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**The Economic and Social
Implications of Gambling**

by

Talina Drabsch

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EXECUTIVE SUMMARY

The gambling industry is big business in Australia, with Australians losing \$15 billion on gambling last year. The industry has grown substantially in the last twenty years following the widespread introduction and legalisation of casinos and gaming machines. The proportion of household disposable income directed towards gambling has escalated, as has the amount of taxation revenue provided to governments from gambling. A number of parallels have been drawn between gambling and alcohol as both are legal for adults, heavily marketed, strongly regulated, provide substantial tax revenue, can be viewed as entertainment, and are deemed a matter of personal responsibility.

Section one of this paper (pp 1-10) defines a number of key terms. It outlines the various forms of gambling and provides an overview of the extent of gambling in New South Wales and Australia.

Section two (pp 10-20) examines the history of gambling in Australia. It adopts the classification used by the Australian Institute for Gambling Research, which divided gambling history into four periods: the early period of colonisation (1788-1940s); post-war gambling (1945-70); commercialisation and growth (1970s and 80s); and competition and globalisation (1990s onwards).

Section three (pp 20-30) discusses the way gambling is regulated in New South Wales and provides details of the main gambling legislation. Section four (pp 31-42) subsequently gives an overview of the legislation in other Australian jurisdictions, as well as a brief summary of the situation in the United Kingdom and United States of America.

Section five (pp 43-54) focuses on the financial aspect of gambling. It notes the positive and negative economic impacts of gambling as well as providing data on the size of the gambling industry in New South Wales and Australia. It scrutinises the contribution of gambling to government revenue, with a particular focus on gaming machine taxation.

Section six (pp 54-75) highlights the social aspects of gambling. It explores the reason people gamble, the attitude of the community, and the phenomenon of problem gambling. Harm minimisation measures are outlined including responsible gambling, statewide caps, the community development and support expenditure scheme, the casino community benefit fund, treatment services and exclusion schemes. The controversy surrounding online gambling is explained, and the various links between gambling and crime are discussed.

1 INTRODUCTION

The gambling industry is big business in Australia, with Australians losing \$15 billion on gambling last year.¹ The industry has grown substantially in the last twenty years following the widespread introduction and legalisation of casinos and gaming machines. The proportion of household disposable income directed towards gambling has escalated, as has the amount of taxation revenue provided to governments from gambling. A number of parallels have been drawn between gambling and alcohol as both are legal for adults, heavily marketed, strongly regulated, provide substantial tax revenue, can be viewed as entertainment, and are deemed a matter of personal responsibility.²

The growth in gambling is not without its controversies. Whilst the debate has shifted from discussion of the religious morality of gambling, the community has repeatedly voiced concern over the unchecked expansion of an industry that can provide entertainment for many whilst devastating others. Concern has also been expressed over the role of governments and the integrity of their motives in regulating the industry whilst drawing enormous profit from it. Fears still exist over the link between gambling and crime, and whilst gambling can provide many economic and social benefits, it has been questioned as to whether these benefits could be better achieved in some other way.

This paper explores the concerns surrounding the role of gambling in the Australian community. It examines the extent to which gambling is an established part of industry at both the state and federal level and the manner in which gambling is regulated by various Australian governments. It provides analysis of both the positive and negative economic and social impacts of gambling in Australia.

1.1 Definitions

Gambling

Gambling is the act of staking money on uncertain events driven by chance.³ It can be subdivided into two groups: wagering (racing and sports) and gaming (casinos, gaming machines, keno and lotteries). Gambling is distinct from other risky activities, such as stock exchange trading, in two ways.⁴ The first is that it can be classified as a form of entertainment. Secondly, gamblers, as a group, necessarily lose money over time.

¹ Tasmanian Gaming Commission, *Australian Gambling Statistics 1976-77 to 2001-02*, 2003.

² Blaszczynski A, *Harm Minimization Strategies in Gambling: An Overview of International Initiatives and Interventions*, Prepared on behalf of the Australian Gaming Council, p 3. A copy of the paper is available from www.austgamingcouncil.org.au

³ Productivity Commission, *Australia's Gambling Industries*, Inquiry Report, Report No 10, 26 November 1999.

⁴ Independent Pricing and Regulatory Tribunal, *Report to Government: Inquiry into Gaming in NSW*, Independent Pricing and Regulatory Tribunal, Sydney, 1998, p 2.

It should be noted that discussion of Australians' gambling expenditure refers to the amount lost. Gambling turnover is the amount Australians actually wagered, and is accordingly much greater.

Gaming

Gaming is best described as consisting of all legal forms of gambling other than wagering. It includes lotteries, gaming machines, casino table games and keno.

Wagering

Wagering (or betting) involves staking something on the outcome of a contest or uncertain event, usually in regard to racing and sports betting.⁵ Racing includes legal betting with bookmakers and totalisators, on racecourses and off-course through the TAB.⁶ Sports betting is 'the wagering on all types of local, national or international sporting activities (other than the established forms of horse and greyhound racing), whether on or off course, in person, by telephone, or via the Internet'.⁷

Problem gambling

Problem gambling has been defined in a myriad of ways. Some view it as a behavioural problem, an evolutionary process in which gambling became an addiction and can consequently be unlearned. Others view problem gambling as a mental illness or pathological disorder.⁸ The Productivity Commission in their report, *Australia's Gambling Industries*, defined problem gambling by its associated characteristics. They describe problem gambling as generally involving:⁹

- A lack of control by the gambler over his or her gambling behaviour; and/or
- Adverse personal, economic and social impacts which result from a gambler's actions – particularly the financial losses relative to the gambler's means.

The Productivity Commission drew a distinction between moderate and severe problem gamblers.¹⁰ Those with moderate problems chase their losses, experience guilt over their gambling, argue about gambling, conceal their gambling, experience some depression and spend a lot of money on gambling. Some of the characteristics of severe problem gambling include depression, serious thoughts of suicide, divorce, debt, poverty, and crime. The Productivity Commission viewed gambling problems as a continuum of increasing severity.

⁵ Australian Institute for Gambling Research, *Australian Gambling: Comparative History and Analysis*, Project Report, Victorian Casino and Gaming Authority, Melbourne, 1999, p xx.

⁶ Tasmanian Gaming Commission, n 1, p 14.

⁷ Ibid, p 15.

⁸ Independent Pricing and Regulatory Tribunal, n 4, p 4.

⁹ Productivity Commission, n 3, p 17.

¹⁰ Ibid, p 6.20.

The American Psychiatric Association (APA), on the other hand, adopted a medical approach, with a preference for the term 'pathological gambling'. The diagnostic criteria for pathological gambling, provided that it is not better characterised as a manic episode, is:¹¹

Persistent and recurrent maladaptive gambling behaviour as indicated by five or more of the following:

- is preoccupied with gambling;
- needs to gamble with increasing amounts of money in order to achieve the desired excitement;
- has repeated unsuccessful efforts to control, cut back or stop gambling;
- is restless or irritable when attempting to cut down or stop gambling;
- gambles as a way of escaping from problems or of relieving a dysphoric mood;
- after losing money gambling, often returns another day to get even;
- lies to family members, therapists, or others to conceal the extent of involvement with gambling;
- has committed illegal acts such as forgery, fraud, theft or embezzlement to finance gambling;
- has jeopardised or lost a significant relationship, job or educational or career opportunity because of gambling;
- relies on others to provide money to relieve a desperate financial situation caused by gambling.

The APA notes that many pathological gamblers believe money is the cause of, and solution to, their problems.¹² It is common for them to be highly competitive, energetic, restless and easily bored. They may be overly concerned with the approval of others as well as being generous to the point of extravagance. The APA distinguishes pathological gambling from social and professional gambling.¹³ Social gambling takes place with friends, lasts for a limited time, and with predetermined acceptable losses. Discipline and limited risks characterise professional gambling.

Some criticisms of the APA model, as noted by the Productivity Commission, include:¹⁴

- The pattern of behaviours exhibited by problem gamblers do not consistently fit with typical conceptions of a genuine mental illness and 'pathological' gamblers do not appear to suffer a set of clearly defined mental symptoms which suggest a distinctive mental illness.
- The mental disease model tends to see problem gambling as a progressive disorder which can only be stemmed through lifetime abstinence rather than as a continuum of problems of varying severity and duration.

¹¹ American Psychiatric Association, *Diagnostic Statistical Manual of Mental Disorders: DSM IV*, American Psychiatric Association, Washington, 1995, p 636.

¹² Ibid, p 634.

¹³ Ibid, p 635.

¹⁴ Productivity Commission, n 3, p 6.6.

- It tends to ignore the ways in which the social environment in which gambling takes place affects prevalence rates and harm – promotions, machine design etc.
- Gambling has much greater social acceptability in Australia than in the US and a wider spectrum of gambling behaviours are regarded as perfectly normal.
- There is a concern that some of the nomenclature customarily used to describe the problem, eg pathological gambler, may be perceived as pejorative and work against resolution of the problem.

‘Compulsive gambler’ is another term sometimes used, for example, by Gamblers Anonymous. However, gamblers are rarely described as ‘pathological’ or ‘compulsive’ in Australia, as there is a preference for the term ‘problem gambler’.

1.2 Forms of gambling

There are many forms of gambling including:

- Casinos
- Gaming machines
- Online gambling
- Lotteries
- Wagering
- Keno
- Minor gaming such as bingo and charity ‘housie’.

The major forms are outlined below.

1.2.1 Casinos

Casinos began to be established in Australia in the early 1970s. Wrest Point Casino in Hobart, Tasmania was the first casino to be opened in Australia in 1973. A second casino had been opened in Darwin by the end of the 1970s. Six casinos were opened in the 1980s in Alice Springs, Launceston, the Gold Coast, Townsville, Perth and Adelaide. Casinos were finally opened in Sydney, Melbourne, Canberra, Christmas Island, Brisbane and Cairns in the 1990s.

There are currently 13 casinos in Australia (Christmas Island Casino was closed in 1998). As at June 2001, they employed 20,413 people and generated a total income of \$3,137 million, of which \$2,504 million could be attributed to gambling.¹⁵ The combined operating profit of the casinos was \$537 million as at June 2001 representing an increase of 19% on the previous year.¹⁶

8.7 million people visited Star City Casino in Sydney in 2002-03.¹⁷ According to the

¹⁵ Australian Bureau of Statistics, *Casinos 2000-01*, 8683.0, December 2001, p 3.

¹⁶ *Ibid*, p 3.

¹⁷ NSW Casino Control Authority, *Annual Report 2002-03*, p 6.

Productivity Commission, casino gamblers tend to be male, aged between 18 and 24 years and often members of an Asian community.¹⁸

1.2.2 Gaming machines

Australia is a world leader in terms of the technology of gaming machines.¹⁹ They are an extremely popular form of gambling in Australia and have a long history, being permitted in NSW clubs in 1956, and in hotels from 1984. However, until 1992, NSW and the Australian Capital Territory were the only jurisdictions to allow gaming machines. Australians spend a large proportion of their total gambling expenditure on gaming machines each year, approximately 59.4%.²⁰ This share has increased dramatically from 34% of all gambling expenditure in 1991-92.²¹ A likely explanation is the marked increase in the number of poker machines in Australia in recent years. By the end of June 2001, there were 185,512 gaming machines in Australia, a 20% increase since June 1998.²²

The following tables compare the number of gaming machines in each Australian jurisdiction as at 1999, and the amount spent on them in 2001-02:

Distribution of gaming machines by state and territory and venue type

| Venue | Vic | NSW | Qld | SA | WA | Tas | ACT | NT | Total |
|---------|--------|--------|--------|--------|-------|-------|-------|-------|---------|
| Clubs | 13 691 | 72 429 | 17 544 | 1 446 | Na | 221 | 4 865 | 456 | 110 652 |
| Hotels | 13 613 | 23 961 | 9 783 | 10 386 | Na | 1 095 | 60 | 132 | 59 030 |
| Casinos | 2 500 | 1 500 | 3 121 | 716 | 1 125 | 1 041 | Na | 607 | 10 610 |
| Total | 29 804 | 97 890 | 30 448 | 12 548 | 1 125 | 2 399 | 4 925 | 1 195 | 180 334 |

Source: Australian Institute for Gambling Research, *Australian Gambling: Comparative History and Analysis*. Project Report, Victorian Casino and Gaming Authority, Melbourne, 1999, p 190.

Gaming machine expenditure in 2001-02

| | NSW | Vic | Qld | SA | WA | Tas | ACT | NT |
|---------------------------|-----------|-----------|-----------|---------|----|--------|---------|--------|
| Total (\$ million) | 4,306.997 | 2,562.876 | 1,129.402 | 606.814 | - | 98.821 | 174.402 | 36.870 |
| Per capita (\$) | 863.04 | 692.64 | 412.21 | 522.98 | - | 279.94 | 728.11 | 268.01 |

Source: Tasmanian Gaming Commission, *Australian Gambling Statistics 1976-77 to 2001-02*, 2003.

As indicated by the tables, the overwhelming majority of gaming machines are located in Victoria, NSW and Queensland. However, NSW has the greatest number of gaming machines, over three times the number for the second largest jurisdiction, Queensland.

¹⁸ Productivity Commission, n 3, p 13.

¹⁹ Ibid, p 7.

²⁰ Tasmanian Gaming Commission, n 1.

²¹ Banks G, *The Productivity Commission's Gambling Inquiry: 3 Years On*, Presentation to the 12th Annual Conference of the National Association for Gambling Studies, Melbourne, 21 November 2002, p ii.

²² Australian Bureau of Statistics, *Gambling Industries 2000-01*, 8684.0, 2002, p 7.

20% of comparable machines in the world, and half of Australian machines, are found in NSW.²³ Adults in NSW spend more on gaming machines each year than adults in any other Australian jurisdiction, providing more than \$725 million in revenue for the NSW Government in 2001-02.²⁴

Gaming machine players tend to be younger and middle income earners.²⁵ Whilst equal numbers of men and women play gaming machines, it is a relatively popular form of gambling for women in comparison to other forms of gambling.

1.2.3 Online gambling

The Senate Select Committee on Information Technologies noted that online gambling can be separated into two categories:²⁶

1. Online gaming – the gambling event is based on a computer program and the outcome is determined by a random number generator. It does not involve any skill and may include such games as blackjack, poker, lotteries and electronic gaming machines.
2. Interactive wagering – the gambling event takes place on a physical racetrack or playing field, with the Internet merely providing a new means for placing wagers.

Despite community concern over the Internet being used to gamble, only a minority of people actually gamble via the Internet. In 1998-99 about 90,000 or 0.6% of Australian adults gambled on the Internet.²⁷ Nevertheless, it is not an insignificant industry with online gambling at \$764 million in 2000-01.²⁸ However, this represented less than 6% of the total net takings from gambling in that period.

In NSW, the TAB launched NetTAB, an Internet wagering service, in 1997. NetTAB accepts bets on horse and greyhound racing as well as other sports.

²³ Productivity Commission, n 3, p 11.

²⁴ Tasmanian Gaming Commission, n 1.

²⁵ Productivity Commission, n 3, p 13.

²⁶ Commonwealth, Parliament, Senate Select Committee on Information Technologies, *Netbets: A Review of Online Gambling in Australia*, (J Ferris: Chair), Commonwealth Parliament, 2000, p 2.

²⁷ *Ibid*, p 13.

²⁸ Australian Bureau of Statistics, n 22, p 6.

1.2.4 Lotteries

Lotteries are the most popular form of gambling with players generally being representative of the population.²⁹ This is possibly because many do not view lotteries as ‘real’ gambling. Adults in NSW spent more than \$460 million on lotteries (including instant), pools and lotto in 2001-02, providing more than \$262 million in revenue for the government.³⁰ NSW Lotteries Corporation is owned by the NSW Government and is licensed to conduct Lotto, Lotto Strike, Oz Lotto, Powerball, Instant Scratchies, Lucky Lotteries and 6 from 38 Pools.

1.2.5 Wagering

Wagering is gambling on racing and sporting events. Most participants in this form of gambling are men.³¹ Adults in NSW spent almost \$150 each on racing and sports betting in 2001-02, compared to the Australian average of \$133.³² It provided more than \$142 million in revenue for the NSW Government (11.84% of total gambling revenue).³³

TAB Limited and licensed bookmakers conduct wagering activities in NSW. The Totalizator Agency Board (TAB) was privatised and listed on the Australian stock exchange in 1998 following passage of the *Totalizator Agency Board Privatisation Act 1997*.

1.3 Extent of gambling in New South Wales and Australia

Australians are among the heaviest gamblers in the world, spending at least twice as much on average as North Americans and Europeans.³⁴ Gambling expenditure in Australia totals more than \$15 billion or \$1016.85 per adult.³⁵ However, each Australian adult, on average, actually wagered \$8,447.56 in 2001-02.³⁶ For adults in NSW, the amount rises to \$10,515.98, of which \$8,584.85 was on gaming machines.³⁷ Nevertheless, the average turnover for each adult in the ACT and Northern Territory was higher at \$10,989.26 and \$18,744.07 respectively. Western Australian adults were by far the smallest gamblers at \$2,078.65 each. A summary of gambling turnover and expenditure for each state and territory is below.

²⁹ Productivity Commission, n 3, p 13.

³⁰ Tasmanian Gaming Commission, n 1.

³¹ Productivity Commission, n 3, p 13.

³² Tasmanian Gaming Commission, n 1.

³³ Ibid.

³⁴ Productivity Commission, n 3, p 12.

³⁵ Tasmanian Gaming Commission, n 1.

³⁶ Ibid.

³⁷ Ibid.

Per capita in 2001-02

| | NSW | VIC | QLD | SA | WA | TAS | ACT | NT | AUST |
|----------------------|-----------|-----------|----------|----------|----------|----------|-----------|-----------|----------|
| Gambling turnover | 10,515.98 | 10,353.53 | 6,119.59 | 5,816.99 | 2,078.65 | 6,106.29 | 10,989.26 | 18,744.07 | 8,447.56 |
| Gambling expenditure | 1,211.75 | 1,179.59 | 841.55 | 783.91 | 469.11 | 726.33 | 965.72 | 1,576.31 | 1,016.85 |
| % of HDI* | 3.83 | 3.81 | 3.19 | 2.95 | 1.64 | 2.95 | 2.42 | 4.45 | 3.41 |

* HDI: Household Disposable Income

Source: Tasmanian Gaming Commission, *Australian Gambling Statistics 1976-77 to 2001-02*, 2003.

In 2001-02, Australians spent 3.41% of household disposable income on gambling compared to 1.71% in 1976-77.³⁸ A number of factors have contributed to the rise in gambling expenditure, including the legalisation of gaming machines in most states and territories, which caused the most rapid rise in spending.³⁹ The introduction of casinos throughout Australia has also had an impact on gambling expenditure. In terms of real expenditure, the amount spent on gambling has substantially increased from \$5.802 billion in 1990-91 to \$12.429 billion in 1998-99.⁴⁰ However, a small percentage of the population is responsible for the bulk of spending. 70% of gambling expenditure can be attributed to 10% of gamblers, with problem gamblers losing an average of 22.1% of their household income before tax.⁴¹

The amount spent on gambling is not distributed equally between the various modes. The following table compares the amount Australian adults spent per gambling form in 2001-02:

Per Capita Gambling Expenditure 2001-02 (\$)

| Gambling form | NSW | Vic | Qld | SA | WA | Tas | ACT | NT | Australia |
|-----------------------|---------------|---------------|--------------|--------------|---------------|--------------|--------------|---------------|------------------|
| TAB | 143.79 | 127.62 | 92.01 | 82.05 | 106.16 | 72.70 | 83.83 | 89.53 | 118.43 |
| On-course totalisator | - | 8.90 | - | - | 8.03 | 3.31 | 4.27 | 19.99 | 3.35 |
| On-course bookmaker | 5.24 | 5.86 | - | 3.30 | 3.86 | 1.04 | 3.04 | 210.16 | 5.91 |
| Off-course bookmaker | - | - | - | 0.06 | - | - | - | - | 0.00 |
| Total racing | 149.03 | 142.39 | 92.01 | 85.40 | 118.06 | 77.04 | 91.14 | 319.68 | 127.69 |
| Lottery | 8.00 | 1.50 | 0.26 | - | - | 1.00 | 3.56 | - | 3.21 |
| Lotto, tattslotto | 67.67 | 82.50 | 81.35 | 67.54 | 109.85 | 52.63 | 57.15 | 87.38 | 77.68 |
| Instant | 15.70 | 6.04 | 32.26 | 10.79 | 20.81 | 6.29 | 9.70 | 9.62 | 16.08 |

³⁸ Ibid.

³⁹ Productivity Commission, n 3, p 9.

⁴⁰ Tremayne K, *The Distribution and Social Consequences of Gaming Machines in Sydney Clubs*, Australian Institute for Gambling Research, Working Paper Series, Paper 1, 2000, p 4.

⁴¹ Productivity Commission, n 3, p 9.

| | | | | | | | | | |
|----------------------------------|----------------|----------------|---------------|---------------|---------------|---------------|---------------|----------------|----------------|
| lottery | | | | | | | | | |
| Pools | 0.83 | 0.28 | 0.64 | 0.24 | 0.51 | 0.18 | 3.65 | 0.26 | 0.60 |
| Casino | 107.00 | 246.26 | 197.51 | 79.08 | 203.17 | 248.75 | 67.72 | 505.59 | 172.35 |
| Minor gaming | - | - | - | 7.06 | 15.01 | 8.36 | - | - | 2.22 |
| Keno | - | 1.78 | 23.79 | 10.74 | - | 49.79 | 2.98 | - | 6.95 |
| Gaming machines | 863.04 | 692.64 | 412.21 | 522.98 | - | 279.94 | 728.11 | 268.01 | 604.22 |
| Interactive gaming | - | - | - | - | - | 0.36 | - | 109.37 | 1.03 |
| Total gaming | 1062.24 | 1031.01 | 748.02 | 698.44 | 349.34 | 647.30 | 872.86 | 980.23 | 884.34 |
| TAB fixed odds | - | 4.89 | 1.26 | - | 1.14 | 0.73 | 1.55 | 0.15 | 1.61 |
| TAB tote odds | - | 0.67 | 0.26 | - | 0.28 | 0.06 | 0.16 | - | 0.25 |
| Bookmaker and other fixed odds | 0.48 | 0.47 | - | 0.07 | 0.28 | - | - | 276.24 | 2.89 |
| Bookmaker and other pool betting | - | 0.17 | - | - | - | 1.20 | - | - | 0.07 |
| Total sports betting | 0.48 | 6.20 | 1.52 | 0.07 | 1.71 | 1.98 | 1.71 | 276.40 | 4.82 |
| Total all gambling | 1211.75 | 1179.59 | 841.55 | 783.91 | 469.11 | 726.33 | 965.72 | 1576.31 | 1016.85 |

Source: Tasmanian Gaming Commission, *Australian Gambling Statistics 1976-77 to 2001-02, 2003*.

For each jurisdiction, the majority of the money spent by each adult was on some form of gaming, particularly gaming machines. However, Western Australia is an exception, being the only jurisdiction where gaming machines are not permitted outside casinos.

The following table provides an overview of how often Australians gamble in one form or another, and reveals that a substantial majority of Australians gamble (82%). Lotto and other lottery games and instant scratch lottery tickets are the most popular forms. Poker and gaming machines are also very popular.

Participation and frequency of gambling by adult Australians

| Form of gambling | Total participation % | Frequency % | | | |
|------------------------------|-----------------------|------------------------|----------------------|---------------------|--------------------------|
| | | Less than once a month | 1 to 3 times a month | 1 to 3 times a week | More than 3 times a week |
| Lotto or other lottery games | 60 | 25 | 24 | 45 | 6 |
| Instant scratch tickets | 46 | 52 | 33 | 14 | 1 |
| Poker or gaming machines | 39 | 62 | 25 | 11 | 2 |
| Racing | 24 | 71 | 14 | 13 | 2 |
| Keno | 16 | 72 | 20 | 7 | 1 |
| Casino table games | 10 | 82 | 15 | 2 | 0 |
| Sports betting | 6 | 52 | 25 | 23 | 0 |

| | | | | | |
|--------------------------------|-----------|-----------|-----------|-----------|-----------|
| Bingo | 5 | 49 | 23 | 27 | 2 |
| Private gambling | 5 | 68 | 23 | 7 | 2 |
| Played an internet casino game | 0.4 | 60 | 15 | 21 | 4 |
| Any gambling activity | 82 | 26 | 24 | 37 | 13 |

Source: Productivity Commission, *Australia's Gambling Industries*, Inquiry Report, Report No 10, 26 November 1999, p 10.

2 HISTORICAL DEVELOPMENT OF GAMBLING IN NEW SOUTH WALES AND AUSTRALIA

The Australian Institute for Gambling Research divided the history of gambling in Australia into four major periods:⁴²

1) *1788-1940s: the early period of colonisation.*

British influence in this period was initially strong. However, with the advent of the nineteenth century, the impact of Asian and other European games was felt.

2) *1945-1970: post-war gambling.*

In this period, the gambling market expanded as standards of living rose.

3) *1970s and 1980s: commercialisation and growth.*

A number of slumps in the economy provided the impetus for the development of new gambling ventures. An American influence became apparent with the proliferation of casinos and gaming machines. This period is also marked by the liberalisation of social values.

4) *1990s onwards: competition and globalisation.*

In this period:⁴³

- gambling forms proliferated;
- gambling became more accessible and convenient;
- the tempo of gambling increased;
- traditional government-run gambling forms were privatised; and
- the promotion and advertising of gambling became more pervasive.

This period has seen numerous inquiries into gambling, with growing concern for the need to implement responsible gambling and harm minimisation measures. The development of such technology as the Internet has had a big impact.

The following table provides an overview of the major developments in the history of gambling in Australia, with a particular focus on events relevant to New South Wales. Much of its detail was sourced from Australian Institute for Gambling Research, *Australian Gambling: Comparative History and Analysis*, Project Report, Victorian Casino and Gaming Authority, Melbourne, 1999.

⁴² Australian Institute for Gambling Research, n 5.

⁴³ Productivity Commission, n 3, p 8.

First stage: Early period of colonisation

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| 1810 | The first organised race meeting in Australia was held at Hyde Park in Sydney. |
| 1825 | The first formal race club, the Sydney Turf Club, was established. |
| 1840s | Chinese settlers brought traditional Asian gambling to Australia. |
| 1842 | The Australian Jockey Club was established in Sydney. |
| 1861 | The first Melbourne Cup was run. |
| 1881 | George Adams, the licensee of Tattersall's, organised the first public lottery as a sweep on the 1881 Sydney Cup horse race. |
| 1885 | The Driving Park Club was established for trotting at Moore Park. |
| 1889 | The Australian Jockey Club began a system of licensing jockeys and trainers that enabled it to punish licensed personnel who participated in meetings not conducted according to their rules. |
| 1891 | The National Coursing Association was formed to control the racing of greyhounds. Chinese gambling houses had become popular by this time. |
| 1901 | The <i>Lotteries and Art Unions Act</i> was passed to provide for the conduct of minor gaming forms including lotteries, games of chance, and art unions. |
| 1902 | The NSW Trotting Club was formed to control harness racing. |
| 1906 | The <i>NSW Gaming and Betting Act</i> was passed. The Act imposed restrictions on gaming, prohibited off-course betting and reduced the number of race meetings permitted in the Sydney and Newcastle areas. It required racecourses to be licensed so the government could supervise horseracing. |
| 1907 | Joe Thomas' two-up 'school' began to operate in Sydney and continued until the 1960s. World War One would establish two-up as Australia's national game. |
| 1912 | The <i>Gaming and Betting Act</i> (NSW) was passed. The Act dealt with prohibitions against unlawful gaming, betting or wagering. The Australian Rules of Racing were accepted by the principal racing clubs. |
| 1917 | The Australian Jockey Club introduced the automatic totalisator in Sydney. |

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| | <p>A betting tax was introduced.</p> <p>The Commonwealth government restricted racing in 1917 and 1918 to Saturday and Sunday only.</p> |
| 1927 | Mechanical lures were introduced in greyhound racing. |
| 1931 | The NSW Government turned to lotteries following a decline in revenue during the 1930s recession. Accordingly, the <i>Lotteries Act</i> established a state lottery to fund the health system and public hospitals. |
| 1932 | Three lotteries were held to mark the opening of the Sydney Harbour Bridge. |
| 1942 | Wartime restrictions on race meetings were introduced for the remainder of the war. |

Second stage: Post-war gambling

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| 1949 | Night harness racing was introduced. |
| 1956 | <p>The <i>Gaming and Betting (Poker Machine) Act</i> legalised poker machines in NSW registered clubs.</p> <p>The High Court upheld the prohibition of Tattersall's postal lottery sales.</p> |
| 1957 | <p>The Golden Slipper Race commenced at Rosehill racecourse.</p> <p>A lottery to finance the construction of the Sydney Opera House was introduced.</p> <p>A poker machine taxation rebate scheme commenced on community expenditure by registered clubs in NSW.</p> |
| 1964 | TAB off-course betting was established. |

Third stage: Commercialisation and growth

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| 1973 | Australia's first casino, Wrest Point, was opened in Hobart, Tasmania. Two-up was consequently legalised for the first time. |
| 1974 | The Moffitt Royal Commission into allegations of organised crime in clubs in NSW identified links between illegal gaming, registered clubs, organised criminal activity and official corruption. It recommended the regulatory reform of the club industry. |

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| 1975 | The <i>Soccer Football Pools Act</i> was passed to provide for the licensing of a promoter to conduct soccer football pools in NSW. |
| 1976 | <p>The <i>Registered Clubs Act</i> was passed to provide for the registration of clubs and their rules and management.</p> <p>Poker machines were introduced in the ACT to discourage the growing patronage of nearby NSW clubs.</p> <p>The Wran Government proposed that casinos be legalised. Edwin Lusher QC was subsequently appointed in September to inquire into casinos for NSW and make recommendations regarding their legalisation and introduction. It was the first public inquiry to systematically consider the relative merits of public or private casino ownership and management for Australia.</p> |
| 1977 | The Lusher Inquiry found that illegal casinos existed, with police action irregular and ineffective. It recommended the establishment of several small, privately owned, 'club' style casinos in NSW. However, they were to be subject to a comprehensive system of government regulation with an independent, non-political control authority to regulate the casino. It was believed that these new casinos would cater for the existing illegal demand. |
| 1978 | Premier Wran announced that illegal casinos would be closed with Lusher's recommendations to be implemented. |
| 1979 | <p>The <i>Lotto Act</i> was passed to provide for the conduct of lotto in NSW.</p> <p>The temporary casino at the Don Hotel in Darwin, Northern Territory, opened.</p> |
| 1981 | <p>Tattersall's established the Australian Lotto Bloc, combining prize pools from Victoria, Tasmania, ACT, Northern Territory, South Australia and Western Australia.</p> <p>The ALP NSW Conference endorsed state ownership of casinos.</p> |
| 1982 | <p>Random number generators were introduced for lottery draws.</p> <p>Instant lotteries were introduced following the success of Tattersall's sales.</p> <p>Launceston Country Club Casino was opened in Tasmania.</p> <p>TAB facilities were introduced to licensed premises in NSW.</p> <p>Lasseters Casino opened in Alice Springs, Northern Territory.</p> |
| 1983 | Pub TAB and TAB were introduced in clubs. Footy TAB commenced in NSW and ACT. |

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| | <p>Track attendance began to decline.</p> <p>The Mindil Beach Casino in Darwin, Northern Territory, opened in new permanent premises.</p> <p>The NSW Government passed legislation to require poker machines to return 85% to players.</p> |
| 1984 | <p>The <i>Liquor (Amusement Devices) Amendment Act 1984</i> was passed to permit hotels to install gaming machines (Approved Amusement Devices).</p> |
| 1985 | <p>The Lloyd-Jones Report recommended that three categories of legal casinos be established. However, the idea was rejected by Cabinet.</p> <p>The Adelaide Casino opened in South Australia.</p> <p>In November, it was announced in NSW that there would be a state-owned casino as part of the Darling Harbour development. However, the <i>Darling Harbour Casino Bill</i> proposed a private casino and tenders were called.</p> <p>Jupiters Casino opened on the Gold Coast, Queensland in November.</p> <p>Burswood Island Casino opened on 30 December in Western Australia.</p> |
| 1986 | <p>The last Opera House lottery was conducted.</p> <p>A casino opened in Townsville, Queensland.</p> <p>The maximum jackpot for stand alone poker machines in NSW was increased to \$10,000.</p> <p>The <i>Darling Harbour Casino Act (NSW)</i> was proclaimed. The Hooker-Harrah consortium was announced as the successful casino licensee in June. However, the Police Board protested the decision and revealed probity objections against Hooker's managing director, George Herscu. It was disclosed in July that Harrah's licence was being investigated in New Jersey. Premier Unsworth subsequently revoked Hooker-Harrah's casino licence in August. The specifications for the Darling Harbour casino were revised before calling for new tenders. The Casino Control Division was established. By December, a short list of five applicants for the casino had been produced.</p> |
| 1987 | <p>Four applicants were eliminated from the casino shortlist in May. However, the final applicant for the casino, Genting Berhad, was rejected by the Police Board in October.</p> |
| 1988 | <p>Draw lotteries went online.</p> |

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| | <p>\$1 and \$2 poker machines were introduced to NSW clubs and the maximum bet was increased to \$10 per play irrespective of denomination. In-house linked jackpots were introduced with a maximum prize level of \$100,000. 'Bingo-style' poker machines were approved.</p> <p>SKY Channel was introduced to NSW.</p> <p>The Liberal-National Party coalition was elected to government in March. The <i>Darling Harbour Casino Act</i> was subsequently rescinded and the casino project abandoned as it was thought that it would bring harm and social disharmony. The government paid \$38 million to the Hooker-Harrah Consortium in settlement of their damages claim in December.</p> |
| 1989 | <p>NSW Lotteries began operating the Pools in NSW.</p> <p>Video poker machines (as opposed to stepper motors) were introduced. Gaming machine manufacturers also increased the number of lines able to be played on a poker machine.</p> |

Fourth stage: Competition and globalisation

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| 1990 | <p>The <i>NSW Lotteries Act</i> was passed to commercialise lotteries in NSW, provide the constitution of NSW Lotteries, and define its functions in terms of a new, modern framework. The <i>State Lotteries Act 1930</i> was repealed as a result.</p> <p>The Greiner minority coalition government was returned with the support of four Independents in the Legislative Assembly. The plans for two Sydney casinos were announced and a draft casino control bill was accordingly prepared.</p> <p>A prohibition of cash advances to patrons was instituted in NSW registered clubs and hotels.</p> |
| 1991 | <p>The <i>Charitable Fundraising Act</i> was passed to regulate public fundraising for charitable purposes.</p> <p>The Street Inquiry into the operation and establishment of casinos endorsed the policy of the NSW Government.</p> <p>Keno commenced in NSW registered clubs.</p> |
| 1992 | <p>The <i>Casino Control Act</i> was passed to provide for the establishment of a casino and control of its operations.</p> <p>Canberra Casino opened in a temporary location in the ACT.</p> |

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| | <p>The Swan inquiry examined the effects of the planned casino on clubs and poker machine revenues. The Casino Control Authority was appointed to report on the casino site and operations.</p> <p>The tokenisation of NSW poker machines was approved.</p> <p>NSW Clubs were permitted to install gaming machines comparable to those in casinos.</p> |
| 1993 | <p>An agreement with NSW Lotto resulted in the establishment of a national lotto network.</p> <p>Christmas Island Casino opened.</p> <p>The Casino Control Authority designated the Pyrmont power station site for the casino and endorsed the government casino proposal. The ALP proposed draft alternative legislation for the Darling Harbour site and a reduced number of poker machines. Independents demanded that poker machines be excluded from the casino.</p> <p>Technical Standards for gaming machines were introduced in NSW to enhance the integrity of machine gaming. A timetable was established to phase out 'old style' poker machines.</p> |
| 1994 | <p>Australia's first national lotto game (Oz Lotto) was introduced.</p> <p>Sydney Harbour Casino opened in temporary premises.</p> <p>Melbourne's Crown Casino opened in temporary premises in Victoria.</p> <p>Major legislative changes to the integrity of NSW gaming machines were implemented. Changes were also made to gaming rules and regulations.</p> |
| 1995 | <p>Treasury Casino opened in Brisbane.</p> <p>An agreement was reached between NSW clubs and the NSW Government to allow inter-club links of gaming machines. NSW Clubs were also permitted to install Approved Amusement Devices.</p> <p>NSW Hotels were allowed access to both Approved Amusement Devices and poker machines. The maximum number that could be held by a hotel was increased to 30, with a limit of 15 poker machines.</p> <p>The permanent Star City Casino opened with 1500 gaming machines.</p> |
| 1996 | <p>The <i>Public Lotteries Act</i> and <i>NSW Lotteries Corporatisation Act</i> were passed as cognate legislation. They repealed the <i>Soccer Football Pools Act 1975</i>, the <i>Lotto Act</i></p> |

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| | <p><i>1979 and the NSW Lotteries Act 1990. The NSW Lotteries Commission was subsequently corporatised in January 1997.</i></p> <p><i>The Thoroughbred Racing Board Act 1996 was passed to make provision for the establishment, management and functions of the NSW Thoroughbred Racing Board as the representative body to control thoroughbred horse racing in the State.</i></p> <p><i>The Reef Casino was opened in Cairns, Queensland.</i></p> |
| 1997 | <p><i>The Totalizator Act was passed to amend and consolidate the law relating to the conduct of totalizators and the regulation of totalizator betting.</i></p> <p><i>Star City Casino opened its permanent facility on 26 November with 200 gaming tables and 1500 gaming machines. Harrah's was approved to take over casino operations. A review of the licence was conducted.</i></p> <p><i>G-Line, a telephone counselling and referral service for problem gamblers and their families, was launched in NSW.</i></p> |
| 1998 | <p><i>The Liquor and Registered Clubs (Community Partnership) Act was passed. It required clubs with annual gaming machine profits in excess of one million dollars to apply a 1.5% levy to certain types of community development and support. It also required the Government to initiate an independent inquiry into the social impacts of gaming and to consider the organisational arrangements regarding the regulation of gaming. The Report to Government: Inquiry into Gaming in NSW was subsequently published by the Independent Pricing and Regulatory Tribunal in November 1998. The Report recommended that there was a need for greater account to be taken of the social impacts of problem gambling, for appropriate support services to be developed for problem gamblers and that responsible gambling needed to be fostered through appropriate research and regulatory measures.</i></p> <p><i>On 25 August the Productivity Commission was requested by the Treasurer to undertake a national inquiry into Australia's gambling industries and the economic and social impact of gambling.</i></p> <p><i>The NSW TAB was privatised and listed on the Australian Stock Exchange as TAB Limited on 22 June. TAB Limited was authorised to monitor electronic gaming machines in NSW clubs and hotels.</i></p> <p><i>Twilight meetings were introduced at Wentworth Park to increase track attendance and betting.</i></p> <p><i>Christmas Island Casino was closed.</i></p> <p><i>A three-year moratorium was introduced regarding changes to poker machine tax rates.</i></p> |

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| | <p>The world's first government licensed and regulated Internet casino, Lasseter's Casino, was launched.</p> |
| 1999 | <p>The <i>Gambling Legislation Amendment (Responsible Gambling) Act</i> was passed to further provide for the responsible conduct of gambling and to minimise the harm associated with the misuse and abuse of gambling activities.</p> <p>The Senate Select Committee on Information Technologies announced on 31 May that it would enquire into: the nature, extent and impact of online gambling in Australia; the feasibility of controlling access to online gambling; the adequacy of State and Territory regulations; and the need for federal legislation.</p> <p>The Productivity Commission released its draft report on gambling on 19 July.</p> <p>In August, Premier Carr announced a 'pause' on new forms of gambling to allow time for the reconsideration of gambling public policy and regulation.</p> <p>Tabcorp Holdings Limited (based in Victoria) purchased Star City and majority management rights.</p> <p>The Productivity Commission released their report, <i>Australia's Gambling Industries</i>, on 26 November, sparking wide-ranging debate on problem gambling and how governments should respond.</p> <p>On 16 December, Prime Minister Howard announced the formation of the Ministerial Council on Gambling to develop a national approach to problem gambling. The Council would 'focus on stopping the further expansion of gambling in Australia, on the impacts of problem gambling on families and communities, on internet gambling and on consumer protection'.⁴⁴</p> |
| 2000 | <p>The Senate Select Committee on Information Technologies published its <i>Netbets</i> report on 16 March 2000. The Report proposed that governments work together to develop uniform and strict regulations for online gambling.</p> <p>On 28 March, the NSW Government announced a freeze on the number of poker machines that could be kept by registered clubs following the passage of the <i>Gambling Legislation Amendment (Gaming Machines Restrictions) Act 2000</i>.</p> <p>On 19 April 2000 the Ministerial Council on Gambling met for the first time to develop a national approach to problem gambling.</p> <p>The Federal Government announced on 7 July that the National Office for the Information Economy would conduct a study into the feasibility of banning interactive gambling.</p> |

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Hon J Howard MP, 'National Approach to Problem Gambling', *Press Release*, 16/12/99.

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| | <p>The <i>Interactive Gambling (Moratorium) Act 2000</i> (Cth) received assent on 21 December 2000. The Act prohibited interactive gambling services that were not available before 19 May 2000 for 12 months. The moratorium was intended to provide the Commonwealth with time to determine the feasibility and consequences of prohibiting interactive gambling services.</p> |
| 2001 | <p>On 27 March, the National Office for the Information Economy released its study on the feasibility and consequences of banning interactive gambling services. The study generally found that it was possible to ban interactive gambling services.</p> <p>The Ministerial Council on Gambling met in April.</p> <p>On 19 April, the NSW Government imposed a freeze on the number of gaming machines in hotels.</p> <p>The <i>Interactive Gambling Act 2001</i> (Cth) received assent on 11 July 2001. The Act prohibited the provision of interactive gambling services to Australian customers and customers in designated countries. It established a complaints-based system in relation to banned Internet gambling content being made available to Australian customers. It also prohibited the advertising of interactive gambling services.</p> <p>On 26 July, the Government of NSW announced its gaming reform package in response to concerns about the increasing number of gaming machines. The package aimed to reduce the harm associated with problem gambling. The <i>Gaming Machines Act</i> and the <i>Gaming Machine Tax Act</i> were subsequently passed. Consequently, the moratorium on poker machine tax rates was extended for another three years. New harm minimisation measures were introduced by the <i>Gaming Machines Act</i>. The total number of poker machines was capped as well as the number of machines per venue. Clubs with excess machines were required to forfeit them over time. A three and six hour per day shutdown of poker machines was introduced.</p> <p>In October, the <i>Policy Framework on Treatment Services for Problem Gamblers and their Families in NSW</i> was launched. The framework was developed by the NSW Health Department and provided new directions for problem gambling counselling services.</p> |
| 2002 | <p>NSW clubs and hotels were required to establish a self-exclusion scheme for problem gamblers by 2 October.</p> <p>The three-hour mandatory shutdown period (6am to 9am) of gaming machines commenced on 2 April.</p> <p>From 11 July, hotels and clubs could not display gambling related signs outside of the venue.</p> <p><i>The Productivity Commission's Gambling Inquiry: Three Years On</i> was released. It</p> |

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| | <p>considered whether the Commission's assessment of problem gambling in 1999 was accurate, trends in gambling expenditure, and the effectiveness of government and industry responses to gambling.</p> |
| 2003 | <p>On 30 April, the Minister for Gaming and Racing, the Hon Grant McBride MP, announced that the NSW Government intended to thoroughly review existing harm minimisation measures in terms of value and efficacy.</p> <p>From 1 May 2003, gaming machines were required to be shutdown for six hours each day between 4am to 10am.</p> <p>The <i>National Competition Policy Review of the NSW Gaming Machines Act 2001</i> was published by the NSW Department of Gaming and Racing in June. The Review was undertaken in accordance with the Competition Principles Agreement that legislation should not restrict competition unless the benefits of the restriction to the community outweigh the costs, and the objectives of the legislation can only be achieved by restricting competition. Whilst the Review found that there are significant barriers to entry and competition restraints in NSW, it concluded that these are necessary to achieve the harm minimisation and responsible gambling objectives of the legislation.</p> <p>On 24 June, the NSW Budget was brought down. Amongst other things, it proposed an increase in gaming machine taxation for registered clubs and hotels.</p> <p>On 30 July, the Minister for Gaming and Racing, the Hon Grant McBride MP announced that the Independent Pricing and Regulatory Tribunal of NSW would conduct the review of harm minimisation initiatives in NSW. The review is expected to be completed by mid 2004.</p> |

3 REGULATION OF THE GAMBLING INDUSTRY IN NEW SOUTH WALES

The extent to which the gambling industry is regulated has changed considerably over time. Regulation is of considerable importance. Smith has argued that an examination of long-term gambling trends reveals that gambling is generally of stable and limited appeal.⁴⁵ If this is so, demand for gambling services tends only to change if stimulated by advertising or legislative amendments.

The Department of Gaming and Racing is responsible for the conduct of gaming and racing in New South Wales. Its mission and vision stresses the importance of balance: 'The Department is responsible for the proper conduct and balanced development, in the public interest, of the gaming, racing, liquor and charities industries in NSW'. It aims to be 'A

⁴⁵ Smith J, *Gambling Taxation in Australia*, Australian Tax Research Foundation, Sydney, 1998, p 24.

Department that is an expert and responsive regulatory agency – working co-operatively with stakeholders – to ensure responsible, accountable, viable and evolving gaming, racing, liquor and charities industries’.⁴⁶ The following are some of the Acts administered by the Department:

- *Australian Jockey Club Act 1873*
- *Casino Control Act 1992*
- *Charitable Fundraising Act 1991*
- *Gambling (Two-up) Act 1998*
- *Gaming Machines Act 2001*
- *Gaming Machine Tax Act 2001*
- *Greyhound Racing Act 2002*
- *Harness Racing Act 2002*
- *Hawkesbury Racecourse Act 1996*
- *Lotteries and Art Unions Act 1901*
- *NSW Lotteries Corporatisation Act 1996*
- *Public Lotteries Act 1996*
- *Racing Administration Act 1998*
- *Racing Appeals Tribunal Act 1983*
- *Registered Clubs Act 1976*
- *Sydney Turf Club Act 1943*
- *Thoroughbred Racing Board Act 1996*
- *Totalizator Act 1997*
- *Unlawful Gambling Act 1998*
- *Wagga Wagga Racecourse Act 1993*

The rationale underlying many of these Acts is the need to:⁴⁷

- Keep the gaming industry free from criminal activity;
- Ensure that gaming customers are protected from unscrupulous and irresponsible conduct;
- Ensure that gaming is conducted fairly;
- Minimise the social and personal harm associated with gambling; and
- Ensure that a share of gaming revenue is paid as taxation for the benefit of the entire community.

An overview of the major Acts is provided below.

3.1 Casino Control Act 1992

The purpose of the *Casino Control Act* is to provide for the establishment of one casino and the control of its operations. The Act also institutes the Casino Control Authority. The primary objects of the Act, as specified in section 4A, are:

- (a) ensuring that the management and operation of a casino remain free from criminal influence or exploitation, and

⁴⁶ NSW Department of Gaming and Racing, *Annual Report 2001-02*, p 2.

⁴⁷ Independent Pricing and Regulatory Tribunal, n 4, p ii.

- (b) ensuring that gaming in a casino is conducted honestly, and
- (c) containing and controlling the potential of a casino to cause harm to the public interest and to individuals and families.

These objects were inserted into the Act by the *Casino Control Amendment Act 2001*.

The main provisions of the Act are discussed below.

Licensing of casino

The Act acknowledges the financial advantages associated with a casino. Therefore section 11 requires the Casino Control Authority, when considering an application for a casino licence, to take into account 'the likely impact of the use of the premises concerned as a casino on tourism, employment and economic development generally in the place or region in which the premises are located'. In order to ensure that the casino remains free from criminal influence, the Casino Control Authority can only grant a casino licence if it is satisfied that the applicant, and their close associates, are persons of good repute and of sound and stable financial background.⁴⁸ A close associate is defined by the Act as a person with a relevant financial interest or a person entitled to such power as to have the ability to significantly influence the management and operation of the casino.⁴⁹

Supervision and control of casino operators

Section 31 of the Act requires the Casino Control Authority to investigate and determine every three years whether 'the casino operator is a suitable person to continue to give effect to the casino licence and this Act' and 'it is in the public interest that the casino licence should continue in force'.

An investigation was completed in 1997 and again in 2000. A review report was also completed in 2002. The Casino Control Authority is next due to report to the Minister for Gaming and Racing under section 31 on 15 December 2003. One of the terms of reference is to consider 'specific matters referred to in the 2000 section 31 report and the 2002 section 31 review report including the operation of the private gaming rooms and the presence and detection of illegal and undesirable activities and people in the casino'.⁵⁰ For discussion of the 2000 and 2002 reports see section 6.7.4 – Star City Casino.

Casino operations

Section 74 of the Act prohibits the extension of credit by a casino employee in connection with any gaming in the casino. It is also a condition of the casino licence that automatic teller machines are not installed within the boundaries of the casino. The casino is entitled

⁴⁸ Section 12.

⁴⁹ Section 13.

⁵⁰ NSW Casino Control Authority, *2003 Investigation Under Section 31 of the Casino Control Act 1992: Terms of Reference*.

to exclude persons from the casino, including individuals who elect to take advantage of the self-exclusion provisions.⁵¹ The Commissioner of Police may also direct that a person be excluded from the casino.⁵²

It is an offence for key officials and special employees (managers, security, persons responsible for the conduct of gaming and movement of money or chips) to gamble in the casino.⁵³ Cheating is also precluded under section 87 of the Act.

Minors

A person is not entitled to enter a casino unless they are over the age of 18.⁵⁴ Section 96 empowers casino personnel to request proof of age.

Casino duty and community benefit levy

Section 115 requires the payment of a casino community benefit levy to the Casino Control Authority to be paid into a Casino Community Benefit Fund. The amount of the levy is currently set at 2% of the casino's gaming revenue. The objectives of the fund are to:⁵⁵

1. Fund appropriate research into gambling and the social and economic impact of gambling on individuals, families and the general community in New South Wales.
2. Promote industry and community awareness of problem gambling and associated activities through education campaigns.
3. Support organisations offering counselling services for problem gamblers and their families.
4. Support treatment and rehabilitation services for problem gamblers and their families.
5. Fund such other community projects and services which may be determined as being of benefit to the community generally.

Administration

The Casino Control Authority is established by part 10 of the Act. The Authority is a statutory body and is to:

maintain and administer systems for the licensing, supervision and control of a casino, for the purpose of:

- Ensuring that the management and operation of the casino remains free from

⁵¹ Section 79.

⁵² Section 81.

⁵³ Section 86.

⁵⁴ Section 93

⁵⁵ Department of Gaming and Racing, 'Casino Community Benefit Fund', www.dgr.nsw.gov.au Accessed 12 September 2003.

- criminal influence or exploitation, and
- Ensuring that gaming in the casino is conducted honestly, and
 - Containing and controlling the potential of a casino to cause harm to the public interest and to individuals and families.⁵⁶

One of the original objects of the Authority was to also promote tourism, employment and economic development generally in the State. However, this was repealed by the *Casino Control Amendment Act 2000* to ensure that the objects of the Authority were in line with the Government's harm minimisation approach to gambling.⁵⁷ Accordingly, the Authority is to focus on the 'threats and harms posed by a casino, rather than on overall economic benefits'.⁵⁸

The Act was amended by the *Casino Control Amendment Act 2001* which merged the supervisory functions of the Casino Control Authority and the Director of Casino Surveillance. This was in response to the McClellan Report's recommendation that 'The Director of Casino Surveillance and his staff become part of the Casino Control Authority and report to the Chief Executive and Board of the Authority' and 'the functions of the Director and his staff be assumed by the Authority and the statutory office of Director be abolished'.⁵⁹

3.2 Gaming Machines Act 2001

This Act consolidated the gambling harm minimisation and responsible conduct provisions in relation to gaming machines that were previously found in the *Liquor Act 1982* and the *Registered Clubs Act 1976*. It aims to address 'community concerns about the increasing numbers of gaming machines in the community' and to introduce controls to reduce any harm associated with problem gambling.⁶⁰

Section 3 of the Act sets out its primary objects as being:

- (a) gambling harm minimisation – the minimisation of harm associated with the misuse and abuse of gambling activities, and
- (b) the fostering of responsible conduct in relation to gambling.

These objects are to guide the exercise of relevant functions under the Act. The Hon J R Face described the Act in his second reading speech, as 'undoubtedly the most substantial and most interventionist in the world' in relation to its specific gambling harm

⁵⁶ Section 140.

⁵⁷ Hon J R Face MP, Second Reading Speech, *NSWPD*, 7/6/00, p 6750.

⁵⁸ *Ibid.*

⁵⁹ Hon J R Face MP, Second Reading Speech, *NSWPD*, 7/3/01, p 12323. Recommendations 2 and 3, NSW Casino Control Authority, *Report of the Inquiry by Mr P D McClellan QC pursuant to section 143 of the Casino Control Act 1992*, Sydney, December 2000.

⁶⁰ Hon J R Face MP, Second Reading Speech, *NSWPD*, 30/11/01, p 19276.

minimisation measures.⁶¹ However, the Opposition, whilst approving many aspects of the Act, noted that it could be improved in a number of ways. In particular, it was claimed that a number of the harm minimisation measures, such as the mandatory closure of gaming machines, were not evidence based approaches.⁶²

Part 2 of the Act specifies various limitations on the number of gaming machines. Poker machine entitlements and hardship gaming machines are provided for in part 3. It enables hotels to lodge a hardship application to keep an additional number of gaming machines if, amongst other things, an application had been made prior to 19 April 2001 or if a contract had been entered into regarding significant building or refurbishment work in relation to the application.⁶³ Registered clubs can make a hardship application if a contract for significant building or refurbishment work was entered into before noon on 28 March 2000, the decision to enter the contract relied on the additional gaming machines and the financial viability of the club will be seriously threatened without the extra machines.⁶⁴ Part 4 is concerned with gambling harm minimisation measures. The Act also contains provisions regarding CMS, the centralised monitoring system that monitors the operation and performance of gaming machines, and facilitates the calculation and collection of tax.⁶⁵ The TAB has been granted an exclusive licence to operate CMS until 1 December 2016.

The major provisions are outlined below.

Limitations on gaming machine numbers

Section 10 restricts the overall number of approved gaming machines in hotels and registered clubs in NSW to 104,000 – limited to 25,980 in hotels and 78,020 in registered clubs. Individual hotels are limited to 30 gaming machines⁶⁶ and registered clubs to 450.⁶⁷ However, an exception is provided for large-scale registered clubs.

Poker machine entitlements and hardship gaming machines

Part 3 of the Act establishes a tradeable poker machine entitlement scheme. Section 15 sets the number of poker machine entitlements for each club and hotel by reference to the number of machines a club was entitled to keep as at 28 March 2000 and the number kept by a hotel on 19 April 2002. Section 15A requires large-scale clubs to reduce their poker

⁶¹ Ibid.

⁶² Mr R Oakeshott MP, *NSWPD*, 4/12/01, p 19443.

⁶³ Section 27.

⁶⁴ Section 28.

⁶⁵ Section 4.

⁶⁶ Section 11.

⁶⁷ Section 12.

machine entitlements before 2 April 2007 by 10% or such number that would ensure the number of poker machine entitlements does not exceed 450. However, clubs whose entitlement was less than 10 as at 2 April 2002, including new clubs, are able to apply for free entitlements so that the number of entitlements allocated is brought to 10.⁶⁸

Clause 8 of the *Gaming Machines Regulation 2002* specifies the 18 large-scale clubs and the number of poker machine entitlements they are required to transfer by 2 April 2007 as:

| Name of club | Target number |
|--|----------------------|
| Bankstown District Sports Club Ltd | 74 |
| Blacktown Workers Club Ltd | 8 |
| Bulldogs Leagues Club Ltd | 65 |
| Club Marconi of Bossley Park Social Recreation and Sporting Club Ltd | 53 |
| Commercial Club Ltd | 40 |
| Eastern Suburbs Leagues Club Ltd | 19 |
| Mingara Recreation Club Ltd | 54 |
| Mount Pritchard and District Community Club Ltd | 56 |
| Parramatta Leagues Club Ltd | 41 |
| Penrith Rugby League Club Ltd | 117 |
| Revesby Workers Club Ltd | 50 |
| Rooty Hill RSL Club Ltd | 78 |
| St Marys Rugby League Club Ltd | 16 |
| Seagulls Rugby League Football Club Ltd | 53 |
| South Sydney Junior Rugby League Club Ltd | 57 |
| Twin Towns Services Club Ltd | 55 |
| Western Suburbs Leagues Club Ltd | 58 |
| Western Suburbs (Newcastle) Leagues Club Ltd | 59 |

Section 19 enables clubs and hotels to transfer their poker machine entitlements with the approval of the Liquor Administration Board. However, for every two entitlements sold, a third has to be forfeited to a pool maintained by the Board.⁶⁹ Exceptions are made if certain grounds of hardship can be established.⁷⁰

Gambling harm minimisation measures

The Act establishes a number of harm minimisation measures including social impact assessments of gaming machines and the mandatory shutting down of gaming machines. Between the 2 April 2002 and 1 May 2003, clubs and hotels were required to shut down their gaming machines between 6am and 9am each day.⁷¹ After 1 May 2003, the shutdown period was extended to the six hours between 4am and 10am.⁷² However, it is possible for

⁶⁸ Section 17.

⁶⁹ Section 20.

⁷⁰ See sections 26-28.

⁷¹ Section 38.

⁷² Section 39.

clubs and hotels to apply to have this period reduced in certain circumstances to a three-hour period on Saturdays, Sundays or on a public holiday.⁷³

Section 43 prohibits the publishing of gaming machine advertising. Gaming machines advertising is defined as, ‘any form of advertising that gives publicity to, or otherwise promotes or is intended to promote the playing of approved gaming machines in a hotel or registered club, or the supply, sale or manufacture of an approved gaming machine, but does not include any such advertising that is excluded from the operation of this section by the regulations’. The display of gambling related signs is prohibited anywhere in the vicinity of or outside the club, or anywhere inside where it is visible from outside the premises.⁷⁴ Clause 41 of the *Gaming Machines Regulation 2002* lists a number of exceptions to the prohibition including: advertising in a gaming machine industry trade journal not ordinarily available to the general public, and advertising inside a club or hotel that cannot be seen or heard from outside.

Section 45 prevents clubs and hotels from offering promotional prizes and player reward schemes that: are in the form of cash; exceed \$1000 in value; or may be exchanged for cash. Player reward schemes are defined as ‘a system, used in connection with the operation of approved gaming machines in a hotel or registered club, in which the players of such gaming machines accumulate bonus or reward points from playing the gaming machines’. Promotional prizes include ‘any prize or reward (including bonus points) offered by a hotelier or registered club to the patrons of the hotel or club in connection with a player reward scheme or any other marketing or promotional activity that involves approved gaming machines’. Player activity statements are to be provided where a patron’s play of gaming machines is recorded electronically. The statement is to include such details as the turnover by the player for each month, the total wins, net expenditure, and the total length of time spent playing gaming machines.⁷⁵

Section 46 requires hotels and clubs to enter into arrangements so problem gambling counselling services are available to relevant patrons. Another harm minimisation measure is the self-exclusion scheme, whereby people can request to be excluded from the premises for a set period.⁷⁶ Hotels and clubs are required to publicise the availability of the scheme and provide information on how it works. A hotel or club cannot refuse a person’s request to participate in the scheme and is to provide each participant with the contact information for a problem gambling counselling service in writing.⁷⁷ The participant is to have an opportunity to receive independent legal/professional advice concerning the nature of the undertaking and he or she must remain in the scheme for at least three months. The venue must be able to readily identify the participant and is protected from civil or criminal

⁷³ Section 40.

⁷⁴ Section 44.

⁷⁵ Clause 42, *Gaming Machines Regulation 2002*.

⁷⁶ Section 49.

⁷⁷ Clause 47, *Gaming Machines Regulation 2002*.

liability regarding the operation of a self-exclusion scheme, provided that it was conducted in good faith and in accordance with the legislative requirements.

3.3 Gaming Machines Amendment (Miscellaneous) Act 2003

On 19 September 2003 the Government introduced the *Gaming Machines Amendment (Miscellaneous) Bill 2003* into Parliament. The Bill proposed to make a number of minor amendments to the *Gaming Machines Act 2001*, essentially to clarify particular areas of the Act. The Bill, as indicated by the explanatory notes, proposed to:

- prevent any increase in the number of gaming machines that may be kept on the premises of a large-scale club,
- clarify that certain special arrangements in relation to large-scale clubs apply only until such time as the club complies with the existing requirement to reduce its allocated number of poker machine entitlements,
- allow the transfer, through a class 1 social impact assessment, of any number of poker machine entitlements between different premises of a registered club if the premises are situated in a non-metropolitan area and are within 50 kilometres of each other,
- make a number of other miscellaneous amendments to enhance or clarify the operation of the Act.

The Bill passed through Parliament on 28 October 2003, and received assent on 6 November 2003.

3.4 Gaming Machine Tax Act 2001

This Act regulates the imposition of tax on profits from poker machines and other gaming devices. Section 6 provides that 'a tax is payable on profits from gaming machines kept in a hotel or on the premises of a registered club'. Part 3 of the Act sets out the various rates of tax payable according to the profit of the gaming machines and whether they are located in a hotel or registered club. Section 17 provides for a tax rebate to registered clubs of up to 1.5% of their gaming machine profits over \$1 million, if the club has allocated a proportion of their profits to community development and support. This is known as the community development and support expenditure scheme. Clubs must contribute at least 0.75% to category one projects and services to be entitled to the rebate, that is, expenditure on specific community welfare and social services, community development, community health services and employment assistance activities. The remainder can be spent on category two projects and services - other community development and support services.

The Act was recently amended by the *State Revenue Legislation Amendment Act 2003*. The Act implemented the new tax scales announced in the 2003-04 Budget. They are to be phased in over seven years commencing in 2004. The new rates are expected to raise an additional \$46 million in 2004-05, with the larger clubs and hotels contributing more tax revenue. Two-thirds of clubs and 38% of hotels will pay either no tax or less tax than previously.⁷⁸ For further discussion of the changes announced in the 2003-04 Budget see

⁷⁸ Hon M Egan MLC, Budget Speech, *NSWPD*, 24/6/03, p 1951.

section 5.2.1 – Gaming Machine Taxation.

3.5 Lotteries and Art Unions Act 1901

This is the main statute governing minor gaming in NSW. A blanket prohibition is imposed by section 3 on the selling or disposing of money or property by way of chance, with exceptions then provided in sections 4 to 6B. The forms of community gaming permitted by the Act, include raffles, no-draw lotteries (scratch, break-open lotteries), mini-numbers (lotto style games), art unions, football doubles and variations, charity housie, lucky envelopes, chocolate wheels, club bingo, promotional raffles, social housie, sweeps and Calcuttas, football tipping competitions, hundred clubs, trade promotion lotteries and gratuitous lotteries.⁷⁹ The conduct of lottery activities is generally restricted by the Act to charities and other non-profit organisations.

The *Lotteries and Art Unions Amendment Act 2003* was enacted in response to the national competition policy review of the *Lotteries and Art Unions Act*. It is to insert specific objects into the Act, including the principal object of ensuring that, on balance, the State and the community as a whole benefit from lottery activities.

3.6 Public Lotteries Act 1996 and NSW Lotteries Corporatisation Act 1996

These Acts were introduced as cognate legislation to corporatise NSW Lotteries so that it would be subject to the same laws as a private company and yet remain publicly owned.

The *Public Lotteries Act 1996* consolidated the law relating to public lotteries and consequently repealed the *Soccer Football Pools Act 1975*, the *Lotto Act 1979* and the *New South Wales Lotteries Act 1990*. Section 3 sets out the objects of the Act as:

- (a) to make provision for the proper conduct of public lotteries in the public interest and to minimise any harm associated with public lotteries, and
- (b) to ensure that revenue derived from the conduct of public lotteries is accounted for in a proper manner.

The Act sets out the regulatory framework for the conduct of public lotteries and contains provisions in relation to the obtaining of a licence.

The *NSW Lotteries Corporatisation Act 1996* established NSW Lotteries Corporation as a statutory State owned corporation to develop, promote, conduct and otherwise participate in any lawful forms of gambling and gambling-related activities.

3.7 Racing Administration Act 1998

This Act replaced Part 4 of the *Gaming and Betting Act 1912*. Its stated objects are to:

- (a) ensure the integrity of racing in the public interest;
- (b) ensure that certain betting activities by licensed bookmakers are conducted properly;

⁷⁹ NSW Department of Gaming and Racing, 'Community Gaming', www.dgr.nsw.gov.au Accessed 28/8/03.

- (c) minimise the adverse social effects of lawful gambling; and
- (d) protect a source of public revenue that is derived from lawful gambling.

It contains provisions on racecourses, the authorisation of certain betting activities and bookmakers, betting information and advertising. Section 16 empowers the Minister to authorise a licensed bookmaker to accept or make bets by telephone or through the Internet, subscription TV or other on-line communications system.

3.8 Totalizator Act 1997

The *Totalizator Act 1997* repealed the *Totalizator Act 1916* and the *Totalizator (Off-course Betting) Act 1964* to consolidate the law regarding the conduct and regulation of totalizator betting. Section 3 of the Act sets out its objects as:

- (a) to make provision for the proper conduct of totalizator betting in the public interest and to minimise any harm associated with such betting, and
- (b) to ensure that revenue derived from the conduct of totalizator betting is accounted for in a proper manner.

TAB Limited is licensed under this Act to conduct totalizator and fixed odds wagering on racing and sport.

3.9 Unlawful Gambling Act 1998

This is the principal criminal statute regarding gambling offences. Its objects are, as stated in section 3, to:

- (a) prohibit, in the public interest, certain forms of gambling,
- (b) prevent the loss of public revenue that is derived from lawful forms of gambling,
- (c) deter criminal influence and exploitation in connection with gambling activities.

It repealed the *Gaming and Betting Act 1912* and replaced it as the principal legislation dealing with prohibitions against unlawful gambling. Many of the provisions of the *Unlawful Gambling Act* were carried forward from the *Gaming and Betting Act 1912*. However, 'many of them have been rewritten to recognise that emerging technologies have provided more sophisticated means by which to conduct illicit gambling and consequently to avoid its detection'.⁸⁰ It separated the criminal provisions from the administration of racing and the regulation of two-up. Section 8(3) introduced an offence of betting on a horse race, harness race or greyhound race in Australia if the bet is made by telephone or electronically by means of the Internet, subscription TV or other on-line communications system where the person receiving the bet is not a legal bookmaker or authorised to conduct totalizator betting. The Act also inserted section 344 into the *Crimes Act 1900* which provides that a person who conducts an unlawful gambling operation is guilty of an offence. This provision is intended to target organised crime.

⁸⁰ Hon J Face MP, Second Reading Speech, *NSWPD*, 24/6/98, p 6456.

4 REGULATION OF THE GAMBLING INDUSTRY IN OTHER JURISDICTIONS

A brief overview is provided in this section of the regulatory regime in each Australian jurisdiction other than New South Wales. The system in the United Kingdom and United States of America is also outlined. Please note that the list of legislation is not intended to be exhaustive but rather to highlight the main features of each jurisdiction.

4.1 Commonwealth

The Australian Gaming Council was formed in June 2000 and is a national body with members from all sectors of the gambling industry across all states. The Council developed a *Responsible Gaming Code* ‘to provide a national framework for the responsible delivery and service of gaming’.⁸¹ It promotes ‘responsible service to customers, responsible delivery of gaming, monitoring and assessment aimed at continuous improvement, research and consultation’. In order to provide responsible service to customers the Code advocates customer assistance and staff training; support services; cooperation with problem gambling support services; the use of self-exclusion schemes; the removal of persons behaving in a manner unacceptable to the venue; and maintenance of a responsible gaming incident register. To assist customers to make informed choices, venues are to provide information on the chances of winning; provide player information; recommend that large prizes be taken in the form of a cheque; and that winners take a ‘cooling off’ period. Problem gambling support notices should be available and responsible gaming warnings are to be displayed. Whilst clocks are to be clearly visible to gaming machine players, automatic teller machines are not to be in view.

The state and territory governments bear primary responsibility for the regulation of gambling in Australia. However, the federal government has enacted legislation in relation to financial transactions and interactive gambling.

Financial Transaction Reports Act 1988

The principal object of the *Financial Transaction Reports Act 1988* is to facilitate the administration and enforcement of Australia’s taxation laws.⁸² Whilst the Act is not primarily concerned with gambling per se, section 7 of the Act requires cash dealers involved in significant cash transactions to prepare a report on the nature of the transaction, the date on which it took place, and various personal details of the person with whom the transaction took place. A significant cash transaction is defined as a transaction involving not less than \$10,000.⁸³ Cash dealers are also required to report suspect transactions (such as suspected tax evasion attempts or the involvement of criminal proceeds) as detailed in section 16 of the Act. The provisions of this Act are particularly relevant to casinos where

⁸¹ See the Australian Gaming Council website at www.austgamingcouncil.org.au

⁸² Section 4.

⁸³ Section 3.

large amounts are often used to gamble. It may assist in the detection and deterrence of money laundering.

Interactive Gambling Act 2001

Section 51(v) of the *Constitution* grants the federal parliament the power to make laws with respect to ‘postal, telegraphic, and other like services’. Therefore interactive gambling falls within the jurisdiction of the Commonwealth.

Interactive gambling services and the advertising of such services were banned from 28 June 2001. According to section 15 of the *Interactive Gambling Act 2001*, a person is guilty of an offence if he or she intentionally provides an interactive gambling service and the service has an Australian customer link. Section 5 defines an interactive gambling service as ‘a gambling service, where the service is provided in the course of carrying on a business; and the service is provided to customers using any of the following: an Internet carriage service; any other listed carriage service; a broadcasting service; any other content service; a datacasting service’. Interactive services do not include telephone betting, wagering and lotteries. The penalty for an offence under section 15 is \$220,000 per day for individuals and \$1.1 million for corporations. The Explanatory Memorandum noted that: ‘The Government is concerned that new interactive technology, such as the Internet and datacasting has the potential to greatly increase the accessibility to gambling and exacerbate problem gambling among Australians’.

The Act followed the *Interactive Gambling (Moratorium) Act 2000* which created a new criminal offence of providing an interactive gambling service. An exception was created for those who were already providing such a service when the moratorium commenced on 19 May 2000. The moratorium was intended to halt development of Australia’s interactive gambling industry whilst an investigation into the feasibility and consequences of banning such services was conducted.

The Department of Communications, Information Technology and the Arts is currently conducting a review of the *Interactive Gambling Act 2001* to which 42 submissions were received. The Australian Casino Association, in their submission, criticised a prohibitionist stance in relation to online gambling on the grounds that it is ineffective.⁸⁴ The Association argued that ‘interactive technology can be better used to promote responsible gambling practices’ as ‘enabling individuals to set loss limits, bets limits, deposit limits – even effective self-exclusion mechanisms – are achievable interactively but almost impossible to cost-effectively implement in the offline world’.⁸⁵ They suggest that online gaming operations should be exempt from the Act if they meet Australian regulatory and player-protection standards that are provided in the AUS Model (Australia: Uniform Standards for the Regulation of Interactive Gambling).⁸⁶ The standards were developed by the National

⁸⁴ Australian Casino Association, *Submission to the Review of the Interactive Gambling Act 2001*, April 2003, p 4.

⁸⁵ Ibid.

⁸⁶ Ibid.

Working Party on Interactive Gaming in 2001 and focus on player protection, operator probity and system integrity.

For further discussion of the issues surrounding interactive gambling see section 6.6 – Online gambling.

4.2 Australian Capital Territory

The ACT Gambling and Racing Commission is an independent statutory authority ‘responsible for controlling and regulating all gaming and wagering activities in the Australian Capital Territory to ensure they are conducted honestly, with integrity and free from criminal influence’.⁸⁷ Gaming and wagering in the ACT is sorted into seven categories: casino; ACTTAB and racing; interactive gaming; sports bookmaking; gaming machines; lotteries and promotions; and race bookmaking.

The *Gambling and Racing Control Act 1999* is the umbrella Act for gaming and wagering legislation in the ACT. It provides for the establishment of the ACT Gambling and Racing Commission, its jurisdiction and the powers of inspectors. Section 6 of the Act establishes that the Commission is, amongst other things, to administer the gaming laws; control, supervise and regulate gaming in the ACT; monitor and research the social effects of gambling and problem gambling; provide education and counselling services; review relevant legislation and policies; and collect taxes, fees and charges under gaming laws. The Commission is to perform its function in such a way as to promote consumer protection, minimize the possibility of criminal or unethical activity, and reduce the risks and costs of problem gambling to the community and to the individuals concerned.⁸⁸ The Commission is also responsible for supervision of the Canberra casino.⁸⁹

Other relevant legislation includes the *Games Wagers and Betting-Houses Act 1901*, *Gaming and Betting Act 1906* and *Unlawful Games Act 1984*. The *Casino Control Act* regulates the Canberra casino. Gaming machines and interactive gaming are regulated by the *Gaming Machine Act 1987* and *Interactive Gambling Act 1998* respectively. The *Lotteries Act 1964* and *Pool Betting Act 1964* regulate lotteries and trade promotions. Finally the *Betting (ACTTAB Limited) Act 1964*, *Race and Sports Bookmaking Act 2001* and *Racing Act 1999* are concerned with racing.

The Australian Hotels Association (ACT), Casino Canberra, Licensed Clubs Association of the ACT and ACT TAB are members of the *ACT Gaming Industry Code of Practice* which provides minimum standards of harm minimisation for all gambling providers.⁹⁰

⁸⁷ ACT Gambling and Racing Commission, www.gamblingandracing.act.gov.au Accessed 26 September 2003.

⁸⁸ Section 7.

⁸⁹ Section 51.

⁹⁰ ACT Gambling and Racing Commission, ‘Code of Practice’, www.gamblingandracing.act.gov.au

4.3 Northern Territory

In the Northern Territory, the Racing Gaming and Licensing Division⁹¹ is responsible for gambling. The Northern Territory, like others, adopts a harm minimization approach to gambling. The Division administers the Community Benefit Fund to which levies on gaming machines in hotels contribute. It is also responsible for licensing, monitoring, ensuring compliance and revenue collection.

The *Gaming Control Act* provides for the regulation of casinos, lotteries (including a division on internet gaming), gaming, and a community benefit fund and committee. The *Gaming Machine Act* specifically provides for the regulation of gaming machines. The *Racing and Betting Act* establishes a racing commission and regulates, amongst other things, bookmakers and totalisators.

There are two casinos in the Northern Territory: MGM Grand in Darwin and Lasseters in Alice Springs. The Minister for Racing, Gaming and Licensing launched the Code of Practice for Responsible Gambling on 2 April 2003.⁹² The Code was developed by a partnership of various industry, community and government groups, and is to guide the practices of gambling providers in the Northern Territory.

4.4 Queensland

The Queensland Office of Gaming Regulation⁹³ has control of casinos, charitable gambling, gaming machines, interactive gambling, keno, lotteries and wagering. Amongst other things, the office issues licences, ensures industry compliance with gambling legislation, inspects gambling products, reviews and develops gambling policies, and manages the allocation of funds from the Gambling Community Benefit Fund. The Queensland Gaming Commission regulates and controls gaming machines in clubs and hotels. However, it also has appellate functions under other gaming Acts. Other important agencies include the Queensland Thoroughbred Racing Board, Queensland Harness Racing Board, and Greyhound Racing Authority.

Like many other jurisdictions, Queensland has been concerned about the growth of gambling and the proliferation of gaming machines. Gaming machines were launched into Queensland hotels and clubs following the passage of the *Gaming Machine Act 1991*. However, following concerns about the impact of gaming machines, the *Gaming Machine Amendment Act 2001* was passed on 31 July 2001 to limit the number in hotels to 40. There is currently no cap on gaming machines in clubs. There were 37,349 machines in 1,354 sites as at 31 January 2003, 19,827 of which were in 592 clubs and 17,522 in 762

⁹¹ See www.nt.gov.au/ntt/licensing/

⁹² A copy of the Code is available from www.nt.gov.au/ntt/licensing/

⁹³ See www.qogr.qld.gov.au

hotels/taverns.⁹⁴

The *Gaming Machine Act 1991* provides for the regulation and control of gaming machines in Queensland. It has the object of ensuring that the community as a whole benefits from gaming by ensuring the integrity and fairness of games, ensuring the probity of operators and minimising the potential for harm.⁹⁵ Similar objects are inserted into other gambling legislation including: the *Charitable and Non-Profit Gaming Act 1999* (regulates gaming in relation to the raising of funds for charitable and non-profit purposes); the *Keno Act 1996* (provides for the conduct of keno games); the *Interactive Gambling (Player Protection) Act 1998* (regulates interactive gambling); the *Lotteries Act 1997* (provides for the conduct of lotteries); the *Wagering Act 1998*; and the *Casino Control Act 1982*.

Four of the thirteen Australian casinos are located in Queensland: Conrad Jupiters (Gold Coast), Jupiters Townsville (Townsville), Conrad Treasury Casino (Brisbane), and Reef Casino (Cairns). The *Casino Control Act 1982* contains provisions in relation to casino licences, the operation of casinos, and fees, taxes and levies amongst other things.

The *Responsible Gambling Code of Practice*⁹⁶ was launched in May 2002 and is a voluntary code that was developed by the Responsible Gambling Advisory Committee. The Committee is comprised of representatives from the community, industry and government in Queensland and is designed to promote harm minimisation through the use of responsible gambling practices. Such practices include: the provision of information about the risks of gambling and where help may be obtained; the provision of information on the odds of winning; the establishment of links with local gambling-related support services; the operation of self-exclusion schemes; ensuring that ATMs are not in close proximity to gambling areas; and requiring winnings above a certain amount to be paid by cheque.

4.5 South Australia

Like most other jurisdictions, South Australia adopts a harm minimisation approach to gambling. The Office of the Liquor and Gambling Commissioner⁹⁷ is responsible for compliance and enforcement and grants licences. It administers the *Gaming Machines Act 1992*, the *Casino Act 1997*, the *Authorised Betting Operations Act 2000* and the *Racing Act 1976*. The Independent Gambling Authority⁹⁸ is the body with overall responsibility for licensed gambling providers in South Australia in regard to the integrity of gaming products and their impact on the community. The Authority approves advertising and responsible gambling codes of practice. It also administers the voluntary barring system in South Australia.

⁹⁴ Queensland Office of Gaming Regulation, *Gaming Newsletter*, 6(2) August 2003, p 1.

⁹⁵ Section 1A.

⁹⁶ See www.responsiblegambling.qld.gov.au

⁹⁷ See www.sacentral.sa.gov.au/agencies/llc

⁹⁸ See www.iga.sa.gov.au

Sky City Adelaide is the only casino in South Australia and is subject to a Responsible Gambling Code of Practice.⁹⁹ The Independent Gambling Authority is also developing responsible gambling codes of practice in regard to lotteries and wagering.¹⁰⁰

4.6 Tasmania

The Gaming Operations Branch of the Revenue, Gaming and Licensing Division of the Department of Treasury and Finance provides executive support and research to the Tasmanian Gaming Commission in its work of overseeing the gambling industry. The Tasmanian Gaming Commission¹⁰¹ is independent of both the Tasmanian government and the gaming industry and its functions are to:

- regulate and control gaming to ensure that it is conducted honestly and free from criminal influence and exploitation. This encompasses gaming in casinos, hotels and clubs and extends to minor gaming activities and interactive gaming and wagering;
- approve internal control, administrative and accounting procedures, rules and conditions in relation to gaming activities and determine disciplinary matters;
- investigate and make recommendations to the Minister on matters relating to gaming policy;
- research and investigate matters relating to gaming including the probity and financial stability of persons involved in the conduct of gaming operations. Those persons include applicants for special employee, technician, licensed premises gaming licences and Tasmanian gaming licences;
- liaise with other authorities and persons responsible for the regulation and control of the conduct of gaming;
- administer the Community Support Levy and make recommendations to the Treasurer on the allocation of funds from the Levy to appropriate projects and services;
- investigate and resolve complaints relating to the conduct of gaming; and,
- perform such other functions as required by the *Gaming Control Act 1993* or any other Act or as are prescribed.

The Tasmanian Gaming Commission also produces a valuable national record of gambling statistics, the *Australian Gambling Statistics*.

The main gambling legislation in Tasmania consists of the *Gaming Control Act 1993*, the *Racing Regulation Act 1952*, and the *TT-Line Gaming Act 1993*. The *Gaming Control Act* provides for the licensing and regulation of gaming in Tasmania, including gaming machines, keno, casinos, interactive gaming, wagering and minor gaming. The Act also

⁹⁹ See www.iga.sa.gov.au for a copy of the Code.

¹⁰⁰ South Australia, Independent Gambling Authority, *Annual Report 2001-02*, p 14.

¹⁰¹ See www.treasury.tas.gov.au/domino/df/df.nsf/main-v/gaming

details the requirements for exclusion schemes. 4% of the profit from gaming machines in hotels and 2% of the profit from gaming machines in clubs is required to be paid into a Community Support Levy. 25% of the levy is distributed to sport and recreation clubs, 25% to charitable organisations and 50% is applied to gambling research, services for the prevention of compulsive gambling, treatment for compulsive gamblers, community education and other health services. The *Racing Regulation Act* provides for the administration of racing and parimutuel wagering and the *TT-Line Gaming Act* contains provisions relevant to gaming on 'Spirit of Tasmania' vessels.

The first Australian casino was established in Tasmania in 1973. There are currently two casinos in Tasmania, the Wrest Point Hotel (Hobart) and Country Club Casino (Launceston).

It is a condition of the licence of special employees in Tasmania that they complete a Responsible Service of Gambling course.¹⁰² The courses are conducted by the Institute of TAFE Tasmania and the Australian Hotels Association.

4.7 Victoria

The Victorian Casino and Gaming Authority¹⁰³ is a statutory body established under the *Gaming and Betting Act 1994*. The Authority commenced operations in June 1994. The Director of Gaming and Betting and staff of the Office of Gambling Regulation provide administrative support to the Authority. The Minister for Gaming administers the following legislation: *Casino Control Act 1991*, *Casino (Management Agreement) Act 1993*, *Club Keno Act 1993*, *Gaming and Betting Act 1994*, *Gaming Machine Control Act 1991*, *Gaming No 2 Act 1997*, *Interactive Gaming (Player Protection) Act 1999*, *Lotteries Gaming and Betting Act 1966*, *Public Lotteries Act 2000*, *Tattersall Consultations Act 1958*, and *TT-Line Gaming Act 1993*.

The Office of Gambling Regulation forms part of the portfolio of the Department of Justice and provides support for the Minister for Gaming, the Victorian Casino and Gaming Authority, the Director of Gaming and Betting and the Director of Casino Surveillance in carrying out their statutory functions of regulating the gaming industry in Victoria.

Crown Casino in Melbourne is the only Victorian casino. It established the Crown Responsible Gaming Customer Support Centre that provides information, referrals and professional counselling.¹⁰⁴ TABCORP Holdings Limited operates wagering and gaming machines in Victoria and has developed a Responsible Gambling Code.¹⁰⁵ Tattersalls also operates gaming machines and lotteries, amongst other things, in Victoria and has a

¹⁰² Tasmanian Gaming Commission, *Annual Report 2001-02*, p 12.

¹⁰³ Victorian Casino and Gaming Authority website is located at www.gambling.vcga.vic.gov.au

¹⁰⁴ See www.crowncasino.com.au

¹⁰⁵ See www.tabcorp.com.au

responsible gambling policy which includes the 'Have fun, but play it safe' campaign.¹⁰⁶

4.8 Western Australia

The rationale underlying the Western Australian gambling legislation is that the market will:¹⁰⁷

- generally fail to protect the interests of consumers;
- be unable to ensure that criminal activities are limited; and
- encourage gambling in the community that is unacceptably high with associated social costs.

Western Australia is distinct from other Australian jurisdictions in that it does not permit the operation of gaming machines outside its only casino in Perth. The 1974 Report of the Royal Commission into Gambling strongly recommended against their introduction as 'poker machine playing is a mindless, repetitive and insidious form of gambling which has many undesirable features. It requires no thought, no skill or social contact'.¹⁰⁸

The Department of Racing, Gaming and Liquor¹⁰⁹ is responsible for ensuring that gaming and racing legislation is administered in an effective and efficient manner that is also consistent with government policy. The Department is responsible for the administration of the *Betting Control Act 1954*; the *Bookmakers Betting Levy Act 1954-70*; the *Casino (Burswood Island) Agreement Act 1985*; the *Casino Control Act 1984*; the *Gaming and Betting (Contracts and Securities) Act 1985*; the *Gaming Commission Act 1987*; the *Racecourse Development Act 1976*; the *Racing and Restriction Acts 1917 and 1927*; the *Totalisator Agency Board Betting Tax Act 1960*; and the Racing Code Legislation. The Gaming Commission is established by the *Gaming Commission Act 1987* and is responsible for the administration of certain gaming laws in Western Australia.

Other relevant agencies in Western Australia include the TAB, Betting Control Board, and the WA Greyhound Racing Authority. Responsible gambling in Western Australia is promoted by a number of agreements. For example, Burswood Casino has developed a voluntary *Code of Ethics and Gaming Practice*. The Casino, Lotteries Commission of WA, Totalisator Agency Board of WA, and WA Bookmakers Association are members of the Problem Gambling Support Services Committee to which they also provide financial support. One of the Committee's objectives is to promote gambling harm minimisation.

¹⁰⁶ See www.tattersalls.com.au

¹⁰⁷ Western Australia, Department of Racing, Gaming and Liquor, 'The Western Australian Gaming Legislation'. Available from www.orgl.wa.gov.au Accessed 26 September 2003.

¹⁰⁸ Ibid.

¹⁰⁹ See www.orgl.wa.gov.au

4.9 United States of America

All states in the US, except for Utah and Hawaii, have legalised gambling in one form or another.¹¹⁰ However, this was not always the case as gambling has grown substantially in the last few decades, with revenues from legal wagering increasing nearly 1600% between 1976 and 1997.¹¹¹ Prior to the 1990s, Nevada and Atlantic City were the only states where casinos were legal. Nonetheless, by 1999, casino gambling had been legalised in 28 states.¹¹² The following statistics provide some guidance to the extent of gambling in the US:¹¹³

- In 1997, gross gambling revenue totalled more than \$50 billion.
- In the same year, Americans spent an average of 0.74% of their personal income on gambling.
- It was estimated in 1999 that between 1.7 and 2.6 million adults were pathological gamblers (less than 1% of the population).¹¹⁴

Like Australia, gambling in the US is primarily regulated at the state level, with most states having some kind of gambling commission or lottery board.¹¹⁵ However, the *Wire Act 1961* bans a person from using wire communications to conduct an Internet gambling business. It introduced section 1084 into the *United States Code* which states:

Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers, shall be fined under this title or imprisoned not more than two years, or both.

However, the effectiveness of this section in preventing internet gambling has been questioned as it does not provide guidance on how the prohibition can be enforced.¹¹⁶

¹¹⁰ Blaszczyński, n 2, p 9.

¹¹¹ United States of America, The National Gambling Impact Study Commission (K James: Chair), *Executive Summary*, Washington DC, 18 June 1999, p 2.

¹¹² Ibid.

¹¹³ Ibid, pp 3 and 8.

¹¹⁴ The US population counted in the 2000 Census was 281.4 million people. Source: US Census Bureau, *Population Change and Distribution: Census 2000 Brief*, April 2001. Available from www.census.gov Accessed 23 October 2003.

¹¹⁵ The National Gambling Impact Study Commission, n 111, p 13.

¹¹⁶ Senate Select Committee on Information Technologies, n 26, p 97.

In 1996, the National Gambling Impact Study Commission was given the task of ‘conducting a comprehensive legal and factual study of the social and economic impacts of legalized gambling in the United States’.¹¹⁷ The Commission was to review existing government policies and practices and assess: the relationship between gambling and levels of crime; the impact of pathological or problem gambling; the economic impact of gambling and the role of advertising; the extent to which gambling provides governments with revenue and the existence of alternative sources; and the effects of interactive gambling. Some of the recommendations made by the National Gambling Impact Study Commission in 1999 included:¹¹⁸

- A nationwide age limit of 21 years;
- That information on relevant odds and hazards should be clearly posted in venues;
- The reduction of the number of slot machines in convenience locations such as grocery stores;
- The prohibition of sports betting on amateur/college athletics;
- The prohibition of instant games simulating live card or casino games;
- The prohibition of aggressive advertising targeting vulnerable groups;
- Credit card debts incurred in gambling should not be enforceable;
- The banning of ATMs from gambling premises;
- School aged children should be warned of the dangers associated with gambling; and
- The Federal Government should ban Internet gambling.

A number of banks and credit card companies in the US have disallowed the use of their cards for online gambling.¹¹⁹ On 13 March 2003, Senator Jon Kyl introduced Senate Bill 627, the *Unlawful Internet Gambling Funding Prohibition Act* – ‘A bill to prevent the use of certain payments instruments, credit cards, and fund transfers for unlawful Internet gambling, and for other purposes’. It would prohibit banks and other financial institutions from processing transactions of illegal Internet gambling. On 31 July 2003 the Senate Banking, Housing and Urban Affairs Committee ordered that Senate Bill 627 be reported.¹²⁰ The Bill was placed on the Senate Legislative Calendar on 27 October 2003.¹²¹

4.10 United Kingdom

Gambling is also popular in the United Kingdom. A 1999 survey found that 90% of respondents had gambled at least once in the year before the survey, and more than half had gambled in the previous week.¹²² However, the incidence of problem gambling, estimated

¹¹⁷ The National Gambling Impact Study Commission, n 111, p 10.

¹¹⁸ Blaszczyński, n 2, p 11. For the full text of the recommendations see The National Gambling Impact Study Commission, n 107, pp 29-46.

¹¹⁹ Australian Casino Association, n 84, p 1.

¹²⁰ For further information see Senator Kyl’s homepage at <http://kyl.senate.gov>

¹²¹ For further information on the status of the Bill see www.senate.gov

¹²² Miers D, ‘The Gambling Review Report: Redefining the Social and Economic Regulation of

at between 0.6% and 0.8% of the adult population, is much smaller than in Australia.¹²³ The Home Secretary determines the policy in relation to gambling with the Department for Culture, Media and Sport being responsible for the administration of gambling law. The main Acts in relation to gambling in the UK are the *Gaming Act 1968*, the *Betting, Gaming and Lotteries Act 1963*, and the *Lotteries and Amusements Act 1976*. Some features of the British gaming industry include:¹²⁴

- Commercial gaming is restricted to licensed clubs;
- Low stake and prize amusement devices are permitted in public venues with a local authority permit;
- High stake and jackpot prize machines are restricted to registered clubs;
- Casinos are run on a club or membership basis with new members to wait 24 hours before they may gamble;
- Casinos are not permitted to provide credit, alcohol or live entertainment.
- Online gambling is currently widely available although it is not lawful for UK based operators to provide gaming services.¹²⁵

The Department for Culture, Media and Sport is currently reviewing the law as it relates to gambling as much of the current legislation dates to the 1960s. Consequently there is a need to update the law in order to streamline it and enable it to account for technological advances and changes in social expectations. The Gambling Review Body (Chairman: Sir Alan Budd) published their *Gambling Review Report* in July 2001 (the Budd Report).¹²⁶ The Report proposed that all regulations relating to gambling be incorporated into a single Act; all gambling activity be regulated by a single regulator; and that the licensing of individuals and companies be undertaken by the Gambling Commission.¹²⁷ According to the Budd Report, the Gambling Commission would replace the Gambling Board as the new national gambling regulator. It would deal with threshold controls, 'fit and proper' tests on operators and employees, controls over the conduct of gambling, monitoring to ensure compliance, and illegal gambling. Overall, the proposals generally allowed for greater freedom in relation to gambling.¹²⁸

In 2002, the Department for Culture, Media and Sport released their response to the Budd Report, *A Safe Bet for Success – Modernising Britain's Gambling Laws*. The Department adopted many of the recommendations made by the Budd Report and accordingly proposed

Commercial Gambling', *Modern Law Review*, 66(4) July 2003, p 604.

¹²³ Ibid, p 605.

¹²⁴ Blaszczyński, n 2, p 9.

¹²⁵ United Kingdom, Gambling Review Body, *Gambling Review Report*, July 2001, p 5.

¹²⁶ A copy of the Report can be downloaded from www.culture.gov.uk

¹²⁷ Gambling Review Body, n 125, p 2.

¹²⁸ Ibid, p 7.

that, amongst other things:¹²⁹

- All gambling legislation should be consolidated into a single Act;
- The Gambling Commission should be the single statutory regulator with responsibility for licensing and regulating gambling operators and their staff;
- Restrictions on advertising and credit cards to be relaxed, with an exception for gaming machines;
- Gambling debts to be enforceable in law;
- Casinos to be deregulated;
- The full range of on-line gambling services operated by UK based services to be legalised.

Implementation of these proposals would ensure that gambling remains free from crime, players know what to expect and are not exploited, and children and vulnerable people are protected.¹³⁰ The proposed reforms were designed:

to see a successful British gambling industry; one that is able to respond rapidly and effectively to technological and customer-led developments in both the domestic and global marketplace, building on its existing reputation for quality and integrity, and in the process increasing its already important contribution to the UK economy.¹³¹

The UK is distinct from most western countries in that it currently permits children to play on gaming machines.¹³² Whilst persons under 18 cannot enter betting shops or casinos and persons under 16 cannot purchase lottery tickets, children of any age can play on fruit machines in seaside resorts, service stations and in pubs and clubs.¹³³ The Budd Report, whilst not recommending a complete prohibition on children playing gaming machines, did suggest that access be limited in a number of ways.¹³⁴

The Culture, Media and Sport Select Committee announced an inquiry into gambling on 26 March 2002. Their report, *The Government's Proposals for Gambling: Nothing to Lose?*, was subsequently published the following June.¹³⁵ The first clauses of a draft *Gambling Bill* were published on 15 July 2003, with the entire draft Bill to be published in the latter half of 2003. The Joint Committee on the *Draft Gambling Bill* is to report by 8 April 2004.

¹²⁹ United Kingdom, Department for Culture, Media and Sport, *A Safe Bet for Success – Modernising Britain's Gambling Laws*, 2002, pp 37-41.

¹³⁰ United Kingdom, Department for Culture, Media and Sport, 'Gambling and Racing'. www.culture.gov.uk Accessed 21 October 2003.

¹³¹ Department for Culture, Media and Sport, n 129.

¹³² Gambling Review Body, n 125, p 4.

¹³³ Ibid, p 9.

¹³⁴ Ibid, p 4.

¹³⁵ A copy of the Report is available from www.publications.parliament.uk

5 FINANCIAL ASPECTS OF GAMBLING

5.1 General impact on the economy

One of the arguments frequently advanced in support of the legalisation of additional forms of gambling is the potential benefit to the economy. The gambling industries employ thousands of people and provide governments in Australia with revenue that may subsequently be used for such things as hospitals and roads. Casinos, in particular, may contribute to the tourism and entertainment industry. Gambling also supports those sectors of the manufacturing industry that produce gaming equipment.

However, the economic effects of gambling are not all positive. Some of the negative impacts include: a loss of revenue from particular communities through the high taxes on gambling; the loss of investment in other areas of economic need; and the loss of business to other areas of discretionary consumer spending.¹³⁶ Some commentators have argued that the economic gain attributed to gambling has been overemphasised, as the money spent on gambling and the resources used by the gambling industry would simply have been directed elsewhere creating similar levels of income and jobs.¹³⁷ Therefore it has been argued that the real benefit to be gained from gambling should be measured by the pleasure it provides to people, and whether the benefits of gambling outweigh the associated costs.¹³⁸

The following sections provide an overview of the size and contribution of the gambling industry at a national level and, more specifically, in NSW.

5.1.1 National

The Productivity Commission calculated the net benefit of the Australian gambling industries to be at least \$4.4 billion.¹³⁹ This included:

- the entertainment value to recreational gamblers (\$2.7 billion to \$4.5 billion);
- government revenue in the form of taxes, licence fees and community contributions (\$4.3 billion); and
- the impact on problem gamblers (a \$2.7 billion loss).

Gambling has become an integral part of the club and hotel industries. Income from gambling generated \$2,121 million for pubs, taverns and bars in Australia in 2000-01,

¹³⁶ NSW Health Department, *Policy Framework on Treatment Services for Problem Gamblers and their Families in NSW*. Strategic Directions 2002-2006, Department of Gaming and Racing, Sydney, 2001, p 4.

¹³⁷ Productivity Commission, n 3, p 16.

¹³⁸ Ibid, p 17; Walker M, *Gambling Government: The Economic and Social Impacts*, University of New South Wales Press, Sydney, 1998, p 10.

¹³⁹ Productivity Commission, n 3, p 5.1.

representing 24% of the total income for the industry.¹⁴⁰ This is an increase of 64% since 1997-98.¹⁴¹ Accordingly, there is significant pressure on hotels to introduce gambling facilities. A comparison of the operating profits of those with and without gambling facilities highlights such pressure. In 2000-01, pubs with gambling facilities recorded an operating profit margin of 8.5% compared to 4.6% for those without such facilities.¹⁴² Clubs are particularly reliant on gambling income. They generated \$3,835 million in gambling income in 2000-01, an increase of 24% since 1997-98.¹⁴³ However, 64% of the total income for clubs with gambling facilities is attributable to gambling.¹⁴⁴

5.1.2 *New South Wales*

The following statistics are provided by the NSW Department of Gaming and Racing and indicate the size of the gambling industry in NSW as at 30 June 2002:¹⁴⁵

- 1,388 registered clubs: operated a total of 76,380 gaming machines; provided \$402.1 million in tax; and produced a gaming machine turnover of \$30 billion with a profit of \$3 billion.
- 1,828 hotels: operated a total of 24,628 gaming machines; provided \$318.4 million in tax; and produced gaming machine turnover of \$12 billion with a profit of \$1.3 billion.
- The casino: has 200 gaming tables, 1,500 gaming machines and 7.56 million patrons; paid \$69 million in casino duty and \$11 million in community benefit levy; and earned \$534 million gross gaming revenue.
- 209 licensed racecourses that held 2,772 race meetings.
- The turnover for the TAB was \$4.485 billion (includes on-course and off-course totalisators, fixed odds racing and sports betting).
- 49 authorised full-time or casual bookmakers for sports betting produced a turnover of \$43.2 million.
- 303 bookmakers held racing bets to a total of \$475 million.
- 12,870 permits for trade competitions were issued. The total value of trade competition prizes was \$415 million.
- 5,174 current fundraising authorities.
- 322 permits were issued for charity houses.
- 97 permits were issued for other games of chance for charity such as lucky envelopes and chocolate wheels.

In 1998, the Australian Institute for Gambling Research estimated the value of the gambling

¹⁴⁰ Australian Bureau of Statistics, *Clubs, Pubs, Taverns and Bars*, 8687.0, June 2002, p 5.

¹⁴¹ Ibid.

¹⁴² Ibid, p 6.

¹⁴³ Ibid, p 16.

¹⁴⁴ Ibid.

¹⁴⁵ NSW Department of Gaming and Racing, n 46.

industry to the NSW economy as follows:¹⁴⁶

- In 1996-97, the direct output of the industry was estimated at \$3.95 billion (2.3% of gross state product in 1995-96). The NSW gambling industry is equivalent in size to each of the following sectors: agriculture, forestry and fishing; mining; electricity, gas and water; accommodation, cafes and restaurants; and communications;
- The direct employment of 16,500 to 18,000 fulltime equivalent jobs;
- \$1,236 million in government revenue;
- 3.4% of household disposable income.

Recent research on the NSW racing and betting industry suggests that the gambling industry has continued to grow in NSW. It found that the NSW racing and betting industry generated \$2.3 billion in the Sydney metropolitan region, and \$1.9 billion in the regional areas of NSW in 2001-02, producing 40,000 fulltime jobs.¹⁴⁷

The following tables compare gambling activity for each state and territory in 2000-01:

Gambling activity – businesses with gambling activity, by state/territory.

| | Businesses at end June No. | Net takings from gambling \$m |
|------------------------------|-------------------------------|----------------------------------|
| New South Wales | 2 924 | 5 712.0 |
| Victoria | 729 | 4 215.5 |
| Queensland | 1 087 | 1 947.4 |
| South Australia | 511 | 732.9 |
| Western Australia | 431 | 609.5 |
| Tasmania | 229 | 248.3 |
| Northern Territory | 75 | 148.4 |
| Australian Capital Territory | 94 | 224.8 |
| Australia | 6 012 | 13 838.6 |

Source: Australian Bureau of Statistics, *Gambling Industries 2000-01*, 8684.0, 2002, p 8.

Gambling activity – net takings per head of adult population

| | 2000-01 \$ | Percentage difference from average % |
|------------------------------|---------------|--|
| New South Wales | 1 154.0 | 22.2 |
| Victoria | 1 143.6 | 21.1 |
| Queensland | 718.4 | -23.9 |
| South Australia | 636.2 | -32.6 |
| Western Australia | 426.6 | -54.8 |
| Tasmania | 706.1 | -25.2 |
| Northern Territory | 1 079.4 | 14.3 |
| Australian Capital Territory | 950.8 | 0.7 |
| Australia | 944.3 | - |

¹⁴⁶ Australian Institute for Gambling Research, *An examination of the socio-economic effects of gambling on individuals, families and the community, including research into the costs of problem gambling in New South Wales – the 1997 Study 2 Update*, Australian Institute for Gambling Research, UWS Macarthur, June 1998, pp v, 14-15.

¹⁴⁷ TAB Limited, 'NSW The Big Winner from Racing and Wagering', 12/11/03, www.tablimited.com.au/mediaroom/announcements

Source: Australian Bureau of Statistics, *Gambling Industries 2000-01*, 8684.0, 2002, p 9.

As demonstrated above, almost half of the gambling related businesses in Australia are located in NSW and earn almost \$6 billion a year. This equates to 41% of the total net takings for gambling in Australia. Therefore, a disproportionate amount of gambling income is generated in NSW, as it is the residence for only 34% of Australian adults. Each adult in NSW lost an average of \$1,154 through gambling, 22% more than the average Australian.

5.2 Government revenue

Governments in Australia have come to increasingly rely on gambling revenue as a source of income. Various forms of gambling have become less regulated with time as their potential economic value has been recognised. For example, state lotteries were introduced in response to the Depression and after World War II to generate revenue following the loss of income tax to the Commonwealth.¹⁴⁸ The establishment of casinos in the 1980s in the less developed states of Australia was due to the decline in real revenue received from the Commonwealth and the need to develop alternative sources of income.¹⁴⁹ There have also been instances where states and territories have felt the pressure to deregulate sections of the gambling industry in response to developments in neighbouring states. For example, poker machines were legalised in Canberra to prevent the loss of income caused by people travelling to nearby towns in NSW to play gaming machines.

The following table compares the actual amount of gambling revenue for each state and territory from 1974-75 to 1999-00:

Government Revenue: States and Territories, Australia 1972-73 to 1999-2000 (\$ million)

| Year | NSW | Vic | Qld | SA | WA | Tas | NT | ACT | Australia |
|---------|---------|---------|-------|-------|-------|------|------|------|-----------|
| 1974-75 | 151.8 | 73.0 | 25.0 | 10.8 | 12.5 | 3.7 | 0.0 | 0.2 | 277.0 |
| 1979-80 | 288.4 | 175.0 | 38.9 | 26.0 | 21.6 | 9.9 | 1.9 | 1.2 | 563.0 |
| 1984-85 | 501.5 | 292.7 | 105.8 | 44.6 | 57.1 | 22.4 | 4.7 | 10.5 | 1 039.3 |
| 1989-90 | 812.3 | 463.9 | 208.0 | 114.7 | 138.0 | 34.8 | 11.5 | 23.8 | 1 806.9 |
| 1994-95 | 1 082.0 | 905.2 | 385.3 | 182.0 | 206.1 | 50.0 | 16.0 | 51.7 | 2 878.3 |
| 1999-00 | 1 544.6 | 1 520.1 | 611.4 | 342.4 | 209.2 | 73.5 | 36.4 | 62.1 | 4 399.8 |

Source: Winter G, *Gambling: An Australian Tradition on the Up!*, Research Paper No 14 2001-02, Information and Research Services, Department of the Parliamentary Library, Commonwealth, 2002, p 6.

The table reveals that the amount of government revenue from gambling has risen substantially with time. In real terms, the amount has increased from \$1,278.8 million in 1974-5 to \$4,399.8 million in 1999-00.¹⁵⁰ The government of NSW has traditionally earned a much larger amount from gambling than any other state and territory. However, in recent

¹⁴⁸ Smith, n 45, p 25.

¹⁴⁹ Ibid, p 28.

¹⁵⁰ Winter G, *Gambling: An Australian Tradition on the Up!*, Research Paper No 14 2001-02, Information and Research Services, Department of the Parliamentary Library, Commonwealth, 2002, p 7.

years the amount of gambling revenue earned by the Victorian Government has grown exponentially to be virtually on par with NSW.

However, despite the significant increase in the amount of revenue collected by governments over the period, Winter notes that as a proportion of total taxation revenue, it has remained fairly stable, between 9 and 12%.¹⁵¹ However, Smith has argued that, had the governments not legalised new forms of gambling, gambling revenue would have declined over time.¹⁵² For example, the licensing of the Sydney casino followed a decline in lottery sales and race betting in the 1980s. She states: ‘This pattern appears to be explained by a relatively fixed market for gambling, with governments stimulating declining consumer interest and tax receipts by promotion of new gambling products and legalisation of previously prohibited forms of gambling to sustain revenue’.¹⁵³

Gaming provides the NSW Government with 88.16% of its gambling revenue.¹⁵⁴ Racing contributes 11.64% and sports betting supplies just 0.20% of the total. In terms of specific forms of gambling, gaming machines are the greatest source of taxation revenue, representing 55% of total gambling taxes and levies, followed by: lotteries, lotto style games and football pools (19%); casinos (11%); and TAB/totalisator sales (10%).¹⁵⁵ In the period between its opening and June 2003, Star City casino paid a total of \$745.65 million in taxes consisting of \$658.19 million casino duty, \$15 million international commission duty and \$72.46 million community benefit levy.¹⁵⁶

The following tables compare gambling tax revenue (including licence fees and charges) for each state and territory as a percentage of total own-tax revenue, and the average amount paid by each adult in gambling taxes:

Gambling tax revenue as a percentage of total own-tax revenue

| | NSW | Vic | Qld | WA | SA | Tas | ACT | NT | Average |
|---------|------|------|------|-----|------|------|-----|-----|---------|
| 1975-76 | 12.8 | 9.4 | 6.7 | 6.4 | 5.1 | 6.0 | na | na | 9.8 |
| 1997-98 | 10.4 | 15.2 | 12.5 | 5.7 | 13.8 | 10.3 | 8.3 | 9.6 | 11.7 |

Source: Productivity Commission, *Australia's Gambling Industries*, Inquiry Report, Report no 10, 26 November 1999, p 19.7

Average gambling taxes per adult resident, 1991-92 to 1997-98 (1997-98 dollars)

| | NSW | Vic | Qld | WA | SA | Tas | ACT | NT | Average |
|---------|-----|-----|-----|-----|-----|-----|-----|-----|---------|
| 1991-92 | 218 | 176 | 159 | 122 | 146 | 143 | 174 | 71 | 177 |
| 1997-98 | 285 | 375 | 216 | 130 | 279 | 191 | 218 | 258 | 275 |

Source: Productivity Commission, *Australia's Gambling Industries*, Inquiry Report, Report no 10, 26

¹⁵¹ Ibid, p 6.

¹⁵² Smith, n 45, p 48.

¹⁵³ Ibid, p 48.

¹⁵⁴ Tasmanian Gaming Commission, n 1.

¹⁵⁵ Australian Bureau of Statistics, n 22, p 7.

¹⁵⁶ NSW Casino Control Authority, n 17, p 6.

November 1999, p 19.8

The first table indicates that NSW and Western Australia are the only jurisdictions where the proportion of own-tax revenue attributed to gambling has decreased since 1975-76. The proportion of tax revenue derived from gambling in NSW is less than the Australian average, with Victoria, Queensland and South Australia relying more heavily on revenue from gambling. However, the average amount paid by each adult in gambling tax is greater in NSW, at \$285 compared to the national average of \$275. NSW is second only to Victoria in terms of the amount of gambling tax paid by each adult.

There is an ethical dimension to the debate concerning the proportion of the government's revenue that is derived from gambling because of the detriment gambling causes to a section of the population. The following table organises taxation revenue collected by Australian governments in 1997-98 according to whether it was contributed by recreational or problem gamblers, or tourists. The table reveals that whilst problem gamblers form only 2.1% of the adult population in Australia, they pay over 32% of tax revenue.

Gambling tax revenue, licence fees and community contributions 1997-98 (\$ million)

| | Estimated tax revenue paid by recreational gamblers | Estimated tax revenue paid by moderate problem gamblers | Estimated tax revenue paid by severe problem gamblers | Estimated revenue from tourist spending | Tax revenue collected 1997-98 |
|--------------------|--|---|---|--|-------------------------------------|
| Wagering | 409 | 58 | 144 | - | 611 |
| Lotteries | 784 | 31 | 17 | - | 832 |
| Scratchies | 140 | 20 | 14 | - | 174 |
| Gaming machines | 1364 | 205 | 797 | - | 2365 |
| Casino games | 170 | 16 | 5 | 89 | 280 |
| Other | 38 | 4 | 8 | - | 51 |
| All gambling | 2826 | 349 | 1048 | 89 | 4312 |

Source: Productivity Commission, *Australia's Gambling Industries*, Inquiry Report, Report no 10, 26 November 1999, p 5.20

There is arguably a conflict of interest in the government being both the regulator and a major financial beneficiary of the industry. As noted by Smith, the 'Government playing a role as gambling promoter as well as gambling addict creates concerns for the integrity and credibility of government and political processes. The irresistible temptation of easy revenues has created concerns that governments are excessively dependent on gambling revenues, with questions raised about close relationships with the gambling industry and the government that is supposedly regulating it in the public interest'.¹⁵⁷

Gambling taxes have been described as regressive because of their disproportionate effect on persons in the lower socio-economic sphere.¹⁵⁸ As they generally spend a larger percentage of their income on gambling, the amount of tax paid as a proportion of income

¹⁵⁷ Smith, n 45, p 87.

¹⁵⁸ Productivity Commission, n 3, p 54.

subsequently decreases as income rises. This is of some concern as research has found that the most disadvantaged areas of Sydney, with the lowest median incomes, have the greatest numbers of gaming machines per adult and spend the most on gaming machines in clubs.¹⁵⁹ Nonetheless, the public is generally less critical of taxes on gambling, as in many ways, it is a voluntary tax. In contrast, taxes on incomes, sales and property can conflict with the interests of powerful groups in society.¹⁶⁰ Smith has therefore argued that gambling tax revenues have allowed state and federal governments to avoid tax reform.¹⁶¹ However she does concede that:

In the face of diminishing own source taxation options, falling real general revenue grants, perceived constraints on borrowing, and increased pressures to maintain public services as the Commonwealth withdraws, state governments in Australia have turned to gambling taxes as one of the few politically or constitutionally available options.¹⁶²

5.2.1 Gaming machine taxation

In the 2003-04 Budget Speech, the Treasurer, the Hon Michael Egan MLC, announced that taxation on gaming machine profits would increase over the next seven years, commencing on 1 September 2004 for clubs and 1 July 2004 for hotels. This announcement sparked intense community debate with NSW clubs launching a media campaign against the tax.¹⁶³

The following three tables document the changes to gaming machine taxation in NSW as announced by the Treasurer. These changes were implemented by the *State Revenue Legislation Amendment Act 2003* which amended the *Gaming Machine Tax Act 2001*. The third table notes the impact of the new tax scales on government revenue.

Annual Club Gaming Machine Duty Rates

| | | Annual Profit (\$) | | | | |
|-----------|---------------|--------------------|-------------------------|---------------------------|----------------------------|---------------------|
| | | Up to 200,000 | 200,001 to 1,000,000 | 1,000,001 to 5,000,000 | 5,000,001 to 10,000,000 | Above 10,000,001 |
| Current | marginal | 0.00 | 10.91 | 17.16 | 17.16 | 17.16 |
| rates (%) | | | | | | |
| Rates | from 1 | | | | | |
| September | September (%) | | | | | |
| 2004 | | 0.0 | 10.8 | 18.3 | 19.7 | 20.4 |
| 2005 | | 0.0 | 10.7 | 19.4 | 22.3 | 23.7 |

¹⁵⁹ Tremayne, n 40, p 32.

¹⁶⁰ Smith, n 45, p 44.

¹⁶¹ Ibid, p 10.

¹⁶² Ibid, p 91.

¹⁶³ See, for example, the following advertisements by Clubs NSW: 'A message for all NSW club members', *Sydney Morning Herald*, 1/9/03; 'Mr Egan did you mean to hurt our diggers?', *Sydney Morning Herald*, 1/9/03; 'Carr's new tax will kill rugby league', *The Sun-Herald*, 21/9/03.

| | | | | | |
|------|-----|------|------|------|------|
| 2006 | 0.0 | 10.5 | 20.5 | 24.8 | 26.9 |
| 2007 | 0.0 | 10.4 | 21.6 | 27.4 | 30.2 |
| 2008 | 0.0 | 10.3 | 22.8 | 29.9 | 33.5 |
| 2009 | 0.0 | 10.1 | 23.9 | 32.5 | 36.7 |
| 2010 | 0.0 | 10.0 | 25.0 | 35.0 | 40.0 |

Source: NSW Treasury, Budget Statement 2003-04, Budget Paper No 2, p 3-6.

Annual Hotel Gaming Machine Duty Rates

| | Annual Profit (\$) | | | | | |
|----------------------------|--------------------|----------------------|-----------------------|-------------------------|---------------------------|--------------------|
| | Up to 25,000 | to 25,001 to 200,000 | to 200,001 to 400,000 | to 400,001 to 1,000,000 | to 1,000,001 to 5,000,000 | to Above 5,000,001 |
| Current marginal rates (%) | 5.91 | 15.91 | 15.91 | 25.91 | 30.91 | 30.91 |
| Rates from 1 July (%) | | | | | | |
| 2004 | 5.8 | 15.8 | 17.2 | 26.5 | 31.5 | 33.6 |
| 2005 | 5.7 | 15.7 | 18.5 | 27.1 | 32.1 | 36.4 |
| 2006 | 5.5 | 15.5 | 19.8 | 27.7 | 32.7 | 39.1 |
| 2007 | 5.4 | 15.4 | 21.1 | 28.2 | 33.2 | 41.8 |
| 2008 | 5.3 | 15.3 | 22.4 | 28.8 | 33.8 | 44.5 |
| 2009 | 5.1 | 15.1 | 23.7 | 29.4 | 34.4 | 47.3 |
| 2010 | 5.0 | 15.0 | 25.0 | 30.0 | 35.0 | 50.0 |

Source: NSW Treasury, Budget Statement 2003-04, Budget Paper No 2, p 3-7

Revenue Effect of Gaming Machine Duty Changes

| | 2004-05 | 2005-06 | 2006-07 | 2007-08 | 2008-09 | 2009-10 | 2010-11 |
|--------------|---------|---------|---------|---------|---------|---------|---------|
| | \$m | \$m | \$m | \$m | \$m | \$m | \$m |
| Club gaming | 39 | 83 | 131 | 183 | 241 | 304 | 373 |
| Hotel gaming | 7 | 15 | 24 | 33 | 45 | 59 | 74 |
| Total | 46 | 98 | 155 | 216 | 286 | 363 | 447 |

Source: NSW Treasury, Budget Statement 2003-04, Budget Paper No 2, p 3-8

As can be seen in the above table, government revenue from the new gaming machine taxation scheme will substantially increase by \$447 million in just seven years. Much of this will be contributed by clubs who earn over \$10 million a year, as their taxation rate will increase from 17.16% to 40% by 2010. Whilst community debate has centred on the impact of the taxes on clubs in NSW, hotels with gaming machines are also to be taxed at a significantly higher rate.

The Government has sought to justify the increased taxes in a number of ways. It has argued that gaming machine profits are taxed at a substantially lower rate in NSW compared to the rest of Australia. The Treasurer, in the Budget Speech, claimed that gaming tax rates for NSW clubs were half the average rate of the rest of Australia and that the gaming tax rate for hotels was one-third lower.¹⁶⁴ According to an information sheet released by the NSW Department of Gaming and Racing in April 2003, the taxation rates for clubs with gaming machines in Australia, as at 31 December 2002, were as follows:

¹⁶⁴

NSW Treasury, *Budget Statement: Budget Paper No 2. Budget 2003-2004*, p 3-6.

| Jurisdiction | Taxation rates as at 31 December 2002 | | | | | | | | | | | | |
|---------------------------------|---|---------------------|--------|---------------------------------|------------------------|-----------------------------|-------------------------|------------------------------|--------|--------------------------------|--------|----------------------|--------|
| New South Wales | <p>Annual rates:</p> <table> <tr> <td>Profit ≤ \$200,000</td> <td>0%</td> </tr> <tr> <td>\$200,000 < profit ≤ \$1 m</td> <td>10.91%</td> </tr> <tr> <td>profit > \$1 m</td> <td>17.16%</td> </tr> </table> <p style="text-align: right;">plus \$87,280</p> <p>This rate is reduced by 1.5% where a club earns more than \$1 million in annual gaming machine revenue and applies 1.5% of the excess to Community Development and Support Expenditure funding.</p> | Profit ≤ \$200,000 | 0% | \$200,000 < profit ≤ \$1 m | 10.91% | profit > \$1 m | 17.16% | | | | | | |
| Profit ≤ \$200,000 | 0% | | | | | | | | | | | | |
| \$200,000 < profit ≤ \$1 m | 10.91% | | | | | | | | | | | | |
| profit > \$1 m | 17.16% | | | | | | | | | | | | |
| Australian Capital Territory | <p>Per month (gross gaming machine revenue)</p> <table> <tr> <td>Revenue < \$8,000</td> <td>0%</td> </tr> </table> <p>Where gross profit exceeds \$8,000:</p> <table> <tr> <td>\$1-\$8,000</td> <td>1%</td> </tr> <tr> <td>\$8,000 < profit ≤ \$25,000</td> <td>23.5%</td> </tr> <tr> <td>\$25,000 < profit ≤ \$50,000</td> <td>24.5%</td> </tr> <tr> <td>profit > \$50,000</td> <td>25%</td> </tr> </table> | Revenue < \$8,000 | 0% | \$1-\$8,000 | 1% | \$8,000 < profit ≤ \$25,000 | 23.5% | \$25,000 < profit ≤ \$50,000 | 24.5% | profit > \$50,000 | 25% | | |
| Revenue < \$8,000 | 0% | | | | | | | | | | | | |
| \$1-\$8,000 | 1% | | | | | | | | | | | | |
| \$8,000 < profit ≤ \$25,000 | 23.5% | | | | | | | | | | | | |
| \$25,000 < profit ≤ \$50,000 | 24.5% | | | | | | | | | | | | |
| profit > \$50,000 | 25% | | | | | | | | | | | | |
| Northern Territory | 47% of gross profit on poker machines and 3% Community Benefit Levy on Draw Card Machine turnover. | | | | | | | | | | | | |
| Queensland | <p>Based on monthly metered wins:</p> <table> <tr> <td>Wins ≤ \$9,500</td> <td>0%</td> </tr> <tr> <td>\$9,500 < wins ≤ \$75,000</td> <td>17.91%</td> </tr> <tr> <td>\$75,000 < wins ≤ \$150,000</td> <td>20.91%</td> </tr> <tr> <td>\$150,000 < wins ≤ \$300,000</td> <td>23.91%</td> </tr> <tr> <td>\$300,000 < wins ≤ \$1,400,000</td> <td>25.91%</td> </tr> <tr> <td>wins > \$1.4 million</td> <td>35.91%</td> </tr> </table> <p>8.5% of tax collected goes to the Community Investment Fund.</p> | Wins ≤ \$9,500 | 0% | \$9,500 < wins ≤ \$75,000 | 17.91% | \$75,000 < wins ≤ \$150,000 | 20.91% | \$150,000 < wins ≤ \$300,000 | 23.91% | \$300,000 < wins ≤ \$1,400,000 | 25.91% | wins > \$1.4 million | 35.91% |
| Wins ≤ \$9,500 | 0% | | | | | | | | | | | | |
| \$9,500 < wins ≤ \$75,000 | 17.91% | | | | | | | | | | | | |
| \$75,000 < wins ≤ \$150,000 | 20.91% | | | | | | | | | | | | |
| \$150,000 < wins ≤ \$300,000 | 23.91% | | | | | | | | | | | | |
| \$300,000 < wins ≤ \$1,400,000 | 25.91% | | | | | | | | | | | | |
| wins > \$1.4 million | 35.91% | | | | | | | | | | | | |
| South Australia | <p>Based on annual net gambling revenue:</p> <table> <tr> <td>Revenue ≤ \$399,000</td> <td>20.91%</td> </tr> <tr> <td>\$399,000 < revenue ≤ \$945,000</td> <td>25.91% (plus \$83,431)</td> </tr> <tr> <td>revenue > \$945,000</td> <td>30.91% (plus \$224,900)</td> </tr> </table> <p>Gaming tax surcharge of 0.5% applies.</p> | Revenue ≤ \$399,000 | 20.91% | \$399,000 < revenue ≤ \$945,000 | 25.91% (plus \$83,431) | revenue > \$945,000 | 30.91% (plus \$224,900) | | | | | | |
| Revenue ≤ \$399,000 | 20.91% | | | | | | | | | | | | |
| \$399,000 < revenue ≤ \$945,000 | 25.91% (plus \$83,431) | | | | | | | | | | | | |
| revenue > \$945,000 | 30.91% (plus \$224,900) | | | | | | | | | | | | |
| Tasmania | <p>Tax based on Federal Hotels' total gross profit earned in a financial year (have exclusive rights to operate gaming machines):</p> <table> <tr> <td>Profit < \$30m</td> <td>15.88%</td> </tr> <tr> <td>\$30m ≤ profit < \$35m</td> <td>20.88% of excess</td> </tr> <tr> <td>profit ≥ \$35m</td> <td>25.88% of excess</td> </tr> </table> <p>Community support levy of 2% also applied.</p> | Profit < \$30m | 15.88% | \$30m ≤ profit < \$35m | 20.88% of excess | profit ≥ \$35m | 25.88% of excess | | | | | | |
| Profit < \$30m | 15.88% | | | | | | | | | | | | |
| \$30m ≤ profit < \$35m | 20.88% of excess | | | | | | | | | | | | |
| profit ≥ \$35m | 25.88% of excess | | | | | | | | | | | | |
| Victoria | Tax of 24.24% of gross profit (daily net cash balance). | | | | | | | | | | | | |
| Western Australia | No gaming machines. | | | | | | | | | | | | |

Source: NSW Department of Gaming and Racing, 'Interstate Gaming Tax Comparisons', Information Sheet, April 2003.

The Government has also stressed that two-thirds of clubs will either pay no tax or less than before, as the tax is targeted at large-scale clubs. It was noted that:

Both club and hotel gaming operators can earn substantial above-normal profits from gaming, since regulations that restrict the number and distribution of gaming machines have the side-effect of increasing returns per machine.¹⁶⁵

The increased taxes are to be earmarked for future escalations in public hospital expenditure.¹⁶⁶ Premier Carr, when questioned about poker machine taxes in Parliament, referred to the need for extra funds following the new Commonwealth health agreement that he said left NSW \$278 million short.¹⁶⁷ The Government believes that the big clubs can afford to pay more tax, as the NRL clubs reportedly earned \$318.9 million in poker machine revenue in the year ending November 2002.¹⁶⁸ \$42.5 million was paid in state tax and \$31.4 million was directed towards rugby league.

However, Clubs NSW has spearheaded a media campaign against the tax. Allen Consulting was commissioned to report on the impact of the tax on the clubs industry. Their report found that almost half of NSW clubs would be non-profitable by 2010 if the changes proceeded.¹⁶⁹ The findings of the report were criticised by the Treasurer, the Hon Michael Egan MLC:

With a great deal of hullabaloo the other day [ClubsNSW] released a consultant's report predicting that half the clubs in the State would close as a result of these increases, yet not one single club was mentioned by name. They did not explain how half the clubs would close as a result of these tax increases when only a third of the clubs in New South Wales would be affected by the tax changes.¹⁷⁰

The calculations of Clubs NSW were also criticised as they assumed that poker machine revenue would not increase in the next eight years.¹⁷¹ However, there are indications that expenditure on gaming machines is beginning to plateau.¹⁷² Nevertheless, the Hon Michael

¹⁶⁵ Ibid.

¹⁶⁶ Hon M Egan MLC, 'Hospitals to get poker proceeds', *Press Release*, 13/7/03.

¹⁶⁷ Hon R Carr MP, *NSWPD*, 2/9/03, p 2945.

¹⁶⁸ Hon M Egan MLC, 'National Rugby League', *Press Release*, 18/9/03.

¹⁶⁹ Allen Consulting Group, *Economic and Distributional Impacts of New Gambling Taxes on NSW Clubs: Report to ClubsNSW*, August 2003, p iv.

¹⁷⁰ General Purpose Standing Committee No 1, *Examination of proposed expenditure for the portfolio areas Treasury and State Development*, 1 September 2003, p 11.

¹⁷¹ Hon M Egan MLC, *NSWPD*, 16/9/03, p 3280.

¹⁷² NSW Department of Gaming and Racing, *National Competition Policy Review of the NSW Gaming Machines Act 2001*, June 2003, p 5.

Egan MLC stressed that clubs are non-profit organisations.¹⁷³

In contrast to the Government's claim that two-thirds of clubs will pay less or no tax, Clubs NSW has alleged that two-thirds of the clubs will be hit hard by the tax increases.¹⁷⁴ However, Clubs NSW include the impact of the cessation of GST compensation in their calculations whereas they are omitted from the Government's calculations due to it being a federal tax. The Report released by Clubs NSW notes that there are two significant changes to occur to taxation arrangements for NSW clubs:

- (i) the increase in tax rates by the NSW Government as described above.
- (ii) the failure of the NSW government to make provision for GST compensation payments for clubs on the first \$200,000 of gaming revenues earned.¹⁷⁵ Clubs NSW claim that this is equal to an additional 9.09% on the first \$200,000 of gaming revenue.¹⁷⁶ However, this situation has changed since the report was released (see below).

The following table summarises the impact of the changes announced in the 2003-04 Budget as calculated by Clubs NSW:

| Income | Change in the average amount of tax paid by each club |
|--------------------------------------|---|
| Less than \$200,000 | \$7,826 (previously paid no tax) |
| Between \$200,000 and \$1 million | An increase of 28% |
| Between \$1 million and \$5 million | An increase of 23% |
| Between \$5 million and \$10 million | An increase of 38% |
| More than \$10 million | An increase of 66% |

Source: Allen Consulting Group, *Economic and Distributional Impacts of New Gambling Taxes on NSW Clubs: Report to ClubsNSW*, August 2003, p vi.

The clubs have also criticised the Government for calculating the taxes in relation to revenue as opposed to operating profit, as they claim that it is this aspect that heightens the threat to the financial viability of many clubs.¹⁷⁷

NSW Clubs have described the new tax as a 'tax on communities', claiming that it will:¹⁷⁸

- disadvantage 92% of clubs;
- result in the scaling back or end of subsidised meals, junior sports sponsorship, local jobs, entertainment and community aid programs; and
- reduce investment in public works which will subsequently impact on suppliers.

¹⁷³ Hon M Egan MLC, *NSWPD*, 16/9/03, p 3280.

¹⁷⁴ Clubs NSW, 'Treasurer deceiving the community: Two thirds of registered clubs affected by tax increases', *Press Release*, 25/6/03.

¹⁷⁵ Allen Consulting Group, n 169, p vi.

¹⁷⁶ *Ibid*, p 12.

¹⁷⁷ *Ibid*, p ix.

¹⁷⁸ Clubs NSW, 'ClubsNSW SGM – Key Points', *Media Release*, 27/8/03.

Predictions of the end of the NSW clubs industry have been criticised. Commentators have noted that similar, and incorrect, predictions were made when: the casino opened in Sydney and was permitted to operate poker machines; hotels were permitted to install poker machines for the first time in 1997; and when a freeze on new poker machine permits was instituted in 2000.¹⁷⁹

On 17 October 2003, the Hon Michael Egan MLC announced that the GST rebate for clubs with poker machine revenue of less than \$1 million would continue to be funded by the Commonwealth government.¹⁸⁰ Accordingly, the calculations of ClubsNSW as discussed above would need to be amended to account for this change. Nevertheless the debate continues with demands for the rebate to be extended to all clubs.¹⁸¹

The Government of NSW and the clubs industry are not the only participants in the debate. The Council of Social Services of NSW (NCOSS) has also voiced their concern over the impact of the new gaming machine taxation rates. They believe that some clubs and hotels will try to increase the amount of gaming machine turnover to counter the impact of the increased tax.¹⁸² NCOSS has also criticised the actions of the large rugby league clubs as ‘disgraceful, deceitful and the actions of schoolyard bullies’.¹⁸³ They note that, ‘these particular clubs, which already enjoy massive income tax concessions on their huge business activities, paid less than 10% gaming machine tax, according to their own figures in the most recent year’.¹⁸⁴

6 SOCIAL ASPECTS OF GAMBLING

Significant changes in relation to gambling have occurred since the 1970s. These changes include the introduction of casinos throughout Australia, government owned gambling operations being privatised, the development of new forms of gambling, gambling being incorporated into regional economic development strategies, government revenue from gambling continuing to increase, more aggressive advertising and marketing of gambling, and increased competition between products and regions for gambling revenue.¹⁸⁵ These changes have had an impact on, and have been impacted on by, community attitudes toward gambling.

¹⁷⁹ ‘Clubs hit jackpot with naïve MPs’, *Sydney Morning Herald*, 4/9/03, p 15.

¹⁸⁰ ‘Brogden calls for GST rebate for all clubs’, *Sydney Morning Herald*, 20/10/03.

¹⁸¹ *Ibid*; ‘Clubs win pokies tax jackpot’, *Sydney Morning Herald*, 5/11/03, p 2.

¹⁸² Moore G, ‘Gambling inquiry is a chance to deliver the goods’, *NCOSS News*, 30(7) September 2003, p 3.

¹⁸³ Moore G, ‘Mega clubs show their true colours’, *NCOSS News*, 30(8) October 2003, p 10.

¹⁸⁴ *Ibid*.

¹⁸⁵ NSW Health Department, n 136, p 4.

This section explores why people gamble, community attitudes to gambling, the impact of problem gambling, harm minimisation measures, concerns associated with online gambling, and the links between gambling and crime.

6.1 Why do people gamble?

People gamble for an assortment of reasons including:¹⁸⁶

- It is a way of passing time in a pleasant social environment;
- It may assist in meeting other people;
- It is a form of entertainment and may provide an escape from reality;
- It is a means of achieving excitement, a thrill or an adrenalin rush;
- It may be a hobby; and
- It provides a chance at financial security.

However, there are a number of negatives associated with gambling that have led to community concern about the widespread growth of the industry. Community concerns have shifted with time from a focus on religious morality to the effect of commercial expansion and gambling promotion on vulnerable sectors of the community.¹⁸⁷ The Independent Pricing and Regulatory Tribunal conducted an inquiry into NSW gaming and released their findings in November 1998.¹⁸⁸ The Report recommended that there was a need for: greater account to be taken of the social impacts of problem gambling, appropriate support services to be developed for problem gamblers; and the fostering of responsible gambling through appropriate research and regulatory measures.

6.2 Community attitudes

The Productivity Commission conducted a National Gambling Survey in 1999 that explored the community's attitude toward gambling. The following table summarises the survey results:

| | Gambling does more good than harm (%) | Gambling has provided more opportunities for recreational enjoyment (%) | Should numbers of gaming machines be increased, decreased or stay the same? | % |
|----------------------------|---------------------------------------|---|---|------|
| Strongly agree | 3.8 | 7.0 | A large increase | 0.6 |
| Slightly agree | 11.2 | 25.5 | A small increase | 1.1 |
| Neither agree nor disagree | 11.9 | 11.0 | Stay the same | 41.1 |
| Slightly disagree | 23.9 | 20.9 | A small decrease | 17.1 |
| Strongly disagree | 47.4 | 33.7 | A large decrease | 33.5 |
| Don't know/ can't | 1.8 | 1.9 | Don't know/ can't | 6.6 |

¹⁸⁶ Independent Pricing and Regulatory Tribunal, n 4, p 3.

¹⁸⁷ Crofts P, *Gambling and Criminal Behaviour: An Analysis of Local and District Court Files*, A Research Project funded by the Casino Community Benefit Fund, Sydney, 2002, p 10.

¹⁸⁸ Independent Pricing and Regulatory Tribunal, n 4.

say

say

Source: Productivity Commission, *Australia's Gambling Industries*, Inquiry Report, Report No 10, 26 November 1999, vol 1, p 14.

As revealed by the table, 71.3% of those surveyed did not agree that gambling does more good than harm, with almost half of participants strongly disagreeing. Over half of the survey participants also disagreed that gambling had provided more opportunities for recreational enjoyment. However, despite these findings, 82% of the population still gamble in some form.¹⁸⁹

Families play an influential role in the development of the attitude of younger generations towards gambling. The Australian Council of Social Services found that the primary source of gambling awareness amongst youth came from the family environment and was closely linked to early exposure to gambling.¹⁹⁰ Children frequently learnt to gamble by witnessing adults gambling in various contexts. ACOSS concluded that the best strategies target those who expose children to gambling, so their awareness of the extent of their influence as well as the impact of their behaviour might be increased.¹⁹¹

6.3 Problem gambling

Whilst there are a number of benefits associated with gambling, it does come at a significant cost to society. However, it should be noted at the outset that the overwhelming majority of Australians do not experience a gambling problem. Nevertheless, a 1997 study estimated that the economic costs of the negative impacts of gambling were approximately \$50 million each year.¹⁹² This figure includes:

- work-related costs (\$28 million);
- legal and related costs (\$18 million);
- impact on the financial, personal and family domain (\$0.8 million); and
- cost of service provision for problem gamblers and their families (\$3.2 million).

According to the Productivity Commission,¹⁹³ work-related costs of problem gambling could include such things as job loss, absenteeism and poor performance. The legal impact of gambling might include incidences of domestic or other violence, theft and imprisonment, loan sharks and bankruptcy. Financial, personal and family costs include financial hardship, debts, asset loss, loan sharks, bankruptcy, stress, depression and anxiety, suicide, poor health, the neglect of family, relationship breakdown and violence.

¹⁸⁹ Productivity Commission, n 3, p 10.

¹⁹⁰ Australian Council of Social Services, *Young People Gambling and the Internet*, ACOSS Paper 88, ACOSS, Darlinghurst, 1997, p 54.

¹⁹¹ *Ibid*, p 81.

¹⁹² Australian Institute for Gambling Research, n 146, p iv.

¹⁹³ Productivity Commission, n 3, p 25.

The impact of problem gambling is not limited to those with a gambling problem. Over 49.4% of problem gamblers live in a household and they have an average of two children.¹⁹⁴ Their gambling losses account for approximately 20% of household income.¹⁹⁵ In terms of their experience, the families of problem gamblers are thought to be akin to victims of domestic violence.¹⁹⁶ It has been estimated that about 1.8% of the adult population (250,000 people) experienced significant harm as a result of gambling in the last year.¹⁹⁷

Problem gamblers are both male and female, of all ages, and of all socio-economic backgrounds.¹⁹⁸ Gambling problems last for an average of nine years.¹⁹⁹ The incidence of problem gambling in Australia appears to be increasing as gambling becomes more accessible and the opportunities to gamble expand.²⁰⁰ The number of problem gamblers in Australia has been estimated at 293,000 (2.1% of the Australian adult population).²⁰¹ 163,000 of these have moderate problems and 129,000 have a severe gambling problem, representing 1.1% and 1% of the Australian adult population respectively. However, these figures are thought to underestimate the number of problem gamblers in Australia, as it is likely that many people are not honest about gambling problems when interviewed as part of a survey.²⁰² This assumption is supported by a study conducted by the Productivity Commission. They interviewed 401 problem gamblers who were receiving counselling and asked whether they would have honestly answered questions in a survey about problem gambling. Only 28.9% said they would have answered honestly.²⁰³

The Productivity Commission found that NSW has a significantly higher incidence of problem gambling than other states and territories, probably as a result of the greater availability of gaming machines.²⁰⁴ The prevalence of problem gamblers in NSW has been found to range between 0.33% and 2.55% of the population depending on the measure used.²⁰⁵ The incidence of problem gambling in Western Australia and Tasmania is

¹⁹⁴ Ibid, p 7.33.

¹⁹⁵ Ibid, p 25.

¹⁹⁶ NSW Health Department, n 136, p 4.

¹⁹⁷ Productivity Commission, n 3, p 6.1.

¹⁹⁸ NSW Health Department, n 136, p 6.

¹⁹⁹ Productivity Commission, n 3, p 6.1.

²⁰⁰ NSW Health Department, n 136, p i.

²⁰¹ Productivity Commission, n 3, p 5.15.

²⁰² Ibid, p 22.

²⁰³ Ibid, p 23.

²⁰⁴ Ibid, p 6.1.

²⁰⁵ Ibid, p 6.46.

dramatically lower ranging between 0% and 1.5%, and 0% and 0.44% respectively.²⁰⁶ Problem gamblers appear to have a preference for certain forms of gambling over others, notably casino table games and gaming machines.²⁰⁷ Lotteries and ‘scratchies’ present a fairly low risk in relation to problem gambling. It is noteworthy that half of the gaming machines in Australia are located in NSW whereas Western Australia does not permit gaming machines outside the casino. It is thought that there would be an additional 10,500 problem gamblers in Western Australia should gaming machines be liberalised to the same extent as the eastern states.²⁰⁸

Gambling is controversial because its benefits are largely funded by the losses of others. It has the ability to simultaneously ‘provide entertainment that is harmless to many people, while being a source of great distress – and even of financial and personal ruin – to a significant minority’.²⁰⁹ Problem gamblers were responsible for 33% of all money spent on gambling in 1997-98.²¹⁰

6.4 Harm minimisation

The need to minimise the harm associated with gambling has been recognised by the NSW Government. For example, section 3 of the *Gaming Machines Act 2001* expressly states that ‘gambling harm minimisation, that is, the minimisation of harm associated with the misuse and abuse of gambling activities’ is to be a primary object of the Act.

A variety of harm minimisation measures have been developed and many have been implemented for a number of years. These measures may assist the potential consumer to make informed decisions regarding gambling. Gambling venues may establish certain restrictions and provide support to consumers in keeping their gambling under control. The following table notes a number of harm minimisation initiatives:

Potential harm minimisation and prevention measures

| Informed choice | Consumer control | Venue/games restrictions |
|--|--|--|
| <ul style="list-style-type: none"> ▪ Meaningful ‘price’ and odds information ▪ Expenditure statements ▪ Warnings ▪ Help service information ▪ Ethical promotion ▪ How games work | <ul style="list-style-type: none"> ▪ Self exclusion ▪ Pre-commitment - spending - duration | <ul style="list-style-type: none"> ▪ ATMS <ol style="list-style-type: none"> 1. location 2. withdrawal limits ▪ Credit restrictions ▪ Bill acceptor limits ▪ Cheque payouts ▪ Spending rates ▪ Enforced breaks ▪ Machine caps ▪ Opening hours |

²⁰⁶ Ibid, p 6.46.

²⁰⁷ Ibid, p 6.53.

²⁰⁸ Ibid, p 8.1.

²⁰⁹ Ibid, pp 13-14.

²¹⁰ Ibid, p 5.15.

-
- Advertising restrictions
 - Lighting, sounds and clocks
-

Source: Banks G, *The Productivity Commission's Gambling Inquiry: 3 Years On*, Presentation to the 12th Annual Conference of the National Association for Gambling Studies, Melbourne, 21 November 2002, Productivity Commission, p 20.

The Department of Gaming and Racing in NSW attempts to minimise the harm associated with gambling in four ways: through a regulatory framework; industry education and information; targeted enforcement; and a safety net program to assist persons who have a gambling problem, or those who are affected by the activities of a problem gambler.²¹¹

Gaming machines have been subjected to a number of harm minimisation measures in recognition of their potential link to gambling problems. The following are some of the ways gaming machines have been regulated:²¹²

- Gambling harm minimisation is an express object of the *Gaming Machine Act 2001*;
- A requirement that hotels and registered clubs must forfeit a gaming machine for every two transferred;
- The introduction of a state-wide cap on the number of gaming machines;
- Six-hour mandatory shutdown periods;
- A requirement that a player activity statement be available for each player on a monthly basis;
- Prizes paid as part of a player reward scheme are not to exceed \$1000 in value, and cannot be exchanged for cash;
- Gambling-related signs cannot be displayed outside, or in the vicinity of, hotels and clubs;
- A cheque cannot be transferred within 500 metres of a gaming machine venue where the person would be expected to know that it is a gaming machine prize from a hotel or registered club.

However, the NSW Government has indicated that the current harm minimisation measures relating to problem gamblers will be reviewed to determine the most effective strategies. The Review is to be conducted by Dr Tom Parry, Chairman of the Independent Pricing and Regulatory Tribunal and is expected to be completed in May 2004. The inquiry is to determine the impact of harm minimisation measures on gamblers, problem gamblers, the industry and the community. Harm minimisation initiatives that will be assessed include the:²¹³

- Requirement to shut down gaming machine operations;
- Restrictions on gaming machine promotions and other inducements to gamble;
- Requirements relating to the display of signage in gaming machine venues, race clubs, TAB outlets, lottery and keno agencies and the casino;

²¹¹ NSW Department of Gaming and Racing, n 46, p 33.

²¹² *Ibid*, p 34.

²¹³ Independent Pricing and Regulatory Tribunal, *Review into Gambling Harm Minimisation Measures*, Issues Paper, September 2003, p 9.

- Requirement to provide player information brochures in gambling venues;
- Role of community services, including problem gambling counselling services in addressing harm minimisation objectives;
- Requirement to display certain information on betting tickets, and lottery and keno entry forms, 'how to play' information and websites;
- Display of clocks in gaming machine areas;
- Controls over the cashing of cheques and payment of prizes by cheque or EFTPOS in gaming machine venues and the casino;
- Prohibition over providing credit to gamble on gaming machines, casino gaming, or lottery or keno products;
- Requirement to locate ATMs away from gaming machines and casino gaming areas;
- Controls over player reward schemes and card-operated gaming machine systems;
- Controls over advertising for wagering, keno and lottery products, and casino gaming;
- Mandatory training in Responsible Conduct of Gaming for employees in gaming machine venues and the casino;
- Requirement that gaming machine venues and the casino enter into arrangements with counselling services.

However, the inquiry will not consider such core government policies as statutory caps on the number of gaming machines, the prohibition on gaming machine advertising, and self-exclusion schemes.²¹⁴

This is not the first inquiry of its type. The Productivity Commission considered a number of harm minimisation initiatives in 1999 to determine those with a possible benefit for problem gamblers. It was found that the impact of the following measures on problem gamblers was likely to be positive: a ban on gambling; information on the odds of losing; odds on payout tables on gaming machines; information on the nature of games; regulation of payout ratios; a record of transactions; awareness of the risks of problems; restrictions on advertising; risk warnings on advertising; limiting access to ATMs and credit; simple system of self-exclusion; player controls (eg card access systems); no bill acceptors; limits on the rate of loss; no linked jackpots; and payouts for wins of more than \$250 to be paid by cheque.²¹⁵ However, whilst these measures would be of benefit to problem gamblers, some would have an adverse impact on recreational gamblers including: a ban on gambling; limiting access to ATMs and credit; no bill acceptors; limits on the rate of loss; no linked jackpots; and paying wins of more than \$250 by cheque. The Commission also determined that, in relation to problem gamblers, the benefit of the following measures was uncertain: opening hour restrictions; quantity restrictions; limiting social accessibility; increasing the initial outlay; more stringent entry conditions; enforced breaks; longer times between button pushes; and less lights and sounds.²¹⁶

²¹⁴ Ibid, p 9.

²¹⁵ Productivity Commission, n 3, p 16.88.

²¹⁶ Ibid.

An examination of the reasons why gambling sessions ended for problem gamblers may assist in the development of harm minimisation strategies. The following table sets out the reasons why gambling sessions ended for problem gamblers, as found by the Productivity Commission:

Reasons why gambling sessions ended for problem gamblers

| | Always | Often | Sometimes | Rarely | Never | Total |
|--|--------|-------|-----------|--------|-------|-------|
| | % | % | % | % | % | % |
| Ran out of money | 37.9 | 43.6 | 11.0 | 3.3 | 4.1 | 100 |
| Spent budgeted amount of money | 19.2 | 20.1 | 20.9 | 15.5 | 24.3 | 100 |
| Spent planned amount of time playing | 9.8 | 11.3 | 17.5 | 25.2 | 36.2 | 100 |
| Lost interest in gambling or got bored | 1.2 | 3.2 | 18.3 | 27.2 | 50.1 | 100 |
| The venue closed or there were no more immediate gambling opportunities (eg last race) | 6.0 | 12.6 | 27.8 | 17.8 | 35.8 | 100 |
| To eat or drink | 0.0 | 3.5 | 23.5 | 25.9 | 47.1 | 100 |
| Friends or family left | 2.7 | 1.8 | 17.5 | 17.2 | 60.7 | 100 |

Source: Productivity Commission, *Australia's Gambling Industries*, Inquiry Report, Report No 10, 26 November 1999, p 16.71

As illustrated above, almost 38% of gambling sessions for problem gamblers always ended when they ran out of money. Over half of problem gamblers never lost interest in gambling or became bored by it.

6.5.1 Responsible gambling

Responsible gambling recognises that whilst gambling is a source of pleasure and entertainment for the majority of its participants, some people do develop gambling related problems. Therefore responsible gambling initiatives seek to minimise the negative social costs of gambling and the likelihood of individuals developing a gambling problem whilst maximising the enjoyment of those who gamble. 'The fostering of responsible conduct in relation to gambling' is one of the primary objects, with harm minimisation, of the *Gaming Machines Act 2001* (NSW).²¹⁷

Completion of a Responsible Conduct of Gaming course is mandatory for hoteliers and registered club secretaries as well as staff whose responsibilities include gaming machines.²¹⁸ The responsible conduct of gambling course provides information about 'the NSW machine industry; the indicators and impact of problem gambling; the gambling harm minimisation framework; strategies for implementing responsible gambling practices; and the benefits of implementing responsible gambling practices'.²¹⁹

²¹⁷ Section 3.

²¹⁸ NSW Department of Gaming and Racing, n 46, p 36.

²¹⁹ NSW Department of Gaming and Racing, 'The NSW Responsible Conduct of Gambling Course', *Information Sheet 11/00*, August 2000.

A number of voluntary responsible gambling codes have emerged in the industry.²²⁰ At the national level, organisations can be members of the Australian Gaming Council, the Australian Lotteries Industry Code of Practice, and the Australian Leisure and Hospitality Group Gaming Code of Practice. In New South Wales, TABCORP Holdings Limited, owner of Star City, has a Responsible Gambling Code. The club industry's responsible gambling programs include ClubSafe and BetSafe, and NSW TAB has a Responsible Wagering policy.

6.5.2 Statewide caps

In response to community concern about the proliferation of gaming machines in Australia a number of jurisdictions have attempted to limit the number of gaming machines by imposing a cap on the total number permitted in the state, with others going further to impose a cap on the maximum number that may be held by each venue. The number of gaming machines in NSW is capped at 104,000 (25,980 in hotels and 78,020 in registered clubs). Venue caps are also in place: 30 per hotel and 450 per registered club. However, an exception is provided for 18 large-scale clubs who are to shed 10% of their machines over a five year period.

However, the effectiveness of statewide caps has been questioned as Victoria has only 29% of the gaming machines in NSW yet generates turnover equivalent to 61% of total turnover in NSW.²²¹

6.5.3 Community Development and Support Expenditure Scheme

Section 17 of the *Gaming Machine Tax Act 2001* (NSW) provides that registered clubs can receive a tax rebate of up to 1.5% of their gaming machine profits over \$1 million if the Liquor Administration Board is satisfied that an equivalent amount has been spent on community development and support. There are two classes of expenditure to which the money can be applied. The first is specific community welfare and social services, community development, community health services and employment assistance activities. To qualify for the maximum tax rebate, 75% of the contributions must have been to this category. The second category is made up of other community development and support services.

The Community Development and Support Expenditure Scheme is:

designed to ensure that larger registered clubs in NSW contribute to the provision of frontline services to their local communities; and to ensure that the disadvantaged in the community are better positioned to benefit from the substantial contributions made by those clubs.²²²

²²⁰ Australian Gaming Council, 'Fact Sheet 12 – Responsible Gambling'. A copy of the fact sheet is available from www.austgamingcouncil.org.au

²²¹ Independent Pricing and Regulatory Tribunal, n 4, p 40.

²²² NSW Department of Gaming and Racing, 'Community Development and Support

6.5.4 *Casino Community Benefit Fund*

The Casino Community Benefit Fund is a statutory body that aims ‘to reduce the negative impact of gambling and to benefit the people of NSW through the responsible administration of the Casino Community Benefit Fund’.²²³ The operator of the Sydney casino is required to pay a casino community benefit levy of 2% on all casino gaming revenues. Star City’s contribution in 2002-03 totalled \$10.82 million.²²⁴

The fund is managed by the Casino Community Benefit Fund Trustees. Under the terms of the Trust Deed, the fund is to be used to benefit the community by:²²⁵

1. Funding appropriate research into gambling and the social and economic impact of gambling on individuals, families and the general community in NSW;
2. Promoting industry and community awareness of problem gambling and associated activities through education campaigns;
3. Supporting organisations offering counselling services for problem gamblers and their families;
4. Supporting treatment and rehabilitation services for problem gamblers and their families; and
5. Funding such other community projects and services as may be determined as being of benefit to the community generally.

The funding policy guidelines direct that at least 40% of funds should be focused on counselling, treatment and rehabilitation programs; at least 10% towards research; at least 15% towards such preventative measures as national programs, education and awareness; and up to 25% towards community projects.²²⁶ More than \$1.8 million has been allocated to G-Line, a telephone counselling and referral service for problem gamblers, since it commenced in 1997.²²⁷

Expenditure Scheme’, www.dgr.nsw.gov.au Accessed 15/10/03.

²²³ Casino Community Benefit Fund Trustees, *Annual Report 2001-02*, p 2.

²²⁴ Casino Control Authority, n 17, p 6.

²²⁵ *Ibid*, p 5.

²²⁶ *Ibid*, p 9.

²²⁷ *Ibid*, p 11.

6.5.5 Treatment Services

A range of services are available to problem gamblers and their families. This section provides an overview of just some of the options.

*G-Line*²²⁸

G-Line was established in NSW in 1997 and is funded by the Casino Community Benefit Fund. It is a telephone counselling and referral service for problem gamblers and those affected by their behaviour. It is confidential, callers remain anonymous, is available 24 hours and is staffed by professional psychologists, social workers and counsellors. 11,500 calls were received during 2001-02.²²⁹ The majority of callers are between the ages of 25 and 50. 42% of callers were assessed as being of no risk, 34% were assessed as low risk, 3% presented a medium risk to themselves or others and 1% were at high risk to themselves or others.²³⁰ Most calls were in response to the use of gaming machines.²³¹

*Gamblers Anonymous*²³²

Gamblers Anonymous (GA) is a self-supporting fellowship group for people who have a desire to stop gambling. GA use the term 'compulsive gambling', defined as 'an illness, progressive in its nature, which can never be cured, but can be arrested', in place of 'problem gambling'. There are currently 69 meetings held each week at various locations throughout New South Wales.

Gam-Anon is a similar program but targets the friends and family of compulsive gamblers.

Miscellaneous

The NSW Council on Problem Gambling was formed in 1986 and is a non-profit, non-affiliated organisation which advocates and promotes responsible gambling. Its members include counsellors, psychiatrists, psychologists, researchers, academics, clergy, and community workers. They promote awareness of problem gambling and the development of appropriate treatment services.

Wesley Gambling Counselling Services²³³ provide a range of services, free of charge to problem gamblers, their partners and families. Such services include specialist personal,

²²⁸ NSW Department of Gaming and Racing, 'G-Line NSW', Information Sheet, April 2003.

²²⁹ Ibid.

²³⁰ Casino Community Benefit Fund Trustees, n 223, p 11.

²³¹ Ibid.

²³² See www.gamblersanonymous.org.au

²³³ See www.wesleymission.org.au/centres/gambling

family and financial counselling as well as legal services for situations where funds for gambling have been illegally obtained.

The NSW Health Department produced the *Policy Framework on Treatment Services for Problem Gamblers and their Families in NSW: Strategic Directions 2002-2006* in 2001. The framework is to guide the policy and funding decisions of the Department of Gaming and Racing and the Casino Community Benefit Fund Trustees in relation to the provision and coordination of treatment services in NSW.²³⁴

Whilst a number of treatment services are available, many problem gamblers are reluctant to seek help or may even deny they have a problem. A study by Crofts of severe problem gamblers who had committed a gambling-related offence, found that only 7 of the 63 subjects of the study had received counselling for problem gambling or attended an organisation such as Gamblers Anonymous before being charged.²³⁵ Indeed, after they had been charged only 33 offenders had sought assistance for problem gambling.²³⁶

6.5.6 Self-exclusion schemes

Hotels and registered clubs in NSW are required to conduct self-exclusion schemes whereby customers who identify that they may have a gambling problem can opt to have themselves excluded from the premises. Self-exclusion schemes currently operating in NSW include Betsafe, ClubSafe and GameChange.²³⁷ ClubSafe and GameChange are conducted by ClubsNSW and the Australian Hotels Association (NSW) respectively. Exclusion schemes also operate at Star City casino. 3,864 exclusion orders were issued between the opening of the casino until June 2003 (1,471 were self-exclusion orders and 266 were issued as a result of children being left unattended).²³⁸ However, the effectiveness of exclusion schemes is questionable as it relies on staff being able to accurately monitor entry into venues. The NSW Casino Control Authority detected 413 persons in the casino in contravention of their exclusion order on 492 occasions in 2002-03.²³⁹ 245 of these were self-excluded persons detected on a total of 305 occasions.

6.6 Online Gambling

As technology advances, so do the various forms of gambling. Online gambling services include gambling on the Internet as well as interactive broadcasting via digital television.

²³⁴ NSW Health Department, n 136.

²³⁵ Crofts, n 187, p 122.

²³⁶ Ibid, p 122.

²³⁷ NSW Department of Gaming and Racing, 'Self-Exclusion Schemes in Hotels and Registered Clubs', *Information Sheet 7/03*, June 2003, p 1.

²³⁸ NSW Casino Control Authority, n 17, p 6.

²³⁹ Ibid, p 15.

Market research has shown that people like to gamble online because of the convenience, ease of access, the provision of up to date information on gaming activity, and the responsible gambling/player protection services.²⁴⁰ Lasseter's Casino²⁴¹ in the Northern Territory claims to be the world's first government licensed and regulated internet casino. It was launched in 1998 and offers 47 games including traditional table games, poker and a variety of slot machines. Lasseters subsequently launched a new online casino on 3 September 2003.²⁴²

However, sectors of the community have voiced concern over Internet gambling. Online gambling developed relatively quickly in Australia with 14 online operators being licensed by mid-March 2000.²⁴³ Governments have accordingly enacted legislation to regulate online gambling. In 1997 a Draft Regulatory Model for New Forms of Interactive Home Gambling was created in conjunction with Gaming Ministers of each state and territory.²⁴⁴ The model proposed principles for the current and future regulation of online gambling.

Internet gambling presents a number of difficulties in relation to security, particularly in terms of minors being able to access such facilities. This causes a tension between the issues of privacy and security, as security could be enhanced by the use of digital signatures, fingerprints and retina scans, but at the cost of privacy. The Australian Council of Social Services studied 114 youth based in all regions of NSW.²⁴⁵ They found that online gambling services were not appealing to the youth who enjoyed gambling because it removed the social context of gambling and often cost more.²⁴⁶ Therefore, ACOSS concluded that Internet gambling services were unlikely to appeal to youth. However, a distinction was drawn between gambling over the Internet and interactive broadcasting services as the latter have a live video component and are able to be used by those who are computer illiterate.²⁴⁷

On 25 June 1999, the Senate Select Committee on Information Technologies commenced an inquiry into online gambling to examine: the nature, extent and impact of online gambling in Australia; the feasibility of controlling access to online gambling, especially by

²⁴⁰ Presentation to the Annual General Meeting 2003 for Lasseters Corporation Limited, Tattersalls Club Brisbane, 3 September 2003. A copy of the presentation is available from www.lasseters.com.au Accessed 10 September 2003.

²⁴¹ See www.lasseters.com.au

²⁴² See www.aussienugget.com.au

²⁴³ Santmaggio N, *Cyber Bets and E-Bids*, NSW Young Lawyers, Sydney 2000, p 1.

²⁴⁴ Ibid.

²⁴⁵ Australian Council of Social Services, *Young People Gambling and the Internet*, ACOSS Paper 88, ACOSS, Darlinghurst, 1997.

²⁴⁶ Ibid, p 14.

²⁴⁷ Ibid, p 32.

minors; the adequacy of State and Territory regulations in relation to online gambling; and the need for federal legislation. Their report, *Netbets*, was published in March 2000. The Committee considered there to be two policy options for overcoming the potential for the greater incidence of problem gambling due to online gambling, either a prohibition on online gambling could be imposed or strict harm minimisation policies could be implemented.²⁴⁸ The Committee distinguished between interactive wagering and online gaming as interactive wagering does not introduce a new type of wagering but merely uses the Internet to facilitate existing forms.²⁴⁹ In contrast, online gaming generates the event on which an amount is gambled.²⁵⁰

The Committee identified the following as risk factors for problem gambling presented by online gambling:²⁵¹

- Increased number and variety of continuous games;
- 24 hour access;
- increased ease of use of the gambling forms;
- increased social accessibility;
- lack of education and information about gambling habits;
- low outlays;
- appeal of technology to the younger generation.

However, according to a submission by Lasseters Casino, some of the regulatory benefits of online casinos over land based casinos include: the amount of losses can be controlled; identity verification protects against underage access; maximum wager limits can be set per day, week or month; a low maximum wager amount is set for games; and it provides a complete audit trail of all transactions between the player and the casino.²⁵²

The Committee recommended against a prohibition on online gambling. Whilst a ban would diminish some of the risk factors identified above, it would not decrease the likelihood that people would gamble online. They would simply shift to using overseas sites which are difficult and expensive to enforce. The Committee also noted that tax revenue would be lost as a result as well as consumers being deprived of access to safe and well-regulated domestic operators.²⁵³ Therefore, a ban would simply drive online gambling underground.

The Committee concluded that:

The implementation of harm minimisation policies is the favoured option as it is

²⁴⁸ Senate Select Committee on Information Technologies, n 26, p 5.

²⁴⁹ *Ibid*, p 37.

²⁵⁰ *Ibid*, p 40.

²⁵¹ *Ibid*, p 52.

²⁵² *Ibid*, p 25.

²⁵³ *Ibid*, p 54.

easier to implement and is likely to produce a more certain outcome. The policies proposed by the Committee are suited to Internet technology and could be implemented by State and Territory Governments who are skilled in the regulation of gambling. Problem gamblers would be attracted to Australian sites that are regulated and guaranteed by domestic governments, thereby minimising the risk posed by overseas-based sites.²⁵⁴

Nonetheless, the Commonwealth Parliament passed the *Interactive Gambling Act 2001* which banned the provision of interactive gambling services to Australians and the advertising of such services. See section 4.1 – Commonwealth.

The Department of Communications, Information Technology and the Arts is currently conducting a review of the *Interactive Gambling Act 2001* (Cth). Critics of the *Interactive Gambling Act 2001* (Cth) argue that rather than preventing online gaming, the Act has simply resulted in Australians accessing largely unregulated offshore sites.²⁵⁵ The Australian Casino Association, in their submission to the Review of the *Interactive Gambling Act 2001* (Cth), note that ‘there remains significant and sustained consumer demand for online gambling though the projected rate of growth is less than that put forward two years ago, and the predominant policy position that is emerging internationally is regulation over prohibition’.²⁵⁶ The major exception to these trends is the US, where a number of banks and credit card companies have disallowed the use of their cards for online gambling.²⁵⁷

6.7 Gambling and crime

A number of studies have sought to explore the link between gambling and crime. Gambling and crime may be related in a number of ways. A person may gamble with the proceeds of crime or commit crime to finance their gambling. Alternatively, both the gambling and criminal behaviour could be the product of another factor, such as poor impulse control. Organised crime groups may conduct illegal gaming ventures, or become involved in legal gambling by using it for money laundering purposes or by acting as loan sharks. Or there may be no relationship between gambling and crime.

Crofts has noted the difficulty of accurately establishing the link between problem gambling and crime.²⁵⁸ This is because ‘gambling is not perceived as sufficiently relevant to the

²⁵⁴ Ibid, p 77.

²⁵⁵ Lasseters Corporation Ltd, *Submission to the Department of Communications Information Technology and the Arts: Review of Issues related to Commonwealth Interactive Gambling regulation*, 2 May 2003. A copy of the submission may be downloaded from www.lassters.com.au Accessed 10 September 2003.

²⁵⁶ Australian Casino Association, n 84, p 4.

²⁵⁷ Ibid, p 1.

²⁵⁸ Crofts J, ‘Researching the Link Between Gambling and Crime’, Paper presented at the Evaluation in Crime and Justice: Trends and Methods Conference convened by the Australian Institute of Criminology in conjunction with the Australian Bureau of Statistics,

commission of crime to justify recording in official statistics', with the relationship only being recorded once it is deemed significant.²⁵⁹ Nonetheless, all Australian studies have found there to be a greater incidence of problem gambling amongst correctional populations than in the general population.²⁶⁰ An overview of some of these studies follows.

6.7.1 Crofts' study²⁶¹

Crofts conducted a study of 63 Local and District Court files in NSW that had been decided between 1995 and 1999, where the defendant had pleaded guilty to a gambling-related crime. The project explored the types of gambling-related crimes committed by offenders, their motivations and gambling history, and the response of the criminal justice system. 23 of the subjects had been charged with a fraud or dishonest offence, 27 were charged with larceny by a servant/clerk, 10 with robberies and 3 with stealing offences. Crofts found that gambling was directly related to the commission of crime for 49 of the 63 subjects.²⁶² She noted that accessibility to various gambling products was instrumental both in introducing the offenders to gambling and in sustaining their habit.²⁶³ According to Crofts:

Many subjects also believed that they could win through gambling. For subjects charged with criminal offences involving thefts from their employers over long periods of time, this belief was instrumental in their sustained criminality. They would steal to win, so that they could pay back the money they had stolen to gamble.²⁶⁴

Many of the subjects of the study had gambled as a way of coping with their negative affective states and would turn to gambling when affected by adverse events or emotions.²⁶⁵

A common finding of the study was that gambling did not act as a mitigating factor when it came to sentencing. It was noted, in relation to offences involving fraud, that:

Problem gambling was not accepted as a mitigating circumstance by members of the judiciary for any of these subjects. Moreover, counselling was not a requirement specified by judges, despite recognition in the majority of these cases that problem

Canberra, 24-25 March 2003, p 2.

²⁵⁹ Ibid, p 2.

²⁶⁰ Centre for Gambling Research, *Gambling and Clients of ACT Corrections: Final Report*, Australian National University, June 2003, p 15.

²⁶¹ Crofts, n 188.

²⁶² Ibid, p 59.

²⁶³ Ibid, p 85.

²⁶⁴ Ibid.

²⁶⁵ Ibid, p 97.

gambling was a major motivation for the commission of crime.²⁶⁶

6.7.2 *Study by the Centre for Gambling Research*

A recent study by the Centre for Gambling Research examined the correctional population in the ACT to determine the relationship between gambling and criminal behaviour.²⁶⁷ The study found that 34.3% of participants had some form of gambling problem, with it being a severe problem for 15.7% of participants. This rate is about 18 times higher than the estimate for the general population in the ACT. For problem gamblers, the most serious current offences were property crime (37.1%), violent crimes (28.6%) and traffic offences (17.1%). Gambling contributed to the offending of 25.7% of problem gamblers and 45.7% had stolen or obtained money by illegal means to finance their gambling. The study also found that 60% of survey participants had gambled whilst incarcerated by betting on televised sports matches and card games.²⁶⁸ The study concluded that there was a need to identify problem gamblers in the correctional system as only 25.7% would seek any help for their problem.²⁶⁹

6.7.3 *Australian Institute of Criminology/PricewaterhouseCoopers study*

The Australian Institute of Criminology recently conducted a study into the relationship between gambling and the commission of financial crime.²⁷⁰ In a joint study with PricewaterhouseCoopers, a sample of serious fraud prosecutions in 1998 and 1999 in Australia was examined to determine the most frequently identified motivation of convicted offenders. The study found that 14.7% of convicted offenders identified gambling as their motivation, second only to greed which was identified by 27.3%.²⁷¹ The following table compares offenders according to whether or not they were motivated by gambling:

Comparison between gambling-motivated offenders and non-gambling motivated offenders

| | Gambling-motivated (n=21) | Non-gambling-motivated (n=122) |
|---|--|--|
| Gender and mean age | Male (71%), 37 years old Female (29%), 46 years old | Male (82%), 41 years old Female (18%), 43 years old |
| Most common types of offence committed. | <ul style="list-style-type: none"> ▪ Obtaining finance or credit by deception (43%) ▪ Cheque fraud (43%) ▪ Misappropriation of funds in | <ul style="list-style-type: none"> ▪ Obtaining finance or credit by deception (25%) ▪ Investment or trust fund fraud (18%) |

²⁶⁶ Ibid, p 152.

²⁶⁷ Centre for Gambling Research, n 260.

²⁶⁸ Ibid, p 48.

²⁶⁹ Ibid, p 63.

²⁷⁰ Sakurai Y and Smith R, *Gambling as a Motivation for the Commission of Financial Crime*, Trends and Issues in Crime and Criminal Justice, No 256, Australian Institute of Criminology, June 2003.

²⁷¹ Ibid, p 4.

| | | |
|--|---|---|
| | the private sector (19%) ▪ Obtaining goods and services by deception (19%) | ▪ Dishonestly obtaining government funds (18%) |
| Offender's relationship with victim(s) | ▪ Employee-employer (43%) ▪ Professional-client (19%) | ▪ Employee-employer (30%) ▪ Professional-client (19%) |
| Most common way of disposing of proceeds | ▪ Gambling (86%) ▪ Living expenses (24%) | ▪ Luxurious goods and services (33%) ▪ Living expenses (24%) |
| Mean amount of actual loss/file | \$218,746 | \$1,041,967 |
| Maximum loss | \$805,312 | \$30,227,700 |

Source: Sakurai Y and Smith R, *Gambling as a Motivation for the Commission of Financial Crime*, Trends and Issues in Crime and Criminal Justice, No 256, Australian Institute of Criminology, June 2003, p 4.

The most common offences committed by those who were motivated by gambling were obtaining finance or credit by deception and cheque fraud. 86% of those offenders spent the proceeds of the crime on gambling.

According to the Centre for Gambling Research, the ACT is the only jurisdiction in Australia that orders offenders to undergo treatment for gambling related fraud crimes.²⁷² However, NSW is the only jurisdiction to offer specific programs that target offenders with gambling problems.²⁷³ These programs aim to raise general awareness of the risks associated with gambling. They include: the Vietnamese Problem Gambling Program at the MSPC Long Bay (Alcohol and Other Drug Strategy); Vietnamese Gambling Relapse Prevention Program (Alcohol and Other Drug Strategy); a gambling awareness program for women; and Problem Gambling Awareness.

The law in Minnesota, USA requires probation officers to investigate whether gambling was a factor in the commission of such crimes as theft, embezzlement of public funds, or forgery.²⁷⁴ If gambling is found to be a factor then the offender must be screened for gambling problems with treatment options to be recommended. There are also a number of gambling courts in the US for offenders who committed gambling related crime, for example, the Louisiana Gambling Court and the Amherst Gambling Court in New York.²⁷⁵ The courts are similar to drug courts in that offenders must plead guilty before being directed to a gambling court where they are subsequently referred to appropriate therapy.

6.7.4 *Star City Casino*

Star City Casino has not been free from undesirable behaviour. Some examples of such behaviour include:

- There were 126 instances of minors gaining access to the licensed area of Star City

²⁷² Centre for Gambling Research, n 260, p 28.

²⁷³ Ibid, p 29.

²⁷⁴ Ibid, p 35.

²⁷⁵ Ibid.

casino between January 1998 and June 2000.²⁷⁶ However the majority of these were children accompanying their parents to the Garden Buffet restaurant.

- Between January 1998 and June 2000, 237 persons were excluded from Star City casino for such gaming related offences as card cheating, chip theft, syndicate play and collusion with casino staff.²⁷⁷
- In the same period, 649 patrons were excluded from Star City for theft, assault, abusive language, indecent behaviour, leaving children unattended, and for seeking to place a bet after the game was completed.²⁷⁸
- A list of the 100 gamblers with the largest turnover at Star City between April 1998 and March 2000 was given to law enforcement agencies. Over 40% of the local players on the list were known to at least one law enforcement agency because they either had a criminal conviction or were suspected of criminal activity.²⁷⁹

Casinos have received bad publicity in the past over children being left unattended in cars for several hours whilst their parents gambled inside. The problem appears to have eased with enhanced security and the greater monitoring of carparks. Patrons are also threatened with an exclusion order should they be found to have left their children unattended. Exclusion orders issued by Star City Casino as a result of children being left unattended were down from 15 in 2001-02 to four in 2002-03.²⁸⁰ However, the Productivity Commission warned that the use of exclusion orders may have masked the problem as children may be left alone at home or in inappropriate care situations, 'an invisible problem replacing a visible one'.²⁸¹

An investigation by the ABC Program, *Four Corners*, in 2000 revealed that certain criminal behaviour was occurring at Star City, particularly in relation to the Endeavour Room, its high rollers area.²⁸² The program reported that a number of criminals were patrons of the Endeavour Room and gambling large amounts of drug money. For example, Duong Van Ia, responsible for the sale of large amounts of heroin in Cabramatta, was Star City's second largest high roller, with turnover of \$94 million in six months in 1996. The program also revealed that loan sharking, soliciting, and patrons gambling whilst intoxicated, was common at the casino. The program questioned the ability of the NSW Government to regulate gambling whilst being a major beneficiary of the industry.

Following the Four Corners program, the Casino Control Authority engaged Mr P D

²⁷⁶ NSW Casino Control Authority, *Report of the Inquiry by Mr P D McClelland QC pursuant to section 143 of the Casino Control Act 1992*, Sydney, December 2000, p 47.

²⁷⁷ Ibid, p 55.

²⁷⁸ Ibid, p 107.

²⁷⁹ Ibid, p 82.

²⁸⁰ NSW Casino Control Authority, n 17, p 6.

²⁸¹ Productivity Commission, n 3, p 7.31.

²⁸² Australian Broadcasting Corporation, 'Winner takes all', *Four Corners*, 24/4/00.

McClellan QC to conduct an inquiry under section 143 of the *Casino Control Act 1992* (NSW).²⁸³ The Inquiry was to consider, in light of recent assertions in the media, alleged money laundering activities by persons who frequent the casino, the alleged attendance of criminals or persons of ill repute at the casino, criminal activity generally, and any other undesirable activity associated with the casino.²⁸⁴

The McClellan inquiry noted that, until recently, Star City had developed significant problems in relation to the operation of the Endeavour Room:

The corporate culture was inappropriate and effective procedures were not in place to deal with prostitution, loan sharking, the service of alcohol, money laundering and sexual harassment. There was a potential for Casino management to be corruptly influenced in the discharge of their duties, although I am satisfied that this did not occur.²⁸⁵

I am satisfied that Star City has failed to meet the standards which the Authority was entitled to expect from it in managing some aspects of the casino – in particular, the Endeavour Room... However, I am satisfied that Star City has maintained the integrity of its responsibilities with respect to State revenues and is honest in its dealings with its patrons.²⁸⁶

The Inquiry Report, whilst acknowledging the existence of the above problems, found the casino operator to be a suitable person and held it to be in the public interest for the licence to continue.²⁸⁷ Nonetheless, the report made a number of recommendations to counter criminal influence and exploitation within the casino including:

Recommendation 13: The Authority obtain from Star City at regular intervals the names of all new members of the Endeavour Room. The Authority should then advise the relevant law enforcement agencies of those names and seek any information held by them.

Recommendation 14: All members of the Endeavour Room be issued with a membership card containing their name, date of birth and a photograph of the member.

²⁸³ Section 143(1) of the *Casino Control Act 1992* states: 'For the purpose of the exercise of its functions, the Authority may arrange for the holding of inquiries in public or in private presided over by a member of the Authority or by some other person appointed by the Authority to preside'.

²⁸⁴ NSW Casino Control Authority, n 276, p 13.

²⁸⁵ Ibid, p 2.

²⁸⁶ Ibid, p 3.

²⁸⁷ For the findings of the inquiry see: NSW Casino Control Authority, n 276.

Recommendation 15: Each buy in and cash in conducted within the Endeavour Room and in the high limit pits on the main gaming floor by members of the Endeavour Room only occur after production of his or her membership card and on the satisfaction that the person conducting the buy in or cash in is the card holder. Further, that the Authority and Star City determine a method by which this can be achieved.

Recommendation 16: Star City and the Authority take all necessary steps to ensure that by enforcing appropriate requirements in the Endeavour Room this does not cause problems to emerge on the main gaming floor.

Recommendation 17: Star City should be required to record and provide to the Authority details of the buy ins and cash ins by each member of a junket, and the amount of the final settlement to which they are entitled. These details should be provided for transactions over \$10,000 regardless of whether they are in cash or some other form.

Recommendation 18: The federal agencies considering the draft reform proposals in relation to imminent suspect transactions have discussions with Star City and the authority to determine whether international transfers of funds undertaken by or from Star City on behalf of its patrons can be effectively the subject of the draft reform proposals.

Recommendation 19: The Authority be permitted access to information held by AUSTRAC concerning Star City.

Recommendation 20: There be a national approach to the exclusion of patrons from casinos in Australia.

A report on the progress of Star City in implementing the recommendations made by the McClellan report was subsequently made in May 2002.²⁸⁸ The 2002 review report concluded that Star City had made significant progress in implementing procedures to prevent patrons from gambling with the proceeds of crime.²⁸⁹ Such procedures included the restriction of access to private gaming rooms; appropriate identification being required to gain access; and the establishment of a casino intelligence unit by the police.²⁹⁰ The Police casino unit conducts fortnightly meetings with the Casino Control Authority and the casino where the names of new members of the Endeavour Room are provided to the Authority who passes them to law enforcement agencies. The measures seem to be effective as a list of the 100 patrons with the highest turnover for the six months before February 2002 was obtained and only 10% of the list was adversely known to one of two law enforcement

²⁸⁸ Bret Walker SC, *Report to Casino Control Authority on Review of Progress of Star City as Recommended by the Year 2000 Section 31 Investigation*, Sydney, May 2002.

²⁸⁹ *Ibid*, p 5.

²⁹⁰ *Ibid*.

agencies.²⁹¹ This is a significant difference from the 40% known from a similar list in 2000.

One of the terms of reference for the 2003 triennial investigation requires the Casino Control Authority to consider 'specific matters referred to in the 2000 section 31 report and the 2002 section 31 review report including the operation of the private gaming rooms and the presence and detection of illegal and undesirable activities and people in the casino'. The Authority is to report to the Minister for Gaming and Racing by 15 December 2003.

7 CONCLUSION

Gambling is embedded in Australian culture. Australians spend more on gambling and there is a greater incidence of problem gambling in Australia than in many other Western nations. One fifth of the world's gaming machines can be found in Australia, half of which are located in NSW. There are many benefits associated with gambling, both social and economic. The majority of Australians gamble in some form as a leisure activity and do not develop any problems. However, the Productivity Commission concluded that, 'the benefits from gambling, for the majority of 'normal' gamblers, are individually very small relative to the costs borne by the minority of problem gamblers'.²⁹²

An entire industry supports gambling, providing jobs and business for many. Over 10% of the revenue generated by the state and territory governments is derived from gambling and is used to benefit the community in the provision of such things as roads and hospitals. Whilst social attitudes to gambling have liberalised with time and the industry has become less regulated, expansion of the gambling industry has not gone unchecked. There have been numerous inquiries in recent years exploring the economic and social implications of gambling, with many harm minimisation measures being implemented as a result. Governments continue to seek the most effective way of regulating gambling so as to maximise the benefits of gambling whilst minimising the costs.

²⁹¹ Ibid, p 7.

²⁹² Productivity Commission, n 3, p 33.