Submission to Legislative Council Select Committee on Gaming Licensing

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Preamble

This submission is primarily directed at the Committee's terms of reference 1(d) and 1(e).

Firstly, and in particular, the submission refers the Committee to a report prepared by Livingstone, Woolley and others "The Changing EGM Industry and Technology" (AIPC 2006) which was commissioned by the Gambling Research Panel and published by the Department of Justice in June 2006. This report may be obtained from the website of the Department of Justice at http://www.justice.vic.gov.au/wps/wcm/connect/DOJ+Internet/Home/Gambling+and +Racing/Research+and+Statistics/JUSTICE+- +Changing+Electronic+Gaming+Machine+Industry+and+Technology+%28PDF%29

Secondly, I note that the balance of this brief submission outlines only some particular aspects of the material covered in the above report. It does however touch on some key issues which I believe the Committee may find of interest.

I am happy to supplement this submission via appearance at a meeting or hearing convened by the Committee if the Committee believes that to do so would be of assistance to its deliberations.

Aspects of the regulation of electronic gaming machines (EGMs).

In broad terms the regulation of EGMs in Victoria is primarily focused on two of three major aspects of regulatory responsibility. The three 'pillars' of gambling regulation are (i) protection of revenue; (ii) maintenance of probity and absence of criminal involvement; and (iii) harm minimisation. These pillars have been identified by examination of the Gambling Regulation Act (GRA) and the actual practice of regulatory activity. Of these three, the last (harm minimisation) is explicitly cited as an object of the GRA. Unfortunately it is my strong view that the pursuit of harm minimisation is by far the least well enacted aspect of these three 'pillars' of regulation.

One aspect of this is that the well developed data collection capacity of the Central Control and Monitoring Systems deployed and utilised by the duopoly EGM operators is not utilised for harm minimisation or consumer protection purposes. In general it is clear that the principal regulatory purposes to which these data are put are revenue protection and probably probity issues. The protection of the interests of consumers and harm minimisation purposes are not visible in the regulator's current

use of data. A true harm minimisation focus would require much more systematic and careful analysis of this very rich data set than the regulator is currently capable of.

In stark contrast to this situation we note that recent submissions from Tabcorp and Tattersall's to the Gaming Licences Review made much of the capacity of the CCMS to provide data to drive 'intensification' of the EGM system. For example:

- "The Gaming Operators use their expertise, including by monitoring gaming data, to predict player preferences, resulting in optimal game utilisation.
- "Gaming Operators invest in management information systems, which provide better decision making in respect of machine and game purchases.
- "Gaming Operators can use their scale to optimise player experience. This means they can vary the type of games, the RTP and the size of stake (within legislated minimums) and other game features to meet changing player needs in every venue." (Tattersalls submission to the EGM licence review, p.58)

And

- "The data warehouse enables Tattersall's to fully benefit from the data it collects through its monitoring and control function ...
- "Tattersall's data warehouse extracts and consolidates data from all of Tattersall's operating systems, including its jackpot system. The data warehouse includes statistics on:
    - Game performance;
    - Venue performance;
    - Jackpot performance; and
    - Game configurations (denomination, RTP and number of lines).
- "This consolidated dynamic data provides the platform for the development of predictive models, which assist in developing and implementing venue-specific product strategies." (Tattersalls submission to the EGM licence review, p.101)

In summary, Tattersall's and Tabcorp argue that the combination of the duopoly and the capacity of the CCMS to generate rich data results in an unrivalled capacity to maximise revenue. In simple terms, the duopoly arrangements result in EGM consumers being relieved of their funds far more efficiently in Victoria than in any other Australian jurisdiction. Data quoted by the duopoly operators supports that view, such that on a per EGM basis Victoria is unrivalled. For example, average net player losses per EGM in Victoria was $84,437 in 2003-04, compared to an Australian average of $50,897. The average NPL for NSW was $47,132, for South Australia $48,895 and for Queensland $39,185 (Australian Gambling Statistics 2005).

Of course, there are many reasons for the apparently super-performance of Victorian EGMs, including the capacity of the duopoly system to 'intensify' EGM consumption, the greater density of EGMs in some other jurisdictions, and the effectiveness of the configuration of EGMs in Victoria.

Unfortunately, consumer protection is not an issue addressed via existing regulatory regimes, at least in the sense that consumers of EGMs may require protection from unknown and relatively 'unknowable' risks associated with EGM use. EGMs operating in Victoria are amongst the most voracious permitted anywhere in the world. Indeed, there are a number of obvious points which the current regime of

regulation gives rise to, including the current configuration of EGMs whereby it is possible to 'load up' an EGM with $9,949 (or even $1,000) at one time, why it is relatively easy to lose $1,200 per hour playing EGMs at a local hotel, why a bet of $10 (or even $5) is permitted on every 'spin' of an EGM at intervals of less than 3 seconds, and why in excess of 40% of net player losses from EGMs is derived from problem or near problem gamblers (as verified by the reports of the Productivity Commission 1999, Caraniche Pty Ltd 2005, and SSPR 2006). In Victoria's case, this means that more than $1 billion in EGM player losses is drawn from problem or at-risk EGM gamblers each year. This is not a sustainable situation and must be addressed.

Outline for a more comprehensive public health-based approach to EGM regulation

From the above brief discussion it should be clear that there is a strong possibility that the regulation of EGMs could be reformed to provide more coherent focus on the protection of consumers from harm *in the first place*. Certainly it is essential to provide affected individuals with rehabilitative services in a timely and effective manner. However curative interventions are generally regarded as being a long way *downstream* from the cause of the problem. In this case, the capacity of the EGM technical system to cause harm is considerable, because of the misalignment of the uses to which the data it generates are put. The EGM industry quite legitimately utilises data to refine its operations for the purposes of improving its business. However this is not matched by the regulator's capacity to utilise the same data for public health purposes. It is also clear that most if not all EGM gamblers (including problem gamblers) have only the sketchiest knowledge of the way EGMs work. Few if any gamblers understand that although EGMs are programmed to return a defined legal minimum 'return to player' (RTP) that in Victoria this is calculated by reference to the net outcome of the all the games played on all EGMs in particular venues over the course of a calendar year. Further, gamblers rarely appreciate that in an EGM game with 80,000,000 possible outcomes (which is not unusual) the volatility of the game can be considerable.

More fundamentally, EGMs as currently configured are designed to entice consumers to part with their money, using well established conditioning and other behavioural and psychological principles. EGMs are designed to maximise return to the operators, not to be safe.

I reproduce below a table setting out the broad parameters of a public health oriented approach to EGM regulation. This is a work in progress and will be subject to modification. However it may provide some insights into how the current regulatory arrangements might be reformed with consumer safety and harm minimisation principles more firmly in scope.

Table 1: Draft public health based harm minimisation framework

Overall focus/approach	Layer, target group	Strategy
Population protection against development of harms – health promotion	Primary, whole of population	Provision of general information about gambling
		Provision of general health warnings about gambling
		General education programs about gambling
		Community strengthening programs including alternative recreational outlets and opportunities
		Reduction of gambling dependence at government and community level
		Population prevalence studies
		Telephone information and advice service
		Prohibition on advertising of gambling products
		On going advertising of gambling warnings and availability of counselling services
		Embedded and continuing evaluation of harm minimisation measures
	Primary, gamblers	Product specific education, including 'low-risk' guidelines
		Data collection and analysis - system level
		Data collection and analysis – outlet/venue/device level
		Venue level screening studies
		Identification of relative risk using data
		Industry technical system regularly assessed based on data analysis and relative risk profiles
		Telephone information and advice service
		Effective self-exclusion system
		Effective pre-commitment system
		Initial data-analysis derived product safety assessment and approval program
		On-going data-informed product safety monitoring, assessment and approval modification program

Table 2: (cont.)

Early identification of emerging risks and management and reduction of associated harms – harm minimisation	Secondary, public	Regular provision of data describing gambling prevalence and behaviour, including incidence of problem gambling by mode, proportion of consumption estimated as attributable to problem gambling behaviour, and relation to socio-economic characteristics of local areas
		Regular establishment and publication of harm minimisation gaols expressed so as to be capable of systematic program, impact and eventual outcome evaluation
		Regular provision of survey data describing public attitudes towards and interface with gambling
		Transparent reporting of extent of government and community revenue derived from gambling
		Provision of alternative funding to support otherwise gambling dependent local activities
		Development of model for separation of revenue collection and harm minimisation functions of gambling regulation
	Secondary, gamblers	In-venue early detection programs, including 'walk-up' screening and employee intervention
		GP and primary care provider training and awareness programs
		Program to identify and modify/eliminate high risk venue characteristics
		Modification of industry structure and technical system in light of data analysis
		Program to identify and modify/eliminate identified high-risk device characteristics
		Independently funded 24 hour telephone counselling, advice and follow-up services – particularly focused at brief/early stage interventions
		Venue based but independently funded advice/counselling services
		Independently funded gambling and financial advice/counselling/treatment programs available at a variety of health or community service providers
		Regular advertising to promote risk factor awareness in support of early intervention

Table 2: (cont.)

Treatment of established problems and management of associated harms – harm minimisation	Tertiary, public	Regular reconsideration of gambling industry technical and regulatory system
		Development and implementation of licensing system allowing for revision at relatively short notice in light of on-going assessment of cost-benefit, etc
		Regular published evaluation of harm minimisation goals and activities
	Tertiary, gamblers	Readily available and accessible treatment programs including intensive/residential programs as required
		Integrated care planning and provision systems in association with a range of health/community care providers
		Interventions developed for delivery in association with criminal justice and family law systems, etc
		Rehabilitation programs to assist gamblers to reintegrate with family, friends, employers, education etc.
		Regular evaluation of and support for development of treatment interventions, to support establishment of effective practice

Sources: derived from Korn *et al* (2006) with additions by the present author

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