

LIQUOR ADMINISTRATION BOARD

**SUBMISSION TO THE INDEPENDENT PRICING AND
REGULATORY TRIBUNAL OF NSW**

REVIEW OF GAMBLING HARM MINIMISATION MEASURES

Executive Summary

The Liquor Administration Board's submission identifies in detail all of the Board functions and duties relating to the operation of approved gaming devices in hotels and clubs in New South Wales. The submission addresses each of the items identified by IPART in its invitation for submissions and discussion paper.

The Board advocates the continuation of all current processes specified in the Gaming Machines Act and Regulation and the arrangements that exist in this state involving as they do the Minister, the Department of Gaming and Racing and the Board.

The Board submits that the current approach in this state to dealing with gambling harm minimisation adequately identify and address the appropriate aims for gambling harm minimisation. Those who require protection are protected and those required to be consulted are consulted. Australasian and International best practice exists and is applied.

In appropriate cases necessary research is identified and is undertaken. For example the Board's First Determination recognised certain matters required research and research was undertaken. It is important to stress that not all initiatives or proposals require research. The Board's submission expresses its concerns that summary "research" is not carried out with the expedition required.

The Board therefore advocates the continuation of the current regulatory model as it adequately deals with gambling harm minimisation for approved gaming devices in the state of New South Wales.

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REVIEW OF GAMBLING HARM MINIMISATION MEASURES

INTRODUCTION

1. In accordance with the invitation for submissions dated 24 September 2003 the Liquor Administration Board (“the Board”) makes the undermentioned submissions. The Board does not seek confidentiality in respect of the submissions.

Executive Summary

2. The Liquor Administration Board’s submission identifies in detail all of the Board’s functions and duties relating to the operation of approved gaming devices in hotels and clubs in New South Wales. The submission addresses each of the items identified by IPART in its invitation for submissions and discussion paper.

The Board advocates the continuation of all current processes specified in the Gaming Machines Act and Regulation and the arrangements that exist in this State involving as they do the Minister, the Department of Gaming and Racing and the Board.

The Board submits that the current approaches in this State to dealing with gambling harm minimisation adequately identify and address gambling harm minimisation. Those who require protection are protected and those required to be consulted are consulted. Australasian and International best practice exists and is applied.

In appropriate cases necessary research is identified and is undertaken. For example the Board’s First Determination recognised that certain matters required research and research was undertaken. It is important to stress that not all initiatives or proposals require research. The Board’s submission expresses its concerns that some “research” is not carried out with the expedition required.

The Board therefore advocates the continuation of the current regulatory model as it adequately deals with gambling harm minimisation for approved gaming devices in the State of New South Wales.

LIQUOR ADMINISTRATION BOARD

3. The Board is constituted by s72 of the Liquor Act 1982 and presently comprises four Licensing Magistrates who hold office ex-officio.
4. The current Board Members are:
 - D B Armati, Chairperson
 - D A Collins
 - D A Kok
 - P F Ashton
5. The Licensing Court of NSW is created by the Liquor Act 1982 and Licensing Magistrates are appointed by the Governor for a term.
6. The Board is assisted in its work by the appointment of a Department of Gaming and Racing officer as its Board Secretary, Mr Stephen Howard, by the provision of Departmental assistance by an Executive Assistant, Mr David Fong and a Personal Assistant, Mrs Yolande Hendricks.
7. The Board exercises its functions by convening as a Full Board or by individual Board Members making decisions under delegation from the Chairperson.
8. The Board is assisted in carrying out its functions by other Departmental officers who perform administrative work in the Board's name or who exercise Board functions under delegation from the Chairperson.

DUTIES AND FUNCTIONS OF THE BOARD MEMBERS

9. Section 74 of the Liquor Act 1982 specifies the following as functions of the Board:

“(1) In addition to the functions otherwise conferred on it by this or any other Act, the Board:

- (a) shall keep under constant review the operation of this Act and make such recommendations to the Minister in relation thereto as it thinks fit,
- (b) shall, upon being directed by the Minister so to do, inquire into, and make a report and recommendations to the Minister upon, any matter connected with the administration of this Act,
- (c) shall keep under constant review the standard of licensed premises,
- (d) may receive submissions or reports from any person with respect to the operation of this Act, and

- (e) may impose conditions with respect to any matter within its jurisdiction and revoke or vary any such condition.”
10. Under both the Liquor Act 1982 and the Registered Clubs Act 1976 the Board performs a number of functions.
 11. The **Gaming Machines Act 2001** specifies a number of duties and functions of the Board.
 12. Apply the primary object of the Act on gambling harm minimisation and responsible gambling conduct in s3 which reads as follows:

“(1) The primary object of this Act is:

(a) gambling harm minimisation, that is, the minimisation of harm associated with the misuse and abuse of gambling activities, and

(b) the fostering of responsible conduct in relation to gambling.

(2) The Licensing Court, the Board, the Minister, the Director-General, the Director, the Commissioner of Police and all other persons having functions under this Act are required to have due regard to the need for gambling harm minimisation and the fostering of responsible conduct in relation to gambling when exercising functions under this Act.

(3) In particular, due regard is to be had to the need for gambling harm minimisation when considering for the purposes of this Act what is or is not in the public interest.”
 13. Approve gaming machines not used for the purposes of gambling under s8.
 14. Comply with the limitations on gaming machine numbers in Part 2.
 15. Administer and deal with applications for poker machine entitlements established by Part 3.
 16. Administer and deal with applications for hardship gaming machines established in Part 3
 17. Deal with forfeiture of gaming machine entitlements under Division 4 of Part 3.
 18. Determine Social Impact Assessment applications for gaming machines under Division 1 of Part 4.
 19. Deal with exemptions from the mandatory shutting down of gaming machines under Division 2 of Part 4.
 20. Administer the scheme for authorisations to keep or dispose of gaming machines under Division 1 of Part 5 involving the:

- a. the keeping or disposing of gaming machine authorisations
- b. the variation of those authorisations
- c. the imposition of conditions in relation to those authorisations
- d. approval of modifications to gaming machines
- e. the settling of forms relating to this scheme
- f. the suspending or cancelling of authorisations
- g. making determinations as to the primary purpose test being satisfied in respect of a hotel before an authorisation is granted
 - i. Section 6 provides a primary purpose test in respect of hotels as follows:

“For the purposes of this Act, the following provisions (referred to in this Act as the **primary purpose test**) apply in relation to hotels:

(a) the primary purpose of the business conducted in a hotel is to be the sale of liquor by retail,

(b) the keeping or operation of approved gaming machines in a hotel is not to detract unduly from the character of the hotel or from the enjoyment of persons using the hotel otherwise than for the purposes of gambling.”

- ii. In being further satisfied as to that primary purpose test, have regard to the physical layout of the premises and the position of approved gaming machines as well as the general manner in which gambling activities are to be conducted in the hotel and the general manner in which the overall business of the hotel is conducted.

- h. have regard to the tests for retail shopping centres and the prohibition on approval of gaming machines in premises in retail shopping centres.
- i. Approve of multi-terminal gaming machines.

21. The approval of gaming machines under Division 2 of Part 5 which involves the following:

- a. Section 62A requires the Board

“(1) In exercising its functions under this Division, the Board is required to have due regard to the following matters:

- (a) the need for gambling harm minimisation (as referred to in section 3 (1) (a)),
- (b) the need to foster responsible conduct in relation to gambling,
- (c) the need to minimise the potential for any harm that may result from the approval of technical standards under section 62 or from the declaration of a device as an approved gaming machine under this Division,
- (d) whether, in the opinion of the Board, any feature, function or characteristic of any such device is likely to lead to an exacerbation of problem gambling.”

- b. Approving of technical standards in relation to poker machines and devices in the nature of approved amusement devices for the purposes of ensuring the integrity of gaming by the use of poker machines and such devices and these standards are to be known as “The Approved Technical Standards” (s62)
- c. Receiving applications for the declaration of devices as approved poker machines and approved amusement devices; for this purpose to investigate such applications to determine whether the device is suitable for declaration and to raise costs in respect of such investigations.
- d. Making declarations that a device is an approved poker machine or an approved amusement device or to refuse to make such a declaration if the Board is of the opinion that the declaration would relate to a device that does not meet the approved technical standards and to revoke declarations if it is necessary to do so in the public interest.
- e. In carrying out investigations the Board is required to have regard to statutory procedural fairness.
- f. Approving the keeping and operating machines on a trial basis.

22. The Board has a number of functions relating to gaming-related licences under Division 3 of Part 7 involving:

- a. approving forms of objection to be used in the Licensing Court
- b. the issuing of certificates of suitability for applicants for gaming machine testing facility licences under s102 involving:
 - i. the Board certifying that a person specified in the certificate is, in the opinion of the Board, suitably qualified and competent to undertake the testing of machines, and

- ii. the Board certifying, if it thinks fit that premises specified in the certificate are, in the opinion of the Board, suitable for the testing of gaming machines.
 - c. Approving forms of licences for gaming-related licences.
 - d. Imposing conditions on gaming-related licences.
 - e. Requiring a holder of a dealers licence to arrange at the expense of the dealer, and within a time specified by the Board, for specified alterations to be made to approved gaming machines.
 - f. To collect periodic fees for gaming-related licences and to deal with refunds of fees.
23. Approve the form and content of compliance plates under s121.
24. The Board has the function of approving the financial arrangements made between the holders of gaming-related licences and hoteliers or registered clubs for the acquisition of approved gaming devices under s122.
25. The Board has limited functions relating to the Authorised Central Monitoring System provided for in Part 9 of the Act. These involve:
- a. The approval of those parts of the Central Monitoring System which fall within the definition of subsidiary equipment.
 - b. Settling the rules requiring connectivity to the CMS by operators.
26. The Board has limited functions relating to the linked gaming systems under Part 10 of the Act. These include:
- a. the approval of those parts of linked gaming systems that fall within the definition of subsidiary equipment
 - b. approving approved gaming machines as “specially approved gaming machines” for use in linked systems.
27. The Board is subject to such directions and guidelines as the Minister may give it under s205 relating to:
- a. approving the keeping of hardship gaming machines.
 - b. approving Social Impact Assessments.
 - c. approving Technical Standards
 - d. declaring devices as approved gaming machines
28. The Board is specifically empowered under s205(6) to exercise the following functions:

“(6) In addition to the functions conferred on it by this Act, the Board:

- (a) is to keep under constant review the operation of this Act and make such recommendations to the Minister in relation to the operation of this Act as it thinks fit, and
- (b) is, if directed by the Minister so to do, to inquire into, and make a report and recommendations to the Minister on, any matter connected with the administration of this Act (including the keeping and operation of approved gaming machines in hotels and registered clubs), and
- (c) may receive submissions or reports from any person with respect to the operation of this Act (including the manufacture, assembly, supply, sale, acquisition, servicing, disposal, keeping or operation of approved gaming machines).”

29. The Board is subject to secrecy provisions in respect of any information it acquires in the exercise of its functions but has power to certify that it, and others, may disclose information in the public interest.

The **Gaming Machines Regulation 2002** specifies a number of duties and functions of the Board in addition to those in the Act.

- 30. A number of those duties and functions are mechanical provisions relating to matters set out above and do not need further reference. A number have no relevance to harm minimisation.
- 31. Clause 85 empowers the Board to allow any increase in the amount of money that may be stored on a player account card from \$200 to \$1000. The limit of \$200 is in place to ensure protection of player funds from defaulting operators. There is no harm minimisation issue.
- 32. Clause 97 empowers the Board to approve cash-back terminals.
- 33. Clause 100 requires the Board to approve forms to be displayed in premises about unclaimed moneys.
- 34. The Board is required to approve the disposal of unclaimed moneys.

FUNCTIONS OF THE LICENSING COURT OF NSW

- 35. The Court is empowered to hear prosecutions and impose penalties in respect of a range of offences specified in the Act.
- 36. The Court is empowered to hear applications for gaming-related licences, to issue interim work permits, not to grant applications within a specified period unless there is a report from the Director of Liquor and Gaming, to hear objections to the granting of applications and to impose conditions on licences.

37. The Court is empowered to hear disciplinary complaints against the holders of gaming-related licences.
38. The Act empowers the Court to hear complains and applications for gaming-related licences sitting as a Court comprising a single Licensing Magistrate or a Court of three Licensing Magistrates and for a Court of three Licensing Magistrates, sitting as a Full Bench, to hear appeals against decisions of a single Licensing Magistrate in relation to complaints and gaming-related applications. Appeals in relation to prosecution matters may be taken to the District Court. Appeals in relation to all matters may be taken to the Supreme Court on questions of law.
39. In exercising its functions the Licensing Court, except for prosecution matters, is not bound by the rules of evidence and may inform itself in such manner as it thinks fit, sits administratively and considers issues in the public interest. In prosecution matters the rules of evidence and criminal law apply.
40. The Court issues hoteliers licences under the Liquor Act 1982 and certificates of registration under the Registered Clubs Act 1976 and deals with transfers from person-to-person or approves new secretaries of clubs. These types of applications as well as those for gaming-related licences require applicants to undergo probity checking. Probity checking is an important harm minimisation tool as it enables all associated with the relevant industry, whether enforcers or players etc, to be satisfied that harm minimisation measures will be in place and applied.

FUNCTIONS EXERCISED BY OTHERS

41. In addition to the functions exercised by the Court and the Board a number of other entities exercise functions under the Act and Regulation. In doing so these entities are required to apply harm minimisation principles. The Board does not report upon these entities with the exception of the Gaming Technology Branch of the Department.
42. Like the Board the Gaming Technology Branch must apply the primary object of the Act. As the majority of the functions it carries out in approving gaming machines under delegation or making recommendations to the Board are carried out in the name of the Board it is not necessary to separately report upon the Branch activities for harm minimisation.

GAMBLING HARM MINIMISATION AND RESPONSIBLE GAMBLING CONDUCT AS PRIMARY OBJECTS OF THE ACT

43. The primary object is set out above. The Board strongly supports the continued operation of this primary object. The initial primary object in the Act when introduced was amended to make its ambit broader and terms more meaningful.

44. In exercising each of the functions referred to in this paper, and generally, the Board applies this primary object, for example, in determining what is to be contained in the technical standards and whether proposed new games or gaming machine hardware should be approved.

Limitations on Gaming Machine Numbers

45. The Board notes that the statutory caps on gaming machines in hotels and clubs are not to be the subject of this review and therefore makes no detailed submissions.
46. The Board supports the state cap, the requirement for large scale clubs to reduce their gaming machine holdings, the limit on the number of gaming machines in registered clubs, the overall limits on the number of approved gaming machines permitted in both hotels and clubs and the limit on the number of machines permitted in hotels.
47. In due course these caps should be the subject of evaluation and determination as to their appropriateness and whether other caps, such as regional or neighbourhood caps might be considered.

Poker Machine Entitlements and Hardship Gaming Machines

48. The Board notes that the tradeable poker machine entitlement scheme for hotels and clubs is not to be the subject of this review.
49. The hardship applications which were permitted on the introduction of the Act have now been dealt with and no further applications are permitted by the Act.

Social Impact Assessment of Gaming Machines as a Gambling Harm Minimisation Measure

50. The Board notes that the requirement to undertake a Social Impact Assessment for additional gaming machines in hotels and clubs as a core Government policy is not to be subject of the review although the review may investigate measures for improving the current process.
51. The Board supports the process for the social impact of gaming machines as a gambling harm minimisation measure. As with all gambling harm minimisation measures it should not be considered in isolation from other measures as gambling harm is a multi-faceted problem.
52. As the inquiry may investigate measures for improving the current process the Board sets out that process in general form only. Should the reviewers require additional input from the Board in respect of the Social Impact Assessment process to enable the reviewers to investigate further measures the Board will provide more detailed information.
53. The process requires an applicant to identify a local community as defined in the legislation, provide prescribed factual information and have that application assessed by the Board.

54. There are two classes of Social Impact Assessment prescribed and the first class, Class 1, enables an applicant to obtain up to 4 additional machines in a period of 3 years by the provision of basic information.
55. The second class, Class 2, requires a detailed report for machines over and above that number of 4 in a 3 year period and to establish to the satisfaction of the Board that the overall economic and social impact of granting the application will not be detrimental to the local community.
56. To 30 June 2003, 390 Class 1 assessments had been dealt with under delegation by the Secretary. To the present time 55 Class 2 assessments have been lodged with the Board.
57. The process fixed by the Board requires an applicant to carry out advertising and the appropriate service of the application upon the nominated agencies and to pay an application fee. In order of receipt, applications are then sent to a review panel which the Board has established after a consultation process. A reviewer carries out an assessment of the application and provides a report to the Board. If that report is favourable the application is then assessed. If that review report is not favourable it is referred back to the applicant for additional information. Upon receipt of that additional information the Board Member will determine whether the application is able to be disposed of or whether, as is not infrequent, additional material is lodged which requires further review, then it is referred for further review. Upon receipt of that further review the Board Member determines whether the application is able to be determined or whether additional information from the applicant is required. This is a lengthy and costly process but the Board is firmly of the opinion that it is justified in requiring applicants to undergo this process to meet the statutory tests. It has been open to the Board to refuse applications upon receipt of a reviewer's unfavourable report but the Board has determined that it would be unfair to applicants to do so and has permitted them to supplement their lodged material. This has led to the substantial delays. In addition every report reviewed so far has been deficient and the correction of those deficiencies has further caused delays.
58. At the time of writing the Board is in discussion with the Minister and Department as to the fixing of Board Guidelines for the preparation of reports. A number of documents to assist applicants have been placed on the Department of Gaming and Racing website and Board decisions are published on that website.
59. As the Board has dealt with further applications and as the reviewers have been able to consider material lodged the Board has established a number of formulae and other data matrices for use in the consideration of applications.
60. As the issues paper makes no further reference to Social Impact Assessments the Board limits its comments to those above.

Mandatory Shutting Down of Gaming Machines as a Gambling Harm Minimisation Measure

61. The Board supports the general principle of the mandatory shutting down of gaming machines as a gambling harm minimisation measure. The Board does so as it provides a circuit breaker for problem gamblers. That is, it prevents a problem gambler from continuously gambling beyond a possible period of 18 hours, or 21 hours if a 3 hour shutdown has been approved.
62. Circuit breakers are considered by the Board to be one of a number of suitable measures for assisting problem gamblers. There are a number of different types of circuit breakers.
63. The Board is aware of industry claims of losses occasioned by mandatory shutdown and therefore the Board supports research into this measure to determine its effectiveness generally, in relation to problem gamblers in particular and the impact upon venues.
64. To 30 June 2003 the Board received 539 applications for exemption from the mandatory 6 hour shutdown as follows:

Section 43 different 3 hour interim shutdown	4
Section 41 different 6 hour shutdown	380
Section 40 3 hour shutdown for Sat, Sun and Public Holidays	155

Of these 66 were not approved being 12 which were refused and 54 which remain outstanding under s40 because the local consent authority has not given its consent. 390 were fully approved and 83 partly approved. The Board awaits commencement of new provisions and Ministerial Guidelines on a revised hardship test for shut down exemption.

GENERAL HARM MINIMISATION MEASURES

Gaming Machine Advertising and Gaming-Related Signage (External)

65. The Board notes that these are considered to be core Government policies and not the subject of the review.
66. In its first determination of April 2001 (referred to in more detail later) at page 53 the Board expressed the opinion that consideration must be given to prohibiting or at least severely restricting gaming-related advertising and signage and proposed consultation. The Board notes that Government has prohibited the same and the Board supports this determination and legislation.
67. The Board participates in the Regulators Responsible Gambling Working Party, which is a body of national regulators established by Chief Executive Officers and the working party has prepared a National Standard for Gaming Machines on Advertising of Gambling Products. The Board is unable to release to the review this paper without approval of the CEOs.

Regulation of Promotional Prizes and Player Reward Schemes

68. A considerable number of player reward schemes exist. Many operate in conjunction with approved gaming devices.
69. The Board is in favour of reward schemes which do not relate to gaming machine play and which enable patrons of hotels and members of hotels and members of clubs to accumulate the equivalent of bonus points which are redeemable for goods or services. The Board does not support player reward schemes which reward a player by the provision of goods or services or otherwise as a result of playing an approved gaming device. The Board is of the view that the latter is an inducement to gamble. The Board is of the view that players will be induced or encouraged to bet more or play longer than they might otherwise wish to do in the hope of achieving more reward scheme bonuses.
70. The Board, however, notes that player reward schemes are recognised by the Act. Accordingly in exercising its functions the Board seeks to ensure that anything it approves limits as far as possible inducements which might lead to gambling harm. For example, in recently approving a paging system the Board imposed conditions on the manufacturer requiring the manufacturer to notify a purchaser of the statutory prohibitions on clubs providing benefits to some members and not all members. The Board is concerned, for example, that such paging systems could be used to identify problem gamblers and seek to reward them with accelerated bonus points which would then induce them to gamble more and to their harm.
71. The Board strongly endorses the player activity statement component of the player reward scheme provisions. That is, the requirement if a scheme is operated that a player be given a player activity statement relating to play on an approved gaming machines. Clauses 42 to 45 of the Gaming Machines Regulation sets out details of those requirements.
72. The Board believes that the provision of appropriate information to a gambler is an essential harm minimisation tool. Many gamblers are not aware of, or close their mind to the amounts gambled or the frequency and duration of those gambling episodes. Such a statement may well provide a circuit breaker prior to the commencement of a gambling session. Such information is consistent with the indisputable fact that the provision of detailed information to a gambler will assist that gambler in making a decision whether it is appropriate to gamble or not.
73. The Board supports the limits on promotional prizes provided in s45 of the Act.
74. In its first determination of April 2001 the Board expressed concerns about certain promotions that were taking place and prizes that were being offered and determined that consultation should take place on a proposal to limit promotional prizes to \$1000 which could not be accumulated. The Board notes that s45 of the Act was introduced to reflect this proposal.

75. The Board had become aware of one Western Sydney club, for example, which provided the opportunity for poker machine players to win a Ferrari. This was an obvious inducement of an inappropriate kind and appropriately is now prohibited by the section.
76. It is quite apparent, without research, that inducements such as that referred to will attract problem gamblers, and others, to gamble beyond their means in an endeavour to win such an attractive prize. The current limit permits appropriate in-venue promotions designed to attract players, but not induce them and to provide a measure of entertainment. The limits are appropriately fixed such that problem gamblers or likely problem gamblers will not be attracted by the size of the prize to participate in the promotion beyond their means.

Problem Gambling Counselling Services

77. The ongoing provision of problem gambling counselling services is essential. The Board does not administer these services. As to whether the appropriate levels of funding and whether the services funded, or not funded, are suitable is not a matter for the Board.
78. The Board supports the statutory requirement that hotels and clubs be required to bring to the attention of gamblers the availability of problem gambling counselling services. The Board supports the requirement that hoteliers and registered clubs be required to enter into arrangements for those problem gambling counselling services to be made available to their patrons. The Board notes that the current requirements in the Gaming Machines Regulation have been established by Government after consultation with industry and considers those to be appropriate. From discussions with industry representatives it is apparent that they are taking their responsibilities on behalf of their members seriously and providing services and guidance of an appropriate nature.
79. The Board supports the various requirements for notices bringing to the attention of patrons the availability of the services but, as with all signage on licensed premises, is of the view that this should be the subject of separate research to determine its ongoing effectiveness.

Responsible Conduct in Relation to Gaming Machines

Mandatory Training Courses

80. Section 47(2)(c) requires secretaries of clubs and hoteliers or managers of hotels and any person engaged or proposing to be engaged in the administration of a club or hotel or in the management of approved gaming machines in the club or hotel to undergo courses of training that will promote responsible practices in relation to approved gaming machines.
81. The Department of Gaming and Racing in consultation with TAFE settled the terms of a single responsible gambling course which was approved by the Board. That course has undergone periodic review. A registered provider may apply to the Board to be approved as a training provider and any person who

wishes to conduct the approved training course on behalf of the training provider must hold a Certificate IV in Assessment in Work Place Training or have other qualifications approved by the Board, three years experience in a managerial or supervisory position in a hotel or club and have attended Departmental seminars. A number of applications are not granted because of failure to meet the requisite standards. The Board keeps the registered providers and trainers under constant assessment.

82. The Board in approving the course must consider it to be one which will promote responsible practices in the conduct of activities involving approved gaming machines in hotels and registered clubs. The Board is satisfied that the present course does so.
83. The Board supports the provisions of mandatory training contained in the Act and Regulation and the prohibitions on permitting gaming machine activity in clubs and hotels unless each person required to be so trained has been trained.
84. The Board believes that mandatory training for those specified and for the course approved is an essential tool in dealing with harm minimisation.
85. The learning outcomes of the course are:
 - a. describe the context of gambling in NSW
 - b. explain the indicators and impact of problem gambling
 - c. describe the legislative framework for responsible conduct of gambling
 - d. implement responsible conduct of gambling strategies; and
 - e. list the benefits of implementing responsible conduct of gambling practices.
86. It appears that the one outstanding issue in relation to training, and the operation of licensed premises in relation to that training, is the question whether staff should approach, or be mandated to approach, patrons who they believe to be problem gamblers. The current advice to the Board, and to industry, and reflected in the courses is that it is wrong for a staff member to approach a problem gambler but must await an approach by the problem gambler to the staff member. The Act and Regulation also reflect this. This is an area that requires further consideration. The Board is of the view that it is too easy for operators of gambling venues to stand back and let their patrons continue to gamble irresponsibly when it is quite apparent that they are doing so. This enables profits to be made by the venue operator at the expense of the problem gambler and the problem gambler's family.

Inducements

87. The Board supports the statutory provision in s47(2)(d) prohibiting or restricting inducements and those provided for in Clause 48 of the Gaming Machines

Regulation namely, prohibition on offering or supplying free or discounted liquor, free credits or providing letter box flyers, shop-a-dockets, etc.

88. This measure of course must be considered in conjunction with the prohibition on publishing gaming machine advertising, displaying gambling-related signage and unnecessary promotions. Each of these is an important measure to address gambling harm minimisation.
89. There are sufficient inducements to problem gamblers, and others, to gamble beyond their means without venue operators being able to further induce them.
90. The Board has advocated for sometime a need to research signage on licensed premises. Currently signage is mandated by the Act and Regulation as well as by Licensing Court and Board requirements. Signage is mandated under the Liquor Act, Registered Clubs Act and Gaming Machines Act and the respective Regulations.
91. It is apparent to a visitor to licensed premises that there are a considerable number of signs which are so required. The question for decision is whether those signs, or some or all of them, continue to provide any benefit in relation to the operators of licensed premises and/or their patrons. Many signs, such as "No More it's the Law" sign are beneficial for operators and are a good reminder to patrons of their obligations.
92. The Board supports the provision of funding to research the benefit of all signage to be placed on licensed premises.
93. Later in this paper reference is made to player information displays and recent investigation of the contents of those signs.
94. In addition to the question whether the number of mandated signs are required it is necessary to research whether the contents of those signs serve any useful purpose.
95. The Board participates in the Regulators Responsible Gambling Working Party, which is a body of national regulators established by Chief Executive Officers and the working party has prepared a paper on Inducements. The Board is unable to release to the review this paper without approval of the CEOs.

Location of ATM and EFTPOS Machines

96. The Board supports the requirement in s47(2)(g) of the Act where it prohibits the installation or location of such machines where approved gaming machines are located.
97. The Board participates in the Regulators Responsible Gambling Working Party, which is a body of national regulators established by Chief Executive Officers and the working party has prepared a paper on ATM/EFTPOS Machines. The Board is unable to release to the review this paper without approval of the CEOs.

98. There is no doubt that the ready access to cash is an inducement to use that facility and to continue to gamble after money held is exhausted. If that machine is in close proximity to the gaming venue then there is no opportunity for the player to consider their actions before going to that machine and drawing more money out. Any observer of operations at a gaming venue of the use of such machines will be readily able to discern the frequency with which they are used and the inevitability that the user will go to the gaming room.
99. On the other hand these machines do serve a useful community purpose by provision of money for non-gambling purposes and a balance must be found.
100. The Board supports further research into the use of these machines to determine whether they should be prohibited from installation in venues at all. The Board is currently concerned that their location, in many cases, immediately outside the closest door in a gaming room does not provide that break such that a player will be able to make an informed decision, after consideration, whether to draw money out and to continue gambling.
101. In the meantime limitations on the amount of money able to be drawn out in a gaming venue should be considered.
102. The recent announced example of one major bank removing its machines from gaming venues is, to the Board, a sensible and responsible action. The Board is aware of difficulties in controlling the use of these machines by reason of the centralisation of the banking and electronic banking laws in the Commonwealth.

Prohibition on Accepting Transfer of Prize Winning Cheques/Prize Limitations

103. The Board supports the prohibition on publicity for prize winners and their entitlement to anonymity (s47(2)(h) and Clause 50).
104. Again the Board states that the ready availability of funds to be used for gambling purposes does not assist problem gamblers to avoid the temptation to gamble. Accordingly the Board supports the prohibitions on dealings with cheques and the payment of prizes contained in Clauses 29 and 30 of the Gaming Machines Regulation.
105. The Board is of the view that the current allowance in Clause 30 for cash up to an amount of \$1000 to be paid, with a balance by crossed cheque, is a powerful tool in preventing problem gamblers from obtaining access to funds which they might then regamble. Combined with the prohibition on cashing cheques there is therefore established a need for a problem gambler to go some distance during which there is opportunity to consider one's actions, before additional funds may be obtained which can then be immediately regambled.

Industry Codes of Practice

106. Section 48 of the Act requires industry to prepare Codes of Practice that set out the standards to be observed.

107. The Board is not consulted in respect of the contents of these industry codes of practice. The Act requires that the codes be prepared by the Australian Hotels Association (NSW) and Clubs NSW on behalf of their members and be submitted to the Minister for approval.
108. The Board supports industry codes of practice as another method of ensuring that hotels and clubs are operated so as to minimise any harm arising from gambling.
109. Both the Licensing Court and the Board, in support of industry codes of practice, previously mandated that a responsible gambling affidavit, required in both Court and Board procedures, state that an industry code of practice is in place and is adopted. The responsible gambling affidavit has now been changed to permit a self-audit to be conducted against a fact sheet prepared by Departmental officers and that fact sheet contains references to industry codes of practice.
110. The Board has no information as to the success or otherwise of these mandated provisions.

Self-Exclusion of Patrons

111. The Board supports self-exclusion schemes as a harm minimisation measure. The Board is satisfied that the scheme provided by s49 of the Act and Clause 47 of the Regulation are an appropriate scheme.
112. The Board participates in the Regulators Responsible Gambling Working Party, which is a body of national regulators established by Chief Executive Officers and the working party has prepared a paper on Exclusion Schemes. The Board is unable to release to the review this paper without approval of the CEOs.
113. The Board is of the opinion that the self exclusion schemes administered by the industry associations provide an excellent means of assisting problem gamblers.
114. It was the experience of the Board Members sitting in their capacity as Licensing Magistrates and in dealing with prosecutions under the Casino Control Act that prosecutions for breaching self-exclusion schemes were a futile exercise. Whilst dealing with the Casino, it is acknowledged, it was apparent that the majority of people prosecuted for breaching their self-exclusions were not assisted by the imposition of criminal sanctions. Inevitably the Court moved to the stage of requiring them to undertake counselling and for that purpose required a counsellor to be present at Court and available to assist. After this scheme was tried for a period of time the Court recommended, and the law was changed, to stop prosecutions for breaching self-exclusions schemes under the Casino Control Act. The Board does not support any punitive sanctions being imposed upon those who might self-exclude under the Gaming Machines Act Self Exclusion Scheme.
115. It is time, however, to give consideration to mandatory exclusion by venue operators. This will require further consultation and research. In particular it would place an onus upon operators and their staff to identify problem gamblers and exclude them.
116. A further deficiency in the current self-exclusion scheme is the utility of its application beyond one or two premises because, the Board is informed, with the requirement to display photographs of excluded people there is insufficient space in some premises to do this, a lack of recognition of so many people anyway and the questionable utility of such a requirement.
117. Again exclusion schemes whether self-exclusion or mandatory, can only be considered as one tool in addressing gambling harm minimisation.

Provisions Relating to Minors

118. The Board supports the continued prohibition on gambling for persons under the age of 18 years as a gambling harm minimisation measure and for the protection of minors.

Player Information

119. The Board supports the principle that players be given as much useful information as is practically and cost effectively able to be provided. It is a matter for the individual player to determine whether they read that material.
120. It is apparent that players must be able to make an informed decision about their gambling. If a player is aware of the true odds of winning, which are in fact infinitesimal for major jackpots, then it is probable that the decision to continue to gamble is made in that knowledge. In any event it is correct that they be provided with that knowledge. The Regulation provides a number of means of giving a player information.
121. So far as those relating to signage are concerned the Board has expressed an opinion that signage should be the subject of research. Pending that research the Board comments on existing measures as follows.
122. The current requirement to display notices and stickers about the chances of winning a major prize are an appropriate harm minimisation measure but the reference in Clause 21(2) to odds of "no better than one in a million" are inadequate. The odds are much greater than that. The qualification of the words "no better than" are insufficient to take one's eye away from the reference to "one in a million".
123. Player information brochures at the time of their introduction were considered to be a state of the art gambling harm minimisation measure. They have been in place for some years. It is time that their effectiveness was researched. Pending that research the current measures contained in the Regulation are appropriate.
124. Again player information brochures are appropriate as they provide a means for a player to become informed about the way in which machines operate and the infinitesimal likelihood of winning a major prize.
125. The other player information measure relates to the compulsory display of a clock in good working order able to be readily viewed by any person operating the machine. The Board supports the requirement for a clock to be available to be readily viewed by a player.
126. It is easy to discount the importance of a clock by humorous comments. However, it is apparent from research that problem gamblers tend to lose track of time and in particular how long they have been playing. Whether they choose to wear a wrist watch or not the requirement that they have a clock in a position which they can readily see will assist them to be informed as to how long they have been playing.
127. The question whether the clock should be installed on the machine should be the subject of research. It is noted that this is the requirement in Victoria whereas in NSW it is only that it be in the gaming room and readily visible, etc. It is possible that a player fixated with a particular machine will not look around the room and therefore not look at a clock whereas if the clock was on the

machine, or perhaps displayed on the screen at a given time, then there is more of a chance of the player being informed of the amount of time spent gambling.

Hotel Gaming Rooms

128. If there are more than 5 approved gaming machines in a hotel then the hotel must have a hotel gaming room. Clause 9 of the Gaming Regulation sets out the requirements for these rooms.
129. Hotel gaming rooms are seen as a harm minimisation measure by taking the majority of machines away from the general public areas and making them discreet areas. This ensures some ambience requirements of non players but also is seen as a harm minimisation measure by taking away the inducement for others to play.
130. However, it appears, anecdotally, that hotel gaming rooms may in fact exacerbate problem gambling. It is suggested that by the provision of a room in which a problem gambler can hide that they thereby avoid scrutiny of others. If the room is darkened and the only facilities in it are gaming machines then there are a number of people in the community who are vulnerable to such circumstances including for example disabled or intellectually disabled people who do not wish to be seen in public and who are able to hide themselves in these rooms whilst they gamble. A further evaluation of this requirement is necessary.
131. If it is seen as appropriate for hotels then consideration should be given to this as a requirement for clubs.

Player cards and accounts

132. Part 6 of the Regulation specifies rules for player cards and accounts. These are seen as excellent harm minimisation tools. The limits on the operation of player accounts, such as, only one account, no cash advance, requirement for a personal identification number, the provision of transaction records, information required on a player activity statement and nondisclosure provisions when coupled with the ability to fix limits on the amount of expenditure provide problem gamblers, and those likely to be problem gamblers, with the ability to add another measure of control on their gambling.
133. These systems are another form of circuit breaker and provide information on the amount gambled which are important measures for problem gamblers.

ADMINISTRATIVE CONTROLS IN RELATION TO GAMING MACHINES

Authorisations to Keep or Dispose of Gaming Machines

134. NSW legislation prohibits many forms of gambling and legislates for others. It is appropriate that approved gaming machine gaming be regulated in the fashion that it is with its restriction to clubs and hotels and the control of those venues and the manufacturing side of the industry. These controls enable a

regulated approach to gambling which will enhance gambling harm minimisation.

135. Accordingly the Board supports the continued scheme for the authorisation to keep or dispose of gaming machines contained in Division 1 of Part 5 of the Act and in Part 2 of the Regulation.
136. In particular the primary purpose test set out in s59 of the Act ensures that hotels, for example, do not become simply gaming venues.
137. Whilst the provisions of s60 relating to the prohibition on gaming machines in retail shopping centres is not the subject of this review the Board indicates its continued support for that provision.
138. However, the Board does indicate that on its site inspections, and in dealing with Licensing Court cases as Licensing Magistrates, the Board Members have not become appraised of gambling-related problems arising from poker machine gambling in retail shopping centres.
139. The decision to limit multi-terminal gaming machines to clubs is supported as the further expansion of gaming into hotels, although unlikely for these machines by reason of their cost, would not be consistent with gambling harm minimisation.
140. The Board does not support the current maximum bet limit of \$100 and the possible maximum winning prize of \$500,000 on the operation of multi-terminal gaming machines. This is fixed by a clause in the Regulation and not by the Board. In its First Determination of April 2001 the Board proposed that consultation should take place on reducing the amount of the maximum prize to \$10,000.

Approval of Gaming Machines by the Board

141. The Board has set out its gambling harm minimisation and related duties provided in s62A of the Act earlier. The Board applies these principles.

Philosophy

142. The Board in considering gaming machines for approval has regard to those s62A tests and in particular to the following matters:
 - a. The need to protect Government revenue
 - b. The need to protect hotel/club revenue
 - c. The need to protect players
 - d. The impact of its decisions upon Government, manufacturing industry, players and those affected by problem gambling.
 - e. The need to ensure that a player can make an informed decision

- f. Precautionary principle
 - g. Other measures of fairness/unfairness
 - h. Productivity Commission reports and general gambling research
143. The Board is responsible for machine gaming in hotels and clubs. The permissible machines are:
- a. poker machines
 - b. approved amusement devices
 - c. multi-terminal gaming machines
 - d. linked systems
 - e. subsidiary equipment

These are all defined in the Act.

Consultation

144. In exercising its functions the Board always embarks upon the widest form of consultation.
145. In exercising its functions in relation to the approval of gaming machines the Board is assisted by officers of the Department of Gaming and Racing in the Gaming Technology Branch. The branch comprises a manager, applications manager, applications co-ordinator, 5 assessors and 2 project officers. The senior officers are highly experienced and have many years practical application of the regulatory role required. In recent years that branch has been substantially reduced in numbers as a result of budget cuts.
146. Initial industry contact in this consultation process is made by Gaming Technology Branch officers. That is manufacturers and others in the industry usually approach the branch with proposals or ideas.
147. Where necessary the Board will consult with branch officers and meet with them in conjunction with those seeking consultation.
148. The Board has an open door policy of consultation with manufacturers and some avail themselves of this. Manufacturers are able to join the Australian Gaming Machine Manufacturers Association which is recognised as the industry body. The Board deals with Australian Hotels Association (NSW) and Clubs NSW and their gaming officers in respect of a considerable number of issues. Those bodies together with others have joined together to form the Gaming Industry Operators Group and that was recently involved in submissions relating to the Board's First Determination.
149. To cement this consultation process the Board had established a Working Party on Technical Standards. This working party is not being used at the

moment as it has been replaced by other Departmentally based working parties at which the manager of the branch represents the Board. That working party provided a venue for industry to attend and discuss on a regular basis issues of importance to industry. The replacement working parties provide that ongoing forum.

150. In addition the Board participates on the CEOs Regulators National Standards Working Party. The principle aim of this working party is the maintenance of the national standards for gaming machines and comprises representatives of each of the Australian and New Zealand regulators. The Board also participates on the CEOs Responsible Gambling Working Party. These working parties have a very close relationship with industry, particularly the National Standards Working Party.
151. The National Standards Working Party convenes the Annual Manufacturers Forum at which industry representatives are able to participate in the settling of updates to the national standards. As set out the Board participates on each of these working parties and at the Manufacturers Forum.
152. Accordingly the Board is able to be informed of developments taking place in industry and to provide industry with an adequate forum at which it can advise the Board of developments and make submissions.
153. It must be acknowledged that at times the Board has been obliged to make interim decisions without embarking on full consultation. This has arisen as a result of the need to constrain manufacturers from obtaining approval for new games and/or hardware, or other software changes, which the Board considers have gambling harm minimisation, player fairness etc issues such that they are not able to be approved. It has therefore been necessary to impose interim rulings to prevent further applications of a similar nature being lodged. In all cases the Board has permitted development proposals which were in train up to the date of the interim ruling to be evaluated. Industry has requested that the Board be prohibited from making such rulings without giving industry 6 months notice. The Board is strongly opposed to this proposal as it would put an unnecessary fetter on its discretions and would require a change to the evaluation and approval processes which would not assist industry. That is it may be necessary to so word the technical standards that new developments would be prohibited unless they were specifically recognised. The Board is of the opinion that this would not be in the interests of industry.
154. The Board continually invites industry to approach it, in confidence, to discuss new developments prior to the incurring of substantial development costs such that these are not subsequently wasted. Industry does not always avail itself of this opportunity. It is not possible to fix technical standards to address all possible innovations. To this extent the technical standards must be, in some parts, reactive to developments rather than setting the standards for the future.

The Approved Technical Standards

155. As set out above the Board is vested with the power and duty to approve of technical standards. Technical standards must meet the purposes of ensuring

the integrity of gaming, the gambling harm minimisation test in s62A and the primary object test in s3. In pursuance of those the Board applies the philosophy set out above.

156. In its First Determination the Board set out the history of technical standards in this state and Australia. These statements are not repeated. The most substantial development was the publication of the New South Wales Technical Standards for Gaming Machines and Subsidiary Equipment which were approved by the Board in December 1993 and which introduced the standard known in this state as the X-standard. That standard has been modified a number of times since.
157. The Board's First Determination of April 2001 determined a review of those technical standards for purposes of gambling harm minimisation and the responsible conduct of gambling activities. The reviewers have this First Determination and its contents are not repeated.
158. In the mid 1990s the Board commenced to work with other Australasian regulators on the national standards to which the Board was not a signatory. The Board embraced the principles of national standards to ensure as far as possible that poker machines throughout Australasia were able to be manufactured to one standard. With various legislative differences it is not possible, however, to have one standard and each regulator has an appendix to the National Standards. In August 2002 the Board adopted the National Standard with an appropriate NSW appendix. There will be an ongoing need for regulatory appendices because uniformity is not possible. For example New South Wales requires hard meters and other regulatory regimes do not and there are different communication protocols such as the NSW X-Standard. Different types of machines are permitted in different regulatory regimes by statute or regulatory decisions. However, in general terms the National Standard provides a very large measure of uniformity. The Board will continue to participate in those National Standards and work towards the reduction of the NSW appendix.
159. The following developments have taken place since the First Determination of April 2001. The Board has not implemented the First Determination because the Board seeks to make as few changes to the Technical Standards as are possible. Three items identified in the first determination were the subject of research and they relate to the prohibition of \$50 and \$100 in note acceptors, reduction of minimum reel spin time to 3.5 seconds and that the maximum bet be reduced from \$10 to \$1. These issues were not acceptable to industry and at the request of industry the Board deferred its consideration of those three issues until industry was able to carry out research. The Gaming Industry Operators Group referred to above, was formed and commissioned that research which indicated that possibly only the reduction in maximum bet might have some harm minimisation attributes. In addition the measures were said to have a substantial impact upon revenue. Because of the importance of those research findings, particulars of which are known to the reviewers, the Board determined that the research reports should be the subject of independent analysis to determine whether they were sound in methodology and conclusions. Government determined that it would commission this analysis

and it was embarked upon by the Department of Gaming and Racing. The Board has not seen the results of the independent evaluation. The Board understands from information given to it that that evaluation was referred back to the Gaming Industry Operators Group and to the researchers for their comment on the evaluation and that the final release of that evaluation will not be made at the present time. In other words it has been seen fit to permit those who are the subject of evaluation to see the evaluation report but not the body which requested it. The Board remains concerned that it should be so excluded from this process to the present time which has had the effect of delaying implementation of the First Determination.

160. In addition to that research the Board has continued to participate on the National Working parties referred to above and observed developments throughout Australasia in respect of the regulation of gaming machines for gambling harm minimisation purposes. The Board remains of the view that its First Determination is current.
161. In subsequent parts of this paper references are made to research and the Board has had regard to that research in its further consideration of its Technical Standards.
162. Subsequent to the publication of its First Determination the Board received a number of further submissions relating to each of the matters raised in that First Determination. The Board has deferred further consideration of those submissions until it is appraised of the evaluation of the research papers.
163. The Board notes that a number of matters referred to in its First Determination which did not fall within its power have been embraced by legislative change.
164. In the 12 months to 30 June 2003 the Board dealt with a number of game features proposed by manufacturers. Some proposals looked at for fairness reasons, as possibly misleading and as inducements included:

Types of Issues	Description
<ul style="list-style-type: none"> • Near miss display 	<p>A game displayed to players a false expectation of winning a major jackpot prize. This “near miss” characteristic was considered to be undesirable for the reason that it induced players to “have another go”.</p>
<ul style="list-style-type: none"> • Display of monetary notes 	<p>A games’ artwork contained pictures of stacks of what looked to be legal Australian notes and this was considered to be a player inducement issue.</p>
<ul style="list-style-type: none"> • Verbal player inducements 	<p>A game contained messages in the feature such as “try again” and “have another go” in the event a player didn’t win.</p>
<ul style="list-style-type: none"> • Excessive prize award probability 	<p>A game had an excessive probability of winning the top prize (1 in 8 billion). Based upon this probability it was estimated that it could take up to 600 years for the prize to be won (under typical NSW playing conditions).</p>

- Win capping A game advertised a prize of \$12,000, which was truncated to \$10,000 (the NSW maximum win limit in the event that a player won it).
- “Double Up” offered after each “free game” A “Double Up” bet was offered after each “free game” (however NSW Technical Standards require that “Double Up” only be offered after a primary trigger game).
- Illusion of control A game had a feature where players were given an opportunity to use what could be perceived to be an element of skill to increase their chances of winning a major prize – when in fact there was no element of skill involved whatsoever.
- Excessive free games A game had a feature where it was evident that players could deduce that the Board’s 25 free game limit could be exceeded.
- Use of monetary notes as game symbols A game had monetary “note” like reel-strip symbols such that players would think that when (i.e.) 5 x “100 denomination” note symbols lined up on a pay-line, they would be awarded at least \$100. However unless the game was configured at a \$1 denomination, this was not the case.
- Excessive multiplier prize/Win capping The game rules displayed a possible \$18,750 multiplier prize win in the feature game of which only \$10,000 would be paid if it was won (the NSW maximum win limit).
- Coinciding win limit/Win capping A maximum limit on new games being submitted for approval was put in place on coinciding wins (coinciding wins are wins that are added together as the result of a simultaneous wins on multiple pay-line games). Players could deduce from the game rules that they could win up to \$30,000, however they would only be paid \$10,000 (the NSW maximum win limit).

Research

165. The issues paper invites reference to research. The Board has had regard to a number of research papers which have been brought to its attention over the years. The Board does not maintain a formal database of research material, this being kept by the Department of Gaming and Racing.
166. The Board has been awaiting the appointment by the Department of Gaming and Racing of an officer to be the responsible gambling officer for the Board. The agreed arrangement is that an officer will be appointed to the Policy Branch of the Department and be available to assist the Board as a responsible gambling officer. One of the functions of that responsible gambling officer will be the maintenance of a research database. It is anticipated that research database will involve a detailed reference to all gambling harm minimisation research papers, a summary of the gambling harm minimisation principles to be determined therefrom and provide proposals required for research.

167. In addition it is anticipated that this responsible gambling officer will assist the Board by evaluating all hardware and software lodged with the Board to determine whether there are harm minimisation issues arising and to address those harm minimisation issues.
168. Representatives of the Responsible Gambling Working Party participate on the Ministerial Council on Gambling and in particular a sub-group of that Council which deals with gambling related research. The Regulators Responsible Gambling Working Party also maintains a database of research, via its Tasmanian representative.
169. To date the only research commissioned on behalf of the Board relates to a focus group organised by the Department of Gaming and Racing to evaluate messages to be displayed on the player information display which will in due course be mandated by the First Determination. That focus group was asked to evaluate a number of possible pop-up messages and gave the Board a list of suggestions of which the Board approved 4 as being the appropriate messages to be first displayed.
170. With the manufacturing industry constantly advising the Board that it should not make decisions prohibiting their innovations unless the Board has empirical research to indicate that the Board's requirements are justified on gambling harm minimisation measures the Board has been placed in a difficult decision making position. The Board has determined, however, that as it does not have the resources nor the funds to call for independent research into various proposals and that it is appropriate, if the circumstances warrant it, that the particular manufacturer submitting hardware or software for approval should commission independent research into the gambling harm minimisation aspects of the application. To date this has been suggested on several occasions but not been taken up. It has not been mandated. The only research provided relates to the two reports touching upon the First Determination.
171. On occasions the Board has asked for research papers on various matters, some of which had been referred to in submissions made on behalf of industry, but the Board has not been provided with any such research despite those requests. For example the Board has informally suggested to manufacturers they might like to provide to the Board their research into the sound effects and lighting effects displayed by gaming machines such that the Board can determine whether they are an inducement. This invitation has not at any stage been taken up by industry which has generally advised the Board, on a very informal basis, that they do not have such research. The Board finds this strange. Why otherwise would so much emphasis be placed upon lights and sounds if it was not seen by manufacturers to be an inducement to play?

Regulators Responsible Gambling Working Party

172. Reference has been made to this working party on several occasions. As set out it has been established by the Chief Executive Officers of the Australian gaming departments. The Board participates on this working party. The working party now meets quarterly and provides a report to the CEOs.

173. The Board is not able to release any of the deliberations, minutes or papers produced by that working party without the approval of CEOs.
174. However, the Board is able to indicate that the following are matters currently under consideration, or have been under consideration in recent times:
- a. Card-based gaming systems
 - b. Player loyalty program restrictions
 - c. Player information
 - d. Structural characteristics of gaming machines
 - e. Smoking and the gaming environment
 - f. Exclusion schemes
 - g. Commonwealth research on ATMs/EFTPOS
 - h. The settling of matrices on national gambling issues
 - i. The work of the Ministerial Council on Gambling
 - j. Inter-jurisdictional comparison tables
 - k. Machine gaming consumer protection, national guidelines
 - l. Advertising of gambling products, national standard for gaming machines
 - m. National guidelines for responsible wagering practices
 - n. Gaming machine guidelines and standards

CEOs Forum

175. The Chief Executive Officers of the Australasian Departments and Regulators meet not less than twice a year in a forum to discuss gambling related issues.
176. In addition to receiving reports from the Regulators Responsible Gambling Working Party and National Standards Working Party the CEOs discuss a number of issues such as jurisdictional updates, best practices, probity, the Min Co Research Working Party and CSMAC Gambling Working Party.

National Standards Working Party

177. As set out the Board participates in the working party which has a principal aim of establishing national standards for gaming machines.
178. The working party maintains the National Standard after consultation, deals with reports from other working parties, establishes the annual Manufacturers

Forum, generally settles documents and reports on requests on changes from industry.

179. Again the Board is unable to release the deliberations of this forum without approval of the Chief Executive Officers.

National Assessment Panel for Approved Testing Facilities

180. The Board participates on this working party which was established to provide a means of national accreditation of approved testing facilities.
181. This process will change in New South Wales with the imminent licensing of the first testing facility under the new licensing regime for approved testing facilities. Up to the present time they have been accredited and in addition to that accreditation hold work permits.
182. The National Assessment Panel fixes key performance indicators against which the testing facilities are checked and conducts an annual evaluation of those testing facilities to review their compliance with the conditions of accreditation.
183. To date there are four approved testing facilities so accredited and four have applied for licensing in New South Wales.
184. The deliberations of the accreditation panel remain confidential to it.

GAMING-RELATED LICENCES

185. It is not necessary for gambling harm minimisation purposes to closely analyse the licensing regime.
186. The Board supports the current licensing regime providing as it does a measure of control for all associated with the provision of poker machines including manufacturers, sellers, advisors, technicians and testing facilities. This ensures that only those with the requisite probity are granted such licensing and that, in appropriate cases, they are able to demonstrate the appropriate levels of expertise.
187. All of these combined together enable regulators to be satisfied that machines in the field are put there by licensed persons and therefore will comply with the terms of their approval. This ensures protection for revenue, operators and players and enables the regulated implementation of harm minimisation measures.
188. Likewise the complaint and prosecution procedures relating to gaming-related licences are appropriate.

IPART ISSUES PAPER TABLE1 - HARM MINIMISATION MEASURES

189. The Board has commented on a number of the measures contained in this table but for ease of reference sets out its individual responses to the various topics.

Circuit-breakers

Compulsory shut-down of gambling venues

190. Supported see above

Ban on smoking in gambling venues

191. The introduction of such a ban in Victoria has led to a substantial drop in poker machine revenue. It is noted that Tasmania has flagged an introduction of such a ban in December 2004. Over the years information has come to the Board, and to other regulators, that problem gamblers are addicted to smoking.

192. It is apparent therefore that banning smoking, whilst not intended as a circuit-breaker, has a beneficial effect on causing problem gamblers who smoke to have to stop playing and go to another part of the venue or outside to smoke. Whilst smoking it is possible that the problem gambler will consider the wisdom of returning to continue gambling. Such a possibility is positive in harm minimisation terms.

193. The Board supports a ban on smoking in gambling venues for gambling harm minimisation purposes. As it is not possible to distinguish between problem gamblers and recreational gamblers only a total ban could be considered.

Periodic shut-down of individual machines

194. The Board determined in its First Determination in April 2001 that this measure was not practical and rejected it. The Board remains of that opinion.

195. The prospects of disadvantage to individual players and their perception of unfairness should their machine be shutdown and others not, when coupled with possible disadvantages for the players of such machines which are in link systems, makes the proposal impractical.

Periodic information messages to gamblers using gaming machines

196. In its First Determination in April 2001 the Board supported this measure. The reasons therefore are set out in the First Determination and are not repeated. The Board critically notes that the proposal for same was advanced by industry and continues to be so. Industry recently proposed that the National Standards be changed to embrace these messages - this proposal has not yet been adopted by the National regulators.

197. In preparation for introduction of this measure, when the remaining matters in the First Determination are implemented, the Board arranged for the focus group research into the contents of the messages, and as set out earlier, to be undertaken. The Board has determined the contents of the first 4 messages to be mandated.

198. The Board believes that gamblers should be provided with as much information as possible to assist them to decide whether to commence or continue playing.

The contents of the proposed messages will provide such information. The time taken to provide the message will also be a circuit-breaker.

Restrictions on alcohol consumption by gamblers

199. In its First Determination of April 2001 at page 54 the Board referred to the need to seek comment about the availability of refreshments in gaming areas. The proposal extended beyond alcohol. That additional comment is not yet to hand.
200. The reasons for the Board's concerns are set out in the First Determination and are not repeated.
201. Pending receipt of comment from industry the Board is of the view that consideration should be given to the banning of refreshments being provided by "waiter service" to poker machine players whilst they are playing. If players choose to go and get refreshments, or bring them with them, then this should not be banned as the necessary circuit-breaker will be in place. So far as alcohol itself is concerned existing liquor laws prohibit intoxication and therefore the consumption of liquor per se should not be banned. Responsible service of alcohol requirements encourage non-alcoholic beverages and food and therefore these should not be banned.

Performance of self-exclusion schemes

202. Supported see above

Information for gamblers

Requirements to display certain signage

203. Subject to research, supported, see above.
204. That research should provide guidance as to the usefulness of signage generally and analyse the currently mandated signage to determine what is appropriate for the future.

Display of clocks in gaming machine areas

205. Supported but see above

Information brochures required in gambling venues

206. Supported see above.

Information on betting tickets, lottery and keno entry forms

207. These matters do not fall within the statutory responsibilities of the Board.

Role of community services, including gambling counselling services

208. It is a matter for community services to make their own comments. Any measures implemented by the Board or by legislation can only be isolated tools in addressing gambling harm minimisation. The important role played by community services, particularly counselling services, is considered by the Board and the Board is aware of their work.

Contact cards for counselling services

209. Because of the importance of counselling services in assisting problem gamblers, and those on the verge of becoming problem gamblers, it is most appropriate that information about the availability of those services be available in gambling venues and this should be mandated.

Compulsory display of payout ratios and probability of winning specific prizes

210. The Board determined in its First Determination of April 2001 that such matters should be mandated and continues to support the decision. The reasons therefore are set out in the First Determination.

General advertisements highlighting problem gambling

211. Subject to research on signage this measure is supported. To the extent that it is not a "signage" issue the Board supports the provision of any information which might assist problem gamblers to understand the nature of their problem, the operation of poker machines and the improbability of winning.

Display of monetary value of credits, bets and wins

212. The Board adopted this measure in its First Determination and continues to support this measure. This requirement has been adopted in the National Standards and as set out above the Board has adopted the National Standards. The Board's First Determination decision took place after industry consultation and all sections of industry have supported the adoption of the proposal in the National Standards.

213. Making clear to players that they are using cash and not indeterminately valued credits is an important harm minimisation measure.

Information for individual players on the gambling session

214. The Board's First Determination embraced the principle that players should be given as much information as possible. This is seen as a harm minimisation measure, that is, if a problem gambler is aware of the period of time spent at a machine and the amount of money wagered then the player might be more aware that the player has a problem

215. Information on the amount played, amount won with the message that money won may not include money won on a link, money spent (played less won) with the message that money won may not include money won on a link, current time, time spent playing, amount spent per hour (e.g. dollars per hour) with the message that money won may not include money won on a link is required by the First Determination (page 27).

216. The Board supports the mandating of such information.

Liquidity controls

Requirement for large payouts not to be in cash

217. The Board supports the continued prohibition contained in the legislation as set out above.

218. This is seen as a harm minimisation measure. It also has implications for money laundering which is not the subject of this review. The current limit of \$1000 is more than adequate for a player to receive as cash. Amounts above this are appropriately required to be paid by cheque with the mandated limitations on cashing cheques also appropriate. This provides a circuit breaker for a winner who is a problem gambler. It is acknowledged that it imposes a cost on a venue operator and can inconvenience a recreational player, however these matters are outweighed by the benefits for problem gamblers.

Prohibition on providing credit for gambling

219. This is a major harm minimisation measure and is supported. There have been many instances before the Licensing Court where credit has been provided to people who are betting beyond their means. Newspaper reports indicate many cases where players are prosecuted for fraudulent conduct where they have been provided with, or have dishonestly obtained, credit. It is appropriate that venue operators be subject to the limitations in the legislation.

Requirement to locate ATMs away from gaming areas

220. ATMs are a means of obtaining credit or cash advances which might be seen as equivalent to credit. For the same reasons expressed in the previous paragraph these legislative prohibitions should continue and be expanded as set out earlier.

Restrictions on note acceptors

221. The Board notes the contents of its First Determination and the subsequent research papers into such a proposal. The Board awaits evaluation of those research papers before determining to progress consideration of restrictions. The Board notes that the research rejects restrictions on note acceptors as a harm minimisation measure.

222. Victoria and Queensland have introduced restrictions on note acceptors which have led to a substantial downturn in poker machine play. South Australia does not permit note acceptors.

223. The Board remains of the prima facie view that restrictions on note acceptors will have a beneficial impact for harm minimisation purposes by preventing problem gamblers inserting large sums of money into a poker machine at one go. This will mean a need to reinsert money which will mean a circuit-breaker. The Board is of the opinion that very few recreational players will wish to play by inserting large denomination notes - it must follow therefore that those who wish to play by using large denomination notes are problem gamblers or likely to become problem gamblers. It is acknowledged that the restriction is easily bypassed by obtaining large sums of coins, if note acceptors are prohibited, or smaller denomination notes if larger notes are prohibited. The Board acknowledges the substantial costs occasioned to venue operators if such proposals are implemented.

224. Without being able to consider the evaluation of the research report the Board is not able to comment further.

Lower limit on maximum bets from gaming machines

225. The Board notes the contents of its First Determination and the subsequent research into such a proposal. As set out in the previous paragraph that research is subject to evaluation. The Board notes that the research indicated a possible minimal benefit for harm minimisation purposes of such a proposal. The Board does not repeat its findings in the First Determination.

226. Without being able to consider the evaluation of the research report the Board is not able to comment further.

"Pre-commitment" or "smart" cards that enable financial limits to be set

227. This technology currently exists and has been approved by the Board. Its use is supported as a harm minimisation measure. In the earlier section on player cards and accounts the Board set out its reasons for support.

Restrictions on daily cash limit in ATMs close to gambling venues

228. The Board earlier set out its reasons for supporting such limits as harm minimisation measures. The Board supports the mandatory removal of all ATMs from gaming venues. Daily cash limits in nearby machines will have an impact on non-gamblers and broader community consultation will be necessary to determine that impact. If the removal of ATMs is implemented then restrictions on nearby machines may not be necessary as the circuit-breaker will occur by requiring the gambler to leave the venue. There will be substantial difficulties in mandating limits on nearby machines because their control is under Commonwealth law and their operators will not be licensed persons subject to regulatory control under gaming laws.

Reducing the maximum permissible win

229. The current permissible maximum are:

- standalone machines \$10,000 fixed by the Technical Standards
- Linked progressive machines \$100,000 fixed by the Technical Standards
- Multiterminal gaming machines \$500,000 fixed by clause 16 of the Regulation
- Intra-venue progressive gaming machines no limit.

230. The limits for standalone and linked progressive machines were fixed by the Board many years ago and only subject to reconsideration during the course of the First Determination.

231. The limits for multi-terminal gaming machines were fixed by Government without consultation with the Board.

232. The intra-venue progressive gaming machines are governed by licence conditions fixed by the Minister but no condition fixing such a limit has been put in place. As part of its approval of the system as subsidiary equipment the Board determined that a limit should be put in place as a harm minimisation measure and at a level below that for linked progressive machines. That limit was recently reviewed up to average \$70,000, that is, jackpots can be higher than \$70,000 but must average \$70,000.

233. The Board is concerned that these high maximum permissible wins are an attraction to problem gamblers, encourage gamblers to chase their losses and for larger jackpots can cause a "feeding frenzy" as experienced players are aware that jackpots are designed to go off within certain fixed parameters.

234. Any proposed reduction however should be the subject of research into the benefits for problem gamblers and the costs to venue operators. This was the conclusion reached by the Board in its First Determination.

Further possible changes to affect the rate of loss or play per hour

235. In its First Determination the Board identified the following matters which are not referred to in Table 1 and which might be covered by this sub heading:

- reduction in the cash input limit from \$10000 to \$200
- the maximum amount that may be transferred via a CCCE protocol to a gaming machine be reduced from \$10000 to \$200
- compulsory breaks in play caused by the displaying messages and giving of information
- that play through and auto gamble facilities be prohibited

- that hardware be designed to prevent continuous play without button presses
- that the minimum return to player be increased from 85% to 87.5%

236. Each of these is acceptable to industry. The play through and hardware redesign are measures have now been incorporated in the National Standard. The other four proposals will be implemented when the First Determination proposals are incorporated in the New South Wales appendix to the National Standard.

237. Each of these measures will slow down play, which will assist in reducing the possible losses per hour for problem gamblers, although there is a possible downside that a problem gambler will simply remain at the machine for a longer period of time. On balance the Board sees the measures as positive.

238. The Board has recently considered an increase in the proposed numbers of free games but has seen fit to reduce this number to 25. More than 25 is seen as an inducement to play a game in an endeavour to win the feature which permits free games. Manufacturers sought to support the provision of more free games on the basis that it would provide a break in play, in that money would not be gambled whilst free games were playing, however the Board considered the inducement factor outweighed the compulsory break in gamble factor.

Forced payment of wins when a certain level is reached and payment then to be only by cheque

239. These measures should be considered in conjunction with the First Determination requirement for messages to be displayed when certain levels of wins are achieved.

240. The Board supports these measures and the appropriate level at which a forced payment will take place should be the subject of consultation with industry.

241. The Board is aware of the costs to industry of the current mandatory requirement for cheques to be available for winnings over \$1000.

242. There will be some inconvenience to recreational players who have a good win.

243. Problem gamblers who are chasing their losses and reinvesting their winnings will be assisted by these measures because they will be forced to take a break in play, a circuit-breaker, with the opportunity to think about whether the money should be reinvested in poker machines.

244. These measures should be implemented with the continued requirement in the Regulation on the prohibitions on cheque cashing.

Restricted promotion of gambling

Controls on advertising

245. As set out above the Board supports the continued operation of the prohibitions on advertising contained in the Regulation.

246. In addition to the matters set out above the Board notes the strong harm minimisation factor contained in the prohibitions. It is apparent that problem gamblers are easily tempted and will succumb to advertising. The majority of people wishing to play poker machines know they exist in hotels and clubs and will not be assisted by advertising. Accordingly advertising of gaming machines serves no useful purpose and can only lead to the harm referred to above.

Controls over player reward schemes

247. As set out above the Board supports the continued operation of controls over player reward schemes.

Restrictions on promotions and other inducement to gamble

248. As set out above the Board supports the continued operation of restrictions on promotions and other inducement to gamble.

Controls on gaming machine artwork

249. In its First Determination the Board determined that artwork which deals with the following be prohibited:

- encourages a breach of the law
- depicts children
- is false, misleading or deceptive
- suggests that winning a prize is a likely outcome of participating in gambling activities
- suggests that participation in gambling activities is likely to improve a person's social standing or financial prospects
- suggests that a player's skill can influence the outcome of a game that is purely a game of chance
- depicts or promotes the consumption of alcohol.

250. The Board is applying these principles and in general terms they are incorporated in the National Standard.

251. In its First Determination the Board determined that consultation should take place on the following matters relating to artwork:

- whether artwork lighting should be able to be seen 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 continuing gambling.
- Whether artwork lighting should be static when a machine is not being played.

252. The Board has not embarked on this consultation.

253. Visual stimuli are incorporated into poker machines by manufacturers for reasons which have not been expressed to the Board. See the comments earlier on the Board's discussions with manufacturers. It is open to conclude that these visual stimuli are a form of advertisement, designed to attract players, part of the entertainment of poker machine gaming and an allurement to problem gamblers. The allurement issue is of concern and needs research. Anecdotally the Board has been advised by counsellors that problem gamblers often tell them that they are attracted to the machines by the artwork lighting.

254. All artwork lodged with the Gaming Technology Branch is assessed to determine its suitability. The name of the proposed game is checked to see that it will not unfairly induce play, meets the above tests and is not offensive. The artwork itself, such as the symbols used, are also checked against these tests. Various names have been refused and symbols rejected for harm minimisation reasons.

Possible elimination of double up and other similar gamble features

255. In its First Determination the Board determined that consultation should take place on the introduction of the following limits:

- 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 a game.

256. That consultation has not taken place.

257. At present up to five double ups are permitted but only until the maximum prize limit on a standalone machine of \$10,000 is reached.

258. Double ups provide an element of entertainment but there are harm minimisation concerns. There are many reports of gamblers moving about venues looking for other players who have won prizes and are about to double up and then taking over that machine from them upon payment of consideration and then participating in the double up. There are money laundering issues as well as issues about problem gamblers doing this.

259. In addition there are harm minimisation concerns that double up features are an attraction to problem gamblers because they encourage them to play machines and to chase losses.

260. The proposed reduction for gamble features is made because of the same harm minimisation concerns.

Availability of alcohol and other refreshments to gamblers

261. The Board has set out its concerns in respect of these matters earlier.

Community/counselling services

Requirement for gambling operators to enter into agreement with counselling services

262. As set out earlier the Board supports these requirements.

263. Counselling is an essential tool to assist problem gamblers. It is appropriate that venue operators assist in bringing counselling services to the attention of their patrons and to ensure this takes place it must be mandated.

Training of staff in gaming machine venues

264. As set out earlier the Board supports these requirements.

Technical Measures

Slower reel speeds

265. In its First Determination the Board deferred introduction of such a measure and it has been the subject of research and that research is subject to valuation. The measure is opposed by industry. The Board continues to support this measure as an important harm minimisation tool as it is of the view that taking longer to play must mean less money is lost. It is acknowledged that problem gamblers may simply play for longer but that is a conscious decision.

266. The Board awaits the evaluation of the research before determining to progress this matter.

Removal of visual and sound stimuli

267. As set out earlier the Board supports research into these proposals but has not embarked upon this research.

268. In addition to the material on visual stimuli above, the Board has the same concerns in respect of sound stimuli and does not repeat them. In particular the Board has been advised on many occasions by counsellors that problem gamblers advise them, when not playing the machines or not at a venue, that they continue to hear the music played by the machines and this is an inducement to them to go and gamble. When not at a venue the issue is that the sound stimuli are firmly fixed in their minds. These issues require research.

269. In addition in its First Determination the Board identified the following matters as requiring consultation:

- 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 allurements 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, promote irrational responses, increase excitement, and/or constitute enticements to gambling or to continuing gambling
- whether sounds similar to those used to maintain interest and excitement in arcade and computer games have a similar effect with gaming machines
- the effects of various types of sounds on particularly vulnerable personalities.

Requirement for human intervention in large payouts

270. Whilst some recreational players enjoy large payouts, and this is not a problem, the concern remains for problem gamblers and the need to give them a circuit-breaker. A payout up to \$1000 is quite sufficient for cash purposes. The requirement for additional amounts to be in cheques provides such a circuit-breaker.

271. The Board supports the continued operation of these provisions in the Regulation.

272. In its First Determination the Board identified the following 4 matters for consultation.

273. Any win which will cause accumulated credits to equal or exceed \$1000 or more should be automatically transferred to the credit meter (no gamble feature should be offered) and a cancel credit condition should be affected. The total prize money should then be paid to the player by means of a crossed cheque.

This is seen as a harm minimisation measure as its implementation will see a major change in the culture of problem gamblers because they know they will only be able to win a certain amount of money before they have to stop playing, it will be another form of circuit-breaker, and will require a positive decision to insert more money to continue gambling.

274. Additionally CCCE systems should not allow partial transfers of prizes to defeat the \$1000 limit or for any other reason

This proposal is designed to stop venue operators from bypassing the \$1000 limit and supports the previously mentioned harm minimisation measure.

275. 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.

This is seen as a harm minimisation measure in that it compels a player to stop playing and take a win of a given amount. There is concern that once the credits start to payout in cash the player may be tempted by the sounds of the falling cash to play on.

276. 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:

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

As a result of consultation with the club industry the Board has determined that these measures should not be mandated at the moment. The need for large-scale venues to be able to operate with cash still exists. Consultation with the industry and discussions with the Gaming Technology Branch satisfy the Board that failure to make prompt payment to players seeking to cash out is not a problem. The Board had been told that it was and therefore sought to mandate a system which would prevent operators from delaying the payout of winners which might then encourage them to reinvest those winnings -- this was seen as a harm minimisation issue. A recent clause in the Regulation had mandated in the above terms and pending its commencement the Board had been imposing conditions on manufacturer's licences requiring the above. The clause and the conditions have been revoked.

Requirement for natural light in gambling venues

277. The Board is not aware of research on this topic.

278. The Board is aware that counsellors report that problem gamblers often lose track of time and the amount of time spent gambling. Clocks have been mandated to attempt to address this. If natural light or better lighting will address this then the Board supports its mandating.

279. Consideration will have to be given to the current requirements of clause 9 of the Regulation which mandates the requirements for hotel gaming rooms. Many hotel gaming rooms are enclosed, have no natural light and very reduced artificial light. These types of hotel gaming rooms are said to be ideal venues for problem gamblers, or those likely to become problem gamblers, such as people with intellectual disabilities or lone persons.

Requirement for gambling patrons to be visible to people outside the gambling venue

280. The Board is opposed to this measure.

281. The Board is of the opinion that advertising or external promotion of poker machine gambling is inappropriate. To permit players to be visible from outside the venue will be a form of advertising and will encourage problem gamblers to go inside.

The impact of music being played and display of lights when a win takes place

282. The Board repeats its submissions set out above.

PROBLEM GAMBLERS AND 'AT RISK' GAMBLERS

283. The review has available to it the Productivity Commission report and its assessment of problem gamblers, at risk gamblers and recreational players. The various definitions need not be reviewed. The Board accepts those definitions.

284. In making any decision the Board considers the impact upon each of the above of its decisions. The Board is particularly concerned about those players on the cusp of the definitions. There is a concern for recreational players who may become at risk players and at risk players who may become problem gamblers. The transition is an easy one to make as gambling becomes more prevalent. The Board sees it as its duty to fix technical standards and approve games which will not encourage that transition.