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**REVIEW OF GAMBLING HARM MINIMISATION MEASURES BY THE
INDEPENDENT PRICING AND REGULATORY TRIBUNAL OF NEW
SOUTH WALES**

SUBMISSION BY

**THE AUSTRALASIAN GAMING MACHINE MANUFACTURERS
ASSOCIATION**

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AGMMA

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1 Executive Summary

The Independent Pricing and Regulatory Tribunal (“IPART”) is conducting a ‘review of gambling harm minimisation measures’ at the request of the Minister for Gaming and Racing, the Honourable Grant McBride, MP. AGMMA welcomes the opportunity to provide this submission to the inquiry.

AGMMA has reviewed the concept of ‘harm’ and the practical difficulties associated with use of that concept (and the concept of ‘harm minimisation’) in the context of legislation and regulations which demand precise drafting (Sections 4.5 to 4.9). AGMMA recommends reconsideration of the use of the “harm minimisation” terminology and concept in its present form for legislative/regulatory purposes and suggests some alternatives (Section 4.9).

AGMMA endorses improving the educative aspect of responsible gambling in NSW but opposes the introduction of ‘circuit breaker’ messages interrupting play for the reasons set out in this submission (Section 5).

AGMMA has a number of comments to make about the efficacy of modifying the gaming environment (Section 6) but has elected *not* to comment on twenty of the nominated “harm minimisation” measures. AGMMA, however, wishes to record that it supports the comments of the club industry associations of NSW, Star City Sydney and AHA NSW in relation to these operational issues.

AGMMA wishes to express concern (Section 6.9) regarding the imposition of unclear statutory obligations on the Liquor Administration Board (“LAB”). These have required the LAB to draw a ‘technological line in the sand’, in the name of ‘harm minimisation’. This ‘technological line in the sand’ has resulted in serious restrictions to game design that have impacted on the entertainment offered by gaming machines without impacting on problem gambling.

2 Background

AGMMA is pleased to provide this submission in response to the advertisement of Wednesday 24 September 2003 of IPART's Review of Gambling Harm Minimisation Measures.

AGMMA notes that three broad categories of "harm minimisation" measures have been suggested in various forums:

- (a) education of individuals or groups
- (b) modifying the environment
- (c) implementing changes to public policy

AGMMA has adopted these three categories for its submission which analyses the existing NSW "harm minimisation" regime.

AGMMA has a number of comments to make about the efficacy of modifying the gaming environment (Section 6) but has elected *not* to comment on the following nominated "harm minimisation" measures identified by IPART because the issues raised are of an operational nature rather than a technical nature:

1	Compulsory Shut Down of Gambling Venues
2.	Ban on Smoking in Gambling Venues
3.	Periodic Shut Down of Individual Machines
4.	Restrictions on Alcohol Consumption by Gamblers
5.	Performance of Self-Exclusion Schemes
6.	Requirements to Display Certain Signage
7.	Display of Clocks
8.	Information on Tickets
9.	Role of Community Services

10.	Contact Cards
11.	Advertisements highlighting Problem Gambling
12.	Prohibition on Credit
13.	Locating ATMs away from gaming machines
14.	Pre-Commitment or Smart Cards
15.	Cash Limits on ATMs
16.	Controls on Player Reward Schemes
17.	Restrictions on Promotions and Inducements ¹
18.	Availability of Alcohol
19.	Agreements with Counselling Services
20.	Requirement for Human Intervention in Payouts

AGMMA believes that these measures are more appropriately dealt with by representatives of gaming industry operators.

¹ The term “Inducements”, however, has been interpreted by the LAB as including free games and other game features: AGMMA has commented on these issues.

3 AGMMA

The Australasian Gaming Machine Manufacturers Association (“AGMMA”) is a not for profit industry association which represents the interests of its seven members, Ainsworth Game Technology, Aristocrat Technologies, Global Gaming, International Game Technology (Australia), Konami Australia, Pacific Gaming and Stargames Corporation.

Four of AGMMA’s members have their head offices and corporate origin in New South Wales.

Collectively the seven companies provide direct employment to over a thousand Sydney and Newcastle based staff and provide indirect employment to many more people in New South Wales. The seven AGMMA members provide sought-after employment opportunities in the growing NSW computer software and hardware industry and earn significant export revenue for New South Wales.

Each member of AGMMA has been adversely impacted by the ‘harm minimisation’ regime in New South Wales which appears to have exceeded comparable regimes in scope and detail.

AGMMA members believe that, unfortunately, most of the ‘harm minimisation measures’ currently in force in New South Wales are speculative measures which have resulted in little, if any, reduction in problem gambling.

These measures were apparently not based on research or any form of evidence to suggest that they would reduce problem gambling.

There appears to have been virtually no testing of these measures to evaluate whether any have been effective in reducing problem gambling. AGMMA

members believe that the Liquor Administration Board's arbitrary 'line in the sand' (Section 6.9) has significantly impeded the development of gaming technology and design in NSW.

AGMMA members believe that many, if not all, of these measures have served to make gaming a less entertaining entertainment option for recreational players, who comprise the overwhelming majority of players in NSW.

The restrictions have resulted in major unexpected costs for manufacturers (due to the manner in which the measures were implemented) and may have cost gaming venues and the state many millions of dollars in revenue².

These costs and the associated forgone revenue are difficult to justify on the grounds that problem gambling may have been materially reduced. To AGMMA's knowledge, there is simply no evidence to support such a proposition.

AGMMA seeks IPART's independent view on the effectiveness of the measures, the care that is required in restricting technology on wholly speculative grounds and, critically, a recommendation from IPART as to the legislative and regulatory measures that should now be dismantled or amended on the basis that they are ineffective.

AGMMA members also seek IPART's recommendations as to an appropriate timetable for this process.

AGMMA requests IPART give consideration to a number of responsible gaming measures conceived and suggested by AGMMA (Sections 5.3 and 5.4) which AGMMA members believe are likely to assist problem gamblers and their counsellors.

² For further details, see "Roadblocks for Game Design", Australian Hotelier, June 2003, page 10

AGMMA members are concerned that the NSW “harm minimisation” regime has apparently resulted in new technology and products developed by AGMMA members not being implemented in the manner of other jurisdictions.

AGMMA suggests that this is placing the gaming machine manufacturing sector of the electronics industry in New South Wales at threat. It is becoming increasingly difficult to justify locating a high technology manufacturing business in such a restrictive regime.

AGMMA welcomes the opportunity to express its views on these issues to IPART and requests IPART to give consideration to AGMMA’s specific recommendations for reform.

4 Harm Minimisation

4.1 The concepts of 'harm' and 'harm minimisation'

The concepts of “harm” and “harm minimisation” are fundamental to the legislative/regulatory regime governing gaming machines in New South Wales because of the way in which Section 3 of the Gaming Machines Act, 2002 is framed.

That provision not only prescribes that “gambling harm minimisation” is a “primary objective” of the Act but requires the Licensing Court, the Minister, the Director-General, the Commissioner of Police and all other persons having due functions under the Act to “*have due regard to the need for gambling harm minimisation when exercising functions under the Act.*”

The concepts of “harm” and “minimisation” accordingly pervade every aspect of the legislative and regulatory regime relating to gaming machines.

The aspirations associated with the use of this terminology are clearly appropriate and are fully endorsed by AGMMA.

However, AGMMA believes there are at least five reasons why use of the terminology “harm” and “harm minimisation” should either be reconsidered for legislative/regulatory purposes or clarified:

- (a) failure to satisfy the exactitude required for statutory drafting;
- (b) failure to take into account the voluntary assumption of risk inherent in all gambling activities;

- (c) difficulties in defining the ambit of “harm” for the purposes of the legislation and regulations;
- (d) failure to take into account the individual responsibility involved in participating in gambling activities;
- (e) failure to specify the ‘balance’ that is to be achieved between protecting individuals vulnerable to gambling problems and protecting the extensive positive contributions that gaming makes to society as a whole (through provision of employment, revenue and taxes) and to recreational players.

4.2 Legislative Language Issue

The difficulty with the provision is that, although the aspiration is unquestionably impeccable, the language used in the provision fails to satisfy the requirements of plain language drafting required by most Parliamentary Counsel.

The principal reason for this is the use of the term “harm minimisation” which is not defined anywhere in the legislation or regulations nor are any tests provided to assist one to interpret the term.

The result is that subjective views of the meaning of the term proliferate.

The Australian Office of Parliamentary Counsel³ sets out the requirements for plain language drafting of statutes in this manner:

“The Office of Parliamentary Counsel has been active in encouraging the use of plain language in legislation and in developing and using plain language techniques. In addition to OPC’s participation in major plain language projects such as the Tax Law Improvement Project and the Corporate Law Economic Reform Program, we have incorporated plain language drafting into all of our work. We prefer to use the term “plain language” rather than “plain English” because we believe that it covers a

³ Australian Office of Parliamentary Counsel <http://www.opc.gov.au/plain/index.htm>

wider range of techniques and practices. In a paper given to the Emerging Trends in Legislative Drafting Conference in Dublin in 2000, Professor Ruth Sullivan of the University of Ottawa gave the following description of plain language. We believe that it is an accurate description of the approach taken by OPC drafters:

“Plain language drafting refers to a range of techniques designed to create legislation that is readable and easy to use by the relevant audience(s) for that legislation. At the level of vocabulary, plain language drafters try to use words and expressions that are familiar to everyone. Although technical language is sometimes necessary to achieve an acceptable level of precision, unnecessary jargon and gratuitous obscurity are eliminated.” (emphasis added).

Is the term “harm minimisation” in this legislation an example of ‘*unnecessary jargon and gratuitous obscurity*’?

AGMMA believes that it is (for the reasons set out below) and requests that IPART comment on this and on the desirability of greater precision in the legislation.

“Harm” is defined in the Collins English Dictionary as “physical or mental injury or damage” or “moral or evil wrongdoing”. It is defined in the Australian Pocket Oxford Dictionary as “damage” or “hurt”. It has also been defined as “injury, hurt, damage, detriment or misfortune.

The word ‘harm’ is a very broad term and it has given rise to extensive work on clarification of the term for legislative/regulatory purposes in other contexts.

For example, the US Department of Commerce⁴ recently (1999) issued a ‘final rule’ to clarify the meaning of ‘harm’ in the context of endangered wildlife and plants:

⁴ Federal Register, No. 8, November, 1999, Volume 64 No 215 see endangered.fws.gov/frpubs/s991108.htm - 2k

This final rule defines the term "harm", which is contained in the definition of "take" in the Endangered Species Act (ESA). The purpose of this rulemaking is to clarify the type of actions that may result in a take of a listed species under the ESA. This final rule is not a change in existing law. It provides clear notification to the public that habitat modification or degradation may harm listed species and, therefore, constitutes a take under the ESA as well as ensuring consistency between NMFS and the Fish and Wildlife Service (FWS). This final rule defines the term "harm" to include any act which actually kills or injures fish or wildlife, and emphasizes that such acts may include significant habitat modification or degradation that significantly impairs essential behavioral patterns of fish or wildlife.

In the United Kingdom, the Advisory Committee on Releases to the Environment (ACRE) recently (29 September 2002) produced a report entitled "*The criteria used by ACRE to gauge harm when giving advice on the risks of releasing genetically modified organisms to the environment*"⁵ which sets out, in a 19 page document, the criteria used to gauge harm in the context of releasing genetically modified organisms to the environment which identifies seven attributes of harm:

- (i) direct effects,
- (ii) indirect effects,
- (iii) spatial properties,
- (iv) temporal extent,
- (v) severity,
- (vi) latency and cumulative effects and
- (vii) reversibility.

This permits an impact analysis to be carried out whenever the issue of harm arises (perhaps an indication of what could be achieved with more precise drafting in this context).

⁵ Department for Environment, Food and Rural Affairs, Advisory Committee on Releases to the Environment, Sub-Group on Harm, considered 5 July 2002 see <http://www.defra.gov.uk/environment/acre/harm/index.htm>

It is submitted that it is not an unreasonable request, given the importance of the term in the legislation, that the term be clarified either by replacement or by further definition.

The use of the term “minimisation” complicates the issue further.

What does “minimisation” mean?

“Minimisation” has been defined as *“the act of reducing something to the least possible amount or degree or position”*.

It speaks of an *absolute* value – the *least possible value*.

AGMMA submits that it is questionable, whether, in a field where so little is known about the issues and so little research has been carried out, reference to an ‘absolute’ value is realistic or helpful in a statutory or regulatory context.

The term ‘harm minimisation’ originated in a treatment context. For example, it has been defined, in a drug addiction context⁶, as: *“a range of approaches to prevent and reduce drug-related harm including prevention, early intervention, specialist treatment, supply control, safer drug use and abstinence.”*

However, even in a treatment context, the term “harm minimisation” has given rise to difficulties. Richard Velleman and Janet Rigby, two UK psychologists, have made this comment in seeking to clarify the meaning of “harm minimisation”⁷:

⁶ National Drug Strategy

⁷ Richard Velleman and Janet Rigby, “Old Wine in New Bottles”, University of Bath, <http://www.drugtext.org/library/articles/901608.html>

“Generally, agreement can be found that harm minimisation (however it is defined) is primarily concerned with reducing the potential harm to an individual or group exhibiting high-risk behaviour. The main harm reduction approach attempted is to provide measures (verbal measures information/education, practical advice; or equipment measures - needles, syringes, condoms, etc.) that enable the individual or group to reduce or cease their high risk behaviour.

What Rigby and Velleman are saying is that an alternative and preferable concept to the concept of ‘harm minimisation’ is the concept of ‘harm reduction’.

‘Harm Reduction’ has been defined⁸ as a “public health philosophy, which promotes methods of reducing the physical, social, emotional, and economic harms associated with drug and alcohol use and other harmful behaviors on individuals and their community. Harm reduction methods and treatment goals are free of judgment or blame and directly involve the client in setting their own goals.”

Sydney University observed (in its 2001 report) that:

“governments and the gaming industry have adopted the principle of responsible gambling by recommending and implementing strategies that are designed to minimise the harm associated with gambling by: informing community members of the potential risks associated with gambling and protecting individuals from gambling to excess and developing gambling-related problems” but noted that there is no clear definition of what constitutes responsible gambling or a description of its necessary components⁹. (emphasis added)

⁸ San Francisco Department of Public Health:

<http://www.dph.sf.ca.us/HarmReduction/HarmReduInfo.htm>

⁹ The University of Sydney Final Report: The Assessment of the Impact of the Reconfiguration on Electronic Gaming Machines as Harm Minimisation Strategies for Problem Gambling, November 2001, page 23.

The University added that (in the absence of such a description) ‘*harm minimisation or reduction*’ may be “construed” as:

“a set of practical strategies whose goals are directed toward the reduction (emphasis added) of the level of harm associated with all facets of gambling and by implication the protection of at-risk community members from developing gambling problems.”

It is submitted that the concept of *harm reduction*, as opposed to *harm minimisation*, may be more helpful in both understanding and implementing the underlying legislative directive.

It is also submitted that the statutory provisions could be supplemented to provide better and more precise guidance in this regard.

After reviewing a number of aspects of ‘harm’ in the context of EGMs, an additional statutory definition has been proposed (see Section 4.9) to clarify the concepts and permit more precise and predictable decision making in this area.

AGMMA notes that IPART has been directed, in carrying out this review, not to deal with “*the requirement that regulatory officials have due regard to gambling harm minimisation in exercising regulatory functions*”.

AGMMA respectfully suggests that raising the question of the precise meaning of “harm” and “harm minimisation” and suggesting that the terms could be clarified for legislative/regulatory purposes does not offend this directive.

4.3 Individual Responsibility

In June 2002, when the Stage 2 of the Civil Liability Bill (Stage 2) was introduced, the following comments were made in the Second Reading speech:

“One of the central tenets of the Stage 2 reforms will be to bring back greater personal responsibility. That will mean the people will have to use their own judgement when getting involved in activities, especially risky activities. They will also have to accept the consequences if things go wrong and they get injured. The pendulum has swung too far in the direction that penalises the community generally for the lack of responsible judgement by certain individuals. But the law will need to adapt a properly balanced approach. Stage 2 will reinforce the efficacy of risk warnings as defences for negligent actions in tort. However, we do not want to see consumers preyed upon by unscrupulous operators. For example, if you go white-water rafting it might be legitimate for someone to say that you take the risk of falling out of the raft or injuring yourself in the water, and that is your personal responsibility. But if you are injured because the operator has provided a craft that is completely inadequate and below industry standards, how are you to know and how are you to be held responsible for that? Once again the law reform will need to get the balance right between personal responsibility and responsibility of operators. That is not a simple matter.”

When the Civil Liability (Personal Responsibility) Amendment Bill 2003 was read for a second time in the Legislative Assembly on 23 October 2003, this philosophy was reiterated:

“The introduction of this bill today is a triumph for commonsense. Personal responsibility will rightly assume a much higher profile in our law thanks to these reforms...If plaintiffs acted with such little regard for their own safety that they should not recover, the court will be able to find them 100 per cent contributory negligent. As was the case under the consultation draft of the bill, there will be no liability for injury, death or property damage

resulting from the risk of recreational activity in respect of which a risk warning has been given." (emphasis added)

AGMMA suggests that it is time to introduce the same concept of "greater personal responsibility" in this area.

Gaming is clearly a very popular recreational activity in NSW.

Why should players of gaming machines in NSW be held to a *lower* standard of personal responsibility than they are in relation to any other recreational activity?

The warnings provided in the gaming venues of NSW are probably more extensive than those provided in connection with any other recreational activity they engage in.

Yet such a lower standard of personal responsibility is implicit in the current gaming legislation, regulations and gaming policy as applied to gaming in NSW.

The new civil liability legislation encapsulates the concept of 'informed consent' in precisely the manner envisaged as appropriate by AGMMA:

AGMMA – and the industry in NSW – have been supporting the concepts of greater disclosure, better player education and improved counselling since "harm minimisation" was conceived.

Extensive warnings are already provided in NSW venues and on machines.

However, warnings can only go so far in terms of effectively preventing people from making foolish decisions. AGMMA notes that this has been recognised in the context of other recreational activities:

"It is also important to note that risk warnings will be effective if given in such a way that most people would understand. It will not matter that particular individuals say they did not see the sign, or could not read English, or could not understand clear symbols. The courts will have to apply an objective test about the effectiveness of the warning."¹⁰

At this time, however, virtually no individual responsibility is recognised by the NSW gaming machine legislation or regulations.

AGMMA believes it is appropriate to incorporate similar concepts of personal responsibility to those set out in Division 4 of the Civil Liability (Personal Responsibility) Amendment Bill 2003 in the legislation setting out the "harm minimisation" test to reflect this philosophy.

Recognition of the need for a change in this respect is evident from Tim Fergusson's recent article in the Age (22 October 2003):

"Ask anyone in front of a pokie machine what their chances are of winning big bucks and they'll tell you - not good. The more they gamble, the more they know it. Only a person with no experience of gambling could kid themselves that a pokie will make them rich.

So, why do those who disapprove of the gambling epidemic insist that pokie players have no idea that the machines are programmed to take their money? If there's any confusion, five minutes in front of a one-armed bandit will clear it up. Only a deranged individual could fail to recognise the pokie pattern of win-a-little, lose-a-lot.

David Campbell ("So, the pokies are `fun'? You must be joking, Mr Tattersalls", on this page on Monday) claims that pokies attract "the lonely and the vulnerable, the desperate and the ignorant".

The ignorant? Who is he kidding? The suggestion that all problem gamblers are ignorant of the odds against them is as ludicrous as it is patronising. Lonely, sure. Vulnerable - who isn't? Desperate? Anyone looking for a quick fix to their financial problems is going to be, eventually. But the charge of ignorance that is laid by opponents of gambling sounds like middle-class snobbishness.

¹⁰ Second Reading Speech

Gambling halls are designed to relax the customer. The machines are designed to distract them from the outside world, from their own problems, from the fact that they are losing more than they're winning. No one disputes this. But to draw the conclusion that being distracted is a sign of ignorance and desperation is silly.

If that were the case, cinemas, the MCG and the State Library fiction section would be packed with morons.

Pokies return, on average, 90 per cent of the money we put into them. The repercussions of gambling over our heads are all too clear. Families break up. Assets are lost. Gambling can be a destructive pastime. But it is not alone.

If we are to do away with poker machines, we should look at other avenues of entertainment that pose even greater dangers. Amateur sports, football for example, can be addictive. Research has consistently shown that the endorphins generated in the body by hard running can become an irresistible lure to run hard regularly. The catch is you risk injury. Some people have died from such injuries.

Then there are the video game parlours. Here are machines that swallow hundreds of dollars, taking money from children with no hope of refund. Video games can give the same rush that a pokie gives upon a win.

Anyone with a Nintendo machine knows the strength of attraction such devices hold. They don't call video games the child-minding system of the new millennium for nothing.

Skydiving, amateur footy and rough sex get the heart pumping. Once you've engaged in any of them (sometimes all at once), the chances are you'll have another go, no matter the risk to life and limb.

Ignorance has nothing to do with it. The moment before we leap out of a perfectly good aeroplane in footy boots and latex headgear, the risks are all too clear. Yet we jump, knowing there is a chance (not 90 per cent, but a chance nonetheless) that we could lose our lives. We weigh the rush against the risk. That's human nature, something the purveyors of pokies understand too well.

The Government could place warnings and stickers declaring the stacked odds on every pokie in the country. It would make as much impact as the grim warnings on cigarette packets have on smokers. We don't need to be told what we already know.

Pokies are singled out for condemnation by well-meaning wowsers who view gamblers as pathetic, easily manipulated and weak-minded.

To suggest that desperation and ignorance drive us to gamble is to suggest that those same qualities lie at the core of human nature. It's not so. Gamblers are more likely driven by hope and boredom. They just weigh the rush against the risk.

And, sadly, the rush wins every time."

Individual responsibility for decisions made by adults in relation to gaming is clearly supported by Tim Ferguson.

Is it not appropriate to consider absorbing some of the very sensible 'risk concepts' developed in relation to civil liability in NSW into NSW gaming machine legislation, regulation and administration?

What are these 'risk concepts'?

Division 4 of the of the Civil Liability (Personal Responsibility) Amendment Bill 2003 reads as follows:

Division 4 Assumption of risk

5F Meaning of "obvious risk"

- (1) *For the purposes of this Division, an obvious risk to a person who suffers harm is a risk that, in the circumstances, would have been obvious to a reasonable person in the position of that person.*
- (2) *Obvious risks include risks that are patent or a matter of common knowledge.*
- (3) *A risk of something occurring can be an obvious risk even though it has a low probability of occurring.*
- (4) *A risk can be an obvious risk even if the risk (or a condition or circumstance that gives rise to the risk) is not prominent, conspicuous or physically observable.*

5G Injured persons presumed to be aware of obvious risks

- (1) *In determining liability for negligence, a person who suffers harm is presumed to have been aware of the risk of harm if it was an obvious risk,*

unless the person proves on the balance of probabilities that he or she was not aware of the risk.

- (2) *For the purposes of this section, a person is aware of a risk if the person is aware of the type or kind of risk, even if the person is not aware of the precise nature, extent or manner of occurrence of the risk.*

5H No proactive duty to warn of obvious risk

- (1) *A person (the defendant) does not owe a duty of care to another person (the plaintiff) to warn of an obvious risk to the plaintiff.*

- (2) *This section does not apply if:*

(a) *the plaintiff has requested advice or information about the risk from the defendant, or*

(b) *the defendant is required by a written law to warn the plaintiff of the risk, or*

(c) *the defendant is a professional and the risk is a risk of the death of or personal injury to the plaintiff from the provision of a professional service by the defendant.*

- (3) *Subsection (2) does not give rise to a presumption of a duty to warn of a risk in the circumstances referred to in that subsection.*

5I No liability for materialisation of inherent risk

- (1) *A person is not liable in negligence for harm suffered by another person as a result of the materialisation of an inherent risk.*

- (2) *An inherent risk is a risk of something occurring that cannot be avoided by the exercise of reasonable care and skill.*
- (3) *This section does not operate to exclude liability in connection with a duty to warn of a risk.*

AGMMA respectfully submits that *all* of the concepts in Division 4 should be applied in the context of gaming machine “harm minimisation”: the risks associated with gaming are ‘inherent’ in precisely the manner set out in Section 5I above and may be said to become even more ‘inherent’ when Player Information Displays are mandated.

This is because, once full disclosure of probabilities and hit rates has been endorsed and the terms explained, players will be using gaming machines in precisely the same manner as people engage in other recreational activities.

AGMMA respectfully submits to IPART that the pendulum has swung too far in the direction that penalises the community generally for lack of responsible judgement by certain individuals and it is time to rectify this in a statutory and regulatory context.

AGMMA has accordingly proposed amendments to the legislation reflecting the concepts embodied in Section 5B of the Civil Liability (Personal Responsibility) Amendment Bill 2003 to define “harm minimisation” in a manner more consistent with the concept of “personal responsibility” (see Section 4.9).

4.4 All gambling involves a voluntary assumption of risk

Gambling involves the *voluntary contractual* assumption of risk with some expectation of expenditure.

Many other activities involve the assumption of risk (sports activities, driving vehicles, flying etc) and in many (if not most) cases it is the very voluntary assumption of the risk that provides all, or part, of the entertainment derived from the activity. As the University of Sydney noted¹¹ in its November 2001 report:

“the majority of people in the community who play poker machines do so for relatively small stakes on relatively infrequent occasions. Among the remainder, some play the machines regularly, perhaps every week, and on most (but not all) occasions lose relatively small amounts of money well within their available budget for leisure. Others gamble more consistently and may exhibit some signs associated with gambling problems or experience intermittent problems. For a further minority of individuals, playing the machines becomes an absorbing passion leading to the development of gambling related problems.”

The key aspect of this analysis is that most people play machines without any adverse effects but a small number of individuals encounter problems which can, at the extreme, comprise *“large monetary losses and associated serious harm to the individual’s life”*¹².

4.5 The ambit of “harm” for legislative/regulatory purposes

One of the most significant difficulties arising from the vagueness of the terms ‘harm’ and ‘gambling harm minimisation’ is that neither the legislature nor

¹¹ The University of Sydney Final Report: The Assessment of the Impact of the Reconfiguration on Electronic Gaming Machines as Harm Minimisation Strategies for Problem Gambling, November 2001, page 23.

¹² The University of Sydney Final Report: The Assessment of the Impact of the Reconfiguration on Electronic Gaming Machines as Harm Minimisation Strategies for Problem Gambling, November 2001, page 23.

regulators have a clear idea of the group of people that the legislature wishes to protect, let alone how they can best be protected.

The difficulties caused by the lack of precision in the statutory wording are evident from the following comment by the Liquor Administration Board in the First Determination¹³:

“It is, however, quite apparent to the Board, and indeed in the Board’s view to industry and others, that there are a great number of people who do not fall within the Productivity Commission categorization of problem gamblers who in fact have substantial gambling problems. Many of these people are on the verge of becoming problem gamblers and it is the Board’s view that steps should be taken wherever possible to prevent them from becoming problem gamblers and that the same apply to others who for a myriad of reasons might at some time become problem gamblers.”

What is known about “people on the verge of becoming problem gamblers”?

Individuals who experience harm as a result of gambling activities are generally characterized as having a psychological problem.

Whether that ‘psychological problem’ is caused by gambling or by other issues is a very important question which requires further investigation as it may well prove to be the case that ‘other’ problems require treatment either before or in addition to the problem gambling.

The term used by psychologists is ‘comorbidity’ which describes the co-occurrence of two or more disorders in a single individual.

¹³ Review of the Liquor Administration Board’s Technical Standards for Gaming Machines and Subsidiary Equipment in NSW, April 2001, page 19.

Comorbidity is extremely common among pathological gamblers¹⁴.

Miller and Marquass¹⁵ analysed Gold Coast clients of counselling services in 2001 and found very high levels of comorbidity:

Co-morbidity with Gambling Problems

Financial Problems	81%
Interpersonal	78%
Intrapersonal	82%
Family	49%
Physical	32%
Substance	24%
Employment	49%
Leisure	45%
Legal	28%

Should gaming *alone* be blamed for psychological problems that individuals may have experienced which did not arise from gambling but arose from different, previously manifested, sources and causes?

Mizerski, Jolley and Mizerski¹⁶ note that “*cause and effect cannot be determined (from such a comorbidity study) but attributing sole blame to one game is not supported.*”

¹⁴ Crockford D.N. and N. el-Guebaly, Psychiatric Co-morbidity in pathological gambling: a critical review. Canadian Journal of Psychiatry 43:43-50

¹⁵ Miller R and Marquass M, “A review of trends reported by problem gamblers from the introduction of poker machines to the new millennium”, National Association of Gambling Conference, Sydney, 2001.

The reference to “one game” is to gaming machines.

Unfortunately the degree of understanding of comorbidity in this area and the way in which individuals with pre-existing vulnerabilities and psychological problems develop into problem gamblers is in its early stages.

Blaszczynski and Nower¹⁷ have developed a profiling classification which seeks to address this issue.

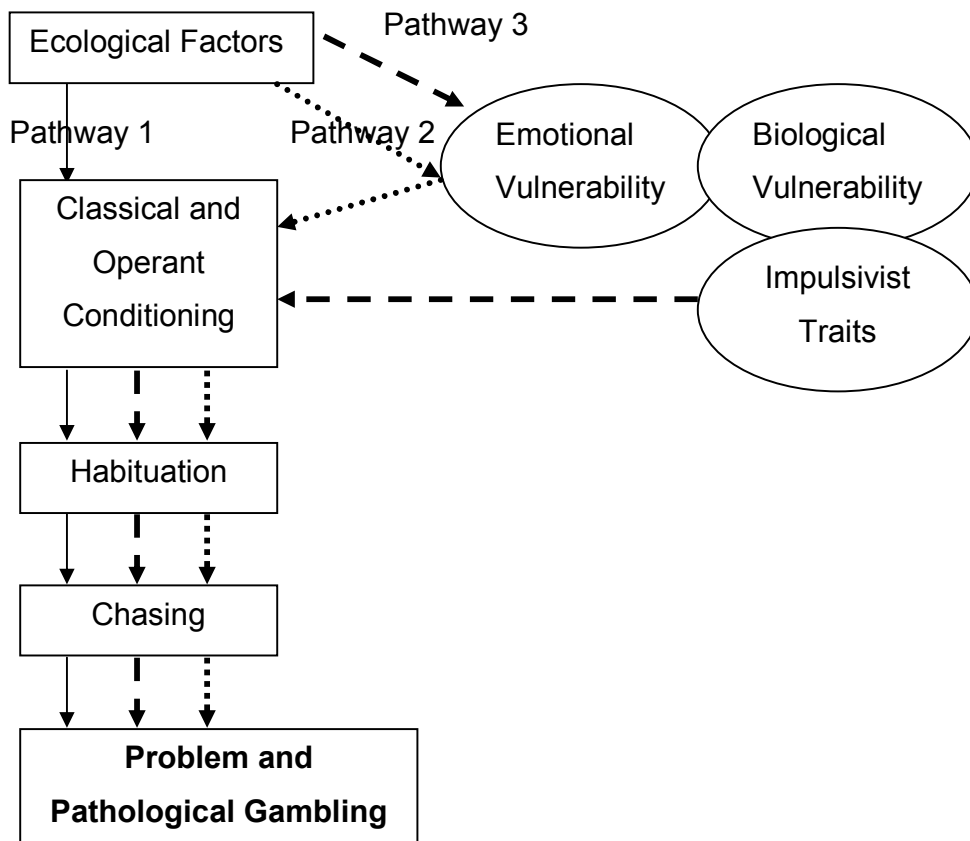
The framework developed by Blaszczynski and Nower (see Figure 1) identifies three sub-groups, or “pathways,” to describe problem gamblers:

- (i) behaviorally conditioned problem gamblers, who repeatedly exhibit poor judgment by engaging in destructive gambling behaviors, but lack a specific psychiatric pathology (pathway 1);
- (ii) emotionally vulnerable problem gamblers, who experience gambling problems as a result of depression, anxiety, or other emotional disorders (pathway 2); and
- (iii) antisocial impulsivist problem gamblers, who engage in reckless and spontaneous gambling sessions and typically exhibit signs of antisocial personality disorder, emotional vulnerability, multiple addictions, and other comorbid psychiatric conditions (pathway 3).

¹⁶ Dick Mizerski, Bill Jolley and Katherine Mizerski, “Disputing the Crack Cocaine of Gambling Label for Electronic Gaming Machines”, National Association for Gambling Studies, Sydney, 2001.

¹⁷ The Wager, Weekly Addiction Gambling Education Report, Volume 8, No 2, January 8, 2003, Psychological Profiling: Classification and the Problem Gambler.

Figure 1



Although the authors suggest that although problem gambling is always “initiated” through ecological factors (i.e. the availability and accessibility of gambling), gambling is not usually *immediately* a problem.

Individuals “progress”, over a period of time, down a “pathway” to become problem gamblers.

It is, they say, the *biological and psychological traits* of the individual which lead to the individual proceeding through one of the three pathways “until gambling becomes problematic”.

The current “harm minimisation” structure established by statute and regulation does not take into account these different pathways, the likely reaction of different groups to different measures, the likely size of the three groups or the effectiveness of different measures on the different groups.

Whether gambling causes other psychological/psychiatric problems, whether other psychological/psychiatric problems give rise to gambling problems or whether both gambling problems and other psychiatric/psychological problems are caused by a third common element is unclear¹⁸ but clearly critical to our understanding of the issue and the treatment required.

The current statutory/regulatory regime in NSW does not recognise that treatment of problem gamblers and a better understanding of the *biological and psychological traits* of the individual (i.e. their individual issues) is vital to the reduction of problem gambling in this state.

It is suggested that this work needs to be carried out urgently.

4.6 Protecting Individuals from “harm” vs. protecting the positive contribution that gaming makes to the community and the State

The concept of “harm minimisation” as set out in the legislation/regulations does not encapsulate the balancing of the goals of protecting a small number of individuals from harm while simultaneously balancing the interests of the vast majority (in terms of revenue, employment, state taxes and so on) inherent in the operation of gaming in NSW.

¹⁸ Ken Winters and Matt Kushner, “Treatment Issues Pertaining to Problem Gamblers with a Comorbid Disorder”, *Journal of Gambling Studies*, Vol 19, No. 3, Fall 2003.

Should not the positive contributions of gaming be taken into account in evaluating whether and how a harm minimisation measure is adopted and deployed? The current legislation/regulations do not appear to encourage or even allow such consideration.

AGMMA believes that the fact that gaming is permitted in NSW is evidence that such a balancing exercise does, in fact, occur but suggests that the practice is an “ad hoc” one. Should this not receive greater substantive recognition in terms of the legislative tests and definitions?

The concept of ‘harm’ in the context of harm minimisation should not, it is suggested, be construed for legislative/regulatory purposes *solely* by reference to the harm experienced by *those experiencing life difficulties which manifest in disordered gambling behaviour*. If it was to be so construed, because many such people would react positively to virtually every gaming machine, there would be no alternative but to ban gaming completely. It may also be necessary to ban computers completely to prevent any access to internet gambling, banning horse racing to prevent any stimulus for people to gamble at race tracks and banning lotteries to prevent any stimulus for people to gamble at newsagents.

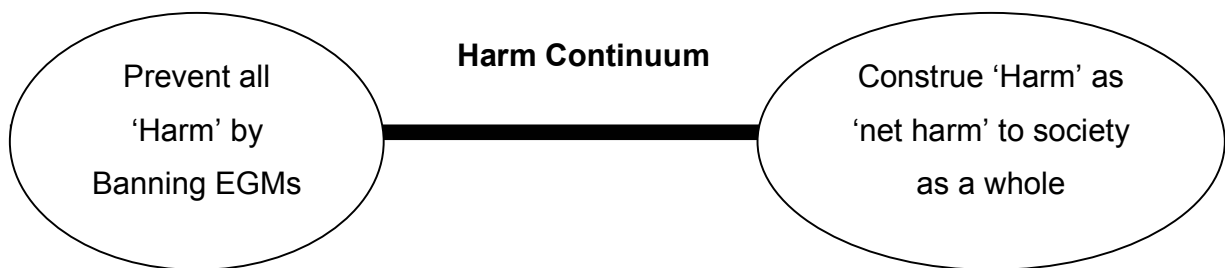
The fact that gaming machines have not been banned is implicit recognition of the fact that ‘harm’ is not currently being construed by the legislature or by regulators in this manner.

But if ‘harm’ is not being construed as ‘harm to any problem gambler’, how is it being construed?

It is suggested that there is a ‘continuum’ of definitions of ‘harm’ against which policy options available to the Government and Legislature may be rated.

At one end of the continuum is the abovementioned 'extreme' concept of harm as 'any possible harm to any problem gambler'. The other end of the policy continuum is arguably the concept of 'harm' as a measurement of 'net harm' to society, that is, a measure of harm taking into account (and offsetting) the benefits associated with gaming machines.

Figure 2



The Productivity Commission attempted to evaluate harm minimisation measures in 1999 when it estimated that the net impact on society of the liberalization of gambling could be anywhere from a net loss of \$1.2 billion to a net benefit of up to \$4.3 billion¹⁹.

Although the Productivity Commission itself noted that this wide range of estimates was 'of limited use for devising public policy'²⁰, it suggested that this was not the key issue:

"Normally what matters for policy is not the net benefits or cost of the current level of activity in a particular industry but rather how marginal increases, decreases or changes in the nature of the industry will affect the net benefits or costs, irrespective of what they are to start with. This is because most policy

¹⁹ Productivity Commission Report, Volume 1, 11.1

²⁰ Productivity Commission Report, Volume 1, 11.5

decisions are concerned with incremental changes to an industry – not the wholesale liberalization or abolition.”

In a NSW context, gaming machines generated \$402.1 million in duty from gaming machines in clubs and \$318.4 million from gaming machines in hotels during the 2001-2002 financial year²¹. In addition, the flow through of revenue from the Goods and Services Tax, other Federal taxes and miscellaneous State taxes must be considered in this context. Over seven hundred million dollars in gaming revenue must, on any analysis, be regarded as a very substantial benefit to the people of New South Wales. Significantly more revenue is anticipated over the next 7 years, as follows:

Table 1
Revenue Effect of Gaming Machine Duty Changes
NSW Budget Estimates
Chapter 3 General Government Sector Revenues (7-4)

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

Leaving aside the casino, then, the Government estimates that it will be deriving an additional \$447 million dollars in revenue from gaming machines by 2010/2011.

In addition, the EGMs of NSW provide employment, directly and indirectly to many thousands of people. This is clearly a significant benefit and was recognised as such by the Productivity Commission.

²¹ LAB 2001-2002 Annual Report, page 16

The CIE Report submitted by the Gaming Industry Operators Group to the LAB in 2001 noted that total direct employment in NSW clubs and hotels was estimated at 77,806 (but there are also significant flow on effects through the building and other industries).

NSW is also the home of most gaming machine manufacturers in Australia who employ, directly and indirectly, several thousand staff. In addition, an unknown number of jobs (estimated by AGMMA as being in the thousands) are directly provided by the suppliers of products and services to the manufacturing industry as a result of its activities.

“Harm minimisation” has had and is continuing to have a significant adverse impact on employment of gaming machine manufacturers’ staff in a “high tech” industry (hardware and software design, engineering and manufacturing) that should ideally be fostered and encouraged in NSW. Is this not a factor that should be considered in the statutory formula²²?

AGMMA submits that the entertainment provided for recreational players in NSW should also be considered as part of the statutory formula²³.

AGMMA also notes the growing popularity of gaming machines is entirely consistent with much broader and deeper changing societal preferences in relation to the impact of technology on leisure generally .

The following comments²⁴ were made in relation to the United States but AGMMA considers that they are equally applicable in New South Wales:

²² As it will soon be in Victoria: see para 4.10.

²³ As it will soon be in Victoria: see para 4.10

²⁴ Robert D. Putnam, “Bowling Alone”, Simon and Schuster, 2000, page 217

“news and entertainment have become increasingly individualised. No longer must we coordinate our tastes and timing with others in order to enjoy the rarest culture or the most esoteric information...electronic technology allows us to consume this hand-tailored entertainment in private, even utterly alone.”

The ABS recently estimated that 4 out of every 5 minutes of passive leisure time spent by adult Australians involved audio-visual media²⁵; television viewing and listening to audio/CDs accounted for 90% of this leisure time preference.

The average American watches between 3 and 4 hours of television a day²⁶. Multiple sets have proliferated. By the late 1990s, 75% of homes had more than one set and television viewing has become a more habitual less intentional part of Americans' lives.²⁷ AGMMA considers that this is also likely to have occurred in NSW.

The familiarity of the NSW population with technology and computers is increasing rapidly.

One of the most significant of these changes is the degree of use of the internet. The number of Australians accessing the Internet at home has steadily increased since 1998, rising from 13% of adults to 43% in 2002 according to the Australian Bureau of Statistics²⁸.

Access to the Internet and use of computers is highest in younger age groups, decreasing with age, and is higher in metropolitan areas.

²⁵ ABS Release 4153.0 How Australians Use Their Time, 16/12/98

²⁶ Robert D. Putnam, “Bowling Alone”, Simon and Schuster, 2000, page 222

²⁷ Robert D. Putnam, “Bowling Alone”, Simon and Schuster, 2000, page 224

²⁸ ABS Media Release 8146.0, 10 September, 2003

Internet use rose from 54% of adults to 58% between 2001 and 2002, building on the strong rise from 1998 when only 31% of adults used the Internet.

In 2002, the Internet was used by 23% of adults to pay bills or transfer funds (up from 17% in 2001), 21% of adults to access government services (up from 16% in 2001) and 15% of adults shopped via the Internet (up from 11% in 2001).

The number of Internet shoppers has increased by 34% since 2001 and the amount they spent also grew markedly.

The percentage of shoppers spending up to \$500 via the Internet decreased from 61% in 2001 to 46% in 2002, while those who spent over \$1,000 increased from 19% in 2001 to 34% in 2002.

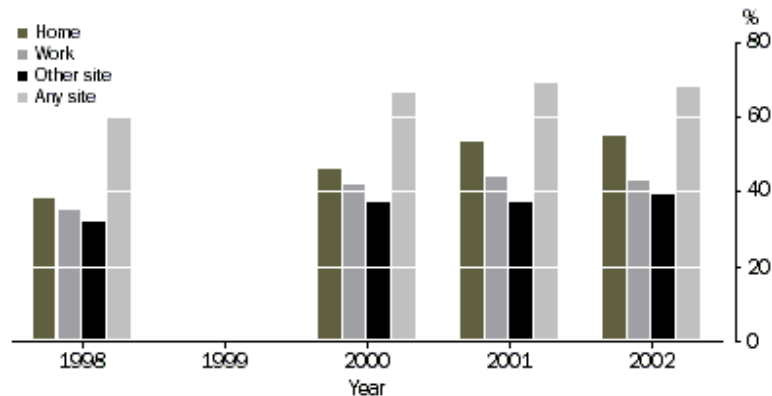
Internet shoppers spent around \$1.9 billion in 2001, compared to at least \$4 billion in 2002.

These developments are significant in a gaming policy context for two reasons:

- access to gambling on the internet is, for all intents and purposes, unrestricted and to the extent that policy measures influence players to move from *regulated* gaming in casinos, hotels and clubs to *unregulated* internet gaming, the policy must be considered ineffective and counterproductive both in terms of whatever “harm minimisation” it is trying to achieve and in terms of protecting state revenue;
- increasing familiarity with the internet and the technology used demonstrates a greater capability of understanding of the technological aspects of gaming.

According to the ABS, in 2002, 66% of Australian Adults used a computer, up from 60% in 2001:

Figure 4
Computer Use By Site²⁹



Note: Data for 1999 not collected.

It is significant that the ABS found that adults were more likely to use a computer at home.

It is also significant that the number of gaming machines in NSW has been capped since 2001. As the population of NSW increases and the number of gaming machines remains constant or diminishes, it is likely that the popularity of gaming machines will increase purely because of supply and demand.

The Australian Bureau of Statistics has recently estimated that the population of NSW in 1999 was comprised of 6,411,700 people made up of 4,041,400 people living in Sydney and 2,370,300 people living in the rest of the state³⁰.

²⁹ 8146.0 Household Use of Information Technology, 10/09/2003

³⁰ Australian Bureau of Statistics, Year Book Australia, Ref 1301.0 2003

The ABS projected that the 6,411,700 total will increase to between 7,480,600 (+16.7%) and 7,839,200 (+22.3%) by 2021 and to between 7,910,700 (+23.4%) and 9,001,600 (+40.4%) by 2051 depending on certain assumptions made³¹.

The Australian Bureau of Statistics has also estimated that the proportion of the population 65 and over will increase significantly from 2.3 million (12% of total population) in 1998 to between 6 million and 6.3 million in 2051 (approximately 25% of the population).³²

There has been little research carried out on the significance of this changing age profile on the likely demand for gaming in NSW.

However, it seems likely that the demand for gaming is likely to accelerate significantly over the next few years as the 'baby boomers' reach the 51 to 65 age group (as people between 51 and 65 are generally regarded as having one of the highest gaming participation rates (followed by people 65 and older)).

The vast bulk of these people, of course, are not likely to be problem gamblers.

They are 'leisure rich' retirees or part-time workers and are likely to be prepared to spend a greater proportion of their leisure budget on entertainment compared to those younger than 51.

³¹ The ABS low figure assumes an annual net overseas migration gain of 70,000, generally small internal net migration gains and losses for states and territories and a total fertility rate falling to 1.6 births per woman in 2008-9 then remaining constant. The ABS high figure assumes an annual net overseas migration gain of 110,000, high internal net migration gains and losses for states and territories and a total fertility rate of 1.75 babies per woman by 2008-9 then remaining constant.

³² ABS Australian Demographic Statistics, 2002: Special Article, Australia's Older Population, Past present and Future (June 1999) Ref 3101.0

The ABS has also pointed out that the wealth of Australian households is estimated to have increased by 45% between 1994 and 2000.³³

4.7 “Three Basic Strategies”

Sydney University noted (in the 2001 report) that there are three basic harm minimisation strategies, noting that these were identified by G. Alan Marlatt in 1998³⁴:

- *“education of individuals or groups*
- *modifying the environment and*
- *implementing changes to public policy”*

Sydney University observed that Alan Marlatt conceived the useful analogy of driving a car. Marlatt noted that driving is a ‘high risk’ behaviour that can give rise to very considerable harm. However, most people acknowledge that the prohibition of driving is unrealistic.

The three analogous harm minimisation strategies that may be developed from the Marlatt model in respect of driving are:

- driver education and training in responsible behaviour
- environmental changes to reduce harm in both the car itself (e.g. seat belts and air bags) and the environment (improved roads)
- laws and policies designed to regulate driving (speed limits and fines)

³³ ABS1351.0. New Experimental Measures of Household Wealth – September 2002

³⁴ The University of Sydney Final Report: The Assessment of the Impact of the Reconfiguration on Electronic Gaming Machines as Harm Minimisation Strategies for Problem Gambling, November 2001, page 25.

AGMMA believes that this is a useful structure for evaluating “harm minimisation measures” and has used this structure in this submission.

4.8 Evaluating measures to determine whether they ‘work’

Responsible Gambling as applied by the NSW Government has dealt with all three of the strategies identified by Allan Marlatt.

AGMMA (as set out in Section 5 below) is generally supportive of the apparent underlying philosophies of the Government in relation to its ‘education’ strategy.

However, AGMMA believes that many of the measures seeking to ‘modify the environment’ have not been shown to have resulted in any impact on problem gambling or reducing harm.

AGMMA suggests that the ‘principle’ of responsible gambling requires the legislature and regulators to discard regulatory measures which do not work, that is to say, which do not reduce ‘harm’ in any appreciable manner.

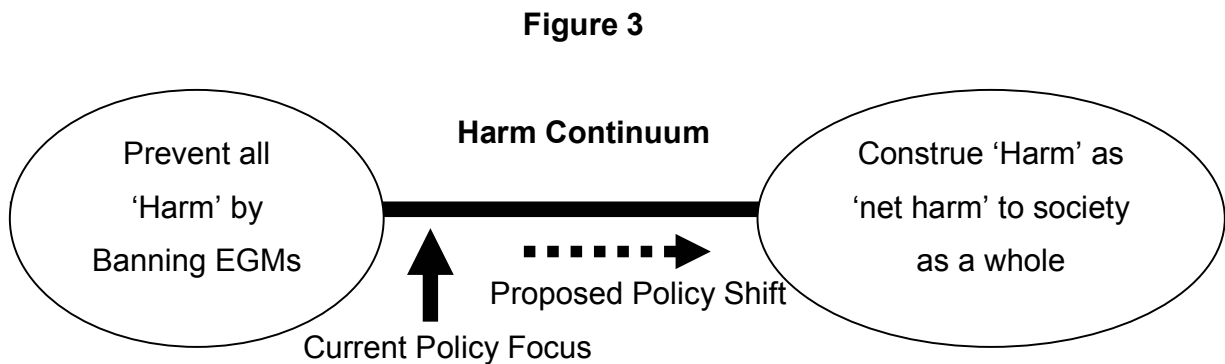
However, there is no mechanism for testing measures and evaluating their effectiveness, let alone discarding measures if they are not effective or cease to be effective. Virtually no legislative or regulatory ‘responsible gambling’ measures introduced in NSW over the last four years has been abandoned.

AGMMA members believe that this is an indication that the ‘principle’ of responsible gambling as applied in NSW to date has been a ‘one way ratchet’, namely any measures introduced simply have not been evaluated for effectiveness or otherwise.

AGMMA recommends that a formal and regular evaluation process is established to determine whether such measures have been effective and to withdraw them if they have not been effective.

4.9 Clarifying the legal concept of “harm minimisation”

If, as the Productivity Commission indicated, incremental changes to an industry are critical issues for policy determination purposes, virtually all of the ‘harm minimisation’ changes in recent years have impacted negatively on the industry as they have moved the focus point on the harm continuum to the left hand side:



The view expressed in this document is that it is now appropriate to consider moving the focus on the harm continuum to the right for a number of reasons (dealt with in greater detail in this document):

- The focus on environmental issues has been misconceived as there is no evidence that the measures will actually reduce problem gambling (although it is clear that they have made EGMs less attractive to recreational players).
- Harm should be construed – for policy implementation purposes – by reference to realistic achievable and measurable goals evaluated in an organized and frequent manner.

- Individual responsibility requires greater recognition (refer to Paragraph 4.3 above).
- A number of ‘harm reduction’ alternatives – focusing on the individual rather than EGMs and venues - are likely to achieve much more than existing policy measures.
- The concept of “harm minimisation” as a legal term is flawed. Consideration should be given to using the term “harm reduction” in its place and to define “harm” by reference to an appropriate series of tests.

Ideally, AGMMA suggests, the words ‘harm’ and ‘harm minimisation’ should be eliminated from the legislation and the regulations as

- (i) the words lack the precision required for statutory language and are confusing, vague and of little assistance to either regulators or to the industry;
- (ii) the words require a subjective assessment to be made as to psychological and medical issues which most people seeking to understand or apply the legislation and regulations are usually not qualified to make.

The terminology should, it is suggested, be replaced with ‘responsible gambling’ nomenclature which, although equally non-specific, removes the requirement that regulators *judge whether or not to approve a matter* based on that regulator’s subjective view of “harm” and what it takes to “minimise” it.

If the term 'harm' cannot, for whatever reason, be removed from the legislation, it is suggested that it should be utilised in reference to the term "harm reduction" rather than "harm minimisation" as the latter sets a standard which is virtually impossible to achieve.

If it is not, for whatever reason, possible to replace the term "harm minimisation" in the legislation, it is suggested that it should be defined by reference to a test which requires:

- (i) objective proof of harm, rather than subjective belief in the possibility harm, in relation to measures which are supposed to actually reduce problem gambling in this state and
- (ii) recognition of the element of personal responsibility in gaming as a recreational activity and
- (iii) an objective balancing test to be applied (a suggested test appears below) recognizing the recreational gambler and the contribution that gaming makes to employment, government revenue and associated matters.

Such a change could be achieved through an amendment to the Legislation in the form of a Section 5A as follows:

5A Meaning of “harm” and “gambling harm minimisation”

(1) For the purposes of this Act, the term “harm” shall be construed on the basis that harm shall only be found to be caused or found likely to be caused if:

(i) objective proof is available to demonstrate that a particular matter or thing will cause individuals to suffer damage to a greater extent than they would otherwise have done had that matter or thing not been permitted; and

(ii) the risk of harm was not foreseeable (in that it was a risk of which a person knew or ought to have known);

(iii) the risk was not insignificant and, in the circumstances, a reasonable person in the person’s position would have taken precautions to avoid the harm; and

(iv) on the basis that such damage is not offset by benefits derived by recreational players, the industry, the state and others (including, but not limited to, anticipated state revenue and and/or employment).

(2) For the purposes of this Act, the term “gambling harm minimisation” shall mean the reduction of harm as defined in Section 5A(1).

4.10 Proposed Victorian Legislative Language Preferable

An alternative option (in terms of adopting a different *base* for the purpose of clarifying the concepts of “harm” and “minimisation” in the manner proposed in paragraph 4.9 above) would be to replace the *base language* of Section 3 of the NSW legislation with the language used in the corresponding proposed provision in the new Victorian Gambling Regulation Bill (released on 6 November 2003 and scheduled for debate on 20 November 2003).

The corresponding new Victorian provision reads as follows:

CHAPTER 1—PRELIMINARY

1.1 Purpose, objectives and outline

(1) *The main purpose of this Act is to re-enact and consolidate the law relating to various forms of gambling and to establish a Victorian Commission for Gambling Regulation.*

(2) *The main objectives of this Act are—*

(a) *to foster responsible gambling in order to—*

(i) minimise harm caused by problem gambling; and

(ii) accommodate those who gamble without harming themselves or others;

AGMMA notes that an additional “main objective” reflecting the economic significance to Victoria of the gaming industry has been incorporated as follows:

(f) to promote tourism, employment and economic development generally in the State.

AGMMA submits that the language of the proposed Victorian legislation is preferable to the “harm minimisation” language used in the current NSW legislation.

AGMMA notes that the Victorian provision recognises the need to have regard to the recreational player and the economic significance of the gaming industry in a similar manner to that proposed in paragraph 4.9 above.

However, AGMMA believes that the proposed Victorian legislation should also be amended by reference to the concepts of objective proof, personal responsibility and a balance of social objectives for the purpose of interpreting the concept of ‘harm’ (in respect of which no guidance is provided in the Victorian legislation).

AGMMA respectfully requests IPART to give consideration to recommending clarification of the legislative language to the Minister with reference to the recommendations of AGMMA as set out above.

5 Educational Harm Minimisation Measures

5.1 Introduction

As indicated earlier³⁵, Marlatt has suggested that harm minimisation strategies may be divided into three different categories:

- (a) education of individuals or groups
- (b) modifying the environment and
- (c) implementing changes to public policy

AGMMA has been a long term supporter of providing better information to players (as detailed below) and believes that much more can and should be done in NSW to educate players.

5.2 The Productivity Commission

The seventh and tenth bullet points under “information for gamblers’ in the IPART table of ‘harm minimisation measures’ (appearing on page 6 of the IPART September 2003 “Issues Paper”) are:

- (a) “compulsory display of payout ratios and probability of winning specific prizes”.
- (b) information for individual players on their gambling session

In 1999, the Productivity Commission indicated that it favoured “in principle, the availability of better information about the price of playing poker machines including a simple system of informing consumers about the loss rates on

³⁵ Section 4.7 above

machines and an indication of the likelihood of key payouts on the payout tables displayed on the machines³⁶.

These comments were made in relation to a proposal by AGMMA that players should be better informed through provision of “Chances of Winning” data to players³⁷.

The Productivity Commission also noted that *“gamblers of all kinds appear systematically to underestimate their losses and overestimate their wins”*³⁸, suggesting that it was important to provide players with information about how much has been spent.

5.3 Player information displays (PIDs)

AGMMA’s recommended format for such player disclosure to the Productivity Commission³⁹ in 1999 was adopted by the Liquor Administration Board in the “First Determination”⁴⁰ (which sets out the detail of proposed disclosures).

The PID proposal in the “First Determination” was subsequently supported, with some qualifications, by the NSW Gaming Industry Operators Group (GIO) in its May 2001 response to the Liquor Administration Board⁴¹.

In summary, the “First Determination” PID concept involves:

³⁶ Productivity Commission Report, Volume 2, page 16.21

³⁷ Productivity Commission Report, Volume 2, page 16.20 (Box 16.4)

³⁸ Productivity Commission Report, Volume 2, page 16.25

³⁹ Productivity Commission Report, Volume 2, 16.14, Box 16.3 on page 16.20

⁴⁰ Review of the Liquor Administration Board’s Technical Standards for Gaming Machines and Subsidiary Equipment in NSW, April 2001, page 27.

⁴¹ NSW Gaming Industry Operators Response to LAB dated 2nd May, 2001

- (c) disclosure to the player – via a second screen (AGMMA would be pleased to organize a demonstration for IPART members) of the total theoretical percentage return to player for the game including any progressive features, the dollar value and probability of winning the top five prizes and the lowest five prizes;
- (d) “pull through” messages advising of the availability of the information;
- (e) making understandable session information available to the player.

The principal qualifications to the NSW Gaming Industry Operators’ endorsement of the Liquor Administration Board’s Player Information Display (“PID”) proposal were:

1. Session information should not be displayed until all linked jackpot controllers transfer the entire amount of any jackpot win (not just amounts under \$3,000⁴², the present limit) to the credit meter via the CCCE port.

This was because until this occurs, players who win more than \$3,000 on a linked jackpot will see incorrect PID data.

AGMMA believes that the \$3,000 limit on transfer of jackpots to the credit meter should be abolished (to permit session information to be displayed without the risk of players being given incorrect PID information).

2. Session Information should appear in the PID (rather than in the random “pull through” message, as proposed by the Liquor Administration Board).

The concern was (and remains) that calling up sensitive private financial data should be the choice of the player rather than a random event.

⁴² At the time of the submission, this limit was \$200 but it has since been increased to \$3,000.

For details of a player's winnings to flash onto a screen at random intervals (a) gives rise to privacy issues (b) presents the information to players when they are not prepared to study and absorb it, (c) presents the information in a negative manner rather than a helpful manner and (d) gives rise to security issues.

3. Pull Through messages should be limited to one every half hour (to avoid players becoming inured to the messages and to minimise disruption to recreational players).
4. Players should be able to reset the PID to zero voluntarily. PIDs should disappear after 5 seconds when there are no credits on the credit meter.

AGMMA supports each of these suggestions.

Since the GIO submission was made to the Liquor Administration Board, the Victorian Government has introduced PIDs in a slightly different format.

The Victorian methodology is different to that proposed by the Liquor Administration Board and arguably represents a significant improvement of the NSW proposal.

The improvements include:

1. The way in which the information is called up by the player;
2. The information displayed – more information is provided than was envisaged by the Liquor Administration Board. For example the 'hit rate' is now disclosed.

The four Victorian screen concepts (see Annexure "A") are simple and intuitive.

AGMMA believes that there is no reason why the Victorian model should not be adopted in New South Wales and suggests that IPART should give consideration to recommending the prompt adoption of the Victorian model for the following reasons:

- (a) the Victorian model has now been thoroughly tested by all manufacturers and the technology is available immediately.
- (b) it would reduce the costs to venues and the playing public to adopt existing technology rather than to invent new technology to achieve the same goal.
- (c) Victorian players play in NSW and vice versa (particularly in border areas). It would be helpful to those players if the same information was presented in the same manner.
- (d) there is no reason to deprive NSW players of this important information.

It is noted that AGMMA recommended to the National Standards Working Party early in 2003 that PID displays should be standardised across all jurisdictions in Australia and New Zealand based on the Victorian model.

The Chief Executive Officers of Australian gaming jurisdictions' regulatory authorities collectively elected that PIDs should be considered by each individual jurisdiction.

This was disappointing for AGMMA members because, as noted above, AGMMA perceives no good reason why players should be deprived of this important information.

IPART is requested to endorse the introduction of the Victorian model of Player Information Display in NSW on the basis of a similar timetable to that which was required in Victoria⁴³.

5.4 Why is PID information important?

PID information is important to provide to players, firstly, because of the 'erroneous beliefs' possibly held by many players⁴⁴:

"A wide range of erroneous beliefs among gamblers have been documented, and these are usually understood in the context of attribution theory. "Illusion of control" (Langer, 1975) refers to the belief that the outcomes of random events can be influenced by the actions of the gambler. Illusion of control varies from the over-estimation of skill in games which allow some skill in decision making to the use of superstitious practices to influence randomly based events.

'Biased evaluation of outcomes' refers to a self-serving bias in which successful bets are attributed to personal aspects of the gamblers such as skill and luck and unsuccessful bets are attributed to factors outside the gamblers' control.

By this means, gamblers can maintain the belief that their gambling methods are effective despite continuing loss of money." (that is, entertainment expenditure in the form of machine gaming).

Secondly, players often do not understand randomization⁴⁵:

⁴³ Gaming Machine Control (Responsible Gambling Information) Regulations 2002 (Victoria), Clause 12(2)(b): 5 years - see <http://www.dms.dpc.vic.gov.au/>.

⁴⁴ "Psychological Aspects of Gambling Behaviour", An APS Position Paper prepared by a Working Group of Social Issues comprising Associate Professor Alex Blaszczynski (Convenor), Dr. Michael Walker, Ms Anastasia Sagris and Associate Professor Mark Dickerson, Australian Psychological Society Limited, September, 1997, page 17

“Many individuals have faulty conceptions of randomization. In a random sequence of events, each event is independent of all other events. However, individuals behave as if random events are constrained and have an internal logic.

Thus, when asked to generate a random sequence of Heads and Tails in coin tossing experiments, subjects avoid long sequences of one repeated result and typically ensure that there is an equal number of heads and tails overall.

The belief that sequences of events of the one kind affect the likelihood of alternative events is known as the gambler’s fallacy.

According to Ladouceur (1996), inadequate conceptualization of randomisation is the core cognitive feature associated with gambling behaviour.”

The PIDs – particularly the *Electronic Game Information* screen – provide players with the key working parameters of the EGM – the return to player and the hit rate as well as the chances of winning the top 5 and the bottom 5 prizes.

This information should permit players both to compare the characteristics of different machines more effectively than they can presently do in NSW and reach a greater understanding of the randomisation process (thereby reducing the possibility of erroneous beliefs).

⁴⁵ “Psychological Aspects of Gambling Behaviour”, An APS Position Paper prepared by a Working Group of Social Issues comprising Associate Professor Alex Blaszczynski (Convenor), Dr. Michael Walker, Ms Anastasia Sagris and Associate Professor Mark Dickerson, Australian Psychological Society Limited, September, 1997, page 17

Thirdly, because some problem gamblers – and it is not known how many - apparently ‘live in denial’.

The proposed session information can only assist them (and their treatment providers) to overcome this.

As noted earlier, the Productivity Commission noted that “*gamblers of all kinds appear systematically to underestimate their losses and overestimate their wins*”⁴⁶, suggesting that it was important to provide players with information about how much has been spent.

Fourthly, because AGMMA believes that PIDs offer significant potential for treatment and intervention programs based on the success of harm reduction programs in other fields for the following reasons:

- (a) Alan Marlatt has noted that many drug users “...are capable of making positive changes on their own, including giving drugs up altogether, without the assistance of formal treatment, despite the “myth” held by many critics of harm reduction that addicts are incapable of changing their behaviour without coerced treatment”⁴⁷: is it not likely that this may also be true for some problem gamblers?
- (b) PIDs can provide problem gamblers with the opportunity to take ‘small steps’ towards managing their behaviour through the use of session information: the importance of intermediate goals in harm reduction is referred to by Marlatt⁴⁸; a gradual “step down” approach is considered to

⁴⁶ Productivity Commission Report, Volume 2, page 16.25

⁴⁷ G. Alan Marlatt, Harm Reduction – Pragmatic Strategies for Managing High Risk Behaviours, Guilford Press, 1998, page 14.

⁴⁸ G. Alan Marlatt, Harm Reduction – Pragmatic Strategies for Managing High Risk Behaviours, Guilford Press, 1998, page 39.

- encourage individuals with excessive or high risk behaviours to take it one step at a time to reduce the harmful consequences of their behaviour.
- (c) use of session information highlights the undeniable negative effects of addictive behaviour and precludes denial of such consequences;
 - (d) encouraging use of PID session information may promote “low threshold” access to treatment rather than “high threshold” treatment (demanding abstinence)⁴⁹.

5.5 Display of monetary value of credits, bets and wins

The ninth bullet point under “information for gamblers’ in the IPART table of ‘harm minimisation measures’ (appearing on page 6 of the IPART September 2003 “Issues Paper”) is “display of monetary value of credits, bets and prizes”.

This matter has already been implemented in NSW and is dealt with in the Technical Standards, otherwise known as Australian/New Zealand Gaming Machine National Standard Revision 6.01, which prescribes that:

Game Screen Meters

3.8.2a Meters concerning player entitlements (including Credit, Bet and Win meters) displayed on the game-screen must be displayed simultaneously in both dollars and cents and credits in a format which is clearly visible to the player and easily distinguished.

A display which alternates between dollars and cents and credits will be acceptable provided that both values are clearly visible and easily distinguished. Such a display is not to alternate during a play nor during the incrementation of the Win meter or Credit meter following a win.

For a multi-game gaming machine providing games with different credit values (e.g. 1c, 2c),

⁴⁹ G. Alan Marlatt, Harm Reduction – Pragmatic Strategies for Managing High Risk Behaviours, Guilford Press, 1998, page 55.

Multi-Game Select Mode is only required to display the Credit meter in \$ and c.”

Credit Meter Display

3.8.3 The player's credit meter must always be prominently displayed in all modes except audit, configuration and test modes.

During game play in second screen bonus features the player's credit meter amount does not need to be displayed- provided the player is not required to bet additional credits during the feature.

3.8.4 Values displayed to the player (e.g. wins and credits) may be incremented or decremented to the value of the actual meter for visual effect. However, the internal storage of these meters must be immediately updated (not incremented or decremented).

5.6 Harm reduction and educating players

The importance of education has been stressed by Allan Marlatt who has expressed the view that education is the key in harm reduction⁵⁰.

AGMMA members have provided gaming machine experts to educate counsellors and treatment providers on request. AGMMA believes that counselors are unlikely to be able to assist problem gamblers and potential problem gamblers in the optimal manner without a basic understanding of probability and the way in which gaming machines operate.

It was for this reason that AGMMA produced the AGMMA Player Information Booklet in June 2000 (available from the AGMMA website (AGMMA.com) and accredited under Clause 22(2) of the Gaming Machines Regulation 2002.

⁵⁰ G. Alan Marlatt, Harm Reduction – Pragmatic Strategies for Managing High Risk Behaviours, Guilford Press, 1998, page 59.

AGMMA believes that greater focus is required on education and AGMMA members will continue to provide staff on request to help educate treatment providers in this respect.

5.7 Periodic information messages

The fourth bullet point under “circuit breakers” in the IPART table of ‘harm minimisation measures’ (appearing on page 6 of the IPART September 2003 “Issues Paper”) is “periodic information messages to gamblers using gaming machines”.

This messaging is characterized as a ‘circuit breaker’ (rather than the provision of information to players) presumably because it was proposed by the LAB in the “First Determination”⁵¹ on the following basis:

“that whenever a player has a win of \$100 or more, that there be an enforced break in play created by the prevention of the machine being played and the display of a message on the screen inviting the player to cash out by taking the action of pressing the button or using a touch screen”.

This measure is not supported by AGMMA nor was it supported by the NSW Gaming Industry Operators group (“GIO”).

On 9 June 2000, the GIO recommended⁵² to the Liquor Administration Board that consideration be given to introducing a requirement mandating, in relation to new machines:

⁵¹ Review of the Liquor Administration Board’s Technical Standards for Gaming Machines and Subsidiary Equipment in NSW, April 2001, page 2.

⁵² GIO Submission dated 9 June 2000, p. 24

- (i) a 'pull through' message that runs across the screen of each machine every 30 minutes;
- (ii) a 'pull through' harm minimization message that runs across the screen of each machine when in excess of \$100 is inserted;
- (iii) a "pull through" harm minimization message each time the proposed new \$500 (hotels and clubs) or \$1,000 (Star City) 'cash input limit' is reached.

These messages were suggested as a preferable alternative to a proposal ("Proposal 4") by the LAB that players be interrupted – at random intervals – with an 'enforced break in play', namely a message asking them whether they would like to continue playing or not.

AGMMA believes that such an 'enforced break in play' would (without achieving any material advance in terms of reducing problem gambling) destroy a very significant part of the enjoyment derived by recreational players from playing gaming machines and that this would result in many recreational players ceasing to play.

AGMMA is, of course, aware of suggestions that 'enforced breaks in play' would assist problem gamblers.

AGMMA believes, firstly, that no such benefit has been proved and secondly, that the degree of destruction of entertainment value associated with breaks in play (and the associated impact on revenue, employment and state revenue) simply does not justify any benefit that might be so derived.

That destruction of entertainment value involved in 'breaks in play' is best compared with interrupting a movie with an 'enforced break in watching'; movie goers' entertainment would be ruined.

In addition to the destruction of entertainment value, breaks in play give rise to 'player fairness' issues.

The GIO pointed out to the LAB that the proposed interruptions "would disadvantage certain players particularly those playing mysteries or jackpot linked machines and endeavouring to win a particular jackpot."⁵³ That is, players whose activity is intended to incorporate eligibility for jackpots.

The LAB disagreed with the GIO in relation to the need for an 'enforced break in play' when responding to the GIO with a 'Provisional Determination' on 17 November 2000.

However, the LAB agreed that the proposed messaging should "not disadvantage a player from participating in mystery or other jackpots or losing other playing benefits of machines"⁵⁴.

Unfortunately, any 'enforced break in play' will have this impact in a NSW 'X' Series environment.

On 15 December 2000, the GIO responded to the LAB's "Provisional Determination".

The GIO stated:

"The industry group has been advised, by the manufacturers, that it is simply not possible to avoid such a disadvantage if the original system of "enforced breaks" is pursued...(it) is suggested that it is inappropriate to

⁵³ GIO Submission dated 9 June 2000, p. 24

⁵⁴ LAB Provisional Determination, 17 November 2000, page 12

*interfere with the essence of the entertainment experience unless it is absolutely critical to do so to protect the problem gambler. The Board is accordingly requested to reconsider the concept of an “enforced break” and the “chances of winning/losing” message concept in favour of the “pull through” messages recommended by the industry group.”*⁵⁵

Messaging of the nature proposed by the GIO was ‘mocked up’ by a major gaming machine manufacturer and demonstrated to the then Minister for Gaming and Racing, the Chairperson of the Liquor Administration Board and a number of senior officers of the Department of Gaming and Racing.

The ‘mock up’ messages comprised a ‘translucent’ box that scrolled across an unused area of the screen over a period of approximately 3-4 seconds every half hour.

Such a message did not interrupt the game or distort the screen. The message did not obscure any meters or player information. The messaging did not comprise any sort of ‘enforced break in play’ although it passed a very clear and “in your face” warning on to all players.

Players could see through the translucent message to the ongoing game. At the time that such messages were under discussion, the ‘harm minimisation’ messages that were contemplated were those set out in the current legislation/regulations⁵⁶ namely:

***DON'T LET GAMBLING TAKE CONTROL OF YOUR LIFE
GAMBLING CAN BECOME ADDICTIVE
EXCESSIVE GAMBLING CAN RUIN LIVES
EXCESSIVE GAMBLING CAN DESTROY FAMILIES AND FRIENDSHIPS***

⁵⁵ GIO Submission to the LAB dated 15 December 2000, page 34

⁵⁶ Registered Clubs Amendment (Responsible Gambling) Regulation 2000, Clause 30L(5)

*EXCESSIVE GAMBLING CAN LEAD TO THE LOSS OF YOUR HOME
AND OTHER ASSETS
EXCESSIVE GAMBLING CAN AFFECT YOUR HEALTH*

These short messages (used in the mock up) could be read easily – even by slow readers or by people for whom English is a second language – within the 3 to 4 seconds allowed for the message to pass across the screen.

Significantly, such messaging was considered by the GIO not to significantly impact on the enjoyment of the game by recreational players (who comprise the vast majority of players⁵⁷).

The proposed messaging did provide very visible ‘responsible gaming’ information to all players in a unique manner.

That manner involved presenting the messages:

- (a) every 30 minutes of continuous play and
- (b) when in excess of \$100 was inserted by the player and
- (c) when the proposed new cash input limit (\$500 for hotels and clubs and \$1,000 for Star City) was reached.

AGMMA believes that this proposal represents an appropriate responsible industry response to problem gambling issues, but considers that such messages should be properly researched for efficacy and regularly reconsidered by a cross-industry forum.

In April, 2001, the LAB released its “First Determination” and, in relation to messaging, stated:

⁵⁷ The Productivity Commission estimated that 2.1% of Australia’s adult population either had moderate problems with gambling (which may not require treatment) or had severe problems with gambling.

“The Board agrees with the submission that the prescribed messages should be required to scroll across the screen at least once during every 30 minutes of continuous use and that the content of those messages should be consistent with all other harm minimisation messages.

The Board agrees that meters, fault information, status information or the reel area should not be obscured by the messages required by this proposal and shall require the scrolling of the messages to occur in an otherwise unused area of the screen.”⁵⁸

However, the LAB did not change its view in relation to enforced breaks in play:

“...the Board does not accept the submission that an enforced break in play should not be supported.”⁵⁹

AGMMA is very concerned that the concept of an ‘enforced break in play’ has not been evaluated by authoritative independent research to establish either (a) the impact it would have on recreational players or (b) whether it would in fact reduce problem gambling.

AGMMA believes that enforced breaks in play would virtually destroy the entertainment experience associated with gaming with the result that gaming entertainment and hence, revenue, could diminish dramatically.

The reason for this is the degree of destruction of the entertainment experience associated with the break in play.

If the messaging under consideration is designed both to interrupt game play and to emotionally provoke the player, the degree of destruction of the entertainment experience would, in AGMMA’s view, result in significant numbers of recreational players simply abandoning gaming as an entertainment experience.

⁵⁸ LAB First Determination, Page 37

⁵⁹ LAB First Determination, Page 36

An emotional message (e.g. does your family know where you are?") would, it is believed, have an even greater negative impact on recreational players (but very limited, if any, impact on problem gamblers).

Why does AGMMA believe this is so?

Players enjoy gaming in much the same way as a movie.

They enjoy the entertainment experience.

An interruption, through display of messaging which destroys that enjoyment, is likely, in AGMMA's view, to virtually destroy gaming as a competitive entertainment experience (except, possibly, for problem gamblers who are considered likely to be impacted to a far lesser degree).

Consider the impact of a mandatory statutory random message interrupting all movies every thirty minutes "*should you be in here or out exercising?*" and requiring the moviegoer to press a button *to permit the movie to continue*.

The damage that would be occasioned to the cinema industry would be significant. Precisely the same impact would occur in the gaming industry.

A fall in gaming revenue of the magnitude projected by AGMMA would have a catastrophic impact on gaming venues in NSW, would produce widespread unemployment in the hospitality and gaming supply industries and would have a very significant impact on NSW Government revenues.

The GIO has estimated that the NSW gaming industry (which comprised 1,388 registered clubs, 1,828 hotels as of 30 June 2002⁶⁰, Star City and the TAB) directly employ over 193,500 staff in NSW⁶¹.

AGMMA estimates that a significant reduction in revenue is likely to result in at least a corresponding proportion of direct job losses produced both by venue closures and cost cutting and a similar impact in terms of indirect job losses.

The NSW Government collected \$733 million from Club Gaming devices and Hotel gaming devices in 2001-2002 and a further \$80 million from Star City (at least half of which was derived from gaming machines), plus GST and other taxes. Corresponding percentage falls in state revenue are anticipated if such a measure was adopted.

AGMMA is aware that some research has been carried out that suggests that a message interrupting play has had a positive impact on some players⁶² in terms of reducing the extent to which they reported losing track of time and money and the extent to which they reported playing beyond desired time limits.

However, that Canadian research⁶³ into very specific messaging (termed 'pop-up' messages, which 'popped up' at a 60 minute, 90 minute and 120 minute duration) also indicated that:

⁶⁰ DGR Annual Report 2001-2002

⁶¹ 120,000 in clubs, 67,000 in Hotels, 3,500 in Star City and 3,000 at TAB – GIO Submission dated 9 June 2000, p. 5

⁶² Tony Schellinck and Tracy Schrans, Atlantic Lottery Corporation, Video Lottery Responsible Gaming Feature Research, October 2002

⁶³ Tony Schellinck and Tracy Schrans, Atlantic Lottery Corporation, Video Lottery Responsible Gaming Feature Research, October 2002

- "...higher risk players, especially Problem Gamblers, are least likely to expect to derive any benefit from the message (~10% to 18% versus 23% to 43% of lower risk players)"⁶⁴;
- only 25% of players "feel that any of the pop-up reminders will have a positive effect in terms of keeping track of time or money while playing."⁶⁵;
- "For both liking and perceived effectiveness, Non-Adopters, who have less experience with the new terminals, consistently evaluated the pop-up messages more positively than Adopters suggesting that there may be more theoretical than practical value in the features"⁶⁶ (emphasis added);
- messaging after the first 60 minute message did not preferentially target "those at higher risk"⁶⁷;
- the 60 minute message had a "slight but significant"⁶⁸ effect in reducing high risk players' expenditure but exposure to the next message (the 90 minute message) "had no impact on expenditures for high risk players but

⁶⁴ Tony Schellinck and Tracy Schrans, Atlantic Lottery Corporation, Video Lottery Responsible Gaming Feature Research, October 2002, Conclusions and Recommendations, page 5-22

⁶⁵ Tony Schellinck and Tracy Schrans, Atlantic Lottery Corporation, Video Lottery Responsible Gaming Feature Research, October 2002, Conclusions and Recommendations, page 5-22, Conclusions and Recommendations, page 5-22

⁶⁶ Tony Schellinck and Tracy Schrans, Atlantic Lottery Corporation, Video Lottery Responsible Gaming Feature Research, October 2002, Conclusions and Recommendations, page 5-22, Conclusions and Recommendations, page 5-21

⁶⁷ Tony Schellinck and Tracy Schrans, Atlantic Lottery Corporation, Video Lottery Responsible Gaming Feature Research, October 2002, Conclusions and Recommendations, page 5-22, Conclusions and Recommendations, page 5-22

⁶⁸ Tony Schellinck and Tracy Schrans, Atlantic Lottery Corporation, Video Lottery Responsible Gaming Feature Research, October 2002, Conclusions and Recommendations, page 5-22, Conclusions and Recommendations, page 5-23

was significantly associated with increased expenditures among the low risk players.”⁶⁹ (emphasis added);

- the 120 minute message “had no impact on expenditures for high risk players but exposure was significantly associated with increased expenditures for low risk players.”⁷⁰

The reported ‘implications’ of the study included a statement that:

“Not only are the later messages (90 minute, 120 minute and 5 minute cash out warning at 145 minutes) unlikely to preferentially target the high risk players during a particular session of play, but it also appears that exposure to those messages are associated with increases in time and money spent among low risk players.”⁷¹

The Report recommended that a 60 minute pop up message should be retained because “although the effect on player behaviours was not strong, the findings indicate that, for at least some players, exposure to the 60 minute reminder had a significant impact for reducing session length in general and expenditure by

⁶⁹ Tony Schellinck and Tracy Schrans, Atlantic Lottery Corporation, Video Lottery Responsible Gaming Feature Research, October 2002, Conclusions and Recommendations, page 5-22, Conclusions and Recommendations, page 5-24

⁷⁰ Tony Schellinck and Tracy Schrans, Atlantic Lottery Corporation, Video Lottery Responsible Gaming Feature Research, October 2002, Conclusions and Recommendations, page 5-22, Conclusions and Recommendations, page 5-22

⁷¹ Tony Schellinck and Tracy Schrans, Atlantic Lottery Corporation, Video Lottery Responsible Gaming Feature Research, October 2002, Conclusions and Recommendations, page 5-22, Conclusions and Recommendations, page 5-25

higher risk players specifically”⁷² and because “at a per session level, only the 60 minute message preferentially targeted higher risk players”⁷³.

Although the research did not deal specifically with thirty minute messages (it was suggested that 30 minute messages be considered in further research), AGMMA believes that the clear implications of the study are that the degree to which problem gamblers are likely to be assisted by such messages is questionable.

Given:

- (a) that no worthwhile benefit – in terms of reducing problem gambling - can be demonstrated to be likely to be achieved by the measure,
- (b) the very extensive likely damage that would be occasioned by such a measure to the gaming experience for recreational players and
- (c) the likely revenue, employment and other negative consequences of such a measure,

AGMMA submits that such a ‘circuit breaker’ proposal should be questioned and strongly reconsidered.

AGMMA accordingly recommends that, at the very least, specific research into the benefits likely to be achieved by proposed messaging interrupting play is required before any such ‘circuit breaker’ messaging requirements are introduced.

⁷² Tony Schellinck and Tracy Schrans, Atlantic Lottery Corporation, Video Lottery Responsible Gaming Feature Research, October 2002, Conclusions and Recommendations, page 5-22, Conclusions and Recommendations, page 5-26

⁷³ Tony Schellinck and Tracy Schrans, Atlantic Lottery Corporation, Video Lottery Responsible Gaming Feature Research, October 2002, Conclusions and Recommendations, page 5-22, Conclusions and Recommendations, page 5-26

Finally, AGMMA notes that the Player Information Display concept involves *encouraging* players to take a voluntary break in play.

Encouraging such voluntary breaks is fully supported by AGMMA.

AGMMA notes that Robert Ladouceur and Serge Sevigny of Laval University recently suggested that “*certain types of messages or breaks transmitted by the machine could eventually help the player to correctly interpret the events that occur during the gambling session and prevent the development of erroneous thoughts responsible for maintaining gambling habits*”⁷⁴.

Although the authors were not referring to PIDs, it seems to AGMMA that appropriate *non-interruptive* messages directing players to PIDs provide players with an opportunity to review session information and are consistent with the principle of individual responsibility set out in paragraph 3.3 above.

5.8 Practice in other jurisdictions

AGMMA notes that NSW has exceeded the practice followed in many other gaming jurisdictions (with the exception of Victoria and Victorian PIDs) in relation to educating players and believes that this should be considered by IPART.

The NSW player information material is considered to be more extensive and comprehensive than that found in many other jurisdictions. Signage – particularly warning signs – is certainly more extensive in NSW venues than elsewhere.

⁷⁴ Robert Ladouceur and Serge Sevigny, “Interactive Messages on Video Lottery Terminals and Persistence in Gambling”, Laval University.

6 Modifying the Environment

6.1 Expenditure on gaming vs. losing

AGMMA notes that the IPART Issues Paper adopts, at one point, the terminology popularized by tabloid journalism regarding gaming expenditure: “while gamblers collectively lose money”⁷⁵. AGMMA notes that when consumers spend money on virtually any other leisure activity, it is characterized as ‘spending’ money rather than ‘losing’ it.

The expenditure per hour on poker machines in NSW – estimated at between \$6.35 and \$10.35 per hour by the GIO in 2000 – indicates the value for money entertainment offered by poker machines in NSW when compared with virtually any other form of entertainment.

6.2 Lower limit on maximum bets

The fifth bullet point under “liquidity controls’ in the IPART table of ‘harm minimisation measures’ (appearing on page 6 of the IPART September 2003 “Issues Paper”) is “lower limit on maximum bets on gaming machines”.

AGMMA notes that the Liquor Administration Board, in its “First Determination”, deferred consideration on the question of whether “the maximum bet for stand alone machines be reduced from \$10 to \$1.00 in NSW⁷⁶ pending completion of research.

⁷⁵ IPART Review into Gambling Harm Minimisation Measures Issues Paper page 2

⁷⁶ LAB First Determination, Page 3.

The maximum bet on a poker machine was set at \$10 *over fourteen years ago* – in January 1989.

According to the Australian Bureau of Statistics, the CPI Index Number (All Groups (Weighted Average of Eight Capital Cities on 31 March, 1989) was 92.9.

This figure has increased to 141.3 as of March 31, 2003, an increase of 52.1%⁷⁷.

In other words, the equivalent sum to \$10 in January 1989 is now \$15.21 so the real value of a maximum bet \$10 has depreciated by 34.25% over that 14 year period.

When one considers that the minimum bet that may be placed by punters using TAB's PhoneTAB Express service – which accepts nearly 35% of TAB's phone bets – is \$10, the inadequacy of a maximum bet on poker machines of \$10 becomes only too apparent.

Lotto advertises (on its website) entries costing up to \$9,381!

Indeed, the minimum bet on many wagering products has increased to \$5.00 in recent years – for example, the minimum bet on three of the five fixed odds bet types offered by TAB is \$5.00.

By way of comparison with developments in competing gambling products in NSW over the 14-year period involved, AGMMA also notes that:

- in 1986, when the maximum amount that could be won on a poker machine in NSW was set at \$10,000, the last Opera House Lottery was

⁷⁷ ABS Release 6401.0 Consumer Price Index, EMBARGO: 11:30 AM (CANBERRA TIME) 23/04/2003

- drawn and a new \$500,000 lottery at \$5.00 a ticket and a new \$1M lottery at \$10.00 a ticket was introduced by State Lotteries;
- on 22nd October 1979, Lotto was launched in NSW; Division 1 was \$384,975;⁷⁸
 - since then, the Pools were introduced (in 1989), OZ Lotto was introduced (in 1994), Lotto Strike was launched (in 1995), Powerball was launched (in 1996), Lucky 7 replaced the million dollar lottery (in 1996) and Saturday Lotto was launched (in 2000);
 - Lotto currently offers a 'guaranteed' first division prize pool of \$1m on Monday nights; the 'standard' autopick entry offered by newsagents costs \$9.60 while a 'Systems 8' entry costs \$14.60;
 - OZ Lotto offers players (on the State lotteries website) a '14 game' standard autopick entry for 'only' \$14.80 and an 18 game 'megapick' entry for \$19.00;
 - The Lotto Website currently features a Systems 18 entry which costs \$4,740 for one draw and \$9,381 for both draws;
 - The '18 game standard autopick entry' offered by Powerball (which offers a 'guaranteed' \$2M First Division Prize pool each week) costs \$9.55 while a 24 game 'megapick' entry costs 'just' \$12.70. The website also offers the following advice: *"there is also an option where you can cover every possible Powerball Number – "POWER 45". For example, selecting five numbers and all Powerball numbers costs \$23.50"*; Powerball is described as *"the big jackpotting game and the first division prize has jackpotted to \$15, \$20 and even a massive \$30 million"*.

There is, of course, no maximum bet imposed in relation to wagering nor is there a maximum bet imposed in relation to any lottery bet.

One can place as many bets or buy as many tickets as one wishes – a considerably faster betting transaction than a bet at a gaming machine.

⁷⁸ <http://www.nswlotteries.com.au/history.html>

The National Competition Policy Agreements signed by State and Federal Governments in 1995 require NSW to apply competitive neutrality principles to all significant Government-owned businesses and it is accordingly appropriate for the NSW Government to ensure that restrictions placed on the gaming industry do not become so restrictive that they prevent the industry from effectively competing with NSW State Lotteries.

This consideration alone would suggest that reducing the maximum bet from \$10.00 requires careful consideration.

A maximum bet is rarely imposed on players who choose to bet on internet gambling. It is becoming increasingly important for NSW gaming venues to compete effectively with the internet and such a restriction (i.e. the maximum bet of \$10) does not assist at all in this respect.

Internet gambling remains a major leakage in terms of gaming revenue and state gaming taxes. It is suggested that any action the Government can take to permit NSW gaming venues to compete effectively with Internet gambling effectively involves protecting state revenues – both direct (in the form of state gaming taxes) and indirect (in the form of revenue flowing to gaming venues and the associated local economic, social and recreational benefits).

On the basis of inflation and comparison with lotteries and wagering alone, it is difficult to see how a reduction in the \$10 maximum bet could be justified.

In addition, this measure was one of the measures tested and rejected by Sydney University during the extensive Sydney University Research carried out in 2001.

Sydney University concluded, following such research, that the proposed reduction of maximum bet from \$10.00 to \$1.00 “potentially might, for a small

number of players, reduce both the development and the severity of gambling problems”, subject to:

- the significant qualification that it is not clear whether players would compensate by playing longer (which could give rise to ‘indirect’ negative consequences referred to above in connection with slowing reel spin) and
- further research,

so this measure ‘may’ prove to be an effective harm minimisation strategy for a proportion of players (7.5% of the 20% in the total sample who were found to be problem gamblers⁷⁹ in terms of SOGS scores of 5 and above).

Using the Productivity Commission figure of 1.0% of Australian adults being problem gamblers with severe problems and 1.1% being susceptible to moderate problems⁸⁰, the Sydney University Research suggests that it is possible that the reduction of maximum bet to \$1.00 ‘may’ help 0.16 of one percent of the adult population.

AGMMA opposes the introduction of such a lower limit on maximum bets in the strongest possible terms for the following eleven reasons:

1. **Formal Evaluation Required**

In its submission to the LAB of 8th June, 2001, the GIO outlined the changes that have occurred in the NSW Gaming Industry to address ‘harm minimisation’.

The GIO suggested that:

⁷⁹ Sydney University Report, p. 10.

⁸⁰ Productivity Commission Report, Volume 1, at page 6.45.

“no changes other than those set out in the First Determination (modified as requested in this document) are implemented until the outcome of all recent changes (which have established NSW as a world leader in this area) have been properly assessed in terms of their effectiveness in helping people who have a problem with their gambling.”⁸¹

The GIO sought, in that submission, *“a three (3) year ‘evaluation phase’ for the current extensive range of NSW ‘harm minimisation’ measures to permit such an effective evaluation to take place and to permit the treatment initiatives proposed in this submission to be implemented.”⁸²*

Less than two months after the GIO’s 8th June, 2001 submission, an extensive range of further harm minimisation initiatives were announced (on 26 July, 2001) by the NSW Government with its “gaming reform plan”.

These initiatives were finalised in the Gaming Machines Act, 2001.

AGMMA believes that the effectiveness of the existing range of measures must be properly assessed (in terms of whether – and the extent to which – they reduce problem gambling in NSW) before a decision is made to implement such a measure.

2. Very Limited Potential Impact on Problem Gambling

Sydney University found that a very small proportion – 7.5%⁸³ of the ‘pathological gamblers’ identified by the SOGS test (ie the 20% of participants who scored 5 or more) bet above the \$1.00 level and it is only these problem gamblers who

⁸¹ GIO Submission of 8th June, 2001, p. 8.

⁸² GIO Submission of 8th June, 2001, p. 8.

⁸³ Sydney University Research Report, p. 10.

'might' be positively impacted by such a measure: "*if very few bets exceed \$1.00 then the introduction of this measure will have little impact*".⁸⁴

It should be noted that this 7.5% figure suggests:

- that 92.5% of problem gamblers would not be assisted by the measure and
- that the measure would only assist 0.075% of Australian adults.

AGMMA respectfully suggests that the very limited benefit perceived is clearly outweighed by the obvious costs to recreational players, employment, society as a whole (gaming revenues).

3. **Significant Cost Implications**

The costs associated with the proposed measure, on its own, were estimated by the independent CIE research work, to be likely to reduce club venue revenue in NSW by 17% (ie \$440 million⁸⁵) and hotel venue revenue by 39% (ie \$351 million⁸⁶). This would be nothing short of catastrophic for many venues and a large number would undoubtedly close as a direct result of the introduction of such a measure.

The reason for this impact – which amounts to a loss of \$791 million in revenue⁸⁷ – is that the introduction of the measure would have a significant negative impact on *recreational player* satisfaction. AGMMA believes that the vast bulk of the lost revenue would comprise gaming expenditure by *recreational* players.

⁸⁴ Sydney University Research Report, p. 31.

⁸⁵ CIE Report, page 35-36.

⁸⁶ CIE Report, page 39.

⁸⁷ CIE Report, page 35-36 and page 39.

4. **Problem Gamblers Not Specifically Targeted by Measure**

The measure may only be effective because of its impact on destroying a key element of the fundamental essence of the appeal of a gaming machine to a player. It does not impact more effectively on problem gamblers than recreational gamblers. In fact, the *reverse* appears to be the case.

Sydney University found that while recreational players disliked the modification, some 'problem gamblers' "*appeared to welcome the modification, giving it higher ratings for enjoyment and satisfaction*" in relation to the modified machines⁸⁸.

How can a measure which provides 'problem gamblers' with 'greater enjoyment' than recreational players be considered an effective harm minimisation measure?

5. **Cost to Government**

The CIE estimated that the State stood to lose \$95 million in club gaming machine duties and GST equivalent grants and a further \$110 million in tax paid by hotels as a result of the introduction of the proposed \$1 Max Bet measure⁸⁹. In addition to the direct loss, further related losses of state revenue were envisaged by CIE.

These could be in the region of a further \$100 million. It is accordingly estimated, *conservatively*, that this measure could reduce State Government revenues by \$300 million. Many costs have not been taken into account, for example:

⁸⁸ Sydney University Research Report, p. 10

⁸⁹ CIE Report, page 41.

- the cost of replacing facilities and infrastructure provided by venues which close and the resultant foregone local community economic, social and recreational contribution;
- payroll tax foregone;
- welfare payments and social support for the newly unemployed.

6. Potential Negative Impact on Social Lives of Players

Sydney University stated, in the context of reel spin speed, that *“it is possible that lengthening the playing time will simply mean that it takes longer for players to lose all their money.”*⁹⁰

AGMMA believes that imposing a maximum bet of \$1.00 would be likely to have an identical impact to reducing the speed of reel spin in terms of lengthening playing time. Sydney University warned that:

*“it is not uncommon for pathological gamblers to delay returning to work or home, fail to meet social commitments or leave children unaccompanied in cars while they satisfy their urge to gamble. For individuals with a strong drive to gamble, reducing the rate of play may result in compensatory increases in time spent gambling leading to the situation where similar amounts are lost but now over longer periods of time”*⁹¹.

In relation to reel spin, the comment was made by Sydney University that the lengthening of playing time “may...also produce unintended negative consequences in other aspects of functioning such as spending more time at the venue and away from work or home”⁹².

⁹⁰ Sydney University Research Report, p. 34.

⁹¹ Sydney University Research Report, p. 34.

⁹² Sydney University Research Report, p. 35.

7. **Closure of Many Marginal Venues Likely**

AGMMA believes that the introduction of this measure would be likely to lead to the closure of many marginal venues which simply would not be able to cope with the loss of revenue involved. It is extremely difficult to predict the precise numbers of venues involved due to individual variables but AGMMA believes that many marginal NSW clubs and hotels would have no alternative but to close down. A large proportion of these venues are in rural or regional areas where the local population relies heavily on the resources and facilities provided by hotels and clubs.

8. **Employment Implications**

The CIE report submitted to the LAB by the GIO estimated that up to 18,193 jobs could be at risk in the short term should the \$1.00 Maximum Bet measure be implemented⁹³ (and up to 20,999 jobs could be at risk if all three measures were implemented).

AGMMA supports the GIO's estimate that *virtually every venue in NSW would shed staff* if this measure was introduced. It should be noted that many venues will *also* be shedding staff as a result of the current 'harm minimisation' measures and duty impacts and that many jobs in businesses servicing clubs and hotels would also be at risk.

The impact on unemployment in this state that would follow from this measure would be nothing short of catastrophic.

AGMMA notes that additional costs – principally the welfare costs arising from displacement of staff and the reduction in payroll tax associated with the decline

⁹³ CIE Report, p.45.

in employment – were not taken into account by CIE as they were too difficult to assess.

Moreover, the CIE estimate did not focus on manufacturers and the implications of the measure on the purchases of gaming equipment by gaming venues.

AGMMA estimates that this measure would reduce demand for gaming machines in NSW to such an extent that it would directly result in the closure of several of its members.

9. Uniqueness of Measure

Although a small number of jurisdictions have limited bet size, the vast majority of jurisdictions have not.

Victoria adopted a \$10 Maximum Bet on 1 January 2003 but it is not applicable to all gaming machines in the State.

Until that change, there was no maximum bet in Victoria.

A \$10 Maximum Bet is applicable in South Australia, Tasmania and the ACT (as well as NSW).

A \$5.00 maximum bet exists in Queensland and has existed since gaming machines were installed in Queensland clubs (February 1992) and hotels (April 1992). AGMMA is not aware of any information or research that suggests that Queensland is experiencing any lesser problem gambling because of the lower bet limit in clubs and hotels.

In the UK, the Budd Report has *specifically* (and recently) recommended no limit on stakes for casinos⁹⁴.

Four US jurisdictions have maximum bet limits. Colorado has a maximum bet limit of USD5.00. Arizona has a maximum bet limit of USD25.00. North Dakota has a maximum bet limit of \$25.00 and South Dakota has a maximum bet limit of USD100.

Colorado's limit of USD5.00 was set when gambling was first permitted in Colorado in October 1991 and applies to all forms of gambling.

The limit was incorporated in the Colorado Constitution and requires an amendment to the Constitution to change it. It appears that Colorado followed the USD5.00 maximum bet limit applicable in South Dakota in 1991. Because the limit applies to all forms of gambling (i.e. includes blackjack), it is quite possible that it will be amended to follow South Dakota but this requires an amendment to the Constitution.

The Arizona maximum bet of USD25.00 was imposed approximately 12 months ago, replacing a maximum bet of USD8.00 that had been in force since 1992.

The Arizona Department of Gaming was not aware of any research carried out into the maximum bet issue. It appears that the limit was incorporated in the 'Compact' entered into between the tribe and the State of Arizona at the request of the State. The recent increase in the maximum bet limit to USD25 occurred as a result of a request made by the tribe in its negotiations with the State.

⁹⁴ The Gambling Review Report to the Department for Culture, Media and Sport (Budd Report), Section 12.63, page 137.

The USD100 maximum bet in South Dakota was recently increased from the original USD5.00 limit which applied in 1991. No other US jurisdiction sets any sort of bet limit for players.

Even the Productivity Commission describes tighter restrictions on the maximum amount that can be bet as “*relatively ‘heavy handed’*”⁹⁵ noting that high intensity play can be enjoyable and that some recreational players would derive less pleasure from gambling on machines that reduced that option. The measure in question is particularly ‘unique’ given that the \$10 maximum bet level, set in 1988, has arguably reduced to \$5.25 in real terms (see paragraph 3.3.2) suggesting that the goal envisaged by the LAB has already been achieved simply through the passing of time.

10. **Further Research Required**

This ground breaking research work appears to have raised many important and puzzling questions which suggest the issues are more complex than originally believed. Why did recreational gamblers report less enjoyment with modified machines while some problem gamblers reported the reverse?⁹⁶ What impact did the “Project Limitations”⁹⁷ have?

11. **Alternative More Directed Measures Require Consideration**

AGMMA believes that alternative solutions – which may be described as ‘*harm reduction*’ rather than ‘*harm minimisation*’ measures - exist which are likely to be far more effective than a \$1 Maximum Bet in tackling problem gambling.

⁹⁵ Productivity Commission Report, page 16.80.

⁹⁶ Sydney University Report, p. 10.

⁹⁷ Sydney University Report, p. 7.

AGMMA believes that these “harm reduction” measures – which focus on the immediate provision of effective support and treatment – clearly require further detailed consideration before what the Productivity Commission describes as a ‘heavy handed’ approach is even considered in relation to Maximum Bet.

One of the most promising (in terms of potential effectiveness) of these ‘*harm reduction*’ measures revolves around improving the competency of problem gambling treatment providers and carrying out more research in the problem gambling area.

The following comment by Sydney University is considered particularly important in this regard:

“Clearly, treatment of those who have developed serious problems with gambling is an important issue, one that requires substantive further research into determining and improving the efficacy and effectiveness of psychological and other counselling interventions. There is an imperative need to establish evidence based best practice guidelines to inform service providers but this falls outside the terms of reference of this project.”⁹⁸

AGMMA strongly believes that problem gambling can *only* be effectively addressed through:

- timely, effective properly qualified treatment of problem gamblers, and
- education of players and potential players.

In reference to the ‘effective treatment’ priority, AGMMA supports and endorses the five-year strategic plan aimed at improving the availability and quality of

⁹⁸ Sydney University Report, p. 11.

treatment and counselling services for problem gamblers, their families and friends (announced on 10 October 2001 by the Minister for Gaming and Racing).

The "Policy Framework on Treatment Services for Problem Gamblers and Their Families" represents a significant achievement. The five-year plan will lead to a more co-ordinated network of services for people in the community who require this assistance.

In summary, AGMMA believes that it is clearly not advisable to adopt "lower limit on maximum bets on gaming machines".

AGMMA accordingly submits to IPART that it would be appropriate for IPART to support the GIO proposal that the measure be formally withdrawn by the LAB as a "Provisional Determination".

6.3 Slower reel speeds

The first bullet point under "technical measures" in the IPART table of 'harm minimisation measures' (appearing on page 6 of the IPART September 2003 "Issues Paper") is "slower reel speeds".

AGMMA notes that the Liquor Administration Board, in its "First Determination", deferred consideration on the question of whether "the Technical Standards be amended by requiring a minimum reel spin time of 3.5 seconds and a minimum passage of time of 1.5 seconds in idle mode during which at least one standard data block must be transmitted"⁹⁹ pending completion of research on the issue.

⁹⁹ LAB First Determination, Page 3.

This measure was accordingly one of the measures which were the subject of the extensive Sydney University Research carried out in 2001.

Sydney University concluded, following such research, that there was evidence from the study that the proposed measure “would not be an effective harm minimisation strategy”.

The results of the study were that:

- Players of the modified machines *consistently* rated their enjoyment lower than players on the faster machines¹⁰⁰;
- Both problem gamblers and recreational players responded negatively to the change but problem gamblers rated all machines as less enjoyable than recreational gamblers¹⁰¹;
- Only 14% of players accurately identified all the modifications¹⁰² and an even smaller minority recognised changes to the speed of reel spin;
- Players who play slower tend to play for longer periods¹⁰³;
- The modified reel spin had no impact on time spent on the machine, the number of bets placed, the amount lost, credits or lines staked, alcohol consumed, cigarette consumption or visits to the ATM¹⁰⁴;
- Problem gamblers did not more often play more quickly than 5-second wager cycles¹⁰⁵; indeed only 3.5% of all participating players played at wager cycles faster than 3.5 seconds across the entire period of play¹⁰⁶;
- Speed of play did not predict severity of gambling according to SOGS¹⁰⁷;

¹⁰⁰ Sydney University Report, p. 47.

¹⁰¹ Sydney University Report, p. 47.

¹⁰² Sydney University Report, p. 48.

¹⁰³ Sydney University Report, p. 65.

¹⁰⁴ Sydney University Report, p. 60.

¹⁰⁵ Sydney University Report, p. 62.

¹⁰⁶ Sydney University Report, p. 63.

- Speed of play is related to persistence: *“It was the participants who gambled more slowly who were likely to play for longer.”*¹⁰⁸

Sydney University concluded that the latter finding was particularly significant:

*“This is an important finding because it suggests that if one were to slow down the speed with which the wager cycles were played, players might simply play for longer. This suggests that slowing down the speed of games might actually increase the harm associated with gambling because the gambler would remain at the machine longer. Further research is required to clarify this point.”*¹⁰⁹

Sydney University also found that slowing down the reel spin to five seconds did not affect the gambling behaviour of participants in the study¹¹⁰. Sydney University concluded that:

*“...there was no difference in the proportion of problem versus recreational gamblers who bet on wager cycles that were on average less than 5 seconds per bet. Only 14% of problem gamblers used wager cycles that were faster than the proposed 5 seconds speed. This suggests that if the speed of wager cycles were reduced to 5 seconds, this modification would affect only a small proportion of the minority of gamblers who experience problems with their gambling.”*¹¹¹

Indeed, Sydney University concluded that *“there is very weak evidence to suggest that slowing down the reel spin of electronic gaming machines may help a small proportion of problem gamblers but there is evidence of potential*

¹⁰⁷ Sydney University Report, p. 63.

¹⁰⁸ Sydney University Report, p. 64.

¹⁰⁹ Sydney University Report, p. 64.

¹¹⁰ Sydney University Report, p. 64.

¹¹¹ Sydney University Report, p. 66.

*unintended negative consequences, specifically that it may simply extend the period of play for a cohort of individuals*¹¹².

In addition to the test bed work, Sydney University assembled a focus group of identified pathological gamblers to consider the LAB proposals.

The issues discussed included the impact of slowing the rate of play. Sydney University summarised the results of the focus group discussion as follows:

*“In summary, the consensus was that most problem gamblers would adjust to any reduction in reel spin and would simply lead to similar levels of expenditure but over longer sessions with the possible prospect of increasing behaviours such as smoking and drinking.”*¹¹³

AGMMA notes Sydney University’s comment that *“it is not uncommon for pathological gamblers to delay returning to work or home, fail to meet social commitments or leave children unaccompanied in cars while they satisfy their urge to gamble.”*¹¹⁴.

In relation to reel spin, Sydney University notes that the lengthening of playing time *“may have unintended negative consequences, such as increasing the time that players gamble”*¹¹⁵.

The CIE found that slower game speeds were not amenable to analysis based on current turnover in the same way as the \$1.00 maximum bet proposal¹¹⁶ but CIE was able to provide an estimate of the likely revenue risk if the measure was

¹¹² Sydney University Report, p. 73.

¹¹³ Sydney University Report, p. 82.

¹¹⁴ Sydney University Research Report, p. 34.

¹¹⁵ Sydney University Research Report, p. 65.

¹¹⁶ CIE Report, p. xi

combined with the \$1.00 maximum bet proposal. CIE estimated that it would be likely to increase the revenue at risk in clubs by 23.53% (from 17% to 21%) and the revenue at risk in hotels by 5.13% (from 39% to 41%)¹¹⁷. The magnitude of these sums is illustrated by the following calculations.

- 4% of the estimated \$2.5 billion in revenue generated from gaming machines¹¹⁸ in clubs is \$100 million.
- 2% of the estimated \$898 million in revenue generated by gaming machines¹¹⁹ in hotels is \$17.96 million dollars.

The financial and subsequent social implications of the proposed measures would be catastrophic.

Sydney University found that no material harm minimisation would be achieved through the reel spin measure.

AGMMA believes, therefore, that it is clearly not advisable to adopt this measure.

AGMMA accordingly submits to IPART that it would be appropriate for IPART to support the GIO proposal that the measure be formally withdrawn by the LAB as a “Provisional Determination”.

6.4 Pre-commitment or smart cards

AGMMA does not propose to make any observations in relation to pre-commitment or smart cards noting that several of its members supply such technology.

¹¹⁷ CIE Report, page xi.

¹¹⁸ CIE Report, page 3 (1999 figure)

¹¹⁹ CIE Report, page 6 (1999 figure)

6.5 ‘Ticket Out Ticket In’ (TOTI)

The Tribunal did not include Ticket -In Ticket-Out (“TOTI”) in the list of harm minimisation measures set out in the Schedule (although the LAB has advised an industry forum that the measure has been referred to IPART).

AGMMA believes that this important technology has not been adopted in NSW at least partly for “harm minimisation” reasons (although these have not been conveyed to AGMMA) and accordingly wishes to raise the subject with IPART.

What is TOTI?

TOTI, also known as “*Ticket-In Ticket-Out*” (TITO), is a resoundingly successful customer service initiative in the United States.

It permits players to use tickets rather than cash or coins in gaming machines. These bar-coded tickets are printed out by gaming machines and can be redeemed at gaming machines or at cashier facilities.

TOTI provides players with a greater degree of convenience in that (i) they no longer have to wait for an attendant to obtain a cash payment from a gaming machine and (ii) they can move easily from one gaming machine to another (including moving from one manufacturer’s machine to another manufacturer’s machine).

The extraordinary popularity of TITO with players in the United States is demonstrated by the rapidity of adoption of the technology – some 130 casinos in 16 different jurisdictions have adopted the TITO technology and many more are in the process of doing so.

It seems extraordinary that this technology – the technical details of which were conceived and refined for regulatory purposes in NSW – is likely to be deployed in other Australian gaming jurisdictions *before* NSW.

Venues in NSW, particularly clubs, will find that recreational players respond enthusiastically to TOTI. This is extremely important for both gaming venues and for NSW manufacturers facing a bleak NSW gaming market.

Current Status

Gaming machines are already permitted to issue tickets (“Ticket Out”) by virtue of Part 7 of the Gaming Machine Regulation 2002. TOTI would extend this so machines would be able to ‘accept’ tickets as well as issuing them.

Early in 2003, AGMMA members worked together as an industry to reach a common standard for the ticket format, protocol extensions and operational functions that would be required to ensure reliable interoperability between TOTI implementations across gaming machines and systems from different vendors.

The “Ticket Out Ticket In” extension of Part 7 of the Gaming Machine Regulation 2002 was proposed to the Liquor Administration Board and the Department of Gaming and Racing as an initiative of AGMMA and Clubs NSW (which raised the matter with the DGR by letter on 25 October 2002, some eleven months ago).

Attached to this letter, as Annexure ‘B’ and Annexure ‘C’, are the two submissions that were presented to the LAB/DGR to advance this proposal in May 2003. The precise changes to Part 7 that are required to implement the changes are set out in the Legal/Regulatory White Paper.

AGMMA is uncertain as to the exact process of approval for this important customer service initiative. However, AGMMA has been advised that the 'Ticket Out Ticket In' issue would be referred to IPART.

Issues Regarding TOTI

(i) Are Jobs Under Threat?

On 25th July 2003, the *Liquor Hospitality and Miscellaneous Workers' Union* released a press release headed "High Tech Pokies put thousands of jobs at risk in clubs, casinos and pubs". The press release stated:

"Hospitality bosses, who have been given a license to print money with poker machines, are bringing in new high tech pokies, which will do thousands of workers out of jobs.

"New high tech pokies are being flown in right now from the USA to kill off the jobs of thousands of Australians," Tim Ferrari, LHMU Hospitality Union Assistant National Secretary said.¹²⁰ "These pokies will print off winners ticket receipts which can be taken to an ATM-like machine for instant payouts. The poker machine attendants and cashiers in the hundreds of venues across the country won't have much in the way of job prospects if the industry has its way on this issue."

¹²⁰ This is untrue. Not only has TOTI not been approved in any Australian jurisdiction yet but, when it is approved, it will be a uniquely Australian variant. Moreover, the *first* casino in Las Vegas to offer players a wholly Ticket In Ticket Out floor was the Suncoast Casino which opened in September 2001 with a 100% Aristocrat floor. It's not fair to accuse the Americans of bringing machines in here. The reverse is arguably the case!

The press release clearly indicated that the LHMU was concerned about the jobs of its members and it is clearly its proper role to protect those jobs in any way it can do so.

However, with the greatest of respect to the LHMU, it is wrong about the impact on the jobs of its members. In fact, the real position is the *opposite* of what it believes.

Why?

(a) Ticket Roll Refills and “Back Office” Work Loads

Tickets will in fact require much the same – if not more work – from the same floor staff and significantly more work from ‘up trained’ staff to deal with the technological requirements – particularly the ‘back office’ requirements of the new technology.

AGMMA believes it will be necessary to replace ticket rolls *at least as frequently if not more frequently* than it would have been necessary to carry out hopper refills in most venues.

AGMMA cannot conceive of claims that TOTI will reduce the requirements for floor staff. Someone will have to refill the ticket rolls/stacks when they deplete and players will demand prompt attention in this respect.

(b) No Reduction in Demand for Cashiers

It is true that players will be able to redeem their tickets at cash-back terminals (which have already been authorised for *ticket out* machines – which are

permitted by the New South Wales Regulations¹²¹). However, not all prizes can be redeemed by way of a ticket. Prizes exceeding \$1,000 must be paid by way of crossed cheques and it is not possible to do this from cash-back terminals¹²². It will still be necessary for cashiers to 'be there' to write out and sign these crossed cheques.

(c) The Economics of All TOTI Venues will be Improved

Because TOTI will provide players with greater convenience and entertainment value, the fundamental economic position of venues with TOTI should improve so that they are more likely to put on, than put off, staff. Moreover, TOTI venues will compete with each other to provide the best service and this will in many respects revolve around prompt ticket roll replacement.

(d) Occupational Health and Safety

TOTI will relieve staff of much – if not all – of the burden of moving large amounts of coin around gaming floors.

AGMMA members believe that this is likely to both reduce the number of OH&S claims made and encourage staff who might otherwise have retired to remain in their positions because they will not be as physically demanding as previously.

Finally, AGMMA wishes to observe that the labour savings experienced by US venues when introducing TITO arose, to a large extent, from the economic benefits associated with 'tokenisation' (the replacement of cash with tokens).

¹²¹ Clause 91 to Clause 102, Gaming Machines Regulation 2002. The Gaming Machines Amendment Regulation (No 3) 2002 amended Clause 97 to specifically permit the Board to approve "cash-back terminals" with effect from 20 December 2002.

¹²² Clause 30, Gaming Machines Regulation 2002

This development has already occurred in Australia and the impact experienced by US venues will accordingly not occur in the same manner in NSW.

Responsible Gambling

Do any responsible gambling issues arise in relation to TOTI?

Are problem gamblers going to be encouraged to play more than they would have otherwise? AGMMA submits that TOTI is at least neutral (and possibly beneficial) as far as problem gamblers are concerned.

Why?

(a) Consistent with LAB Proposals

In the Liquor Administration Board's April 2001 "First Determination", the Board¹²³ suggested that it was desirable that:

"Once a cancel credit condition has been effected by the gaming machine or initiated by the player for any reason, that condition may not be cancelled other than by payment of the total value of the credits on the credit meter. That is to say players should not be able to press the cancel credit button and then change their mind and continue to play.

It must also be possible for a player to readily redeem an amount up to \$100 of credit/win from a gaming machine, without an attendant's intervention, by means of at least one of the following:

¹²³ NSW Liquor Administration Board: Proposed Revision to the NSW Technical Standards Revision 2 for Gaming Machines and Subsidiary Equipment in NSW - Review - First Determination, page 4.

- *A hopper pay or*
- *A printed ticket or*
- *A CCCE transaction to a CCCE system.”*

TOTI, of course, implements *both* LAB responsible gaming initiatives by ensuring that players who ‘effect a cancel credit condition’ (i.e. cash out) can do so *immediately* by having the machine issue a ticket.

Similarly, TOTI permits players to redeem, not merely up to \$100, but the *full amount* on the credit meter. Accordingly, all players will be able to leave a gaming machine as and when they wish – without waiting for an attendant.

(b) Impulse Control

Problem gamblers waiting for an attendant may feel an impulse to play off the remaining credits.

Players who wish to cash out will never feel obliged to play off the remaining balance on the credit meter just because an attendant is slow in arriving at the machine.

For problem gamblers, surely this must be a benefit.

A decision to leave and cash out and leave has been made as simple as possible for them through TOTI.

One of the characteristics that the “Diagnostic and Statistical Manual of Mental Disorders”¹²⁴, Fourth Edition (known as DSM-IV), published in 1999, cites as

¹²⁴ SSM IV is published by the American Psychiatric Association, Washington D.C., 1994 and comprises the main diagnostic reference of Mental Health professionals in the United States of America.

giving rise to a diagnosis of pathological gambling is “*repeated unsuccessful attempts to cut back or stop gambling*”.

Surely any technical advance that makes it easier for any player to stop immediately and effectively has to be step in the right direction? Problem gambling is often characterized as a disorder of *impulse control*. It is accordingly suggested that it is very important to ensure that when the ‘right’ impulses (i.e. ‘I must stop gambling’) ‘surface’ in a problem gambler, nothing should impede the immediate implementation of such impulses.

(c) Responsible Gambling Information on Ticket

One of the potential advantages of TOTI from a responsible gaming perspective that has not been explored to date is the possibility of incorporating responsible information on each ticket when it is printed out. Although the room for information on tickets is obviously limited, AGMMA believes that it would be useful for players to be able to refer to tickets for such information.

IPART Endorsement of TOTI Sought

AGMMA respectfully requests IPART to consider TOTI and to recommend its implementation in NSW. AGMMA, with respect, sees no reason why approval of TOTI in NSW has been withheld and believes that undisclosed ‘responsible gambling’ concerns may comprise one of the reasons why this technology has not been approved.

6.6 Restrictions on Note Acceptors

The fourth bullet point under “liquidity controls’ in the IPART table of ‘harm minimisation measures’ (appearing on page 6 of the IPART September 2003 “Issues Paper”) is “restrictions on note acceptors”.

AGMMA notes that the reconfiguration of bill acceptors to preclude the use of higher denomination notes (those between \$50 and \$100) in gaming machines was one of the measures evaluated by Sydney University in 2001.

AGMMA notes that Sydney University concluded¹²⁵:

“The present study found no evidence supporting the contention that this modification would effectively reduce gambling behaviour amongst problem gamblers. Therefore it is considered that this modification would be of limited effectiveness in minimizing harm associated with electronic gaming machines but would lead to an overall reduction in revenue to gaming venues”.

IPART is referred to the detailed Sydney University research study in this respect.

In relation to the likely reduction in revenue referred to by Sydney University, IPART is also referred to the Centre for International Economics study on the impact of three “harm minimisation” measures on revenue¹²⁶.

The CIE stated that the measure would slow play by recreational players and impact on the satisfaction of recreational players¹²⁷.

The estimated combined impact of the three changes examined by the CIE (reconfigured note acceptors, a maximum bet of \$1.00 and slower reel spins) was \$440 million dollars in revenue based on revenues of \$2.5 billion in 1999¹²⁸.

¹²⁵ Sydney University Study, page 9.

¹²⁶ Centre for International Economics, Canberra and Sydney: “Gaming Machine Revenue at Risk”, 22 October 2001

¹²⁷ Centre for International Economics, Canberra and Sydney: “Gaming Machine Revenue at Risk”, 22 October 2001, page ix

This estimate provides an indication of the very significant adverse impact that such a “harm minimisation” impact would have on venue revenues.

This revenue loss, in turn, would result in a significant adverse impact on employment in NSW and was estimated to be likely to reduce state gaming machine revenues by \$95 million¹²⁹ with an even greater additional loss to state revenues arising from the associated switch in consumer expenditure (\$100 million plus)¹³⁰.

In 2000, Queensland required (April 2000) banknote acceptors in Queensland (hotels, clubs and casinos) to be limited to \$20 notes.

The Gambling Legislation Amendment Act 2000 (Qld) subsequently (November 2000) required implementation of this measure by 1 December 2001.

The rationale for this change was Recommendation C-22 of the Gaming Review Steering Committee’s report¹³¹ which was based on the Productivity Commission’s view that the use of note acceptors *increases turnover*¹³².

This link may be correct but its connection with problem gambling is highly questionable.

¹²⁸ Centre for International Economics, Canberra and Sydney: “Gaming Machine Revenue at Risk”, 22 October 2001, page 35

¹²⁹ Centre for International Economics, Canberra and Sydney: “Gaming Machine Revenue at Risk”, 22 October 2001, page 41

¹³⁰ Centre for International Economics, Canberra and Sydney: “Gaming Machine Revenue at Risk”, 22 October 2001, page 43

¹³¹ Gaming Review Report (Qld) page 23

¹³² Productivity Commission Report, Volume 2, page 16.76

No evidence of any reduction in problem gambling in Queensland has been identified (to the knowledge of AGMMA) as a result of this measure.

However, the growth in revenue derived from gaming machines (and as a consequence the growth in economic, social and recreational benefits) has clearly been impacted by the measure.

In AGMMA's opinion, this revenue impact arose principally because of the drop in satisfaction/convenience for recreational players arising from the change rather than any success in reducing problem gambling.

As far as AGMMA is aware, no formal study has been carried out to place an estimate on the revenue lost and the impact on employment and state government revenue of implementation of this measure.

The GIO drew the attention of the LAB in 2000¹³³ to the fact that the complete absence of note acceptors in South Australia has had no impact on the intensity of machine use in South Australia compared to NSW. In South Australia, in 1997-1998, gambling expenditure was \$394,629,000 using 11,780 machines yielding an annual return per machine of \$33,499.92 (\$644.23 per week) compared with NSW where gambling expenditure during the same period was \$2,989,084,000 using 95,780 machines producing an annual return per machine of \$31,207.81 (\$600.15 per week).

Gaming expenditure continues to increase in South Australia (it increased by 7.31% from \$755,167 million in 2001 to \$810,374 in 2002) notwithstanding the absence of note acceptors¹³⁴.

¹³³ Submission of NSW GIO to LAB dated 9 June 2000, page 18

¹³⁴ Tasmanian Gaming Commission: Australian Gambling Statistics 2001-2002

In NSW, where note acceptors are permitted, gaming expenditure fell (0.68%) from \$5,337 million to \$5,301 million over the same period.

6.7 Reducing the maximum permissible win

The eighth bullet point under “liquidity controls’ in the IPART table of ‘harm minimisation measures’ (appearing on page 6 of the IPART September 2003 “Issues Paper”) is “reducing the maximum permissible win”.

AGMMA notes that in the First Determination, the LAB proposed that consultation should take place on whether the maximum prize for a stand alone poker machine should be reduced to \$1,000¹³⁵.

AGMMA notes that the maximum amount that may be won on a poker machine in NSW was set at \$10,000 *over sixteen years ago* - in December 1986.

According to the Australian Bureau of Statistics, the CPI Index Number (All Groups (Weighted Average of Eight Capital Cities on 31 December, 1986) was 79.8. This figure has increased to 141.3 as of March 31, 2003, an increase of 77.07%¹³⁶.

In other words, the equivalent sum to \$10,000 in December 1986 is now \$17,700.

By retaining a maximum prize limit of \$10,000, the real value of that prize has accordingly *depreciated* by 43.5%.

¹³⁵ LAB First Determination, Page 4

¹³⁶ ABS Release 6401.0 Consumer Price Index, EMBARGO: 11:30 AM (CANBERRA TIME) 23/04/2003

The impact of inflation and the impact of increases in lottery and keno prizes over this period have reduced the relative value of this maximum prize and disadvantaged the gaming machine industry commercially in terms of its competitive position with lotteries and wagering.

Although the concept of a maximum win has been applied in other Australian jurisdictions, it is a relatively unique concept by overseas standards. To AGMMA's knowledge, there is no such limit in *any* US jurisdiction.

Although the Productivity Commission expressed the view that "*problem gamblers are much more likely to continue gambling with a large prize (and much more likely to win one since they play more)*."¹³⁷, the Commission made that comment in the context of recommending that large prize payouts should be in the form of cheques and, in fact, made *no recommendations* on limiting the amount of the prize. Indeed, the Commission also made the comment that "*...there appears to be insufficient evidence that jackpots do exacerbate risks*" for problem gamblers¹³⁸.

Large maximum prizes are, of course, the primary motivation for playing lotteries¹³⁹, which are regarded as a 'soft' form of gambling, assumed to have minimum negative impacts¹⁴⁰. It is generally recognised that as the prizes become larger, the odds of winning them become less.

The odds of winning NSW Lotto, for example, are said to be 1 in 7,059,052¹⁴¹.

¹³⁷ Productivity Commission, Volume 2, 16.84: this comment does not appear to be backed by any reference to research.

¹³⁸ Productivity Commission, Volume 2, 16.83.

¹³⁹ Mark Griffiths and Richard Wood, *The Psychology of Lottery Gambling*, International Gambling Studies, Volume 1, September 2001, page 27 at page 29-30.

¹⁴⁰ Mark Griffiths and Richard Wood, *The Psychology of Lottery Gambling*, International Gambling Studies, Volume 1, September 2001, page 27.

¹⁴¹ DGR 'Playsmart' Brochure, August 2000

When considering whether it is appropriate to maintain the maximum prize in gaming machines, it is suggested that the motivational factor associated with winning lotteries becomes more relevant than the motivational factor associated with winning frequent small prizes.

It is accordingly suggested that since lotteries – with very significant maximum prizes at high odds – are universally regarded as a soft form of gambling, the current \$10,000 maximum prize for gaming machines (with comparable odds) can be said to be primarily of interest to players who are attracted to the long odds of lottery gambling.

By way of comparison with developments in competing gambling products in NSW over the 16-year period involved, AGMMA also notes that:

- in 1986, when the maximum amount that could be won on a poker machine in NSW was set at \$10,000, the last Opera House Lottery was drawn and a new \$500,000 lottery at \$5.00 a ticket and a new \$1M lottery at \$10.00 a ticket was introduced by State Lotteries;
- since then, the Pools were introduced (in 1989), OZ Lotto was introduced (in 1994), Lotto Strike was launched (in 1995), Powerball was launched (in 1996), Lucky 7 replaced the million dollar lottery (in 1996) and Saturday Lotto was launched (in 2000);
- Lotto currently offers a 'guaranteed' first division prize pool of \$1m on Monday nights; the 'standard' autopick entry offered by newsagents costs \$9.60 while a 'Systems 8' entry costs \$14.60;
- OZ Lotto offers players (on the State lotteries website) a '14 game' standard autopick entry for 'only' \$14.80 and an 18 game 'megapick' entry for \$19.00;
- The Lotto Website currently features a Systems 18 entry which costs \$4,740 for one draw and \$9,381 for both draws;

- The '18 game standard autopick entry' offered by Powerball (which offers a 'guaranteed' \$2M First Division Prize pool each week) costs \$9.55 while a 24 game 'megapick' entry costs 'just' \$12.70. The website also offers the following advice: *"there is also an option where you can cover every possible Powerball Number – "POWER 45". For example, selecting five numbers and all Powerball numbers costs \$23.50"*; Powerball is described as *"the big jackpotting game and the first division prize has jackpotted to \$15, \$20 and even a massive \$30 million)".*

In this new highly competitive, high prize win, high stakes environment, poker machines are competitively disadvantaged by a sixteen-year-old \$10,000 maximum win restriction.

It is submitted that there is no justification for considering a reduction in the \$10,000 limit and it is suggested that it may well be appropriate to consider increasing this limit by 20% to \$12,000 or even \$15,000 to evaluate the impact on problem gambling (which AGMMA believes is likely to be non-existent).

Finally, AGMMA notes that the National Competition Policy Agreements signed by State and Federal Governments in 1995 requires NSW to apply competitive neutrality principles to all significant Government-owned businesses.

It is submitted that it is accordingly appropriate for the Government to ensure that restrictions placed on the gaming industry do not become so restrictive that they prevent the industry from effectively competing with NSW State Lotteries.

The failure to increase a limit to reflect inflation over a sixteen year period (when state instrumentalities limits are not so restricted) is arguably a breach of these competitive neutrality principles.

AGMMA submits that there are sound reasons for considering an increase, rather than a reduction, in the maximum win.

6.8 Forced payment of wins when certain level is reached

The tenth bullet point under “liquidity controls’ in the IPART table of ‘harm minimisation measures’ (appearing on page 6 of the IPART September 2003 “Issues Paper”) is “the forced payment of wins when certain level is reached and payment then to be only by cheque”.

Although this measure is characterized as a liquidity control in the Schedule, in AGMMA’s view it is more properly classified as a “circuit breaker”.

AGMMA opposes such a measure because of the negative and quite unnecessary impact on the enjoyment of gaming machines by recreational players and for the reasons set out in Section 5.7 above regarding interrupting play.

In the First Determination, the Liquor Administration Board proposed that consultation should take place on the proposal that “any win which will cause accumulated credits to equal or exceed \$1,000 or more should be automatically transferred to the credit meter (no gamble feature should be offered) and a cancel credit condition should be effected. The total prize money should then be paid to the player by means of a crossed cheque.”

AGMMA submits that there is absolutely no evidence to suggest that such a measure will have any positive impact on problem gamblers or ‘at risk’ players.

Cheque cashing facilities have proliferated in NSW in response to Section 30 of the Gaming Machines Regulations (an operational matter which AGMMA has left to operators to comment on).

Players have no difficulty in cashing crossed cheques these days. In AGMMA’s view, the Section 30 ‘crossed cheque’ rationale (unique to NSW) is only an

inconvenience easily overcome by the determined problem gambler or 'at risk' player.

However, it has impacted adversely on recreational players who are likely to be more easily disturbed and aggravated by such interruptions than problem gamblers are likely to be.

AGMMA notes that the Canadian research study referred to in 5.7 above also dealt with a 'mandatory cash out feature' (apparently similar to that under consideration proposed by the LAB). The researchers concluded that for "those players who are cognizant of elapsed time or who are there to play until their money is gone, the mandatory cash out feature will have minimal influence in discouraging excessive play."¹⁴²

This is hardly a resounding endorsement of such a measure.

AGMMA believes that most problem gamblers are aware of elapsed time (particularly in the light of the time displays on machines and clocks in venues) but notes that little research appears to have been carried out in this area.

AGMMA submits that until it is affirmatively established that problem gamblers are not aware of elapsed time (despite on screen clocks, venue clocks, wrist watches, toilet, meal and drink breaks, machine switching etc), the Canadian conclusion that mandatory cash out 'will have minimal influence in discouraging excessive play' must stand.

There has been no other research (to AGMMA's knowledge) on this issue.

¹⁴² Tony Schellinck and Tracy Schrans, Atlantic Lottery Corporation, Video Lottery Responsible Gaming Feature Research, October 2002, Conclusions and Recommendations, page 5-22, Conclusions and Recommendations, page 5-32

6.9 Further possible changes to affect the rate of play

The ninth bullet point under “Liquidity Controls’ in the IPART table of ‘harm minimisation measures’ (appearing on page 6 of the IPART September 2003 “Issues Paper”) is “further possible changes to affect the rate of play or loss per hour”.

AGMMA notes that no specific measures have been specified by IPART but wishes to express some views regarding a number of decisions, clearly influenced by “harm minimisation” considerations, made by the LAB which have adversely impacted the industry and continue to do so.

As outlined on page 4, AGMMA wishes to express concern in relation to the imprecise “harm minimisation” language that has been used to impose indefinite statutory obligations on the LAB. This language has resulted in the LAB being required to take what might reasonably be described as an overly cautious approach to ensure that it discharges these imprecise statutory obligations.

In the Board’s 2001-2002 Annual Report¹⁴³, the Chairperson stated:

“The Board has recently decided to “draw a line in the sand” in respect of technological change. This means that the fact that particular functions that have been approved in the past without detailed consideration of harm minimisation measures does not mean they will be dealt with in the same way in the future. Harm minimisation will need to be fully evaluated and matters will be assessed purely from a technical operation point of view. Some examples of this relate to free games, linear pay tables, capping, names, artwork and games rules. The view has been expressed by sections of industry that the Board should not change Technical Standards unless it has proof from research that such changes

¹⁴³ LAB 2001-2002 Annual Report, page 8

will have positive impact on problem gamblers, particularly if changes may prove detrimental to recreational players. The Board's response is that manufacturers should prove that a proposed change will not exacerbate problem gambling and, in appropriate cases, provide research to this effect."

This approach to technological change is a serious issue for AGMMA and a matter in respect of which IPART is requested to comment.

The difficulties imposed in 'proving' on a balance of probabilities to Magistrates that a proposed change 'will not exacerbate problem gambling' are immense.

The 'line in the sand' effectively amounts to a significant potential impediment to the development of game design and technology.

AGMMA is concerned about two issues in this regard and seeks IPART's support on these issues.

The passage cited above indicates that the LAB has effectively placed the onus of proof on manufacturers to "*prove that a proposed change will not exacerbate problem gambling*".

Not only is the onus placed on manufacturers (to prove that particular technical changes will not exacerbate any problem gambler's problem gambling) one which can *never* be discharged but there is no statutory basis for imposing the onus of proof on manufacturers in the manner outlined in the Board's Annual Report.

The onus of proof can *never* be discharged because the terms are so indefinite.

What is 'problem gambling' for the purpose of this test?

What does 'exacerbate' mean?

Are we talking about one problem gambler or more?

What degree of problems does a problem gambler have to have to fall within the criterion 'problem gambler' for this purpose?

The terminology is arguably wide enough to mean that if a proposed change can be said to attract a single problem gambler's interest, it 'exacerbates' problem gambling.

Problem gamblers are, by definition, preoccupied with gambling; therefore, any change designed to make machines more entertaining will almost certainly attract such interest.

After all, is not a problem gambler, by definition, likely to react adversely (i.e. in the sense that his or her problem gambling will be 'exacerbated') in relation to virtually *any* gambling opportunity – perhaps even the offer of a 'scratchie', a galloping horse or a numbered ping-pong ball?

On what grounds does AGMMA state that there no statutory basis for the position adopted by the LAB on technological change?

Although the Act was amended in 2002¹⁴⁴ to insert a new Section 62A which requires the Board to have "due regard" to certain matters (including the question of whether "any feature, function or characteristic of any such device is likely to lead to an exacerbation of problem gambling"), neither the amendment nor the earlier legislation provide for the *onus of proof* to be imposed on manufacturers and this is a matter which can *only* be dealt with by statute.

¹⁴⁴ Gaming Machines Further Amendment Act 2002, Clause 32

It is submitted that it is beyond the statutory power of the LAB to impose an onus of proof in this manner. It is also submitted that it is unreasonable to impose an onus of proof on anyone when it is evident (as set out above) that it can never be discharged on the basis of the current statutory test.

IPART is requested to consider and support this view.

Another issue in respect of which IPART is requested to comment is the fact that the LAB's approach to many (if not most) of these 'technological' responsible gaming issues has involved looking at each issue in isolation.

This approach has been termed 'modularization' by the Gaming Technology Branch of the LAB.

AGMMA's view is that it is inappropriate and unfair to take this approach to gaming machines because each of the features 'interact' to provide players with an overall gaming experience.

An example of the way in which this 'modularization' approach impacts on adversely on game design is that recently taken to probability of winning prizes.

The LAB focused on the probability of winning a single prize from a gaming machine and imposed a new "interim limit" on probabilities¹⁴⁵.

In AGMMA's view, there are six flaws to this approach.

¹⁴⁵ Further discussions have taken place (as recently as Tuesday 11 November 2003) on the interim limit issue which suggest that AGMMA's concerns are likely to be addressed but this issue has not been finally resolved.

Firstly, gaming machines offer a wide range of prizes which cumulatively provide the player with a theoretical 'return to player'. Considering only one of these prizes in isolation is misleading as it is the cumulative probabilities of all prizes open to the player that is, on any reasonable analysis, relevant to the player - not the probability of winning one of the many prizes offered.

Secondly, when Player Information Displays disclose the probabilities of the top five and the bottom five prizes to players, players will be fully informed about the longest probabilities applicable to any one of the many prizes offered by the games and can choose to play the game or walk away.

Thirdly, the probabilities of winning are only one factor in the overall "game experience" offered to the player. The question of the number of games played to win any prize (the hit rate), the number of free games offered and many other aspects of the game provide the player with an overall game experience. Having regard to any one factor in isolation is likely to provide a misleading picture.

Fourthly, a number of technical limits have been imposed on game design in recent years. These include imposition of a standard deviation limit and win capping. These limits act, together with the probabilities limit, to greatly diminish the range of available game design opportunities. Having regard to any one of these limitations *on its own* is misleading as it does not convey the degree of seriousness of the overall restriction on game design encapsulated by all of the limits.

AGMMA has in fact objected to each of the technical limitations individually but unsuccessfully largely, AGMMA believes, because of the application of the harm minimisation policies mandated by Section 62C and other statutory provisions.

The provisions proposed are unique. To AGMMA's knowledge, no other jurisdiction has adopted such extreme statutory provisions. In AGMMA's view, this is also an indication that the provisions and the restrictions being imposed on the basis of the statutory provisions should be reconsidered.

Fifthly, the prizes considered by the LAB for the purpose of this analysis are those arising from a single line game. The vast majority of play takes place with multiple lines of play and when multiple lines are played the dynamics of different games become very different to one line.

Sixthly, technical restrictions of this nature threaten gaming machine software and hardware development in NSW.

Virtually all gaming machine design, manufacture and assembly in Australia currently takes place in NSW.

This is because the 'core' games are then exported from NSW to other jurisdictions.

If the technical restrictions on game design in NSW become too onerous, a rationale for shifting software design (and possibly other activities) to a jurisdiction where design rules reflect those of the international market comes into being.

This eventuality would clearly not be in the interests of NSW.

AGMMA submits that the LAB's 'line in the sand' statement is a clear example of how the lack of clarity in the current harm minimisation regime has permitted the concept of harm minimisation to be expanded beyond the plain words of the statute in such a manner as to substantially restrict the development of new

technology and the implementation of new game design to the detriment of manufacturers, the venues, recreational players and the State.

Examples of the manner in which game design has been restricted based on the rationalization set out above include:

- restricting the number of 'free games' that may be offered to 25 free games (unless proof of non-exacerbation of problem gambling is provided)
- restricting the degree to which prizes may be truncated to \$10,000 (on the basis that pay tables should not advertise prizes that cannot be won; although such an argument is superficially sustainable, in fact, this change has resulted in players 'voting with their feet' in terms of *preferring the old versions of games* (where truncation was permitted) to the new games which are required to offer less frequent or lower prizes. Perhaps a better approach would be to increase the maximum prize limit to \$20,000.
- Standard deviation has been restricted to 15 and an ad hoc interim limit on probabilities has been imposed with a view to limiting the volatility of games and the odds of winning a prize; AGMMA has advocated full disclosure of long odds and volatility (the hit rate) so that players can choose to play a game that offers long odds (say, 100 million to one) and high volatility (say, one winning game in every 50) in full knowledge of the game's characteristics.

AGMMA requests IPART to give consideration to the way in which 'harm minimisation' is being applied to 'draw a line in the sand on technical changes' to the detriment of recreational players, venue and the State.

AGMMA believes that these restrictions are significantly inhibiting innovation and game design in a manner which negatively impacts the economic, social and recreational benefits accrued by the gaming industry.

6.10 Controls on advertising

The first bullet point under “Restricted Promotion of Gambling” in the IPART table of ‘harm minimisation measures’ (appearing on page 6 of the IPART September 2003 “Issues Paper”) is “controls on advertising”.

The outright prohibition on gaming machine advertising (in Section 40 of the Gaming Machines Act) is opposed by AGMMA.

The legislation – originally styled a *‘prohibition’* of *‘gambling related’* advertising but subsequently amended to prohibit ‘gaming machine’ advertising - is unique to NSW.

It is not based on any research that indicates that advertising encourages problem gambling.

In fact, both operators and manufacturers had established a responsible track record in advertising their products in NSW prior to the advertising ban.

AGMMA suggests that in the absence of evidence that such advertising increases problem gambling, IPART should give consideration to recommending reconsideration of this draconian ban.

The ban is particularly egregious given the extraordinarily prolific and apparently misleading advertising conducted by NSW State Lotteries which appears to be provided with a legislatively wrought commercial advantage through this ban.

The DGR review of National Competition Policy completed in June 2003 does not refer to this gross departure from the principles of competitive neutrality (notwithstanding AGMMA's specific submission to the Department of Gaming and Racing dated 27 June 2002 in relation to Lotteries) in which AGMMA stated:

“AGMMA notes that Gaming Machines Amendment Act, 2002 prohibits advertising which gives publicity to, promotes or is intended to promote (a) the playing of approved gaming machines in a hotel or registered club, or (b) the supply, sale or manufacture of an approved gaming machine.

AGMMA believes that it is appropriate that a ‘level playing field’ be established for the offering of competing gaming products in this state and accordingly seeks that corresponding advertising restrictions are applied to all lottery advertising.

AGMMA believes that an unfair and inappropriate commercial advantage may be being given to lottery retailers (including the State) through this discriminatory advertising regime.

AGMMA also believes that such discrimination may raise Trade Practices issues.

AGMMA also believes that the advertising of ‘Truckloads of Cash’ on Television is demonstrably misleading and deceptive. The amount of money supposedly in the truck would far exceed any prize won.

Moreover, the odds of winning are remote in the extreme (particularly compared to winning prizes on a gaming machine) and the amount retained by State Lotteries is not disclosed.

There is absolutely no possibility of any offeror of our gaming products conducting a similar campaign, as it would be perceived as entirely inappropriate.

AGMMA also believes that the odds of winning any lottery should be disclosed to players together with the percentage return to player.”

The schedule attached to the NCP Review of the Gaming Machines Act (page 31) records that the advertising ban ‘minimises gambling related harm’ (there is no proof of this – problem gamblers and at risk gamblers know where to find machines and are preoccupied with gambling by definition), states that the industry “has generally adjusted to the...restrictions” (in fact the restrictions have been vigorously opposed by AGMMA and reduced in severity through amendments to the regulations) and makes absolutely no reference to the extraordinary disparity evident in State Lotteries advertising lotteries in a prolific manner while gaming advertising of virtually any nature is banned.

This oversight, in AGMMA’s view, undermines the credibility of the NCP Review of the Gaming Machines Act.

AGMMA refers IPART to Greater New Orleans Broadcasting Association Inc. etc et al., Petitioners v. United States et al US 1999 No 98-387 where the United States Supreme Court struck down a Federal Law prohibiting the advertising of gambling on radio because, inter alia, it was inconsistent for Congress to sanction some gambling activities and ban the advertising of other gambling activities.

AGMMA believes that precisely the same logic should be applied to the current ban on gaming machine advertising and requests IPART to consider this issue.

AGMMA is aware of no evidence that the advertising ban has resulted in any material impact on problem gambling.

AGMMA agrees, however, with the suggestion made by Blaszczynski, Walker, Sagris and Dickerson¹⁴⁶ that *“gambling advertisements should not promote the erroneous belief that most people win but should include accurate information on the relevant odds of winning and the percentage return to participants”*.

AGMMA notes that this could be achieved, following the introduction of Player Information Displays in NSW, by requiring advertisements to each include a responsible gaming logo, the words *“When You Play with Real Dollars, Use Real Sense”* and *“See the Player Information Display for odds and the return to player.”*

The current ban on advertising makes it more difficult to disseminate such messages to all players¹⁴⁷ and this is yet another reason why the current ban should be reconsidered.

AGMMA requests IPART to give consideration to recommending a relaxation of the advertising ban.

At present, AGMMA members still have difficulty in advertising gaming machines to gaming machine purchasers in NSW. The Department of Gaming and Racing (which is required to follow the legislation and regulations) has imposed severe restrictions on AGMMA members seeking to advertise the Australasian Gaming Expo (currently held annually in Sydney) because the possibility that advertising

¹⁴⁶ Associate Professor Alex Blaszczynski, Dr. Michael Walker, ms. Anastasia Sagris and Associate professor Mark Dickerson “Psychological Aspects of Gambling Behaviour”, an APS position paper, September 1997, page 3

¹⁴⁷ This is because the messages would have been appended to advertisements which are no longer permitted.

may be seen by a 'member of the public' is the criteria for permitting or declining approval to advertising.

The current Victorian restriction on advertising¹⁴⁸ is the formula favoured by AGMMA as a reasonable and balanced replacement of the current ban.

It is noted, for completeness, that Victoria is about to introduce an advertising ban similar to that in NSW (which AGMMA opposes for the same reasons as those outlined above).

AGMMA would be grateful if IPART would give consideration to recommending the Victorian formula as an alternative to the current ban for the reasons outline above.

6.11 Loyalty and promotions

The second and third bullet points under "Restricted Promotion of Gambling" in the IPART table of 'harm minimisation measures' (appearing on page 6 of the IPART September 2003 "Issues Paper") are "controls over player reward schemes" and "restrictions on promotions and other inducements to gamble".

¹⁴⁸ Clause 5, *Gaming Machine Control (Advertising) Regulations 2001*: A person must not publish or cause to be published a gaming advertisement that (a) depicts a minor playing a gaming machine; or (b) would be reasonably likely to have the effect of encouraging a minor to play a gaming machine; or (c) is factually incorrect; or (d) is misleading or deceptive; or (e) conveys a false impression of the playing of gaming machines; or play a gaming machine; or (f) suggests that winning a prize is the probable outcome of playing a gaming machine; or (g) suggests that playing a gaming machine is likely to (i) improve a person's social status; or (ii) make a person more attractive of gaming machines; or (iii) result in a person's financial betterment; or (h) describes money spent in playing a gaming machine as an investment; or (i) suggests that a player's skill can influence the outcome of a game that is purely a game of chance; or (j) suggests that a person's chances of winning a prize are influenced by the length of time for which a person plays a gaming machine on each occasion that the person plays the gaming machine. Penalty: 20 penalty units.

Because this is essentially a venue issue and because only two AGMMA members supply loyalty systems (permitting players to earn loyalty points), AGMMA is not making a submission in this regard.

However, AGMMA notes that, to its knowledge, no evidence has been produced that promotions or loyalty schemes actually have any impact on problem gambling nor is any evidence available that such a ban would reduce problem gambling or place 'at risk' groups less 'at risk'.

6.12 Controls on artwork

The fourth bullet point under "Restricted Promotion of Gambling" in the IPART table of 'harm minimisation measures' (appearing on page 6 of the IPART September 2003 "Issues Paper") is "controls on gaming machine artwork".

AGMMA notes that in the "First Determination", the LAB proposed that consultation should take place on the questions of:

- *"whether artwork lighting should be able to be seen from outside gaming areas as it may constitute an attraction to the gaming area (when other forms of advertising or enticement may be forbidden) and in particular an allurement to young people"*
- *whether artwork lighting may arouse emotions, promote irrational responses, increase excitement and/or constitute enticements to gambling or to continue gambling.*
- *Whether artwork lighting should be static when a machine is not being played."*

AGMMA opposes any such restrictions on the following grounds:

- such restrictions would virtually destroy the entertainment value inherent in gaming machines and the marketing of gaming machines within

- venues; AGMMA submits that once an individual goes to a casino, hotel or club, that person chooses to being in a venue which offers gaming; further restrictions are inconsistent with the principle of informed consent;
- artwork is designed to maximise entertainment-related information for recreational players; gaming designers seek to design the most interesting and entertaining artwork possible. It appears to be nonsense to consider restricting artwork in this manner particularly given the standards applying to lottery advertising where cartoons, extensive television advertising and extensive print advertising is ‘the norm’ in NSW;
 - the concept of requiring artwork lighting to be static when a machine is not being played is, in AGMMA’s view, equally misguided; once a potential player is inspecting gaming machines, that player should be taken to have chosen to play. To restrict lighting to static lighting is tantamount to requiring cinemas to abandon movie trailers.
 - In AGMMA’s opinion, such a measure not only discriminates against gaming venues by inhibiting their ability to create friendly welcoming entertaining environments, it discriminates against players by restricting the player’s ability to discern the nature of the game before actually choosing to spend money to play it;
 - such restrictions would be unique to NSW; AGMMA is aware of no other jurisdiction which has implemented such restrictions;
 - there is no evidence (of which AGMMA is aware) that artwork increases risk for problem gamblers.

6.13 Possible elimination of double up and gamble features

The fifth bullet point under “Restricted Promotion of Gambling” in the IPART table of ‘harm minimisation measures’ (appearing on page 6 of the IPART September 2003 “Issues Paper”) is “possible elimination of double up and other similar gamble features”.

AGMMA notes that in the “First Determination”, the LAB recommended¹⁴⁹ that consultation should take place on the question of whether:

- *Any gamble feature is to be limited so that a win resulting from the gamble does not exceed \$500;*
- *Only one double up attempt is to be permitted for a single play of the game.*

AGMMA opposes such a proposal on the following grounds:

- The ‘gamble’ bet is the fairest bet available to players (its Return To Player is 100%); any such restriction is simply unfair to players;
- To AGMMA’s knowledge, ‘gamble’ and ‘double up’ bets have not been shown to increase problem gambling or to even appeal particularly to problem gamblers - nor is there any evidence that the abolition of either would improve the position of problem gamblers.
- ‘Gamble’ and ‘double up’ are key features of Australian gaming machines which are enjoyed by players around the rest of Australia and overseas; to the knowledge of AGMMA, there has never been any attempt to restrict these features in any other jurisdiction;
- AGMMA believes that the TOTI initiative should be implemented prior to consideration of ‘gamble’ and ‘double up’ features, in order to be able to assess the overall position and popularity for the recreational player.

6.14 Removal of visual and sound stimuli

The second bullet point under “Technical Measures” in the IPART table of ‘harm minimisation measures’ (appearing on page 6 of the IPART September 2003 “Issues Paper”) is “removal of visual and sound stimuli”.

¹⁴⁹ Liquor Administration Board, First Determination, page 4

AGMMA notes that in the First Determination, the LAB proposed that consultation take place on the questions of:

- *Whether sound associated with gaming should be able to be heard from outside gaming areas as it may constitute an attraction to the gaming area (when other forms of advertising or enticement may be forbidden) and in particular an allurement to young people.*
- *Whether sounds that suggest success or otherwise such as cheers or bells or whistles or sirens or “sympathetic” groans may arouse emotions or promote irrational responses, increase excitement and/or constitute enticements to gambling or continuing gambling.*
- *Whether sounds similar to those used to maintain interest in arcade and computer games have a similar effect with gaming machines.*
- *The effects of various types of sounds on particularly vulnerable personalities.*

AGMMA submits that there are no grounds to consider removing or restricting any visual or sound stimuli. The visual and sound accompaniments to gaming machines are an inherent and critical part of the entertainment experience associated with gaming machines. Restricting these elements essentially involves making gaming machines less entertaining for recreational players.

AGMMA believes that there is no evidence to suggest that problem gamblers are attracted by particular types of visual or sound stimuli or that by changing or restricting these it would be possible to reduce problem gambling in some manner. AGMMA believes that it is likely that problem gamblers would be the least likely category of people to be deterred by such changes or restrictions.

In AGMMA’s view, restrictions of this nature could have a catastrophic impact on the popularity of new games and achieve nothing in terms of harm reduction.

6.15 Requirement for human intervention in large payouts

The third bullet point under “Technical Measures” in the IPART table of ‘harm minimisation measures’ (appearing on page 6 of the IPART September 2003 “Issues Paper”) is “requirement for human intervention in large payouts”.

This raises essentially the same issue as that raised by the first bullet point under “Liquidity Controls” in the IPART table of ‘harm minimisation measures’ (appearing on page 6 of the IPART September 2003 “Issues Paper”) namely “requirement for large payouts not to be in cash”.

At present, Clause 30 of the Gaming Machine Regulation 2002 requires a hotelier or registered club to pay prize money exceeding \$1,000 to players by way of a crossed cheque.

The purpose of this provision is apparently to inhibit players from using winnings for further play. Although this is an operational issue and a manner which AGMMA proposes to leave to operators to raise, AGMMA observes that:

- the measure does not appear to have been based on any evidence or research that specifically dealt with such a prohibition;
- there is no evidence, to AGMMA’s knowledge, that Clause 30 has assisted any problem gamblers or reduced problem gambling;
- such a measure is unique to NSW – possibly for the above reasons – it has not been followed in any other gaming jurisdiction;
- the measure is inconsistent with the concept of ‘personal responsibility’ outlined in paragraph 4.3 above;
- the measure has impacted negatively on NSW venues to a significant extent without having achieved any identifiable benefits;

- the measure appears to have led to a proliferation of cheque cashing facilities charging usurious rates to cash crossed cheques.

6.16 The impact of music and display of lights

The sixth bullet point under “Technical Measures” in the IPART table of ‘harm minimisation measures’ (appearing on page 6 of the IPART September 2003 “Issues Paper”) is “the impact of music being played and display of lights when a win takes place”.

AGMMA notes that this measure is not one that was suggested by the LAB in the “First Determination” and AGMMA respectfully submits that such a suggestion is a very simplistic and superficial analysis of winning.

A more sophisticated review of the elements that contribute to problem gambling was carried out by Simone Rodda and John G. Phillips¹⁵⁰ whose research revealed that the *“concept of winning varies according to severity of problems and changes over time as a result of gambling”*.

Rodda and Phillips studied trait and state anxiety before and after gambling noting that anxiety increased after gambling regardless of win or loss. At no point did Rodda and Phillips refer to music and lights when a win takes place as a matter which deserved review.

Wins have been found to influence the style of play¹⁵¹ (which is hardly surprising) but the degree of *additional* reinforcement associated with lights and sound

¹⁵⁰ Simone Rodda and John G. Phillips, “Mechanisms contributing to the Maintenance of Problem Gambling”, National Association for Gambling Studies, Sydney, 2001, p.324

¹⁵¹ Simone Rodda and John G. Phillips, “Mechanisms contributing to the Maintenance of Problem Gambling”, National Association for Gambling Studies, Sydney, 2001, p.326

beyond the reinforcement associated with the win itself does not, to AGMMA's knowledge, appear to have been identified as an issue of any concern whatsoever.

7 Implementing Changes in Public Policy

7.1 Implementation of Public Policy by the LAB

Sydney University noted (in the 2001 report) that there are three basic harm minimisation strategies, noting that these were identified by G. Alan Marlatt in 1998¹⁵².

- *“education of individuals or groups*
- *modifying the environment and*
- *implementing changes to public policy”*

In Alan Marlatt’s ‘driving’ analogy¹⁵³, he characterizes laws and policies designed to regulate driving (i.e. seat belts, air bags, anti-lock brakes, working lights, a well maintained engine) as falling into this third category of measures.

It is interesting to note that none of the measures identified by Marlatt interfere with the enjoyment of driving or make it more difficult to access.

On the other hand, most public policy measures associated with gaming machines (beyond those associated with ‘modifying the environment’) interfere very significantly with both enjoyment and access.

¹⁵² The University of Sydney Final Report: The Assessment of the Impact of the Reconfiguration on Electronic Gaming Machines as Harm Minimisation Strategies for Problem Gambling, November 2001, page 25.

¹⁵³ G. Alan Marlatt, “Harm Reduction – Practical Strategies for Managing High Risk Behaviour”, 1998, page 58

The most significant, from AGMMA's perspective, are measures which interfere with the enjoyment of gaming.

As set out in Section 6.9 above, the lack of clarity associated with the 'Harm Minimisation' terminology used in the legislation has resulted in the Liquor Administration Board 'drawing a line in the sand' on technology (i) requiring specific proof of 'lack of harm' before approving new technology and (ii) introducing new technical rules which are said to be designed to "minimise harm" to protect players.

An example of these 'harm minimisation' decisions is the arbitrary limit of 25 'free games' imposed on manufacturers, as it illustrates the way in which "harm minimisation" is substantially interfering with the enjoyment of players.

The volatility of games has been limited (that is the size of wins and the frequency of wins) through adoption by the LAB of a standard deviation limit of 15.

This restriction effectively prevented NSW players from playing and enjoying high volatility games.

It was introduced because the Board was persuaded that it was 'unfair' and it may have involved 'harm' to offer such games.

The probability of winning prizes has been restricted because the Board has been persuaded that prizes should not be offered with long odds (i.e. one in 100 million).

AGMMA has strongly opposed these decisions on a number of grounds but principally on the grounds that if long odds and/or a high hit rate is/are disclosed to players through the Player Information Display (and the significance of these

measures is explained in an appropriate brochure), players should be free to choose to play such games.

AGMMA respectfully requests IPART to recommend that these decisions be reconsidered once the probabilities and hit rates of games are disclosed to players and players are appropriately advised as to the significance of these terms through the implementation of Player Information Displays.

AGMMA offers to update its Player Information Booklet in this regard and submit a draft to the Minister, the Department and the LAB for approval with a view to ensuring that players are properly informed about their gaming decisions.

7.2 Limiting Access

Many harm minimisation measures in NSW are intended to restrict access to gaming by limiting the number of machines in gaming venues through a number of different means.

These measures are all based on the assumption that limiting access in some way helps problem gamblers.

Whether these constraints are based on 'moral' grounds, views that 'abstinence' is the ideal solution or views that problem gamblers will gamble less if there are fewer machines is not clear.

However, what is clear is that limiting access in this manner does not appear to be supported by any research or evidence that such limits in any way improve the position of problem gamblers or reduce problem gambling.

7.3 Treatment and Harm Reduction

AGMMA's view is that public policy has not focused sufficiently on the treatment of problem gamblers and instead has sought to attack the machines and the venues.

AGMMA believes that treatment and improving treatment of problem gamblers is the key to problem gambling and for some time has been advocating the development of competency standards for problem gambling treatment providers in NSW.

Virtually anyone can 'hang out a shingle' advertising their services as a 'problem gambling counsellor' in NSW.

No qualifications are required by statute.

There is no oversight of standards.

Indeed there are no accepted Government endorsed standards for the treatment of problem gambling in NSW.

This may be because no such standards have been developed and this in turn may be the case because insufficient public monies have been spent on research and developing such standards.

In analysing the expenditure of CCBF funds, it is suggested that the question should be asked – why have funds not been dedicated to research by properly qualified psychologists into developing a set of standards for problem gambling treatment?

The fact that there are no competency standards for problem gambling treatment in NSW nor any program in place to develop such competency standards is possibly the greatest indictment of public policy in this area.

Problem gambling is very complex and there are many views as to what doesn't work.

AGMMA is not an expert in the field and is not in a position to provide authoritative guidance as to the directions that treatment should take.

However, it appears that there is a long way to go in terms of developing the optimal problem gambling treatment standards, establishing competency standards for those who wish to supply the treatment, testing those who wish to supply the treatment based on those competency standards to ensure that the standards are adhered to and deploying the qualified counsellors.

8 Conclusions and Recommendations

8.1 AGMMA's view of the priorities

AGMMA is of the view that “harm minimisation” in NSW requires an extensive overhaul to focus the legislation, regulations and regulators on strategies that will really assist problem gamblers as opposed to the machine orientated strategies currently in place.

AGMMA recommends the following measures as priorities in terms of reviewing and overhauling the ‘harm minimisation’ regime in NSW:

1	Refining the statutory concept of “harm minimisation” to either replace it with the concept of “responsible gambling” or “harm reduction”
2	Defining “harm minimisation” (or “responsible gambling” or “harm reduction”) by reference to objective standards, individual responsibility and a balance with other interests (as set out in paras 3.3 and 3.9)
3	Player Information Displays (preferably in the Victorian format) should be implemented in NSW as soon as possible with a brochure explaining the significance of the information (AGMMA would be pleased to supply a draft for consideration)
4	On screen messaging - as proposed by the GIO - should be adopted; messaging interrupting play should not be endorsed
5	Ticket Out Ticket In should be adopted
6	LAB Harm Minimisation Technical Decisions on free games and probability and volatility should be reviewed
7	No reduction should be made to the maximum bet or the maximum win; consideration should be given to increases

8	The existing ban on gaming machine advertising should be replaced with the Victorian model
9	No changes should be made to reel spin speeds or note acceptors
10	No restrictions on lights or music or sounds should be adopted
11	No additional controls on artwork are required
12	No changes to the rate of play are required and the current ‘technological line in the sand’ imposed by the LAB should be reconsidered

8.2 Specific legislative recommendations

AGMMA reiterates its proposal that, if the term “Harm Minimisation” cannot be removed from the legislation it should be clarified in the manner set out in paragraph 3.9 above for the reasons set out in Part 3 of this document.

8.3 Conclusion

The NSW gaming industry has adopted and implemented a ‘harm minimisation’ and ‘responsible gambling’ philosophy which goes well beyond the current legislation, regulations and standards.

In particular, the NSW gaming industry:

- has pro-actively suggested additional measures (many of which have been accepted and adopted by the LAB);
- prepared key documents (ie the AGMMA *‘Player Information Booklet’* (the ‘PIB’), the *‘Chances of Winning’* (the ‘COW’ card) format, the draft State *Wide Standard Self-Exclusion Deed* set out as Annexure A to the GIO’s 8/6/01 submission, the draft NSW Gaming Industry *Advertising and Promotions Code of Practice* set out as Annexure C to the GIO’s 8/6/01

- submission and proposed new regulations set out in Annexure D to the GIO's 8/6/01 submission);
- advocated more effective 'harm minimisation' alternatives;
 - defined, scoped and funded complex research projects and economic studies;
 - pioneered a unique 'world first' national problem gambling competencies project (Annexure B to the GIO's 8/6/01 submission) and
 - worked in close co-operation and consultation with the LAB and the Department on a wide range of matters.

The LAB itself has acknowledged the input provided by the GIO¹⁵⁴.

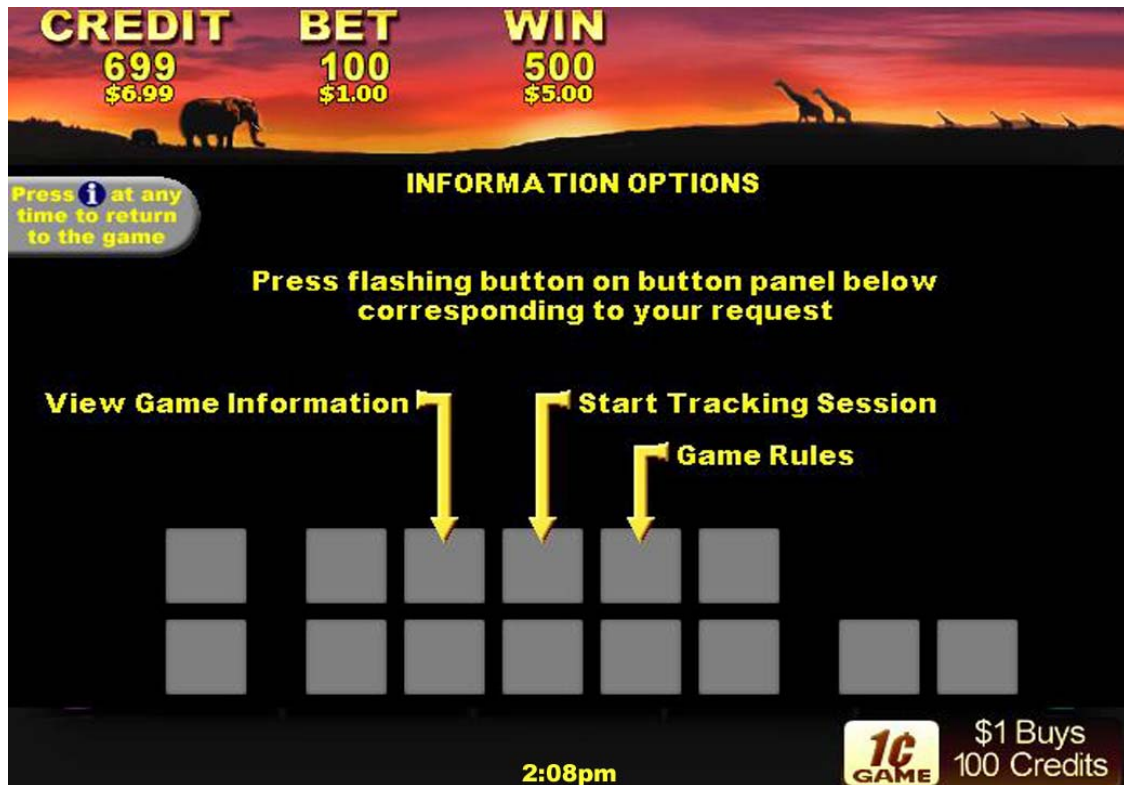
AGMMA members request consideration by IPART of the measures specifically identified by AGMMA in reforming the current regime to make it more effective in terms of reducing problem gambling and fairer to industry and the community.

¹⁵⁴ LAB First Determination, page 23

Annexure A

Victorian PID Screens

1. Access Screen (appears when 'information' icon is pressed)



2. Game Information Screen 1

CREDIT	BET	WIN
699	100	500
\$6.99	\$1.00	\$5.00

Press **i** button to return to the game
or Press ANY other button for more information

50 LIONS GAME RULES

Scattered  only appear on reels 1,2 and 3.
 only appear on reels 2,3,4 and 5.
All pays LEFT to RIGHT including scattered .

TOTAL BET is the number of credits on the LINES button multiplied by the number on the BET button.


TOTAL BET and lines played during the free games are the same as for the game that started the feature.

Choose your bet per line cost. Choose the lines that you wish to play.
Scatter wins added to payline wins.

Scatter wins multiplied by the number on the bet button X the number of lines played.

All wins multiplied by the number on the bet button except scatters.
Wins on different lit paylines added.

All wins on lines played except scatters which are added to payline wins.

2:08pm  \$1 Buys 100 Credits

3. Game information Screen 2

CREDIT 699 \$6.99
BET 100 \$1.00
WIN 500 \$5.00
WIN LINES

Press **i** button to return to the game

1 2 3 4 5 6 7 8 9 10
11 12 13 14 15 16 17 18 19 20
21 22 23 24 25 26 27 28 29 30
31 32 33 34 35 36 37 38 39 40
41 42 43 44 45 46 47 48 49 50

2:08pm **1c** GAME \$1 Buys 100 Credits

The image shows a slot machine game information screen with a savanna background. At the top, it displays 'CREDIT 699 \$6.99', 'BET 100 \$1.00', and 'WIN 500 \$5.00'. To the right, it says 'WIN LINES'. Below this, there is a prompt: 'Press i button to return to the game'. The main area contains 50 numbered win lines, each represented by a small grid with colored squares. At the bottom, it shows the time '2:08pm' and a logo for '1c GAME' with the text '\$1 Buys 100 Credits'.

4. Game Information Screen 3

CREDIT **BET** **WIN**
699 100 500
\$6.99 \$1.00 \$5.00

Press **i** button to return to the game
or Press **ANY** other button for more information

GAMBLE FEATURE

To gamble any win press **GAMBLE** then select **RED/BLACK** or a **SUIT**.
Bet is **DOUBLED(x2)** if **RED/BLACK** choice is correct.
Bet is **QUADRUPLED (x4)** if **SUIT** choice is correct.
Winnings may be gambled up to 5 times.
Press **GAMBLE** to alternate between full & half gamble.
Maximum win per gamble is \$10 000.

2:08pm **1c** GAME \$1 Buys 100 Credits

5. Key Game Structure Information

The screenshot shows the 'ELECTRONIC GAME INFORMATION' for the game '50 Lions'. At the top, it displays 'CREDIT 699 \$6.99', 'BET 100 \$1.00', and 'WIN 500 \$5.00'. Below this, a button prompts the player to 'Press i at any time to return to the game'. The game title '50 Lions' is prominently displayed. Key statistics include a 'Total Theoretical return to player of this game = 87.58%' and a 'Theoretical number of individual games played per win = 19.65'. The betting range is 'Minimum bet = 1¢' and 'Maximum bet = \$1.00'. A section titled 'Chances Of Winning (Based on MINIMUM BET selection & excluding feature wins)' lists 'Top Five Winning Combinations' (5 Lions, 5 Zebras, 5 Giraffes, 5 People, 5 Trees) and 'Bottom Five Winning Combinations' (2 Zebras, 2 Giraffes, 3 Mines, 3 Tens, 3 Jacks) with their respective odds. At the bottom, the time is '2:08pm' and a logo indicates '\$1 Buys 100 Credits'.

CREDIT 699 \$6.99 **BET 100 \$1.00** **WIN 500 \$5.00**

Press **i** at any time to return to the game

ELECTRONIC GAME INFORMATION
50 Lions

Total Theoretical return to player of this game = 87.58%

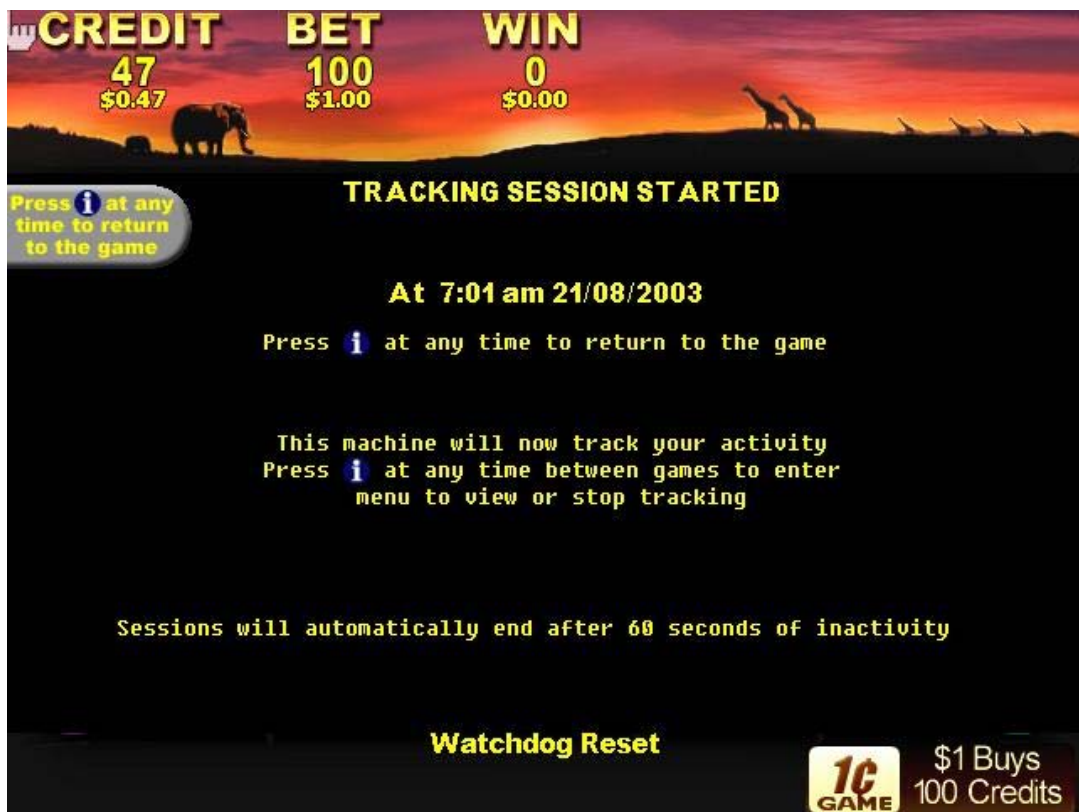
Theoretical number of individual games played per win = 19.65
Minimum bet = 1¢ Maximum bet = \$1.00

Chances Of Winning
(Based on MINIMUM BET selection & excluding feature wins)

Top Five Winning Combinations		Bottom Five Winning Combinations	
5 Lions	1 in 8,203	2 Zebras	1 in 56
5 Zebras	1 in 22,148	2 Giraffes	1 in 75
5 Giraffes	1 in 39,375	3 Mines	1 in 1,021
5 People	1 in 39,375	3 Tens	1 in 1,429
5 Trees	1 in 65,625	3 Jacks	1 in 1,191

2:08pm **1¢ GAME** \$1 Buys 100 Credits

6. Session Information Access Screen



7. Session Information Display

CREDIT 725
\$7.25

BET 100
\$1.00

WIN 0
\$0.00

Press **i** at any time to return to the game

ELECTRONIC PLAYER INFORMATION FOR CURRENT SESSION

Cash In = \$12.00 Credits Played = \$19.00 Credits Won = \$10.98*
Session Win or (Loss) = (\$8.02) Cash Out = \$0.00

Session Started: 11:18 am 21/08/2003 Total Time Played: 1 hrs 4 mins
Current Time: 12:22 pm 21/08/2003 Credits Avail = \$7.25

Start New Tracking Session **Stop Tracking**

12:22pm

1C GAME \$1 Buys 100 Credits

Annexure B

Ticket In Ticket Out Briefing Paper

March 2003

This paper outlines the issue for introduction of Ticket In ticket Out (TITO) in NSW. It is intended as a starting point for industry discussion toward having a co-ordinated approach to regulatory and specification issues.

Ticket In Ticket Out has been successfully deployed in the USA over the past 2 years bringing benefits to players as it offers choice to easily cash out or move between machines; for operators as it helps reduce the amount of cash on the floor.

TITO Functional Overview

The TITO system proposed for NSW is similar in concept to TITO solutions proven in the USA, building on established systems and processes in NSW as an extension of existing approved Cashless Transfers, Ticket Printer and Redemption Terminal.

The key system components are—

- EGM with a suitable ticket printer and bill acceptor capable of reading tickets marked with a bar code
- System Interface supporting protocol for messages printing of tickets; validation of redeemed tickets and CCCE transfer of credit value to/from the EGM
- TITO system controlling the issuing and redemption of tickets (which may be a component of Gaming Management System or a specific system installed to support TITO)

- Cashier station where player can redeem tickets for cash
- An automated cashier facility may be provided in some venues

A ticket is issued when a payer decides to cash out remaining credits on a machine. This is similar to current Ticket Out function - a CCCE transfer is made to the system of credits from the EGM; a ticket issued to the player with a unique bar code identifier; and a record of the transaction created in the TITO system.

When a ticket can be inserted in a Bill Acceptor with bar code reading capability a message is sent to the TITO System which validates the ticket and either instructs the EGM to accept the ticket and transfers the credits associated with the ticket to the machine; or sends a message to reject the ticket. The ticket may also be redeemed at the cashier.

The following issues have been identified requiring an industry approach to regulation and standardisation –

- Format of tickets and bar code
- Mechanism to keep a record of tickets issued
- Protocol enhancements to support the redemption of tickets
- Sharing of the P1 port for CCCE transactions

Format of Tickets

The ticket format has to be modified for TITO to be readable by a bill acceptor. The bar code is larger and runs lengthwise on the ticket; the paper width and length has be to similar to a bank note so it can fit in the bill stacker and the wording arranged to fit.

The information on gaming tickets is defined in Part 7 of the NSW Gaming Machines Regulation 2002 clause 93 with no restriction on ticket format. A

sample ticket format is included in AGMMA xxxx. It is proposed to add a second ticket format example to the AGMMA specification.

Ticket Records

Clause 102 of the NSW Gaming Machines Regulation 2002 states that a record required by this part must be in a form approved by the board. Current practice described in the AGMMA specification is to use a printer with an audit roll to meet this requirement. This is really duplication – an electronic record is fundamental component of a TITO (or indeed any ticket) system.

It is proposed that the electronic record be acceptable as an alternative to using an audit roll printer (provided the system maintains these records for 3 years). This is much more practical as the electronic record is easier to search and retain than paper rolls in each gaming machine. It also allows the use of simpler, faster printers which produce a higher quality ticket with excellent acceptance rate in bill acceptors.

Protocol Enhancements

The NSW X-Standard Protocol already includes messages to support printing of tickets (ie Ticket Out) and CCCE transfer of credit value to a machine, but lacks any message for validation of tickets (ie Ticket In). It is proposed to include an additional Manufacturer's Data Block (MDB) as part of the updates in the X-Standard Protocol Revision 3 (which also includes enhancements to metering).

The attached document Ticket In/Ticket Out for NSW Proposed Protocol Specification provides a first draft of enhancements for discussion in the CMS working group as part of the updates for Revision 3. Adoption of this protocol by industry would enable inter working of gaming machines and systems from different manufacturers for TITO, but does require that the gaming machine

software be updated to implement the new protocol. It is proposed that this be up to individual manufactures as an optional protocol element.

P1 port sharing

Gaming Machines in NSW have one bi-directional port which has to be shared by Jackpot Systems, Cashless systems and for connection of a TITO system. Two techniques have been defined for sharing this port - in the first, one system (usually the Cashless system) acts as a gateway for other users of the port. This is technically elegant, but requires ongoing close co-operation between systems from different vendors to implement, validate and maintain the interface.

The second technique is more pragmatic – a port sharing (P1 pass through) device connects to whichever system requires to communicate (requiring that each of the systems have a back off and reconnect strategy). This solution is proven operationally and has emerged as the preferred solution from CMS working group. Therefore a P1 pass through device has to be part of any TITO solution.

Alternate implementation

An alternate implementation has been proposed which avoids the need for protocol enhancements (and so could be used with older gaming machines which do not support the new protocol extensions).

In this implementation, a specially modified bill acceptor provides two interfaces – one to the gaming machine used for bill note validation and a second interface to the System Interface Unit for ticket validation. The System Interface sends Ticket In messages to the TITO System (using it's internal messaging), while

Ticket Out and CCCE transfers dialogue with the gaming machine uses existing messages in X-Standard revision 2.

Overall system operation is the same as described above, however the gaming machine software does not need to be modified to implement the additional messages and can be upgraded for TITO by update of printer (for new ticket format) and bill acceptor (for ticket reading and dual interface). Support for this alternate implementation will depend on compatibility of the gaming machine with a suitably upgradeable printer and bill acceptor. Modification to the approved gaming machine would require regulatory re-approval, however details of the interface between bill acceptor and System Interface are likely to be device dependant and do not require standardisation.

Annexure C

TITO: Legal/Regulatory Issues

May 19 2003

Executive Summary

AGMMA is in the process of establishing a uniform standard for Ticket In Ticket Out (“TITO”) in NSW with a view to extending it around Australia and New Zealand in due course. This will enable a ticket issued by any manufacturer’s machine in a venue (and possibly within several venues) to use the ticket in any other manufacturer’s machine.

A number of legal issues arise in relation to TITO, which, ideally, should be resolved through an amendment to Part 7 of the Gaming Machines Regulations 2002 and changes to the Technical Standards.

The purpose of this white paper is to outline the applicable issues and suggest the optimal way of dealing with them through an amendment to the regulations.

The suggested changes to the applicable regulations are set out in Annexure A.

Introduction

Gaming Machine Tickets are currently dealt with in Part 7 of the Gaming Machines Regulations 2002 but a number of amendments will be required.

When a player acquires a TITO ticket from a machine (or, possibly, a cashier station), the funds represented by the ticket will have been paid to the operator and the operator’s corresponding contractual legal obligation is to recognise the ticket for gaming purposes.

Because the relevant funds have been paid to the operator, from a legal perspective, the funds have become the lawful property of the operator in the same way that any other purchase transaction is characterised. The operator, however, owes contractual rights to the player.

It should be noted that National Standards 5.0 has very little to say about ticket printers¹⁵⁵.

Definitions in Regulations

It is suggested that the definition of “gaming machine ticket” in Clause 91(1) does not require amendment but that Clause 91(2), which deals with redemption, should be amended by insertion of the underlined words:

*“For the purposes of this Part, a hotelier or registered club **redeems** a gaming machine ticket if (a) the hotelier or club causes money to the total value of the accumulated credits represented by the ticket to be paid to a person claiming (whether by presentation of the ticket or otherwise) in respect of the ticket or (b) a gaming machine which is capable of accepting a ticket provides a person with the value represented by the ticket.”*

¹⁵⁵ Printers

Ticket Voucher Printing

3.7.13

Ticket voucher printing, as a method of credit redemption, is only permissible where the gaming machine is linked to a CMCS or Cash Control System which allows validation of the printed ticket at a Cashier Station. Where a payout is by ticket voucher printed by the gaming equipment, the gaming equipment must be capable of printing a ticket voucher for all credits

owed to the player at the completion of each game.

Cash Ticket Information Required

3.7.14

A valid ticket must contain the following information:

- a) the unique gaming equipment terminal identification number;
- b) the current date in the prescribed format (see *Section 3.3.27* Display of Date and Time);
- c) the time of day in the prescribed format (see *Section 3.3.25* Display of Date and Time);
- d) the value of the credit in numbers and or words;
- e) the unique identifying number of the ticket voucher; and
- f) the validation (check) number. The validation number computation method must be approved.

Ticket Barcodes

3.7.15

Barcodes or other form of machine readable markings on a ticket must have enough redundancy and error checking to ensure that 99.9% of all misreads are flagged as an error.

When the meaning of “redeemed” is broadened in this way, it will be necessary to amend Clause 98 by the addition of the words “for cash at a cashier” after the word “redeemed” in line 3 of Clause 98(1) and line 1 of Clause 98(3). It is also necessary to amend Clause 97 (*Persons authorised to redeem gaming machine tickets*) in a similar manner to the recent Gaming Machines Amendment Regulation (No.3) 2002 by amending Clause 97(6) as follows (see underlined words):

“Despite anything in this clause, gaming machine tickets issued in a hotel or registered club may be redeemed through the use of approved gaming machines capable of accepting a ticket or through the use of cash-back terminals approved, or of a class approved, by the Board for the purposes of this section”.

Clause 100 – Gaming Machine Tickets

Part 7 suggests that tickets should not expire for at least twelve months and effectively forever (Clause 100(1)).

It is suggested that AGMMA should recommend to the LAB/DGR that players should be *encouraged* to redeem tickets within a specified period after issue (although they must *always* be entitled to redeem them as long as they are legible for the purposes of Clause 93).

There are six principal reasons for this:

- Tickets should not be transferred (“negotiated”) between players as they are not legal tender¹⁵⁶;
- Tickets are, by definition, fragile and can be damaged by folding, tearing etc;
- Discouraging retention of tickets will limit the extent to which tickets can be stolen, copied, mislaid, defaced etc;
- Tickets fade or otherwise deteriorate over time;
- It will reduce the number of player disputes and complaints.

Some manufacturers will wish to use direct thermal printing to print the tickets. This is a comment made by a barcoding company¹⁵⁷ in relation to direct thermal printing:

¹⁵⁶ Only notes issued by the Reserve Bank are legal tender (Currency Act).

¹⁵⁷ Barcoding.com

“Another downside to DT printing is that the labels will turn yellow over time, and the print will fade to a faint grey. Overnight carriers typically use DT labels because the labels only need to last a day or two. It is reasonable to expect a DT label to last about 6 months.”

Other forms of printing also fade or deteriorate. Given that it is estimated that tickets printed by a thermal printer are only be expected to last 6 months, it seems prudent to *encourage* the prompt redemption of TITO tickets to minimise the possibility of discolouring and disputes.

It is suggested that consideration should be given to amending the Regulations to require that tickets can only be redeemed for credits in machines **on the day on which the ticket was issued or the next day** (obviously, a ticket can also be redeemed for cash at a cashier during this period) with the additional proviso that it can be subsequently redeemed by a cashier if the ticket is legible for scanning purposes and if proof of identity is provided.

The ‘day on which the ticket is issued time frame or the next day’ formula is already in the Regulations (Clause 98) and seems a sensible time frame to follow.

It is suggested that one way to achieve the changes (there are many alternatives) is to amend Section 100 - to refer to Gaming Machine Tickets by deleting ‘Unclaimed’ from the heading – and by adding a number of additional sub-clauses as follows:

Redemption of Gaming Machine Tickets

- (4) A gaming machine ticket may only be redeemed by means of an electronic gaming machine in a registered hotel or club if:
- (a) a ticket is inserted into an electronic gaming machine which is capable of accepting the ticket;
 - (b) the ticket was issued on the day of such redemption or the day preceding such redemption.
- (5) A gaming machine ticket which has not been redeemed pursuant to subclause (4) shall be redeemed by an authorised person pursuant to clause 97 if:
- (a) a ticket is presented to that authorised person
 - (b) the ticket is legible for the purposes of Clause 93; and
 - (c) documentary proof of identity is provided.

It is suggested that such a regime likely minimise the possibility of player-venue disputes over tickets.

The current regulations are unclear on proof of identity.

Clause 96(3) entitles a hotelier or registered club to refuse to redeem a ticket if the hotelier or registered club is not satisfied that the person is entitled to the ticket or does not provide relevant identification but Section 98(3) specifies that proof of identification is not required if a gaming machine ticket is redeemed on the day of issue or the next day.

It is suggested that these provisions should be reconciled by adding the words “, subject to Clause 96(3)(b),” before the word “documentary” in clause 98(3)(b).

Such a regime will also assist in minimising the possibility of players using tickets as items of value and giving them to each other (‘negotiating them’).

Negotiation should be discouraged because if the practice is any way endorsed, it may lead to certain players photocopying tickets and then endeavouring to sell them.

If a ticket is lost, the question as to whether the corresponding monies held by the venue are ‘unclaimed monies’ under the *Unclaimed Money Act 1995* may arise.

The answer is that the monies are not unclaimed monies as the monies have been paid to the venue, which has provided the player with a valuable chattel in exchange.

Under the Act, unclaimed monies must be held in an account whose owner is not identifiable.

Any damage or alteration to the ticket should be the responsibility of the ticket holder.

It is suggested that Clause 93, which deals with legibility already, should be amended to add the words “when issued” after the word “ticket” in the first line and to add the following sentence – as subclause (2) - to the end of the provision: “It is the responsibility of the person to whom a ticket is issued to ensure that the ticket is not disfigured, stolen, lost, damaged, copied or otherwise improperly dealt with.”

It is suggested that, as a practical matter, subclause 93(2) should be displayed next to each cashier station. This could be provided for in the Regulations but it is not essential.

Clause 102 – Records

Electronic Records

Clause 98 and Clause 102 of the Regulations require records to be retained on redemption of tickets (at a cashier (if the amendment to Clause 98 suggested above is accepted)).

However, when systems are connected to an appropriate electronic monitoring system (which retains these records electronically) this effectively involves doubling up on record keeping.

It is suggested that an additional sub-clause (4) be added to Clause 98 to deal with this:

(4) If a gaming machine is connected to a monitoring system, approved by the Board, which retains the information set out in sub-clause (2) in electronic form, no other record is required to be made under this clause.

A corresponding amendment is also required to Clause 102 in this regard. This would take the form of a sub-clause (4):

(4) If a gaming machine is connected to a monitoring system, approved by the Board, which retains the information set out in clause 98(2) in electronic form, a hotelier or club is not required to retain gaming machine tickets for the purposes of sub-clause 2 or make such tickets available for inspection pursuant to sub-clause 3.

Conclusion

This White Paper raises a number of issues regarding tickets and suggests appropriate methods of dealing with these issues.

There are clearly many options available.

The purpose of this memorandum is not to necessarily suggest a *definitively correct result* but to raise the issues so that the matter is properly dealt with in the Regulations.

The suggested regulatory changes are summarised in Annexure A.

Annexure C

Proposed Principal Changes to Gaming Machine Regulations

Clause 91(1)

*For the purposes of this Part, a hotelier or registered club **redeems** a gaming machine ticket if (a) the hotelier or club causes money to the total value of the accumulated credits represented by the ticket to be paid to a person claiming (whether by presentation of the ticket or otherwise) in respect of the ticket or (b) a gaming machine which is capable of accepting a ticket provides a person with the value represented by the ticket.*

Clause 93

(1) The following must be clearly legible on a gaming machine ticket when issued:

- (a) the value, in dollars and cents, of the accumulated credits represented by the gaming machine ticket,*
- (b) the unique identification number of the gaming machine ticket.*

(2) It is the responsibility of the person to whom a ticket is issued to ensure that the ticket is not disfigured, stolen, lost, damaged, copied or otherwise improperly dealt with.

Clause 97(6)

“Despite anything in this clause, gaming machine tickets issued in a hotel or registered club may be redeemed through the use of approved gaming machines capable of accepting a ticket or through the use of cash-back terminals approved, or of a class approved, by the Board for the purposes of this section”.

Clause 98(1)

A hotelier or registered club must cause a record to be made in accordance with this clause when a gaming machine ticket is redeemed for cash at a cashier.

Clause 98(3)

However, if a gaming machine ticket is redeemed for cash at a cashier on the day on which it was issued or the next day:

(a) a record is not required to be made under this clause unless the total value of the accumulated credits represented by the ticket is \$500 or more, and

(b) subject to Clause 96(3)(b), documentary proof of the identity of the claimant is not required.

Clause 98(4)

(4) If a gaming machine is connected to a monitoring system, approved by the Board, which retains the information set out in sub-clause (2) in electronic form, no other record is required to be made under this clause.

Clause 100

Redemption of Gaming Machine Tickets

(4) A gaming machine ticket may only be redeemed by means of an electronic gaming machine in a registered hotel or club if:

(a) the ticket is inserted into an electronic gaming machine which is capable of accepting the ticket;

(b) the ticket was issued on the day of such redemption or the day preceding such redemption.

(5) A gaming machine ticket which has not been redeemed pursuant to subclause (4) shall be redeemed by an authorised person pursuant to clause 97 if:

(a) the ticket is presented to that authorised person

(b) the ticket is legible for the purposes of Clause 93; and

(c) documentary proof of identity is provided.

Clause 102

- (4) If a gaming machine is connected to a monitoring system, approved by the Board, which retains the information set out in subclause 98(2) in electronic form, a hotelier or club is not required to retain gaming machine tickets for the purposes of sub-clause 2 or make such tickets available for inspection pursuant to sub-clause 3.