



AUSTRALIAN BANKERS' ASSOCIATION INC.

David Bell
Chief Executive Officer

Level 3, 56 Pitt Street
Sydney NSW 2000
Telephone: (02) 8298 0401
Facsimile: (02) 8298 0402

10 October 2008

Mr Elton Humphery
Committee Secretary
Community Affairs Committee
Department of the Senate
Parliament House
PO Box 6100
CANBERRA ACT 2600
community.affairs.sen@aph.gov.au

Dear Mr Humphery,

***Poker Machine Harm Minimisation Bill 2008 and
ATMs and Cash Facilities in Licensed Venues Bill 2008***

On 12 September 2008, the Australian Bankers' Association (ABA) appeared before the Senate Standing Committee on Consumer Affairs' inquiry into the *Poker Machine Harm Minimisation Bill 2008* and *ATMs and Cash Facilities in Licensed Venues Bill 2008*. As requested, the ABA provides further information regarding self exclusion and restrictions on access to cash in gaming venues.

Harm minimisation strategies – self-exclusion schemes

The ABA believes harm minimisation strategies have a greater positive impact in stopping the further expansion of gambling or minimising the incidence of problem gambling. Harm minimisation strategies should form the basis of a national strategy to address problem gambling.

Responsible gambling programs and harm minimisation measures that consider cognitive and behavioural factors contributing to problem gambling have proven to be the most effective. Therefore, the ABA believes that harm minimisation strategies for problem gamblers should include:

- Education materials and confidential financial and problem gambling counselling services, provided by the Government; and
- Self-exclusion schemes, pre-commitment technologies and store value systems, provided by the gambling industry; and
- Gambling support programs, provided by the gambling industry and via the community sector; and
- Demand reduction or supply control initiatives, including removing or restricting access to electronic gaming machines (EGMs) in these venues, implemented by the gambling industry and the Government.

Measures already available to bank customers

In addition to regulatory measures to restrict access to cash in gaming venues¹, banks offer their customers options to assist them manage their finances and expenditure, including where possible, upon request, varying the maximum daily withdrawal limit on their debit card.

In this instance, a customer (card holder) would contact their bank and request that the maximum daily withdrawal limit on their debit card be reduced. Depending on the type of bank account, the bank would respond to the request by implementing a maximum daily withdrawal limit that differs from the standard limit. However, it should be noted that the new maximum daily withdrawal limit would apply across all points of access (ATM, EFTPOS and cash facilities), not just ATMs in gaming venues.

A bank would not take this action without an explicit instruction from their customer requesting that the maximum daily withdrawal limit on their debit card be reduced, for example, to assist them manage their gambling expenditure.

Extension of the 'Deed of Self Exclusion'

A bank's duty of confidentiality and various legal obligations, including privacy laws and the Electronic Funds Transfer (EFT) Code, means unless any exception to the rule is satisfied, it is unable to provide information to a third party about a customer, including their debit card number and other bank account details.

Currently, hotels and registered clubs operating EGMs have self-exclusion schemes in place to allow patrons to exclude themselves from nominated areas of a venue or the entire venue. Self exclusion takes the form of a contract between the individual and the gambling provider, with the individual, not the provider, being liable for any violation of the contract.

A gaming venue must enter an arrangement with a body (i.e. Clubs NSW and AHA NSW) approved by the Minister (i.e. Minister for Gaming (NSW)) to establish and conduct a self-exclusion scheme. This arrangement contains details of minimum requirements for establishing and conducting a self-exclusion scheme. Individuals are required to sign a 'Deed of Self Exclusion' to become self excluded. The ABA understands there is no cost for individuals who nominate to participate in the scheme.

It may be possible to extend existing self-exclusion schemes to include the ability for individuals to exclude themselves from certain services or facilities within the gaming venue (i.e. ATM). For example, a process might be possible, such as:

- The individual completes the Deed of Self Exclusion, which includes a section requesting the disclosure of information about their debit card, i.e. card number.
- The body administering the self-exclusion scheme executes the deed, and in doing so provides this information to the deployer of the ATM(s) in their venue(s).

¹ It should be noted, as at June 2008, 57 bank branded ATMs are located at gaming venues, which represents less than 1% of ATMs in gaming venues throughout Australia.

Banks have readily complied with existing regulations affecting ATMs in venues that are "gaming venues", including:

- limiting the amount of cash that can be withdrawn per transaction from ATMs in gaming venues;
- ensuring ATMs are not placed within gaming areas at gaming venues; and
- ensuring that cash advances on credit cards (against credit balances) are not available from ATMs at gaming venues.

The ABA assumes that the Bills refer to "licensed venue" as a venue that has a licence to operate EGMs ("poker machines") and not a licence, for example, that authorises the supply of liquor.

- The ATM deployer implements a software restriction at the ATM level, which means that the individual is unable to use their debit card in an ATM in a gaming venue where the self-exclusion scheme applies, but would still be able to use their debit card in ATM, EFTPOS and cash facilities elsewhere.

The individual would need to nominate to the approved body to participate in the self-exclusion scheme. The individual would also need to be responsible for complying with being self-excluded, i.e. provide relevant details for their debit card, and potentially more than one debit card, as well as be aware of how their banking, and potentially the banking of others, i.e. spouse, may be impacted by their participation in the self-exclusion scheme.

The ATM deployer would need to have the technology capability to be able to implement a software restriction to facilitate the voluntary self-exclusion schemes.

The ABA notes that this option would require substantial thinking through before it could be determined to be a possibility. For example, there are many complex practical and technical issues that would need to be clarified and resolved, such as:

- Protections – data would need to be properly protected. In addition, implications of consent being provided by the card holder regarding a transaction would need to be carefully considered in terms of privacy laws and the EFT Code.
- Data management – ATM deployers would need to develop a sophisticated software operating system for their ATMs, to ensure that data capture processes are maintained and updated as necessary. Administering bodies and/or gaming venues and/or ATM deployers would need to also maintain a list of excluded debit cards. Transferability of self exclusions if/when an ATM at a venue changes provider would need to be considered.
- Authentication – card holders would need to be verified, to ensure that the individual requesting to be self-excluded has restrictions placed on their debit card, and, where possible, not another individual, i.e. spouse. Multiple accounts and/or multiple cards would need to be considered.
- Staff training – gaming venues would need to provide their staff with adequate training, to ensure that the self-exclusion scheme is administered effectively.
- Liability/indemnity – card holders would need to understand their rights and responsibilities in relation to providing consent to disclose information to a third party. Gaming venues and ATM deployers would need to also understand their obligations and protections. In addition, dispute resolution processes would need to be considered.

The ABA understands that similar approaches are adopted in the United States, Canada and the United Kingdom. For example, initiatives overseas to restrict access to cash in gaming venues have been delivered through a combination of self-exclusion and ATM technology, whereby transactions may be blocked at the venue following disclosure of the card number and limit by the card holder. However, it should be noted that these voluntary self-exclusion schemes are administered through ATM networks that are quite different to Australia.

Therefore, the ABA suggests that the Committee give consideration to harm minimisation strategies, including self-exclusion schemes, and discuss the feasibility of this option further with representatives from the gambling industry, the ATM Industry Reference Group, and representatives from other ATM deployers that operate ATMs in gaming venues.

Concluding remarks

It is the ABA's strong view that restrictions on access to cash in gaming venues are a gambling industry and ATM deployer responsibility and not an issue for the banking industry and payments system, which is supervised and regulated by the Reserve Bank of Australia. Further cash restrictions should not be implemented in a manner that would compromise the efficacy of the payments system or impose costs on banks, other financial institutions, card issuers and all their customers.

The ABA reiterates our position regarding further cash restrictions. It is our view that removing ATMs or capping the amount of cash that can be withdrawn from ATMs and EFTPOS facilities in gaming venues is not an effective measure in addressing problem gambling. Therefore, further cash restrictions should not be introduced.

However, if further cash restrictions are introduced, it is our view that restrictions should be imposed on the licensee of the gaming venue to ensure that the operator of the device – that is, the ATM deployer or the merchant – implements the regulation. The responsibility for implementing further regulations should not be imposed on banks, other financial institutions or card issuers.

This approach recognises that it is unreasonable and impractical for banks, other financial institutions and card issuers to implement further cash restrictions and that it is appropriate for licensees of gaming venues to be responsible for limiting access to cash via cash facilities in their venues and for the ATM deployers that profit from ATMs in gaming venues to be responsible for implementing any further measures.

Therefore, a targeted response should have three elements:

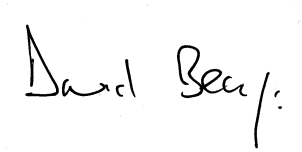
- Impose an obligation on licensees of gaming venues and ATM deployers to either limit cash withdrawals from ATMs in their venues, *or* remove ATMs where an ATM technology solution is not able to be commercially developed and delivered².
- Impose an obligation on licensees of gaming venues and merchants to introduce a protocol that restricts the use of EFTPOS facilities to conduct cash withdrawals in gaming venues.
- Give special consideration to remote, rural and regional communities that have limited access to cash services and therefore should provide for exemptions for certain locations and venues.

This approach enables the ATM industry to develop a technically feasible response and would not impose costs on banks, other financial institutions, card issuers and all their customers, or interfere with the payments system. It will also provide a practical approach to restricting access to cash from EFTPOS facilities and recognise that remote, rural and regional communities could be disproportionately impacted by further cash restrictions.

² Further regulation should not just require the removal of ATMs or EFTPOS facilities, nor should it just require the imposition of further cash restrictions. Such a response could have unintended consequences for all participants in the payments system and all members of the community. If ATMs were removed from gaming venues, it would result in 57 bank branded ATMs being removed. However, it would also result in around 25% of the ATM network being withdrawn – that would have a substantial impact on the ability for all customers to access their money. Therefore, it is important for the views of all ATM deployers to be taken into account when considering the introduction of further cash restrictions.

If you have any queries regarding the issues raised in this supplementary submission, please contact me or Diane Tate, Director, Corporate & Consumer Policy on (02) 8298 0410: dtate@bankers.asn.au.

Yours sincerely

A handwritten signature in black ink that reads "David Bell". The signature is written in a cursive style with a long, sweeping tail on the letter 'l'.

David Bell