

**Submission
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INQUIRY INTO IMPACT OF GAMBLING

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Submission in relation to Legislative Council Select Committee on the Impact of Gambling by the Consumer Credit Legal Centre (NSW)

Consumer Credit Legal Centre (NSW) Inc (“CCLC”) is a community-based consumer advice, advocacy and education service specialising in personal credit, debt, banking and insurance law and practice. CCLC operates the Credit & Debt Hotline, which is the first port of call for NSW consumers experiencing financial difficulties. We also operate the Insurance Law Service which provides advice nationally to consumers about insurance claims and debts to insurance companies. We provide legal advice and representation, financial counselling, information and strategies, referral to face-to-face financial counselling services, and limited direct financial counselling. CCLC took over 20,000 calls for advice or assistance during the 2012/2013 financial year.

A significant part of CCLC’s work is in advocating for improvements to advance the interests of consumers, by influencing developments in law, industry practice, dispute resolution processes, government enforcement action, and access to advice and assistance. CCLC also provides extensive web-based resources, other education resources, workshops, presentations and media comment.

The Consumer Credit Legal Centre (NSW) appreciates the opportunity to provide this submission to the Legislative Council Select Committee inquiry into the impact of gambling on individuals and families in New South Wales.

CCLC operates the Credit and Debt Hotline which is often the first point of contact for persons experiencing financial hardship – these are people who are not able to pay their bills for electricity, telephones, credit cards, personal loans, payday loans, and mortgages. Through this service we witness the impact gambling has on the people of New South Wales.

A large number of our callers are in hardship due to gambling. Whilst some of the gambling is through sports betting, it appears the vast majority are experiencing difficulty due to electronic gaming machines.

We do not collect data on the number of our callers which are gamblers, as we do not ask our clients their gambling habits as most gamblers are likely to hide their habit or are not actually aware of the extent of the problem. As such we are unable to provide exact figures.

In our experience, we find that often gamblers have been juggling their debts (taking loans to pay other loans) for significant lengths of time, and only contact us once their lines of credit have finally run out or their creditors have commenced legal action against them.

Use of social services

Whilst our service will always welcome all people in need of assistance, the reality is resources are finite. The problems caused by gambling places strains on services as the time spent assisting people suffering as a result of their gambling habit or the habit of a loved one is time that is not spent helping other people, people whose financial strain is the result of ill health or through the loss of employment.

RECOMMENDATION 1: Gambling operators should be required to cover the costs for social services assisting problem gamblers.

Access to cash/Payday Loans

The availability of automatic teller machines in venues with gambling facilities is problematic. Regulation 32 of the *Gaming Machines Regulation 2010* requires that:

“a hotelier or registered club must not permit a facility for the withdrawal or transfer of money from a bank or authorised deposit-taking institution (such as an ATM or EFTPOS terminal) to be located in a part of the hotel, or a part of the premises of the club, in which approved gaming machines are located.”

Whilst this regulation appears to be strongly worded, in reality it is quite weak. Many pubs and clubs are allowed to have an ATM located within a metre of gaming machine as long it is technically in the “next room” but often this distinction of spaces is a partition or part screen.

Many owners of gaming machine venues spend large amounts of money on the atmosphere of their gaming rooms. Set lighting, comfortable chairs and even artificial air fresheners are all used to create an environment conducive to gambling.

If gaming patrons were forced to leave the gaming venue atmosphere this may create a break in their gambling binge thus allowing the problem gamblers an opportunity to decide not to place further bets that they had not planned on spending.

Whilst legislation prohibits the provision of credit in licenced venues including through ATMs, credit providers have managed to circumvent this prohibition through the internet. Lenders provide quick access to funds, including direct deposits of loan amounts and lines of credit (commonly referred to as payday loans) which are paid almost instantly into borrowers’ savings accounts and are accessible inside gaming venues.

Payday loan companies can provide loans under \$2000 over the phone or internet to borrowers 24 hours a day. Many Payday lenders can transfer funds into the borrowers account with 60 seconds of the loan being approved.

CCLC has noticed a significant increase in persons experiencing financial hardship has a result of payday loans obtained for the purpose of gambling.

Borrowers are not subject to the same strict lending criteria of traditional lenders such as banks and credit unions. Fringe credit has lower eligibility requirements for borrowers, making loans available for those with poor credit history, are unemployed or on low income. Many payday lenders actually use their lax requirements as a selling point in their advertising.

These types of loans are not subject to the same interest and fees restrictions as credit cards and personal loans. These loans can often have interest comparison rates of over 150% of the loan amount. If borrowers cannot meet their required payments they are penalised with default fees which further detract from their ability to ever repay the loan.

The industry relies on repeat borrowing for a substantial part of its business¹. In CCLC's experience clients often borrow again immediately after paying off these loans, or borrow simultaneously from multiple outlets. Problem gamblers are highly susceptible to such products which often only further exacerbate their gambling and financial problems.

Whilst we recognise that the regulation of financial services is a Commonwealth Government responsibility we raise this issue to highlight the dangers of allowing accessible cash to gambling patrons. For even if they have run out of their own money they are still able to obtain further finance 24 hours a day.

RECOMMENDATION 2: That licenced venues with gaming machines are prohibited from having cash machine facilities, including automatic teller machines and EFTPOS withdrawals.

RECOMMEDATION 3: Payday lenders should not be licenced to operate near gambling venues.

RECOMMENDATION 4: That licensed venues with gaming machines should be prohibited from having wireless internet available in gaming rooms.

Risks of Gambling

The creation of debt to enable gambling carries much risk for people. Under Australian law, if a person has a judgment debt for \$5000 or over, then the creditor is entitled to seek to issue bankruptcy proceedings and have the person declared bankrupt by a court. Bankruptcy will have consequences for the individual for the rest of their life and not just in

¹ Parliamentary Joint Committee on Corporations and Financial Services, Parliament of Australia, *Inquiry into Consumer Credit and Corporations Legislation Amendment (Enhancements) Bill 2011* (December 2011) 60-61 [5.44-5.45]

relation to obtaining credit. Persons declared bankrupt can lose most of their assets, including their home. Loss of one's home is a two-fold problem as bankrupts may also encounter difficulty obtaining rental accommodation due to failing credit checks carried out by landlords. Many professions prohibit the employment of undischarged bankrupts from public office to aged care nursing – this loss of employment only further exacerbates their existing financial problems.

Bankruptcy can lead to criminal penalties for gamblers. Under s271 of the *Gambling Act 1966* it is an offence where you have engaged in hazardous speculation or gambling where it has led to your insolvency within the previous two years punishable upon conviction by imprisonment for a period up to one year.

RECOMMENDATION 5: Greater education is required of the financial and criminal implications of gambling.

We receive heart-breaking calls from partners who have just had the sheriff deliver a repossession notice giving them 30 days to vacate their home. Many of these people had no knowledge that their financial situation was so dire nor were they aware of their partner's gambling problem.

Unfortunately, a number of consumers who engage in hazardous speculation and gambling will hide their addiction and the consequences from loved ones.

In some cases, the issues are not hidden but the family member feels powerless to help and lack access to resources for help and assistance.

RECOMMENDATION 6: Greater education and support services are required to protect and assist the partners and children of gamblers.

The following de-identified Case Studies are from clients of the Consumer Credit Legal Centre:

Mr X

Mr X has a long history of gambling, and obtaining funds to supplement his addiction through various payday loans. He has been diagnosed as having a gambling addiction and for a short while he was receiving treatment.

When Mr X came to our service, he was having difficulty maintaining repayments on five payday loans – three of which were from companies he had a long borrowing history with.

In particular, Mr X would obtain funds from various branches of Company A and admitted that he was such a regular customer that he began to know the staff and that they were

aware of his addiction. On another occasion, Company B contacted his home to advise that the loan had been approved, and despite being told by two members of his family of his addiction, was forwarded the funds. Mr X's bank account statement outlines his many transactions at TAB Ltd. Pay day lenders are required by law to obtain and review bank statements as part of their responsible lending obligations. Nevertheless, Mr X was never questioned by any of the lenders as to addiction and his capacity to repay the loans.

Mr Y

When Mr Y came to our service as he was having difficulty maintaining repayments on three payday loans. He had also employed the services of a paid debt negotiator, which had caused him to spiral into further financial stress. Mr Y is a recipient of the DSP and has a long history of gambling. His bank account statements indicated a pattern of withdrawing his Centrelink funds as soon as he received them, from various RSL clubs.

His pension soon became incapable of sustaining his gambling addiction and Mr Y started sustaining it with payday loans. Whilst Mr Y initially did not have many expenses, his gambling addiction caused his living expenses to be very high.

Mr G

Mr G bought an apartment with his wife. He was employed in manufacturing. Unfortunately, he developed the symptoms of schizophrenia and would spend all day at the local club playing the pokies. He stopped paying the mortgage and all of his Disability Support Pension was spent at the club. His wife and son left. The mortgagee issued default notices and he continued to access his superannuation early to pay the mortgage. He ran out of super and the mortgagee commenced legal proceedings to recover the property. There was no equity in the property due to the arrears that had accumulated. Mr G lost his wife, his child, his home and his superannuation.

Mr C

Mr C and his wife live in rural NSW in a property Mrs C had inherited from her mother. There was a mortgage over the property. They approached CCLC after receiving a Notice to Vacate. Mr C said he was struggling to make the payments on his income. A financial counsellor from CCLC worked with Mr C and his wife. The financial counsellor struggled to understand why Mr and Mrs C were not able to make the mortgage payments; it seemed objectively whilst they had a low income they should be able to afford the mortgage repayments. Mr and Mrs C were assisted in negotiating a repayment arrangement with the mortgagee. Unfortunately, the repayment arrangement was continually broken by Mr and Mrs C. The financial counsellor after a number of appointments and reviewing of the client's expenditure discovered a number of large cash withdrawals from the ATM at the local club. Mr C eventually acknowledged that he would spend large amounts of the household income at the club on the pokies. Mrs C left the home and went to live with her mother. The financial counsellor took steps to encourage Mr C to get gambling counselling. Mr C would not seek help. Mrs C had her own mental health problems and no access to any service that could provide her assistance so that she could have more control over the household

finances. Eventually Mr and Mrs C home was repossessed by the lender and a large shortfall was left over.

Mrs F

When Mrs F approached our service she had a statement of claim from a creditor demanding \$20,000 and a judgment debt for another credit card provider for \$30,000. She instructed us she jointly owned a property with her partner Mr F. She had sought electroshock therapy to treat her severe depression. She instructed us that during manic phases of her illness she applied for credit cards and she used cash advances to gamble. She was suicidal as she now realised she had put her home at risk as her creditors were threatening to commence bankruptcy proceedings against her. In review of her credit card applications Mrs F under disclosed her debts and overestimated her income. Mrs F was scared about what her partner would do when he found out about the debt. Mrs F was considering bankruptcy, but due to the debts being incurred for gambling and the fact she had not disclosed all of her liabilities when obtaining credit she was at risk of being investigated by the trustee or the debts not being discharged by her bankruptcy.

If you have any questions or concerns regarding this submission please do not hesitate to contact the Consumer Credit Legal Centre on (02) 9212 4216.

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