1.1 Coalition Senators are deeply concerned about the lack of time the Government has permitted for proper consultation and review of this legislation.

1.2 Above all else, Coalition Senators add their voice to the calls of many others that legislation of such alleged significance to addressing problem gambling in our community deserves much greater scrutiny and community consultation. Coalition Senators believe a more thorough inquiry should be undertaken into the legislation.

1.3 This is significant legislation that, if implemented, will require cooperation from State and Territory Governments through the COAG process as well as the active participation of the gaming industry, the hospitality sector and other stakeholders.

1.4 Despite this, the Government has allowed insufficient time to examine the provisions of this legislation and has roundly ignored warnings from experienced bodies about potential pitfalls in the bill.

1.5 Likewise, those who expressed a concern about other potential negative consequences of this legislation, particularly the impact on employment in the hospitality sector, have not had their voices adequately heard.

1.6 The legislation was introduced to the House of Representatives on 1 November, with the subsequent Joint Select Committee on Gambling Reform given a mere week to take submissions and a further one week for hearings. Given the scope of this legislation and the dimensions of the challenge it seeks to address, this was far from adequate.

1.7 Similarly with the Senate process, the evidence clearly identifies that there has been very poor consultation on the proposed legislation by Government with all parties that have a responsibility in ensuring the ultimate success of national gaming reform legislation.

1.8 Coalition Senators support the concept of voluntary pre-commitment as one of a variety of tools for addressing the complex issue of problem gambling in Australia. However, we disagree with the approach as proposed by this Government and contained in its ill-conceived legislative proposals.

1.9 Coalition Senators do not believe the legislation should be supported in its current form.

1.10 Coalition Senators believe the Government’s national gaming reform legislation is far from perfect and can be characterised by its lack of appreciation for the concerns of State and Territory Governments; its decision to ignore important technical advice and suggested improvements from key industry participants; and a failure to provide much needed clarity and flexibility in the proposed legislative measures.
1.11 The Productivity Commission itself stated that the issue of addressing problem gambling is a complex task for public policy and that coverage and design of regulation require particular care to ensure that the benefits exceed the costs, and that account is taken of what is often imperfect evidence.

1.12 At its core, the Government’s national gaming reform legislation has ignored the legitimate comments and suggested improvements to the legislation by those who will ultimately be judged as to the effectiveness of the proposed reforms.

1.13 Closer examination of the evidence suggests a number of initiatives should be supported that will significantly improve the effectiveness of the legislation.

1.14 Coalition Senators have identified six areas of concern with the Governments legislation, being the:

- Extension of Commonwealth influence over State and Territory jurisdictions;
- lack of time given to industry to effectively prepare for implementation of the new measures;
- cost of implementation;
- negative impact on industry and employment especially on smaller venues, those in regional and rural areas and those premises already experiencing financial hardship;
- the risk of widespread non-compliance; and
- matters associated with the use of ATMs.

**Extension of Commonwealth influence**

1.15 At the outset, Coalition Senators are concerned the legislation is a further over-reach of Commonwealth authority into a State responsibility.

1.16 As significant as the issue of problem gaming appears to be for many in the community, the seriousness of the issue does not necessarily require the accumulation of authority and responsibility in this area by the Commonwealth.

1.17 This point is best demonstrated by the evidence of respected Professor of Constitutional Law at The University of Sydney, Dr Anne Twomey, who stated:

> … gambling is fundamentally a State matter that should be dealt with by State laws … it would be more consistent with the federal system and with the principle of subsidiarity for such laws to be applied at the State level.¹

1.18 The success of allowing and encouraging State based legislative responses to reducing the occurrence of problem gambling should be given greater attention.

1.19 This point is best demonstrated by the success of Western Australia in developing a unique and successful gaming regime where the low prevalence of

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¹ Dr Anne Twomey, Submission 1 to the Joint Select Committee on Gambling Reform's inquiry on the National Gambling Reform Bill 2012 and other related bills, p. [1].
problem gambling has been attributed to permitting destination gaming and not having electronic gaming machines available in the wider community.

1.20 Coalition Senators are disappointed the COAG process was not fully utilised to ensure a more fulsome consultation process with State and Territory Governments to allow for earlier technical input into some of the design and implementation features of the proposed gaming reform legislation.

**Timeframe for implementation and costs of implementation**

1.21 The bill seeks to impose uniform timelines and conditions on all States and Territories. The evidence suggests the consequence of this arbitrary approach will be extensive compliance costs and administrative burdens.

1.22 The imposition of uniform timelines and conditions runs counter to the expert evidence of the Productivity Commission. It has stated:

> Realistically, most State and Territory governments could not quickly implement a genuinely binding pre-commitment system. Full-scale implementation and advanced interfaces with the gambler would also require all machines to have card readers (or other player identification devices) and software upgrades – a costly measure if required to be done quickly.²

1.23 Instead, the Productivity Commission proposed a staged approach involving partial pre-commitment and a trial of full pre-commitment.

1.24 Coalition Senators believe the imposition of a uniform timeline for implementation is a reckless rejection of the advice of the Productivity Commission and could undermine the overall success of the implementation of a voluntary pre-commitment regime.

1.25 Furthermore, technical evidence received by suppliers of gaming technology such as the Gaming Technologies Association (GTA) suggested the timelines for implementation could not be observed, not least because the term “pre-commitment” has not been clearly defined.

1.26 The GTA stated:

> …while everyone is talking about pre-commitment, no one in the Government can explain what that means in practice for the design of the gaming machine and its software.³

1.27 It is important to note that GTA is the sole body of industry technical expertise in Australia. On the issue of implementation its evidence is significant: ‘GTA states categorically that the implementation timelines in the bill cannot met.’⁴

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³ Gaming Technologies Association Limited, *Submission 10 to the Joint Select Committee on Gambling Reform’s inquiry on the National Gambling Reform Bill 2012 and other related bills*, p. [1].
This evidence was reinforced by other industry participants. Aristocrat, a global company with more than sixty years' experience also provided evidence regarding the bill’s implementation timeframes and their associated costs. Aristocrat stated:

Any solution needs to be affordable and practical within the technological complexities and lead times of the industry. It must also have the support of both the players and operators if it is to succeed.

Upgrading these to ensure compliance with any new regulatory requirement would involve a huge investment and redirection of resources towards the development of the necessary mathematics models, artwork and feature sets. Aristocrat believes the implementation timeframes being discussed … are wholly unrealistic.5

To assist progress to full implementation as soon as possible, Coalition Senators suggest the bill include provision to grant recognition to all existing pre-commitment technology that meets the requirements proposed by the bill.

It is noted the bill currently does not recognise the significant investment already made by some premises to provide for pre-commitment systems. These systems should be recognised as soon as possible to extend some regulatory certainty to the gaming industry.

**Recommendation 1**

**1.31** Coalition Senators recommend that to ensure full successful implementation, timelines for implementation are incorporated in the regulations and not in the legislation thus reflecting the pre-existing technical variations between jurisdictions.

**Recommendation 2**

**1.32** Coalition Senators recommend that existing pre-commitment systems that already meet minimum requirements proposed in the bill be automatically recognised as compliant to assist in delivering regulatory certainty to some gaming premises.

**Disproportionate negative impact on smaller venues, those in regional and rural areas and premises suffering economic stress**

The bill has ignored the fact that many gaming premises do not have the capacity to implement and comply with the proposed regime. This is particularly the case for smaller venues, those in regional and rural areas and financially marginal premises.

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4 Gaming Technologies Association Limited, *Submission 10 to the Joint Select Committee on Gambling Reform’s inquiry on the National Gambling Reform Bill 2012 and other related bills*, p. [1].

5 Aristocrat, *Submission 15 to the Joint Select Committee on Gambling Reform's inquiry on the National Gambling Reform Bill 2012 and other related bills*, p. 4.
1.34 It is nonsense to require this category of gambling premises to uphold the same implementation timeframe and costs of city casinos, not least because of the obvious differential in the average annual revenue collected per machine.

1.35 Coalition Senators would like Government to more genuinely revisit the suggestion provided in the evidence by Clubs Australia that a venue’s average revenue per machine should be used when assessing issues around timeliness and cost of implementation of the new regime.

1.36 The positive effect of this approach has already been identified by the Productivity Commission. It stated:

…the Commission proposes an even slower pace of change for small venues (mostly small regional clubs and pubs). Temporary exemptions for some measures are appropriate as their machines are often played at lower intensity and the lifecycle of their machines is longer than larger ‘cashed up’ venues. Given these characteristics, the benefits from early reform in these small venues are lower, and the costs of achieving it are higher, justifying their (temporary) special treatment.6

1.37 The merit of revisiting this issue is most obvious when reviewing the revenue derived from gambling by varying forms of premises. Hotels derived 28 per cent of their revenue from gambling, clubs 61 per cent and casinos 78 per cent.

Recommendation 3

1.38 Coalition Senators recommend that Government undertake more targeted consultation to address the concerns of some gambling premises regarding the implementation of the bill’s measures. This consultation should specifically address the needs of smaller venues and those in regional and rural areas that may be more financially marginal operations, and make proposals to ameliorate the time and cost pressures of implementing measures proposed by the bill.

Risk of non-compliance

1.39 The evidence also suggests that speed at which the bill’s measures are to be introduced could inadvertently encourage widespread non-compliance with the new regime and undermine its overall effectiveness.

1.40 A wide cross section of evidence, from the Productivity Commission to the Australian Hotels Association to the manufacturers and suppliers of gaming technology, have pointed to the risk that a hasty, ill-conceived approach to implementation timeframes may have the unintended consequence of widespread non-compliance.

1.41 Clubs Australia noted the problem in its submission:

…the Government’s proposed three year implementation timeframe for venues with more than 20 poker machines fails to provide sufficient time

for clubs to absorb compliance costs and is likely to result in widespread non-compliance across the industry. Clubs Australia believes that feasible implementation timeframes must accommodate those states and territories that face the most burdensome compliance requirements. The Productivity Commission recommended that venues be given a minimum of six years to amortise the capital investment associated with implementing state linked pre-commitment.7

1.42 Coalition Senators encourage the Government to consider the seriousness to which its efforts to combat problem gambling are being undermined by its own belligerence on the timeframe for implementation.

Matters concerning the use of ATMs

1.43 Two important issues have been raised in the evidence concerning the use of ATMs.

1.44 The first is the proposed $250 per day ATM withdrawal limit and the second involves the use of self-exclusion ATMs.

1.45 It is important to note that evidence linking access to ATMs with problem gambling is not conclusive. Evidence from the ATM Industry Reference Group highlights an important historical fact:

In the past decade, the prevalence of problem gambling has decreased, yet the number of ATMs in gaming venues has dramatically increased over this period.8

1.46 Coalition Senators support industry calls for an extension of the lead time of not less than 12 months for the commencement date of the proposed daily ATM withdrawal limit. Coalition Senators recognise that this has been the consistent and long held view of the ATM Industry Reference Group since the national debate on gambling reform began in 2007.

1.47 It is accepted that implementation of the proposed change across all State and Territories in gaming venues across geographically diverse locations is subject to differing legislative and regulatory models. Furthermore, there will be a requirement to make technological arrangements that differentiate between ATMs across networks and sites.

1.48 Coalition Senators believe the evidence supports raising the proposed daily withdrawal limit from an ATM from $250 to $400. Raising the proposed daily withdrawal limit to $400 would appear a fair mitigation against the adverse effect on food and beverage sales of hotel and clubs that may operate gaming premises.

1.49 Further consultation with all parties would also identify opportunities for enhanced use of self-exclusion ATMs by problem gamblers. Greater attention should

7 Clubs Australia, Submission 7 to the Joint Select Committee on Gambling Reform's inquiry on the National Gambling Reform Bill 2012 and other related bills, p. 5.

8 ATM Industry Reference Group, Submission 16 to the Joint Select Committee on Gambling Reform's inquiry on the National Gambling Reform Bill 2012 and other related bills, p. 4.
be given to this initiative while ensuring it does not knowingly interfere or inconvenience other patrons.

1.50 Coalition Senators believe greater attention should be paid to the evidence of the ATM Industry Reference Group when considering approaches to limiting access to ATMs as a means of addressing problem gambling. In particular the proposal to raise the daily ATM withdrawal limit from $250 to $400, the use of self-exclusion as an alternate to the daily withdrawal limit and excluding ATMs in regional and remote locations from the daily limit proposal.

Recommendation 4

1.51 Coalition Senators recommend the daily withdrawal limit for ATMs be raised from $250 to $400 and that attention be given to use of self-exclusion mechanisms on ATMs for problem gamblers.

Conclusion

1.52 The package of bills is not supported by Coalition Senators.

1.53 In summary, Coalition Senator believe the bills need improvements to ensure the success of the problem gambling reform measures are not inadvertently undermined by unnecessarily speedy and prescriptive legislative measures.

1.54 These improvements could be more easily identified and endorsed by all parties if there had been a more appropriate and comprehensive consultation process.

1.55 Coalition Senators concur with the approach of the Productivity Commission which suggests problem gambling measures should seek to increase competition across some segments, expand and improve consumer choice and reduce the harms of problem gambling while seeking to maintain its entertainment value.

Recommendation 5

1.56 Coalition Senators recommend that the bills not be passed in their current form.

Senator Dean Smith
Western Australia

Senator Bridget McKenzie
Victoria