft because they carry an intrinsic value due to the time and energy invested in winning them.³⁵ This ruling demonstrates how the perception of virtual items is evolving. It is time Australian regulation caught up:

The current legislation is over a decade old. The past decade has seen a burgeoning of more sophisticated ways to gamble, including access to 24 hour gambling through the internet, mobile phone technology and interactive television platforms. With such rapid changes in technology, it is important that legislation reflects these changes and takes into account how these sites operate.³⁶

1.47 It is inexcusable that the federal government to date has failed to implement measures that would protect Australians, particularly Australian children, from developing gambling addictions. While the websites and apps targeted by this bill may describe themselves as "fun", the reality of gambling addiction is anything but.

33 The Department of Broadband, Communications and the Digital Economy, *Submission 5*, p. 7.

34 Australian Interactive Media Industry Association Digital Policy Group, *Submission 2*, p. 4.

35 'Online game theft is real crime', *The Daily Telegraph*, 1 February 2012, available at: <http://www.dailytelegraph.com.au/online-game-theft-is-real-crime/story-fn6e1m7z-1226258943420>, (accessed 19 June 2013).

36 The Australian Psychological Society, *Submission 4*, pp 2–3.

Recommendation 3

1.48 We recommend that the Interactive Gambling Amendment (Virtual Credits) Bill 2013 be passed.

Mr Andrew Wilkie MP
Chair

NICK XENOPHON
Independent Senator for South Australia

Senator Di Natale
Australian Greens
Senator for Victoria

Senator John Madigan
Democratic Labor Party
Senator for Victoria

Coalition committee members' additional comments

1.1 Coalition committee members support the committee majority's recommendation against passing the Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012 (the bill), but wish to emphasise several key points which arose over the course of this inquiry.

Lack of evidence

1.2 A significant number of submissions argued that the evidence to support the bill was insufficient.¹

1.3 Coalition committee members note that a \$1 bet limit is supported by the Productivity Commission and may appear to be an attractive measure at face value. Nonetheless, research on the benefits of this specific limit is not currently available. As put by Professor Alex Blaszczynski:

Unfortunately, no funding or interest from either industry or government sources was available to the researchers...to continue undertaking a systematic series of studies to evaluate the effectiveness of the \$1 max bet and other machine modification as responsible gaming initiatives. As a consequence, this represents a missed opportunity to obtain empirical evidence that would be extremely useful currently to inform policy makers and the current Joint Select Committee of the effectiveness of the recommendations made by the Productivity Commission.

...

To date, there are no peer-reviewed publications or reports that we are aware of that have systematically compared the maximum bet sizes and the prevalence and incidence of problem gambling or gambling related harms across international jurisdictions, that has taken into account or controlled for the diversity of competing forms of gambling.²

1.4 Clubs Australia added that the Productivity Commission did not undertake a proper cost-benefit analysis of \$1 bets, arguing that the cost of implementation, coupled with the loss of revenue, would compromise the financial viability of local clubs and jeopardise tens of thousands of jobs.³

1.5 Although a bill purporting to reduce harm caused by excessive gambling has credibility at face value, Coalition committee members cannot support reforms which are not backed up by conclusive empirical data. Policymaking decisions should be based on fact, not opinion.

1 See for example Professor Alex Blaszczynski, *Submission 1*; Clubs Australia, *Submission 7*; NSW Government, *Submission 8*; Gaming Technologies Australia, *Submission 4*; Aristocrat, *Submission 9*; Australasian Gaming Council, *Submission 12*.

2 Professor Alex Blaszczynski, *Submission 1*, p. 2.

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

Unnecessary legislation

1.6 Coalition committee members are firmly of the view that legislation should only be introduced if the benefits it would bring are clear and founded on solid evidence. This is not the case where the proposed bill is concerned.

1.7 Limiting consumer spending on electronic gaming machines (EGMs) is, as put by Clubs Australia, a value-laden initiative.⁴ The fact is that most people who use EGMs are recreational players who do not have a gambling problem. This being the case, it would be disingenuous to impose limits which would curb the recreational freedom of millions of Australians without demonstrably helping the small minority of gamblers who experience problems with controlling their expenditure.

1.8 Clubs make a considerable economic contribution to their local communities. They provide social venues, entertainment, employment opportunities, sporting infrastructure and revenue. This contribution could be placed in jeopardy by this bill.

The bill is predicated on incorrect premises

1.9 Coalition committee members are of the view that much of the argument for this bill is predicated on contentious assumptions.

Incorrect characterisation of poker machines

1.10 For example, submissions such as that from Clubs Australia hold that Australian poker machines have been incorrectly characterised as high intensity. They are joined in this argument by others, such as the Gaming Technologies Association.

1.11 Whereas the committee repeatedly heard that the Productivity Commission estimates players can lose around \$1200 in a single hour on a gaming machine, this figure is challenged by submitters.⁵ Gaming Technologies Australia, for one, countered the hypothesis:

The fact is, Australia's poker machines are among the world's least "intense". Their rate of play is slower and their maximum bet is lower than almost all of the other seven million gaming machines in operation everywhere else in the world.⁶

Targeting non-problem gamblers and industry

1.12 This bill is based on the assumption that all poker machine players are vulnerable to addiction. The truth is that only a fraction of poker machine players experience problems. The vast majority of players are ordinary Australians who enjoy playing EGMs as a legitimate leisure activity:

The language used to frame the debate is pejorative and highly emotional: poker machine expenditure is labelled as 'losses', rather than 'spending'; the players are constantly referred to as vulnerable, their actions 'manipulated'

4 Clubs Australia, *Submission 7*, p. 4.

5 See Gaming Technologies Association, *Submission 4*, p. 2.

6 Gaming Technologies Association, *Submission 4*, p. 2.

by 'unscrupulous' industry ("poker machine barons"), and state and territory governments are 'addicted' to tax revenue. Players are described as highly suggestible and unable to exercise free will to make rational choices. The argument follows that 'dangerous losses' must be prohibited in these circumstances.⁷

1.13 As well as in essence targeting primarily recreational, not problem, gamblers, this bill would also bring with it considerable implementation costs to industry. As put by Mr Ross Ferrar, Chief Executive Officer of Gaming Technologies Australia, when asked to explain the cost of making changes to poker machines:

It varies according to the age of the machine. What we have said to the Productivity Commission, the committee, the government and the opposition is that where a machine is—as a rule of thumb—three years old or younger, it will be just a software update. We call that a game change. For example, when a current machine is running a game and the owner of that machine wants to run another game, they have to replace the software—hence the term 'game change'. The cost of that varies, but as a rule of thumb we are saying \$5,000. Where a machine is between three and five years of age, there will be additional hardware upgrades required as well. Our technical committee has estimated that that would be on average about \$9,000. Where a machine is older than five years, the machine would have to be replaced. The median cost of a new machine is about \$25,000. We have been saying those figures for quite some time now, so I am a little bit nervous about them. They may be a little conservative.⁸

1.14 The Productivity Commission, although in support of \$1 bet limits, nonetheless itself acknowledged that this bill would have a 'significant' effect on the revenue venues generate, which would, in turn, result in some closures and job losses.⁹

Conclusion

1.15 Coalition committee members acknowledge that gambling is a problem for some Australians and hold that more should be done to tackle problem gambling. It is not sufficient to introduce costly and far-reaching reforms which would affect predominantly recreational gamblers however—this would do little to achieve the desired outcomes.

1.16 Reforms must recognise and account for the fact that most Australians gamble responsibly, and are able to control their own expenditure on this leisure pursuit. They must also recognise that the sector provides thousands of jobs. Coalition committee members support evidence-based initiatives such as voluntary pre-commitment, and as such do not support legislation which is not evidence-based and will cost jobs without

7 Clubs Australia, *Submission 7*, p. 9.

8 Mr Ross Ferrar, Chief Executive Officer, Gaming Technologies Australia, *Committee Hansard*, 22 February 2012, p. 15.

9 See discussion with Dr Ralph Lattimore, Assistant Commissioner, Productivity Commission, *Committee Hansard*, 22 February 2013, p. 11.

helping problem gamblers. We therefore agree that the Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012 bill should not be passed.

1.17 We also agree that the Anti-Money Laundering Amendment (Gaming Machines Venues) Bill 2012 and the Interactive Gambling Amendment (Virtual Credits) Bill 2013 should not be passed.

Mr Steven Ciobo MP

Mr Josh Frydenberg MP

Appendix 1

Submissions received

Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012

Submission Number	Submitter
--------------------------	------------------

- | | |
|-----|--|
| 1. | Alexander Blaszczynski |
| 2. | Municipal Association of Victoria (MAV) |
| 3. | FamilyVoice Australia |
| 4. | Gaming Technologies Association Limited |
| 5. | Department of Families, Housing, Community Services and Indigenous Affairs |
| 6. | Manningham City Council |
| 7. | Clubs Australia |
| 8. | NSW Government |
| 9. | Aristocrat |
| 10. | Department of Racing, Gaming and Liquor, WA |
| 11. | Australian Churches Gambling Taskforce |
| 12. | Australasian Gaming Council |
| 13. | Mission Australia |
| 14. | Gambling Impact Society (NSW) |
| 15. | Australasian Casino Association |
| 16. | ALH Group Pty Ltd |
| 17. | Dr Charles Livingstone |

Anti-Money Laundering Amendment (Gaming Machines Venues) Bill 2012

Submission Number	Submitter
--------------------------	------------------

- | | |
|----|--|
| 1. | Australian Churches Gambling Taskforce |
| 2. | Clubs Australia |

Interactive Gambling Amendment (Virtual Credits) Bill 2013**Submission Number Submitter**

1. Game Developers' Association of Australia
2. Australian Interactive Media Industry Association
3. International Social Games Coalition
4. Australian Psychological Society
5. Department of Broadband, Communications and the Digital Economy
6. Clubs Australia

Appendix 2

Public hearings and witnesses

Poker Machine Harm Reduction (\$1 Bets and Other Measures) Bill 2012

Friday 22 February 2013 – Canberra

Professor Kevin Harrigan

Productivity Commission

Dr Ralph Lattimore

Gaming Technologies Australia

Mr Ross Ferrar, Chief Executive Officer

Australian Churches Gambling Taskforce

Dr Mark Zirnsak, Member

Mr Mark Henley, Member

Ms Judith Tokley, Member

Dr Charles Livingstone

Department of Families, Housing, Community Services and Indigenous Affairs

Ms Leesa Croke, Acting Group Manager, Problem Gambling and SACS Group

Ms Amy Laffan, Acting Branch Manager, National Gambling Policy and Legislation Branch